



EUROPEAN COMMISSION

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

Director General

Brussels, **09 AVR. 2018**
FISMA/C3/TL/psc – 1706671

Mr Georgios VASSALOS
Université de Strasbourg
Rue des Moissonneurs 64
B – 1040 Bruxelles

**By registered letter with
acknowledgment of receipt**

Advance copy by email: vassalos@unistra.fr

Subject: Your request for access to documents with reference Gestdem 2018/0402

Dear Mr Vassalos,

We refer to your e-mail dated 16 January 2018 in which you make a request for access to documents, registered under the above mentioned reference number.

You request access to *all correspondence (including emails) and meeting records of:*

- *Jörgen Holmquist, director general of DG MARKT (2009-2010)*
- *David Wright, deputy director general of DG MARKT (2009-2010)*
- *Jonathan Faul, director general of DG MARKT and DG FISMA (2010-2015)*
- *Nadia Calviño Deputy Director General of DG MARKT (2010-2014)*
- *Emil Paulis, Director G (2009-2014)*
- *Martin Merlin, responsible of relation with Council (2011-2012) Director G and C (2012-2016)*
- *Ugo Bassi, Director C*

and Industry, Associations, Trade Unions and Academics on all issues concerning MiFID/MiFIR II between November 2011 and October 2012.

In view of the large number of documents concerned by the request, DG FISMA and you agreed, on 29 January 2018, that the deadline to respond to your request is postponed to the end of March 2018.

We have identified 22 documents as falling under the scope of your request. You will find a list attached. Please note that we have consulted all third parties originators of the letters addressed to our Directorate-General.

As regards documents from third parties, please note that these documents were received by the Commission. These documents are disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on it. They do not reflect the position of the Commission and cannot be quoted as doing so.

Protection of personal data

Some of the documents to which you have requested access contain personal data, in particular: names, contact details, hand-written signatures. Pursuant to Article 4(1) (b) of Regulation (EC) 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹.

When access is requested to documents containing personal data, Regulation (EC) 45/2001 is fully applicable².

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested removing this personal data.

Protection of commercial interests

Article 4(2) first indent of Regulation No. 1049/2001 stipulates 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. "

Use of the exception under Article 4(2), first indent, of Regulation (EC) No 1049/2001 on the grounds of protecting commercial interests is justified with respect to the parts of the document number Ares(2012)407793 and Ares(2012)658430, marked [4.2].

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

The undisclosed parts of the abovementioned documents relate to elaboration of financial parameters. This information reveals the correlation and substitution rate of different indices.

A disclosure of parts marked 4.2 would allow the instructed public to gather important information of business relevance, which would be harmful for the organisation concerned.

Additionally, please note that we do neither hold the excel sheet nor the word document mentioned in the document Ares(2012)407793.

For these reasons, all the 22 documents identified as falling under the scope of your request have been partially redacted for the protection of personal data, and documents number Ares(2012)407793 and Ares(2012)658430 have been partially redacted for the protection of commercial interests.



In case you would disagree with the above assessment, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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.B4
BERL 5/282
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,


 Olivier GUERSENT

Encl.: list of identified documents