

case 8/16 – 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: 14 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 3 June 2016 and was received by the Secretariat of the Appeal Panel on 14 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 amount of €● as contribution to the Single Resolution Fund for the year 2016. [Appellant] alleges that the amount claimed is incorrectly based on a value of own funds that, due to an erroneous reporting by [Appellant], omits certain deeply subordinated securities not eligible as AT1 or T2.

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. Neither party responded.

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. On 8 July 2016, [Appellant's parent] advised the Appeal Panel on behalf of [Appellant] that "[national regulator] indicated to us that this was not an appeal (as contemplated under Article 85 of Regulation 806/2014) and that it was appropriate not to follow up on your letter of 17 June 2016".

(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. The notice of appeal is expressly directed to the Appeal Panel and contains a challenge of the contested decision. It constitutes an appeal, albeit inadmissible, for the purposes of Article 85 of the SRMR.

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

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