

Annual Report of the Irish Financial Services Appeals Tribunal for the year ending 31 December 2023

(Pursuant to Section 57 AW of the Central Bank Act 1942 as inserted by Section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003.)

1. The Irish Financial Services Appeals Tribunal (“IFSAT” or “the Tribunal”) was established pursuant to the Central Bank and Financial Services Authority of Ireland Act 2003 (the “2003 Act”).

Membership of the Tribunal

2. At the beginning of 2023 there were six members of the Tribunal each of whom was nominated by the Government and appointed by the President of Ireland. The executive member was: Patricia O’Sullivan Lacy, Barrister at Law, who was appointed as Acting Chairperson of the Tribunal following the death of the Hon. John D. Cooke S.C., Chairperson on the 29th of April 2022, and in accordance with the provisions of Schedule 5, Section 57D(5) of the Central Bank Act 1942 (as amended).
3. In August 2023, the Hon. Mr Justice John MacMenamin was appointed as Chairperson of the Tribunal for a term of five years by the President of Ireland.
4. Thereafter the Acting Chairperson, Patricia O’Sullivan Lacy, reverted to Deputy Chairperson of the Tribunal. The lay members of the Tribunal are Conor Power, Senior Counsel; Paul Brennan, Solicitor; Helen Collins, Solicitor; Eilis Brennan, Senior Counsel; and Úna Tighe, Senior Counsel.
5. Eilis Brennan and Úna Tighe were appointed for a term of five years by the President of Ireland in October 2019. Conor Power, Paul Brennan and Helen Collins were re-appointed to the Tribunal for a further term of five years in November 2023.
6. Helen-Claire O’Hanlon B.L. was re-appointed as the Registrar of IFSAT for a term of three years from the 1st of May 2022.

7. The membership of the Tribunal complies with the gender balance requirement of the Code of Practice for the Governance of State Bodies.
8. The Tribunal offices are located at 4/5 Arran Square, Lincoln Lane, Arran Quay, Dublin 7. D07 CTX4; Website www.ifsat.ie and Email address: registrar@ifsat.ie

Appeal Procedures

9. IFSAT is a quasi-judicial body with statutory powers to hear and determine appeals from certain “*appealable decisions*” of the Central Bank of Ireland as defined in Section 11 of the Central Bank and Financial Services Authority of Ireland Act 2004.
10. An appeal to the Tribunal is initiated by filing a Notice of Appeal with the Tribunal. The Central Bank then has fourteen days within which to deliver its Response to the appeal. (Forms including Notice of Appeal and Response to Appeal are available on the IFSAT Website.) Once the papers have been exchanged between the parties and any preliminary issues have been addressed, three Tribunal Members designated by the Chairperson as the panel assigned to the case, will hear the appeal and make a determination.
11. Orders made and written decisions given on appeals are made available on the IFSAT Website: www.IFSAT.ie

Appeals determined

12. The Tribunal received no new Notices of Appeal in 2023.
13. During 2023, the Tribunal heard an appeal from a decision of the Central Bank pursuant to Section 23(5) of the Central Bank Reform Act 2010 in the matter of AB v The Central Bank. There were three directions hearings and four full hearing days for the substantive appeal.
14. At the end of 2023 the decision of the Tribunal had not been finalised.

Other Matters

15. By Notice of Appeal dated 27th of May 2020, Denis Riordan gave notice of an appeal to IFSAT from a decision of the Anglo Irish Bank Assessor, appointed pursuant to the Anglo Irish Bank Corporation Act 2009. The Assessor had, on the 23rd of April 2020, published the Determination of Value of Shares Transferred to the Minister for Finance and Rights Extinguished under the Anglo Irish Bank Corporation Act 2009.
16. The Appeal was subsequently struck out for non-compliance with the IFSAT Rules 2008, however Mr Riordan sought leave to judicially review the decision to strike out the appeal before the High Court on the 23rd of September 2020. The Court directed that the application for leave would be made on notice to the Tribunal. Leave was granted on the 28th of June 2021.
17. The Judicial Review was heard on the 10th of March 2022 and judgment was delivered by the Court on the 3rd of August 2022. The Applicant's claim was dismissed by way of an Order of the Court on the 25th of November 2022. The Applicant filed a Notice of Appeal to the Court of Appeal.
18. The Appeal was heard by the Court of Appeal on the 14th of July 2023 and judgment was delivered by the Court on the 6th of October 2023. The Applicant/Appellant's appeal was dismissed by way of an Order of the Court on the 6th of October 2023. A costs hearing took place on the 20th of December 2023. The Court of Appeal reserved its judgment on the issue of costs to the New Year. At the end of 2023 the issue of costs remained undetermined.

Section 42 of the Irish Human Rights and Equality Commission Act 2014

19. Section 42 of the Irish Human Rights and Equality Commission Act 2014 places a positive duty on public sector bodies to have regard to the need to eliminate discrimination, promote equality, and protect human rights, in our daily work. As part of its policy development, the Tribunal conducts strategic planning processes and annual review of the Governance Framework. The Irish Financial Services Appeals Tribunal (IFSAT) performs a specific function in respect of persons or bodies who wish

to appeal specific appealable decisions of the Central Bank of Ireland. In accordance with IFSAT's obligations pursuant to the 2014 Act, and having regard to its functions, purpose and size, IFSAT has assessed the human rights and equality issues it believes to be relevant to its functions and purpose, and has plans and actions in place to address any potential accessibility issues.

20. In November 2023, training was arranged and attended by all Tribunal members on Unconscious Bias, Inclusion and Diversity.

21. An ongoing review took place in respect of the accessibility of information, documents and materials pertaining to the Tribunal. Following that review, it is intended that an upgraded website which is fully accessible will be launched in 2024.

Annual Accounts

22. The accounts for the year ending 31st December 2023 are attached.

23. As provided for in Section 57AW of the Central Bank Act 1942 (as amended) this Report will be published by the Tribunal following its having been laid before the Houses of the Oireachtas and members of the public may then download a copy of the Report from the Tribunal's website.

A handwritten signature in dark ink, appearing to read 'John MacMenamin', with a stylized, flowing script.

The Hon. Mr Justice John MacMenamin
Chairperson

27th March 2024