



**DECISION OF THE EXECUTIVE SESSION OF THE BOARD**  
**of 9 February 2017**  
**on public access to the Single Resolution Board documents**  
**(SRB/ES/2017/01)**

**THE SINGLE RESOLUTION BOARD IN ITS EXECUTIVE SESSION,**

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council 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 1093/2010 <sup>(1)</sup> and in particular its Articles 54(1)(b) and 90(2),

Having regard to the Rules of Procedure of the Single Resolution Board in its Executive Session <sup>(2)</sup>, and, in particular, to Article 8 thereof,

**Whereas:**

- (1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness and notes that the Treaty marked a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.
- (2) Article 15(1) of the Treaty on the Functioning of the European Union (TFEU), states in this respect that, in order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies should conduct their work as openly as possible.
- (3) The first subparagraph of Article 15(3) TFEU states further that any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, is to have a right of access to documents of the Union's institutions, bodies, offices and agencies, whatever their medium, subject to the principles and the conditions to be defined in accordance with that paragraph. In accordance with the third subparagraph of that provision, each institution, body, office or agency

---

<sup>1</sup> OJ L 225, 30.7.2014, p.1.

<sup>2</sup> Decision of the Plenary Session of the Board of 29 April 2015 adopting the Rules of Procedure of the Single Resolution Board in its Executive Session, SRB/PS/2015/8.

should ensure that its proceedings are transparent and is to elaborate specific provisions regarding access to its documents.

- (4) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (<sup>3</sup>) calls on all agencies established by the institutions to apply the principles laid down in that Regulation, aiming to give the fullest possible effect to the right of public access to documents.
- (5) As laid down in Article 90(1) of Regulation (EU) No 806/2014, Regulation (EC) No 1049/2001 should apply to documents held by the Single Resolution Board (SRB). The second paragraph of that Article requires to this end that the SRB adopts the practical measures for applying Regulation (EC) No 1049/2001.
- (6) Wider access should be granted to the SRB documents, while bearing in mind the need to protect certain public and private interests, as well as the effectiveness of the proceedings and the independence of the SRB, provided for in Article 47 of Regulation (EU) No 806/2014.

**HAS DECIDED AS FOLLOWS:**

***Article 1***  
***Purpose***

The purpose of this Decision is to define the conditions and limits governing the right of public access to documents of the Single Resolution Board (SRB) and to promote good administrative practice on public access to such documents.

***Article 2***  
***Beneficiaries***

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to SRB documents, subject to the conditions and limits defined in this Decision.
2. The SRB may, subject to the same conditions and limits, grant access to SRB documents to any natural or legal person not residing or not having its registered office in a Member State.

---

<sup>3</sup> OJ L 145, 31.5.2001, p. 43.

### **Article 3** **Definitions**

For the purpose of this Decision:

- (a) 'document' and 'SRB document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording), drawn up or received and held by the SRB concerning a matter relating to its policies, activities and decisions;
- (b) 'third party' shall mean any natural or legal person, or any entity outside the SRB;
- (c) 'national resolution authority' (NRA) shall mean any resolution authority designated by a participating Member State in accordance with Article 3 of Directive 2014/59/EU<sup>4</sup>;
- (d) 'national competent authority' (NCA) shall mean any national competent authority as defined in Article 2(2) of Council Regulation (EU) No 1024/2013<sup>5</sup>;
- (e) 'relevant authorities and bodies' shall mean relevant national authorities and bodies, Union institutions, bodies, offices and agencies, relevant international organisations, resolution authorities and administrations of third countries.

### **Article 4** **Exceptions**

1. The SRB shall refuse access to a document where disclosure would undermine the protection of:
  - (a) the public interest as regards:
    - the financial, monetary or economic policy of the Union or a Member State,
    - the stability of the financial system of the Union or a Member State,
    - the Union's or a Member State's policy relating to the resolution of credit institutions and other financial institutions,
    - international financial, monetary or economic relations,
    - public security,
    - the purpose of inspections referred to in Article 36 of Regulation (EU) No 806/2014;

---

<sup>4</sup> OJ L 173, 12.6.2014, p. 190–348.

<sup>5</sup> OJ L 287, 29.10.2013, p. 63–89.



(b) the privacy and the integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data;

(c) the confidentiality of information that is protected as such under Union law.

2. The SRB shall refuse access to a document where disclosure would undermine:

- the protection of commercial interests of a natural or legal person, including intellectual property,
- court proceedings and legal advice,
- the purpose of inspections, other than inspections referred to in paragraph 1(a) of this Article, investigations and audits,

unless there is an overriding public interest in disclosure.

3. Access to a document drawn up or received by the SRB for internal use as part of deliberations and preliminary consultations within the SRB, or for exchanges of views between the SRB and the NRAs, the Commission, the ECB or NCAs, shall be refused even after the decision has been taken, unless there is an overriding public interest in disclosure.

Access to documents reflecting exchanges of views between the SRB and relevant authorities and bodies other than the ones referred to in the previous subparagraph shall be refused even after the decision has been taken, if disclosure of the document would seriously undermine the SRB's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards third party documents, the SRB shall consult the third party with a view to assessing whether an exception in this Article is applicable, unless it is clear that the document shall or shall not be disclosed. In particular, in case of third party documents that are classified as confidential, the SRB shall seek to obtain the express agreement in writing of the originating third party, prior to disclosure of such documents.

In case a third party is consulted, they shall be provided with a deadline for reply which shall be no shorter than five working days but must enable the SRB to abide by its own deadlines for reply. In the absence of an answer within the prescribed period, or if the third party is not identifiable, the SRB shall decide, in accordance with the rules on exceptions in this Article, taking into account the legitimate interests of the third party on the basis of the information at its disposal.

5. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.
6. The exceptions as laid down in this Article shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years, unless specifically otherwise decided by the SRB, on grounds relating to the protection of privacy or commercial interests and in the case of sensitive documents.

**Article 5**  
**Documents at the NRAs**

Documents that are in the possession of an NRA and have been drawn up by the SRB may be disclosed by the NRA only subject to prior consultation of the SRB concerning the scope of access, unless it is clear from a past consultation of the SRB that the document shall or shall not be disclosed.

Alternatively, the NRA may refer the request to the SRB.

**Article 6**  
**Access applications**

1. All applications for access to a document shall be sent to the Corporate Secretariat of the SRB in any written form, including electronic form, in one of the official languages of the Union and in a sufficiently precise manner to enable the SRB to identify the document. The applicant is not obliged to state reasons for the application.
2. If an application is not sufficiently precise, the SRB shall ask the applicant to clarify the application and shall assist the applicant in doing so. In this event, the deadline for reply shall run only from the time when the SRB receives the information necessary to identify the document in question.
3. In the event of complex or bulky applications, the SRB may confer with the applicant informally, with a view to finding a fair solution.

**Article 7**  
**Processing of initial applications**

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, or on receipt of the clarifications requested in accordance with Article 6(2) of this Decision, the Head of the Corporate Secretariat of the SRB shall either grant access to the document requested and provide access

within that period in accordance with Article 9 below, or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application, in accordance with paragraph 2 of this Article.

2. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the SRB's reply, make a confirmatory application asking the SRB to reconsider its position. Failure by the SRB to reply within the time-limit prescribed in paragraph 1 of this Article shall also entitle the applicant to make a confirmatory application.
3. In exceptional cases, for example in the event of complex or bulky applications, or if the consultation of a third party is required, the Head of the Corporate Secretariat of the SRB may decide to extend the time-limit provided for in paragraph 1 of this Article by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

**Article 8**  
***Processing of confirmatory applications***

1. A confirmatory application shall be handled promptly. Within 15 working days from registration of such an application, the Board, in its Executive Session, shall either grant access to the document requested and provide access in accordance with Article 9 below or, in a written reply, state the reasons for the total or partial refusal.

In the event of a total or partial refusal, the SRB reply shall inform the applicant of the remedies open to them, namely instituting court proceedings and/or submitting a complaint to the European Ombudsman, under Articles 263 and 228 of the Treaty on the Functioning of the European Union, following an appeal to the Appeal Panel of the SRB, in accordance with Article 85 of Regulation (EU) No 806/2014.

2. In exceptional cases, for example in the event of complex or bulky applications, the Board, in its Executive Session, may decide to extend the time-limit provided for the processing of a confirmatory application in paragraph 1 of this Article by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.
3. Failure by the SRB to reply within the prescribed time-limit shall be considered to be a negative reply and shall entitle the applicant to the remedies mentioned in the second subparagraph of paragraph 1 of this Article.

**Article 9**  
**Access following an application**

1. Documents shall be sent by mail, fax or, where available, by e-mail, depending on the application. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents at the premises of the SRB.

The costs of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation at the SRB premises, copies of less than twenty pages and direct access in electronic form shall be free of charge.

2. If a document has already been released by the SRB and is easily accessible, the SRB may fulfil its obligation of granting access to it by informing the applicant how to obtain the requested document.
3. Documents shall be supplied in an existing version and format.

**Article 10**  
**Measures facilitating access to documents**

1. In order to make the right of public access effective, the SRB shall provide access to a register of documents. The register shall be accessible in electronic form.
2. The register of documents shall cover the categories of SRB documents listed in the Annex to the present Decision, subject to the restrictions set out in Article 4 above.
3. The register shall contain:
  - the title of the document (in the languages in which it is available and indicating its subject-matter);
  - its reference number;
  - an indication of the author (SRB or third party);
  - the date on which it was received or drawn up; and
  - the date of entry in the register.
4. For documents or series of documents which are directly accessible on the official website of the SRB, the register shall include a hyperlink to the document or the series of documents in question.
5. For documents which are not directly accessible, the register shall provide details on how to request access, in accordance with the provisions of the present Decision.

**Article 11**  
**Reproduction of documents**

1. Documents released in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the SRB's prior specific authorisation. Such authorisation is provided by decision of the Board, in its Executive Session. The SRB may withhold such authorisation without stating reasons.
2. This Decision shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

**Article 12**  
**Entry into force**

This Decision shall enter into force on the day of its adoption and shall be published on the official website of the SRB.

*Done at Brussels, on 09 February 2017*

*For the Executive Session of the Board*



*The Chair*  
*Elke König*





## **ANNEX – DOCUMENT REGISTER CATEGORIES**

1. The following decisions adopted by the SRB:
  - Work programme;
  - Budget;
  - Final annual accounts;
  - Annual report;
  - Financial Regulation of the SRB;
2. Agendas of the Industry Dialogue meetings organized by the SRB and presentations given by Board members and staff of the SRB therein;
3. Rules of Procedure of the Plenary Session and the Executive Session of the SRB as well as of its Appeal Panel;
4. Code of conduct for the members of the Plenary Session and the Executive Session of the SRB;
5. Code of ethics and good administrative behaviour for staff of the SRB;
6. Declaration of commitments and declaration of interests of the Members of the Appeal Panel;
7. Staff vacancies;
8. All press releases or publications made by the SRB;
9. Documents originating from third parties which have already been disclosed by their author or with his consent;
10. SRB documents already disclosed following a previous application under this Decision.