



STATUTORY INSTRUMENTS

S.I. No 224 of 2008



IRISH FINANCIAL SERVICES APPEALS TRIBUNAL RULES 2008

(Prn. A8/0921)

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL RULES 2008

The Irish Financial Services Appeals Tribunal, in exercise of the powers conferred on it by section 57AI of the Central Bank Act 1942 (inserted by section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003), hereby makes the following Rules—

Preliminary

Citation, commencement and cesser

1. (1) These Rules may be cited as the Irish Financial Services Appeals Tribunal Rules 2008.

(2) These Rules come into force on 1 August 2008.

(3) These Rules contain the procedure which applies in any appeal to the Appeals Tribunal from an appealable decision and in any application under Part VIIA of the Central Bank Act 1942.

Interpretation

2. In these Rules—

the “Act” means the Central Bank Act 1942 (as amended by the 2003 Act and by the 2004 Act);

the “2003 Act” means the Central Bank and Financial Services Authority of Ireland Act 2003;

the “2004 Act” means the Central Bank and Financial Services Authority of Ireland Act 2004;

“appealable decision” has the same meaning as in section 57A of the Act (as inserted by section 28 of the 2003 Act and as substituted by section 11 of the 2004 Act), subject to the provisions of section 57G(1A) of the Act (inserted by section 12 of the 2004 Act);

“Appeals Tribunal” means the tribunal established by section 57C of the Act and, where the context so admits or requires, the Appeals Tribunal as constituted in accordance with section 57H of the Act for the purpose of hearing a particular appeal;

“proceedings” means proceedings before the Appeals Tribunal on any appeal or any application under Part VIIA of the Act;

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each of the expressions “affected person”, “appeal”, “appellant”, “Chairperson”, “Deputy Chairperson”, “member”, “party”, and “Registrar” has the same meaning as in section 57A of the Act.

Forms

3. The forms annexed to these Rules may be used in proceedings. However, any deviation from those forms shall not render any proceedings void.

Appeals

Initiation of appeal

4. (1) Any affected person may appeal to the Appeals Tribunal from an appealable decision by notice in writing (in these Rules referred to as the “Notice of Appeal”) sent to the Registrar within 28 days after the Regulatory Authority notified the affected person of the decision concerned, or within such extended period as the Registrar may allow, having consulted the Chairperson (on an application for that purpose being made). The Notice of Appeal may be in the appropriate form annexed.

(2) Every Notice of Appeal should:

- (i) give the name and address and, where available, the fax number and e-mail address of the appellant and the name and address and, where available, the fax number and e-mail address of any agent who it is intended will represent him or it before the Appeals Tribunal;
- (ii) identify (and annex a copy of) the decision of the Regulatory Authority against which the appeal is taken;
- (iii) state the grounds of appeal in concise form;
- (iv) identify concisely the matters which it is alleged rendered the appellant an affected person;
- (v) where the appellant contends that the decision may be and should be varied, set aside or some other decision substituted for it, confirm that the decision was made under Part IIIC of the Act and state the nature of the variation or the decision which it is sought to substitute for that made by the Regulatory Authority.

(3) The Registrar shall record the date of receipt of every Notice of Appeal on the Register.

(4) The Registrar shall send a true copy of every Notice of Appeal and any annex to the Regulatory Authority and to any other person whom the Registrar considers has an interest in the subject matter of that appeal which would justify that person’s submissions (if any) on the appeal being considered by the Appeals Tribunal. The Registrar may consult with the Chairperson for that purpose.

(5) (i) The Registrar may, having consulted with the Chairperson, require or direct the Appellant or any person upon whom the Notice of Appeal

has been served to deliver to the Registrar such documents or category of documents in his or her possession or procurement which in the opinion of the Registrar or Chairperson may be relevant or helpful in identifying any matter to be determined by the Appeals Tribunal in the appeal.

- (ii) The Appellant or other party to whom such a requirement or direction is directed shall forthwith or within such time as directed by the Registrar deliver to the Registrar such documents as are specified in the Notice.
- (iii) The Registrar shall forward copies of all such documents to all other parties to the proceedings within a reasonable period.

(6) Any response (in this Rule referred to as “the Response”) by a person to whom the copy Notice of Appeal is sent shall be in writing and delivered to the Registrar within fourteen days after the date on which the copy Notice of Appeal is sent to the person concerned. The Registrar may, at his sole discretion on application for that purpose, extend the time for the delivery of the Response to a maximum of 28 days from the date on which the copy Notice of Appeal is sent. Any application to extend the period for the delivery of the Response beyond 28 days from the date on which the copy Notice of Appeal is sent shall be to the Appeals Tribunal in accordance with Rule 23.

(7) As soon as may be after receipt of a Notice of Appeal, the Registrar shall give a copy of the Notice of Appeal to the Chairperson. The Chairperson shall designate the members constituting the Appeals Tribunal for the purposes of that appeal. The Chairperson may designate the same or any other members to constitute the Appeals Tribunal for any application in relation to the appeal and may from time to time designate members to constitute the Appeals Tribunal for any interlocutory application.

(8) The Regulatory Authority’s Response must:

- (i) include the Register reference number of the proceedings to which the Response relates;
- (ii) include a statement by the Regulatory Authority as to whether it accepts that the decision is an appealable decision, and where the Regulatory Authority does not accept that the decision is an appealable decision, the grounds upon which it does not accept that the decision is an appealable decision;
- (iii) include a statement by the Regulatory Authority as to whether it accepts that the appellant is an affected person, and where the Regulatory Authority does not accept that the appellant is an affected person, the grounds upon which it does not accept that the appellant is an affected person;
- (iv) state whether the Regulatory Authority agrees with the statement made by the appellant of the circumstances in which the decision of

the Regulatory Authority was made and where it disagrees, the basis for such disagreement;

- (v) where the Regulatory Authority disputes the appeal, set out the grounds on which the appeal is disputed;
- (vi) where it is claimed that the Regulatory Authority's decision should be varied or another decision substituted therefor, confirm whether the Regulatory Authority agrees that the decision was made under Part IIIC of the Act, state whether the Regulatory Authority agrees or concedes that its decision should be varied or another decision substituted therefor, and state the nature of the variation or the terms of the alternative decision to which the Regulatory Authority is agreeable.

(9) Any other Response must:

- (i) include the Register reference number of the proceedings to which the Response relates;
- (ii) state whether the person responding agrees with the statement made by the appellant as to the circumstances in which the decision of the Regulatory Authority was made and where it disagrees, the basis for such disagreement;
- (iii) where that person disputes the appeal, set out the grounds on which the appeal is disputed.

(10) Within ten days (or such further time, not exceeding fourteen further days, as the Registrar may permit) of receipt of a Response under this Rule, an Applicant to whom that Response is addressed may deliver to the Registrar and to each respondent a written Reply to such Response.

(11) The Registrar shall convene the Appeals Tribunal to determine how an appeal should proceed (and to consider any application under the Act made in connection with the appeal) as soon as may be after the expiry of the period within which Responses to the Notice of Appeal are to be delivered. The parties to an appeal shall ordinarily not be required to attend any sitting of the Appeals Tribunal for this purpose. Subject to Rule 25, a sitting for this purpose may be conducted by telephone or by videoconference or other suitable communications technology.

(12) In addition to any other order it may make when sitting to determine how an appeal should proceed, the Appeals Tribunal may of its own motion:

- (i) if satisfied that it may do so consistently with the requirements of the Act, dismiss the appeal in accordance with section 57V(7) of the Act or remit the decision appealed from to the Regulatory Authority in accordance with section 57X of the Act;

- (ii) direct that notice of the appeal be given to some other person or persons;
- (iii) make any order or give any direction which might be made or given at a directions hearing and request the Chairperson to fix a time and place for the hearing of the appeal;
- (iv) direct that any party produce any documents, copies of documents or other information to the Appeals Tribunal and to the other parties within such time as is directed, and/or
- (v) direct that a directions hearing be held before the member presiding or the Registrar.

(13) The Registrar will, as far as practicable, consult the appellant, the Regulatory Authority and any other party as to a suitable date and time for any directions hearing and in any event shall notify each party as to the date and time fixed for the directions hearing and the place at which (or means by which) the directions hearing shall be conducted.

Fees on appeal

5. (1) Subject as hereinafter provided, on lodging of a Notice of Appeal, or within 10 days of such lodgment an appellant shall lodge, in the form of banker's draft, a fee (in these Rules, referred to as the "Appeal Fee") of €5,000 with the Registrar. The Registrar may, at his sole discretion on application for that purpose, extend the period for the lodging of the Appeal Fee to a maximum of 14 days from the date of lodgment of the Notice of Appeal.

(2) Subject as hereinafter provided, a Notice of Appeal may be struck out by the Registrar if the appellant does not, within the time permitted, lodge the Appeal Fee in the amount and in the form prescribed.

(3) Where the appellant considers that the payment of the Appeal Fee would be a cause of serious financial hardship to him and that the requirement to pay the Appeal Fee might be a cause of injustice, he must so notify the Registrar on lodging the Notice of Appeal. In such circumstances, the Appeals Tribunal may waive the payment of all or part of the Appeal Fee.

(4) In addition to, and without prejudice to, any order as to costs which it may make, the Appeals Tribunal may direct the refund, in whole or in part, of the Appeal Fee where the proceedings terminate in a manner favourable to the appellant.

Directions hearings

6. (1) The purposes of a directions hearing shall include ensuring, consistently with the requirements of the Act, that appeals are progressed and prepared for hearing in a manner which is just, expeditious and likely to minimise the costs incurred, and in particular that, as soon as may be in advance of the hearing:

- (a) the issues to be decided in the appeal are defined as clearly, as precisely and as concisely, as possible;

- (b) all materials including information and documents which should be exchanged between or among the parties and/or given to the Appeals Tribunal have been exchanged or given;
- (c) all inquiries which the Appeals Tribunal consider should be made into any matter have been made and, where appropriate, the parties have had an opportunity to consider the product of such inquiries, and
- (d) all applications intended to be made by any of the parties to the Appeals Tribunal under the Act in connection with the matters at issue in the appeal have been made or notified.

(2) Where the Chairperson (or, if so authorised by the Chairperson, the Registrar) is satisfied that this may be done without inconvenience or injustice to any party, a directions hearing may, subject to Rule 25, be conducted by telephone or by videoconference or other suitable communications technology.

(3) The Chairperson (or, if so authorised by the Chairperson, the Registrar) may require any one or more of the parties to give to him and/or to the other parties before the directions hearing any information or materials which he considers may assist the efficient conduct of the directions hearing which, without prejudice to the generality of the foregoing, may include:

- (a) that party's proposals for the efficient conduct of the appeal;
- (b) a list of the specific issues or questions which that party considers must be determined in the appeal;
- (c) a list of the persons, if any, proposed to give evidence at the hearing of the appeal, and/or
- (d) a reasoned estimate of the time likely to be spent in—
 - (i) preparing the appeal for hearing, and
 - (ii) the hearing of the appeal.

(4) Each party must ensure that a person (including an agent or representative) participating in a directions hearing on his or its behalf has sufficient authority, to deal with any matters that are likely to be dealt with at the directions hearing.

(5) Without prejudice to the powers which the person chairing a directions hearing may exercise under the Act, that person may, having afforded the parties an opportunity to be heard, at or following the directions hearing:

- (a) establish a full or partial timetable for completing preparation of the appeal (or specified issues in the appeal) for hearing;
- (b) direct the parties to give to one another and to the Registrar within a period specified in that direction:

- (i) any statements or particulars of fact,
 - (ii) lists of the witnesses they intend to call and/or written statements outlining the essential elements of the evidence of the witnesses they intend to call,
 - (iii) written submissions on any matter;
- (c) fix any issues to be determined in the appeal;
 - (d) require any party to provide discovery or inspection of any documents;
 - (e) require any person to make a statutory declaration on any specified matter;
 - (f) direct that an identified party prepare and maintain an appeal booklet indexed and including in chronological sequence such documents in the proceedings as are specified, and that copies of the appeal booklet as then constituted be given by the responsible party to the Registrar and to each other party to the appeal not later than two days before every subsequent hearing scheduled in the proceedings on the appeal, and/or
 - (g) notify the Chairperson of the likely date on which the appeal will be ready for hearing and its likely duration and request the Chairperson to fix a date, time and place for the hearing of the appeal.

(6) A directions hearing may be adjourned from time to time as required but where a directions hearing is adjourned, it shall be adjourned to a specific date, time and place.

(7) The person chairing a directions hearing may require any party (or any representative of any party) to proceedings to report to the Registrar at any time or from time to time on the progress made by that party in the taking of any step or the doing of any thing in connection with such proceedings by any means (including by letter or by telephone) as he considers appropriate.

Subsequent hearings prior to appeal hearing

7. (1) The Appeals Tribunal may request the Registrar to schedule a further hearing in any proceedings at any time after the directions hearing and prior to the hearing of the appeal or application concerned.

(2) Without prejudice to the generality of sub-rule (1) the Appeals Tribunal may request the Registrar to schedule such a hearing where it becomes evident to it that the issue or an issue in the appeal or application concerned has been determined or decided in any previous decision of the Appeals Tribunal or of a court.

(3) The Appeals Tribunal may request the Registrar to reschedule or cancel any hearing in any proceedings having regard to any proceedings issued before a court.

Discovery of documents

8. (1) Any discovery of documents ordered or directed shall be made in the manner for the time being prescribed in the Rules of the Superior Courts.

(2) The Appeals Tribunal may by general direction direct that a party or the parties to a class of appeal or application identified in that direction shall in every such case make discovery of the documents or categories of documents set out in that direction.

Orders or directions of the Appeals Tribunal's own motion

9. Where the Appeals Tribunal proposes to make an order or give a direction of its own motion, it shall, where it considers it necessary, specify to the party or parties to the proceedings the order it proposes to make or direction it proposes to give and the reasons therefor. Where possible, it shall afford the parties to the proceedings an opportunity to make submissions on the proposed order or direction and consider the submissions (if any) made prior to making the order or giving the direction concerned.

Applications to the Registrar to extend time for lodging appeal

10. (1) 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 intending appellant did not lodge the appeal within the period described in section 57L(2)(b) and the reasons why the intending appellant 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.

(2) Having considered a Notice of Application under this Rule, the Registrar may, having consulted the Chairperson:

- (a) notify the intending appellant in writing that he has refused to allow an extension of the period for the lodgment of the intending appellant's appeal or that he has extended the period for the lodgment of the intending appellant's appeal for a further period specified in the notice, or
- (b) send a copy of the Notice of Application to the Regulatory Authority and invite the Regulatory Authority to respond in writing within four days of transmission by the Registrar to it of the Notice of Application and thereafter, having considered the Regulatory Authority's response (if any), notify the intending appellant and the Regulatory Authority in writing that he has refused to allow an extension of the period for the lodgment of the intending appellant's appeal or that he has extended the period for the lodgment of the intending appellant's appeal for a further period specified in the notice.

Withdrawal of appeal

11. Any withdrawal of an appeal pursuant to section 57X(3) or section 57X(4) of the Act must be by notice in writing delivered to the Registrar and copied to the other parties.

Applications

Applications to the Appeals Tribunal

12. (1) This Rule applies to the following applications to the Appeals Tribunal:

- (i) An application for a decision in accordance with section 57M(1) of the Act as to whether the interests of a person identified in the application are affected, or are likely to be affected, by a decision of the Regulatory Authority;
- (ii) An application under section 57P(1) of the Act for an order declaring that a person who has been refused a statement of reasons under section 57O(1)(a) was entitled to make the request concerned;
- (iii) An application under section 57P(2) of the Act for an order declaring that a person who has been refused a statement of reasons under section 57O(1)(c) made the request concerned within a reasonable time;
- (iv) An application under section 57Q(1) of the Act for an order that the Regulatory Authority give the statement of reasons within a time specified in the order;
- (v) An application under section 57Q(2) of the Act for an order that the Regulatory Authority give an adequate statement of reasons within a time specified in the order;
- (vi) An application under section 57R(2) of the Act for an order or orders staying or otherwise affecting the operation of an appealable decision made under Part IIIC of the Act appealed against;
- (vii) An application under section 57R(4) of the Act for an order varying an order or orders made under section 57R(2) staying or otherwise affecting the operation of the appealable decision made under Part IIIC of the Act appealed against;
- (viii) An application under section 57W(3) of the Act for an order under section 57W(2) of the Act;
- (ix) An application under section 57W(4) of the Act for an order varying an order or orders made under section 57W(2);
- (x) An application for the amendment of any proceedings before the Appeals Tribunal, or that the Appeals Tribunal disregard an irregularity in the proceedings, or that the Appeals Tribunal wholly or

partly set aside the proceedings, a step taken in the proceedings or a decision in the proceedings in accordance with section 57AD(3) of the Act;

- (xi) An application under section 57AE(4) of the Act for the review of the Registrar's decision to certify an amount under 57AE(1) of the Act, and
- (xii) Any other application (not being an application to appeal an appealable decision) authorised or permitted by the Act as amended or extended from time to time or by any other enactment to be made to the Appeals Tribunal.

(2) Each of the applications to the Appeals Tribunal to which this Rule relates must be made in writing, signed by or on behalf of the applicant (in these Rules referred to as the "Notice of Application") sent to the Appeals Tribunal, addressed to the Registrar.

(3) Where no proceedings are in being before the Appeals Tribunal concerning the matter which is the subject of the application, every Notice of Application must:

- (i) give the name and address and, where available, the fax number and e-mail address of the applicant and the name and address and, where available, the fax number and e-mail address of any agent who it is intended will represent him or it before the Appeals Tribunal;
- (ii) identify the provision of the Act under which the application or each application is made or the nature of the order(s) the Appeals Tribunal is asked to make;
- (iii) identify any person against whom any order is sought from the Appeals Tribunal in the application and, where possible, give the name and address and, where available, the fax number and e-mail address of that person;
- (iv) give information which explains the interest of the applicant in making each relevant application;
- (v) unless otherwise provided in these Rules, set out in summary the facts, circumstances and reasons which the applicant says support the granting of the relief sought;
- (vi) where the application relies on any document, have annexed to it a copy of that document.

(4) Where proceedings are in being before the Appeals Tribunal concerning the matter which is the subject of the application, the Notice of Application shall:

- (i) give the Register reference number of the proceedings to which the application relates;
- (ii) identify the provision of the Act under which the application or each application is made or the nature of the order(s) the Appeals Tribunal is asked to make;
- (iii) identify any person against whom any order is sought from the Appeals Tribunal in the application;
- (iv) unless otherwise provided in these Rules, set out in summary the facts, circumstances and reasons which the applicant says support the granting of the relief sought;
- (v) where the application relies on or refers to any document, have annexed to it a copy of that document.

(5) Where a person intending to make an application to which this Rule relates is also making an appeal, the Notice of Application should, where possible, be sent together with the Notice of Appeal. Where a person intends to make more than one application to which this Rule relates, every such application must be included in the same Notice of Application.

(6) The Registrar may require the applicant to deliver to him, within the time allowed by the Registrar for that purpose, any further information or documents which the Registrar considers necessary for the efficient conduct of the application.

(7) The Registrar shall send a true copy of every Notice of Application to the Regulatory Authority and to any other person whom the Registrar considers has an interest in the subject matter of that application which would justify that person's submissions (if any) on the appeal being considered by the Appeals Tribunal. The Registrar may consult with the Chairperson for that purpose.

(8) Each person to whom the copy Notice of Application is sent may deliver a response in writing (in these Rules, referred to as "the Response") to the Registrar within a period specified by the Registrar when giving the copy Notice of Application to that person (and if no period is specified, the Response may be delivered within seven days after the date on which the copy Notice of Application is sent to the person concerned).

(9) As soon as may be after receipt of a Notice of Application, the Registrar shall give a copy of the Notice of Application to the Chairperson. The Chairperson shall (unless there are already proceedings in being in relation to the subject matter of the application) designate the members constituting the Appeals Tribunal for the purposes of that application.

(10) Each Response must:

- (i) include the Register reference number of the proceedings to which the Response relates;

- (ii) state whether the respondent does or does not agree to the making by the Appeals Tribunal of the order or orders sought in the application, and if he or it does not agree, whether the respondent is agreeable to the making of some other order which the Appeals Tribunal may make on the application;
- (iii) set out in summary the facts, circumstances and reasons which the respondent says support the refusal of the relief sought or support the making of any other order or orders to which the respondent is agreeable;
- (iv) where the Response relies on or refers to any document not produced with the Notice of Application, have annexed to it a copy of that document.

(11) The Registrar shall convene the Appeals Tribunal to consider an application as soon as may be after the expiry of the period within which Responses to the Notice of Appeal are to be delivered. Having consulted with the Chairperson, the Registrar may invite the parties to the application to attend and make submissions at the sitting of the Appeals Tribunal convened for this purpose. Subject to Rule 25, a sitting for this purpose may be conducted by telephone or by videoconference or other suitable communications technology.

(12) In addition to any other order it may make on the listing of an application, the Appeals Tribunal may:

- (i) if satisfied that it may do so consistently with the requirements of the Act, grant or refuse the application, or make such orders on the application as it considers appropriate;
- (ii) make any order or give any direction which might be made or given at a directions hearing;
- (iii) adjourn the application and:
 - (a) direct that notice of the application be given to some other person or persons;
 - (b) direct that the parties deliver to one another and to the Appeals Tribunal evidence on the application by way of affidavit or statutory declaration;
 - (c) direct that the parties deliver to one another and to the Appeals Tribunal statements of the evidence which they intend to adduce on the hearing of the application;
 - (d) direct that the parties deliver to one another and to the Appeals Tribunal any information or copies of any documents specified in the direction;

- (e) direct that the parties deliver to one another and to the Appeals Tribunal written submissions on the application;
- (f) notify the Chairperson of the likely date on which the application will be ready for hearing and its likely duration and request the Chairperson to fix a date, time and place for the hearing of the application, and/or
- (g) where exceptionally it seems appropriate having regard to the special features of the application, fix a directions hearing in respect of the application before the member presiding or the Registrar.

(13) An application under section 57Q(1) of the Act need not set out any reasons which the applicant says support the granting of the relief sought.

(14) Notwithstanding the previous provisions of this Rule, the Appeals Tribunal may hear and decide any application to which this Rule relates which is made orally by the applicant at any directions hearing or hearing in the proceedings to which the application relates, provided that the Appeals Tribunal is satisfied that every other party to the proceedings who has an interest in the application concerned has had a reasonable opportunity to answer and make submissions on that application.

(15) Each party shall deliver to the Registrar or as directed by the Registrar at least seven days prior to the date fixed for the hearing of any appeal four copies of any set of documents intended to be produced at the hearing of the appeal by that party.

General

Delivery of documents

13. (1) Documents to be sent to the Appeals Tribunal or to the Registrar must, if sent by post be sent to the Appeals Tribunal at First Floor, Frederick House, 19 South Frederick Street, Dublin 2 and if delivered by hand, be delivered to the Registrar by prior appointment with the Registrar. The Registrar may also require any person delivering a document to the Appeals Tribunal or to the Registrar to transmit that document to the Registrar by electronic mail.

(2) Any document required under these Rules or under any order or direction of the Appeals Tribunal, of the Chairperson or Registrar, to be sent or given to another party in proceedings may, in addition to being sent or given by a manner authorised by section 57AV of the Act, be sent or given by transmitting it by fax to a fax number which the person has provided to the party sending or delivering the document or by transmitting it by electronic mail to an electronic mail address which the person has provided to the party sending or delivering the document, provided that the sender's fax machine generates a message confirming successful transmission of the total number of pages of the document or the sender's facility for the reception of electronic mail generates a message confirming receipt of the electronic mail comprising or containing the document.

(3) The Appeals Tribunal may in any case deem the manner by which any document was sent or given to any party or person sufficient.

Sittings

14. Save where otherwise advised by the Registrar, sittings of the Appeals Tribunal shall be conducted at the offices of the Appeals Tribunal at First Floor, Frederick House, 19 South Frederick Street, Dublin 2.

Records

15. (1) The Registrar shall establish and maintain a Register of proceedings (in these Rules referred to as the “Register”).

(2) Each new appeal or application not made in existing proceedings shall be assigned a unique reference number by the Registrar, such number to follow sequentially by year in the order in which each new appeal or application is received by the Registrar, and known in these Rules as the Register reference number.

(3) The Registrar shall include in the Register particulars of the name, address, fax number and e-mail address of each of the parties to every proceedings and of each of their agents, where known, a record of every order made or direction given in every proceedings, and such other particulars as the Appeals Tribunal or the Chairperson may request the Registrar to include from time to time.

(4) The Registrar shall maintain a calendar of the matters scheduled or listed before the Appeals Tribunal and shall provide copies of that calendar or extracts therefrom to the members of the Appeals Tribunals affected.

(5) The Registrar may publish notice of the dates, times and places fixed for the hearing of appeals in such manner as he considers appropriate.

(6) The records referred to in this Rule may be created and maintained in electronic form, in whole or in part.

Witness summonses

16. (1) An application to the Registrar under section 57AF(3) of the Act to issue a summons to compel the attendance of a witness before the Appeals Tribunal must be made in writing to the Registrar and must identify the precise name and address of the person whom the applicant wishes to have attend before the Appeals Tribunal and must specify with particularity the documents or other things which the applicant requires the person to produce at the hearing.

(2) A summons issued by the Registrar pursuant to a direction under section 57AF(2) or following an application under 57AF(3) shall be in the form annexed.

Authentication of documents

17. (1) Every order made or direction given by the Appeals Tribunal shall be authenticated by the signature of the Registrar (or in the Registrar's absence by the signature of the Chairperson or Deputy Chairperson).

(2) Every certificate issued by the Registrar under section 57AE of the Act and every summons issued by the Registrar under section 57AF of the Act shall be authenticated by the signature of the Registrar.

(3) Every written decision of the Appeals Tribunal shall be signed by the member who presided on the hearing of the appeal.

(4) Every statement of reasons for a decision of the Appeals Tribunal shall be signed by a member of the Appeals Tribunal which heard the appeal concerned.

Provision of copy documents

18. The Registrar may provide a certified copy of any decision, statement of reasons, order, direction or other document of the Appeals Tribunal to any person whom the Registrar considers is properly interested in such document on payment to him of the reasonable cost of copying same.

Notifications to parties

19. (1) The Registrar shall notify every party (or his or its agent), every member concerned and any other person directed or invited to attend of the date and time fixed for, and the place at which (or means by which), any hearing in proceedings shall be conducted.

(2) The Registrar shall for the purposes of section 57AA(7) of the Act provide a copy of the decision of the Appeals Tribunal determining an appeal to each party to the proceedings in any manner authorised in these Rules.

Instructions to the Registrar

20. (1) The Registrar may from time to time and at any time consult with the Chairperson on the exercise of any power or performance of any duty of the Registrar in any proceedings.

(2) The Registrar may from time to time and at any time seek general guidance or instructions from the Chairperson on the conduct or management of proceedings or on the performance of the Registrar's responsibilities under these Rules.

(3) The Chairperson may from time to time issue instructions of a general nature to the Registrar regarding the conduct or management of proceedings or on the performance of the Registrar's responsibilities under these Rules.

(4) Where the Chairperson has issued instructions of a general nature to the Registrar regarding the conduct or management of proceedings, the Registrar may cause those instructions to be published and may give notice of those instructions to parties to proceedings as and in the manner he considers appropriate.

Performance of Registrar's responsibilities by staff of Appeals Tribunal

21. The responsibilities of the Registrar described in these Rules may be performed by any other member of the staff of the Appeals Tribunal under the Registrar's supervision. Where the Registrar is for any reason absent, the responsibilities of the Registrar may be performed by any other member of the staff of the Appeals Tribunal for the time being authorised in that behalf by the Chairperson.

Non-compliance

22. The Appeals Tribunal may forgive or disregard any non-compliance by any party with any requirement of these Rules, or any order or direction in any proceedings provided that it is satisfied that it is reasonable to do so in the circumstances and that no other party would be prejudiced or suffer any injustice if it does so.

Time

23. (1) The Appeals Tribunal shall have the power to enlarge or abridge the time appointed by these Rules for doing any act, or delivering or amending any document, upon such terms as the Appeals Tribunal may direct, and any such enlargement may be ordered though the application for same is not made until after the expiration of the time appointed or allowed.

(2) Any application to the Appeals Tribunal under Rule 23(1) may be made and determined at a sitting or hearing by telephone or by videoconference or other suitable communications technology.

Costs

24. (1) Where the Appeals Tribunal is of opinion that, having regard to its determination of an application or appeal and all other relevant matters, there are sufficient reasons rendering it equitable to do so, the Appeals Tribunal may, either of its own motion or on application by any party to the proceedings, order that the whole or part of:

- (a) the costs specified in the order (including costs of a suitable person appointed by the Appeals Tribunal under section 57U(2) of the Act to represent a party who is an incapacitated person) of any party represented in the proceedings by counsel or solicitor
- (b) the expenses specified in the order (including, without limitation, fees paid to the Appeals Tribunal) incurred by any party to the proceedings
- (c) the expenses specified in the order incurred by the Appeals Tribunal in the conduct of the proceedings shall be paid to the party or, as the case may be, the Appeals Tribunal by any other person named in the order.

(2) The Appeals Tribunal may make an order for costs in respect of the costs incurred in any application, or in respect of the costs of the proceedings to date, at any stage of proceedings.

(3) Any order for costs awarded to a party may include an order measuring the costs.

25. (1) For the purposes of these Rules, the contemporaneous linking together by telephone or other means of electronic communication of the persons entitled or invited to be present at a hearing or sitting shall be deemed to constitute a hearing or sitting of the Appeals Tribunal, and all the provisions in these Rules as to hearings or sittings of the Appeals Tribunal shall apply to such hearings or sittings, provided that:

- (i) each of the persons taking part in such a hearing or sitting must be able to hear, and speak to, each of the other persons taking part; and
- (ii) at the commencement of such a hearing or sitting each such person must acknowledge his presence and that he accepts that the proceedings will be deemed to be a hearing of the Appeals Tribunal.

(2) A person may not cease to take part in a hearing or sitting conducted in accordance with this Rule by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the person chairing or regulating the hearing or sitting and a person shall be conclusively presumed to have been present at all times during the hearing or sitting unless he has previously obtained the express consent of the person chairing or regulating the hearing or sitting to leave the hearing or sitting.

(3) A record of the proceedings at such hearing or sitting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct record and signed by the person chairing or regulating the hearing or sitting.

Dated this _____ day of _____ 2008

Present when the seal of the Irish Financial Services Appeals Tribunal was affixed hereto:

_____ Chairperson

_____ Deputy Chairperson

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Register number:

IN THE MATTER OF PART VIIA OF THE CENTRAL BANK ACT 1942

NOTICE OF APPEAL

1. Details of Appellant

Appellant's name	
Appellant's address	
Appellant's fax number (if available)	
Appellant's e-mail address (if available)	

2. Details of Appellant's agent (if you are unrepresented, move to section 3)

Name of Appellant's agent	
Address of agent	
Fax number of agent (if available)	
E-mail address of agent (if available)	

3. Details of decision appealed from

Please identify the decision of the Regulatory Authority against which you are appealing	
Please set out concisely the circumstances in which that decision was made	
Please identify the designated enactment or designated statutory instrument which you say renders that decision appealable	
Please specify how you are affected by that decision	

4. Grounds of appeal

Please set out concisely the grounds on which you wish to appeal	
--	--

5. Details of relief sought

If you contend that the decision should be varied, set aside or some other decision substituted for it, please confirm that the decision was one made pursuant to Part IIIC of the Central Bank Act 1942 and state the nature of the variation or the alternative decision you seek	
---	--

6. Documents attached

Please identify and attach copies of any document referred to or relied on in your appeal	
---	--

Signed: _____ Date: _____

*If any space provided is insufficient, please set out the relevant information on a continuation sheet.

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Register number:

IN THE MATTER OF PART VIIA OF THE CENTRAL BANK ACT 1942

RESPONSE TO APPEAL

1. Details of respondent

Respondent's name	
Respondent's address	
Respondent's fax number (if available)	
Respondent's e-mail address (if available)	

2. Details of Respondent's agent (if you are unrepresented, move to section 3)

Name of Respondent's agent	
Address of agent	
Fax number of agent (if available)	
E-mail address of agent (if available)	

3. Details of decision appealed from

Please confirm if you agree with the appellant's statement of the circumstances in which that decision was made. If not, please give your statement of the circumstances in which that decision was made	
Please confirm whether you accept that the decision is an appealable decision and if you do not, please give your reasons	
Please confirm whether you accept that the appellant is an affected person and if you do not, please give your reasons	

4. Grounds of appeal

Please set out concisely the grounds on which you dispute the appeal	
--	--

5. Relief

If relevant, please confirm whether you agree that the decision was one made pursuant to Part IIIC of the Central Bank Act 1942. If you accept that the decision may be varied or some other decision substituted for it, please state the nature of the variation or the alternative decision you will accept	
--	--

6. Documents attached

Please identify and attach copies of any document referred to or relied on in your response not attached to the Notice of Appeal	
--	--

Signed: _____ Date: _____

*If any space provided is insufficient, please set out the relevant information on a continuation sheet.

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Register number:

IN THE MATTER OF PART VIIA OF THE CENTRAL BANK ACT 1942

NOTICE OF APPLICATION

1. Details of applicant

Applicant's name	
Applicant's address	
Applicant's fax number (if available)	
Applicant's e-mail address (if available)	

2. Details of applicant's agent (if you are unrepresented, move to section 3)

Name of applicant's agent	
Address of agent	
Fax number of agent (if available)	
E-mail address of agent (if available)	

3. Nature of application

Please state concisely the nature of the order(s) the Appeals Tribunal is asked to make in your application	
Please identify the provision of the Central Bank Act under which your application is made	

4. Details of respondent

Please identify any person against whom any order is sought from the Appeals Tribunal in the application	
Where known to you, please give the address, fax number and e-mail address of that person/those persons	

5. Details of applicant's interest

Please explain concisely why you consider you are entitled to make this application	
---	--

6. Reasons supporting application

Please set out concisely the facts, circumstances and reasons which you say support the granting of your application	
--	--

7. Documents attached

Please identify and attach copies of any document referred to or relied on in your application	
--	--

Signed: _____ Date: _____

*If any space provided is insufficient, please set out the relevant information on a continuation sheet.

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Register number:

IN THE MATTER OF PART VIIA OF THE CENTRAL BANK ACT 1942

RESPONSE TO APPLICATION

1. Details of respondent

Respondent's name	
Respondent's address	
Respondent's fax number (if available)	
Respondent's e-mail address (if available)	

2. Details of Respondent's agent (if you are unrepresented, move to section 3)

Name of Respondent's agent	
Address of agent	
Fax number of agent (if available)	
E-mail address of agent (if available)	

3. Nature of response

Please state whether you do or do not agree to the making by the Appeals Tribunal of the order(s) sought in the application	
If you do not agree, please state whether you are agreeable to the making of some other order which the Appeals Tribunal may make on the application	

4. Reasons supporting response

Please set out concisely the facts, circumstances and reasons which you say support your response	
---	--

5. Documents attached

Please identify and attach copies of any document referred to or relied on in your response not attached to the Notice of Application	
---	--

Signed: _____ Date: _____

*If any space provided is insufficient, please set out the relevant information on a continuation sheet.

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Register number:

IN THE MATTER OF PART VIIA OF THE CENTRAL BANK ACT 1942

WITNESS SUMMONS

IN THE MATTER OF AN APPEAL BETWEEN

Appellant

and

Regulatory Authority

Respondent

To:

of

TAKE NOTICE THAT YOU ARE HEREBY REQUIRED to attend proceedings before the Irish Financial Services Appeals Tribunal to be held at

on the _____day of _____2008 at _____a.m./p.m.

*and give evidence in those proceedings

*and to bring with you and produce at the time and place the following documents/things:

This summons is issued *on the application of the appellant/respondent *on the direction of the Appeals Tribunal

Signed: _____ Date: _____

Registrar

Note: A person who, without reasonable excuse, fails to comply with the requirements of a summons commits an offence and is liable on summary conviction to a fine not exceeding €2,000 or to imprisonment for a term not exceeding 3 months, or both.

*delete where inapplicable

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

Register number:

IN THE MATTER OF SECTION 57AE OF THE CENTRAL BANK ACT
1942

CERTIFICATE

IN THE MATTER OF AN APPEAL BETWEEN

Appellant

and

Regulatory Authority

Respondent

I, the Registrar of the Irish Financial Services Appeals Tribunal certify under
section 57AE of the Central Bank Act 1942 that _____

of _____

is liable to pay _____

of _____

the amount of €_____.

Signed: _____ Date: _____
Registrar

[Seal]



GIVEN under the Seal of the Irish Financial Services Appeals
Tribunal,
30 June 2008

FRANCIS D.MURPHY.
Chairperson.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The foregoing rules are made pursuant to Section 57AI of the Central Bank Act 1942 (inserted by Section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003) and relate to the procedure regulating appeals from appealable decisions from the Irish Financial Services Regulatory Authority to the Irish Financial Services Appeals Tribunal.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)
nó trí aon díoltóir leabhar.

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