



Ref no. 16/001545

31 May 2016

Phillip Sweeney

By email: [foi+request-1928-525e63ca@righttoknow.org.au](mailto:foi+request-1928-525e63ca@righttoknow.org.au)

Dear Mr Sweeney

**NOTICE UNDER SECTION 29 OF THE *FREEDOM OF INFORMATION ACT 1982* (Cth) (FOI ACT)**

I refer to your email dated 9 May 2016 (your FOI request) which was received by the Australian Prudential Regulation Authority (APRA) on 9 May 2016.

In your FOI request you seek the following information:

*"a directive from APRA to either of the out-of-jurisdiction purported corporate trustees, CCSL Ltd or PFS Nominees Pty Ltd, seeking a copy of the original Trust Deed executed on the 23 December 1913 and copies all amending Deeds executed in accordance with the provisions of the amending power reserved in the original Trust Deed."*

APRA acknowledged receipt of your FOI request on 19 May 2016.

***Notice of charge in respect of processing the FOI Request***

I am writing to advise you of my decision under regulation 3 of the *Freedom of Information (Charges) Regulations 1982* (Cth) (the Regulations) that you are liable to pay a charge in respect of processing your FOI request.

In accordance with section 29 of the FOI Act and the Regulations, my preliminary assessment of the charge you are liable to pay is \$247.50. I note that it is our practice to estimate 1 hour per file, however in the circumstances I have decided to reduce that estimate to 30 minutes per file. The following table details the basis of that assessment:

| Basis for my preliminary assessment of the charge  | Time       | Cost     |
|--|------------|----------|
| Search and retrieval time @ \$15.00 per hour   | 16.5 hours | \$247.50 |
| Decision making time @ \$20.00 per hour<br>(Noting that the first five hours are free of charge) | 5 hours    | \$0      |
| <b>TOTAL</b><br>(Noting different rates)   | 21.5 hours | \$247.50 |

***Your right to contend the charge***

Under the FOI Act, you have the right to contend that the charge:

- has been wrongly assessed; or
- should be reduced; or
- should not be imposed.

If you contend that the charge has been wrongfully assessed, or should be reduced or not imposed, you should give full reasons for so contending. In deciding whether a charge should be reduced or not imposed, the decision maker in APRA must take into account:

- whether payment of the charge, or part of it, would cause you financial hardship;
- whether giving access to the document is in the general public interest or in the interest of a substantial section of the public; and
- any other relevant matter.

***Payment of a deposit***

As the charge exceeds \$100, a 25 per cent deposit of \$247.50 will be sought if the charge is imposed. You are liable to pay a deposit of \$61.90 if you wish to proceed with the FOI request.

The deposit is not refundable except in some limited circumstances (for example, if APRA fails to make a decision on your request within the statutory time limit), or may be refundable in part if the final charge is less than the deposit paid.

Payment of any deposit or charge should be made by crossed cheque made out to "Australian Prudential Regulation Authority". Please send the cheque directly to:

The FOI Officer  
Australian Prudential Regulation Authority  
GPO Box 9836  
SYDNEY NSW 2001.

***The time you have to respond and what you need to do***

You are required to notify APRA in writing within 30 days of receipt of this letter if you:

- agree to pay the charge (this will mean that, if access is granted, you will not be entitled to access the requested documents until the full charge has been paid); or
- contend that the charge has been wrongly assessed, or should be reduced or not imposed and explain your reasons; or



- withdraw your request.

We therefore expect a response from you by 30 June 2016. If you do not provide us with a written response by this date your request will be taken to have been withdrawn.

Section 29 of the FOI Act does not provide that an Applicant may make a revised request in response to a notice of charge. APRA does not propose to enter into further correspondence about the scope of this request by way of this notice, nor process this request should the scope be modified.

If any documents are located, the decision whether to release those documents would only be made by APRA after consultation with any affected parties and on the basis of any applicable exemptions under the FOI Act, such as documents to which statutory secrecy provisions apply. Accordingly, it is possible that notwithstanding your payment of the charge, APRA may fail to locate any documents, decide not to release any documents, or decide to release some of the relevant documents retrieved and examined.

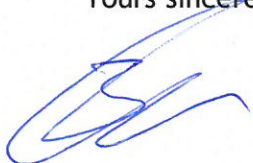
#### ***Time period for processing the FOI request***

In accordance with section 31 of the FOI Act, the time period for processing your FOI request is suspended from the day that you receive this notice and resumes on either the day that the charge (in full or the required deposit) is received by APRA or the day on which APRA makes a decision not to impose a charge.

#### ***Questions about this notice***

Please contact me with any questions in respect of this notice or this FOI request.

Yours sincerely



Ben Carruthers  
FOI Officer  
Tel: 02 9210 3000  
Fax: 02 9210 3411  
[foi@apra.gov.au](mailto:foi@apra.gov.au)