



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Phillip Sweeney
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8911a578@righttoknow.org.au](mailto:foi+request-5269-8911a578@righttoknow.org.au)

15 March 2019

Dear Mr Sweeney

Freedom of Information Request No. FOI030-2019

I refer to your request for access to documents made under the *Freedom of Information Act 1982 (FOI Act)* dated 22 February 2019 by which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request seeks access to the following:

'The documents I seek are a copy or copies on correspondence from Royal Commissioner Hayne to ASIC Chairman, James Shipton from 1 February 2019 to the present.'

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

Decision

A search of ASIC's records was conducted. My decision is to refuse your request for access to the documents, as no documents exist. The reasons for my decision are set out below.

Information considered

In reaching my decision, I have considered the following:

- the FOI Act;
- the Australian Information Commissioner's FOI Guidelines issued under s 93A of the FOI Act (**FOI Guidelines**); and
- the terms of your request.

Section 24A of the FOI Act

Section 24A of the FOI Act relevantly provides:

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
- (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

The ASIC Chair and Chief Legal Officer have undertaken searches of their records which have revealed that there are no documents relevant to your request found. For these reasons, I am satisfied that all reasonable steps have been taken to locate the documents relevant to your request and I am satisfied that the documents do not exist. I have therefore decided to refuse your request pursuant to s 24A(1)(b)(ii) of the FOI Act.

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, Brisbane QLD 4001 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

3. 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 on Jessica.Zhang@asic.gov.au or (03) 9280 4156.

Yours sincerely

Jessica Zhang

(Authorised decision-maker pursuant to subsection 23(1) of the FOI Act)