

Dear Sir,

**Subject: Your application for access to documents – GESTDEM 2021/8087**

We refer to your e-mail of 14 December 2021 in which you make a request for access to documents, registered on the same date under the above-mentioned reference number.

You request access to *all documents and preparatory documents pertaining to the United States Foreign Account Tax Compliance Act or contributing to statements, guidelines, and decisions referencing FATCA, including documents referencing member state / authority opinions, views, and commentaries.*

Your application potentially concerns a very large number of documents, which need to be assessed individually. Such a detailed analysis cannot be carried out within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

Furthermore, the handling of your request possibly involves the assessment of documents originating from third parties. The analysis of these documents, together with the need to consult the third parties concerned in accordance with Article 4(4) of Regulation (EC) No 1049/2001, cannot be expected to be completed within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

However, Article 6(3) of Regulation (EC) No 1049/2001 also provides for a possibility to confer with an applicant informally with a view to finding a fair solution when an application relates to a very long document or concerns a very large number of documents.

In accordance with the case law of the EU Courts, such a solution can only concern the content or the number of documents requested, not the deadline for replying<sup>1</sup>. This means that the scope of the request must be reduced in a way that would enable its processing within the extended deadline of 15 + 15 working days. Based on the above-mentioned provision, we would kindly ask you to narrow down the scope of your application (i.e. timeframe covered), so as to reduce it to a more manageable amount of documents.

**We therefore propose to provide you with documents dating between 1 January and 14 December 2021 (the date of your initial request).**

We would be also thankful if you could confirm that letters to or from you are out of the scope of your request, as well as documents related to petitions, as they were the subject of your requests with reference GESTDEM 2021/6161, GESTDEM 2021/6162, GESTDEM 2021/6163, and GESTDEM 2021/6164.

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<sup>1</sup> Judgment of the Court of Justice of 2 October 2014, *Strack v European Commission*, C-127/13, (hereinafter referred to as the '*Strack v Commission* judgment'), EU:C:2014:2250, paragraphs 26-28.

We would ask you for a swift reply to our invitation to propose a fair solution, **within five working days at the latest**:

- by e-mail to:

[FISMA-B3@ec.europa.eu](mailto:FISMA-B3@ec.europa.eu) (cc FISMA-ACCES-DOCUMENTS@ec.europa.eu)

If you have any questions concerning the invitation, you can contact us at the same e-mail addresses.

In the absence of a reply within five working days, we will unilaterally restrict the scope of your application to the documents dated between 1 January and 14 December 2021.

Thank you in advance for your understanding.

Yours faithfully,

Eric Ducoulombier  
Head of Unit