

Annual Report of the Irish Financial Services Appeals Tribunal
for the year ending 31 December 2015

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

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

Membership of the Tribunal.

2. At the beginning of 2015 there were seven members of the Tribunal each of whom was nominated by the Government and appointed by the President of Ireland. The two executive members were: The Hon. Francis D. Murphy, Chairperson, formerly a Judge of the Supreme Court, and Inge Clissmann, Senior Counsel, Deputy Chairperson. The lay members are Paul Brennan; Solicitor, Geraldine Clarke; Solicitor, Helen Collins; Solicitor, Teresa Pilkington S.C., and Conor Power S.C.

As mentioned in the Annual Report for 2014, Mr. Murphy had notified the President of his intention to resign and this took effect on 31 March 2015. By Warrant of Appointment, The Hon. John D. Cooke S.C. was appointed by the President as Chairperson for a term of five years commencing on 15th June 2015. Mr Cooke is a former judge of the General Court of the European Union and of the High Court.

3. Treasa Kelly, Barrister at Law, is the Registrar of the Tribunal.
4. The Tribunal offices are located at Frederick House, 19 South Frederick Street, Dublin 2. Telephone: 01 635 0040; Fax: 01 635 0249, Website www.ifsat.ie and Email Address: Registrar@IFSAT.ie.

Appeal Procedures.

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

Appeals determined.

8. The Tribunal dealt with seven appeals in the year 2015.
9. By Notice of Appeal dated 29 May 2015 NRG Brokers Limited trading as Xtra Ordinary Investments (the Firm) gave notice of an appeal to the Tribunal from a decision of the Central Bank revoking the Firm’s authorisation as an investment business firm pursuant to Section 16 of the Investment Intermediaries Act, 1995 as amended.

On 16 September 2015 the appeal was withdrawn by the Firm. The Tribunal dismissed the Appeal with no order as to costs. The order is available on the Tribunal website under the reference 013/2015 NRG Brokers Limited T/A Xtra Ordinary Investments v. Central Bank of Ireland.

10. On 19 June 2015 Colette Murphy delivered a Notice of Appeal to the Tribunal in respect of findings made by the Central Bank pursuant to Section 33AQ(1) and (2) of the 2003 Act. At a Directions Hearing on 3 November 2015 the Tribunal held that there was no “appealable decision” and the proceedings were dismissed with no order as to costs. The order is available on the Tribunal’s website under reference 014/2015 Colette Murphy v. Central Bank of Ireland.

11. By Notice of Appeal dated 21 June 2015 Colette Murphy gave notice of a further appeal to the Tribunal from a decision of the Central Bank to revoke registration of a particular entity under the European Communities (Insurance Mediation) Regulations 2005.

At a Directions Hearing on 23 July 2015 the Tribunal found that the Appellant failed to identify an “appealable decision” as defined by the legislation. The proceedings were dismissed with no order as to costs. The Order is available on the Tribunal’s Website under reference 015/2015 Colette Murphy v. Central Bank of Ireland.

12. The following four appeals all arose out of a decision of the Central Bank dated 2 October 2015 made pursuant to Regulation 185(a) of the European Communities (Markets in Financial Instruments Directive) Regulations 2007 as amended (the Decision).

- i) 016/2015 Playtech plc v. Central Bank of Ireland:

By Notice of Appeal dated 16 October 2015 Matheson Solicitors, acting on behalf of Playtech plc, gave notice of an appeal to the Tribunal of the Decision.

- ii) 017/2015 Markets Limited v. Central Bank of Ireland:

By Notice of Appeal dated 29 October 2015 Matheson Solicitors, acting on behalf of Markets Limited, gave notice of an appeal to the Tribunal of the Decision.

- iii) 018/2015 Teddy Sagi v. Central Bank of Ireland:

By Notice of Appeal dated 29 October 2015 Dillon Eustace Solicitors, acting on behalf of Teddy Sagi, gave notice of an appeal to the Tribunal of the Decision.

- iv) 019/2015 Brickington Limited v. Central Bank of Ireland.

By Notice of Appeal dated 29 October 2015 Dillon Eustace Solicitors, acting on behalf of Brickington Limited, gave notice of an appeal to the Tribunal of the Decision.

At a Directions Hearing on 8 December 2015 when all four appeals were before the Tribunal, counsel for the parties advised the Tribunal that agreement had been reached between them and that the Appeals might be allowed by consent upon the terms set out in agreed Orders. The Orders are available on the Tribunal’s website under their respective references.

Study Visit.

13. As mentioned in the 2014 Annual Report, in September 2014 the Tribunal Registrar had been approached by Mr. Justice Elton M. Singini, Chairperson of the Malawi Financial Services Appeals Committee, with a view to the Tribunal receiving a delegation from Malawi for a study visit to learn from the Tribunal's experiences as Malawi's Appeals Committee was in the early stages of its development. Administrative difficulties arose in Malawi which prevented the study visit taking place at that time but new arrangements were made during 2015 and the visit to Dublin took place between 2nd and 5th November.
14. The Malawi delegation members were Mr Justice Elton Singini, retired High Court Judge and Chairman of Malawi Financial Services Appeals Committee; Mr. Paul Nyirenda, Committee Member of that Appeals Committee; Mr. Golden Nyasulu, Economist, Malawi Ministry of Finance; and Mr. Kelious Mlemga, Lawyer, Attorney General's Office, Malawi.
15. During the study visit the delegation attended the Tribunal directions hearing in the Colette Murphy appeal referred to in paragraph 10 above and took part in discussions with the Tribunal members and Registrar on the work of the Tribunal, its administrative arrangements and procedures. The delegation visited the Four Courts where they met with Mr. Justice Barrett before they were given a tour of the Four Courts and the Criminal Courts of Justice. The delegation also visited the King's Inns.

Annual Accounts.

16. The accounts for the year ending 31 December 2015 are attached.

As provided for in Section 57AW of the Central Bank Act 2003 this Report will be published by the Tribunal following its having been laid before the Houses of the Oireachtas and members of the public may download a copy of the Report from the Tribunal's Website.

John D. Cooke

Chairperson

23 March 2016

Irish Financial Services Appeals Tribunal
Income and expenditure account for the period ended 31 December 2015

	2015	2014
	€	€
Income		
Funds provided by the Central bank	90,000	36,000
Hearing costs charged	20,000	-
Expenditure		
Costs of hearings		
Panel Fees	5,111	13,138
Stenographer	1,685	1,294
Security	-	75
Administration costs		
Executive fees	58,225	54,315
Legal & professional fees	200	700
Accountancy	3,988	3,812
Stationery, printing & communications	984	363
Travel, subsistence & canteen	1,335	385
Bank Charges	178	74
Other	522	353
Total expenditure	72,228	74,508
(Deficit)/Surplus of income over expenditure	37,772	(38,508)

The Executive fees of the Chairperson are calculated on the basis that he makes himself available to the Appeals Tribunal for one day per month.

Treasa Kelly

Registrar

We hereby certify that books and records were created by the Registrar in accordance with our advice and maintained under our supervision. We certify that the above accounts are based on the said books and records and give a true account of the income and expenditure of the Irish Financial Services Appeals Tribunal for the period ending 31 December 2015 and the balance sheet at that date.

Spain McQuillan
Chartered Accountants & Registered
Auditors 21/03/2016

Irish Financial Services Appeals Tribunal
Balance sheet as at 31 December 2015

	2015	2014
	€	€
Assets		
Bank account	43,782	17,543
Creditors and Accruals	-	11,533
Net assets	<u>43,782</u>	<u>6,010</u>
 Capital Account		
Opening Surplus Retained	6,010	44,518
Surplus / (deficit) for the year	37,772	(38,508)
Closing Surplus Retained	<u>43,782</u>	<u>6,010</u>