

Annual Report of Irish Financial Services Appeals Tribunal for the year ending 31 December 2009

(Pursuant to Section 57AW of the Central Bank and Financial Services Authority of
Ireland Act 2003 (Central Bank Act 2003))

1. The Financial Services Appeals Tribunal (the Appeals Tribunal) is composed of Executive and Lay members as follows: Francis D Murphy, formerly a Judge of the Supreme Court, Chairperson and Inge Clissmann, Senior Counsel, Deputy Chairperson (Executive Members). Geraldine Clarke, John Fish, Liam Madden, John Loughrey and Paulyne Marrinan-Quinn (Lay Members).
2. Treasa Kelly B.L., is the Registrar to the Appeals Tribunal.
3. The office of the Appeals Tribunal is at Frederick House, 19 South Frederick Street, Dublin 2. Telephone number: 01-6350040. Fax no: 01-6350249. Website: www.ifsat.ie.
4. In the year under review, the Appeals Tribunal disposed of three appeals. In one case the appeal did not proceed and in the remaining cases the decision or judgment of the Appeals Tribunal is available on the Tribunal's website. All of the cases that came before the Appeals Tribunal during the year concerned the granting or withholding by the Irish Financial Services Regulatory Authority of the statutory power conferred upon it to authorise or sanction the carrying on of a particular financial business.
5. The Appeals Tribunal sought to deal with the appeals efficiently and effectively as required by the Central Bank Act 1942 as amended by the Central Bank Act 2003 and the Central Bank and Financial Services Authority of Ireland Act 2004. The Notice of Appeal and the Response to Appeal are lodged with and registered by the Registrar. The documents so lodged are examined by the Registrar so that she may exercise the powers conferred upon her by the relevant legislation particularly in relation to the extension of time for lodging appeals.
6. The documents are then circulated by the Registrar to the Members of the Appeals Tribunal nominated by the Chairperson to hear the appeal, to enable them to consider the adequacy of the documentation lodged and to exercise, when appropriate, the powers conferred upon them, in particular the power to reduce or waive the appeal fee of €5,000. In accordance with the provisions of Rule 25 of the Appeals Tribunal Rules 2008 (S.I. No. 224 of 2008), the Appeals Tribunal often avails of the contemporaneous linking together by telephone to make decisions on preliminary matters. When the appeal fee, as prescribed by the Rules or reduced by the Appeals Tribunal, is not lodged, the Registrar may, as happened during the year under review, dismiss the appeal.
7. When the Appeals Tribunal has considered the documentation lodged, a date is fixed for a Directions Hearing when the parties and the Tribunal can consider and refine the issues

required to be determined in the plenary hearing and the documents and witnesses which may be required in that context. The practise has been established that where witnesses are required, a proof of their evidence must be lodged and circulated by the Registrar to the other party or parties. This has the effect of reducing very considerably the length of the hearing. In the period under review, the hearings have not extended beyond two days.

8. It is proper to record that the expeditious hearing of appeals has been greatly facilitated by the parties to the appeals and their legal advisors.
9. The Executive Members of the Appeals Tribunal are remunerated for the administrative services rendered by them in accordance with the provision of the relevant legislation. The Registrar is remunerated in accordance with the terms of an agreement made between her and the Tribunal and approved by the Board of the Central Bank. The Lay Members of the Tribunal are not remunerated for any administrative work or services provided by them. Both the Executive and Lay members of the Appeals Tribunal are paid a fixed rate of fees for the work done in or about the hearing of appeals and applications to the Tribunal. The rates of remuneration of the Members of the Appeals Tribunal and the conditions of work are determined by the President of Ireland in accordance with the provisions of Rule 2 of Schedule 5 of the Act in pursuance of Section 33 of the Central Bank Act 2003. In the year ended 31 December 2008, the Executive Members of the Tribunal determined that their remuneration for administrative services should be reduced by fifty per cent. In the year under review, all of the members of the Appeals Tribunal and the Registrar accepted a reduction of eight per cent in the remuneration so fixed.
10. The Members of the Appeals Tribunal meet together once a year for the purpose of reviewing the work of the Tribunal and maintaining a working relationship between them. The Tribunal provides a lunch for the Members on that occasion. The cost of that lunch for the year under review, together with the costs of a similar lunch in the previous is included in the current accounts. That is the only cost in the nature of travel, subsistence or canteen provided for the Members of the Tribunal.
11. All of the hearings of the Appeals Tribunal are conducted in Frederick House which has proved adequate and suitable for the particular appeals heard during the year. One of the appeals was heard in camera. A redacted version of the judgment of the Appeals Tribunal in that case is available on the website. The Appeals Tribunal has enjoyed office accommodation and hearing facilities in Frederick House since it was constituted in the year 2007. This facility will not continue indefinitely but it is not clear whether it will terminate in 2010 or subsequently. Provision has been made in the budget for the current year for some alternative accommodation.
12. Under the Anglo Irish Bank Corporation Act 2009 the Minister for Finance will appoint an Assessor to determine the value of the shares in Anglo Irish Bank as of the date the Bank was nationalised, on the 21st of January 2009. The Act provides that interested parties should have a right of appeal to the Appeals Tribunal which is empowered by the said Act to review the valuation of the Assessor. This is a function which the Appeals Tribunal may be called upon to exercise in the coming year or years.

13. It has always been a difficulty for the Appeals Tribunal to estimate the number and duration of any appeals or applications that may come before it. In the year under review the forecast of four cases proved to be reasonably accurate. The forecast for the current year which is based on the best available information is six such appeals.

14. The accounts for the Appeals Tribunal for the year ended the 31st of December 2009 are annexed hereto.

Dated:

Signed:

Chairperson

Irish Financial Services Appeals Tribunal
Income and expenditure account for the year ended 31 December 2009

	2009	2008
	€	€
Income		
Funds provided by the Central bank	150,000	100,000
Expenditure		
Costs of hearings		
Panel Fees	22,808	0
Stenographer	3,489	0
Security	675	0
Administration costs		
Executive fees	91,799	94,613
Legal & professional fees	400	2,923
Newspaper advertising	0	42
Accountancy	3,154	4,230
Stationery, printing & communications	436	4,394
Travel, subsistence & canteen	985	890
Miscellaneous	0	321
Bank Charges	67	6
Total expenditure	123,814	107,419
(Deficit)/Surplus of income over expenditure	26,186	(7,419)

The Executive fees of the Chairperson and the Deputy Chairperson are calculated on the basis that they made themselves available to the Appeals Tribunal for four and two days per month respectively until the 31st May 2008 and thereafter for two days and one day per month respectively.

Registrar

We hereby certify that books and records were created by the Registrar in accordance with our advice and maintained under our supervision. We certify that the above accounts are based on the said books and records and give a true account of the income and expenditure of the Irish Financial Services Appeals Tribunal for the period ending 31 December 2009.

Spain McQuillan
Chartered Accountants & Registered Auditors