IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Re: Ms. Y. - V - A Financial Institution and The Central Bank of Ireland

Response

1. This is a response of the Irish Financial Services Appeals Tribunal ("the Tribunal") to complaints made by Ms Y, regarding a financial institution ("F.I.") and the subsequent decision of the Central Bank to decline jurisdiction in respect of Ms Y's complaints regarding the F.I..

2. The Tribunal panel consisted of Mr Justice John MacMenamin (Chair); Ms Helen Collins (Solicitor); and Mr Paul Brennan (Solicitor).

3. Save for the Central Bank, this response is anonymised to protect the interests of the various parties involved. The F.I. in question has not been involved in the correspondence concerning this matter. At the outset, the Tribunal had concerns regarding its jurisdiction, and engaged in significant correspondence with Ms Y and the Central Bank in order to clarify matters. Ms Y did not actually file a Notice of Appeal.

4. As no Notice of Appeal has been filed, a question might arise regarding whether the Tribunal has jurisdiction to deliver a decision. For this reason, this communication, although actually reflecting a decision on jurisdiction, is entitled "*Response*".

Ms Y

5. Ms Y is a former employee of the F.I.. She had issues related to her employment, which are described below. She first engaged in correspondence with the F.I. concerning these issues. However, when she did not receive any satisfactory response regarding issues she raised, she then engaged with the Central Bank. She contended the F.I. had breached its duties in failing to respond to her. The Central Bank considered the matters which Ms Y sought to raise and concluded that these did not fall within its jurisdiction.

6. Ms Y then complained to this Tribunal although, as stated, she did not file a Notice of Appeal. The extensive correspondence between Ms Y and the Tribunal sought primarily to clarify the issues surrounding jurisdiction.

7. As will become clear, Ms Y's employment status is unavoidably a relevant aspect of the case. In one of the documents submitted to the Tribunal, her job is described as having been a "*Bank Assistant*" or engaged in "*Customer Services*".

8. This response contains an outline of the case which Ms Y has put forward, then the description of the position adopted by the Central Bank, and then the Tribunal's conclusions thereon.

The accident in 2009

9. The documents provided by Ms Y disclose that she met with a nasty accident at work in the F.I.'s premises in September 2009. She apparently received an electric shock from a "*live*" light switch. It is unclear how long she was out of work. However, she received medical treatment as a result of this, which appears to have been ongoing.

Ms Y's case to the Central Bank

10. While there was earlier correspondence, in an email to the Registrar of the Tribunal dated 2 January 2025, Ms Y sets out a summary of the background. Ms Y's complaint was, that having made a complaint to the Central Bank of Ireland regarding the conduct of the F.I., the Central Bank had, on 6 December 2024, decided to re-categorise complaints put forward by Ms Y. Her case was that the Central Bank had changed her complaint to being a matter of "*Internal Health and Safety*" from being one about the inadequacies of the F.I.'s complaints procedure and its failure adequately to respond to her.

Ms Y's case to the Tribunal

11. Ms Y submitted that she had asked the Central Bank to look into the F.I.'s non-compliance with its own complaints procedure. She said the Central Bank had not been asked to look into the actual employment-related complaints, but rather the F.I.'s refusal to engage with her request that the F.I. should itself carry out an investigation into the two issues which are described below.

12. Ms Y wrote that her complaint to the Tribunal was made after the enactment of "*new legislation*" governing the Central Bank. This had come into force at various times in 2023 and 2024. Here she was referring to the Central Bank (Individual Accountability

Framework) Act, 2023, parts of which came into effect in both years. Hereafter, this Act will be referred to as "IAFA".

13. Ms Y wrote that one section of the IAFA dealt with "*common standards*" for employees. She complained to the Tribunal that the Central Bank had indicated that it was responsible only for the supervision and regulation of financial institutions in terms of consumer protection and prudential requirements. She contended that in correspondence the Central Bank had not mentioned what she alleged were its responsibilities under the IAFA.

14. While reference has been made to Ms Y's summary letter of 2 January 2025, it is now necessary to describe what she set out in an earlier letter, sent to the Central Bank on 12 September 2024.

15. In that letter, she mentioned what she referred to as the Central Bank's "*Dignity at Work Policy*" for the institutions which it regulates. Ms Y also described the two issues which she had with the F.I. relating to her employment.

16. It is necessary to say that, despite having received a significant quantity of correspondence with the F.I., and the Central Bank, there is some absence of context. The Tribunal tried to assist Ms Y by asking specific questions, some of which were answered in detail. However, the core of this case is clear. The Tribunal is not prevented from reaching conclusions on the question of jurisdiction which, ultimately, must be a matter of law.

17. The response now turns to the "*first issue*".

First issue

18. Ms Y made complaints that the F.I. had submitted what she alleged was false information in an Incident Report to the Health and Safety Authority of Ireland in 2009 (hereinafter the 'Incident Report'). She said the Incident Report contained false information which had not been disclosed to her in earlier legal proceedings and as such, she had only discovered these falsities in 2022.

19. The Tribunal has not been fully informed about these legal proceedings and no legal papers or Court Orders were made available to the Tribunal. While these might have

assisted the Tribunal, Ms Y is a lay litigant and allowances must be made for this. Further, as stated previously, the question of jurisdiction is a legal one that can be determined on the material before the Tribunal.

20. With reference to the first issue, Ms Y complained that there had been a "*bullying incident*" at work which had been dealt with to her satisfaction in 2011. No details concerning this incident were provided to the Tribunal. However, she complained that in 2022 she discovered a report in her HR file which "*twisted the incident*" and accused her of bullying two members of the team. She said that this report had been shared by the F.I. and resulted in medical assistance for injuries she had received following the 2009 accident being withdrawn in 2012 by the F.I.'s Doctors.

How the issues were dealt with by the F.I.

21. In extensive correspondence to the "Group Heads of Department" up to 30 July 2024, Ms Y wrote that her complaints had been ignored by the F.I. and that the F.I. ceased correspondence with her. She complained that the F.I. had ignored her demands for an investigation into this issue and the "*second issue*" (see below). She also expressed concern that the F.I. had ignored the IAFA and the question of individual accountability.

The role of the Central Bank

22. In her complaint to the Central Bank, Ms Y requested its Ethics Department to answer whether it was ethical for the F.I. to take what she described as a "*second complaint*" to the Health and Safety Authority. She further stated this second complaint contained false information but the nature of this was not provided. Ms Y said that she had asked the Central Bank whether there had been any contact between it and the F.I. However, she did not receive any response. Ms Y expressed concern that her request to the F.I. for an investigation and then her complaint as to the absence of response by the F.I., had been ignored in the 6 December 2024 decision of the Central Bank. Another allegation by Ms Y, which is somewhat unclear, was that the F.I. had "*blocked its Board*" in answering this question.

23. In fact, the Central Bank had corresponded with Ms Y in a number of emails. Each of these emails stated, albeit rather briefly, that the issues she raised were not within the Central Bank's jurisdiction. This was so, the Central Bank contended, whether the

complaints concerned the F.I.'s complaints procedure, or as the Central Bank contended, where the complaints were essentially employment, and health and safety issues.

24. Ms Y complained that the Central Bank decision of 6 December 2024 to decline jurisdiction fell short of the "*honesty and integrity*" for which the Central Bank was now responsible under IAFA. She again repeated the complaint was about the F.I.'s complaints procedure only and not about the substance of her earlier complaint.

Litigation

25. Ms Y is a personal litigant and it is fair to say considerable research has gone into making the complaints to the F.I., the Central Bank, and now to this Tribunal. Her correspondence to the Central Bank and to the Tribunal refers to specific sections and subsections of IAFA, and to earlier legislation.

26. She expressed frustration that, after stating it had no jurisdiction, the Central Bank had advised Ms Y to obtain legal advice. She further argued that the two issues which she complained of had come to light only after all legal avenues had been explored.

27. She also wrote that her then solicitor had "*refused to take instructions*" from her on CCTV footage produced by the F.I. in settlement talks. She wrote that this material had later been "*judged*" to be "*fraudulent*". No further information on this is available to the Tribunal.

28. The Tribunal has no details concerning the two court proceedings. Ms Y stated that, in one case the Judge had ordered that there should be no costs in the event that there was no appeal. She described this as "*speaking for itself*" as a lay litigant. As described later, Ms Y also complained of irregularities in the Court Order in what she described as the "second court case", which had taken place in 2020. However, the Tribunal is not apprised as to the nature of these proceedings.

Matters coming to light after Court proceedings

29. In correspondence, Ms Y described two documents which caused her particular concern. These were the Incident Report apparently relating to the accident at work

(see above), and a further report which she named the "*B Report*". She contended both had come to light following the conclusion of the two court cases.

30. She informed the Tribunal that, in an email to the Central Bank of 10 September 2024, she had provided "*backup documents*" which included "*A&E attendances*" and also numerous consultants' reports from 2009 up to 2024. The "*B Report*" is referred to below. It is not known precisely what it contained but the Tribunal has been provided with a number of short medical reports.

31. This response now turns to the second issue.

Second issue

32. The second issue raised by Ms Y concerned the "*B Report*" (as above). Ms Y stated that she had made a complaint to the Office of the Data Commissioner in 2018. There she was seeking to retrieve "*still CCTV footage*" which, presumably the F.I. had sent to the Commissioner in 2013. Ms Y said that she rejected this footage as portraying "*the incident*". She informed the Tribunal that the Data Commissioner had completed this downloading in early 2022 and that later in September 2022, a report had been found among the documents downloaded, which she identified as the "*B Report*".

33. Ms Y contended that this report of an incident had been "*twisted and turned*" to make her the bully. She relayed that this event had taken place in 2012, and she had only discovered that this "*false report*" was in her HR file ten years later. She said "*there are no words*" to describe her anger. Ms Y stated this report had been shared with the Industrial Relations Section of the F.I.. This in turn, she alleged, had resulted in the F.I. withdrawing medical assistance under its Corporate Health Insurance Scheme. No correspondence from the F.I. about this issue has been made available.

34. Ms Y contended that she had been attending medical personnel for her injuries arising from the 2009 incident and there had been no explanation for the withdrawal of medical services. However, she wrote that the F.I. documents disclosed showed an administrator in the F.I.'s Industrial Relations Department had been responsible for this withdrawal of medical services apparently against medical advices from the Corporate Health Insurance Scheme.

35. In her correspondence she asked the Central Bank, in exercising its regulatory functions, to insist that the F.I. reply to communications and "*take actions to investigate this false information in the Incident Report from the Health and Safety Authority*". It will be seen there that there was some overlap between the complaints procedure and the Incident Report.

CCTV

36. While no criticism is intended of Ms Y, it must be said that some of her emails were not entirely clear in their meaning. This may well have contributed to difficulties in communication with the Central Bank. An example is an email sent to IFSAT on the 14th of April 2025, where Ms Y made complaints regarding an issue outstanding from "the CCTV footage case". She stated that *"The Defence Name on the Court Order is wrong. The Firm of solicitors claim they did not Defend this case. I explained in correspondence as court Officers they have a duty to the court to report [the F.I.'s] Legal Department Team identifying in court as this Firm and used their documents. No Respet for the Judge or the Court. The Judge claimed I made my Case that it was Fraud, Tampering with Evidence and the time the incident occured. The Judge said the High Court did not have the jurisdiction to hear Fraud cases and awarded no costs if no appeal. The [FI] identifying as this Firm did not come to light for some time, No reply from the firm of solicitors or [the F.I.] on this matter."*

Correspondence closed

37. The Tribunal has been provided with emails between Ms Y, the F.I., and subsequently the Central Bank. Ultimately, the F.I. stated that the correspondence was closed. The F.I.'s failure to respond, or the decision to close correspondence, was the subject of Ms Y's complaint to the Central Bank.

Alleged "*recategorization*"

38. As touched upon earlier, Ms Y's central criticism was the Central Bank had wrongly taken the view that the actions which she sought to raise were health and safety issues and related to her employment. She contended that the Bank had wrongly concluded that neither the first, nor the second, issue fell within its jurisdiction. The fact that the

Central Bank had adopted this view seems have been the precipitating factor which gave rise to her correspondence with this Tribunal.

References to legislation

39. In correspondence, Ms Y referred the Central Bank to the Central Bank Reform Act, 2010; and the Central Bank (Individual Accountability Framework) Act, 2023. She referred to Section 4(a)(i), (ii), (iii), (iv) and also Section 20(2)(i) and Section 22(2)(b)(i) of the 2010 Act.

40. She contended that these placed duties on officials to report disputes to named departments, including HR, data protection, health and safety, employee relations, corporate governance, and sample correspondence supplied with the initial correspondence to the Central Bank.

41. Ms Y also referred to amendments to the 2010 Act in legislation of 2023 (the IAFA). In particular she referred to Sections 53(1)(i), (ii), (iii); Section 53(e), (a)(iv), (b)(v), (d)(viii); Section 53(c)(i), (ii) and Section 53(f), (d)(viii) of the 2023 Act.

"Appealable decisions"

42. As stated, it is evident that this research must have been the result of no little amount of determination on Ms Y's part. She contended that the decisions of the Central Bank not to entertain her complaint were "*appealable decisions*" under common conduct standards, which she stated had been applied since 29 December 2023. She again criticised the Central Bank for having taken the view that what was in issue was essentially an industrial relations issue.

43. Ms Y laid emphasis on Sections 4, 20 and 22 of the Central Bank Reform Act, 2010. She referred particularly and extensively to Section 53 of the IAFA.

44. To summarise, Ms Y contended that decisions of the Central Bank were "*appealable*" under the IAFA Common Conduct Standards; that the legislation acted retrospectively, or if it did not, was governed by Section 22(1) of the Central Bank Reform Act, 2010 which identified what were termed "*pre-approval controlled functions*". She contended that these provisions set out that persons making the decisions which she sought to impugn were persons either exercising "*pre-approval controlled functions*" or

"*controlled functions*". She enumerated a wide category of officials who, she contended, were governed by this legislation. None of these had satisfactorily replied to her letters of complaint. She contended that each of these was non-compliant with the complaints procedure which she, in turn, contended placed the F.I. in breach of the IAFA and which, in turn, placed a duty on the Central Bank to accept jurisdiction and to entertain her complaints.

45. The wide range of officials she identified ranged from Human Resources, Data Protection, Health and Safety, Employee Relations, Corporate Governance, Complaints, Chief Executive Officers and Group Heads of Departments.

An observation regarding time limitations

46. It should be noted that, in the course of correspondence, Ms Y responded to a query raised by the Tribunal on the question of time limitations. The Tribunal raised the question as to whether the IAFA could be seen as having retrospective or retroactive effect. She replied that that legislation should be interpreted as being retrospective in effect and, should therefore, have been considered by the Central Bank in its response to her. She complained that the failure of the F.I. to respond adequately or at all to her complaints in the years 2023 and 2024 were appropriate grounds for invoking the IAFA 2023.

Retrospectivity and retroactivity

47. Ms Y's contentions on these matters have been set out above and do not require repetition.

The depth of Ms Y's concerns

48. Ms Y obviously views what has befallen her with very deep concern. She complained directly to the Governor of the Central Bank on 14 November 2024 and required a reply to her letter with his signature. She stated in one email that she requested a meeting with the Board of the F.I.. In another email, she indicated that the questions she raised were appropriate ones to bring to the attention of an Oireachtas Committee.

Exploring other forums

49. While it may not be directly relevant to the matters at hand, it may be of some significance that Ms Y has also made a complaint to the Financial Services Ombudsman regarding the conduct of the F.I.'s life assurance entity in failing to continue to pay for medical assistance for the injuries reported to her manager at the time of the incident in April 2009 and regarding reports to the assurance company thereafter.

The Central Bank's position

50. The position of the Central Bank can be summarised as follows. It is that:

- Ms Y's complaint to the F.I. clearly related to her dealings with her employer in the context of issues relating to her employment with the F.I.;
- That, as such, the issues did not come within the Central Bank's statutory remit;
- That the Central Bank did not have a role dealing with complaints procedures in the context described;
- That the Central Bank had no statutory mandate to intervene in disputes between employers and employees; nor did it have a role in supervising workplace grievances; or in regard to complaints on procedures relating to such matters, notwithstanding whether the employer in question was, or was not, a regulated financial services provider as defined by statute;
- That the statutory references described by Ms Y, and references to "*common conduct standards*" outlined in the Central Bank Reform Act, 2010, entitled "*Common Conduct Standards*" (as inserted by the Central Bank (Individual Accountability Framework) Act, 2023) set out the standards expected of individuals defined as performing "*controlled functions*" in relation *only* to "*regulated financial services provider*";
- That the application of the standards was limited to the conduct of such persons who performed "*a contractual function in respect of activities that are subject to regulation by the Central Bank, namely the provision of financial services*";

but did not extend to such persons in regulated entities in relation to issues which did not fall within the Central Bank's statutory remit;

- That the "*Common Conduct Standards*" were not directed at the Central Bank; nor did those standards provide any legal basis for the Central Bank to intervene in a dispute in an employer/employee category, such as referred to in the correspondence;

- That the decision(s) of the Central Bank sought to be challenged were not "*appealable decisions*" within the meaning of Section 57A of the Central Bank Act, 1942 as set out in Part (VII)(a) of that Act, and that the requirements of Common Conduct Standards referred to, did not constitute "*appealable decisions*" for the purpose of any Part of the 1942 Act;

- That a decision of the Central Bank not to act in a matter falling outside its statutory remit was not an "*appealable decision*" under any provision of the 1942 Act; or any other designated enactment or statutory instrument;

- That even a decision by the Central Bank not to act in a matter falling within their statutory remit would not be an "*appealable decision*";

- That the Tribunal has no jurisdiction to hear and determine Ms Y's appeal.

THIS TRIBUNAL'S CONCLUSIONS

51. For the avoidance of any doubt, the Tribunal accepts that, in making this response, it is effectively making a "*decision on jurisdiction*". To repeat, the reason why this is stated to be a "*response*" is that no Notice of Appeal has ever been filed and, therefore, a question might arise as to whether the Tribunal even had a jurisdiction to make a decision absent a Notice of Appeal. However, it is abundantly clear that these issues are deeply troubling for Ms Y and have caused her considerable frustration and anger. Like any other person, she is entitled to a clear statement from a decision making Tribunal as to the reasons for its decision.

Procedure

52. The Tribunal has explained to the parties that it intended to deal with this matter on the papers without the need for any oral hearing. No objection was raised by either party.

Time limitations

53. It will be convenient at this stage to briefly deal at this stage with time limitations. In accordance with Section 57(L) of the Central Bank Act, 1942, as amended, an appeal must be in writing and lodged with the Registrar within 28 days after notification of the decision concerned, or "*within such extended period as the Registrar may allow after consulting the Chairperson…*". It is sufficient to say that there have been a very substantial number of letters exchanged in an effort to clarify the question of jurisdiction. If the Tribunal had been of the view that Ms Y had suffered any prejudice as a result of the detail of this correspondence, it would have had no hesitation in extending the time for an appeal. For the reasons are set out below, however, the Tribunal is unable to conclude that Ms Y suffered any prejudice. This is because the Tribunal lacks jurisdiction to deal with the issue, or to deal with the matters which she seeks to raise.

Objects of the legislation and jurisdiction

54. The Tribunal must first have regard to its statutory objects. It is necessary to pay particular regard to what is now italicised. These objects are defined in Part VIIA of the Central Bank Act, 1942, as amended.

Under Section 57B the objects are set out as follows:

"(*a*) to establish the Irish Financial Services Appeals Tribunal as an independent

tribunal—(a) (i) to hear and determine *appeals under this Part*;

(ii) to exercise such other jurisdiction "*as is conferred on it by this Part or by any other enactment or law*";

(b) to ensure that the Appeals Tribunal is accessible, its proceedings are efficient and effective and its decisions are fair;

(c) to enable proceedings before the Appeals Tribunal to be determined in an informal and expeditious manner.

Jurisdiction

55. Under Section 57G the Tribunal has jurisdiction to hear and determine -

"(a) appeals made by affected persons against appealable decisions of the Bank; and

(b) such other matters, or class of matters, as may be prescribed by any other Act or law."

56. Thus, the Tribunal can *only* deal with appeals identified in Part VII of the Act, or in some other Act of the Oireachtas, or a statutory instrument. The Tribunal's jurisdiction *only* goes as far as its governing statute allows, and no further. Needless to say, the Tribunal seeks to have regard to Section 57B (b) and (c) in its functions but it cannot exceed its jurisdiction.

"Affected persons" and "appealable decisions"

57. Part VIIA also contains other terms to be interpreted or defined. As set out under Section 57A(1) the term "*affected person*" means a person whose interests are "*directly or indirectly affected by an appealable decision*". (See interpretations contained in Section 57A of the Act, as amended).

58. In Section 57A(1) the term "*appealable decision*" means "*a decision of the* [Central] *Bank that is declared by a provision of this Act, a designated enactment, a designated statutory instrument or the Finance (Provision of Access to Cash Infrastructure) Act, 2025 insofar as that Act is not a designated enactment, to be an appealable decision for the purposes of this part*" (the word [Central] is inserted for clarity).

59. An "*appellant*" is defined as a "*person who has lodged an appeal*".

60. The legal difficulties which Ms Y therefore faces are significant. It might theoretically be said that her interests have been "*directly or indirectly*" affected by the Central Bank's decision not to entertain her complaint.

61. But the true question is whether that decision is "*appealable*". To repeat, Section 57(A)(1) referred to above, contains a very precise decision of what is an "*appealable decision*". It means *only* a decision of the Bank that is declared by a provision of the Central Bank Act, 1942 or a "*designated enactment*", or a "*designated statutory instrument*", or the Finance (Provision of Access to Cash Infrastructure) Act, 2025, to be an appealable decision for the purposes of that Part. *Only* decisions which fall within that description are appealable. Any other decision is not appealable by exclusion. The question is essentially one of statutory interpretation.

62. By its very title the statutory remit of this Tribunal is *only* to deal with "*financial services*". The Tribunal does not have a statutory role in relation to the type of issues which Ms Y seeks to raise. This holds true whether or not the issues she seeks to raise are characterised as "*employment issues*"; or *"health and safety issues*"; or if the issues concern the failure of the F.I. to deal with her complaints; or the decision of the Central Bank that in this case it does not have jurisdiction. None of these matters are a "*decision of the Bank*" that is declared by a provision of the 1942 Act, or a designated enactment, or a designated statutory instrument, or the Act of 2025, to be a decision of the Bank, or an "*appealable decision*".

63. It follows that again, unfortunately from Ms Y's point of view, the Tribunal has no jurisdiction. In the event that Ms Y actually has access to some legal advice, assistance may be gained from considering Part VII of the Central Bank Act, 1942 as amended (in the annotated version). In particular, see page 194 onward.

64. From page 195 onward, under the heading "*Editorial Notes*", there are some 30 provisions which are "*designated decisions*" which are appealable for the purposes of Part VIIA. However, none of these describes the category of complaint which Ms Y seeks to raise, no matter how categorised.

65. It could be said that an objective consideration of the many emails provided, shows that "*in substance*" Ms Y was seeking to raise something significantly more than procedure. This is true whether the complaints are as described by Ms Y, as a failure to deal with complaints, or employment/health issues, as the bank would contend. The thrust of the correspondence, seen as a whole, showed that she was in fact seeking an investigation into the two issues which she raised. To summarise therefore, Ms Y is not an

"appellant", an "affected person" and what is before the Tribunal is not an "appealable decision".

66. However, the governing statutes provide that this Tribunal simply does not have a role in this area, either regarding the form of procedure adopted by the Central Bank, or the substance of the complaints which she seeks to raise.

The Individual Accountability Framework Legislation

67. This response has already described the statutory meaning of appeals and appealable decisions. With regard to the IAFA , it has not been shown the Central Bank has made what is identified as an "*appealable decision*". The Act is not identified as among the list provided in the annotated version of the statute which is dated 15 July 2025. Other categories of decision are identified in the IAFA. The precise decisions which Ms Y seeks to rely on are not identified.

68. Furthermore, the jurisdiction of the Central Bank, and this Tribunal, relates only to persons identified in the Framework Legislation when they are performing in matters defined as "*controlled functions*" in relation to "*regulated financial service providers*". That is a function in relation to activities that are subject to regulation by the Central Bank, namely the provision of financial services.

69. As such, the application of the common standards provisions is limited to the conduct of such persons when they are performing a "*controlled function*". The duties imposed under the Central Bank (Individual Accountability Framework) Act 2023 relate only to persons who come within the description contained in the Framework, when they are carrying out duties or responsibilities in relation to their legal obligations in the specific area in which they engage. The terms "*honesty, integrity and acting with due skill and diligence*" relate to the standards expected of persons, when they are engaged in the type of activity which comes within the Framework. This Framework relates to the provision of financial services, and not to any other issue. (See generally Part 3A of the Central Bank Reform Act 2010, as inserted by s.6 of the AIFA 2023; and, in particular, the Long Title thereof; Section 53 generally; specifically, s.53E and G; and the Guidelines on Common Conduct Standards published thereunder, which together, clearly set out the limited ambit and statutory intent of the legislation.)

70. More fundamentally, and at risk of further repetition, from the Tribunal's point of view, there is no "*appealable decision*". Thus, unfortunately from Ms Y's point of view, there is nothing further with which the Tribunal can engage. The Tribunal does not have jurisdiction because it is what is termed a "*creature of statute*". It simply cannot go beyond its remit, as that would contravene Article 15.2.1 of the Constitution. The Tribunal cannot legislate to expand its powers.

71. Given that the Oireachtas has expressed its intention as to the categories of appeal to be designated, it must follow as a matter of interpretation, that that which is not designated, or expressed in either statute, or enactment, or statutory instrument, cannot be included.

72. Moreover, consideration of the IAFA does not give indication that that it was intended to be retrospective, or retroactive, in its effect as suggested. As such, even the correspondence in 2023 and 2024 is not captured by the IAFA for the reasons which are set out above.

Response Conclusions

73. Regrettably, this response will be disappointing for Ms Y. For the reasons outlined, the Tribunal does not have jurisdiction, and cannot give itself jurisdiction.

74. The Tribunal is acutely aware that the questions here might have been dealt with more briefly. However, the length and depth of Ms Y's correspondence shows her deep concerns. She was raising significant legal issues which did require a considered legal response.

75. Ms Y has sought to explore other legal avenues. The Tribunal is not aware of what has arisen before the Financial Services Ombudsman. However, it would perhaps assist if she were to take further legal advice.

76. The Tribunal would comment that the Central Bank ultimately did set out its position fully in letters of 22 May 2025 and 19 June 2025 at the request of the Tribunal. In fairness to the Central Bank, some of Ms Y's earlier correspondence was not as clear as it might have been in explaining the full background. A more comprehensive response might not have been possible before Ms Y had fully explained her case, giving rise to their responses referenced above.

77. As a matter of both prudence and statutory obligation, the Tribunal considered it better to set out its views in detail. However, it is not to be anticipated that this Tribunal would necessarily engage in detailed responses in other cases.

78. This must conclude matters insofar as the Tribunal is concerned.

Costs

79. Strictly speaking, as no question of jurisdiction arises, the question of costs cannot arise either.

Signed:

Mr Justice John MacMenamin Chairperson
6th November 2025