



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

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Mr Phillip Sweeney

By email only: [foi+request-10577-265f0477@righttoknow.org.au](mailto:foi+request-10577-265f0477@righttoknow.org.au)

Our Reference: FOI 166-2023

24 August 2023

Dear Mr Sweeney

**Freedom of Information Request No. 166-2023**

**Decision and reasons for the decision**

I refer to your request dated 16 August 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:

*The document or documents I seek is/are any correspondence from AFCA to ASIC that makes mention of NULIS Nominees (Aust) Ltd not having possession of a counterpart of the original Trust Deed (or an executed copy) made on 23 December 1913. The correspondence may or may not make mention of the refusal of NULIS to give an undertaking to the Federal Court to seek a Court Order to reinstate the terms of the original Trust Deed based on extrinsic evidence held by the Attorney-General's Department of South Australia.*

*The search period is from 20 May 2021.*

I have conducted a search of ASIC's systems including ASIC Search, CRM and Sharepoint in response to your request and have found no documents falling within the terms of your request. As a result, your request is refused in line with paragraph 24A(1)(b)(ii) of the FOI Act, which provides:

**Requests may be refused if documents cannot be found, do not exist or have not been received**

Document lost or non-existent

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

- (b) the agency or Minister is satisfied that the document
- (i) is in the agency's or Minister's possession but cannot be found; or
  - (ii) does not exist.

I searched ASIC's systems for files related to Nulis Nominees (Aust) Pty Ltd. I found no documents falling within the scope of your request. I am satisfied the documents do not exist.

### **Review rights**

In the event that you are dissatisfied with the decision:

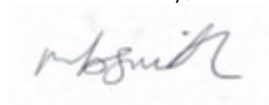
1. You may, within 30 days after the day on which you have been notified of this decision, apply in writing to ASIC for an internal review of my decision under section 54B of the FOI Act. This review is an independent process conducted by a Senior Freedom of Information Officer at ASIC. This request should be addressed to me or to the Senior Manager, Freedom of Information, GPO Box 9827, Brisbane QLD 4001 or by email to [foirequest@asic.gov.au](mailto:foirequest@asic.gov.au).
2. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Office of the Australian Information Commissioner (**OAIC**) for a review of my decision under section 54N of the FOI Act. You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au) or by telephone on 1300 363 992.

### **Right to complain**

You may lodge a complaint with the OAIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIC as set out above.

If you have any questions or wish to discuss, please contact the Freedom of Information team at [foirequest@asic.gov.au](mailto:foirequest@asic.gov.au).

Yours sincerely,



**Rose Bruce-Smith**  
**(Authorised decision maker under section 23(1) of the FOI Act)**