



GPO Box 1797 MELBOURNE VIC 3001

Our Reference: FOI 1-6A5L20V  
Contact officer: Julie Galeotti  
Telephone: 03 928 51810  
Facsimile: 03 928 51702  
Issue date: 10 March 2015

Mr Phillip Sweeney

Via email to Phillip Sweeney [foi+request-856-213b4eb2@righttoknow.org.au](mailto:foi+request-856-213b4eb2@righttoknow.org.au)

Dear Mr Sweeney,

### **Decision regarding your Freedom of Information request**

I refer to your email of 8 January 2015 requesting information under the Freedom of Information Act (FOI Act).

I am an officer authorised under section 23 of the FOI Act to make decisions regarding access to documents.

#### **Scope of Request**

You have requested:-

- *Any documents that the ATO would use to determine the bona fides of a party who represents themselves as a "Trustee" of a particular fund, and*
- *Documents held by the ATO of what "due diligence" would be undertaken by the ATO when a notification has been received that an ABN has been or is to be cancelled.*

*The documents might fall into the category of a "Practice Manual" or a similar document.*

A number of areas of the ATO were involved in searches for documents relevant to your request. I contacted the Superannuation, the Private Groups and High Wealth Individuals, Client Account Services and the Business Reporting and Registration business lines to search for relevant documents.

The documents identified are extracts from Proof of Identity (POI) guidelines used when a client is initially registered with our office, and the Proof of Record ownership (PORO) guidelines used by ATO officers when interacting with a client.

The relevant documents are:-

- POI – establishing identity at registration – non-individuals
- POI – establishing an individual's identify at registration
- PORO – Procedural guidelines
- PORO – Inbound interactions – correspondence guideline
- Multi Factor Authentication

## **Decision**

I have decided to release the documents to you in part. Each document contains some material which is outside the scope of your request. This irrelevant information has been deleted from the documents pursuant to section 22 of the FOI Act.

Each document also contains some material which has been exempted under section 47E(d) of the FOI Act. I consider that release of this material would have a substantial adverse effect on the operations of our office.

### **Section 22**

Some of the information within the documents does not relate to the methods used to determine the bona fides of trustees, and does not relate to due diligence undertaken when cancelling an ABN. This information includes version updates, where to go for further information, general information about various business lines, and topic headings on unrelated subjects. It also includes identification processes for matters not related to your request such as bankruptcy, liquidations, Commonwealth Ombudsman and Office of the Australian Information Commissioner contacts.

Section 22 of the FOI Act allows us to provide an edited copy of a document that excludes irrelevant information. This information has been deleted from the documents provided.

### **Section 47E(d)**

Parts of the documents refer to specific circumstances that may apply to some taxpayers, and show ATO officers how to apply the identification procedures in these circumstances. Other parts of the documents indicate where particular attention is needed when applying particular guidelines. There is also mention of specific information contained within our systems that is checked when going through the identification process. The Multi Factor Authentication guideline has a specific list of items that will satisfy the three categories mentioned, "Something You Know", "Something You have", and "Something You Say".

I have decided that releasing this information would risk the integrity of our records. This information could be used to try to bypass or defeat our checks and could compromise the identification process used by the ATO. This process is essential to us conducting our operations while still complying with the confidentiality provisions of the *Taxation Administration Act 1953*, and the *Privacy Act 1988*. This process ensures the integrity of our records, reduces the risk of unauthorised access to confidential information, and helps protect clients from identity theft.

I consider that the release of this information could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of our office and is therefore conditionally exempt under section 47E(d) of the FOI Act.

As this is a conditional exemption, I also need to consider if the release of the information is contrary to the public interest. While there is a public interest in open government and increasing the scrutiny of government activities and processes, I consider that the need to effectively manage our confidentiality and privacy responsibilities when conducting our operations outweighs the public interest in release in this instance.

This information is therefore considered exempt under section 47E(d) of the FOI Act.

### **Your rights of review**

If you are unhappy with the decision, you can either request an internal review or ~~request an independent review by the Australian Information Commissioner.~~ You can also apply to the Australian Information Commissioner after an internal review has been conducted.

A request for an internal review needs to:

- be in writing
- be sent to us within 30 days of being notified of my decision, and
- be sent, quoting reference number FOI 1-6A5L20V via:
  - email at [foi@ato.gov.au](mailto:foi@ato.gov.au) or
  - mail to:  
Australian Taxation Office  
GPO Box 1797, Melbourne Vic 3001

The internal review will be done by an officer who did not make the initial decision.

A request for an independent review by the Australian Information Commissioner needs to:

- be sent within 60 days of being notified of my decision;
- include a copy of this notice;
- include an address where notices can be sent (eg your email address); and
- be sent to the Office of the Australian Information Commissioner:

by mail: GPO Box 2999  
CANBERRA CITY ACT 2601  
by fax: (02) 9284 9666  
by email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

You may also apply to the Australian Information Commissioner if you have not been informed of the outcome of an internal review within 30 days.

Please note: The Australian Government has introduced a Bill into Parliament to abolish the OAIC. For more information about how the OAIC is handling FOI matters please visit their website at [www.oaic.gov.au](http://www.oaic.gov.au).

### **Complaints**

Any complaint about the processing of your FOI request can be directed to the Commonwealth Ombudsman. The complaint should set out the grounds on which you consider the action should be investigated. Complaints can be made in writing, by phone, in person or by using an online form available from their website.

- 1300 362 072
- [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)
- GPO Box 442 Canberra ACT 2601
- [www.ombudsman.gov.au/pages/making-a-complaint/](http://www.ombudsman.gov.au/pages/making-a-complaint/)

For further details regarding the Commonwealth Ombudsman, visit:  
[www.ombudsman.gov.au](http://www.ombudsman.gov.au).

**For more information**

If you have any questions, please phone **13 28 69** between 8.00am and 5.00pm,  
Monday to Friday, and ask for Julie Galeotti on extension 51810.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Julie Galeotti', written in a cursive style.

Julie Galeotti  
Senior FOI Adviser  
General Counsel  
Australian Taxation Office