



EUROPEAN COMMISSION

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

Director-General

Brussels, 10 AVR. 2018 - 1903048

Ms Vicky Cann
Corporate Europe Observatory
(CEO),
Rue d'Edimbourg 26,
1050 Brussels, Belgium

by registered letter with acknowledgment
of receipt

Advanced copy per mail

Dear Ms Cann,

We refer to your request of 22 February 2018 registered under Ref GestDem No 2018/575, for access to the Commission's documents under the right of access to documents in the EU Treaties, as developed in Regulation 1049/2001. You request access to "the minutes of the meetings listed in DG Fisma's response to 2018/0575".

We had identified 50 notes of meetings between management of DG FISMA dealing with financial services and industry representatives which could fall within the scope of your request. A list of these notes is again enclosed with this letter.

After a detailed examination of the specific content of the documents I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001 regarding public access to documents.

Protection of commercial interests of a natural or legal person

Article 4§2 first indent of Regulation (EC) 1049/2001 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".

These documents include opinions and evidence raised by third parties, which represent knowhow and commercial data of the organisations.

Article 339 of the Treaty on the functioning of the European Union (TFEU) requires members of the staff of the EU institutions to refrain from disclosing "information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their costs components".

It has been established by the European Court of Justice, notably in the 'Bank Austria Creditanstalt' judgment (T-198/03 of 30 May 2006), that the protection of commercial interests is not limited to the protection of the business secrets of an entity. Careful examination of the minutes referred to above shows that the disclosure of elements of the commercial strategy or sensitive information shared with us by companies or organisations could harm their commercial interests. We cannot, therefore, release meeting notes that reflect views expressed by companies or organisations that are not publicly available views, but opinions on the strategy of the companies involved or our comments thereon.

Protection of international relations

Article 4(1)(a), third indent of Regulation 1049/2001 provides that *[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] the public interest as regards [...] international relations [...]*.

According to the case-law of the General Court, *[t]he institutions enjoy a wide discretion when considering whether access to a document may undermine the public interest and, consequently, that the Court's review of the legality of the institutions' decisions refusing access to documents on the basis of the mandatory exception [...] relating to the public interest must be limited to verifying whether the procedural rules and the duty to state reasons have been complied with, the facts have been accurately stated, and whether there has been a manifest error of assessment of the facts or a misuse of powers*¹.

The documents requested in this instance have been examined in light of the above-mentioned case-law. The remarks made by stakeholders include information regarding the strategic lines in the negotiations under article 50 of the TEU of both EU and UK.

I consider that public disclosure of the withheld (parts of) the documents in the present case would negatively affect the Commission's effectiveness in the context of its relations with the UK concerning the ongoing negotiations under Article 50 of the TFEU in a reasonably foreseeable and non-hypothetical way.

Consequently, I conclude that the documents mentioned above, in this instance, are protected against public disclosure, pursuant to the exception provided for in Article 4(1)(a), third indent of Regulation 1049/2001.

Data protection

In addition, the requested documents contain personal data, which are protected by Union legislation regarding the protection of personal data. Article 4(1)(b) of Regulation 1049/2001 provides that the institutions shall refuse access to a document where 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) No 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 data

In examining your request, the possibility of granting partial access to the requested documents has been taken into consideration. However, it turned out that, after

¹ Judgment of 25 April 2007 in WWF European Policy Programme v Council, T-264/04, (EU:T:2007:114), paragraph 40.

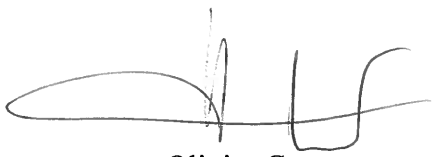
examination of the documents and for the reasons cited above, the documents are covered in their entirety by the exception above mentioned, so that the release of parts of the documents cannot be envisaged.

When examining your request, we came to the conclusion that there would be no overriding public interest in disclosing the notes which we, partly or fully, consider as falling within the exceptions laid down at article 4 of Regulation 1049/2001.

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-3
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Olivier Guersent

Enclosures: list of minutes of meetings refused



EUROPEAN COMMISSION

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

FINANCIAL SYSTEM SURVEILLANCE AND CRISIS MANAGEMENT
Macroprudential policy and relations with ESRB

Brussels, 16 02 2018
fisma.ddg.e.3(2018)986856

Ms Vicky Cann
CEO
Rue d'Edimbourg 26
1050 Brussels

Advance copy by email :
ask+request-5076-e9470f77@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2018/575

Dear Ms Cann,


I acknowledge receipt of your e-mail dated 22 January 2018 registered on 26 January 2018 under the above mentioned reference number in which you make a request for access to documents as follows:

- *list of all lobby meetings held by DG FISMA, since 24 June 2016 on Brexit and the article 50 negotiations on the UK's exit from the EU. The list should include: date, Commission attendees, the name of the organisation(s) attending, and a more precise topic if that exists.*

Please find attached the list of meetings between DG FISMA managers and interested parties from the private sector on the impact of the United Kingdom withdrawal from the European Union.

Please note that no meetings took place between DG FISMA managers and interested parties from the private sector on the Article 50 negotiations.

Yours sincerely,


Alvaro Rubin de Cervin
Head of Unit

Encl. (1)

cc. FISMA ACCESS DOCUMENTS

Industry associations		
AFME	Brussels	7/3/2017
EFAMA	Brussels	15/3/2017
Swiss Finance Council	Brussels	8/5/2017
FESE	Brussels	31/5/2017
Irish Banking and payments federation	Brussels	1/6/2017
SIFMA	Brussels	21/6/2017
Scottish Financial Enterprise	Brussels	21/6/2017
Managed Funds Association	Brussels	22/6/2017
Association German banks	Brussels	29/6/2017
City of London	Brussels	5/9/2017
Invest Europe	Brussels	7/9/2017
Irish Banking and payments federation	Brussels	18/10/2017
SIFMA/AFME	Brussels	5/12/2017
German Asset Management Association BVI	Brussels	6/12/2017
ABI	Brussels	07/02/2018
Industry – banks		
Société Générale	Paris	30/1/2017
BNP Paribas	Paris	31/1/2017
Santander UK	Brussels	7/2/2017
Commerzbank	Frankfurt	9-10/2/2017
Intesa	Brussels (by phone)	13/2/2017
Deutsche Bank	Frankfurt	28/02/2017
Citi	Brussels	9/3/2017
Crédit Suisse	Brussels	15/3/2017
Citi	Brussels	25/4/2017
Goldman Sachs	Brussels	17/5/2017
Barclays	Brussels	18/5/2017
Goldman Sachs	Brussels	6/6/2017
Crédit Suisse	Brussels	12/6/2017
BNY Mellon	Brussels	14/6/2017
Commerzbank	Brussels	27/6/2017
Citi	Brussels	28/6/2017
BNP PARIBAS	Brussels	13/09/2017
Sumitomo Mitsui Banking Corporation	Brussels	25/10/2017
Citi	Brussels	08/11/2017
EURIZON SLJ CAPITAL	Brussels	22/11/2017
Barclays	Brussels	23/11/2017
Industry – insurance		
AXA	Brussels	21/3/2017
Standard Life	Brussels	12/4/2017
Zurich Insurance	Brussels	12/4/2017
Insurance Europe	Brussels	4/5/2017
Prudential plc	Brussels	4/9/2017
AXA	Brussels	09/01/2018
Insurance Europe	Brussels	20/02/2018
Industry – investment and pension funds		
Allianz Global Investors	Frankfurt	9-10/2/2017
BlackRock	Brussels	21/3/2017
Invest Europe	Brussels	7/9/2017
Schroders	Brussels	13/09/2017

Industry – consultants, credit rating agencies and data firms		
Bloomberg	Brussels	24/4/2017
Ernst & Young	Brussels	12/12/2017
	Think tanks	
CFA Institute	Brussels	13/3/2017

