



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Phillip Sweeney

Via email: foi+request-5653-xxxxxxx@xxxxxxxxxxx.xxx.xx

18 October 2019

Dear Mr Sweeney

Freedom of Information Request FOI 211-2019

I refer to your request for access to documents made under the *Freedom of Information Act 1982 (FOI Act)* dated 28 September 2019 by which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request sought access to:

'copies of any emails, letters or other correspondence between the Chair of the House of Representatives Standing Committee on Economics, Mr Tim Wilson MP and James Shipton (or other ASIC Commissioner or staff member).'

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

Decision

In response to your request a search of ASIC's records was conducted. My decision is to refuse your request for access. 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 scope of your request.

Section 24A of the FOI Act

Section 24A of the FOI Act 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.

In response to your request, enquiries have been made with relevant ASIC staff. The result of those enquiries has revealed that ASIC is not in possession of any correspondence between Tim Wilson in his capacity as the Chair of the House of Representatives Standing Committee on Economics and James Shipton or another ASIC staff member. For this reason, I am satisfied that all reasonable steps have been taken to locate the documents within the scope of your request and I am satisfied no documents exist. As such, I have decided to refuse your request pursuant to section 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 xxxxxxxxxx@xxxx.xxx.xx.
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 xxxxxxxxxx@xxxx.xxx.xx 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.

Yours sincerely



Benjamin Ackhurst
Freedom of Information Officer