



EUROPEAN CENTRAL BANK

FRANK MOSS
The Secretary to the Executive Board

21 December 2005
LS/FM/05/38

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Dear [],

Public access request to ECB documents

Further to our reply of 13 December 2005 - acknowledging receipt of your confirmatory application for access to the Guideline of the ECB of 23 October 2003 "*on the National Central Banks' operations pursuant to article 31.3 of the statute of the European System of Central Banks and of the European Central Bank*"(ECB/2003/NP14) - we regret to inform you that, following a thorough assessment of your request, the Executive Board of the ECB has decided to confirm the decision of the Director General Secretariat and Language Services of the ECB, as set out in his letter of 6 December 2005, that the ECB cannot grant access to the above mentioned ECB Guideline.

The document contains information, the disclosure of which would undermine the protection of the public interest as regards:

- (i) the confidentiality of the proceedings of the decision-making bodies, which is protected by Article 10.4 of the Statute of the ESCB and of the ECB and the first indent of Article 4(1)(a) of the Decision on public access to ECB documents (ECB/2004/3)¹ and
- (ii) the financial, monetary or economic policy of the Community or a Member State, in line with the second indent of Article 4(1)(a) of the same Decision.

In fact as mentioned our initial reply, the Governing Council when adopting this ECB Guideline – which regulates foreign exchange operations, off-market operations and related matters – considered that “its contents relate to internal confidential matters, the publication of which might be detrimental to the effective performance of the tasks of the European System of Central

¹ Official Journal of the European Union L 80, 18.3.2004.

Banks (ESCB) and of the ECB and the public interest underlying them and that they should not be disclosed in a public guideline”.

Accordingly, the disclosure of this document has been rejected.

Please also note that Articles 195 and 230 of the Treaty foresee the possibility for referral to the Ombudsman by natural persons and for review by the Court of Justice of the legality of ECB acts.

With kind regards,

Frank Moss
The Secretary to the Executive Board

Roman Schremser
Head of Secretariat Division