



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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11 May 2023

Me

By email: foi+request-10283-5373c360@righttoknow.org.au

Freedom of Information Request No. FOI 076-2023
Notice of a practical refusal ground under s24AB of the FOI Act

I refer to your request dated 7 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:

"Please provide documents that list directors that have been:

- 1. Disqualified under a 204B(1)(b)(ii), or*
- 2. Not registered as directors in the first place because they fail 204B(1)(b)(ii)*

For fin years 2022-23 to 30 April 2023, 2021-22, and 2020-21"

Practical refusal ground(s)

Section 24AA of the FOI Act provides that a practical refusal ground exists in relation to a request for a document 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 that 24AA(1)(b) applies.

Section 24AA(1)(b) FOI Act – Identification of documents

I am writing to advise you that your request in its current form does not adequately identify the documents sought and it would therefore be my intention to refuse your request given that a practical refusal reason exists within the meaning of section 24AA(1)(b) of the FOI Act.

Areas requiring clarification

Your request seeks access to documents listing directors that have been disqualified or not registered as directors in the first place.

Firstly, your request does not specify the legislation that you are referring to in respect to your references to section '204B(1)(b)(ii)'. Please advise whether your reference to section

'204B(1)(b)(ii)' is a reference to the *Corporations Act 2001* (Cth) (**Corporations Act**) or another Act.

Secondly, assuming your reference to section '204B(1)(b)(ii)' is a reference to the Corporations Act, I note that section 204B of the Corporations Act does not concern director disqualifications. Please advise whether your reference to section '204B(1)(b)(ii)' is intended to be a reference to director disqualifications under section 206B(1)(b)(ii) or another provision.

Intention to refuse request

For the reasons stated above, it would be my intention to refuse your request given that a practical refusal reason(s) exist(s) within the meaning of 24AA(1)(b) of the FOI Act. However, before a final decision is made you are invited to revise the terms of your request.

Request consultation process

The purpose of this letter is to provide you with an opportunity to revise your request so that the practical refusal reason no longer exists before a final decision is made. Should you wish to submit a revised request please consider the issues raised in this notice to ensure that they are addressed.

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 taken to be 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 at Monique.Lindridge@asic.gov.au or on 0466 290 017.

Yours sincerely,



Monique Lindridge

(Authorised decision maker under section 23(1) of the FOI Act)