



**ASIC**

Australian Securities & Investments Commission

Our Ref: 46141/16

9 January 2017

Mr Phillip Sweeney

**By email: [foi+request-2821-c268e1d3@righttoknow.org.au](mailto:foi+request-2821-c268e1d3@righttoknow.org.au)**

Level 7, 120 Collins Street,

Melbourne VIC 3000

GPO Box 9827, Melbourne VIC 3001

DX 423 Melbourne

Telephone: +61 3 9280 3200

Facsimile: +61 3 9280 3444

[www.asic.gov.au](http://www.asic.gov.au)

Dear Mr Sweeney

### **Request for access to documents under the Freedom of Information Act 1982**

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) received by the Australian Securities and Investments commission (ASIC) by email on 8 December 2016, in which you made the following request:

*Following the Wells Fargo Scandal in the USA, ASIC has written to the major Australian banks seeking information on their cross-selling practices.*

*The document I seek is a copy of the letter sent to these banks.*

*The details of any particular bank can be redacted.*

I am the authorised decision-maker for the purposes of section 23 of the FOI Act.

### **Decision**

I have identified the document which comes within the terms of your request.

I have decided to grant partial access to this document. This document is attached to this letter, with some redactions to remove personal information about ASIC officers (see below).

### **Public interest conditions exemption — personal privacy**

The document includes personal information, including contact details. Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about a person.

The FOI Act sets out factors that must be considered when determining if disclosure would be unreasonable. These factors are:

- the extent to which the information is well known;
- whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant.

I have considered the above factors. Following the consideration of the factors set out in the FOI Act and matters which I consider relevant, I have determined that some of the personal information would be unreasonable to disclose.

### **Public interest test**

Under the FOI Act, access to a document covered by a conditional exemption must be given unless it would be contrary to the public interest.

I have had regard to the guidelines issued by the Information Commissioner.

I have considered the factors in subsection 11B(3) as being factors favouring access to the document in the public interest. I have considered the matters outlined in sections 3 and 3A which state that the FOI Act promotes disclosure of documents held by the Government of the Commonwealth. I do not consider that releasing some of the personal information would inform public debate on a matter of public importance, promote effective oversight of public expenditure or allow a person to access their own personal information.

On balance, I find that disclosure of some of the conditionally exempt document would be contrary to the public interest. The public benefit that lies in disclosure is outweighed by the adverse effects on releasing some of the personal information.

### **Section 22**

Section 22 of the FOI Act provides that:

- where an agency decides not to grant access to a document on the grounds that it is an exempt document or that to grant access to a document would disclose information that would reasonably be regarded as irrelevant to the request; and
- it is possible for the agency to make a copy of the document with such deletions that the copy would not be an exempt document; and
- it is reasonably practicable for the agency having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for the work, to make such a copy;
- the agency must, unless it is apparent from the request or as a result of consultation by the agency with the applicant, that the applicant would not wish to have access to such a copy, make and grant access to such a copy.

I have considered whether, under section 22 of the FOI Act, it is possible to release the exempt document with deletions such that the document would no longer be exempt. The personal information has been removed and the document has been edited for part release.

**Assessment of charges**

The FOI Act provides that charges may be assessed for time spent processing a request. I have decided that there are no charges applicable to the processing of your request in this instance.

**Review Rights**

I provide you with the following information as required by section 26 of the FOI Act.

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 a review of my decision by another ASIC officer under section 54B of the FOI Act. This request should be addressed to me at Tegan.lemm@asic.gov.au or to the Senior Manager, Administrative Law GPO Box 9827 SYDNEY NSW 2001 or by email to foirequest@asic.gov.au
2. You may, within 60 days 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 send the application to the OAIC by post at GPO Box 5218 Sydney NSW 2001 or by email at enquiries@oaic.gov.au.
3. You may lodge a complaint to the OAIC about the conduct of ASIC in the handling of this request. You may contact the OAIC as described above.

Yours sincerely



Tegan Lemm  
(Authorised Decision-maker under section 23(1) of the FOI act)  
for the Australian Securities and Investments Commission