

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Re: Shane Kavanagh -v- The Central Bank of Ireland

Appeal Ref 030/2025

Decision

1. This is a decision of the Irish Financial Services Appeals Tribunal (“the Tribunal”) pursuant to a Notice of Appeal dated 9 May 2025 filed by Mr Shane Kavanagh (“the Applicant”), the subsequent submissions made by both the Applicant and the Central Bank of Ireland (“the Central Bank”) and following a Preliminary Hearing held on Wednesday, 5 November 2025.
2. The Tribunal panel consisted of Ms Patricia O’Sullivan Lacy BL (Chair); Mr Conor Power SC; and Mr Paul Brennan (Solicitor).
3. The central issue is whether the Applicant falls within the legal definition of an Applicant under the Central Bank Act 1942 (as amended) and whether the Tribunal has jurisdiction to deal with the matters raised in the Applicant’s Notice of Appeal.
4. It is important to note at the outset that the Applicant’s complaints were phrased in rather general terms; and appear to relate to issues which stretch back to the financial crisis of 2008 – 2012.
5. It is also important to note that the Applicant’s concerns are allegations against the Central Bank. Nothing in this decision constitutes any finding that these allegations are correct or substantiated.

Complaint

6. On 17 February 2025 the Applicant wrote to the Tribunal regarding the alleged failure of the Central Bank over the years to enforce EU financial regulations, its alleged potential conflict of interest and its alleged refusal to engage with serious

regulatory concerns. He contended that, in response to his complaints, the Central Bank had stated that it would no longer respond to any further correspondence on these issues, that there was now no statutory body in Ireland willing to investigate these failures, thus making the Tribunal's role in this matter absolutely imperative. He requested the Tribunal to formally investigate the Central Bank's alleged regulatory failures and ensure that appropriate action was taken.

7. Specifically, the Applicant alleged:

- 1) Conflict of Interest – the Central Bank's alleged role in “concealing” banking insolvency. Reference was made to how the Central Bank might allegedly have suppressed evidence of banking insolvency due to its own financial interventions in failing banks. If the Central Bank was to admit that it failed in its regulatory oversight, it was claimed this would also expose its own financial interventions as being potentially illegal under EU banking law, and that this situation necessitated an independent review.
- 2) Systemic Failure to Enforce IFRS 9¹ and Loan Impairment Rules – the Applicant alleged the Irish banks had systematically misrepresented loan impairments, thereby violating EU financial transparency regulations. Despite this he contended the Central Bank had taken no enforcement action.
- 3) Regulatory Inaction where the Central Bank's alleged silence had been used as a legal defence: the Central Bank's alleged refusal to act had now distorted legal proceedings, allowing banks to avoid accountability.
- 4) The Central Bank's refusal to engage - in particular that the Central Bank had now officially stated that it would not respond to further emails on these matters. The Applicant contended the deliberate refusal to engage raised concerns about alleged misconduct, regulatory negligence and “institutional cover ups”. If the Central Bank had nothing to hide, it would welcome scrutiny. Instead, it had chosen silence.

¹ IFRS 9 concerns International Financial Reporting Standards issued by the International Accounting Standards Board

5) An urgent request to the Tribunal to intervene: the Applicant asked the Tribunal to:

- i. Investigate the Central Bank's failure to enforce IFRS 9 and to ensure accurate loan impairment recognition.
- ii. Examine whether the Central Bank's financial interventions in failing banks had created a conflict of interest which influenced its supervisory decisions.
- iii. Assess whether Irish banks had been allowed to manipulate financial statements to conceal losses, in violation of EU and Irish transparency laws.
- iv. Determine whether the Central Bank's refusal to engage with him constituted a failure of its statutory obligations under Irish and EU banking laws.
- v. Advise on what next steps should be taken to ensure that regulatory failures are properly investigated.

Correspondence:

8. On 5 March 2025 the Tribunal acknowledged the Applicant's letter and his dissatisfaction with certain actions of the Central Bank. It explained the jurisdiction of the Tribunal as being confined to appeals by an "affected person" against decisions of the Central Bank which are identified as "appealable decisions" under the Central Bank Act 1942, as amended, or any designated enactment or statutory instrument. Section 57A of the Central Bank Act 1942 ["the 1942 Act"], as amended provides that an "affected person" means a person whose interests are directly or indirectly affected by an appealable decision. The Tribunal also advised that the Applicant's correspondence had been forwarded to the Central Bank for its observations.

9. On 26 March 2025 the Central Bank replied to the Tribunal, indicating:

- None of the matters raised by the Applicant constituted an "*appealable decision*" and therefore did not come within the jurisdiction of the Tribunal.
- The complaint listed a number of alleged "regulatory failures" by the Central Bank, none of which were "appealable decisions" under any

provision of the 1942 Act or any other designated enactment or designated statutory instrument.

- All of the allegations made were denied.
- There had been significant engagement between the Applicant and the Central Bank spanning a number of years in respect of various matters. The Central Bank had at all time given correspondence received from the Applicant due attention, and had endeavoured to assist the Applicant to the best of its abilities within the Central Bank's statutory constraints under which it is required to operate.

10. On 16 April 2025 the Tribunal forwarded the Central Bank's response to the Applicant and requested his observations.

11. On 16 April 2025 the Applicant wrote to the Tribunal indicating that he wished to submit an appeal to the Tribunal, but he formally withdrew that application on the same date.

12. On 17 April 2025 the Applicant wrote to the Tribunal indicating that he wished to submit an appeal to the Tribunal stating that:

- He was appealing decisions the Central Bank had made, or "effective decisions" i.e. where the Central Bank had decided not to take action.
- He wished to submit a formal appeal under Section 57A of the 1942 Act concerning the Central Bank's decision not to investigate alleged serious regulatory breaches by AIB plc and its subsidiary EBS DAC.
- He had been a borrower directly affected by the Central Bank's inaction. In particular, the Central Bank's decision not to investigate misreporting of loan impairments under IFRS 9 and its predecessor IAS 39² – despite ongoing legal and financial consequences. This had materially impacted his ability to resolve long-standing disputes with these institutions.
- The Central Bank's decision had also been cited by legal teams in opposition to him as justification for dismissing complaints of financial misrepresentation.

² International Accounting Standard 39

- That the Central Bank's decision not to investigate constituted an "appealable decision" within the meaning of the 1942 Act – due to its regulatory nature and its direct impact on affected parties such as himself.

13. On 7 May 2025 the Tribunal replied to the Applicant referring to:

- his correspondence where he stated *"formally submit your appeal under Section 57A of the Central Bank Act 1942 (as amended), relating to the Bank's refusal to investigate serious regulatory and financial misconduct by Allied Irish Banks plc and EBS DAC."*
- The jurisdiction of the Tribunal was again explained.
- That if he wished to submit a Notice of Appeal it should be done by lodging a Notice of Appeal Form, in accordance with the IRSAT Rules 2008.
- In accordance with Rule 4(1) of the IFSAT Rules 2008 any appeal to the Tribunal should be lodged within 28 days of being notified of the decision. As it appeared that the matters of complaint occurred far in excess of that time period it would be necessary to apply for an extension of time and the grounds to support that application.
- That Rule 5, IFSAT Rules 2008, sets out the fee payable on appeal, being €5,000.00 which is payable upon lodging a Notice of Appeal. The possibility of seeking a waiver / reduction of this fee was also outlined.

14. On 9 May 2025 the Applicant submitted the following documentation:

- **Notice of Appeal Form**

The following responses were set out:

Question 3:

- **Please identify the decision of the Regulatory Authority against which you are appealing?** The Central Bank of Ireland's refusal to investigate serious regulatory breach by Allied Irish Banks plc and its subsidiary EBS DAC, including alleged misreporting of loan impairments under IFRS 9 and IAS 39.
- **Please set concisely the circumstances in which that decision was made?** Following my submission of complaints and

supporting materials over a number of years, the Central Bank communicated in a letter dated 26 March 2025 that it would not be initiating an investigation. This formal refusal was the first explicit confirmation of the Bank's position, despite earlier indications of no-action.

- **Please identify the designated enactment or designated statutory instrument which you say renders that decision appealable?** Section 57A of the Central Bank Act 1942 (as amended), including the Central Bank (Supervision and Enforcement) Act 2013 and the EU prudential regulatory framework governing financial oversight.
- **Please specify how you are affected by that decision?** As a borrower subject to enforcement by AIB/EBS, the refusal to investigate undermines my legal position. In mediation proceedings opposing legal teams cited the Central Bank's inaction as evidence that no wrongdoing had occurred. This has caused me financial and procedural harm, and denied me access to regulatory remedies.

Question 4

- **Please set out concisely the grounds on which you wish to appeal?** The Central Bank's refusal to act constitutes an appealable decision within the meaning of Section 57A of the Central Bank Act 1942.
- This is a constructive or de facto decision by a regulatory authority, made in response to serious allegations supported by evidence.
- The Bank's failure to discharge its statutory supervisory duties has had a direct, adverse effect on me as an affected person.
- The refusal undermined transparency, accountability, and the lawful exercise of regulatory powers.

- That the Tribunal consider this appeal as timely under Rule10, as my response to the Bank's 26 March 2025 letter was submitted within 14 working days, and I have acted promptly throughout.
- I also request a waiver of request a waiver or reduction of the €5,000 appeal fee on the grounds of financial hardship and the risk of injustice if access to the Tribunal were denied due to cost.
- The following documents were attached to the Notice of Appeal:
 - Central Bank letter dated 26 March 2025
 - Email Garda National Economic Crime Bureau dated 20 April 2022
 - Email from Applicant to Corporate Enforcement Authority dated 19 November 2024
 - Letter from Corporate Enforcement Authority dated 20 March 2025
 - Legal Opinion George Bompas QC dated 8 April 2013
 - Legal Opinion Martin Moore QC dated 8 October 2013
 - House of Commons Business, Energy and Industrial Strategy Committee, The Future of Audit, Nineteenth Report of Session 2017-19 dated 26 March 2019
 - Email Irish Auditing and Accounting Supervisory Authority dated 28 April 2022
 - European Ombudsman Decision in case 450/2019/SRS dated 12 April 2019
 - European Anti-Fraud Office (OLAF) email dated 20 April 2017
 - European Central Bank letter dated 31 October 2016

It will be noted, and is surely relevant to any time limit issue that some of the documentation set out above goes back as far as the year 2013.

- **Notice of Application for Extension of Time**
- **Statement in Support of Application for Extension of Time**
- The Applicant contended, inter alia, that the Central Bank's letter of 26 March 2025 was the first formal and explicit indication of its position –

namely, a refusal to investigate the regulatory breaches raised in relation to AIB and EBS DAC. Prior to that, the Bank had not issued any clear or final decision that could be appealed under Section 57A of the Central Bank Act 1942. Accordingly, he contended that the 28 day period for appeal should properly run from that date.

15. On 21 May 2025 the Tribunal wrote to the Applicant:

- Acknowledging receipt of the Notice of Appeal, his application for an extension of time, and stating that the observations of the Central Bank would be sought on same.
- That regarding the Applicant's application for a waiver / reduction of the appeal fee, further elaboration and vouching documentation to support his application was required.

16. On 21 May 2025 the Applicant wrote with further information regarding his financial position.

17. On 23 May 2025 the Tribunal wrote to the Applicant indicating that the Tribunal deemed the sum of €250.00 to be the appropriate appeal fee in his circumstances. The Applicant discharged this fee.

18. On 5 June 2025 the Central Bank wrote to the Tribunal as follows:

- Section 57L (1) of the 1942 Act stipulated that *“an affected person may appeal to the Appeal Tribunal in accordance with this section against an appealable decision of the Bank”*
- Section 57L (2)(b) provided that an appeal must *“be lodged with the Registrar within 28 days after the Bank notified the affected person of the decision concerned, or within such extended period as the Registrar may allow, after consulting the Chairperson.”*
- The Applicant had not identified, either in his original correspondence with the Tribunal dated 17 February 2025, or in the Notice of Appeal or the Notice of Application, any “appealable decision” for the purposes of his appeal.
- The Central Bank's position remained as set out in previous correspondence to the Tribunal dated 26 March 2025, namely that the alleged “refusal to act” by the Central Bank raised by the Applicant in his

Notice of Appeal as the ground upon which he wished to appeal does not constitute an appealable decision. Accordingly, this acted as a bar to the success of the Applicant's Extension Application.

- Referring to Rule 10 of the IFSAT Rules 2008 the Central Bank noted that the Applicant in his Notice of Appeal and Notice of Extension Application attempted to characterise the observations made by the Central Bank to the Tribunal dated 26 March 2025 as the "decision" of the Central Bank which he now sought to appeal. The Central Bank did not agree with that assessment, and the letter of 26 March 2025 did not contain any decision of the Central Bank which could constitute an "appealable decision". This date could not therefore be considered as the date upon which the time period for bringing an appeal could commence.
- The last date on which the Central Bank corresponded directly with the Applicant was 14 February 2025; this meant it took the Applicant some 84 days to lodge a Notice of Appeal and well in excess of the 28 day period prescribed by Section 57L (2)(b) of the 1942 Act.
- It appeared that the Applicant had not provided an explanation as to why he was unable to lodge his appeal within the 28 day time period required, nor had he provided any persuasive reasons why the Tribunal should extend the period for lodgement of the appeal.

19. The Tribunal considered the submissions regarding the extension of time, the proposed appeal and the question of jurisdiction. The Tribunal determined that a preliminary hearing in respect of the issues of extension of time and jurisdiction was necessary to obtain clarification on the matters raised. The parties were requested to make written submissions and in particular, to address the question of whether the Notice of Appeal identified an "appealable decision" within the meaning of the Act of 1942.

Applicant's submissions:

The Applicant submitted that:

20. Extension of time (Rule 10)

- Timeliness and diligence - The Central Bank's letter of 26 March 2025 was first formal communication clearly setting out its position that none of the matters raised were appealable decisions. The reply of the Applicant on 16 April 2025 was within 14 working days and Notice of Appeal was lodged shortly thereafter.
- Continuing breach – Central Bank's refusal to act was not a single historical act. It was, rather, an ongoing failure to exercise statutory powers to enforce prudential and accounting standards. Consequently, the 28 day period had not expired.
- There would be no prejudice to the Central Bank if the appeal proceeded.

21. Jurisdiction under Section 57A

- The Applicant further contended that the Decision had been made under a designated enactment: The Central Bank's supervisory and enforcement functions derived from the Central Bank Act 1942 and the Central Bank (Supervision and Enforcement) Act 2013, both defined "designated enactments". A refusal to investigate fell squarely within these powers.
- There had been express acknowledgment of a decision. In its letter of 26 March 2025 the Central Bank had stated "*None of the matters raised by Mr Kavanagh....constitute an 'appealable decision.'*" This was a formal and final determination with legal and regulatory effect.
- That "*de facto*" decision or decisions were reviewable.
- That he was an "affected person": The Central Bank's refusal had been cited against him in legal mediation, resulting in financial loss, property surrender and reputational harm.
- Public interest dimension: The refusal to act undermined the Basel framework³, impairing the Central Bank's role as a competent authority. This fell directly within the Tribunal's supervisory remit and that an "appealable decision" had been made.

22. The Applicant further submitted that the Tribunal should look to:

³ A framework for banking operations established by the Basel Committee on Banking Supervision (BCBS)

- Substance over form – what mattered was whether the Central Bank had exercised or refused to exercise a statutory power in a way that affected rights or obligations.
- That the refusal communicated on 26 March 2025, where the bank stated it would take no action, constituted a decision.
- There was continuing legal effect – the refusal remained operative.
- That there were ongoing consequences – the refusal had led directly to the Applicant’s exclusion from compensation schemes and contributed to significant loss satisfying any test of “adverse effect.”

23. In relation to the email from the Central Bank of 14 February 2025 the Applicant submitted:

- Although the Central Bank may assert that the email of 14 February 2025 constituted the relevant decision, this was incorrect.
- That the email had been sent by a non-supervisory associate in the Public Contacts Unit, and it contained no reference to statutory powers, rights of appeal, or the decision-making framework.
- That it closed off correspondence, which was not a legal matter.
- That the formal decision came on 26 March 2025, addressed to the Tribunal.
- That, even if the 14 February 2025 was accepted as being the decision date (which was denied) he had acted promptly. Rule 10 allowed for an extension of time where appropriate.

24. In relation to the Central Bank’s reliance on initial Tribunal contact, the Applicant submitted that:

- Early engagement with the Tribunal had been done in good faith, to seek clarity in light of silence from the Central Bank.
- That this did not confirm acknowledgment of a final decision.
- That the Central Bank’s own letter of 26 March 2025 confirmed that no decision had yet been made.
- That no prejudice arose, and Rule 10 of the IFSAT Rules remained available.

25. Procedural fairness and failure to inform: The Applicant submitted that:

- The 14 February 2025 and 26 March 2025 correspondence did not make any mention of any right of appeal or time limit. This omission was material and prejudicial.
- The Central Bank could not now rely on a time limit it had never disclosed.

Submissions of Central Bank:

On behalf of the Central Bank it was submitted that:

26. Overview

- The Applicant's complaint by email to the Tribunal dated 17 February 2025 listed a number of regulatory failures by the Central Bank and he had asked the Tribunal to:
 - Investigate the Central Bank of Ireland's failure to enforce IFRS 9 and ensure accurate loan impairment recognition;
 - Examine whether the CBI's financial interventions in failing banks created a conflict of interest that influenced its supervisory decisions;
 - Assess whether Irish banks had been allowed to manipulate financial statements to conceal losses, in violation of EU and Irish transparency laws;
 - Determine whether the CBI's refusal to engage constituted a failure of its statutory obligations under Irish and EU banking laws;
 - Advise on what next steps should be taken to ensure that regulatory failures are properly investigated;
- That on 26 March 2025 the Central Bank had provided its observations to the Tribunal regarding the complaint. This stated that none of the matters raised by the Applicant constituted an "appealable decision" for the purposes of Section 57A of the 1942 Act, and therefore did not come within the jurisdiction of the Tribunal pursuant to Section 57G of the 1942 Act;
- The Central Bank had submitted in correspondence dated 21 May 2025 the Tribunal advised the Central Bank that a Notice of Appeal and a Notice of Application in respect of an extension of time had been submitted on 9 May 2025;

- That the Central Bank’s position remained that none of the issues raised in the Complaint or the subsequent Notice of Appeal came within the Tribunal’s jurisdiction to hear and determine the matter;
- That, in addition, the Notice of Appeal was out of time and the Extension application should be refused.

27. Issue before the Tribunal: The Bank submitted that the issue before the Tribunal was not an “appealable decision”

- Pursuant to Section 57G of the 1942 Act the Tribunal’s jurisdiction was confined to hearing and determining “*appeals made by affected persons against appealable decisions*” of the Central Bank.
- That the issues raised in the Notice of Appeal did not constitute an “*appealable decision*” for the purposes of Section 57A of the 1942 Act, and therefore did not come within the jurisdiction of the Tribunal.
- That Section 57A of the 1942 Act defined an “*appealable decision*”, as at 9 May 2025⁴, as: “*a decision of the Bank that is declared by a provision of this Act, or of a designated enactment or designated statutory instrument, to be an appealable decision for the purposes of this Part [Part VIIA of the 1942 Act];*”⁵ The Central Bank provided two examples of what constituted “appealable decisions”; but submitted that none of the issues in the Notice of Appeal, or, in the Complaint, were appealable decisions under any provision of the 1942 Act, or any other designated enactment or designated statutory instrument.
- The Notice of Appeal had identified the Central Bank’s alleged “*refusal to investigate serious regulatory breaches by Allied Irish Bank plc (AIB) and its subsidiary EBS DAC, including alleged misreporting of loan impairments of IFRS 9 and IAS 39*” as the decision of the Central Bank against which it was appealing. The Notice of Appeal stated that the “Central Bank communicated in a letter dated 26 March 2025 that it would not be

⁴ 9 May 2025 – date Notice of Appeal filed

⁵ Section 46 Finance (Provision of Access to Cash Infrastructure) Act 2025 amended the definition of “appealable decision” contained in Section 57A of the 1942 Act on 30 June 2025, by substitution of the following definition: “‘appealable decision’ means a decision of the 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 (in so far as that Act is not a designated enactment), to be an appealable decision for the purposes of this Part”;

initiating an investigation” into matters raised by the Applicant with the Central Bank and that this constituted a *“formal refusal”* by the Central Bank. The Notice of Appeal stated that this alleged “refusal to act” by the Central Bank was the ground upon which the Applicant wished to appeal on the basis that it purportedly *“constitutes an appealable decision within the meaning of Section 47A of the Central Bank Act 1942”*.

- The Central Bank’s letter of 26 March 2025 was addressed to the Tribunal. The observations made by the Central Bank to the Tribunal were characterised in the Notice of Appeal and Notice of Extension Application as a “decision” of the Central Bank.
- The Central Bank rejected this characterisation. The letter did not contain any decision of the Central Bank which could constitute an appealable decision. The letter did not contain any decision of the Central Bank.
- The document submitted by the Applicant entitled “Jurisdictional Argument – Constructive Decision by the Central Bank of Ireland” contradicted the position adopted in the Notice of Appeal where it stated that *“the Central Bank has not issued a formal letter declining to act”*. Instead, it appeared to allege that the Central Bank’s deemed regulatory *“inaction”* on foot of matters raised by the Applicant with the Central Bank constituted a *“constructive or de facto decision in law”*. No legal basis was offered in support of this assertion and this was rejected by the Central Bank.
- The legislation identified in the Notice of Appeal as rendering the “decision” of the Central Bank appealable – namely *“Section 57A of the Central Bank Act 1942 (as amended) including the Central Bank (Supervision and Enforcement) Act 2013 and the EU prudential regulatory framework governing financial oversight”* did not disclose any provision of a *“designated enactment”* or *“designated statutory instrument”* relevant to the alleged decision of the Central Bank which would render that “decision” an *“appealable decision”* for the purposes of Part VIIA of the 1942 Act, such that it would permit, pursuant to Section 57G of that Act,

the hearing and determination by this Tribunal of the issues raised in the Notice of Appeal.

28. Application for an extension of time. The Bank submitted that:

- Section 57L (1) of the 1942 Act stipulated that “[a]n affected person may appeal to the Appeals Tribunal in accordance with this section **against an appealable decision of the Bank**”. (emphasis added)
- Section 57L (2)(b) provided that an appeal must “be lodged with the Registrar within 28 days after the Bank notified the affected person of the decision concerned, or within such extended period as the Registrar may allow, after consulting the Chairperson”.
- It was clear from Section 57L of the 1942 Act that any application for an extension of time of such an appeal was predicated on the fact that the Central Bank had, in the first instance, made an “*appealable decision*” for the purposes of Part VIIA of the 1942 Act.
- The Central Bank submitted that the absence of any “*appealable decision*” acted as a bar to the success of the Applicant’s Extension Application.
- That Rule 10(1) IFSAT Rules 2008 provides: “An application to the Registrar under section 57L (2)(b) of the Act to extend the time for lodging an appeal shall be made in writing (in this Rule referred to as the “Notice of Application”) sent to the Registrar. The Notice of Application **must set out the reasons why the intended Applicant did not lodge the appeal within the period described in the section 57L (2)(b) and the reasons why the intending Applicant submits that the Registrar should extend the period for lodgement of the appeal.** Where the application relies on or refers to any document, the Notice of Application shall have annexed to it a copy of that document.” (emphasis added)
- The Bank submitted the Notice of Extension Application was dated 9 May 2025. It attempted to characterise the observations made by the Central Bank in its response to the Tribunal on 26 March 2025 as a “*decision*” of the Central Bank.

- That the letter of 26 March 2025 did not contain any decision of the Central Bank, and that correspondence, therefore, could not be considered as the date upon which the time period for bringing an appeal would commence.
- That even if the Tribunal was to treat the last date on which the Central Bank corresponded directly with the Applicant before he made contact with the Tribunal – 14 February 2025 – this would mean that it took the Applicant 84 days to lodge the Notice of Appeal and Notice of Extension Application on 9 May 2025.
- That the Applicant had not provided the Tribunal with any explanation as to why he was unable to lodge his appeal within the 28 day time period prescribed in Section 57L (2)(b) as required by Rule 10(1). The Applicant had not further provided the Tribunal with any persuasive reasons why it should extend the period for lodgement of an appeal.

29. Conclusion. In summary, the Bank submitted that:

- All of the allegations made by the Applicant against the Central Bank in his correspondence with the Tribunal to date were denied.
- There had been significant engagement between the Applicant and the Central Bank spanning a number of years in respect of various matters and these engagements were continuing. While observing its statutory constraints, including confidentiality obligations and the fact that it cannot give legal advice, the Central Bank would continue to engage with the Applicant in as open and transparent manner as possible.

Preliminary Hearing

30. A preliminary hearing was held on 5 November 2025.

31. The Applicant represented himself. The Central Bank were represented by Mr Dara McNulty and Ms Deirdre Mooney. The Tribunal thanked the parties for their able and helpful submissions.

32. The Applicant read a prepared oral statement to the Tribunal.

33. The oral statement included, inter alia, allegations that the Central Bank had permitted a practice of concealing losses that distorted markets, misleads investors and harmed the public.

34. The oral statement also made a range of brief references,⁶ and summaries of relevance, to the following:

- Alleged inconsistent treatment – The Applicant referred to a former PTSB chief alleging that it was ‘extraordinary’ that this person was the only individual subjected to a tracker mortgage inquiry – The Irish Times. This illustrated inconsistent enforcement by the Central Bank and supported his argument of selective oversight.
- That IFSAT existed to provide independent oversight and prevent the Central Bank from being “judge in its own case”.
- That a former Central Bank Governor had admitted to being “too trusting” of banks (RTE documentary report, Irish Independent) that this demonstrated a regulatory culture of excessive trust rather than scepticism; thereby showing systemic oversight weakness.
- That a letter from the Central Bank letter to Deputy John McGuinness confirmed the Bank’s position that concealment of losses did not constitute illegality.

35. The Applicant also referred to:

- An ECB letter from Jean-Claude Trichet to Sir David Tweedie, 6 September 2004
- UK Parliament “Future of Audit” Report (2019), page 25
- Central Bank Meeting Minutes. Summary of relevance – which recorded acknowledgment that concealment of losses was not treated as a regulatory breach.
- Central Bank correspondence to the European Commission, 7 December 2010 which contained an admission that Irish banks received “clean” audits, despite under-provisioning and funding mismatches; which proved evidence of long standing awareness.
- PwC Industry Circular (“Substantially Lower” Note); and
- The Systemic Lesson (inspired by Professor William K. Black)

⁶ The specific documentation was not presented to the Tribunal

36. The Applicant concluded by requesting the Tribunal to find that the refusal of the Central Bank to investigate the alleged concealment of losses was a continuing regulatory decision within its jurisdiction.
37. The Central Bank made oral submissions which were aligned to their written submissions.
38. The Applicant made a brief reply to the Central Bank's submissions. He said, inter alia: *"I do want to focus on what the case is really about and why it matters beyond the technical points of jurisdiction. The Central Bank's argument, as I understand it, is that because it chose not to take any formal action, there is no appealable decision and therefore no review can take place. But, with respect, to me that is what exactly the problem when a regulator decides not to act, when it consciously allows something with clear legal and financial consequences to continue, that is still a decision. It has effects, it shapes markets, it determines who is protected and who is exposed. Inaction is not neutrality, inaction is a choice."*
39. The Tribunal asked the Applicant a number of questions in an attempt to establish what "appealable decision" the Tribunal was being asked to review. The Tribunal pointed out to the Applicant that he had raised new issues about the signoff of the Central Bank on various banks' capitalisation each year. The Applicant accepted this. The Tribunal considered that the Applicant had failed to clearly indicate what specific date or dates this decision had been made.
40. After further attempts to clarify whether or not there was an "appealable decision" before the Tribunal, the Applicant accepted there was not an "appealable decision" before the Tribunal. He stated: *"Yeah, we will have to accept, obviously by the rules of the Tribunal which has been brought to our attention, obviously it is not listed on that as an appealable decision. But, as I say, we do believe under [Section] 57G (2) that you do have additional powers"*
41. The Tribunal asked the Central Bank to give its view on the fact that the Applicant was now relying on the provisions of Section 57G (2), which dealt with supplementary powers and the more general provisions, as he had put it.
42. The Central Bank submitted that Section 57G (1) clearly set out that the Tribunal had jurisdiction to hear and determine appeals by affected persons against appealable decisions, but that Section 57G (2) did not expand that jurisdiction. It

simply provided that the Tribunal could do whatever was necessary in connection with that jurisdiction, or was reasonably incidental to that jurisdiction but that it did not permit the Tribunal to expand that jurisdiction beyond decisions that were declared by the Oireachtas to be appealable decisions. The Central Bank submitted that the Tribunal should note that the introduction to Section 57G (2) stated that sub-section was to be read “*subject to this Part*”. It was not separate, or additional to, the Part; rather it was subject to that Part and to be read in the context of that Part which clearly defines the jurisdiction of the Tribunal.

Decision

43. The Applicant has clearly developed very strong views over a period of time. Brief mention was made by him in the paperwork submitted and during the preliminary hearing that he had been a tied agent with EBS DAC, had lost an investment property, and had been involved in some form of mediation which had not yielded him any form of compensation.

Objects of the legislation and jurisdiction

44. The Tribunal must first have regard to its statutory powers. These are set out in Part VIIA of the 1942 Act, as amended.

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

(a) to establish the Irish Financial Services Appeal 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.

“Affected persons” and “appealable decisions”

45. Part VIIA also contains others terms to be interpreted or defined. As set out under Section 54A(1) of the 1942 Act “*affected persons*” is defined as meaning a person whose interests are “*directly or indirectly affected by an appealable decision*”. (See interpretations contained in Section 57A of 1942 Act, as amended.)
46. 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, or designated statutory instrument, to be an appealable decision for the purposes of this Part [Part VIIA of the 1942 Act]*”. This is the definition of Section 57A of the 1942 Act as at 9 May 2025, the date of the Notice of Appeal.
47. As a consequence of the commencement of Section 46 of the Finance (Provision of Access to Cash Infrastructure) Act 2025 on 30 June 2025 the definition of an “appealable decision” has been amended. However, that was not relevant to this decision.
48. An “appellant” is defined as a “*person who has lodged an appeal*”. A Notice of Appeal was lodged with the Tribunal on 9 May 2025.
49. The Tribunal notes that Section 57A(1), referred to above, contains a very precise definition of what is an “*appealable decision*”. It means only a decision of the Central Bank that is declared *by a provision of the Central Bank Act 1942* or a “*designated enactment*” or a “*designated statutory instrument*” 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 one of statutory interpretation.
50. The Tribunal must conclude that the Applicant has not identified an “appealable decision” to the Tribunal. Rather, he ultimately accepted at the preliminary hearing that he had not done so.
51. The Tribunal adds that the annotated version of Part VIIA of the Central Bank Act 1942, as amended, contains from page 195 onwards, under the heading “Editorial Notes” some 30 provisions which are identified as “*designated decisions*” which are appealable for the purposes of Part VIIA of the 1942 Act. However, none of these describes the category of complaint which the Applicant has raised, no

matter how categorised. While that list may not be not a statutorily binding list, the Tribunal accepts it as an accurate representation of the powers of this Tribunal.

52. The Tribunal concludes that no statutory provision has been cited or identified which would confer upon the Tribunal jurisdiction to consider the various complaints made by the Applicant herein.

53. The Tribunal finds that the complaint raised by the Applicant to the Tribunal is not an “*appealable decision*” and therefore, does not come within the jurisdiction of the Tribunal.

General powers pursuant to Section 57G (2)

54. At the end of the preliminary hearing the Applicant sought to impart an interpretation of the powers of the Tribunal by saying that Section 57G(2) of the 1942 Act gave the Tribunal additional powers. He referred to Section 57G(1) of the 1942 Act which provides:

(1) The Appeals 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.

But this section confirms the jurisdiction of the Tribunal is linked to considering “appealable decisions”.

55. Similarly, Section 57G (2) provides:

(2) Subject to this Part, the Appeals Tribunal has power to do whatever is necessary for or in connection with, or reasonably incidental to, the exercise of its jurisdiction.

56. But Section 57G (2) does not in any way expand the jurisdiction of the Tribunal. It merely permits the Tribunal to do whatever is necessary or reasonably incidental

to the jurisdiction of the Tribunal. The sub-section also commences: “*Subject to this Part*”, and so is limited to be read in the context of the clearly defined jurisdiction of the Tribunal.

57. The Tribunal finds that it does not have any additional powers or jurisdiction other than that provided for in Section 57G (1) of the 1942 Act.

Application for an extension of time

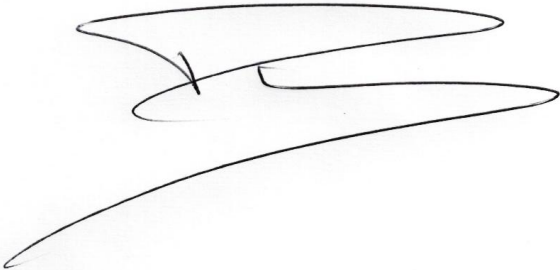
58. Section 57L of the 1942 Act is clear that any application for an extension of time of an appeal is predicated on the fact that the Central Bank has, in the first instance, made an “*appealable decision*” for the purposes of the 1942 Act. The Tribunal has determined that the Notice of Appeal submitted does not disclose an “*appealable decision*” and this, therefore, acts as a bar to any application for extension of time made by the Applicant.

59. This concludes matters so far as the Tribunal is concerned.

Costs

60. Neither party raised the issue of costs. In the circumstances of this case and subject to anything that may be submitted within seven days hereof, the Tribunal is not disposed at this stage to make any order as to costs.

Signed:



Patricia O’Sullivan Lacy Deputy Chairperson

09 January 2026