

**ADMINISTRATIVE TRIBUNAL
OF THE
INTERNATIONAL MONETARY FUND**

Judgment No. 2025-3

June 6, 2025

Ari et al., Applicants v. International Monetary Fund, Respondent

Office of the Registrar

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INTRODUCTION

1. The Administrative Tribunal of the International Monetary Fund (“Tribunal”), composed for this case, pursuant to Article VII(4) of the Tribunal’s Statute, of Judge Nassib G. Ziadé, President, and Judges Andrew K.C. Nyirenda and Kieran Bradley, has decided the Application brought against the International Monetary Fund (“Respondent” or “Fund”) by Mr. Anil Ari, Ms. Vybhavi Balasundharam, Mr. Nicholas End, Mr. Mark E.L. Griffiths, Ms. Kelly MacKinnon, Mr. Liam O’Sullivan, Ms. Priscilla Toffano, and Mr. Felix Vardy, staff members of the Fund, most of whom were, at the time of the filing of the Application, current or former principals of the Staff Association Committee (“SAC”).¹ Applicants were represented by Mr. Ryan Griffin, James & Hoffman, P.C. Respondent was represented by Mr. Brian Patterson, Assistant General Counsel, in the Administrative Law Unit of the IMF Legal Department, and Mr. James R. Newland, Jr., of Seyfarth Shaw LLP and later of Dentons US LLP, as well as Ms. Stephanie Magnell, of Seyfarth Shaw LLP, and Ms. Anna Isernia, of Dentons US LLP.

2. Applicants contest elements of the FY2024 staff compensation decision, which was proposed by Management and adopted by the Executive Board (“Board”) on April 20, 2023, with effect from May 1, 2023. Applicants bring their challenge pursuant to Article VI(2) of the Tribunal’s Statute, which permits direct challenges to regulatory decisions within three months of the later of the announcement or effective date of the decision.

3. Applicants contend that the FY2024 staff compensation decision failed to adhere to rules established by the Comprehensive Compensation and Benefits Review (“CCBR”) decision, which the Board adopted in 2019 to provide the framework for the annual compensation decisions going forward. Applicants’ chief complaint concerns the adjustment of the payline as part of the FY2024 compensation decision. The payline adjustment was made following a comparator-based assessment, which, pursuant to the CCBR, takes place triennially during “Year 1” of the three-year

¹ An additional Applicant withdrew from participation in the case on September 19, 2024.

compensation cycle. Applicants assert that Management’s analysis as presented in the 2023 Review of Staff Compensation—on which the Board’s FY2024 staff compensation decision relied—did not comply with the multi-step payline adjustment process prescribed by the CCBR. Applicants submit that the analysis resulted in a payline that was “inexplicably below market” at some grades, in particular Grades A5-A6 (within the A1-A8 payline) and Grades A9-A10 and A15-B2 (within the A9-B2 payline). Applicants further contend that Management’s allegedly flawed analysis deprived the Board of the facts it needed to make an informed decision concerning the payline, and that this failure in turn affected the salary increase decision.²

4. Respondent, for its part, contends that the FY2024 staff compensation decision was taken consistently with the rules prescribed by the CCBR and that it reflected the reasonable exercise of discretionary authority within that governing framework. Respondent asserts that it has “broad discretion” under the CCBR to balance competing factors in developing the proposed payline and that, in proposing the grade-by-grade adjustments to the midpoints as part of the 2023 Review of Staff Compensation, it properly took into consideration the comparator markets, career progression, payline stability, and staff recruitment and retention. Respondent also submits that the decisions Applicants seek to impugn were “deliberate,” in the sense of not being arbitrary, and were taken “after extended consideration” of a range of views and data, with input from multiple stakeholders including the SAC.

FACTUAL BACKGROUND

5. The key facts may be summarized as follows.

A. 2019 Comprehensive Compensation and Benefits Review (“CCBR”) decision

6. The controversy in this case arises from the implementation, in the context of the FY2024 staff compensation decision, of particular provisions of the 2019 CCBR decision.³ The CCBR represented the first major revision to the Fund’s employment compensation and benefits system since 2006⁴ and provides the framework for the annual compensation decisions going forward. A

² In their Application, Applicants additionally sought to incorporate by reference arguments made by a different set of applicants in applications then pending before the Tribunal. Those applications challenged the amendment of the “safeguard mechanism” rule to specify use of end-January (rather than end-financial year) salary data in calculating the comparatio; that amendment was applied in taking both the FY2023 and FY2024 staff compensation decisions. In *Elkjaer et al. (No. 3)*, *Applicants v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2023-5 (December 29, 2023), the Tribunal held that the Board did not abuse its discretion by modifying the safeguard mechanism rule in the manner that it did. Accordingly, that element of the present Application is moot and will not be considered in this Judgment.

³ Comprehensive Compensation and Benefits Review—Revised Proposed Decision, EBAP/19/104, Supp. 1 (December 16, 2019) (“CCBR” or “CCBR decision”).

⁴ The history of the CCBR has been elaborated in previous Tribunal Judgments. See *Elkjaer et al. (No. 2)*, *Applicants v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2023-1 (January 30, 2023), paras. 50-56; *Elkjaer et al. (No. 3)*, paras. 33-35.

key change wrought by the CCBR was to decouple adjustments to the Fund’s salary structure (“payline”) from increases to staff salaries.

7. The CCBR framework relies on one set of comparator-based calculations to establish the midpoints of the pay grades, resulting in the structural adjustment to the payline, and a separate analysis of the salary increase budgets of comparable institutions to set the average salary increase. Two earlier challenges⁵ to the annual staff compensation decisions (for FY2022 and FY2023) concerned the “safeguard mechanism” rule, which links the two processes—payline adjustment and salary increase—by ensuring that “average salaries continue to track the midpoints well and maintain the current international competitiveness test.”⁶

8. The present controversy relates to a different issue, that is, the process by which the Fund adjusted the payline for FY2024. As prescribed by the CCBR, a comparator-based assessment of the salary structure takes place triennially during “Year 1” of the three-year compensation cycle.

(1) CCBR provisions governing the triennial payline adjustment

9. Under the CCBR, the triennial comparator-based review of the salary structure is undertaken separately for Grades A1-A8 and Grades A9-B2, on the basis that the Fund competes for talent in different markets for each of these two grade ranges.⁷ The level at which the Fund compares its salary structure midpoints to the market is set at the 75th percentile; this is known as “market pitch.”⁸

(a) Grades A1-A8 payline

10. For Grades A1-A8 staff, the Washington-Baltimore region is considered the primary comparator market, and comparator institutions are drawn from that region. In Year 1 of the three-year compensation cycle, the CCBR prescribes a two-step process for the comparator-based review of the Grades A1-A8 payline, which is set out in full below:

Step 1: The midpoints at grades A1-A8 will be compared to those of the comparator market to develop a provisional payline. In this step, a grade-by-grade assessment will be made to determine what is needed to maintain

⁵ *Elkjaer et al. (No. 2)* and *Elkjaer et al. (No. 3)*.

⁶ Comprehensive Compensation and Benefits Review—Overview Paper, EBAP/19/88 (October 15, 2019), p. 12. (Emphasis omitted.) In particular, the “safeguard mechanism” tests whether average staff salaries remain within a range of 98-102 percent of the market-adjusted pay-grade midpoints, based upon calculation of the “comparatio,” that is, the average of salaries for each pay grade relative to its midpoint, weighted by the number of staff members at each pay grade. If average salaries fall outside of the 98-102 percent testing range, the Fund is then to apply a four-factor analysis to assess whether salaries remain competitive in the market. If that test is not met, the Board would be expected to adjust the salary increase. *See* CCBR, paras. 20-22.

⁷ For Grades B3-B5, which are the highest managerial grades, a separate process is prescribed (*see* CCBR, para. 23), which is not at issue in the present case.

⁸ *See* CCBR, paras. 9 and 14. The specific meaning of “market pitch” is detailed in paragraph 14 of the CCBR.

consistent and adequate progression between grades, and more closely align the Fund's midpoints to the market payline.

Step 2: After the provisional payline is developed, final grade-by-grade adjustments will be made giving consideration to those grades where the Fund recruits most staff at these levels (grade A4/A5) and any challenges experienced in bringing in and retaining talent at grades A1-A8.⁹

(b) Grades A9-B2 payline

11. For Grades A9-B2 staff, the United States is considered the primary comparator market. Comparator institutions are drawn from that market, representing particular components of the private and public sectors, with the sectors weighted in a manner that “supports current and future recruitment and retention needs,” so as to “help ensure that Fund salaries are maintained at the right level in the markets in which it competes for talent.”¹⁰ In Year 1 of the three-year compensation cycle, the CCBR prescribes a three-step process for the comparator-based review of the Grades A9-B2 payline, which is set out in full below:

Step 1: The midpoints at grades A9-B2 will be compared on a level-to-level basis with the U.S. and international comparator markets. The purpose is to also take stock of the relationship of the overall payline (including its slope) with the comparator market paylines. During this step, the Fund midpoints will be assessed to determine the overall percentage increase required to maintain market alignment, on a staff weighted average basis. This will result in a provisional payline.

Step 2: Staying within the average structure increase percentage determined in step 1, grade-by-grade adjustments will be applied to individual midpoints, taking into consideration different recruitment challenges for positions where there may be more difficulty securing talent from the competitive market. Where the market reflects a lower reference point than the Fund's current midpoint, the midpoint would remain unchanged. In making grade-by-grade adjustments of the midpoints, internal considerations of career progression and the stability of the payline will also be taken into account.

Step 3: For this grade group, the last step will be an assessment of the competitiveness of the revised payline vis-à-vis the international comparator markets. The Fund payline will be compared to the composite payline for the international comparator market (France, Germany, and Japan) based on the arithmetic average of the percentage differences at each

⁹ *Id.*, para. 10.

¹⁰ *Id.*, para. 11.

grade level. These differences will be weighted by the number of staff in each grade, determined as of January 1 of the review year. For this purpose, the test for international competitiveness will be a Fund payline that is a range of 10-20 percent above the international market payline. These rules, summarized below, are unchanged in substance from those established in the 2006 ECBR decision, except to reflect the new safeguard mechanism described in paragraphs 20-22.¹¹

12. As for the assessment of international competitiveness referred to in Step 3, the CCBR provides that a “further adjustment of the Fund’s salary structure midpoints following the grade-by-grade adjustment will be permitted, but not required, based on an evaluation of international competitiveness.”¹² The international competitiveness assessment is elaborated as follows:

In an evaluation of international competitiveness in year 1, factors such as recent recruitment and retention experience, the margin by which the testing range has been eroded or surpassed, and effects of tax and exchange rate developments on the level of the composite international market payline will be considered. Adjustments on this basis—which could be applied either uniformly or by individual grades—will be subject to the following conditions:

- The targeted margin (testing range) considered to provide an appropriate degree of international competitiveness will be a range of 10-20 percent above the composite payline for France, Germany, and Japan.
- When alignment of the Fund’s A9-B2 payline with the U.S. market would produce a Fund payline that, on a staff-weighted average, falls below the 10 percent floor of the target range for international competitiveness, the provisional payline could be adjusted upward. Such an upward adjustment from a position below the 10 percent floor could raise the A9-B2 [payline] to a level either below or above the threshold.
- Any discretionary downward adjustment from a position within the 10-20 percent testing range (on average), would be subject to the safeguard mechanism in paragraphs 20-22 and could not result in a staff-weighted average increase to the payline that is less than the higher of: (i) the 10 percent floor; or (ii) the percentage increase in the Washington, D.C. Consumer Price Index for the 12 months ending in January, whichever is greater. A downward adjustment

¹¹ *Id.*, para. 15. (Footnotes omitted.)

¹² *Id.*, para. 16. (Emphasis omitted.)

from a position above the 20 percent ceiling would be subject to the safeguard mechanism, and if that adjustment would put the payline below that ceiling then constraints (i) and (ii) also apply. If warranted, an upward adjustment from within the range may be permitted.¹³

13. The CCBR further relates the international competitiveness assessment to the safeguard mechanism. “In year 1 of the review cycle, when there is a full review of the salary structure midpoints, the international competitiveness test would work in tandem with the safeguard mechanism”¹⁴ as follows:

Any downward adjustment to the payline based on the international competitiveness test has the effect of raising the average salaries relative to the adjusted payline (the comparatio), and any upward adjustment to the payline lowers the comparatio. A downward adjustment to the payline based on international competitiveness would only be permitted to the extent it does not raise the comparatio above 102 percent. If the comparatio exceeds 102 percent before a downward adjustment to the payline, then management may propose a lower salary increase. Conversely, if an upward adjustment to the payline would lower the comparatio below 98 percent, then the proposed salary increase may be supplemented.¹⁵

B. FY2024 Staff Compensation Decision

14. The process leading up to the Board’s adoption of the FY2024 staff compensation decision, including Management’s proposals and consultation with the SAC, is described below.

(1) Management’s 2023 Review of Staff Compensation

15. Management formally proposed to the Board the decisions at issue in this case in its 2023 Review of Staff Compensation (“2023 Review”).¹⁶ As in past annual staff compensation reviews, Management restated in the 2023 Review fundamental principles governing the staff compensation system, in particular, that the system is both “comparator-based” and “rules-based.” In being comparator-based, the staff compensation system “supports the ability to attract and retain a high-quality and diverse staff sourced from all over the world.”¹⁷ In being rules-based, it is “based on reviews conducted within an agreed framework, which provides clear instructions and

¹³ *Id.* (Footnote omitted.)

¹⁴ *Id.*, para. 22. (Emphasis omitted.)

¹⁵ *Id.*

¹⁶ 2023 Review of Staff Compensation, EBAP/23/21 (March 27, 2023) (“2023 Review”).

¹⁷ *Id.*, para. 3.

transparency to the conduct of the process.”¹⁸ In addition, the 2023 Review re-stated: “As in the past, the rules-based system continues to provide some scope for management and the Executive Board to exercise judgement, within defined parameters, in setting salary levels.”¹⁹

16. The 2023 Review further observed that the Board, in taking the 2019 CCBR decision, had “decided to manage the Fund’s payline more flexibly than in the past, to reflect market developments in different grades.”²⁰ This was to “ensure continued competitiveness where it matters most (at the hiring stage), and temper wage growth where it is less needed to remain competitive (among senior managers).”²¹

(a) Development of the proposed Grades A1-A8 payline for FY2024

17. The 2023 Review described the implementation, in the context of proposing the FY2024 compensation decision, of the CCBR’s two-step process for the triennial adjustment of the Grades A1-A8 payline as follows:

(i) Step 1

18. As to Step 1, the 2023 Review stated: “The midpoints at grades A1-A8 are compared on a level-to-level basis with the local comparator market. The same first step as for A9-B2, the purpose is to take stock of the aggregate relationship of the payline with the market and determine the overall percentage increase required to maintain market alignment on a staff-weighted average basis.” The analysis determined that for Grades A1-A8, the Fund’s payline was 7.2 percent below the market on a staff-weighted average basis.²²

(ii) Step 2

19. As to Step 2, the 2023 Review stated: “Within the staff-weighted average constraint imposed in step 1, a grade-by-grade assessment is conducted to propose midpoint adjustments for each grade.” The assessment considered three factors: “(i) the external market rate relative to the corresponding grade midpoint at each grade; (ii) internal considerations regarding career progression and the stability of the payline; and (iii) recruitment and retention trends and challenges within each grade.” With respect to the external market, the Step 2 analysis concluded that the current midpoints were positioned below the market. With respect to career progression and stability of the payline, the analysis noted that the differentials between midpoints at Grades A1-A8 were currently about 12 percent. As to recruitment and retention, the analysis assessed that

¹⁸ *Id.*, para. 4.

¹⁹ *Id.* See also *Elkjaer et al. (No. 2)*, paras. 64, 85, and *Elkjaer et al. (No. 3)*, para. 43 (quoting the same statement in earlier annual compensation reviews).

²⁰ 2023 Review, para. 9. (Emphasis omitted.)

²¹ *Id.*, quoting CCBR decision.

²² *Id.*, para. 25 (emphasis omitted), and Table 11.

“based on historical trends, the most relevant grades for recruitment include grades A5 and A6, accounting for approximately 56 percent of CY2022 hires within the A1-A8 cohort.” Tables 12 and 13 presented grade-by-grade recruitment and retention data.²³

20. The Step 2 analysis concluded that “[c]onsidering the three factors described above, . . . [m]idpoints at A1-A8 are calibrated to approximate the market rate at each grade while adhering to about a 12 percent midpoint differential from grade to grade.” Table 14 showed the proposed grade-by-grade midpoint adjustments, resulting in a proposed staff-weighted average increase of 4.8 percent for grades A1-A8.²⁴

(b) Development of the proposed Grades A9-B2 payline for FY2024

21. The 2023 Review described the implementation, in the context of proposing the FY2024 compensation decision, of the CCBR’s three-step process for the triennial adjustment of the Grades A9-B2 payline as follows:

(i) Step 1

22. The 2023 Review explained that the purpose of Step 1 is “to take stock of the relationship of the Fund midpoints and payline with the market to determine the overall percentage increase required to maintain market alignment, which is understood to imply a comparatio of 100 at each grade.”²⁵ Table 1 showed the difference between the 2020 and 2023 U.S. market data at each grade level, resulting in a staff-weighted average of 12.5 percent.²⁶

(ii) Step 2

23. As to Step 2, the 2023 Review calculated that the staff-weighted average increase to align the salary structure at Grades A9-B2 fully with the U.S. market was 9.4 percent, as shown at Table 2. The 2023 Review also noted that “[w]hile the 2019 CCBR introduced greater flexibility and determined that full alignment at every grade is not the goal, in the interest of transparency a fully-aligned payline is presented to inform the next step in the process, where the rules provide for the Board to consider downward adjustment to individual grades on the basis of international competitiveness.”²⁷

24. Additionally, as part of Step 2, a grade-by-grade assessment was conducted to consider the effects of “fully aligning the Fund’s midpoints to the market at each grade,” giving consideration to the following factors: “(i) the external comparator U.S. market rate relative to the corresponding

²³ *Id.*, para. 26 (emphasis omitted), and Tables 12 and 13.

²⁴ *Id.*, para. 27 (emphasis omitted), and Table 14.

²⁵ *Id.*, para. 12.

²⁶ *Id.*, Table 1.

²⁷ *Id.*, para. 13. *See also id.*, Table 2.

Fund salary structure midpoint at each grade [footnote omitted]; (ii) internal considerations of career progression and stability of the payline (i.e., pay differences or salary progression between grades); and (iii) recruitment and retention trends and challenges at each grade.”²⁸

25. As to the first factor (“external comparator market considerations”), the Step 2 analysis observed that at Grade A9 and Grades A11-A14 “the implied increase to fully align with the U.S. market is about 5-7.5 percent.” This was said to reflect the “Fund’s compensation philosophy—reinforced at the time of the 2019 CCBR—to maintain competitiveness at key recruitment levels.” Furthermore, “the implied increase to fully align with the current U.S. comparators is substantial and more than 20 percent for the grades above A15”; the divergence of the payline from the comparator market above A14 “reflects the policy decision to moderate the salaries of senior managers in line with [the Fund’s] status as a public institution.”²⁹

26. As to the second factor (“career progression and stability of the payline”), the Step 2 analysis observed that fully aligning the payline to the U.S. market “could create conflicts with internal equity and consistency, which is another goal.” Referencing the CCBR, the analysis stated that a “smooth and adequate salary progression . . . between grades is reasonable to allow room to grow within and between grades” and the “full alignment of the Fund’s payline to the current U.S. market would disrupt this smooth progression.”³⁰

27. As to the third factor (“recruitment and retention challenges”), the Step 2 analysis identified Grades A11-A14 as the “most relevant grades for recruitment and retention of staff,” based on historical trends, noting that “hiring at these grades reflects the Fund’s practice of external recruitment at more junior and mid-career levels and then promoting from within into managerial levels over time (i.e., grades A15-B2 and above).” The analysis further observed that the “Fund is experiencing high levels of competition in recruiting staff[,] evidenced by high rejections at Grades A9 (Research Office[r], in particular), A11 (EPs) and in A13-14 specialist-skills areas” Table 3 showed, grade-by-grade, staff hires and separations in CY2022 for Grades A9-B2.³¹

(iii) Step 3

28. Turning to Step 3, the international competitiveness assessment, the 2023 Review for Grades A9-B2 evaluated the Fund’s payline against the international comparator market, taking account of: (i) wage growth; (ii) income tax policy; and (iii) exchange rate developments. The analysis found that the U.S. wage growth “continues to outpace” that of France, Germany, and Japan; that, adjusted for income tax, U.S. gross pay levels “continue to produce higher net-of-

²⁸ *Id.*, para. 14. (Emphasis omitted.)

²⁹ *Id.*

³⁰ *Id.* The analysis cited “grade-by grade salary differentials of about 20 percent from A9 to A10, 11 to 19 percent for A11-A13, and as much as 36 percent from A14 to A15/B1.”

³¹ *Id.*, and Table 3.

income salaries relative to international comparators”; and that exchange rate developments showed “strong appreciation of the US dollar in the current 2023 reference period.”³²

29. The Step 3 analysis concluded that proposing a payline fully aligned with the U.S. market would place the payline 44.3 percent above the composite international market, that is, more than 20 percentage points above the CCBP’s 10-20 target range for international competitiveness. The analysis noted that “the system permits, but does not require, management to propose and the Executive Board to approve a downward adjustment, uniformly or by individual grades to the A9-B2 midpoints (i.e., payline).”³³ Furthermore, when considering whether a downward adjustment is warranted, the rules provide that consideration be given to factors “such as: (i) recent recruitment and retention experience; (ii) the extent to which the margin over the test range has been surpassed; and (iii) the effects of tax and exchange rate developments on the level of the international market.”³⁴ The Step 3 analysis observed: “The U.S. labor market is tight and there is a substantial wage gap relative to the Fund and international comparators, inflation remains high, and the Fund faces competitiveness challenges at key grades across the institution.”³⁵

30. The Step 3 assessment of international competitiveness concluded that “full alignment to the U.S. market at every grade across the A9-B2 grade range and resultant increase in the competitiveness margin over the international comparators is not warranted at this time.” Rather, a “more targeted and moderate increase in the Fund’s payline would maintain the Fund’s competitiveness at key recruitment levels, satisfy internal equity considerations, and uphold the rules-based system.”³⁶ In this regard, “[f]ull alignment to the U.S. market at grades A11-A14 is essential to recruit and retain staff at these levels, where the bulk of the external recruitment occurs, where the data show rejection rates of Fund offers are high . . . and where the Fund needs to build institutional capacity”³⁷

31. The Step 3 analysis additionally stated that “[t]ogether, income tax policies and exchange rate developments have continued to support a favorable environment for the U.S. labor market vis-à-vis the composite international comparator.” At the same time, it noted: “[I]t is also evident that the strength of the U.S. dollar is an important driver of the competitiveness margin, and the situation could be transitory Recent U.S. exchange developments suggest this could quickly lead to an erosion of international competitiveness.”³⁸

³² *Id.*, para. 15, Tables 4, 5 and 6, and Figure 1.

³³ *Id.*, para. 16.

³⁴ *Id.*, para. 17.

³⁵ *Id.*, para. 18. (Emphasis omitted.)

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

32. The 2023 Review summed up the proposal for the Grades A9-B2 payline as follows:

Taking these factors into account, management recommends a weighted-average increase in the salary structure for grades A9-B2 of 5.2 percent, with grade-by-grade adjustments as shown in Table 7. While well below the increase needed to achieve full U.S. comparator market alignment, an average 5.2 percent structure adjustment for A9-B2 could nonetheless:

- Accommodate full alignment to the U.S. comparator market at key grades, A11-A14, where the Fund competes for talent (Figure 2);
- Allow for a more desirable salary progression within and across these key grades; and
- Maintain the Fund's international competitiveness but at a lower level (38.8 percent, compared with 44.3 percent under full U.S. comparator market alignment, and broadly aligned to 2023).³⁹

(c) Overall proposed payline adjustment for FY2024

33. The 2023 Review summarized the proposed payline adjustment for FY2024 in the following terms: "Based on the analysis above, Management has exercised judgement within the defined parameters permitted by the compensation system to balance the goals, objectives and constraints embodied in the 2019 CCB, including (i) broad alignment with the U.S. labor market comparators to remain competitive in key grades, (ii) salary progression and payline shape, and (iii) international competitiveness." The proposed staff-weighted average salary structure adjustment of 5.0 percent reflected staff-weighted average increases of 4.8 percent at Grades A1-A8, of 5.2 percent at Grades A9-B2, and of 3.0 percent at Grades B3-B5.⁴⁰

34. Management's overall proposal to the Board was: (a) an increase in the payline that resulted in a staff-weighted average of 5.0 percent; and (b) an average increase in salary of 6.9 percent,⁴¹ effective May 1, 2023. The 2023 Review stated that "[t]he adjustment in the salary structure is less than what would be needed for a full alignment with U.S. comparators at all grades, justified by the large divergence between U.S. and international comparators."⁴² At the same time,

³⁹ *Id.*, para. 19 (emphasis omitted), Table 7, and Figure 2.

⁴⁰ *Id.*, para. 28, and Table 15.

⁴¹ In proposing the salary increase, Management applied the "safeguard mechanism" prescribed by the CCB. Based on the proposed 5.0 percent payline adjustment, the comparatio fell below the safeguard range of 98-102 percent, triggering application of the four-factor supplementary analysis. The 6.9 percent proposed salary increase was to bring the comparatio to 98.5 percent. *See* 2023 Review, paras. 39-42.

⁴² *Id.*, Executive Summary.

“[t]o retain competitiveness in a challenging recruitment environment, the adjustment retains full alignment at the key recruitment and retention grades A11-A14.”⁴³

(2) Draft 2023 Review of Staff Compensation circulated to the SAC

35. Prior to finalizing the 2023 Review in the terms described above, the Human Resources Department (“HRD”) circulated a Draft 2023 Review of Staff Compensation (“Draft 2023 Review”) to the SAC.⁴⁴

36. The Draft 2023 Review differed in some respects from the final version described above. In their pleadings before the Tribunal, Applicants have identified the following paragraph from the Draft 2023 Review—concerning the international competitiveness assessment—which was not included in the final 2023 Review issued by Management to the Board:

Considering the factors above, there is no compelling evidence that the Fund is over-competitive. As discussed in the accompanying staff report, recent recruitment and retention experience underscores the need to maintain the payline’s alignment with the U.S. market. The rejection rate for non-EP offers (staff and contractual employee offers), more than tripled in CY2022 due to competitiveness pressures—the rejection rate for staff offers rose to 7 percent while that for contractual offers rose to 13 percent. The rejection of offers was more pronounced for Specialized Career Stream (SCS) jobs, as well as some macro-climate positions. Research Assistants made up 40 percent of all contractual offer rejections, signaling continued elevated competitiveness pressures for the economics support function. There is also little evidence of a surge in applications from international comparator markets, which would be expected if the Fund was perceived as over-competitive. A downward adjustment of the payline from the level of the U.S. market would place even greater competitive pressures on the Fund’s payline. Also, given the persistent trend since 2018 of the Fund payline being positioned above the 10-20 [percent] target range and no indication that the divergence between the U.S. and international comparators will correct in the near-term, no downward adjustments are recommended from the proposed midpoints established in step 2 above.⁴⁵

SAC highlighted this difference between the Draft and final versions of the 2023 Review in its own communication to the Board.

⁴³ *Id.*

⁴⁴ 2023 Review, note 4.

⁴⁵ Draft 2023 Review, para. 22. (Emphasis omitted.)

(3) SAC Statement to the Board

37. Following Management's transmittal to the Board of the 2023 Review, SAC submitted its Statement to the Board ("SAC Statement") on the annual staff compensation proposal. The SAC Statement proposed: (a) an increase in the payline of 10.2 percent to align it on average with the U.S. market as "our main comparator and where Fund staff work and live"; and (b) an average salary increase that would raise Fund salaries "so that they are in line with the midpoints of the Fund's salary structure rather than on average being below it."⁴⁶

38. As to the Grades A1-A8 payline adjustment, the SAC Statement asserted: "[W]e believe the second step was followed, but implemented incorrectly since the proposed increase falls short of the salary increase needed to align with the market." With respect to the Grades A9-B2 payline adjustment, the SAC Statement asserted that the 2023 Review "fails to implement the correct three-step process outlined in the 2019 CCB." SAC encouraged Management to revise the 2023 Review to ensure that the various steps required by the 2019 CCB, paras. 10 and 15, were followed and to present that information to the Board.⁴⁷

39. As to international competitiveness considerations, the SAC Statement took the view that these were "neither relevant nor sufficient" to argue against full alignment with the U.S. market. It further noted that the Draft 2023 Review had stated the opposite, that is, that there was "no compelling evidence that the Fund is overcompetitive" and that recent recruitment and retention experience had underscored the need to maintain the payline's alignment with the U.S. market.⁴⁸

(4) Management's Supplement to the 2023 Review of Staff Compensation

40. Following the SAC Statement to the Board, Management responded by issuing a Supplement to the 2023 Review of Staff Compensation ("2023 Supplement"),⁴⁹ which provided additional information concerning the three-step process applied in proposing the Grades A9-B2 payline.

41. As for Step 1, the 2023 Supplement included a table showing, at each grade, the percent difference between the 2022 Fund midpoints and the 2023 U.S. market, resulting in a staff-weighted average of 8.2 percent below the U.S. market.⁵⁰

42. As for Step 2, the 2023 Supplement stated that Step 2 calls for grade-by-grade adjustments to the payline, taking into consideration different recruitment challenges at different grades, as

⁴⁶ Executive Board Meeting on the 2023 Review of Staff Compensation, April 20, 2023, Statement by the Staff Association Committee ("SAC Statement"), p. 2.

⁴⁷ *Id.*, pp. 2, 5.

⁴⁸ *Id.*, pp. 3-4.

⁴⁹ 2023 Review of Staff Compensation—Supplementary Information, EBAP/23/21, Supp. 1 (April 14, 2023) ("2023 Supplement").

⁵⁰ *Id.*, para. 2 and Table 1A.

well as internal considerations of career progression and stability of the payline. The 2023 Supplement further stated: “Under the rules adopted in the 2019 CCB, these grade-by-grade adjustments also are permitted at Step 3. In this year’s review, in view of calls for greater transparency, it was considered most useful to present the changes to the shape of the payline in Step 3, so that the effects of those changes do not obscure the extent of the staff-weighted average increase that would be needed to fully align the Fund’s salary structure at grades A9-B2 to the U.S. market” A corresponding table showed that “on average, a 9.4 percent increase in the Fund’s salary structure is needed to fully align to the 2023 U.S. comparator market.”⁵¹

43. As for Step 3, the 2023 Supplement provided a further table that compared proposed 2023 Fund midpoints to 2022 Fund midpoints, reflecting adjustments for international competitiveness. That table showed a staff-weighted average increase of 5.2 percent.⁵²

(5) Board Decisions

44. On April 20, 2023, the Board approved, effective May 1, 2023, Management’s proposed salary structure adjustment resulting in a staff weighted average of 5.0 percent, along with the proposed average salary increase of 6.9 percent, as set out in the 2023 Review.⁵³ Also on April 20, 2023, the HRD Director notified the Board’s decisions to the staff of the Fund.

DIRECT REVIEW OF REGULATORY DECISIONS

45. Pursuant to Article VI(2) of the Statute of the Administrative Tribunal, an application challenging the legality of a “regulatory decision”⁵⁴ may be filed with the Tribunal within three months of its announcement or effective date, whichever is later. There are no channels of administrative review to exhaust in respect of a regulatory decision being challenged directly.⁵⁵

PROCEDURE BEFORE THE TRIBUNAL

46. On July 28, 2023, Applicants filed a consolidated Application with the Tribunal. The Application was transmitted to Respondent on July 31, 2023. On August 4, 2023, pursuant to Rule IV(f) of the Tribunal’s Rules of Procedure, the Registrar circulated within the Fund a notice summarizing the issues raised in the Application.

⁵¹ *Id.*, para. 3 and Table 2.

⁵² *Id.*, para. 4 and Table 7.

⁵³ Decision No. A/14500-(23/29), adopted April 20, 2023; Decision No. A/14501-(23/29), adopted April 20, 2023.

⁵⁴ Statute, Article II(2)(b), defines “regulatory decision” as “any rule concerning the terms and conditions of staff employment, including the General Administrative Orders and the Staff Retirement Plan, but excluding any resolutions adopted by the Board of Governors of the Fund.”

⁵⁵ *See Elkjaer et al. (No. 3)*, note 5 (and cases cited therein).

47. On September 14, 2023, Respondent filed its Answer to the Application, which was transmitted to Applicants on September 18, 2023.

48. On October 10, 2023, Applicants requested an extension of time to file the Reply. On October 11, 2023, Respondent communicated its non-objection to the request. On the same date, the President of the Tribunal, pursuant to Rule IX(1) of the Tribunal’s Rules of Procedure, granted Applicants’ request to extend the time for filing the Reply until November 1, 2023.

49. On November 1, 2023, Applicants filed their Reply. Respondent filed its Rejoinder on December 1, 2023.

50. On August 12, 2024, the parties were notified of the Tribunal’s disposition of Applicants’ requests for production of documents and their provisional request for oral proceedings.

51. On August 13, 2024, Applicants submitted final supporting documentation regarding their request for legal fees and costs. On August 26, 2024, Respondent filed a responsive Comment.

A. Applicants’ requests for the production of documents

52. Pursuant to Rule XVII of the Tribunal’s Rules of Procedure, in their Application, Applicants made four requests for the production of documents (“Document Requests”), which related to the following issues: (1) calculation of “market pitch”; (2) positioning of the midpoints for Grades A5-A6 (within the A1-A8 payline); (3) positioning of the midpoints for Grades A9-A10 and A15-B2 (within the A9-B2 payline); and (4) the differences between the draft and final versions of the 2023 Review.

53. Applicants’ Document Requests are set out in full below:

Document Request No. 1: Documentation sufficient to assess the accuracy of the statement in the 2023 Review of Staff Compensation that “[t]he level at which the Fund relates its salary structure midpoints in its comparator markets, on average, is the 75th percentile of total cash” Such documentation should include an explanation of how the so-called “market pitch” is calculated for each of the U.S. comparator market segments that are used in the development of the Grades A9–B2 payline (U.S. financial regulatory agencies, U.S. public sector, U.S. private financial sector) and an explanation of how the 75th percentile “average” is arrived at.

Document Request No. 2: Documentation of the specific basis for the positioning of the Grades A5–A6 midpoints relative to the pertinent comparator market in management’s proposal to the Board in the 2023 Review of Staff Compensation. . . . Such documentation should be specific to explain both why these midpoints are below market and how the specific below-market percentages were arrived at.

Document Request No. 3: Documentation of the specific basis for the positioning of the Grades A9–A10 and A15–B2 midpoints relative to the

pertinent comparator market in management’s proposal to the Board in the 2023 Review of Staff Compensation. . . . Such documentation should be specific to explain both why these midpoints are below market and how the specific below-market percentages were arrived at.

Document Request No. 4: Documentation sufficient to explain the exclusion from the 2023 Review of Staff Compensation of the following preliminary conclusions that were stated in the draft shared with the Staff Association Committee in early March 2023:

- that “there is no compelling evidence that the Fund is over-competitive”;
- that “[t]here is also little evidence of a surge in applications from international comparator markets, which would be expected if the Fund was perceived as over-competitive”;
- that “recent recruitment and retention experience underscores the need to maintain the payline’s alignment with the U.S. market”;
- that “[a] downward adjustment of the payline from the level of the U.S. market would place even greater competitive pressures on the Fund’s payline”; and
- that “given the persistent trend since 2018 of the Fund payline being positioned above the 10-20 target range and no indication that the divergence between the U.S. and international comparators will correct in the near-term, no downward adjustments are recommended from the proposed midpoints established in step 2 above.”

54. In its Answer, Respondent opposed Applicants’ Document Requests, stating that “the relevant documents are already in Applicants’ possession and already in the record” and that the “record is complete.” Respondent additionally objected that the Document Requests were “improper” inasmuch as they “request documents ‘sufficient to’ meet a standard set by Applicants themselves.” Similarly, Respondent objected to Applicant’s requests for documents that “must explain something, in the manner of Applicants’ choosing” Respondent concluded: “If Applicants assert that the documentation does not satisfy a requirement of the CCBR, that is a legal argument and not a document request.”

55. In their further pleadings, the parties continued to dispute the Document Requests. Applicants, in their Reply, sought to draw a series of adverse inferences (on a Request-by-Request basis) from Respondent’s assertions that it had no further responsive documents. Applicants asked the Tribunal to infer from these responses that Respondent had conceded particular points as to the merits of the case. Respondent, in its Rejoinder, objected that “Applicants’ requests for documents and the inappropriate effort to draw a negative inference are a flawed attempt to shift the burden and change the subject of the Tribunal’s review.” Respondent further asserted that Applicants’ Document Requests “were not designed to identify whether relevant documents relating to the Board’s decision exist” but rather were “judgements as to whether the documents’ content would support one of Applicants’ subjective arguments.”

56. Having considered Applicants' Document Requests and Respondent's responses, the Tribunal decided as follows: "In cases in which the Fund asserts that it has no documents responsive to a request under Rule XVII, and the applicant has not proffered evidence suggesting that such documents exist, the Tribunal has denied the request on the ground that the applicant has not shown that he has been 'denied access' (Rule XVII(1)) to the requested documents."⁵⁶ In the present case, Respondent asserted that it had no documents responsive to Applicants' Document Requests beyond those that were already part of the record. Applicants did not counter Respondent's assertion. The Tribunal accordingly denied Applicants' Document Requests. In so deciding, the Tribunal did not find it necessary to reach the question of whether, as Respondent alleged, the Document Requests amounted to an "inappropriate" effort on the part of Applicants to make legal arguments. The parties were so notified on August 12, 2024.

B. Oral proceedings

57. Article XII of the Tribunal's Statute provides that the Tribunal "shall decide in each case whether oral proceedings are warranted." Rule XIII(1) of the Tribunal's Rules of Procedure states in part: "Oral proceedings shall be held if, on its own initiative or at the request of a party and following an opportunity for the opposing party to present its views . . . , the Tribunal deems such proceedings useful."

58. The Tribunal has held oral proceedings both in response to the requests of parties and on its own initiative. Notably, in all three of the recent challenges to staff-wide compensation and benefits decisions (*Elkjaer et al.*, *Elkjaer et al. (No. 2)*, and *Elkjaer et al. (No. 3)*), the Tribunal convened oral proceedings⁵⁷—limited to the oral arguments of counsel⁵⁸—at its own initiative in the absence of a request from a party. In the latter two cases, however, the Tribunal sought the views of the parties and, when asked, both the applicants and Respondent stated that they favored holding oral proceedings and that those proceedings should be open to the staff at large.

59. By contrast, in the instant case, the Tribunal was presented with a "provisional" request from Applicants and an opposition from Respondent. Applicants did not advance any particular reasons in support of their request. Respondent, for its part, contended that the issues of the case could be resolved on the basis of the written submissions.

60. The Tribunal recognizes that in raising challenges to elements of the FY2024 staff compensation decision, the instant case is of interest to the staff generally. That fact, however,

⁵⁶ Citing "*WW*", *Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2024-1 (February 12, 2024), para. 128. *See also Elkjaer et al. (No. 2)*, para. 17.

⁵⁷ *Elkjaer et al., Applicants v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2021-4 (December 28, 2021), para. 27; *Elkjaer et al. (No. 2)*, paras. 43-44; *Elkjaer et al. (No. 3)*, paras. 26-27.

⁵⁸ *See* Rule XIII(6) of the Tribunal's Rules of Procedure.

does not suffice for the Tribunal to conclude that oral proceedings are “warranted” in terms of Article XII of the Tribunal’s Statute.⁵⁹

61. In the circumstances of this case, and in the absence of a joint request for oral proceedings, the Tribunal concluded that it would determine the Application on the basis of the comprehensive written submissions of the parties, including extensive annexes. Accordingly, the Tribunal decided that it would not hold oral proceedings in the case. On August 12, 2024, the Tribunal notified the parties of its decision.

SUMMARY OF PARTIES’ PRINCIPAL CONTENTIONS

A. Applicants’ principal contentions

62. The principal arguments presented by Applicants in their Application and Reply may be summarized as follows:

1. Respondent “failed to adhere to governing CCBR rules and practice and abused its discretion in setting the payline proposed by management in the 2023 Review of Staff Compensation and approved by the Board.”
2. Procedural deficiencies in the payline adjustment process “yielded substantively unjustified results.”
3. The CCBR’s multi-step payline adjustment process is meant to provide “analytical clarity and transparency.”
4. With respect to the Grades A1-A8 payline, non-adherence to the CCBR rules resulted in below-market midpoints at Grades A5-A6, which lacked any reasonable basis. Management failed to provide the Board with either a provisional payline or any explanation of why an evenly spaced payline most closely aligned to the market at the non-hiring grades made more sense than a similarly spaced payline constructed around full market alignment at Grades A5-A6.
5. When properly followed, the two-step process for the Grades A1-A8 payline should allow the Board to see clearly which grade-by-grade adjustments were made based on career progression considerations and which were made based on recruitment and retention considerations. Management deprived the Board of that information.
6. There is no evidence that, in proposing the adjustment to the Grades A1-A8 payline, Management gave meaningful consideration to recruitment and

⁵⁹ See *Daseking-Frank et al., Applicants v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2007-1 (January 24, 2007), in which the Tribunal decided a challenge to the 2006 amendment of the staff compensation system on the basis of the written pleadings alone.

retention issues as required by the CCBR, given that Management chose to align the non-hiring grades while leaving the primary hiring grades well below market.

7. With respect to the Grades A9-B2 payline, although Management purported to follow a three-step process, the process differed in material respects from that set out in the CCBR.
8. Management's non-adherence to the CCBR rules resulted in a below-market increase for the Grades A9-B2 payline, which lacked any reasonable basis. Management failed to provide the Board with a provisional payline and failed to make any clearly delineated grade-by-grade adjustments based on either recruitment or career progression considerations as specified by the CCBR.
9. Further, Management improperly relied on the assessment of international competitiveness to propose an arbitrary downward adjustment to the Grades A9-B2 payline relative to the U.S. market. Management had previously acknowledged that there was "no compelling evidence" of Fund salaries being over-competitive internationally, and there was evidence that Fund salaries were under-competitive for certain positions. The Fund lacked any reasonable basis for making a downward adjustment based on available facts, and the amount of the downward adjustment was arbitrary.
10. Management misdirected the Board in additional material respects, including with regard to the "market pitch."
11. Defects in Management's payline adjustment proposal deprived the Board of the proper benchmark for its salary increase decision resulting in the Board's failure to properly exercise its discretion. That in turn resulted in a payline that is approximately 4 percent below the CCBR-defined primary comparator market in the U.S. and a salary increase decision that brought average salaries up to only 98.5 percent of the already below-market payline.
12. Applicants seek as relief:

(1) An order,

- a. requiring Fund Management to revise the 2023 Review of Staff Compensation paper in accordance with the governing rules of the 2019 CCBR, past practice, and the principle of fair treatment for all Fund staff;
- b. requiring that the revisions directed in paragraph (a) specifically include clear statements of (i) the overall percentage increase needed to fully align the payline with the U.S. comparator markets, and (ii) the single salary increase percentage needed to restore a comparatio of 100 and fully align average salaries to the payline;

- c. further requiring Fund Management to include in such revised 2023 Review of Staff Compensation paper a full and accurate explanation of the so-called “market pitch” for each segment of the U.S. comparator market used to develop the Grades A9–B2 payline or, alternatively, require the Fund to adopt a methodology that is fully consistent with its 75th percentile market pitch representation;
 - d. directing the Board to presumptively consider, in the absence of any specifically articulated countervailing considerations, (i) a supplemental adjustment to the payline sufficient to fully align it with the U.S. comparator markets, and (ii) a supplemental single salary increase sufficient to restore a comparatio of 100 and fully align average salaries to the payline, with any such increase to be made retroactive to May 1, 2023; and
 - e. granting any additional relief deemed just and proper by the Tribunal.
- (2) In their Reply, Applicants additionally propose, in the alternative, that the Tribunal award “a remedy short of annulment” (citing *Elkjaer et al. (No. 2)*) that entails rerunning the compensation analyses to adhere to the CCBR, presenting the revised information to the Board for consideration of payline and salary increase adjustments, and appropriate notification to all staff of such actions.
- (3) Applicants also seek legal fees and costs, which the Tribunal may award, in accordance with Article XIV(4) of its Statute, if it concludes that the Application is well-founded in whole or in part.

B. Respondent’s principal contentions

63. The principal arguments presented by Respondent in its Answer and Rejoinder may be summarized as follows:

- 1. The establishment of the payline and salary increase in the FY2024 staff compensation decision reflects the proper exercise of discretionary authority. The Fund followed the CCBR and did not violate any condition of Applicants’ employment.
- 2. The CCBR grants “broad discretion” to balance competing factors in developing the proposed payline. In proposing the grade-by-grade adjustments to the midpoints as part of the 2023 Review, Management properly took into consideration the comparator market, career progression, payline stability, and staff recruitment and retention.
- 3. The CCBR’s steps are not mechanical. They prescribe the information that must be considered in setting the paylines but leave the outcome to the exercise of discretion.

4. With respect to the Grades A1-A8 payline, the payline adjustment decision was reasonable and consistent with the CCBR. Management used as the provisional payline the comparator market, that is, the complete alignment with the U.S. market. However, alignment of the payline with the U.S. market would have meant abandonment of a consistent salary progression between grades.
5. “The CCBR provides for the Fund’s consideration of the competing goals of ‘consistent and adequate progression between grades’ while ‘more closely align[ing] the Fund’s midpoints to the market payline,’ and in the end grants the Fund clear discretion to position some final grade midpoints below the comparator, and others above.” Considerable weight was given to a regular progression between grades, as well as to the historical payline differential of 12 percent. The Grades A1-A8 payline adjustment decision was informed, reasonable, and broadly consistent with prior practice.
6. With respect to the Grades A9-B2 payline, Management used the U.S. market as the “provisional payline” and, in Step 3, compared that payline to international comparators. This decision was reasonable and consistent with the CCBR.
7. Applicants contest only those midpoints that are not aligned with the U.S. comparator market. That their challenge is selective rather than comprehensive “shows that Applicants do not have a foundation to challenge the Fund’s compliance with the CCBR, and instead only disagree with the result of the Fund’s exercise of its discretion.”
8. The record demonstrates that the decisions Applicants seek to impugn were “deliberate,” and were taken “after extended consideration” of a range of views and data, with input from multiple stakeholders including the SAC.
9. While the Fund is obligated to make a reasonable decision after thoughtful consideration of adequate information, the CCBR does not require that a written explanation be provided for the choice of one reasonable option over another: “[W]here there exist reasonable options, the Board’s discretionary and informed selection of one of these options should not be overturned, even if Applicants or the Tribunal think a different choice would have been better.”
10. In taking the FY2024 staff compensation decision, the Board had all of the information required by the CCBR. Management showed the Board the grade-by-grade adjustments numerically and in the narrative of the 2023 Review. The 2023 Review contains information that supports its recommendations and also offers transparency so that a reader may review the information (including tables, charts, and boxes, showing data and calculations) to determine whether the payline recommendation is reasonable.
11. Management did not misdirect the Board in any material respects, including with regard to “market pitch.”

12. None of the remedies that Applicants seek is warranted.

CONSIDERATION OF THE ISSUES

64. The Application presents the following principal questions for decision by the Tribunal. First, in proposing to the Board the triennial payline adjustment in connection with the FY2024 staff compensation decision, did Management fail to adhere to the rules prescribed by the CCBR and abuse its discretion? Specifically, did Management (1) fail to consider a “provisional payline”? (2) improperly “commingle” elements of a multi-step process and fail to take proper account of career progression, payline stability, and staff recruitment and retention? (3) arbitrarily adjust downward the Grades A9-B2 payline, based on its assessment of “international competitiveness”? (4) fail to explain adequately to the Board the FY2024 payline adjustment proposal? and (5) otherwise misdirect the Board in developing the proposed payline adjustment? Second, given Management’s proposal, did the Board abuse its discretion in taking the FY2024 staff compensation decision?

A. Framework for the Tribunal’s analysis

65. This is the third challenge brought before the Tribunal arising from the annual implementation of the CCBR, the revised system of staff compensation adopted by the Board in 2019. The two earlier challenges concerned the implementation, and later revision, of the “safeguard mechanism” rule, along with the salary increase decisions for FY2022 and FY2023. By contrast, the instant Application raises challenges to the implementation of the rules governing the triennial adjustment of the Fund’s payline and the accompanying salary increase decision for FY2024.

66. The Tribunal has recognized that the Fund’s staff compensation system is based on two “fundamental and essential” principles, namely, that it is “rules-based” and “comparator-based.”⁶⁰ Beyond these “fundamental and essential” elements, the compensation system may be unilaterally amended, including by amending rules implementing these principles, subject to review for abuse of discretion.⁶¹ Additionally, amendments are made each year to the terms and conditions of staff employment as a result of the annual application of the CCBR.⁶² It is this latter type of amendment that is at issue in the present case. Both types of amendments are “regulatory decision[s]” in terms of Article II(2)(b) of the Tribunal’s Statute because they constitute “. . . rule[s] concerning the terms and conditions of staff employment”

67. The Tribunal has long recognized that its “degree of deference—or depth of scrutiny—may vary according to the nature of the decision under review, the grounds upon which it is

⁶⁰ *Elkjaer et al. (No. 2)*, para. 82 (noting that “[t]hese are principles that the Fund itself has repeatedly confirmed” in Board Papers relating to the staff compensation system). *See also* 2023 Review, paras. 3-4.

⁶¹ *Elkjaer et al. (No. 2)*, para. 81; *Daseking-Frank et al.*, para. 59.

⁶² *See Elkjaer et al. (No. 2)*.

contested, and the authority or expertise that has been vested in the original decision maker.”⁶³ When presented with challenges to the Board’s staff compensation decisions, the Tribunal’s standard of review reflects considerations generally applicable to the review of regulatory decisions, as well as considerations specific to the staff compensation system.

68. With regard to the review of regulatory decisions, the Tribunal has held that its “deference is at its height when the Tribunal reviews regulatory decisions (as contrasted with individual decisions), especially policy decisions taken by the Fund’s Executive Board.”⁶⁴ Nonetheless, the lawful amendment of non-fundamental terms and conditions of employment is subject to the following constraints:

Changes must be based on a proper consideration of relevant facts. They must be reasonably related to the objective which they are intended to achieve. They must be made in good faith and must not be prompted by improper motives. They must not discriminate in an unjustifiable manner between individuals or groups within the staff. Amendments must be made in a reasonable manner seeking to avoid excessive and unnecessary harm to the staff. In this respect, the care with which a reform has been studied and the conditions attached to a change are to be taken into account by the Tribunal.⁶⁵

69. Furthermore, the Tribunal has observed that, in a variety of contexts, the Fund constrains its discretionary authority by adopting rules governing the particular exercise of discretion.⁶⁶ It is not true, as Respondent has stated, that “decisions about payline and salary decisions are wholly within the Fund’s discretionary authority.” With regard to regulatory decisions affecting staff compensation, the Tribunal considers that “the Fund’s obligation to adhere to its written rules will be heightened . . . because a ‘fundamental and essential’ condition of staff employment is that the compensation system will be ‘rules-based’ and ‘comparator-based.’”⁶⁷ Accordingly, when deciding challenges to the annual staff compensation decisions, the Tribunal will “scrutinize closely the Fund’s adherence to the governing rules.”⁶⁸

⁶³ Ms. “J”, *Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2003-1 (September 30, 2003), para. 99.

⁶⁴ *Id.*, para. 105; *Daseking-Frank et al.*, para. 46; *Elkjaer et al. (No. 2)*, para. 80; *Elkjaer et al. (No. 3)*, para. 75.

⁶⁵ *de Merode*, WBAT Decision No. 1 (1981), para. 47, quoted in *Elkjaer et al. (No. 3)*, para. 75; *Elkjaer et al. (No. 2)*, para. 81; *Elkjaer et al.*, para. 109; *Daseking-Frank et al.*, para. 90; Ms. “GG” (*No. 2*), *Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2015-3 (December 29, 2015), para. 362 (and cases cited therein).

⁶⁶ *Elkjaer et al. (No. 2)*, para. 82.

⁶⁷ *Id.*

⁶⁸ *Id.*, para. 84.

70. In presenting the Tribunal with the question of whether the Fund has properly applied the CCBR rules in taking an annual staff compensation decision, the present case bears some similarity to *Elkjaer et al. (No. 2)*.⁶⁹ It differs, however, inasmuch as the particular rule at issue in the earlier case was specifically drawn. The Tribunal in that case concluded that the safeguard mechanism rule “as written” had left “. . . no room for Management to depart from the definition of financial year specified by Rule J-9 [of the IMF Rules and Regulations].”⁷⁰ The Tribunal therefore found that Management had “exceeded the ambit of its discretionary authority” when it used a different date in performing its calculations.⁷¹

71. By contrast, in the instant case, the applicable rules, namely, the CCBR’s triennial payline adjustment rules, provide some room for the exercise of discretion, albeit within an established framework. The crux of the controversy in the present case is whether Respondent failed to adhere to the rules prescribed by the CCBR and exceeded the breadth of discretion afforded by these rules when it took the FY2024 staff compensation decision. To answer that question, the Tribunal must consider what was required by the rules and how Management implemented them.

B. In proposing to the Board the triennial payline adjustment in connection with the FY2024 staff compensation decision, did Management fail to adhere to the rules prescribed by the CCBR and abuse its discretion?

72. The CCBR’s triennial payline adjustment rules are reproduced in their entirety at paragraphs 10-13 of this Judgment. In this Section, the Tribunal will address Applicants’ allegation that, in developing the FY2024 payline adjustment proposal, Management (1) failed to consider a “provisional payline”; (2) improperly “commingled” elements of a multi-step process and failed to take proper account of career progression, payline stability, and staff recruitment and retention; (3) arbitrarily adjusted downward the Grades A9-B2 payline, based on its assessment of “international competitiveness”; (4) failed to explain adequately to the Board the FY2024 payline adjustment proposal; and (5) otherwise misdirected the Board in developing the proposed payline adjustment. Each of these contentions will be considered in turn.

⁶⁹ By contrast, in *Elkjaer et al. (No. 3)*, the issue was whether the Fund had lawfully amended the “safeguard mechanism” rule, in connection with taking the FY2023 staff compensation decision.

⁷⁰ *Elkjaer et al. (No. 2)*, paras. 92-93 (concluding that Management failed to comply fully with the “safeguard mechanism” rule in connection with taking the FY2022 staff compensation decision, where that rule prescribed that calculations would be made using “end-financial year” (i.e., April 30) data and the Fund instead used March 1 data).

⁷¹ *Id.*, para. 93.

(1) Did Management fail to consider a “provisional payline” in developing the FY2024 payline adjustment proposal?

73. As set out above, for both the Grades A1-A8 and Grades A9-B2 paylines, the triennial payline adjustment process provides (at Step 1) for the development of a “provisional payline.”⁷² Applicants contend that, in preparing the 2023 Review, Management skipped the step of developing a “provisional payline” and improperly “commingled” elements of the multi-step process prescribed by the CCBR. Applicants further argue that these alleged procedural defects resulted in “substantively unjustified results.”

74. Respondent, for its part, submits that Management “used the comparator market itself as the provisional payline” for both the Grades A1-A8 and Grades A9-B2 payline adjustment processes.

75. Step 1 of the review process, as formulated for both Grades A1-A8 and Grades A9-B2, calls for the comparison of the midpoints to those of the relevant comparator markets in determining a “provisional payline.”⁷³ Indeed, it appears from the rules that the purpose of developing a “provisional payline” is to take account of the requirement that the Fund’s staff compensation system is to be “comparator-based.”

76. The payline adjustment rules also reflect that the fact that the Fund’s staff compensation system is to be “comparator-based” does not mean that the Fund’s payline will necessarily be congruent with a payline constructed from comparators. If it did, then there would be no need to take account of the additional factors of career progression, payline stability, and staff recruitment and retention. In its pleadings, Respondent rightly points out that the CCBR “. . . grants the Fund

⁷² For Grades A1-A8:

Step 1: *The midpoints at grades A1-A8 will be compared to those of the comparator market to develop a provisional payline.* In this step, a grade-by-grade assessment will be made to determine what is needed to maintain consistent and adequate progression between grades, and more closely align the Fund’s midpoints to the market payline.

CCBR, para. 10. (Emphasis added.)

For Grades A9-B2:

Step 1: *The midpoints at grades A9-B2 will be compared on a level-to-level basis with the U.S. and international comparator markets.* The purpose is to also take stock of the relationship of the overall payline (including its slope) with the comparator market paylines. During this step, the Fund midpoints will be assessed to determine the overall percentage increase required to maintain market alignment, on a staff weighted average basis. *This will result in a provisional payline.*

CCBR, para. 15. (Emphasis added.)

⁷³ See footnote 72 above.

the discretion not to exactly align the payline with the market, and to balance market considerations with other considerations.”

77. In addition, more generally, the Tribunal acknowledges that the application of the CCBR Steps is not a strictly mechanical exercise whereby one step must be followed to the letter and completed before the next step can be carried out. The Steps are not an end in themselves but a means to ensure that the review of the salary structure is comparator-based. Accordingly, Management was not confined to a rigid sequential process in applying each Step and taking into account each relevant factor.

78. Having reviewed the record of the case, in particular, the 2023 Review and the 2023 Supplement, the Tribunal concludes as follows. Given that Management compared the Fund’s then-current paylines with the relevant market paylines, it did not fail to adhere to the CCBR’s requirement to consider a “provisional payline” for each of the Grades A1-A8 and Grades A9-B2 paylines in developing the FY2024 payline adjustment proposal.

(2) Did Management improperly “commingle” elements of a multi-step process or fail to take proper account of career progression, payline stability, and staff recruitment and retention, in developing the FY2024 payline adjustment proposal?

79. Applicants’ next contention is that Management improperly “commingled” elements of the multi-step payline adjustment process. Applicants assert that Management “. . . largely rolled its proposed adjustments to the payline into a single step, making it difficult or sometimes impossible to determine whether deviations from full alignment with the market were being proposed to address recruiting challenges, or to maintain consistent progression between grades, or to adjust the positioning of the Fund’s payline with respect to international comparators.” According to Applicants, “[e]verything is thrown into the mix together, and the resulting output is never quite fully explained.” Applicants further allege that, in implementing the payline adjustment rules for FY2024, Management failed to take proper account of recruitment and retention issues as required by the CCBR.

80. Respondent, for its part, asserts that the CCBR grants “broad discretion” to balance competing factors in developing the proposed payline and that the CCBR’s steps are not “mechanical.” Rather, the rules prescribe the information that must be considered in setting the paylines but leave the outcome to the exercise of discretion. Respondent submits that Management properly considered all of the prescribed factors, that is, the comparator market, career progression, payline stability, and staff recruitment and retention.

81. The question therefore is, did Respondent exceed the range of the discretionary authority afforded by those rules?

82. Both parties recognize that there will be an interrelationship between the several factors that are to be taken into account in implementing the payline adjustment process. For example, both agree that an equally spaced payline will not be perfectly aligned with the market at all grades. Applicants state that because the midpoints in a payline “. . . are established with reference to one another, in addition to with reference to the relevant market comparators, any flaw in establishing certain of the midpoints necessarily has at least a potential effect on other midpoints as well.”

Respondent, for its part, refers to the “consistent and adequate progression” criterion and the “more closely align” criterion (of Step 1 of the Grades A1-A8 payline) as representing “competing priorities,” stating that “it is impossible to align each pay grade midpoint to the market while maintaining a steady progression between pay grade midpoints.”

83. Applicants assert that these “realities,” however, should not “. . . leave the Fund with *carte blanche* discretion in aligning an equally spaced payline with the market.” Respondent submits that the discretion provided by the payline adjustment rules includes deciding “how to compromise between priorities that cannot be concurrently satisfied.”

84. It is clear that the triennial payline adjustment rules, while serving to constrain the Fund’s discretionary authority to formulate the payline, also allow for the exercise of discretion within the limits defined by those rules. The Tribunal has recognized that “provision for the exercise of discretion within a system does not invalidate the system, and that the exercise of that discretion within its governing parameters leads to solutions no less legally valid than another.”⁷⁴ The text of the triennial payline adjustment rules provides the parameters that define the scope of the discretion to be exercised. The rules direct Management to make various “assessments,” “taking into consideration” various factors, as well as “tak[ing] into account” other considerations, and “tak[ing] stock of” still others. The rules do not specify how the competing factors shall be balanced.

85. Having reviewed the CCBR document, the Tribunal does not find that the triennial payline adjustment rules constrain Management’s discretion to prioritize one factor over another in weighing the prescribed considerations. In similar circumstances, the Tribunal has observed: “A balance has to be struck among various factors (equity, simplicity, cost) which sometimes contradict one another: rigorous exactness cannot be achieved save at the price of complications; a simple solution can only be achieved at the cost of approximation.”⁷⁵ For these reasons, the Tribunal concludes that Applicants have not shown that Management improperly “commingled” elements of the governing rules in preparing the payline adjustment proposal for FY2024.

86. Applicants’ further contention is that, in the course of weighing the various factors, Management failed to give “meaningful consideration” to staff recruitment and retention issues in developing the Grades A1-A8 payline. Applicants allege that although the 2023 Review noted that Grades A5 and A6 were the most relevant recruitment grades in the Grades A1-A8 payline, Management nonetheless set these midpoints “inexplicably below market.” Applicants submit that the placement of the Grades A5 and A6 midpoints was the result of non-adherence to the CCBR rules and lacks any reasonable basis. Applicants also assert that Management’s non-adherence to the CCBR rules resulted in a below-market increase for the Grades A9-B2 payline, which lacked a reasonable basis.

⁷⁴ *Daseking-Frank et al.*, para. 88.

⁷⁵ *Id.*, para. 98, quoting *de Merode*, para. 76; see also *Ms. “GG” (No. 2)*, para. 383 (recognizing that the outcome of a deliberative process may reflect “compromises inherent in the weighing of competing interests”).

87. Respondent counters that the “. . . decision to set the A5 and A6 grades slightly below the U.S. market reference points, while maintaining a smooth and stable grade-by-grade progression, was a reasonable exercise of the Fund’s discretionary authority.” Respondent states that, in proposing the FY2024 payline adjustment, Management gave considerable weight to a regular progression between grades and to a historical payline differential of 12 percent. On this basis, Respondent argues that the payline adjustment decision was informed, reasonable, and broadly consistent with prior practice.

88. With respect to the Grades A1-A8 payline, the Tribunal observes that the 2023 Review explained that, in weighing the competing factors of recruitment considerations and a regular progression of the payline, the Step 2 analysis had concluded that the “[m]idpoints at A1-A8 are calibrated to approximate the market rate at each grade while adhering to about a 12 percent midpoint differential from grade to grade.” Table 14 showed the proposed grade-by-grade midpoint adjustments, resulting in a proposed staff-weighted average increase of 4.8 percent. For Grades A5, A6 and A7, the proposed midpoints represented a 4.9 percent increase over the current year.⁷⁶

89. With respect to the Grades A9-B2 payline, the Tribunal further observes that the 2023 Review explained the proposed payline as being “well below the increase needed to achieve full U.S. comparator market alignment,” but that the proposed average 5.2 percent structure adjustment would “[a]ccommodate full alignment to the U.S. comparator market at key grades, A11-A14, where the Fund competes for talent . . . ; [a]llow for a more desirable salary progression within and across these key grades; and [m]aintain the Fund’s international competitiveness but at a lower level (38.8 percent, compared with 44.3 percent under full U.S. comparator market alignment, and broadly aligned to 2023).”⁷⁷

90. Applicants point to outcomes of the payline adjustment process that they disagree with, in particular, the setting of certain midpoints that diverge from the comparator market. In the view of the Tribunal, these outcomes do not demonstrate a failure to follow the governing process. The Tribunal is not persuaded that the requirement that Management shall “take account of” recruitment trends was not fulfilled because it proposed to adjust the payline in the manner that it did when it proposed the FY2024 payline adjustment. In the context of a challenge to an earlier annual staff compensation decision, the Tribunal has observed that “. . . the same technical data are capable of leading, after interpretation and an exercise of judgment, to a variety of solutions, . . . none any less legally valid than any other.”⁷⁸

⁷⁶ 2023 Review, para. 27, and Table 14.

⁷⁷ *Id.*, para. 19, Table 7, and Figure 2.

⁷⁸ *Daseking-Frank et al.*, para. 115, quoting *von Stauffenberg, Ganuelas, and Leach v. The World Bank*, WBAT Decision No. 38 (1987), para. 95.

91. In a variety of circumstances, the Tribunal has held that “[t]he Fund’s policy-making discretion unsurprisingly extends to making choices among reasonable alternatives.”⁷⁹ It is true that a variety of different outcomes may be generated when different payline adjustment factors are prioritized. The CCBR rules place within the Fund’s discretionary authority the decision as to how to weigh potentially competing factors. In the circumstances of this case, Applicants have not shown that Management abused the discretion that the rules confer.

92. As noted in the Commentary on the Statute, the fact that the Tribunal has been given competence to review employment-related decisions by the Fund does not mean that it has “greater latitude in the exercise of that power than that exercised by other [international] administrative tribunals.” These tribunals have regularly reaffirmed that “they will not substitute their judgment for that of the competent organs and will respect the broad, although not unlimited, power of the organization to amend the terms and conditions of employment.”⁸⁰ Applying the triennial payline adjustment rules encompasses a measure of policy-making discretion that the Tribunal will not second guess. The Tribunal has observed that, in giving effect to the principles that underlie the annual staff compensation decisions, judgments must be made that involve “. . . complex policy decisions which, when reasonably based, are beyond the competence of the Tribunal to reconsider. Indeed, these are questions upon which reasonable persons, reasonably informed, may differ; indeed, experts may differ.”⁸¹

93. Having reviewed the record of the case and for the reasons set out above, the Tribunal concludes that Applicants have not shown that, in developing the FY2024 payline adjustment proposal, Management failed to adhere to the governing CCBR rules by improperly “commingling” elements of a multi-step process or by not taking proper account of career progression, payline stability, or staff recruitment and retention issues.

- (3) Did Management arbitrarily adjust the Grades A9-B2 payline downward, based on its assessment of “international competitiveness,” in developing the FY2024 payline adjustment proposal?

94. Applicants also raise a challenge specific to the latter payline. Step 3 of the Grades A9-B2 payline adjustment process provides that “. . . further adjustment of the Fund’s salary structure midpoints following the grade-by-grade adjustment will be permitted, but not required, based on

⁷⁹ Ms. “GG” (No. 2), para. 385; *Daseking-Frank et al.*, paras. 49, 101 (and cases cited therein). See also *Elkjaer et al.* (No. 2), para. 99 (“There may be other approaches that would better align the safeguard mechanism’s purpose of ensuring the market competitiveness of Fund salaries with its methodology in relation to a segment of Fund staff that is not subject to market-based increases. On this record, however, the Tribunal cannot say that it was unreasonable of the Fund to have made the choice that it did.”).

⁸⁰ Commentary on the Statute, p. 17; See *Daseking-Frank et al.*, para. 47.

⁸¹ *Daseking-Frank et al.*, para. 75.

an evaluation of international competitiveness.”⁸² The CCBR provisions governing the international competitiveness assessment are set out at paragraphs 11-13 of this Judgment.⁸³

95. Applicants allege that Management arbitrarily proposed to adjust downward the Grades A9-B2 payline relative to the U.S. market based on the international competitiveness test. The focus of Applicants’ allegation is Management’s earlier statement in the Draft 2023 Review that there was “no compelling evidence” of Fund salaries being over-competitive internationally. Applicants contend that Management lacked any reasonable basis for the proposal, which was presented in the final 2023 Review, to make a downward adjustment to the Grades A9-B2 payline relative to the U.S. market on the basis of international competitiveness considerations. Applicants also challenge as arbitrary the amount of the downward adjustment.

96. The 2023 Review determined (at Step 3) that aligning the Grades A9-B2 payline fully with the U.S. market would place it 44.3 percent above the composite international market, that is, more than 20 percentage points above the CCBR’s 10-20 percent target range for international competitiveness. The analysis also noted that “the system permits, but does not require, management to propose and the Executive Board to approve a downward adjustment, uniformly or by individual grades to the A9-B2 midpoints (i.e., payline).”⁸⁴ The 2023 Review explained that, having given consideration to the series of factors specified by the CCBR,⁸⁵ the Step 3 assessment concluded that “full alignment to the U.S. market at every grade across the A9-B2 grade range and resultant increase in the competitiveness margin over the international comparators is not warranted at this time.” Instead, Management’s proposal opted for a “more targeted and moderate increase in the Fund’s payline,” which, it said, would “maintain the Fund’s competitiveness at key recruitment levels, satisfy internal equity considerations, and uphold the rules-based system.”⁸⁶

97. Applicants’ argument on international competitiveness highlights a difference between the Draft 2023 Review, which Management had circulated to the SAC as part of the consultative process leading up to Management’s proposal, and the final 2023 Review that was transmitted to the Board. Notably, SAC, in its own Statement to the Board, underscored the divergence between the draft and final versions of the 2023 Review on the issue of international competitiveness and asserted that international competitiveness considerations were “neither relevant nor sufficient” to

⁸² CCBR, para. 16.

⁸³ The Tribunal takes note that although it is not until Step 3 that an assessment of “international competitiveness” is to be made, Step 1 states: “The midpoints at grades A9-B2 will be compared on a level-to-level basis with the U.S. and *international* comparator markets.” (Emphasis added.)

⁸⁴ 2023 Review, para. 16.

⁸⁵ These factors include “recent recruitment and retention experience, the margin by which the testing range has been eroded or surpassed, and effects of tax and exchange rate developments on the level of the composite international market payline.” See CCBR, para. 16

⁸⁶ 2023 Review, para. 18.

argue against full alignment of the payline with the U.S. market. The SAC Statement also referred to recent recruitment and retention experience as supporting its position.⁸⁷

98. Respondent submits that the Draft 2023 Review’s statements that “there is no compelling evidence” that the Fund’s payline was over-competitive and that “no downward adjustments are recommended from the proposed midpoints established in step 2” proved to be inconsistent with the data. Respondent asserts that the draft document was therefore properly revised during the review process. Respondent further contends that the Board was not deprived of any pertinent information because, although the assessment of international competitiveness was revised, the underlying data on which that assessment was based remained part of the 2023 Review for the Board’s consideration. Respondent also notes that the 38.8 percent margin of international competitiveness was nearly 19 percent above the ceiling of the CCBR testing range.

99. Respondent emphasizes that Management’s payline adjustment proposal and the Board’s resulting FY2024 staff compensation decision were “deliberate,” and taken “after extended consideration”⁸⁸ of a range of views and data, with input from multiple stakeholders including the SAC.

100. The Tribunal has recognized that in exercising policy-making discretion, consultation with stakeholders may evidence the “care with which a reform has been studied”⁸⁹ and support a finding of the lawful exercise of discretionary authority.⁹⁰ The Tribunal has also emphasized that “[w]hen decisions come before the Board relating to staff employment, compensation and benefits, the Board’s decision-making process will benefit from being fully informed of the views of all key stakeholders.”⁹¹

101. At the same time, drafts exchanged in the course of a consultative process do not constitute binding positions. Rather, they demonstrate the process of engagement. Indeed, “the process of formulating policy through consultation may result in the rejection of some recommendations and adoption of others.”⁹² Furthermore, should the case arise, “the fact that one decision is recommended to a decision-making authority and a different decision ultimately is taken does not of itself vitiate the reasonableness of that decision.”⁹³

⁸⁷ SAC Statement, pp. 3-4.

⁸⁸ Citing *Ms. “GG” (No. 2)*, para. 380.

⁸⁹ *de Merode*, para. 47.

⁹⁰ See *Ms. “GG” (No. 2)*, para. 380 (“In a series of Judgments, the Tribunal has rejected challenges to regulatory decisions on grounds of arbitrariness where it has found that the policy adopted was the outcome of ‘extended consideration.’”); *Daseking-Frank et al.*, para. 51.

⁹¹ *Elkjaer et al.*, para. 128.

⁹² *Ms. “GG” (No. 2)*, para. 380.

⁹³ *Daseking-Frank et al.*, para. 100.

102. With regard to the Step 3 international competitiveness assessment, the Tribunal concludes as follows. The 2023 Review explained, following a discussion of factors (including wage growth, income tax policy and exchange rate developments), which the CCBR specifies as pertinent to exercising the discretion to adjust the Grades A9-B2 payline on the basis of international competitiveness, that a downward adjustment should be made. SAC formally brought to the Board’s attention the discrepancy between the preparatory document (which Applicants refer to as “earlier tentative conclusions”) and the final 2023 Review. Having reviewed the record of the case, the Tribunal concludes that, as with Steps 1 and 2, Management made a considered choice at Step 3, within the parameters established by the governing CCBR rules. In such circumstances, the Tribunal will not second guess such decision. The Tribunal accordingly concludes that Applicants have not shown that, in developing the FY2024 payline adjustment proposal, Management arbitrarily adjusted downward the Grades A9-B2 payline based on an assessment of international competitiveness.

(4) Did Management fail to explain adequately to the Board its FY2024 payline adjustment proposal?

103. Applicants contend that Management additionally abused its discretion by failing to explain adequately to the Board the choices it made in preparing the FY2024 payline adjustment proposal. This argument is closely related to Applicants’ principal claim that Management failed to adhere to the governing CCBR rules in formulating that proposal. Applicants assert that it was Management’s failure to comply with the governing rules that “. . . deprived the Board of the full information required for it to make an informed payline adjustment decision.” In particular, Applicants contend that, in exercising its discretion, “management failed to provide the Board with any explanation of why it recommended one option rather than the other”; “the Board did not receive such information because management did not follow the prescribed steps when conducting its analysis.”

104. Respondent counters that although the Fund is obligated to make a reasonable decision after thoughtful consideration of adequate information, the CCBR does not require that a written explanation be provided for the choice of one reasonable option over another. Moreover, Respondent submits that, in taking the FY2024 staff compensation decision, the Board had all of the information required by the CCBR. Management showed the Board the grade-by-grade adjustments both numerically and in the narrative of the 2023 Review. Respondent emphasizes that the 2023 Review contains information that supports its recommendations and also offers transparency so that a reader may review the information (including tables, charts, and boxes, showing data and calculations) to determine whether the payline recommendation is reasonable.

105. The Tribunal has held that the “Board’s lawful exercise of its discretionary authority in taking the [annual] staff compensation decision is . . . predicated on Management’s full compliance with rules that the Board established when it adopted the 2019 CCBR decision.”⁹⁴ Further, it has recognized the “importance of the Board having all relevant and available facts when it takes its

⁹⁴ *Elkjaer et al. (No. 2)*, para. 117.

decision.”⁹⁵ This is because the “proper exercise of discretionary authority requires that a decision is taken on the basis of relevant facts . . . and in accordance with the rules adopted to govern that process.”⁹⁶ In adopting the CCBR in 2019, the Board decided what facts would be relevant to adjusting the Fund’s payline on a triennial basis going forward, and it prescribed a process for taking account of those facts.

106. The Tribunal has already held that Management did not fail to adhere to the rules prescribed by the CCBR or abuse its discretion in developing the FY2024 triennial payline adjustment proposal. The Tribunal has also come to the conclusion that Management has provided sufficient explanations to the Board about its FY2024 payline adjustment proposal.

107. The Tribunal observes that reasoned decision-making is a hallmark of the lawful exercise of discretionary authority and that providing reasons counters arbitrariness.⁹⁷ The Tribunal has recognized that “[t]he principle that the staff compensation system will be ‘rules-based’ means that it will not be arbitrary. It will be transparent and predictable. Staff can expect that rules that have been enacted will be followed.”⁹⁸ In the 2023 Review, the Fund also stated that, in being “rules-based,” the staff compensation decisions are “based on reviews conducted within an agreed framework, which provides clear instructions and transparency to the conduct of the process.”⁹⁹

108. Having reviewed the 2023 Review and 2023 Supplement—the same documents that the Board had before it when it took the FY2024 staff compensation decision—the Tribunal concludes that Management did not fall short of these requirements. While Management may not have mechanically followed the CCBR Steps (which it does not have to do), the analysis and choices made were explained and documented in the 2023 Review, its Annexes, and the 2023 Supplement.

(5) Did Management otherwise misdirect the Board in developing the FY2024 payline adjustment proposal?

109. In addition to the allegations considered above, Applicants seek to show that Management misdirected the Board in additional respects in developing the FY2024 payline adjustment proposal.

110. First, Applicants contest the reference to the “market pitch” in the 2023 Review as misleading. The 2023 Review states that “[t]he level at which the Fund relates its salary structure

⁹⁵ *Elkjaer et al. (No. 3)*, para. 97.

⁹⁶ *Elkjaer et al. (No. 2)*, para. 107.

⁹⁷ See generally *Mr. “RR”, Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2021-2 (December 24, 2021), para. 125 (In rescinding decision not to convert a fixed-term appointment, the Tribunal stated that “. . . the obligation of a decision maker to give a reasoned written explanation for a decision, particularly where the decision has a profound and fundamental impact on the employment status of a person, is a general principle of international administrative law.”).

⁹⁸ *Elkjaer et al. (No. 3)*, para. 72.

⁹⁹ 2023 Review, para. 4.

midpoints in its comparator markets, on average, is the 75th percentile of total cash”¹⁰⁰ The CCBR similarly states that “. . . the level at which the Fund compares its salary structure midpoints to the market will continue to be set at the 75th percentile of total cash.”¹⁰¹ More specifically, as stated in the CCBR, this reference level is set at: “(i) the 75th percentile of the U.S. general industry sector and each sector in the international comparator market (France, Germany, Japan); (ii) a level 10 percent above the mean of the U.S. public sector; and (iii) on a sliding scale between the 75th percentile and the mean of the U.S. financial sector”¹⁰² Applicants allege that, in proposing the FY2024 payline adjustment, Management misled the Board with respect to market pitch because the definition was not fully spelled out in the 2023 Review; Applicants contend that “. . . the 75th percentile market pitch claim simply portrays the Fund’s payline as more competitive than it actually is.” Applicants seek as relief that Management be ordered to include in a revised 2023 Review a “full and accurate explanation of the so-called ‘market pitch’ for each segment of the U.S. comparator market used to develop the Grades A9–B2 payline or, alternatively, require the Fund to adopt a methodology that is fully consistent with its 75th percentile market pitch representation.”

111. In response, Respondent asserts that “the CCBR makes clear that the ‘75th percentile’ is a shorthand reference to more elaborate calculations of market pitch that are fully disclosed and explained.” Moreover, the SAC acknowledged as much in its Statement to the Executive Board for the meeting of April 20, 2023, on the 2023 Review of Staff Compensation.

112. As noted earlier, the CCBR, which is referred to multiple times in the 2023 Review,¹⁰³ explains in greater detail what the reference to the 75th percentile should be understood to mean.¹⁰⁴ According to the CCBR, the 75th percentile of total cash, also referred to as the “market pitch,” is “the reference level at which the Fund compares its salary midpoints to comparator market compensation. . . . Specifically, the level is set at: (i) the 75th percentile of the U.S. general industry sector and each sector in the international comparator market (France, Germany, Japan); (ii) a level 10 percent above the mean of the U.S. public sector; and (iii) on a sliding scale between the 75th percentile and the mean of the U.S. financial sector”¹⁰⁵ When referring to the 75th percentile or addressing a specific item of this definition, the 2023 Review clearly indicates in its explanations that the Fund’s market pitch “targets” or “approximate[s]” the 75th percentile, or is set “on average”

¹⁰⁰ *Id.*, para. 5.

¹⁰¹ CCBR, para. 9. *See also id.*, para. 14.

¹⁰² *Id.*, para. 14.

¹⁰³ The Tribunal observes that the first document that the 2023 Review refers to is the CCBR; the 2023 Review states in its first paragraph that this review was conducted in accordance with the CCBR. *See* 2023 Review, para. 1 and fn. 1.

¹⁰⁴ *See* para. 9 and fn. 8 above.

¹⁰⁵ CCBR, para. 14.

at that level.¹⁰⁶ Applicants' challenge to the reference to the "75th percentile" in the 2023 Review's discussion of market pitch is therefore without merit.

113. Second, in their Application, Applicants appear to claim that the CCBR requires that the Fund salaries should "remain aligned" with the comparator market. As the Tribunal has observed above, however, the payline adjustment rules demonstrate that just because the Fund's staff compensation system is to be "comparator-based" does not mean that the Fund's payline will necessarily be congruent with a payline constructed from comparators. If it did, then there would be no need to take account of the additional factors of career progression, payline stability, and staff recruitment and retention. For these reasons, Applicants' contention cannot be sustained.

114. Third, as observed at note 2 of this Judgment, Applicants in their Application additionally seek to incorporate by reference an argument raised by a different set of applicants in applications that were then pending before the Tribunal. That issue was resolved by the Tribunal's Judgment in *Elkjaer et al. (No. 3)* and is now moot.

115. For these reasons, the Tribunal concludes that Applicants' additional arguments that Management misdirected the Board in developing the FY2024 payline adjustment proposal are without merit.

(6) The Tribunal's conclusions on Management's proposal to the Board regarding the triennial payline adjustment in connection with the FY2024 staff compensation decision

116. For the reasons elaborated above, the Tribunal concludes that Applicants have not shown that, in developing the FY2024 payline adjustment proposal, Management (a) failed to consider a "provisional payline"; (b) improperly "commingled" elements of a multi-step process or failed to take proper account of career progression, payline stability, or staff recruitment and retention; (c) arbitrarily adjusted downward the Grades A9-B2 payline, based on its assessment of "international competitiveness"; (d) failed to explain adequately to the Board the FY2024 payline adjustment proposal; or (e) otherwise misdirected the Board in developing the proposed payline adjustment. Accordingly, the Tribunal concludes that Management did not fail to adhere to the rules prescribed by the CCBR, nor did it abuse its discretion in proposing to the Board the triennial payline adjustment in connection with the FY2024 staff compensation decision.

C. Given Management's proposal, did the Board abuse its discretion in taking the FY2024 staff compensation decision?

117. The Tribunal has emphasized that the "Board's lawful exercise of its discretionary authority in taking the [annual] staff compensation decision is . . . predicated on Management's full compliance with rules that the Board established when it adopted the 2019 CCBR decision."¹⁰⁷ The Tribunal has concluded above that Applicants have not shown that, in proposing to the Board

¹⁰⁶ 2023 Review, paras. 5, 58, 61.

¹⁰⁷ *Elkjaer et al. (No. 2)*, para. 117.

the FY2024 payline adjustment, Management failed to adhere to the rules prescribed by the CCBR or abused its discretion. It follows that the Tribunal also cannot sustain Applicants' further contention that alleged defects in Management's payline adjustment proposal, in turn, deprived the Board of the proper benchmark for its salary increase decision.

118. Applicants have not raised a challenge to the Board's FY2024 staff compensation decision independent of their challenge to Management's proposal as provided in the 2023 Review and 2023 Supplement. Accordingly, and for the same reasons that the Tribunal has found that Management did not abuse its discretion in making its proposal, the Tribunal concludes that the Board did not abuse its discretion in taking the FY2024 staff compensation decision based on that proposal.

CONCLUSIONS OF THE TRIBUNAL

119. For the foregoing reasons, the Tribunal concludes that, in proposing to the Board the triennial adjustment of the payline in connection with the FY2024 staff compensation decision, Management did not fail to adhere to the rules prescribed by the CCBR. Given this conclusion, Applicants also have not shown that the Board abused its discretion in taking the FY2024 staff compensation decision. Accordingly, the Application is denied.

DECISION

FOR THESE REASONS

The Administrative Tribunal of the International Monetary Fund unanimously decides that:

The Application of Mr. A. Ari, Ms. V. Balasundharam, Mr. N. End, Mr. M. Griffiths, Ms. K. MacKinnon, Mr. L. O’Sullivan, Ms. P. Toffano, and Mr. F. Vardy is denied.

Nassib G. Ziadé, President

Andrew K.C. Nyirenda, Judge

Kieran Bradley, Judge

/s/

Nassib G. Ziadé, President

/s/

Paul Jean Le Cannu, Registrar

Washington, D.C.
June 6, 2025