



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

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Phillip Sweeney

**By email:** [foi+request-6523-fc451f7c@righttoknow.org.au](mailto:foi+request-6523-fc451f7c@righttoknow.org.au)

Our Reference: FOI 120-2020

24 August 2020

Dear Mr Sweeney

**Freedom of Information Request No. 120-2020**  
**Notice of Access Decision**

I refer to your request for access to documents made under the *Freedom of Information Act 1982 (FOI Act)* dated 24 July 2020 by which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request sought access to:

*"The documents I seek are:*

- (i) Pages from the Consolidated Deed of Variation dated 6 May 1958 that cover Regulation or Rule 29 which contain the improved formula for the pension benefit and the definition of "salary" for superannuation purposes;*
- (ii) Pages from the Deeds of Variation dated 3 July 1961, 3 August 1965 and 3 September 1970 that cover amending the definition of "salary" for superannuation purpose in Regulation 29."*

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

I have identified the documents which come within the terms of your request. These documents are described in the schedule to this letter.

The documents were identified by a search of emails sent by you to Ms Joanna Bird, Executive Director, Wealth Management of ASIC. The search returned your email dated 22 July 2020 and the documents sought were contained within it.

On 21 August 2020, I advised you that my searches found that you provided these documents to Ms Joanna Bird in an email dated 22 July 2020. As such, I advised that I intended to release these documents to you administratively as they were documents provided by you to ASIC previously. I provided you these documents and asked that you confirm whether you agreed to the withdrawal of your FOI request as these

documents had now been administratively released to you. However, no such confirmation was received.

### **Decision**

As no confirmation of the withdrawal of your request was received, I advise that I have decided to grant access in full to the documents listed in the **attached** schedule as these were documents previously provided by you to ASIC on 22 July 2020. The documents are enclosed with this letter.

I note that in my searches, I was unable to locate a deed of variation dated 3 July 1961 but was able to locate a deed of variation dated 7 March 1961. I have further searched ASIC's complaints database and any emails sent by you to Ms Joanna Bird for deed of variation dated 3 July 1961 and have been unable to locate a document that matches the description that you have provided. I have therefore assumed that this was a typographical error and that the deed of variation dated 7 March 1961 is the document that you are requesting access to as it was included in your email attaching the documents you refer to in your request.

In your request, you also provide a series of assertions of opinion and general commentary relating to your previous dealings with ASIC. I do not consider any of the information contained in paragraphs 1 to 37 and paragraphs 39 to 42, inclusive, as relevant to the determination of your request. This type of information is not required under the FOI Act and impedes on ASIC's processing of your request efficiently. Please see the Office of the Information Commissioner's [how to make an FOI request](#) webpage for further information.

### **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 a review of my decision by another ASIC officer under section 54B of the FOI Act. 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](mailto: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 [foidr@oaic.gov.au](mailto:foidr@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 described above.

If you have any questions, please contact me at [krystal.fung@asic.gov.au](mailto:krystal.fung@asic.gov.au).

Yours sincerely



**Krystal Fung**  
**Escalated Matters & Government**  
**Assessment & Intelligence**

**FOI 120-2020  
Schedule of Documents**

<b>No.</b>	<b>Description of document</b>	<b>Decision on access</b>
1.	Deed of Variation dated 6 May 1958	Release
2.	Deed of Variation dated 7 March 1961	Release
3.	Deed of Variation dated 3 August 1965	Release
4.	Deed of Variation dated 3 September 1970	Release