



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

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Our Reference: FOI-231-2020;  
24000/20

24 November 2020

Dear Gayle

**Freedom of Information Request No. 231-2020  
For Access to Information**

I refer to your request under the *Freedom of Information Act 1982 (the FOI Act)* received by this office on 10 November 2020 in which you sought access to the following:

"Copies of documents relating to the following complaints lodged with ASIC for the period 01 January 2020 to 10 November 2020:

1. The number of all complaints lodged with the Australian Securities and Investment Commission (ASIC) concerning Equifax (Equifax Australia Pty Ltd)
2. The number of all Equifax complaints investigated by ASIC
3. The number of all Equifax complaints lodged with ASIC and investigated by ASIC
4. The number of all complaints lodged with ASIC relating to obtaining the on-line "Get my free Equifax credit report" (formerly known as my credit file). Please note, these complaints may contain information relating the Equifax link hosted on the [moneysmart.gov.au](http://moneysmart.gov.au) website:

<https://moneysmart.gov.au/managing-debt/credit-scores-and-credit-reports>  
Equifax, and;

5. The number of these complaints investigated by ASIC."

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

To prevent duplication, I have excluded from this request all documents that you received on 20 November 2020 under your FOI Request 215-2020.

**Decision**

I advise that I neither confirm nor deny the existence of documents regarding complaints to ASIC or investigations of complaints by ASIC. Similarly, the existence of any documents which relate to complaints cannot be confirmed or denied. Section 25(1)(a) of the FOI Act states:

(1) Nothing in this Act shall be taken to require an agency or Minister to give information as to the existence or non-existence of a document where information as to the existence or non-existence of that document, if included in a document of an agency, would cause the last-mentioned document to be:

- (a) an exempt document by virtue of section 33 or subsection 37(1) or 45A(1).

### **Reasons for decision**

It is ASIC's practice to keep information reported to it confidential as required by legal requirements under the *Australian Securities and Investments Commission Act 2001 (ASIC Act)*, principles of natural justice, ASIC regulatory policy and other related laws and policy. This extends to reports of misconduct received from the public.

I am satisfied that disclosure of the existence or non-existence of reports of misconduct would cause the documents to be exempt documents under section 37(1)(b) of the FOI Act, which states:

A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

- disclose or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law.

ASIC's publication [How ASIC deals with reports of misconduct](#) contains a section on confidentiality which says that ASIC will consider any report of misconduct to have been given to it in confidence and will not reveal the contents of a report unless required or authorised to do so under law.

Because it is ASIC's practice to receive reports of misconduct in confidence, and because ASIC promotes that practice in its published information about reports of misconduct, section 37(1)(b) applies to protect any information that would confirm the existence or the identity of a person who has supplied information to ASIC in a report of misconduct.

Section 37(1)(b) also applies to protect information which may reveal the existence or non-existence, rather than the identity, of a confidential source of information. As such, I have also determined that to release any such documents, or information about any such documents if they existed, could reasonably be expected to disclose, or enable you to ascertain, the existence or non-existence of a confidential source of information.

### **Review Rights**

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

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 please contact me on by email at [cari.byrne@asic.gov.au](mailto:cari.byrne@asic.gov.au).

Yours sincerely

A handwritten signature in black ink that reads "Cari Byrne". The signature is written in a cursive style with a horizontal line underneath.

**Cari Byrne**  
**(Authorised decision-maker under subsection 23(1) of the FOI Act)**