



EUROPEAN COMMISSION

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

The Director-General

Brussels
FISMA.D.1/CP

Ms Pia EBERHARDT
Finanzwende Recherche
Moztstrasse 32
10777 Berlin
Germany

By e-mail: [ask+request-12183-
f64a8d8c@asktheeu.org](mailto:ask+request-12183-f64a8d8c@asktheeu.org)

Subject: Your application for access to documents EASE/2022/6675

Dear Ms Eberhardt,

We refer to your request for access to European Commission documents registered on 17 November 2022 under the above-mentioned reference number.

You request access to “... *documents which contain the following information:*

- 1) all correspondence (including email) since September 2021 between Commissioner McGuinness, and/or her cabinet and/or officials from DG FISMA with representatives of German companies and associations from the financial sector, on the issue of Basel III. Companies and associations I am particularly interested in are Deutsche Bank, Commerzbank, the German banking association, Verband deutscher Pfandbriefbanken, Deutscher Sparkassen- und Giroverband (DSGV), Bundesverband Volksbanken und Raiffeisenbanken (BVR), Verband Öffentlicher Banken (VÖB), Fondsverband BVI, Verband der privaten Bausparkassen, Bundesverband Alternative Investment and Deutsches Aktieninstitut (DAI).*
- 2) a list of meetings since September 2021 between Commissioner McGuinness, and/or her cabinet and/or officials from DG FISMA with representatives from the above-mentioned companies and associations, in which the issue of Basel III was discussed.*
- 3) minutes of the meetings mentioned above”.*

We have identified the following documents falling within the scope of your request:

A. in relation to point (1) of your above-mentioned request:

- ARES(2022)2162483 of 24 March 2022 “*Follow-up on online meeting with the Presidents of the German Public Banks of 10 March*”, (hereafter ‘document 1’), which includes the following annexes:
 - Presentation “*Meeting with Director-General John Berrigan, DG FISMA*” - 10 March 2022 (hereafter ‘document 1.1’);
 - Presentation “*Priorities of the EU Banking Package*” of 21 March 2022 (hereafter ‘document 1.2’)
- ARES(2022)479664 of 26 January 2022 “*Association of German Banks – Comments on the Banking Package*”, (hereafter ‘document 2’), which includes the following annexes:
 - Presentation “*Key positions of the Association of German Banks on the 2021 banking package*” - 11 January 2022 (hereafter ‘document 2.1’);
- ARES(2022)1716597 of 08 March 2022 “*CFO Network observations on the CRR3 EC legislative proposal implementing Basel 4 in Europe*” (hereafter ‘document 3’), which includes the following annexes:
 - Presentation “*CFON CRR3 Background Topics Appendix FINAL*” (no date), hereafter ‘document 3.1’;
 - Presentation “*CFON CRR3 EC Legislative Proposal FINAL EU27 McGuinness*” (no date) hereafter ‘document 3.2’;
- ARES(2022)4536280 of 20 June 2022 “*AMENDMENT of Art. 2 paragraph 5 CRD / Association of German Public Banks (VOEB) for Investitionsbank Sachsen Anhalt*” (hereinafter ‘document 4’) which includes the following annexes:
 - Gesetz- und Verordnungsblatt für das Land Sachsen-Anhalt of 21 December 2022 (hereafter ‘document 4.1’);
 - Letter of 16 June 2022 „*Implementation of Basel III – Amendment of Art. 2 paragraph 5 CRD*“ (hereafter ‘document 4.2’);
- ARES(2022)4969051 of 07 July 2022 “*Your letter of 16 June 2022 - Implementation of Basel III – Amendment of Art. 2 paragraph 5 CRD*”, (hereafter ‘document 5’);
- ARES(2021)6513610 of 21 October 2021 “*Gesprächsanfrage Hauptgeschäftsführer der DK, 09. November vormittags*”, (hereafter ‘document 6’);

- ARES(2022)2052587 of 21 March 2022 “*Gespräch mit DSGVO [...] und [...]*”, (hereafter ‘document 7’);
- ARES(2022)1381802 of 23 March 2022 “*Meeting request for [...], Member of the Management Board, Deutsche Bank AG at the EUROFI Conference in Paris 23-25 February 2022*”, (hereafter ‘document 8’);
- ARES(2021)5570387 of 10 September 2021 “*Meeting request: [...], [...] Commerzbank AG*”, (hereafter ‘document 9’);
- ARES(2021)5727721 of 20 September 2021 “*Association of German Banks- Request for joining a Banken on screen panel on the Basel IV proposal (November 2021)*”, (hereafter ‘document 10’);
- ARES(2022)1145311 of 16 February 2022 “*Date proposals for exchange with Mr Berrigan / VÖB (Association of German Public Banks)*”, (hereafter ‘document 11’);
- ARES(2021)6999123 of 15 November 2021 “*Meeting request*”, (hereafter ‘document 12’);
- ARES(2022)1242522 of 18 February 2022 – “[*Re*] LETTER | vdp survey on the impact of the reform of Basel III on real estate finance and Pfandbrief banks / Impact on individual exposures and individual portfolios” (hereafter ‘document 30’);
- ARES(2022)5682870 of 15 November 2021 – “*Your letter of 15 July 2021(‘European strategic autonomy can be reached via tangible regulatory and supervisory support’)*” (hereafter ‘document 31’)

B. in relation to points (2) and (3) of your above-mentioned request:

- Meeting FISMA/12452 of 29 September 2021 “*Request for a meeting*”, (hereafter ‘meeting 1’), which includes the following annexes:
 - “*Meeting request for [...], [...], Deutsche Bank AG with Alexandra Jour-Schröder*” - ARES(2021)5734177 of 20 September 2021 (hereafter ‘document 13.1’);
 - Meeting minutes (hereafter ‘document 13.2’);
- Meeting FISMA/13149 of 23 February 2022 “*Meeting with Deutsche Bank AG on EU strategic economy (in the margins of Eurofi)*”, (hereafter ‘meeting 2’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 14’);
- Meeting FISMA/13342 of 15 February 2022 “*Meeting with DB on CRR III*”, (hereafter ‘meeting 3’), which includes the following annexes:

- Meeting request “*DB feedback on CRR III*” of 09 February 2022 (hereafter ‘document 15.1’);
- Meeting minutes (hereafter ‘document 15.2’);
- Meeting FISMA/13843 of 03 May 2022 “*DB Contact on CRR III / FRTB*”, (hereafter ‘meeting 4’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 16’);
- Meeting FISMA/14375 of 11 July 2022 “*Banking Package / [...]*”, (hereafter ‘meeting 5’), which includes the following annexes:
 - Meeting request “*Question on [...], short assessment of the Fernandez report*” of 6 July 2022 (hereafter ‘document 17.1’);
 - Presentation “*20220706 CRR III CRD VI proposal - EP Rapporteur report assessment EC*” (hereafter ‘document 17.2’);
 - Meeting minutes (hereafter ‘document 17.3’);
- Meeting FISMA/14814 of 28 September 2022 “*DB/EC FISMA – CRR III*”, (hereafter ‘meeting 6’), which includes the following annexes:
 - Meeting request “*CRR III – EP amendments – Exchange 12-13 Sep?*” of 26 September 2022 (hereafter ‘document 18.1’);
 - Meeting minutes (hereafter ‘document 18.2’);
- Meeting FISMA/12393 of 27 October 2021 “*[...] Commerzbank AG on the finalisation of Basel and internal models*”, (hereafter ‘meeting 7’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 19’);
- Meeting FISMA/12461 of 01 December 2021 “*Assoc DE Banks – Banken on screen panel on Basel IV proposal*”, (hereafter ‘meeting 8’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 20’);
- Meeting FISMA/14473 of 30 August 2022 “*BdB – New [...] – in BRX – req short meeting afternoon 30 Aug [...] banking package*”, (hereafter ‘meeting 9’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 21’);
- Meeting FISMA/13120 of 25 January 2022 “*Conference on the implementation of Basel III and the impact on property finance*”, (hereafter ‘meeting 10’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 22’);

- Meeting FISMA/14887 of 11 October 2022 “*German Banking Industry Committee – Request for a meeting on the banking package (11 October 2022)*”, (hereafter ‘meeting 11’), which includes the following annexes:
 - Meeting request “*German Banking Industry Committee – Request for a meeting on the banking package (11 October 2022)*” of 4 October 2022 (hereafter ‘document 23.1’);
 - List of participants (hereafter ‘document 23.2’);
 - Meeting minutes (hereafter ‘document 23.3’);
- Meeting FISMA/13397 of 10 March 2022 “*Role of public banks in overcoming the COVID-crisis and financing the transition, Banking Package, Sustainable Finance*”, (hereafter ‘meeting 12’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 24’);
- Meeting FISMA/13608 of 27 April 2022 “*Meeting with DSGVO and DekaBank*”, (hereafter ‘meeting 13’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 25’)
- Meeting with Deutsche Bank on ‘*Strategic autonomy, Euroclearing, Basel, benchmarks*’ of 29 September 2021 (hereafter ‘meeting 14’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 26’)
 - Meeting request (hereafter ‘document 27’)
- Meeting with Deutsche Bank on ‘*Basel III, Banking Union, Clearing, Financial education*’ of 14 October 2021 (hereafter ‘meeting 15’), which includes the following annexes:
 - Meeting minutes (hereafter ‘document 28’)
 - Meeting request (hereafter ‘document 29’)

Some parts of the documents 1, 2, 3, 3.1, 3.2, 4, 4.2, 5, 6, 7, 8, 9, 10, 11, 12, 13.1, 13.2, 14, 15.1, 15.2, 16, 17.1, 17.2, 17.3, 18.1, 18.2, 19, 20, 21, 22, 23.1, 23.2 (completely), 23.3, 24, 25, 26, 27, 28, 29, 30 and 31 have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001 as they contain personal data.

Article 9(1)(b) of the Data Protection Regulation¹ does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

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 any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that pursuant to the combined provision of the Articles and Regulations quoted above, access cannot be granted to the personal data contained in the requested documents.

Furthermore, documents number 3.1, 3.2, 17.1 and 17.2 originate from third parties. The originators of the documents have been consulted in accordance with Article 4(4) of Regulation 1049/2001 with a view to assessing whether an exception provided for in Article 4 of that Regulation is applicable. They have agreed to the disclosure of the full text of documents 27 and 29, after redaction of personal data and information. They have objected to the disclosure of the full text of the documents 3.1, 3.2, 17.1, 17.2 because they contain highly commercially sensitive information which would be highly detrimental if disclosed.

Concerning documents 3.1 and 17.2, we have considered if a partial disclosure could be possible. Unfortunately, the parts containing commercially sensitive documents are so important that the disclosure of the remaining parts of these documents would make the access to these specific documents meaningless, for this reason partial access to these two documents is denied.

Article 4(2) first indent provides that *“The institutions shall refuse access to a document where disclosure would undermine the protection of: — commercial interests of a natural or legal person, including intellectual property... unless there is an overriding public interest in disclosure.”*

The exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosing the document. You make no mention of such an interest in your request, and we have not been able to identify it and for this reason access to these documents is prevented under article 4(2) of Regulation (EC) No 1049/2001.

Documents 13.2, 15.1, 17.1, 17.3, 21 have been further redacted, as redacted parts were out of the scope of your request of access to documents (*qua rationae materiae* and period of time).

The above-mentioned exception, laid down in Article 4(2) first subparagraph/first indent of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

Please note that documents originating from third parties (1, 1.1, 1.2, 2, 2.1, 3, 3.1, 3.2, 4, 4.2, 6, 7, 8, 9, 10, 11, 12, 13.1, 15.1, 17.1, 18.1 and 23.1) are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure 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.

Documents 13.2, 14, 15.2, 16, 17.3, 18.2, 19, 20, 21, 22, 23.3, 24, 26 and 28) are meeting minutes that were drawn up for internal use under the responsibility of the relevant services and officials of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union. They solely reflect the service's and author's interpretation of the interventions made and does not set out any official position of the third parties to which the document refers, which was not consulted on its content. They do 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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal² account (available only for initial requests submitted via the portal account),

or by mail:

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

Yours faithfully,

John BERRIGAN
Director-General
(e-signed)

Annexes: documents 1-31 mentioned above and their annexes.

² <https://www.ec.europa.eu/transparency/documents-request>