



## EUROPEAN COMMISSION

Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Director General

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Mr Jérôme Legras  
1, Conduit Street  
UK – W1S2XA London  
*By registered letter with acknowledgment of receipt*

**Subject: Your application for access to documents – Ref. Gestdem 2016/1284**

Dear Mr Legras,

We refer to your e-mail dated 14/03/2016 in which you make a request for access to documents, registered on 14/03/2016 under the above mentioned reference number.

Your application concerns the *Note for the Commission Expert Group on Banking, Payments and Insurance - Clarifying aspects of Pillar 2 capital requirements, Pillar 2 capital guidance and automatic restrictions on earnings distribution in the context of the CRR/CRD review*.

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 a decision which has not yet been taken by the Commission and which may have a considerable impact on the financial markets. The note deals with Pillar 2 capital add-ons, the interaction with Pillar 1 and buffers capital requirements, as well as the Maximum Distributable Amount (MDA) mechanism. It does not set out the final position of the Commission but it starts the process of reflecting on those issues and it establishes the basis for a more formal clarification via legislative proposals, if deemed appropriate.

The disclosure of the document requested would undermine the protection of the decision-making process of the Commission, as it would reveal preliminary views and policy options which are currently under consideration. Therefore the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to this document "Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure".

We have considered whether partial access could be granted to the document requested. However, all parts of the document are interrelated in such a way that disclosing only part of it might provide misleading information about the solutions that the Commission is exploring in order to address the issues tackled in the document.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the document.

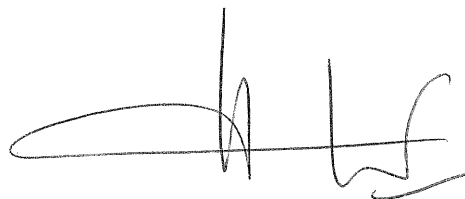
Considering the sensitive nature of the issues addressed in the document, its disclosure may have significant impact on the financial market and cause unintended effects before a final decision on these issues is taken by the Commission. I thus consider that there is no overriding public interest in granting access to the document.

In accordance with Article 7(2) of Regulation 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  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/327  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

A handwritten signature in black ink, consisting of a large loop followed by several vertical and horizontal strokes, ending in a stylized flourish.

Olivier GUERSENT