



Ref: APRA15/002773

22 October 2015

Julie Simpson

By email: foi+request-1240-d9b546a7@righttoknow.org.au

Dear Julie Simpson

Your request for information under the *Freedom of Information Act 1982* (FOI Act)

1. I refer to your request under section 15 of the FOI Act dated 23 September 2015 in which you sought the following document:

“... a copy of a Deed of Variation for a superannuation fund where the sponsoring employer is Elder Smith & Co Limited or Elder Smith Goldsbrough Mort Limited (renamed as Elders IXL Limited, then Foster’s Brewing Group Limited and then Foster’s Group Limited).

The Deed of Variation would be executed in accordance with the Power of Amendment {Regulation 50} that requires a majority of the natural person Directors of the Sponsoring Employer to execute any Deed of Variation.

The Deed of Variation would be dated after 6 May 1958.

The Deed of Variation would purport to revoke Regulation 29 which provides a pension benefit for qualifying male officers {or purport to revoke all Regulations} and replace the pension benefit with a lump sum benefit.”

2. The request was received via email that was received by the Australian Prudential Regulation Authority (APRA) on 23 September 2015, and acknowledged on 30 September 2015.
3. I consider that a practical refusal reason exists in relation to your request.

Reasons for practical refusal

4. I am satisfied under section 24AA(1)(a)(i) of the FOI Act that the work involved in processing your request would substantially and unreasonably divert the resources of APRA from its other operations for the following reasons:
 - a. the time period in which the document may exist spans a period of over 57 years;
 - b. based on APRA's preliminary enquiries, APRA estimates that it would require in excess of 100 staff hours to:
 - i. locate potentially relevant files and documents;
 - ii. review the documents to determine their relevancy to your request;
 - iii. consider whether to grant, refuse or defer access to the documents, including considering whether the documents were exempt from production under the FOI Act;
 - iv. in particular, consider whether the documents are subject to section 56 of the *Australian Prudential Regulation Authority Act 1998 (APRA Act)* and consider whether any conditional exemptions under the FOI Act apply;
 - v. prepare a draft decision; and
 - vi. have a decision maker examine the documents and the draft decision.
5. Under subsection 24AB(2) of the FOI Act, I notify you of my intention as a delegate under the FOI Act to refuse access to the documents which are the subject of this request, on the basis that the work involved in processing the request would substantially and unreasonably divert the resources of APRA from its other operations.
6. Subsection 24AB of the FOI Act provides for a request consultation process to take place before a decision is made under section 24. Under this process and in particular section 24AB(6) of the FOI Act, within the consultation period (14 days from receiving this letter) you must:
 - a. withdraw the request; or
 - b. make a revised request; or
 - c. indicate that you do not wish to revise the request.
7. Please note that if you do not consult me or provide written notice as required during the consultation period, the request is deemed to be withdrawn under subsections 24AB(6) and (7) of the FOI Act.

For information

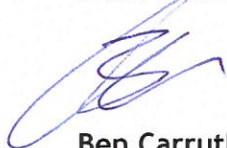
8. Under section 38 of the FOI Act, a document is exempt if disclosure is prohibited under a provision of an enactment and section 38 expressly applies to that provision. Subsection 56(11) of the APRA Act expressly applies section 38 of the FOI Act so that

any document that is a 'protected document' or contains 'protected information' within the meaning of subsection 56(1) of the APRA Act is also an exempt document under section 38 of the FOI Act.

9. Protected information is defined in section 56 of the APRA Act to include information disclosed or obtained under or for the purposes of a prudential regulation framework law, and relating to the affairs of a financial sector entity. Information relating to APRA's prudential supervision of a regulated entity is disclosed or obtained under or for the purposes of a prudential regulation framework law and will be protected, unless the information is otherwise publicly available.

10. Please note that my contact details are set out below under my signature.

Yours sincerely



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