



## EUROPEAN COMMISSION

Directorate General Financial Stability, Financial Services and Capital Markets Union

Director General

***By registered letter with acknowledgment of receipt***

Brussels, 26.07.2019 - 4898858  
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Via email: [ask+request-7062-4dd1166e@asktheeu.org](mailto:ask+request-7062-4dd1166e@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No 2019/3848**

Dear Mr Charles,

We refer to your e-mail dated 5 July 2019 in which you make a request for access to documents, registered on 5 July 2019 under the above mentioned reference number.

You request access to documents and information pertaining to the proposals for legislative change, negotiation and adoption of Article 77d paragraph 4 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 (Solvency II) concerning the volatility adjustment. I consider your request to cover documents held up to the date of your initial application, i.e. 5 July 2019.

Your application concerns the following document:

- *Commission Services Non-paper on the Parliament's proposal for changes to Article 77d (4) of Directive 2009/138/EC (Ares(2019) 4680593)*

That document outlines the Commission Services' assessment of a proposal to change Article 77d of Directive 2009/138/EC.

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4 of this Regulation.

The document which you seek to obtain relates to an ongoing legislative procedure.

Disclosure of the document requested would undermine the protection of the decision-making process of the Institutions, as it would reveal preliminary views and policy options which are currently under consideration; the Institutions must be free to explore all possible options in preparation of a decision free from external pressure. Therefore the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to this document.

We have considered whether partial access could be granted to the document requested, but the entire document describes preliminary views and policy options that are still under consideration as long as the legislative procedure is on-going.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. Note that we have also examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

In accordance with Article 7(2) of Regulation (EC) No 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  
Secretariat-General  
Transparency, Document Management & Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Sincerely,



Olivier GUERSENT

Contact: Robert HINTZE, [robert.hintze@ec.europa.eu](mailto:robert.hintze@ec.europa.eu), +32 2 295.57.64