

INTERNATIONAL MONETARY FUND ADMINISTRATIVE TRIBUNAL RULES OF PROCEDURE

Rule V (Recusal) *(Amended December 13, 2021)*

1. In accordance with Article VII, Section 3 of the Statute, a member of the Tribunal shall recuse himself or herself:

(a) in cases involving persons (including a party's counsel or representative) with whom the member has a personal, familial or professional relationship;

(b) in cases concerning which he or she has previously been called upon in another capacity, including as advisor, representative, expert or witness; or

(c) if there exist other circumstances such as to make the member's participation seem inappropriate to the President (or to make the President's participation seem inappropriate to the two longest-serving members of the Tribunal) or other reasonable observer.

2. Any member recusing himself or herself shall immediately inform the President of the Tribunal. When the President recuses himself or herself, the President shall immediately inform the most senior member of the Tribunal (that is, the longest-serving member, or, if two or more members are of equal seniority, then the eldest thereof) who, in accordance with Article VII, Section 4 of the Statute, shall act as President for that case.

3. When a professional relationship has terminated, which would have triggered recusal in terms of paragraph (1)(a) if it were ongoing, then a buffer period shall apply during which time the affected member of the Tribunal will be required to recuse himself or herself from any matter in which the person with whom the member of the Tribunal has had a professional relationship is involved as a party, or as counsel or representative of a party. The buffer period will commence at the termination of the relationship and run for the period necessary to extinguish a reasonable perception of conflict of interest. Three years is considered the benchmark for such a buffer period. The President (or the two longest-serving members where the relationship involves the President) will determine the duration of the buffer period in consultation with the affected member. Factors such as the nature, scope and duration of the past professional relationship, will be relevant in determining the buffer period.

4. A former member of the Tribunal shall not appear as a representative or counsel for a party before the Tribunal for a period of three years from the expiry of his or her term of service on the Tribunal.

5. In exercising the authority pursuant to Article VII, Section 4 of the Statute to designate panels to take decisions in a case, the President may take account of circumstances that, in the President's view, make a member's participation seem inappropriate, including circumstances that the President considers would raise in the mind of a reasonable observer an actual, potential or perceived conflict of interest.

(a) To facilitate the President's designation of panels in a manner to avoid cases of actual, potential or perceived conflict of interest, the Registrar shall apprise the President and members of the Tribunal of such information as the names of persons involved in the case, including those of parties' counsel or representatives, before the panel designation is finalized.

(b) Each member of the Tribunal shall consider whether he or she may have an actual, potential or perceived conflict of interest that may require recusal and bring any relevant concern to the attention of the President.

(c) If the President considers that he or she may have an actual, potential or perceived conflict of interest that may require recusal, the President shall bring that concern to the attention of the two longest-serving members of the Tribunal.

6. The Tribunal shall provide a fair process for considering whether an actual, potential or perceived conflict of interest exists requiring recusal of a member of the Tribunal, in circumstances where the relevant member disputes that such a conflict of interest exists.

(a) Upon receiving information raising a substantial question as to whether an actual, potential or perceived conflict of interest exists that may require recusal of a member of the Tribunal, and where the relevant member disputes that such a conflict exists, the President may appoint a panel consisting of the President and the two longest-serving members of the Tribunal not affected by the question of conflict of interest. If the President is affected by the question of conflict of interest, then the three longest-serving members shall comprise the panel.

(b) The panel shall hear the member affected by the question of conflict of interest and conduct such fact-finding measures as necessary to decide the matter.

(c) If the panel concludes that in the mind of a reasonable observer an actual, potential or perceived conflict of interest exists, then the member of the Tribunal shall recuse himself or herself from the relevant matter.