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Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Director General

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Registered letter with acknowledgment of receipt

Advance copy by email: ask+request-4148-8456f176@asktheeu.org

Ms Vicky Cann
CEO Ask the EU
Rue d'Edimbourg 26
1050 Brussels

Subject: your application for access to documents: reference number GestDem 2017/2100

Dear Ms Cann,

We refer to your e-mail dated 4 April 2017 in which you make a request for access to documents, registered under the above mentioned reference number.

Your application concerns documents (emails, letters briefings, agendas, minutes) which relate to former Commissioner Hill, Vice President Dombrovskis and/or DG FISMA concerning the securitisation regulation and involving 12 external organisations (third parties).

All documents (45) identified as related to your application are listed in Annex 1 to this letter. After having examined these documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have the pleasure to send you 39 documents (numbered from 1 to 39). Whenever third parties were the authors of the documents, they have been consulted.

These 39 documents are disclosed in their entirety. They are however expunged from personal data contained in them. Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹. When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that

¹ Official Journal L 8 of 12.1.2001, p. 1.

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

As for the 6 remaining documents (internal briefings for meetings of Commissioner Hill or DG FISMA with the third parties), I regret to inform you that your application cannot be granted, as disclosure is prevented by the exception to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001. These documents relate indeed to internal decision making in the framework of not yet concluded negotiations on the proposal for a regulation on securitisation. The exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to these documents: "Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure". The exception laid down in Article (3) of Regulation 1049/2001 applies as an overriding public interest could not be identified. I have also examined the possibility of granting partial access to these documents in accordance with Article 4(6) of Regulation (EC) No 1049/2001. However, partial access is not possible considering that the documents concerned are entirely covered by the exception laid down in Article 4(3).

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Olivier Guersent

Annexes:

- Annex 1: List of documents
- 39 documents numbered from 1 to 39

Contact: Anna Marie Monteyne, DG FISMA/01, anna-marie.monteyne@ec.europa.eu