

Appeal Panel of the Single Resolution Board Rules of Procedure

The Appeal Panel of the Single Resolution Board (the Appeal Panel),

Having regard to Regulation (EU) No 806/2014 of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010¹, and in particular Article 85 on the establishment of an Appeal Panel;

Having regard to the decision of the Executive Session of the Single Resolution Board of 6 November 2015 appointing the members and alternates of the Appeal Panel in accordance with Article 85(1) of Regulation 806/2014;

Whereas:

Article 85(10) of Regulation 806/2014 provides that the Appeal Panel shall adopt and make public its rules of procedure;

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Chapter 1 Organizational matters

Article 1 Functioning of the Appeal Panel

1. The Appeal Panel shall be composed as stipulated in Article 85(2) of Regulation 806/2014.
2. The Appeal Panel shall designate a Chair from among its members. This shall be done by secret ballot, unless all Members agree to proceed by consensus. The member obtaining the votes of more than half the members and alternates composing the Appeal Panel shall be designated. If no member obtains that majority, further ballots among the best-placed candidates shall be held until that majority is attained. The Chair's term shall be 2.5 years and shall be renewable.
3. The Appeal Panel shall be represented by its Chair, who shall direct the business and the administration of the Appeal Panel.
4. The Appeal Panel shall also designate a Vice-Chair from among its members by the same procedure.
5. In the event of illness or other exceptional reasons of impediment of the Chair, the Vice-Chair will perform the functions of the Chair.
6. If a member leaves before the end of his or her term, an alternate shall take the member's place until the Board has appointed a new person as a replacement. In case of illness or other exceptional reason of impediment, or where other particular circumstances of a case, or internal matters pertaining to the organization of the Appeal Panel recommend it, the Appeal Panel may, upon proposal by the Chair and with the consensus of the relevant member and alternate replace a member with an alternate for

¹ OJ L225, 30.7.2014, p.

an appeal.

Article 2

Presiding over an appeal

The Chair shall preside at hearings and deliberations, or may nominate the Vice-Chair or another member to do so. References in these rules to 'Chair' shall include the Vice-Chair or another member in relation to an appeal over which he or she has been nominated to preside.

Article 3

Independence and impartiality

1. The Appeal Panel and each of its members shall act independently and in the public interest as stipulated in Article 85(5) of Regulation 806/2014.
2. A member's independence may be challenged only if circumstances exist that give rise to objective and reasonable doubts as to his or her impartiality or independence. A member's independence cannot be objected to under any circumstance because of his or her nationality.
3. A member shall recuse himself or herself from sitting in an appeal if circumstances exist that give rise to reasonable doubts based on objective facts as to his or her impartiality or independence. The member must inform the Chair and the Secretariat without undue delay in writing, whereupon the Chair is to appoint an alternate.
4. Once a notice of appeal is served, the Chair shall ask the members whether they have a conflict of interest.
5. A member called to sit in an appeal who considers that there may be circumstances likely to give rise to doubts as to his or her impartiality or independence and who has not recused himself or herself in accordance with paragraph 3 shall disclose such circumstances to the Chair. The Chair may then, on his or her own initiative or after having sought the comments of the parties, decide to replace the member in accordance with Article 1(7) or that there are no grounds for the recusal of such member. A party may waive a ground of recusal of which it is aware.
6. If the Chair considers that for any reason he or she cannot participate in appeal proceedings, the Chair must inform the members and the Secretariat in writing about the reasons without undue delay. The Vice-Chair shall be designated to preside over the appeal. Should the Vice-Chair be in the same position and following the same procedure, the Appeal Panel shall designate another member to preside over the appeal.
7. The parties will be informed of the composition of the Appeal Panel by the Secretariat on behalf of the Appeal Panel as soon as possible.
8. A party who intends to challenge a member's independence shall, without undue delay, send a written statement of the reasons for the challenge to the Secretariat. Unless the challenged member withdraws from the appeal, the Panel shall decide on the challenge. For the purposes of this decision, the challenged member shall not participate in the deliberation and shall have no vote. The decision of the Appeal Panel shall be reasoned and shall be notified to the parties. If a challenge is manifestly inadmissible or manifestly unfounded, the Chair may dismiss the challenge by reasoned order.
9. The term 'Appeal Panel' for the purpose of this article means the Appeal Panel as constituted for the appeal(s) in accordance with these rules, and the term 'member' includes 'alternate'.

Article 4 The Secretariat

1. Pursuant to Article 85(2) of Regulation 806/2014, the Board shall ensure adequate operational and secretarial support for the Appeal Panel, with appropriate segregation of duties, functional and technical support, including means of communication, from all other activities of the Board. The staff of the Secretariat, which works under the coordination of the Chair on all Appeal Panel related matters, is bound by strict confidentiality and subject to impartiality. The staff of the Secretariat, in the performance of their tasks, is not bound by and shall not accept any instructions, recommendations or opinions from the side of the Board or from any other party to the appeal proceedings.
2. The Board shall ensure that there is an adequate procedure in place so that, from the outset of the appeal, no information passes from the Secretariat to the Board or any affiliated authority other than the Appeal Panel, except as specified by these Rules of Procedure.
3. The communication and submissions of the parties with the Appeal Panel will be channelled through the Secretariat. The administration of an appeal shall be conducted as follows:
 - a) upon filing of the notice of appeal in accordance with Article 5, the Secretariat shall forthwith transmit the notice of appeal to the Chair and members;
 - b) the Secretariat will act in accordance with the Chair's directions and, upon nomination of a Rapporteur by the Chair according to Article 12, with the Rapporteur's directions, will assign an individual case number to the appeal, will maintain a register of appeals, circulate documents to the members and alternates as required, organise Appeal Panel meetings, pre-hearings and hearings, develop all internal preparatory work relevant for the sound and efficient management of the appeal, including the organization of translations when required by the language of the proceedings, and will otherwise provide assistance in relation to the appeal as requested by the Appeal Panel;
 - c) upon filing of the response according to Article 6, the Secretariat shall forthwith transmit the response to the Chair and members;
 - d) the Secretariat will provide the parties with the decision in accordance with Article 85(9) of Regulation 806/2014.

Chapter 2 Statements of the parties' cases

Article 5 The appellant's notice of appeal

1. A party wishing to bring an appeal against a decision of the Board under Article 85(3) of Regulation 806/2014 shall do so by way of a notice of appeal identifying the decision that is the subject of the appeal.
2. The decision that is the subject of the appeal shall be annexed to the notice of appeal, which shall:
 - a) state why it is admissible under Article 85(3) of Regulation 806/2014;
 - b) state the grounds on which it is based;

- c) if an application is made that the appeal should have suspensive effect under Article 85(6) of Regulation 806/2014 pending the outcome of the appeal, state the grounds of such application;
 - d) attach copies of any documents on which the appellant intends to rely.
3. Unless there are special circumstances, the notice of appeal should not exceed 30 pages. In case of special circumstances justifying exceptions, related to particularly complex legal or factual issues at stake, and duly stated and justified as such, these will be pondered by the Chair on behalf of the Appeal Panel for the purposes of determining the maximum extension of the appeal to be admitted in such case.
 4. A pleading which exceeds the maximum number of pages prescribed in paragraph 3 above, shall require regularisation, unless otherwise directed by the Chair. Where a party is requested to put his pleading in order on account of its excessive length, service of the pleading which requires regularisation on account of its length shall be delayed.
 5. If the notice of appeal exceeds 10 pages, it must include a summary of the content referred to in paragraph 4 points (a) and (b). Regardless of the mandatory nature of that summary in case of such initial extension of the notice of appeal, it is recommended for all cases the inclusion of a summary of the pleas in law relied upon, which must not exceed two pages.
 6. The notice of appeal shall clearly indicate full contact details, including, *inter alia*, name of the appellant and email address to which the Secretariat may send communications with the appellant.
 7. The notice of appeal shall give the name(s) of the appellant's representatives and present their power of attorney. If a natural person notifies the appeal on his/her own behalf, a copy of a valid identification document (ID card, passport or other valid document) must be presented. To further verify the admissibility of the appeal, the Appeal Panel may request at any point additional information from the appellant.
 8. The appellant may at any time discontinue an appeal by giving notice of discontinuance to the Secretariat. The Secretariat shall also inform the Board of the appellant's decision to discontinue the appeal.
 9. If there is more than one appellant, the above shall apply to each.

Article 5-A **Language**

1. Unless otherwise required under Council Regulation N^o. 1 of 1958, the language of the Notice of Appeal and of the appeal proceeding, including the Appeal Panel's decision, shall be the language of the contested decision. However, for reasons of procedural economy, efficiency and reasonable limitation of costs the Appeal Panel will, as a matter of principle, invite the parties to agree on the use of the English language as the language of the proceedings. If the contested decision was issued in more than one language of the Union (it being understood that the language of courtesy translations does not constitute the language of the contested decision) and the English language is among such languages, the language of the appeal shall be English, save if the parties instead agree on a different language.
2. As the internal working language of the Appeal Panel and the Board is English, the deadlines and timelines related to the appeal proceedings, including those concerning the exchange of written submissions or documents and the notification of the decision in the language of the appeal, may

be extended due to translation periods, where the language of the appeal is not English. Electronic submissions are considered as documents in the sense of this Article.

Article 6

The Board's response, the appellant's rejoinder, and the Board's reply

1. The Board shall set out a response.
2. The response shall:
 - a) state any contentions as to non-admissibility;
 - b) state the grounds on which the appeal is contested;
 - c) state the Board's case as to any application that the appeal should have suspensive effect;
 - d) attach copies of any documents on which the Board intends to rely.
3. A submission by the Board that does not fulfil the above requirements shall not qualify as a response. In any such case, the Appeal Panel shall always inform the Board of this fact and grant an opportunity to remedy this by providing further precisions within an appropriate delay to be determined by the Chair.
4. As in the case of the notice of appeal, unless there are special circumstances the response should not exceed 30 pages. For the purposes of this maximum extension of the response the procedure established in Article 5, paragraphs 3 and 4 should be applied with all due adaptations.
5. If the response exceeds 10 pages, it should include a summary of the content referred to in paragraph 2 points (a) and (b).
6. Unless otherwise agreed by the parties with the Appeal Panel and accordingly reflected in case management directions pursuant to Article 11, the response shall be served on the appellant(s) and filed with the Secretariat within six (6) weeks of service of the notice of appeal. Such deadline may be extended by the Appeal Panel when special circumstances so require upon reasoned request of the Board pursuant to Article 8.
7. If the Board states that it does not oppose the appeal and, according to the claims of the appellant, withdraws or amends its decision, giving notice of such amendment to the appellant and to the Secretariat, the Appeal Panel may decide that there is no need to adjudicate and put the appeal to rest.
8. If the Board opposes the appeal, the Appeal Panel will provide the appellant, unless specific circumstances require a more expedite handling of the appeal, with the opportunity to file a rejoinder to the Board's response within three (3) weeks of service of the Board's response.
9. When the Board receives the appellant's rejoinder, the Board will inform without undue delay the Appeal Panel if it intends to reply to the rejoinder with a subsequent reply to be filed within three (3) weeks of service of the appellant's rejoinder. The deadlines of the rejoinder and of the reply may be extended of an equal period of time for both parties by the Appeal Panel when specific circumstances so require upon reasoned request of the parties.
10. As the framework and the pleas in law or claims at the core of the dispute have been set out in depth in the notice of appeal and the response, the only purpose of the rejoinder and of the reply to the rejoinder is to allow the appellant and the Board to make clear their position or to refine their arguments on more important issues, the reply or a rejoinder should therefore not exceed [10] pages, except in

special circumstances, duly justified and provided these are accepted as such by the Chair of the Appeal Panel.

Article 6-A Modification of the appeal

1. Where, during the appeal proceeding, the decision by the Board contested by the appellant is replaced or amended by another Board's decision with the same subject matter, the appellant may, modify the appeal to take account of that new Board's decision.
2. The modification of the appeal must be made by a separate document within the time limit within which an appeal may be brought against the Board decision justifying the modification of the appeal.
3. The statement of modification shall contain: (a) the modified notice of appeal; (b) where appropriate, the modified pleas in law and arguments; (c) where appropriate, the evidence produced and offered in connection with the modification of the appeal.
4. The statement of modification must be accompanied by the Board decision justifying the modification of the appeal. If that decision is not produced, the Chair shall prescribe a reasonable time limit within which the appellant is to produce it. If the appellant fails to produce the Board decision within the time limit prescribed, the Appeal Panel shall decide whether the non-compliance with that requirement renders the statement modifying the appeal inadmissible.
5. Without prejudice to the decision to be taken by the Appeal Panel on the admissibility of the statement modifying the appeal, the response of the Board to the statement of modification shall be served on the appellant(s) and filed with the Secretariat within four (4) weeks of service of the notice of the statement of modification. Such deadline may be extended by the Appeal Panel when special circumstances so require upon reasoned request of the Board.

Chapter 3 Time limits, filing and service

Article 7 Filing and service

1. The notice of appeal and the response must be filed and served in writing at the address specified on the Board's website.
2. A document that is to be filed with the Secretariat or served on any party shall be communicated by email, subject to the applicable security standards. Subject to an objection by any of the parties, the Chair may decide that the document has to be filed either by registered post or by personal delivery against a receipt or in accordance with any direction given in respect of a particular appeal as to filing and/or service.
3. Filing shall be deemed to have taken place at the time of receipt of the registered mail or the email copy, whichever is earlier.

Article 8 Time limits

1. Any time limit prescribed by or imposed under these rules may be extended by the Appeal Panel or by the Chair, as appropriate.

2. Time limits shall be calculated in accordance with Council Regulation 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits.²

Chapter 4 Preliminary rulings

Article 9 Admissibility of the appeal

1. The Board may file a plea for a decision on inadmissibility without going to the substance of the case. If the Board files such a plea, contending that the appeal is not admissible under Article 85(3) of Regulation 806/2014, the Appeal Panel shall determine whether or not it is admissible before examining whether it is well founded under Article 85(7) of Regulation 806/2014, unless it considers more suitable that for reasons of procedural economy or for other special reasons admissibility be considered together with the merit of the appeal.
2. The Appeal Panel may, of its own motion, raise any question as to admissibility. The Appeal Panel may also declare a written submission addressed to it, on its own motion, as not qualifying as an appeal in the meaning of Article 85(3) of Regulation 806/2014 where the submission fails to identify the appealed decision of the Board and/or the statement of grounds of the Notice of Appeal does not provide sufficient reasoning as to what aspect or aspects of the decision of the Board are considered unlawful and why. Before making an order in this sense, the Appeal Panel shall always inform the appellant why the initial submission fails to qualify as an appeal and duly grant an opportunity to remedy this by providing further precisions within an appropriate delay to be determined by the Chair.
3. The procedures set out in these rules (including those set out below as to directions, pre-hearing conference and oral representations) apply as the Chair shall deem appropriate to the determination of any question as to admissibility.
4. The decision of the Appeal Panel determining any question as to admissibility shall be given in writing and shall be adopted in accordance with Article 85(9) of Regulation 806/2014.

Article 10 Suspension under Article 85(6) of Regulation 806/2014

1. An appeal does not have suspensive effect, but by Article 85(6) of Regulation 806/2014 the Appeal Panel may, if it considers that the circumstances so require, suspend the application of the contested decision.
2. The procedures set out in these rules (including those set out below as to directions and pre-hearing conference) apply as the Chair shall deem appropriate to the determination of any question regarding the suspension of a decision by the Board. In exceptional circumstances, the Appeal Panel may also suspend the application of the contested decision for a period sufficient to permit full discussion of the suspension.
3. The decision of the Appeal Panel determining any question as to suspension shall be given in writing, and shall be adopted in accordance with Article 85(9) of Regulation 806/2014. The Appeal Panel

² OJ 1971 L 124, p. 1.

may amend its decision to suspend or not suspend at any time on the application of any of the parties.

Chapter 5 Case management

Article 11 Directions and pre-hearing conference

1. The Chair may give directions on behalf of the Appeal Panel by way of case management for the efficient conduct of the appeal at any stage in the appeal. This includes provision for procedural observations on a party's own notifications or on communications from other parties under Article 85(3) of Regulation 806/2014 or clarifications over any aspect of the case or the parties' positions. Such directions will be submitted to the parties through the Secretariat. The Chair may consult with the other members and alternates for such purposes.
2. The parties may also apply for such directions through the Secretariat at any stage in the appeal. Observations as to what directions are appropriate may be made by the parties in any form permitted by the Chair.
3. If it is appropriate, the Chair may direct a pre-hearing conference (taking place in person, by phone, video conference or otherwise). The Chair may conduct the pre-hearing conference alone or with (or in consultation with) other members.
4. Without limiting its scope, the above procedure also applies to directions given by the Appeal Panel as regards any application to amend the notice of appeal, the response or the appellant's rejoinder, or any ulterior submissions filed under paragraph 7 of Article 6 or under paragraph 5 of this Article, the challenge of a member's independence, directions for the production of further documents, directions as to witness evidence, permission to adduce expert evidence, permission to call oral evidence, permission to extend time limits and directions as to hearing appeals at the same time.
5. At the request of any of the parties, or of its own motion, the Appeal Panel may decide that the parties file other written submissions, in addition to the appeal, the response, the rejoinder and the reply contemplated under Article 6, and set then the time limits for their filing in accordance with Article 14 (4) of these Rules of Appeal.
6. In accordance with the preceding paragraphs, the Chair shall establish the procedural timetable for the conduct of the appeal. The procedural timetable shall in particular set out the time limits for the submissions following the Board's response to the statement of appeal, if any, and a date for the hearing, unless the parties decline their right to a hearing. The Chair may modify the procedural timetable during the course of the appeal as appropriate.

Article 12 Rapporteur

1. The Chair shall (with the consent of the person concerned) designate (an)other member(s) as Rapporteur or Co-rapporteurs, for the case to the Appeal Panel in respect of the appeal. This applies also to an alternate, in case a member has been replaced by such alternate, which acts then as member for the purposes of such specific case pursuant to the procedure established under Article 1 (6) and (7). The Chair may take into consideration the member's or alternate's expertise or previous experience of comparable cases when making such decision, or any other relevant factors pertaining to the functioning of the Appeal Panel as well. The function of a Rapporteur is internal to and part of the deliberations of the Appeal Panel.

2. The Chair may decide not to name a Rapporteur and perform the duties himself or herself.

Article 13

Consolidated appeals and staying of appeals

1. Where two or more appeal notices have been filed in respect of the same matter, or which involve the same or similar issues, the Appeal Panel may out of its own motion, if it considers it appropriate or procedurally expedient, direct that the appeals or any particular issue or matter raised by the appeal notices are to be consolidated as a single appeal, or discussed in a joint hearing. The Appeal Panel may, however, seek the views of the appellant and the Board if it considers it appropriate for the decision on the consolidation of the appeal, or the joint hearings.
2. Proceedings may be stayed:
 - a) at the request of a party, after due pondering of observations of the other party on such request;
 - b) in other particular cases where the proper administration of the appeal proceedings so requires.
3. The decision to stay the proceedings shall be taken by the Chair, having consulted with the Appeal Panel members. Before taking that decision, the Chair shall prescribe a time limit within which the parties may submit their observations on any stay of the proceedings, if they have not already expressed their views in that regard. Any subsequent decision ordering the proceedings to be resumed before the foreseen end of the stay, due to relevant supervening circumstances, shall be taken in accordance with this same procedure.
4. The stay of proceedings shall take effect on the date indicated in the decision to stay or, in the absence of such indication, on the date of that decision.
5. During the period in which proceedings are stayed, all procedural time limits shall be suspended.
6. Where the decision to stay the proceedings does not fix the length of stay, it shall end on the date indicated in the decision to resume the proceedings or, in the absence of such indication, on the date of the latter decision.
7. From the date of the resumption of proceedings following a stay, any suspended procedural time limits shall be replaced by new time limits and time shall begin to run from the date of that resumption.

Article 14

Failure to comply

1. Where a party has, without reasonable excuse, failed to comply with a direction of the Appeal Panel or a provision of these rules, the Appeal Panel may (i) where that party is the appellant, dismiss the Appeal wholly or in part; (ii) where that party is the SRB, strike out the whole or part of its response.
2. The Appeal Panel shall make no order under this article without giving the parties notice so that they have an opportunity to make representations against the making of such an order.
3. If the Appeal Panel decides not to dismiss the appeal under paragraph 1 of this article, any failure of the parties in the appeal to comply with any provision of these rules or of any direction of the Appeal

Panel shall not affect the validity of the proceedings or of any decision made by the Appeal Panel.

Chapter 6 Evidence

Article 15 General and measures of inquiry

1. The Appeal Panel shall be the judge of the admissibility of any evidence adduced, herein included witnesses and experts, and of its probative value.
2. The Appeal Panel may adopt as a measure of inquiry:
 - a) a request to a party for information or for production of any material relating to the case;
 - b) a request for production of documents to which access has been denied by the Board in proceedings relating to the legality of that denial;
 - c) oral testimony;
 - d) the examination and cross-examination of experts appointed by the parties, or, if exceptional circumstances so require, by the Appeal Panel.

Article 16 Exchange of documents, confidential information and documents to which access has been denied by the Board

1. A party is entitled to request that the other party produce further documents, including electronic documents, within the limits of the applicable rules, regulations and confidentiality obligations and subject to a modification of the timetable according to Article 11.
2. In case of disagreement, the Appeal Panel may give directions for the production of further documents, but shall only do so if it considers it to be necessary for the just determination of the appeal.
3. No new plea in law may be introduced in the course of the appeal unless it is based on matters of law or of fact that come to light in the course of the proceedings.
4. No new evidence may subsequently be submitted save for good reason.
5. Where it is necessary for the Appeal Panel to examine, on the basis of the matters of law and of fact relied on by a party, the confidentiality, vis-à-vis the other party, of certain information or material produced before the Appeal Panel following a measure of case management as referred to in particular in Article 11 and 16 or a measure of inquiry as referred to in Article 15(2) that may be relevant in order for the Appeal Panel to render its decision, that information or material shall not be communicated to that other party at the stage of such examination.
6. Where the Appeal Panel concludes in the examination provided for in the previous paragraph that certain information or material produced before it is relevant in order for it to render its decision, it shall weigh that confidentiality against the requirements linked to the right to effective judicial protection, particularly observance of the adversarial principle.

7. After weighing up the matters referred to in paragraph 2, the Appeal Panel may decide to bring the confidential information or material to the attention of the other party, making its disclosure subject, if necessary, to the giving of specific undertakings, or it may decide not to communicate such information or material, specifying, by reasoned order, the procedures enabling the other party, to the greatest extent possible, to make his views known, including ordering the production of a non-confidential version or a non-confidential summary of the information or material, containing the essential content thereof.
8. Where, following a measure of case management as referred to in particular in Article 11 and 16 or a measure of inquiry as referred to in Article 15(2) a document to which access has been denied by the Board has been produced before the Appeal Panel in appeal proceedings relating to the legality of that denial, the confidentiality, vis-à-vis the other party, of that document shall be ensured throughout the appeal proceeding and that document shall not be communicated to the other party, unless exceptionally the Appeal Panel's decision on the appeal concludes that that document needs to be disclosed in whole or in part.

Article 17 Experts

With the permission of the Appeal Panel, a party may adduce expert evidence. Permission will only be given if the Appeal Panel considers it to be necessary for the just determination of the appeal. Such evidence is to be in the form of a written statement served within the time permitted.

Chapter 7 Oral representations

Article 18 Oral representations

1. Parties are entitled to make oral representations before the Appeal Panel according to Article 85(7) of Regulation 806/2014. If a party does not require an oral hearing, the Appeal Panel may nevertheless require oral representations if it considers it to be necessary for the just determination of the appeal.
2. Any request for a hearing made by a party must state the reasons for which that party wishes to be heard and must be submitted within three weeks after service on the parties of the notification of the closure of the written part of the appeal procedure. The respective time limit may be extended by the Chair.
3. The parties shall be entitled to legal representation at oral hearings.
4. Taking account of the views of the parties, the Appeal Panel will give directions as to the order and form of oral representations and, where appropriate, set a timetable. The Secretariat will notify the parties in due time.
5. The hearing shall take place at the seat of the Appeal Panel, unless the Appeal Panel gives different directions. In any case, the Secretariat shall be present.
6. The hearing shall be held in private, unless exceptional circumstances require otherwise.
7. The Appeal Panel may give directions as to adjournment of the hearing on the application of a party or on its own initiative, but adjournment is to be regarded as exceptional.
8. There shall be a digital recording of the hearing for the Appeal Panel's internal purposes.

9. If a party fails to appear, the Appeal Panel may decide to proceed in its absence.
10. The quorum for the valid constitution of the Appeal Panel in order to hear oral representations shall require the presence of four (4) of its Members. In case of a duly justified excuse or emergency, upon assessment by the Chair, members can also attend via electronic means.

Article 19 **Oral evidence**

1. At a party's request or on its own initiative, the Appeal Panel may direct a party to call a witness or an expert who has given a written statement under Article 17 to be examined and cross-examined at the hearing, in person or, if the Appeal Panel so permits, by telephone or by video conference.
2. Witnesses may be examined and cross-examined by the parties under the control of the Chair. Questions may be put to them by any member.

Chapter 8 **Lodging of the appeal**

Article 20 **Lodging of the appeal**

When the Chair considers that the evidence is complete, the Chair shall notify the parties that the appeal has been lodged for the purposes of Article 85(4) of Regulation 806/2014.

Chapter 9 **Deliberations and decision of the Appeal Panel**

Article 21 **Deliberations and decision**

1. The deliberations of the Appeal Panel shall be in private. The Secretariat will be absent during the deliberations and its input may be requested only on matters of its competence. Voting of the final deliberations will be restricted to the Appeal Panel as constituted for the case, even if alternates may follow the preparation of such deliberations.
2. For preliminary decisions under Articles 13, 16(2), 17, 18(3), 18(4), 18(6), 18(7) and 19(1), the Chair and the Rapporteur are entitled to act in the name of the Appeal Panel; they will inform the other members in due time. If the Chair and the Rapporteur disagree, a decision will be taken by the whole Appeal Panel.
3. The decision of the Appeal Panel shall be adopted in accordance with Article 85(4) of Regulation 806/2014, within one month after the appeal has been lodged. To this end, every Appeal Panel Member shall cast a vote.
4. In its decision, the Appeal Panel may confirm the decision taken by the Board, or remit the case to the latter, thus leading, in accordance with Article 85(8) of Regulation 806/2014, to the adoption of an amended decision by the Board as soon as reasonably possible in light of the complexity of the case and the amendments to be made, as well as in compliance with good administrative practices.

Article 22

Form of decisions

1. The decision of the Appeal Panel shall be in writing and give reasons, in accordance with Article 85(9) of Regulation 806/2014. The decision shall not disclose whether it was a unanimous or a majority decision. The decision shall include (not necessarily in this order):
 - the names of the members taking part;
 - the names of the parties and their lawyers;
 - a statement as to the course of the proceedings, the contentions of the parties and the form of order that they sought;
 - a summary of the relevant facts; and
 - the decision and the reasons for it.
2. The decision shall be signed by the members and by the Secretariat. The signatures may be electronic and held by the Secretariat for reference if required. Thereafter, the Secretariat shall send the decision to the parties in accordance with Article 85(9) of Regulation 806/2014, informing them of the right of appeal under Article 86(1) of Regulation 806/2014. The decision shall be sent to the parties only electronically and does not need to include a scanned image of the members' and of the Secretariat' signatures.

Article 23

Rectification of the decision

1. The parties may within seven days of being sent the decision provide the Appeal Panel through the Secretariat with a list of clerical mistakes, errors in calculation or obvious slips in the decision.
2. The Appeal Panel may by way of order of its own motion or in response to such a list (and if necessary after obtaining the representations of the parties) rectify clerical mistakes, errors in calculation and obvious slips in the decision.
3. The rectification order shall be annexed to the rectified decision.

Article 24

Publication

1. The Appeal Panel will publish its decision on the Board's website.
2. The Appeal Panel may direct the redaction of information from the published decision should it decide it is right to do so pursuant to an application by the appellant or the Board under paragraph 4, *infra*, or of its own motion, duly pondering the confidentiality of sensitive information or personal data within the applicable legal framework and considering *inter alia* any situations of confidentiality of legal proceedings pending before the European Court of Justice, if justified.
3. In accordance with the directions provided by the Appeal Panel, as per paragraph 2 above, the Secretariat will anonymise the published decision. The Appeal Panel may decide that exceptional reasons justify not to publish the decision, for example if confidentiality cannot be preserved, being clearly understood that publication is the general rule thus ensuring duly transparency of the Appeal Panel decisions and overall practice.
4. For the purposes established in paragraph 2 above, the Appeal Panel shall ask the parties to file any requests applying for redactions of the public version of the decisions, duly stating the specific reasons

for such redactions. Such requests, if any, should be made by the parties within seven days of notification addressed to them by the Appeal Panel.

5. Under the Appeal Panel's supervision, the Secretariat will organize and regularly update an archive of all past Appeal Panel decisions, including a thematic register of such decisions, to be made available in a separate sub-section of the area of the SRB website dedicated to the Appeal Panel.

Chapter 10 Miscellaneous

Article 25 Confidentiality

Without prejudice to applicable legislation, namely relevant provisions of Regulation (EC) N.º 1049/2001, and to the requirements of transparency arising from Article 24 above and observing the procedure set forth in that provision, the proceedings under these Rules of Procedure will be kept confidential.

Article 26 Costs

Each party shall cover its own costs arising from the proceedings before the Appeal Panel, including the costs regarding attendance of the hearing and possible expert evidence introduced on its demand.

Article 26 Publication and amendment of the rules

1. The Secretariat shall ensure that the rules of procedure are published in accordance Article 85(10) of Regulation 806/2014.
2. The Secretariat shall ensure that participants to an appeal, including the appellant, are made aware of the rules of procedure.
3. These rules may be amended by the Appeal Panel and other relevant forms and guidelines may be issued from time to time.

Article 27 Entry into force

1. These revised Rules of Procedure shall enter into force on the day following its publication on SRB's website.
2. The Rules of Procedure will apply to appeal proceedings initiated by notice of appeal lodged after the entry into force of these Rules, as per paragraph 1 above. For appeals lodged before such entry into force the Rules of Procedure as entered into force on 7 September 2020 shall continue to apply.