

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 (the “Inquiry”)

SPC 5 Module

Tuesday 20 February 2018

Opening Statement

This is a resumption of the first module of this Inquiry, which has been established under Part IIIC of the Central Bank Act 1942 as amended (the “1942 Act”). This Inquiry is concerned with whether Irish Nationwide Building Society (“INBS”) committed certain suspected prescribed contraventions (“SPCs”) and whether any of four persons concerned in the management of INBS participated in those contraventions. The four persons concerned are Mr Michael Fingleton, Mr William Garfield McCollum, Mr Tom McMenamin and Mr John S. Purcell and they are referred to as “persons concerned in the management” or “persons concerned”, for ease of reference. Mr Michael Walsh, who had been included as a person concerned in this Inquiry has entered in to a settlement with the Central Bank and is no longer involved in this Inquiry in that capacity.

This resumption of hearings had originally been scheduled to commence on Tuesday 9 January 2018. However, the Inquiry received an application for an adjournment from Mr Fingleton on medical grounds. This was granted by the Inquiry through correspondence until 16 January 2018. Mr Fingleton made an application for a further adjournment on medical grounds, dated 15 January 2018, and this was also granted by the Inquiry through correspondence until Tuesday 30 January 2018.

A third application for an adjournment on medical grounds was made by Mr Fingleton at a private hearing of the Inquiry on Tuesday 30 January 2018. After hearing medical evidence on the matter, the Inquiry Members determined that the Inquiry would be adjourned until 13 February 2018 and would resume hearings thereafter for mornings only until Tuesday 27th of February, when the normal Inquiry schedule would then apply.

Mr Fingleton made a fourth application for an adjournment on medical grounds at a private hearing of the Inquiry on 14 February 2018. After hearing medical evidence, the Inquiry members determined that the hearing would recommence on the week commencing Tuesday 20 February starting at 10.30 each morning and would sit no later than 1pm for that week. The Inquiry Members proposed that normal hearing times would resume on Tuesday 27 February 2018 but that this would be subject to review.

As outlined in the course of its Opening Address in December 2017, the Inquiry Members had directed, by Determination dated the 20 January 2017 that hearings would be divided into Modules: SPC 1 – 4 was to be treated as one module and SPC 5, 6 and 7 were each to be treated as separate modules. The Inquiry further directed that it would be more expeditious and cost effective to proceed with SPCs 5, 6 and 7 before commencing Module 1 comprising of SPCs 1 – 4.

Accordingly, this is a resumption of the first Module of this Inquiry, which is in to SPC 5 (a), (b) and (c).

In summary, SPC 5 alleges that:

- INBS's Credit Committee did not review and consider commercial loans in large arrears and/or deemed non-performing;
- INBS's Credit Committee did not review and consider loans submitted as part of the credit review process (as no such loans were submitted to it);
- INBS's Credit Committee did not review and consider relevant Management Information System ("MIS") reports (for example, sectoral exposure, customer exposure/concentration); and
- INBS's Credit Committee did not review and consider any issues raised by INBS's Internal Audit Department, and/or other advisors/regulators (KPMG/Central Bank).

It is alleged that these alleged failures on the part of INBS amounted to three breaches of regulation:

SPC 5 (a)

It is suspected that from the 1 August 2004 to 30 September 2008, INBS failed to ensure that its Credit Committee performed particular functions in accordance with INBS's internal policies and thereby failed to manage its business in accordance with sound administrative and accounting principles and/or failed to put in place and maintain internal control and reporting arrangements and procedures to ensure that the business was so managed, in contravention of Regulation 16(1) of the EC (licensing and Supervision of Credit Institutions) Regulations 1992(as amended) (the "1992 Regulations") and that certain persons concerned in the management of INBS during the Review Period participated in the commission of this suspected prescribed contravention.

SPC 5 (b)

It is suspected that from the 1 August 2004 to 30 September 2008, INBS failed to ensure that its Credit Committee performed particular functions in accordance with INBS's internal policies and thereby failed to establish and maintain systems of control of its business and records, and systems of inspection and report thereon, as required by Section 76(1) of the Building Societies Act, 1989 (as amended) (the "1989 Act")) and that certain persons concerned in the management of INBS during the Review Period participated in the commission of this Suspected Prescribed Contravention.

SPC 5(c)

It is suspected that from 10 July 2006 to 30 September 2008, INBS failed to ensure that its Credit Committee performed particular functions, in accordance with INBS's internal policies, and thereby failed to comply with a condition of its authorisation imposed in accordance with Section 17 of the 1989 Act (as amended) (namely Part 1 of the Financial Regulator, Credit Institutions Regulatory Document Impairment Provisions for Credit Exposures, 26 October 2005 ("the 2005 regulatory Document") and that certain persons concerned in the management of INBS during the Review Period participated in the commission of this suspected prescribed contravention.

On 11, 12 and 13 December 2017 the Inquiry heard Opening Statements from the Legal Practitioner Team, Mr Michael Fingleton, Mr Stanley Purcell and Dr Michael

Walsh respectively. The phase of the module that is commencing today will hear evidence from 25 witnesses who have been identified by the Inquiry as relevant to this module. The three Persons Concerned who are alleged to have participated in the commission of the breaches outlined in SPC 5 have also been called as witnesses to this module.

The Legal Practitioner team outlined in the course of its Opening Statement, the interaction that has occurred with witnesses with respect to their giving evidence. All witnesses have been offered a laptop with relevant documents pre-loaded on to it and have been offered training by Grant Thornton on how to access and use this material.

All but five of the 25 witnesses scheduled to give evidence in the course of this module are availing of this facility.

All witnesses will be asked to affirm or take the oath before evidence commences and this will remain in place until their evidence has been completed with respect to this module.

We would request that when referring to documents, witnesses give the full Doc ID so that it may be recorded in the transcript accurately.

Today will commence with evidence from Mr Darragh Daly. Other witnesses to be heard this week are Mr Vincent Holohan and Mr Martin Noonan.

A list of proposed witnesses has been published on the Central Bank's website. In addition, the witnesses to be called on each day will be posted on the Central Bank website the evening before.