

ECB-UNRESTRICTED

DIRECTORATE GENERAL SECRETARIAT

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Reference: LS/PS/2022/27

Request for public access to ECB documents on record creation and keeping

Dear Mr Fanta,

On 25 April 2022 the European Central Bank (ECB) received your application for public access to the following documents:

- *“Memos, guidance, guidelines, or training material (or any other document) for staff on record creation and/or record keeping. I am particularly interested in documents that refer to creation/keeping of text messages.”*
- *“Memos, guidance, guidelines, or training material (or any other document) for staff on the processing of access to information requests.”*

Identification of the requested documents

After having carefully examined your request in accordance with Decision ECB/2004/3, we have identified specific excerpts from three ECB documents, namely:

1. Excerpts from the ECB internal rules on the management of ECB information and ECB communication;
2. Excerpts from presentation to newcomers on record management; and
3. Excerpts from guidance given to ECB staff on ECB communication.

With regard to the part of your request referring to *“documents that refer to creation/keeping of text messages”* we would like to note that no documents were identified. Notwithstanding this, we are glad to provide you with information on the ECB's current approach on this matter (see final remarks).

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Assessment of the requested documents for disclosure

Following a thorough assessment in accordance with the requirements set out in Decision ECB/2004/3, the ECB considers that full access to the identified excerpts can be granted since none of the exceptions listed in Article 4 of that Decision apply. The requested excerpts are made available via the ECB's Public Register of Documents¹.

Final remarks

It is noted that, the ECB has adopted specific rules and processes for the management of ECB documents and information which are defined as any content - whatever its medium - created or received, related to the ECB's policies, tasks, activities, or decisions².

The rules for sharing, keeping or destroying, and storing of ECB documents and information are set out in the ECB's internal rules on the management of ECB information, and provide, inter alia, that *"as soon as [ECB staff members] create or receive ECB information, [they] have a responsibility to use and treat that information in accordance with the ECB's rules and procedures"* and *"in order to document the decisions it takes, the ECB should keep valuable ECB information that it created or received (records); however, not all ECB information needs to be preserved. Information saved in DARWIN³ is retained or destroyed in an automated manner."*

ECB information to be stored includes (i) evidence of business activities, decisions, transactions; (ii) information with future value, e.g. business, financial, legal, research; and (iii) formal communication (between staff and external parties). Conversely, information should not be kept when (i) of short-term value; (ii) not required in the future; consists of (iii) duplicates or copies; or (iv) drafts superseded by a final version.

Until recently, the ECB did not consider the use of text and instant messages for business purpose, namely, for any activities that (directly or indirectly) enable the ECB to perform its tasks as provided for in the Union Treaties, the Statute of the ESCB and the SSM Regulation. However, in the course of 2020, while the majority of ECB staff was working remotely, the ECB authorised limited use of specified instant messaging tools to facilitate communication and collaboration within the bank. These instant messaging tools are supported by defined rules governing the creation, access and use of the platforms. During the pandemic, staff was also permitted to use text messaging in exceptional circumstances.

Text and instant messages have to be used only for exchange of short-lived transitory information⁴. Consequently, and also following data protection recommendations, a short (one year) retention period is either

¹ See the [ECB's Public Register of Documents](#): Documents released under public access regime "[Communications and information management](#)."

² [Decision ECB/2004/3](#) on public access to ECB documents defines ECB document as "any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) drawn up or held by the ECB and relating to its policies, activities or decisions, as well as documents originating from the European Monetary Institute (EMI) and from the Committee of Governors of the central banks of the Member States of the European Economic Community (Committee of Governors)". The ECB's Business Rulebook defines ECB information as "Any content created or received related to the policies, tasks, activities or decisions of the ECB (including the tasks performed in accordance with the Union Treaties, the Statute of the ESCB and the SSM Regulation)".

³ DARWIN is the ECB's electronic tool for the management of documents and records, see also respective record of processing activity: https://www.ecb.europa.eu/ecb/access_to_documents/data_protection/shared/pdf/ecb.dpr.dgse_management_DARWIN_user_data20200224.en.pdf

⁴ Short-lived transitory information includes transitory or short-term documents or emails including 'personal' notes of meetings or conferences, appointment diaries, calendars, and facilitative or personal messages. Activity feeds, social connections, posts and instant messaging, notifications created via ECB collaboration tools/features (ephemeral messaging)

automatically implemented for authorised instant messaging tools or staff is requested to delete messages as soon as possible. In any case, all information related to ECB tasks, activities and decisions continues to be exchanged via official ECB email messages and duly recorded in the ECB's record management system.

The ECB is currently reviewing its internal rules on the management of ECB information. The review will also look to ensure the ECB policy regarding the use of text messaging tools for communication of short-lived and transitory information is supported through defined processes, procedures and technology. In this regard the ECB will also consider – once available – the “good practices” the European Ombudsman intends to identify⁵ on how the EU administration should keep records of work-related text and instant messages.

Last but not least, with regard to the excerpts disclosed, please note that, in line with Article 10 of Decision ECB/2004/3, *“Documents released in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the ECB's prior specific authorisation. The ECB may withhold such authorisation without stating reasons”*.

Yours sincerely

[signed]

Petra Senkovic
Director General Secretariat

[signed]

Roman Schremser
Chief Compliance and Governance Officer

⁵ Relevant inquiry available in the following link: <https://www.ombudsman.europa.eu/en/news-document/en/143830>