

Mario Draghi
President

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Mr Ranjan Kumaran
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Frankfurt, 25 March 2015
LS/MD/2015/188

Request for public access to ECB documents

Dear Mr Kumaran,

On 27 February 2015 the European Central Bank (ECB) received your confirmatory application for a review of your initial public access request (to "*release a country by country, bank by bank, and product by product breakdown of the (ABSPP and CBPP3) ECB purchase programme expenditure to date, including prices paid for securities, quantities purchased, brokerage and/or clearing house arrangements including fees, and the relevant ISIN codes*") arguing that disclosure of the initially requested data is in the public interest.

The Executive Board has given careful consideration to your confirmatory application as well as the assessment made and the decision taken with respect to the response to your initial application request in line with the requirements of the Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents¹ (Decision ECB/2004/3). Following this review, the Executive Board upholds the assessment of the Director General Secretariat, as laid down in his letter of 30 January 2015. It, therefore, cannot grant full or even partial access to the data requested, as such data is protected under the provisions of the second indent of Article 4(1)(a) ("*the financial, monetary or economic policy of the Union or a Member State*") and the first indent of Article 4(2) ("*the commercial interests of a natural or legal person, including intellectual property*") of Decision ECB/2004/3.

First, the Executive Board should like to recall that the aim of the asset-backed securities purchase programme (ABSPP) and the covered bond purchase programme 3 (CBPP3) is to "*further enhance the transmission of monetary policy, facilitate credit provision to the euro area economy, generate positive spill-overs to other markets and, as a result, ease the ECB's monetary policy stance, and contribute to a return of inflation rates to levels closer to 2%*".² As such, these two programmes are

¹ Please see the Official Journal of the European Union L 80/42, 18 March 2004, as amended by Decision ECB/2011/6 of 9 May 2011, Official Journal of the European Union L 158/37, 16 June 2011.

² Please see ECB Decision ECB/2014/45 of 19 November 2014 on the implementation of the asset-backed securities purchase programme, Official Journal of the European Union L 1/4, 6 January 2015 (ABSPP) and Decision ECB/2014/40 of 15 October 2014 on the implementation of the third covered bond purchase programme, Official Journal of the European Union L 335/22, 22 November 2014 (CBPP3).

part of the non-standard monetary policy measures that the ECB has established in recent years. Details on the financial instruments, including the eligibility criteria of the ABSPP and/or the CBPP3, are publicly available on the ECB's website in the underlying legal documentation and supplementary communications.³ Eligible financial instruments that are considered for purchase as part of the ABSPP are subject to credit risk assessment and due diligence by the ECB in accordance with Article 3 of Decision ECB/2014/45 on the implementation of the asset-backed securities purchase programme.

Release of the requested data on the securities which have been purchased to date under the ABSPP and CBPP3 programmes would allow for specific financial instruments as well as the issuers involved to be identified. The Executive Board holds the view that this could undermine the explicit purpose of these programmes. In fact, the distribution of purchases across issuers, types of financial instruments and other dimensions merely reflects the market conditions at the time of the purchases and the intention to maximise the impact of interventions on the monetary policy stance and general credit conditions, while minimising distortions in market prices. While the ECB, with its purchases, strives for market neutrality, the disclosure of information on such distribution carries the risk of misinterpretation by market participants, who may assume that the data reflect structural features of the programmes, rather than the mere temporary distribution of the purchases in view of the existing market conditions at that given moment in time, or even mistakenly assume that the ECB's asset managers hold privileged information on specific issuers or originators. For example, the disclosure of the names of issuers of covered bonds and originators of asset-backed securities effectively bought is very likely to cause a, not necessarily justified, differentiation in spreads in favour of those issuers/originators whose financial instruments have been purchased by the Eurosystem. This, in turn, could undermine the financing efforts of the issuers whose financial instruments have not been purchased. Furthermore, the disclosure of these names could be perceived by the market as indicating a differentiation between financially sound and financially weak issuers and originators. This could ultimately introduce unwanted volatility and distortions in the market, which could undermine the protection of the public interest as regards the monetary policy of the European Union, including the transmission of monetary policy impulses, as well as of the commercial interests of such issuers and originators (please refer to the protection of commercial interests outlined below).

Having considered the above-mentioned consequences of disclosure, the Executive Board concludes that it cannot grant full or even partial access to the requested data (including country-level data pertaining to the ABSPP and the CBPP3), as this would undermine the Eurosystem's explicit aim of restoring confidence in the financial markets and enhancing the transmission of monetary policy impulses, thereby challenging the efficiency of these programmes and the effectiveness of such non-standard monetary policy operations initiated by the Governing Council.

³ Please see: http://www.ecb.europa.eu/press/pr/date/2014/html/pr141002_1_Annex_1.pdf?c4144e9908c29df066a053246f81d1ff and https://www.ecb.europa.eu/press/pr/date/2014/html/pr141002_1_Annex_2.pdf?0ba2a520b8a2b7ad8ff6bfb99333ba25

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The Executive Board wishes to underline that, as provided under Article 4(1)(a) (*"the financial, monetary or economic policy of the Union or a Member State"*), the justification for the refusal to grant access to such data is not limited by virtue of an overriding public interest.

Second, the disclosure of the data which you have requested could undermine the protection of the commercial interests of the ECB's counterparties and of the four executing asset managers (hereinafter "Managers") appointed contractually under the ABSPP, as described on the ECB's website.⁴ In keeping with the standard practice for conducting monetary policy operations, the Eurosystem considers it important to protect the confidentiality of individual transaction data on and relating to its counterparties, as the disclosure of such information could be harmful to their commercial interests (as mentioned above). Furthermore, the disclosure of the contractual arrangements with the Managers or the clearing company, including their respective fees, could undermine the protection of their commercial interests. In this respect, there are no special clearing arrangements for the bonds and asset-backed securities covered by the two programmes and standard market practices and procedures are followed in each case.

Based on the assessment of the content of these documents and taking into account the argumentation provided by you (which failed to substantiate such overriding public interest), the Executive Board has not identified a public interest that would, in this instance, override the public interest protected by virtue of the above-mentioned provision and thus justify the disclosure of this data. It is, furthermore, not possible to grant partial access to the requested data without undermining the commercial interests protected by virtue of the first indent of Article 4(2) (*"the commercial interests of a natural or legal person, including intellectual property"*) of Decision ECB/2004/3.

Finally, I should like to confirm that your further enquiries and requests for information included in your e-mail of 27 February 2015 will be dealt with separately by the ECB, as they fall outside of the scope of the confirmatory application for a review of your initial application for public access to ECB documents.

For the sake of good order, I should like to inform you that, under Article 8(1) of Decision ECB/2004/3, in the event of total or partial refusal, the applicant may have recourse to the remedies open to him/her in accordance with Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,



⁴ See the press release of 30 October 2014 entitled "ECB appoints executing asset managers for the ABS Purchase Programme" http://www.ecb.europa.eu/press/pr/date/2014/html/pr141030_1.en.html.