

case 2/16 – decision dated 18 July 2016

Extract published pursuant to Article 24 of the Rules of Procedure

contributions to the SRF – inadmissibility

date of the appeal: 13 June 2016

language of the proceedings: French

composition of the Panel:

Hélène M. Vletter-van Dort, Chair

Yves Herinckx, Vice-Chair, Rapporteur

Kaarlo Jännäri

Marco Lamandini

Christopher Pleister

1. This appeal relates to the 2016 annual contributions to the Single Resolution Fund claimed by the Board from [Appellant].

(1) The procedure and the arguments of the parties

2. The notice of appeal is dated 8 June 2016 and was received by the Secretariat of the Appeal Panel on 13 June 2016.

3. The contested decision was not annexed to the notice of appeal. According to the notice of appeal, the Board is claiming from [Appellant] an (unspecified) amount as contribution to the Single Resolution Fund for the year 2016 which is based on incomplete data, the value of [Appellant]’s intragroup assets having been incorrectly accounted for due to an erroneous data entry by [Appellant].

4. On 17 June 2016, the Appeal Panel requested the parties to submit by 4 July 2016 their observations on the admissibility of the appeal. [Appellant] responded on 21 June 2016. The Board did not respond.

5. On 8 July 2016, the Appeal Panel invited each party, in case it would wish to avail itself of its right to make oral representations, to advise its Secretariat by 11 July 2016. Neither party followed up on this invitation.
6. [Appellant] considers that its appeal, which concerns a correction to the calculation file sent by it, falls under Article 17(3) of the Commission delegated regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements.

(2) Findings of the Appeal Panel

7. The jurisdiction of the Appeal Panel is determined by Article 85(3) of the SRMR: appeals to the Appeal Panel are permitted against decisions of the Board referred to in Article 10(10), Article 11, Article 12(1), Articles 38 to 41, Article 65(3), Article 71 and Article 90(3) of the SRMR. Other types of decisions of the Board are not appealable to the Appeal Panel; they may be appealable the Court of Justice of the European Union in accordance with Article 86(1) of the SRMR and Article 263 TFEU.
8. The contested decision relates to *ex ante* contributions to the Single Resolution Fund. It is based on Article 70 of the SRMR. This is a decision of a type which is not listed in Article 85(3) of the SRMR. The appeal is therefore not admissible.
9. Article 17(3) of regulation 2015/63 on which [Appellant] relies provides that “Where the information submitted by the institutions to the resolution authority is subject to restatements or revisions, the resolution authority shall adjust the annual contribution in accordance with the updated information upon the calculation of the annual contribution of that institution for the following contribution period”. This provision has no bearing on the Appeal Panel’s jurisdiction.

On those grounds, the Appeal Panel by unanimous decision hereby:

- 1. Declares that the appeal is not admissible.**