



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 7, 120 Collins Street,
Melbourne VIC 3000

Mail address for Melbourne office:
GPO Box 9827,
Melbourne VIC 3001

Tel: +61 1300 935 075

www.asic.gov.au

Alex Pentland

By email: foi+request-11023-6bde37ca@righttoknow.org.au

22 February 2024

Dear Mr Pentland

Freedom of Information Request No. 007-2024
Notice of Access Decision

I refer to your request dated 13 January 2024 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 Style Guides/Brand Guides/Writing Guides currently used for the Australian Securities and Investments Commission.

Authority to make decision

I am the authorised decision-maker for the purposes of section 23 of the FOI Act and this letter gives notice of my decision.

Information considered

In reaching my decision, I have considered the following:

- the terms of your request;
- the content of the documents which fall within the scope of your request;
- the FOI Act, in particular sections 22 and 47E; and
- the Australian Information Commissioner's FOI Guidelines issued under s93A of the FOI Act (**FOI Guidelines**).

Decision and reasons for the decision

I understand your request to be for ASIC documents which provide guidance in general on style, branding and writing.

ASIC's Corporate Affairs team conducted searches for documents within the scope of your request.

Following these searches, I identified 4 documents that fall within the scope of your request.

I have decided to grant access in part to these documents, relying on the exemption under s47E(d) of the FOI Act.

I have also decided to redact irrelevant material in the documents under s 22 of the FOI Act.

A schedule of documents, which details my decision in relation to the documents can be found at the end of this letter.

The reasons for my decision are set out below.

Section 47E – operations of agencies

Section 47E(d) provides:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to...have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

According to paragraph 6.101 of the FOI Guidelines, a reasonable expectation "must be more than merely an assumption or allegation that damage may occur if the document were to be released."

Document 1 is ASIC's Visual Identity Guidelines. The document contains detailed information about the positioning, spacing, and sizing of ASIC's logo, graphic devices, and iconography as well as the typeface and colour palette to be used when creating official ASIC documents.

Document 2 is ASIC's style guide. Page 26 of the document contains a sample letter providing step-by-step guidance on how to draft an ASIC letter. Page 38 contains a colour guide to be used when creating ASIC documents.

In recent years, there have been several incidences of scammers impersonating ASIC- [Scams | ASIC](#). Disclosure of document 1 and pages 26 and 38 of document 2 would facilitate scammers to easily and accurately replicate ASIC documents. This could reasonably be expected to cause an increase in the number of scammers who imitate ASIC and the number of fraudulent documents that are released into the public. More fraudulent documents in the public would cast doubt on the legitimacy of ASIC's genuine documents. This could reasonably be expected to compromise the regulated entities' collaboration with ASIC and in turn affect ASIC's regulatory operations. This is because the regulated population's engagement with ASIC is essential to ASIC's regulatory functions and activities.

Secondly, ASIC has declared that combatting scams is one of its core strategic projects.¹ Releasing this material would perpetuate scammers who have impersonated ASIC and undermine ASIC's work in combatting scams. Further, an increase in the number of scammers who imitate ASIC would increase the workload of the teams responsible for managing these scams because, given their expertise in combatting scams, they would be consulted on how ASIC should respond. This would reduce the resources available to combat investment scams and reduce the efficiency of ASIC.

As outlined above, disclosure could reasonably be expected to affect ASIC's regulatory operations as well as its work combatting scams and as such, would have a substantial adverse effect on the proper and efficient conduct of the operations of ASIC.

I am therefore satisfied that the relevant material is conditionally exempt under s47E(d) of the FOI Act.

Public interest test

Where a document is conditionally exempt, access must be given unless in the circumstances giving access would, on balance, be contrary to the public interest (s 11A(5) of the FOI Act). As I have decided that document 1 and pages 26 and 38 of document 2 are conditionally exempt under s 47E(d) of the FOI Act, I am required to consider whether disclosure would be contrary to the public interest, taking into consideration s 11B of the FOI Act and part 6 of the FOI Guidelines.

One factor in favour of access is that disclosure could promote the objects of the FOI Act.² With regard to the public interest factors set out in the FOI Guidelines,³ I consider the relevant factors against disclosure are that disclosure could reasonably be expected to:

- prejudice law enforcement, by prejudicing ASIC's ability to effectively and efficiently carry out its regulatory functions; and
- harm the interests of an individual or group of individuals, being the victims of scams.

In my view, the factors against disclosure of the conditionally exempt material outweigh the factor in favour of disclosure. This is because the public benefit that lies in disclosure is outweighed by the adverse effects on ASIC's operational activities and regulatory responsibilities.

Accordingly, I am satisfied that the relevant material is exempt under s 47E(d) of the FOI Act.

Section 22

Where an agency refuses access to an exempt document or decides that giving access to a document would disclose irrelevant matter, the agency

¹ [ASIC Corporate Plan 2023–27: Focus 2023–24](#), p. 8

² FOI Act- s 11B(3)(a)

³ FOI Guidelines [6.22]

must consider whether it would be reasonably practicable to prepare an edited copy of the document to delete the exempt or irrelevant matter in accordance with s 22 of the FOI Act.

It is my view that it would not be reasonably practicable to prepare an edited copy of document 1, which I have found exempt in full.

I consider that it is reasonably practicable to prepare an edited copy of documents 2 and 3 with the exempt and irrelevant matter deleted.

The irrelevant material consists of personal information of ASIC staff and ASIC group emails addresses which you have agreed to exclude.

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, Melbourne VIC 3001 or by email to 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 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 me at hayley.tunicliffe@asic.gov.au.

Yours sincerely,

Hayley Tunicliffe

(Authorised decision maker pursuant to subsection 23(1) of the FOI Act)
For the Australian Securities and Investments Commission

Schedule of Documents

No	Date	Description	Decision on access	Exemptions
1	December 2018	Visual Identity Guidelines	Exempt	s47E(d)
2	August 2023	ASIC style guide: communicating clearly, consistently and effectively	Exempt in part and irrelevant in part	s47E(d), s22
3		Creating accessible online content	Irrelevant in part	s22
4		New website content- Tip Sheet	Access granted	