



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street,
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075

www.asic.gov.au/

[foi+request-10222-
33353106@righttoknow.org.au](mailto:foi+request-10222-33353106@righttoknow.org.au)

Our Reference: FOI 071-2023

12 May 2023

Dear Me

Freedom of Information Request No. FOI 071-2023

Notice of a practical refusal ground under s24AB of the FOI Act

I refer to your request dated 5 May 2023 under the *Freedom of Information Act* 1982 (**FOI Act**) in which you seek access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request seeks access to the following:

...

all documents in ASIC's possession that relate to ASIC receiving, considering, refusing, or failing to consider, assessing, determining, accepting, rejecting, or otherwise dealing with, CDDA applications made to ASIC.

For the avoidance of doubt, this does not include individual CDDA applications themselves.

Practical refusal ground(s)

Section 24AA of the FOI Act provides that a practical refusal ground exists in relation to a request for documents if either (or both) of the following applies:

- the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations (s24AA(1)(a)).
- the request does not satisfy the requirement in paragraph 15(2)(b) of the FOI Act (s24AA(1)(b))

In relation to your request, I find section 24AA(1)(a) applies.

Section 24AA(1)(a) FOI Act – broad scope

My preliminary assessment of your request suggests that the scope is broad. In my view, conducting searches relevant to the request as it currently stands, would be difficult because of the broad category of documents it encompasses and the absence of a specific timeframe.

Undertaking searches would substantially and unreasonably divert the resources of ASIC from its other operations. Accordingly, I consider that a practical refusal reason within the meaning of section 24AA(1)(a) of the FOI Act exists in relation to your request. This is because:

ASIC has not been authorised to make decisions under the Scheme for Compensation for Detriment caused by Defective Administration (**CDDA Scheme**) since September 2015.

- a) the request is not time specific and would therefore capture all documents concerning or otherwise relating to applications made under the CDDA Scheme before and after September 2015. This would include internal correspondence within ASIC, and external correspondence with applicants and other third parties.
- b) It would require staff members to undertake searches of their mailboxes and searches of the mailboxes of former staff members which hold documents concerning or otherwise relating to applications made under the CDDA Scheme before and after September 2015.

Given that conducting a search for documents within the scope of the request in its current form would substantially and unreasonably divert ASIC's resources from its other operations, you may wish to consider narrowing the scope of your request by:

- a) considering the guidance above and the information at [Financial compensation schemes | ASIC](#) and excluding some types of documents and
- b) limiting the scope of the request to documents within a certain date range

Intention to refuse request

For the reasons stated above, it would be my intention to refuse your request given that a practical refusal reason exists within the meaning of section 24AA(1)(a) of the FOI Act. However, before ASIC makes a final decision, I invite you to revise the terms of your request as proposed above.

Timeframe

The statutory timeframe for notifying an applicant of a decision on a request for access under the FOI Act is 30 days from the day the agency receives the request. Please note that in accordance with section 24AB (8) of the FOI Act, the time for processing your request is suspended from the day that you receive this letter, and resumes on the day after you provide ASIC with one of the following:

- written notification that you wish to withdraw the request.
- a revised written request addressing the matters raised above; or
- written notification that you do not wish to revise your request.

If you choose to do one of the three things listed above, you must do so within 14 days of the date of this letter **(the consultation period)**. If you do not do one of the three things listed above during the consultation period, your request will be considered withdrawn in accordance with section 24AB (7) of the FOI Act.

During the consultation period you may wish to seek assistance in reframing your request. If you have any questions or wish to discuss, please contact me using the details below.

Yours sincerely,

Sandra Wavamunno

Senior Lawyer, FOI & Privacy, Chief Legal Office

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney NSW 2000

Tel: 9911 2267 | Mob: 0435700178

sandra.wavamunno@asic.gov.au

(Authorised decision-maker pursuant to subsection 23(1) of the FOI Act)