



IRISH BANKERS
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|---------------|----------|--------------------|-----------------------------------------------|
| Nassau House | Dublin 2 | t: +353 1 671 5311 | e: ibf@ibf.ie |
| Nassau Street | Ireland | f: +353 1 679 6680 | w: www.ibf.ie |

Mary Keenan
Better Regulation Unit
Department of the Taoiseach
Government Buildings
Merrion Street
Dublin 2

26 October 2006

Re: Response to Consultation Paper on Regulatory Appeals

Dear Ms Keenan,

We welcome the opportunity to respond to the consultation paper on regulatory appeals. In particular we welcome the inherent commitment to ensuring that the regulatory process works effectively and in line with best international practice.

The IBF is obviously interested mainly in the appeals process for decisions of the Financial Regulator. To date, however, no appeals have been taken under the process introduced by the Central Bank and Financial Services Authority of Ireland Act 2003. Our response will of necessity therefore focus on general principles rather than specifics, of which there is as yet no experience.

Key principles of any appeals process include:

- *Timely outcomes*
It is important that the appeals process results in timely outcomes, giving certainty in as short a time as necessary. It is in nobody's interests for an appeal to take an extended amount of time.
- *Sensible outcomes*
In order to achieve high quality sensible outcomes it is vital that the appeals body has or has access to relevant expertise. This could be an argument in favour of specialist bodies rather than general ones.
Also, it is an argument for a role for industry experts on any body, as is currently the case for appeals of decisions of the Financial Regulator. The small size of Ireland need not be an issue for the financial services industry – international experts with relevant experience would be available.
- *Substantive appeal*
It is important that there is scope to appeal substantive as well as procedural matters (i.e. not just judicial review). The appeals body should be able to improve decisions rather than merely refer them back to the original decision-maker.
- *High Court appeals*
It may be preferable that decisions of the appeals body are appealed to a specific division of the High Court (like the Commercial Court) rather than to the High Court in general. This would facilitate the building of expertise over time, improving the quality of decision-making on appeal.
- *Independence*
The appeals body must be independent of the original decision-maker. If not, the appeals body could be conflicted when making its decision.



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- *Confidentiality*
There should be scope in the appeals mechanism for appeals to be kept confidential in appropriate circumstances.
- *Fairness*
Of course, natural justice and fairness must be the pillars upon which the appeals process is built.

Once again, thank you for the opportunity to offer input into the process. We look forward to the outcome of the consultation.

If you have any queries please do not hesitate in contacting me.

Yours sincerely,

Mike Percival
Compliance and Legal Executive