



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Director-General

Brussels,
fisma.a.2(2022)418307

Ms Paula Castro
1 Long Ln,
London SE1 4PG
UNITED KINGDOM

e-mail: [ask+request-10253-
dacd6449@asktheeu.org](mailto:ask+request-10253-dacd6449@asktheeu.org)

Subject: Your application for access to documents – GESTDEM 2021/7225

Dear Ms Castro,

We refer to your e-mail of 22 November 2021, in which you make a request for access to documents, registered on the next day under the above-mentioned reference number. We apologise for the delay in replying.

You request access to “*All documentation, including but not limited to, attendance lists, agendas, background papers, minutes/notes and email correspondence about or summarising, the following meetings of Director-General John Berrigan with organisations.*”

- 1. Meeting with Credit Suisse Group AG (CSAG) and UBS Group AG (UBS) on the 05/11/2021 on CRR, Basel III*
- 2. Meeting with Raiffeisen Bank International AG (RBI) on the 27/10/2021 on Basel III, digital currency*
- 3. Meeting with Commerzbank AG on the 27/10/2021 on CH Libor and on the implementation of Basel III*
- 4. Meeting with Société Générale (SG) on the 25/10/2021 on Basel III, AML*
- 5. Meeting with Fidelity International (FIL) on the 01/10/2021 on Basel III, NPLs*
- 6. Meeting with BNP PARIBAS (BNPP); Association Française des Marchés Financiers (AMAFI), NATIXIS Viel & Cie (Viel & Cie) on the 29/09/2021 on MiFID/MiFIR”*

Documents and exceptions

We have found 17 documents falling under the scope of your request. They are listed in the annex to this letter. Fourteen of these documents can be partially released and are attached to this letter.

Following an examination under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have concluded that full disclosure of all documents is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

A complete disclosure of the identified documents is prevented by the **exception concerning the protection of privacy and the integrity of the individual** outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the names and contact information of Commission staff members not pertaining to the senior management, the names and contact details of other natural persons and other information relating to an identified or identifiable natural person.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated.

In addition, full disclosure of documents 7 and 8 is prevented by the exception in Article 4(1)(a), third indent of Regulation 1049/2001, which provides that the institutions shall refuse access to a document where “disclosure would undermine **the protection of the public interest as regards (...) international relations**”. The European Commission needs to preserve a ‘safe space’ for confidential preliminary exchanges, which is an inherent feature of preparing and consequently also for conducting international negotiations. These documents contain internal considerations on tactical and legal issues on ongoing discussions with Member States and with third countries, the disclosure of which would be detrimental to the position of the Commission and would significantly damage these ongoing discussions. Furthermore, in the case of positions held by Member States, disclosing these paragraphs would also go against the principle of sincere cooperation enshrined in Article 4(3) of the Treaty of the European Union.

Documents 7, 8, 9 and 10 are also covered by the exception **protecting the decision-making process of the Commission**. Parts of them reveal policy options for upcoming proposals that are still under internal analysis, consideration and reflection. Pursuant to settled case law, the exception of the protection of ongoing decision-making process may be applied where disclosure of preparatory documents would result in a serious,

non-hypothetical and objectively justified risk of self-censorship. In addition, the redacted parts refer to a pending initiative and contain preliminary views, opinions and speculations, the disclosure of which would be misleading and would seriously undermine the related ongoing decision-making process. Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to these documents.

In particular, **documents 8, 9 and 10 are also covered by the exception in Article 4(3) second subparagraph of Regulation 1049/2001**. These documents are drafted for internal purposes in the framework of internal exchanges and deliberations. Disclosure of such content would seriously undermine the institution's decision-making process, as it would deter Commission officials from freely exchanging in writing information and opinions that are essential for the Commission to take informed decisions.

In addition to this, some documents you seek to obtain contain information the release of which could potentially harm the **commercial interests of a company or stakeholder**, as putting this information in the public domain would affect their competitive position on the market by revealing details on their know-how or business plans to the public at large. Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to documents 8 and 10.

As a consequence of the application of these exceptions, documents 8, 9 and 10 are covered in their entirety and cannot be disclosed to you.

Finally, please note that documents 14 and 16 contain parts that are out of the scope of your request, and therefore these parts have been redacted.

Final remarks

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. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure. We note that you do not put forward any elements to demonstrate the existence of an overriding public interest in disclosure of the documents requested. Nor have we, based on our own analysis, been able to identify any elements capable of demonstrating the existence of a public interest that would override the need to protect the interests under Article 4(2) and (3) of Regulation (EC) No 1049/2001.

Please note that the disclosure of documents originating from third parties is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

As regards the minutes of meetings, please note that they are drawn up for internal use and they solely reflect the authors' interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which were not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

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 e-mail to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Electronically signed

John BERRIGAN
Director-General

Annex:

List of documents: 17 documents, of which 14 are partially released

1. FISMA 12816 minutes CSAG and UBS
2. FISMA 12392 minutes Raiffeisen
3. FISMA 12393 minutes Kommerzbank
4. FISMA 12723 minutes Société Générale
5. FISMA 12464 minutes FIL
6. FISMA 12225 minutes BNPP
7. Basis 2446 – background AMAFI
8. Basis 2446 AMAFI (not disclosed)
9. Basis 2515 Kommerzbank (not disclosed)
10. Basis 2513 Raiffeisen (not disclosed)
11. Ares 2021 6763004 CSAG and UBS
12. Ares 2021 5570120 Raiffeisen
13. Ares 2022 216094 Raiffeisen
14. Ares 2021 5570387 Kommerzbank
15. Ares 2022 216930 Société Générale
16. Ares 2022 217238 BNPP
17. Ares 2021 5704677 FIL