Request for public access to ECB documents

Dear Mr Ayenajeh,

On 10 September 2018 the European Central Bank (ECB) received your application for access to "[the 'Level 2-Level 3 agreement', negotiated between the T2S Board and the 4CB, endorsed by the Governing Council and subsequently signed by the Eurosystem central banks and the 4CB, as amended when necessary which contains details of the tasks and responsibilities of the 4CB, the T2S Board and the Eurosystem central banks]."

On 4 October 2018, in accordance with Article 7(3) of Decision ECB/2004/3\(^1\) on public access to ECB documents and owing to increased workload and the need to consult the signatories of the requested Agreement, the ECB extended the stipulated time frame for reply by twenty working days.

The TARGET2 Securities Level 2 – level 3 Agreement ("the T2S L2/L3 Agreement") to which you refer in your application is the supply and operation agreement negotiated between the T2S Board and the Deutsche Bundesbank, the Banco de España, the Banque de France and the Banca d'Italia (the "4CB"), which are in charge of the operation of T2S\(^2\). The T2S L2/L3 Agreement was endorsed by the ECB's Governing Council and subsequently signed by the National Central Banks (NCBs) and the 4CB\(^3\); it complements Guideline ECB/2012/13 on T2S and sets out additional details of the tasks and responsibilities of the 4CB in charge of the operation of T2S, the T2S Board and the NCBs.

The T2S L2/L3 Agreement was concluded as a private law contract according to German law. Contracts are by nature confidential and sensitive, as they affect the rights and obligations of the contractual parties. As such, while the ECB has published a wealth of information on the T2S platform\(^4\), the T2S L2/L3 agreement itself is not publicly available.

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\(^1\) Decision ECB/2004/3 of 4 March 2004 on public access to European Central Bank documents (OJ L 80, 18.3.2004, p. 42), as last amended by Decision ECB/2015/1 (OJ L 84, 28.3.2015, p. 64).


\(^3\) See Article 20, Guideline ECB/2012/13.

The T2S L2/L3 Agreement, as last amended on 21 June 2018, includes eight annexes on: I) the T2S Information Security Framework; II) the T2S Project Milestone Plan; III) Criteria and procedures of the T2S Board approval; IV) Service Level Agreement for the testing and operational phases; V) T2S Change and Release Management Procedure; VI) 4CB Offer, including the payment schedule and conditions; VII) T2S financial envelope for the Operational phase and VIII) Model License agreement. The details of the tasks and responsibilities of the 4CB, the T2S Board and the Eurosystem central banks are included in Articles 1 to 9 (1-4 and 6-8), 12 (1) to 17 and 21 and in Annexes IV (1-4) and V of the T2S L2/L3 Agreement.

Following a thorough assessment in line with Decision ECB/2004/3 on public access to ECB documents and in consultation with the signatories of the agreement, the ECB has decided that the identified parts of the Agreement can be disclosed since none of the exceptions set out in Article 4 of Decision ECB/2004/3 apply (see attachments).

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,

Pedro Gustavo Teixeira
Director General Secretariat

Marguerite-Louise Karydi
Head of the Compliance and Governance Division

Attachments