

Rwanda

Ministerial Order determining the Organization and Functioning of the Capital Market Independent Review Panel and its Composition

Ministerial Order 3 of 2012

Legislation as at 4 June 2012

FRBR URI: /akn/rw/act/mo/2012/3/eng@2012-06-04

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PDF created on 21 February 2024 at 15:35.

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Review Panel and its Composition
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Published in Official Gazette 23 on 4 June 2012

Assented to on 18 May 2012

Commenced on 4 June 2012

[This is the version of this document from 4 June 2012.]

The Minister of Finance and Economic Planning;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in Articles 118, 120, 121 and 201;

Pursuant to Law n° 01/2011 of 10/02/2011 regulating the Capital Markets in Rwanda, especially in Article 63;

After consideration and approval by the Cabinet in its session of 18/11/2011;

HEREBY ORDERS:

Chapter One

General provisions

Article One – Purpose of this Order

This Order determines the organization, functioning and composition of the Capital Market Independent Review Panel.

Article 2 – Definitions

In this Order, the following terms shall have the following definitions:

- 1° **"Appellant"**: any person who has forwarded an appeal to the Panel;
- 2° **"The Authority" or "CMA"**: Public Institution responsible for regulating the capital market in Rwanda;
- 3° **"The Review Panel"**: the Independent Review Panel on decisions taken by the Authority and any other matter related to the capital market.

Chapter II

Organization, functioning and composition of the Capital Market Independent Review Panel

Article 3 – Composition of the Review Panel

The Review Panel shall be composed of seven (7) members appointed upon their Competence by the Minister in charge of finance following their skills from the following Institutions:

- 1° the Ministry of Finance and Economic Planning;

- 2° the Ministry of Justice;
- 3° National Bank of Rwanda;
- 4° Bank Association of Rwanda;
- 5° Private Sector Federation;
- 6° Kigali Bar Association;
- 7° Institutions of Higher Learning of Rwanda.

However, managers, staff members and members of the Board of Directors of Capital Market Authority shall not be allowed to be members of the Review Panel.

Article 4 – Term of office for Review Panel members

The term of office for members of the Review Panel shall be two (2) years renewable only once.

Article 5 – Cessation of duties

A member of the Review Panel shall leave his/her position if:

- 1° the term of office expires;
- 2° he/she resigns in writing;
- 3° he/she is no longer able to perform his/her duties due to physical or mental disability certified by an authorized medical doctor;
- 4° he/she is definitively sentenced to a term of imprisonment equal to or exceeding six (6) months without suspension of the sentence;
- 5° he/she is absent in meetings for three (3) consecutive times with no justified reasons;
- 6° he/she no longer fulfils the requirements considered at the time of his/her appointment in the Review Panel;
- 7° he/she demonstrates behaviours contrary to his/her responsibilities;
- 8° he/she jeopardizes the interests of CMA;
- 9° he/she dies.

Article 6 – Appeal

The appeal shall be made in writing to the Review Panel within fifteen (15) days following the time the appellant became aware of the circumstances giving rise to a complaint.

The Review Panel shall take decision within thirty (30) days following the receipt of a complaint. If the Review Panel is unable to issue a decision within thirty (30) days, it shall inform both the applicant and the Authority of the need for additional time. Additional time shall not go beyond thirty (30) days.

Article 7 – Convening Review Panel meetings

The Review Panel shall be convened in writing but may also be convened through other means of communication in case of urgency.

The meeting of the Review Panel shall be held upon invitation by its Chairperson or in case of his/her absence, by the Vice Chairperson.

When the Review Panel receives the appeal, it shall be recorded it in its appeals register. The Chairperson of the Panel shall forward the copy of appeal to other members, and he/she shall inform them of the date on which the appeal will be examined.

Article 8 – Additional assistance to the Review Panel

The Authority may provide to the Review Panel with its officers or any other person upon request for the proper fulfillment of the Review Panel's function. However, such a person shall not participate in any meetings of the Review Panel as well as in the decision-making process.

The Review Panel may seek assistance from an expert. However, such an expert shall not have any interest directly or indirectly in the case, and the Review Panel shall not be necessary bound by the advice given by the expert when taking its decisions.

Article 9 – Inviting third parties to attend a Review Panel meeting

The Review Panel may require any person to attend its meeting to give evidence or to produce any document in his/her possession or under his/her control which the Review Panel considers necessary to fulfill its obligations. Such a request shall specify time and place for the meeting.

Article 10 – Withdrawal of the appeal

An appellant may at any time before the conclusion of the Review Panel proceedings withdraw his/her appeal.

Where an appeal is withdrawn by the appellant, the Review Panel shall immediately cease investigating the complaint and shall immediately inform the Authority of the appeal withdrawal.

Where two or more appellants have submitted an appeal to the Review Panel the withdrawal of the appeal by one or more of them shall not affect the functions of the Review Panel in respect of the applicant who has not withdrawn the appeal.

Article 11 – Review Panel's decision

The Review Panel's decision signed by the Chairperson of the Review Panel and all persons who participated in the deliberations shall be addressed to the Authority with copies to the concerned organ or applicant.

When preparing the decision, if the Review Panel finds that some information would or might prejudice the interest of a particular person once published, the Review Panel shall exclude it from the decision before its publication.

The Review Panel may, upon request and on payment of the prescribed fee, give a copy of its decision to any person concerned with the decision or to any other person whose interests as a client or creditor are affected by the appeal.

If the Review Panel is of the opinion that there is good reason for not disclosing a part of a decision it may remove that part from the final decision.

Article 12 – Joinder of appeals

Where the Review Panel receives more than one appeal which are connected or that relate to a same matter, the Review Panel may, if it considers it necessary, order that the relevant inquiries into the appeal be conducted as a single inquiry.

If the Review Panel is of the opinion that two or more inquiries are to be conducted as a single inquiry it shall give notice in writing to the Authority and the appellant or appellants if they are many.

The appellant or appellants shall be entitled to comment on the mode of inquiry adopted by the Review Panel within five (5) days after receiving the written notice. In any case the final decision on the mode of inquiry to be used shall be vested in the Review Panel.

Article 13 – Investigations by the Review Panel

After receiving the appeal, the Review Panel shall, in writing, request the Authority to provide it with all the documentation related to the appeal. The Authority shall within seven (7) days from the day it received the request forward the documents to the Review Panel.

Article 14 – Evidence

If the Review Panel wishes to interview any person during investigations, it shall give him/her notice in writing and the notice shall indicate time and place where the interview will be carried out.

The appellant or applicants and the Authority shall be entitled to be present at the interview and to ask questions in relation to the subject matter of the investigation.

Article 15 – Representation

During the Review Panel sessions, the Authority, appellant or appellants may be represented by a lawyer or by any other person allowed by the Review Panel.

Article 16 – Quorum of the Review Panel

The Review Panel shall take its decisions if two thirds ($\frac{2}{3}$) of its members are present.

The decisions of the Review Panel shall be final and bind all concerned parties unless when appealed before competent courts.

Article 17 – Conflict of interests

When a member of the Review Panel has applied for review, he/she shall not take part in deliberations on the request until the decision thereof has been taken.

If a member of the Review Panel has any relationship or misunderstanding with the appellant, he/she shall inform, in writing, the Review Panel of the issue and request for not taking part in the review proceedings.

Article 18 – Budget for the Review Panel

The Authority shall pay sitting allowances to Review Panel members present in the meetings and defray all other expenses of the Review Panel. It shall also provide the budget for Review Panel for the fulfillment of its mission.

Article 19 – Review Panel's report

The Review Panel shall give a quarterly report to the Minister in charge of capital market with copy to the Authority.

Chapter III

Final provisions

Article 20 – Repealing provision

All prior provisions contrary to this Order are hereby repealed.

Article 21 – Commencement

This Order shall come into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.