



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Our reference: 34181/18

7 December 2018

Mr Phillip Sweeney
By email – foi+request-4921-c97de1c6@righttoknow.org.au

Dear Mr Sweeney

Freedom of information request – Notice of practical refusal

We refer to your request for access to documents under the *Freedom of Information Act 1982 (FOI Act)*.

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

Thank you for your email dated 26 November 2018 where you revised and further clarified the scope of your request.

I am writing to tell you that I believe the work involved in processing your request in its current form would substantially and unreasonably divert ASIC's resources from its other operations due to its size and broad scope. This is called a 'practical refusal reason' – section 24AA.

On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to further revise your request. This is still part of the 'request consultation process' as set out under section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways set out below.

Why I intend to refuse your request

You request access to the following documents:

- (i) a copy of any document (including emails) sent by ASIC to APRA (or from APRA to ASIC) where reference is made to PFS Nominees Pty Ltd or NULIS Nominees (Australia) Ltd during the period 1 March 2009 to 31 December 2010; and
- (ii) a copy of any document (including emails) sent by ASIC to PFS Nominees Pty Ltd or NULIS Nominees (Australia) Ltd during the period 1 March 2009 to 31 December 2010.

After receiving your email dated 26 November 2018, I conducted searches of our databases for documents that might fall within the scope of your request. I decided that a practical refusal reason exists because giving access to these documents would substantially and unreasonably divert ASIC's resources due to its size and broad scope.

Under section 24AA(2) of the FOI Act, ASIC must have regard to the resources that would have to be used for:

- identifying, locating and collating the documents within ASIC's filing systems
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any persons or entities in relation to the request)
- making a copy or an edited copy of the document
- notifying any interim or final decision on the request

As noted above, I conducted searches of ASIC's databases to gauge the approximate number of documents that might fall within the scope of your request, which may include emails, posted correspondence, reports, disclosure documents, and ASIC forms. I also processed a sample of the requested documents to understand the time and resources required to complete the full request.

During the 22-month period that your request covers, the two companies, PFS Nominees Pty Ltd and NULIS Nominees (Australia) Limited, held Australian financial services licences. As you know, Australian companies and financial services licensee have numerous obligations to notify or otherwise communicate with ASIC under the laws we administer. For these reasons, we receive a substantial number of documents from Australian companies and financial services licensees.

I decided that significant resources would be required to identify, locate and collate the documents within ASIC's filing systems, which given the age of the requested documents, would include both archived hard copy files as well as digital copies on our older databases. It would also take considerable time to examine the documents, consult with any persons or entities in relation to the request and then decide whether to grant, refuse or defer access to a requested document, or grant access to edited copies of the documents. Further ASIC resources would need to be used to make or scan a copy or edited copy of the documents which have been archived.

Request consultation process

You now have an opportunity to further revise your request to enable it to proceed.

Revising your request can mean further narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, our agency will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested.

Before the end of the consultation period, you must do one of the following, in writing:

1. withdraw your request;
2. make a revised request; or

3. tell us that you do not wish to revise your request.

Time frame for processing your request

The consultation period runs for 14 days and starts on the day after you receive this notice.

During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommend processing it.

Please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the 30-day time limit for processing your request.

If you do not do one of the three things listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

Contact officer

If you would like to revise your request or have any questions, please contact:

name: Ms Faranaz Alam
email: faranaz.alam@asic.gov.au
phone: (03) 9280 3319

Yours sincerely



David Asadi
Authorised decision-maker under subsection 23(1) FOI Act
Australian Securities and Investments Commission