

Practice Direction No. 4 **(15 August 2008)**

Conduct of Oral Proceedings

1. Opening Statements

Opening statements may be delivered by each side, with the Applicant going first. These statements are mere assertions of what each side intends to prove through witnesses. These statements, which are usually not interrupted, do not constitute proof or evidence.

2. Presentation of witnesses

a. *Testimony under Oath or Affirmation.* Witnesses shall take the oath or make an affirmation in accordance with Paragraph 2, Rule 15 of the Rules of Procedure. They shall also affirm the truth of the contents of their statements. In the interest of efficiency, it is expected that only persons who have previously submitted their written statements in accordance with the deadlines set by the Tribunal shall be allowed to testify.

b. *For the Applicant.* If the Applicant wishes to testify as a witness, his representative may examine or ask questions (the "direct examination"). The same will be true for any other witnesses the Applicant may provide. At the conclusion of the questioning of each witness, a representative of the Bank will be provided the opportunity to cross-examine, i.e., ask questions of the witness as well, on the topics of the direct testimony. Thereafter, the Applicant may ask further questions on the topics raised by the Bank and the latter will have an opportunity to re-cross. If the Applicant intends to present the case without representation, he will have the opportunity to make a statement as though he were a witness, and then the representative of the Bank will be provided the opportunity to cross-examine or question him under the same procedure.

c. *For the Respondent.* Once the Applicant has presented his case through each of his witnesses and any testimony he may wish to offer, the Bank, as Respondent, will have the opportunity to go through the same process with the examination of its witnesses, with the Applicant or his representative being afforded a comparable opportunity to cross-examine each witness.

d. *Second Opportunity.* The parties may be allowed a second opportunity to present their witnesses (additional "re-direct examination" and "re-cross examination"), if desired.

e. *Admissibility of Questions.* The Tribunal will rule on the permissibility or appropriateness of any question asked of the witness.

3. Closing Statements

Each side, with the Respondent going first, will have an opportunity to sum up its

position and argue what it believes the Tribunal should conclude and rule, based on the evidence presented. If the parties wish or the Tribunal decides to require the parties to submit written statements, arrangements will be made at the close of the hearing for simultaneous submission and exchange.

4. Other Matters

a. *Written Statements in lieu of Direct Examination.* It is expected that the parties will submit to the Tribunal the written statements of all the persons they intend to present as witnesses, with copies furnished to the other party, within the deadlines set by the Tribunal.

b. *Questions by the Tribunal.* The Tribunal will leave it to the parties to develop their positions and make their cases through examination, cross-examination, and written documentation. The Tribunal, however, reserves the right to ask questions and call any witness at any point in the proceedings.

c. *Documentation.* The parties have submitted documents as part of the record of the case. Additional documents may be submitted only by mutual agreement. Any dispute on admissibility shall be decided by the Tribunal.

d. *Procedural Rulings.* Any issues of procedure or process will be decided by the Tribunal after hearing the views of both parties.

e. *Witnesses.* The parties have the obligation to ensure the attendance of their witnesses during the scheduled hearing(s).