



December 2017

INBS Inquiry – first Inquiry hearing

On 10 July 2015, the Central Bank of Ireland (the “**Central Bank**”) announced that it had referred a case concerning Irish Nationwide Building Society (“**INBS**”) and “...*certain persons who were concerned in the management of INBS at the relevant time...*” to Inquiry.¹

Notwithstanding legal challenges to the Inquiry - which have been unsuccessful to date - the first Inquiry hearing took place last week.

What is an Inquiry?

The Inquiry is part of the Central Bank’s Administrative Sanctions Procedure and will usually only be held after an investigation has been conducted by the Central Bank’s Enforcement Division.

Where a case is referred to Inquiry, an Inquiry Member or Members (who are appointed by the Central Bank) decide if a regulatory breach has occurred and, if they believe it has, the Inquiry Member(s) will determine the appropriate sanction(s).

Inquiries can be held in private but the default position is that Inquiries will be held in public.

¹ The individuals who form part of this Inquiry were subsequently named as Mr. Michael Fingleton, Mr. William Garfield McCollum, Mr. Tom McMenamin, Mr. John S. Purcell and Mr. Michael P Walsh.

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The INBS case was the first case to be referred to Inquiry (most ASP cases settle) and a panel of three Inquiry Members has been appointed to hear the case.

What is the INBS Inquiry about?

The Inquiry is concerned with whether INBS committed certain suspected regulatory breaches (known as “*prescribed contraventions*”) and whether any of five persons concerned in the management of INBS participated in those suspected breaches. In particular, the Inquiry relates to INBS’s loan approval process, the monitoring of commercial loans, the taking of security and adherence to maximum loan to value ratios, among other matters, and spans the period from 1 August 2004 to 30 September 2008.

Due to the scale of the Inquiry (approximately 110,000 documents were gathered by the Central Bank’s Enforcement Division), the Inquiry has decided it would be more efficient for the case to be heard in modules, relating to the subject matter of each suspected regulatory breach. The first module to be heard relates to the role of INBS’s Credit Committee at the relevant time.

Inquiry Management Meetings

The Central Bank’s guidelines on the conduct of Inquiries state that Inquiry Management Meetings will be held, where necessary, to assist in the efficient running of an Inquiry and to narrow the issues to be decided by an Inquiry - in so far as possible.

Prior to the first INBS Inquiry hearing last week, 9 Inquiry Management Meetings have been held in the case between December 2015 and November 2017 to address various procedural issues. Some of these meetings were held in public and others were held in private.

Following the Inquiry Management Meetings, the Inquiry Members issued written determinations on various matters. One of these concerned a decision that the settlement agreement between INBS and the Central Bank which was announced in July 2015 would have no probative value for the purposes of the Inquiry. This means that the allegations against INBS will still have to be proved as part of the Inquiry, even though INBS will not be participating in the Inquiry.

Inquiry - powers

An Inquiry has various powers under statute. For example, Inquiry Member(s) can summons individuals to appear before an Inquiry to give evidence or to produce documents. At the end of an Inquiry, if an adverse finding is made against a firm or an individual, various sanctions can be imposed, including monetary penalties. For any regulatory breaches which occurred prior to 1 August 2013, the maximum monetary penalty which can be imposed on a firm is €5 million, or €500,000 for an individual. For any regulatory breaches occurring on or after 1 August 2013, an Inquiry can generally impose maximum fines of €10 million or 10% of turnover – whichever is the greater - on a firm, and fines of up to €1 million on an individual.

Contact information

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