

Directorate General Secretariat

ECB-UNRESTRICTED

Helen Darbshire

'ask+request-1975-1dde96e1@asktheeu.org'

26 May 2015

LS/PvdH/15/12

## Request for public access to ECB documents

Dear Ms Darbshire,

On 4 May 2015 the European Central Bank (ECB) received your request for access to “any documents containing a legal analysis or other evaluation of the justification of adding the following new exceptions to Article 4.1.a (of the ECB Decision ECB/2004/3) : — ‘the Union's or a Member State's policy relating to the prudential supervision of credit institutions and other financial institutions, — the purpose of supervisory inspections, — the soundness and security of financial market infrastructures, payment schemes or payment service providers”. You furthermore indicated that you are “particularly interested to receive documents which examine or explain the justification for including these in 4.1.a rather than 4.1.b where there is a public interest override. This applies especially to supervisory inspections given that Regulation 1049/2001 places inspections in 4.2 and that the EU treaties require that any limits to the right of access be established by the Parliament and Council, and that when it comes to inspections, it was determined to apply a public interest override to this limit.”

Having thoroughly looked into this matter we should like to draw your attention to the recitals (2) to (4) and recital (9) of the ECB Decision ECB/2015/1 amending Decision ECB/2004/3 on public access to European Central Bank documents which outline the justification for these amendments:

(2) Decision ECB/2004/3 (3) was amended by Decision ECB/2011/6 (4) in order to ensure the protection of the public interest as regards the stability of the financial system in the Union and in Member States, in respect of requests for access to ECB documents relating to ECB activities and policies or decisions drawn up or held by the ECB in the field of financial stability, including those relating to the provision of support by the ECB to the European Systemic Risk Board.

(3) In carrying out the specific tasks referred to in the first recital, the ECB will also draw up or hold documents relating to the prudential supervision of credit institutions. Such documents will qualify as ECB documents within the meaning of Decision ECB/2004/3.

(9) In addition, in carrying out the task of the ESCB to promote the smooth operation of payment systems, it is important to protect documents the disclosure of which would undermine the public interest as regards

the soundness and security of the financial market infrastructures, payment schemes and payment service providers.

(4) There is a need to ensure the protection of the public interest as regards the Union's or a Member State's policy relating to the prudential supervision of credit institutions in the context of public access requests to ECB documents. There is also a need to ensure the protection of the public interest as regards the purpose of supervisory inspections.

As to why these are placed in Article 4.1.a rather than in Article 4.2 of the Decision ECB/2004/3, we would like to inform you that the public interest underlying the supervisory tasks entrusted to the ECB in line with Article 127(6) of the Treaty on the Functioning of the European Union (TFEU) and the public interest underlying the ESCB task to promote the smooth operation of payment systems according to the fourth indent of Article 127(2) TFEU require the same level of protection as the public interests protected by the other indents of Article 4.1.a.

Please note that no other document was identified as relevant to your request.

Finally, also for your information, Regulation No 1049/2001 does not apply to the ECB and Decision ECB/2004/3 on public access to ECB documents does not constitute an implementation of that Regulation.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large loop followed by a vertical stroke and a small horizontal dash.

Pierre van der Haegen  
Director General

A handwritten signature in blue ink, appearing to be 'R. Schremser' in a cursive style.

Roman Schremser  
Principal Adviser