

Divider Tab No. 41

[REDACTED]

14 December 2012

BY EMAIL: FOIrequest@asic.gov.au

Senior Counsel:
Direct Line:
Writer:
Direct Line:
Email:
ABN:
Our Ref:

[REDACTED]

The Senior Manager
Administrative Law Team
Australian Securities & Investments Commission
GPO Box 9827
SYDNEY NSW 2001

Dear Sir or Madam

Request for copies of documents under *Freedom of Information Act 1982 (Cth)*

We act for [REDACTED]

Pursuant to the *Freedom of Information Act 1982 (Cth)*, we request copies all documents containing information regarding any complaint or investigation regarding, or any prosecution of or possible breach of law by, any of (or any combination of):

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)


(i)

[REDACTED]

The Senior Manager

14 December 2012

(j) 

We would appreciate receiving any relevant documents by email  Alternatively, our mailing address is:



If there will be fees or charges applicable to responding to our request, please contact us to discuss.

Please contact  of our office on  if you require further information about this request.

Yours faithfully



Divider Tab No. 42



ASIC

Australian Securities & Investments Commission

Commonwealth Bank Building
240 Queen Street, Brisbane
GPO Box 9827 Brisbane QLD 4001
DX 322 Brisbane

Telephone: (07) 3367 4700
Facsimile: (07) 3867 4725

Our Reference: 2145/13
PCS2013/1128

Your Reference: [REDACTED]

13 February 2013



Dear [REDACTED]

Request For Internal Review Under Section 54B Of The Freedom Of Information Act 1982

I refer to your letter of 15 January 2013 received by ASIC on the same date, in which you requested that an internal review be conducted under section 54B of the *Freedom of Information Act 1982* (FOI Act) in respect of the decision of 14 January 2013 refusing you access to certain documents.

I am authorised to conduct the internal review under section 54 of the FOI Act.

1. Terms of your request

I note your request of 14 December 2012, was clarified on 3 January 2013, and was in the following terms:

Access to all documents dated within the past five years from making the request, containing information regarding any complaint or investigation regarding, or any prosecution of or possible breach of law by, any of (or any combination of):

(a)

(b)

(c)



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(d)

(e)

(f)

(g)

(h)

(i)

(j)

2. ASIC's initial FOI decision

You were notified of the initial decision maker's decision on 14 January 2013 via email and post.

The initial decision was to neither confirm nor deny the existence of documents regarding complaints to ASIC or ASIC investigations or proposed prosecutions of the entities listed in your request.

The initial decision maker relied on section 25 of the FOI Act in coming to this decision.

Reasons for this decision were provided, and in summary included the following:

- 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), under principles of natural justice, ASIC policy and other related laws and policy. This extends to reports of misconduct or "complaints" lodged with ASIC.
- The disclosure of the existence or non-existence of reports of misconduct, investigations or proposed prosecutions would cause the documents to be exempt documents under section 37(1)(a) of the FOI Act, which states that a document is exempt if its disclosure under the FOI Act would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with the law relating to taxation or prejudice the enforcement of proper administration of the law in a particular instance.
- The confirmation of the existence of documents relating to these entities would alert persons as to whether or not ASIC was investigating the entities or was proposing to commence a prosecution. This would prejudice any current or subsequent ASIC investigation. This is because the issues and allegations

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raised in the documents, if any exist, would be known and steps could be taken to evade investigators and the enforcement of any breaches.

The initial decision maker has noted that certain information in relation to ASIC's prosecution action against Robert Melville White is publicly available through the Queensland Magistrate's Court. As such, you were advised that you may wish to consider contacting the Queensland Magistrate's Court for further information about this matter, which is listed for mention next on 14 February 2013.

3. Review request

On 15 January 2013 you requested via email that an internal review be conducted of the initial decision, pursuant to section 54B of the FOI Act. You requested this review on the basis that:

- 1) The decision relies on section 37(1)(a) of the FOI Act as basis for refusing the request, which requires that disclosure would, or could be reasonably expected to, prejudice the conduct of an investigation or the enforcement or proper administration of the law in a particular instance. You indicated that it is your view that section 37(1)(a) can possibly apply only if there is a relevant investigation or enforcement action, and that it is impossible to prejudice something which does not exist.
- 2) Even if section 37(1)(a) could potentially apply to the documents sought, in your view no proper reasons have been provided as to how disclosure of any particular document, or class of documents, would or could be reasonably expected to prejudice the conduct of an investigation or the enforcement or proper administration of the law in a particular instance. How and why prejudice might arise from disclosure of any of the particular documents sought is unexplained except in the most general of terms.
- 3) You noted that [REDACTED] are both in liquidation, and that [REDACTED] is deregistered. Further, you noted that Mr White is already aware that he has been investigated and action is being taken against him in the Brisbane Magistrate's Court by ASIC. You indicated that you find it hard to see how disclosure of documents regarding any of these entities would, or could reasonably be expected to, prejudice the conduct of an investigation or the enforcement or proper administration of the law in a particular instance.

4. Material taken into account in conducting review

In reviewing your request, I have taken into account:

- the terms of your request;
- relevant provisions of the FOI Act; and
- Office of the Australian Information Commissioner guidance on the FOI Act.

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5. Review decision

I advise that as a result of my review of the earlier decision I have decided to vary the original decision but affirm it in part. That is:

- (i) I advise that I have decided to release the documents marked "Release" on the attached Schedule, in relation to ASIC's action in the Queensland Magistrate's Court against Mr White.
- (ii) I advise that I have decided not to release the documents marked "Exempt" in the attached Schedule, under your request, on the grounds that the documents are exempt from release for the reasons noted in paragraph 6 below.
- (ii) I neither confirm nor deny the existence of documents regarding to complaints made to ASIC, ASIC investigations; or any other pending prosecution of or possible breach of law by the named persons and entities (excluding the Magistrate's Court proceedings against Mr White). This is further discussed in paragraph 8 below.

6. Reasons – documents marked Exempt

Section 47F of the FOI Act states:

47F Public interest conditional exemptions – personal privacy

General rule

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

(2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:

- (a) the extent to which the information is well known;*
- (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
- (c) the availability of the information from publicly accessible sources;*
- (d) any other matters that the agency or Minister considers relevant.*

The documents marked "exempt" or "release with redaction" contains personal information about third parties. It is my view that the disclosure of this information will be unreasonable, given the circumstances, as this information is likely not in the public domain and may cause distress to third parties, if the information becomes known.

Section 47F is subject to a public interest test. Section 11B of the FOI Act sets out certain factors that favour access to documents. It is my view that the documents marked "exempt", if released, would not promote the objects of the FOI Act, inform debate on a matter of public importance, promote effective oversight of public expenditure nor allow a person to access his or her own personal information. As

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such, it is my view that it is not in the public interest for these documents to be released.

Section 37(1) of the FOI Act relevantly provides that:

37 Documents affecting enforcement of law and protection of public safety

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

- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;*
- (b) 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; or*
- (c) endanger the life or physical safety of any person.*

It is my view that the documents marked "exempt" against this section, are exempt on these grounds. I note that this exemption is not subject to a public interest test.

In general terms, ASIC does not usually publicly comment on investigations, surveillances or other regulatory activities that may be on foot (if any), until such time as enforcement proceedings have begun (if any are commenced). This is due to a number of factors, including the risk of damage to an individual, legislative restrictions (including privacy restrictions), the potential to jeopardise investigations due to the untimely release of information and the risk of defamation or legal proceedings. ASIC's policy in relation to public comment regarding its regulatory activities are explained in more detail in Information Sheet 152, available on ASIC's website.

Section 37(2) of the FOI Act relevantly provides that:

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

- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;*
- (b) disclose the law methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or*
- (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.*

It is noted that the Magistrate's Court proceedings against Mr White have been re-opened, and that there will be a re-hearing which is set down for 14 February 2013. It is considered that the documents marked as exempt against s. 37(2)(a) may prejudice the impartial adjudication of this particular matter, if released, as this information is to the best of my knowledge, not on the public record.

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Section 45 of the FOI Act relevantly states:

45 Documents containing material obtained in confidence

(1) A document is an exempt document if its disclosure under this Act would found an action, by a person ... for breach of confidence.

This exemption is not subject to a public interest test.

It is my view that the documents marked as being exempt against this section, contain material obtained in confidence from third parties.

ASIC must take reasonable measures to prevent unauthorised use and disclosure of information it sends and receives in confidence in connection with its statutory functions. Person or entities with whom ASIC communicates, and from whom ASIC obtains information, would be less likely to cooperate and be forthcoming with information if the information communicated are released under the FOI Act.

Section 47E of the FOI Act relevantly states:

47E Public interest conditional exemptions – certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

....

(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

It is my view that the documents marked “exempt” on this ground contains confidential information which, if released, could have a substantial adverse effect on the proper and efficient conduct of the operations of ASIC because it ASIC relies on certain sources of information to efficiently conduct its regulatory functions.

It is my view that it is not in the public interest to release these documents, as it is my view that the documents, if released, would not promote the objects of the FOI Act, inform debate on a matter of public importance, promote effective oversight of public expenditure nor allow a person to access his or her own personal information.

Section 47C(1) of the FOI Act relevantly states:

47C Public interest conditional exemptions – deliberative processes

General rule

(1) A document is conditionally exempt if its disclosure under this Act would disclosure matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or

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deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

(a) an agency...

A deliberative process involves the exercise of judgment in developing and making a selection from different options. It is, in other words, an agency's thinking processes.

I consider that the documents marked exempt against this provision, disclose opinions, consultations, recommendations and deliberations which have taken place in the course of ASIC's consideration of the events that led to the prosecution action taken in the Magistrate's Court. Given the nature of the information contained in the documents, the release of the documents would be likely to impede or have an adverse effect on the capacity of ASIC to frankly, fully and properly consider matters like these.

7. Redacted information

Section 22 of the FOI Act relevantly states that where an agency decides to refuse to give access to an exempt document and it is possible for the agency to prepare an edited copy of the document, modified by deletions, ensuring that access to the edited copy would be required to be given under section 11A and it is reasonably practicable for the agency to prepare the edited copy, the agency must give access to an edited copy of the document.

Certain documents are marked "release with redaction", and these documents have been edited as per above.

8. Reasons - neither confirm nor deny existence of documents

Section 25 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 an exempt document by virtue of section 33 of subsection 37(1).*
- (2) Where a request relates to a document that is, or if it existed would be, of a kind referred to in subsection (1), the agency or Minister dealing with the request may give notice in writing to the applicant that the agency or the Minister, as the case may be, neither confirms nor denies the existence, as a document of the agency or an official document of the Minister, of such a document but that, assuming the existence of such a document, it would be an exempt document under section 33 or subsection 37(1) and, where such a notice is given:*
 - (a) section 26 applies as if the decision to give such a notice where a decision referred to in that section; and*
 - (b) the decision shall, for the purposes of Part IV, be deemed to be a decision refusing to grant access to the document in accordance with the request for*

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the reason that the document would, if it existed, be an exempt document under section 33 or subsection 37(1), as the case may be.

Section 37(1) of the FOI Act relevantly provides that:

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

- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;*
- (b) 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; or*
- (c) endanger the life or physical safety of any person.*

I agree with the reasons provided by the initial decision maker in relying on this exemption. I particularly note the following:

- In relation to documents containing information regarding any “complaint”, the initial decision maker’s reasons regarding confidentiality are noted and confirmed. In addition to the initial decision maker’s comments, I note in general terms, without confirming or denying that any complaints have been received in relation to the entities and persons named in your FOI request, that persons who complain to ASIC have a reasonable expectation that their reports of misconduct will be treated in confidence, and that their details and details of their complaint, will be kept confidential. As an agency, ASIC relies on public reports of misconduct as intelligence and to form the basis for decisions as to whether regulatory action may be warranted. Often, persons who report misconduct to ASIC specifically request that details of their identity and complaint be kept confidential.
- In general terms, ASIC does not usually publicly comment on investigations, surveillances or other regulatory activities that may be ongoing (if any), until such time as enforcement proceedings have begun (if any). This is due to a number of factors, including the risk of damage to an individual, legislative restrictions (including privacy restrictions), the potential to jeopardise investigations due to the untimely release of information and the risk of defamation or legal proceedings. ASIC’s policy in relation to public comment regarding its regulatory activities are explained in more detail in Information Sheet 152, available on ASIC’s website.
- Even where it is appropriate to comment on regulatory activities in general, it should be remembered that the simple fact of an investigation (or complaints received), if any, does not mean that a person will necessarily be the subject of any legal or other proceedings.

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9. FOI disclosure log

I note for your information, that Section 11C of the FOI Act requires ASIC to publish on our public website, copies of any documents which may ultimately be released to you, with the exception of personal information about any person, or information pertaining to the business, commercial or financial of any organisation or information pertaining to the business or professional affairs of any person, where it would be unreasonable to publish that information or documents in respect to which, the necessary modifications to the document to be released would make the release of the remainder of the document impractical. You are referred to the terms of section 11C.

10. Rights of review

I provide you with the following information as required by the FOI Act.

In the event that you are dissatisfied with the review decision:

1. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at:
GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
2. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner -
GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.

Yours faithfully

Aletta Newman

**(Authorised internal-reviewer under subsection 54(1) of the FOI Act)
for the Australian Securities and Investments Commission)**

13 February 2013

Schedule of Documents

No	Description of document	Date	No of folios	Decision on access	Relevant section
1.	QLD Magistrate's Court Notice of Re-hearing with redaction of personal details	05/12/2012	4	Release with redaction	s. 47F
2.	Correspondence from third party to ASIC	19/11/2012	1	Exempt	s. 37(1)(a), s. 45(1)
3.	Email correspondence between ASIC and third party	27/11/2012 and 19/11/2012	4	Exempt	s. 37(2)(a)
4.	Email correspondence between ASIC and third party	19/11/2012	4	Exempt	s. 37(2)(a)
5.	Email correspondence between ASIC and third party	19/11/2012	3	Exempt	s. 37(2)(a)
6.	Email correspondence to ASIC from third party	19/11/2012	1	Exempt	s. 37(2)(a)
7.	Correspondence from ASIC to third party and delivery confirmation	13/11/2012	4	Exempt	s. 47F, s.37(2)(a)
8.	Correspondence from ASIC to liquidator	13/11/2012	2	Release	-
9.	ASIC internal criminal litigation summary	Undated	1	Release	-
10.	ASIC Statement of facts with redaction of personal details	Undated	2	Release with redaction	s. 47F
11.	Correspondence from third party to ASIC	18/05/2012	1	Exempt	s. 47F, 45(1)
12.	Statement by third party	18/05/2012	4	Exempt	s. 47F, 45(1)
13.	Correspondence between ASIC and third party	02/11/2012	1	Release	
14.	Correspondence from ASIC to third party with complaint and summons and oath of service (with redaction of personal information)	25/09/2012	5	Release with redaction	s. 47F
15.	Correspondence from ASIC to third party and envelope	31/08/2012	4	Exempt	s. 47F, s. 37(2)(a)
16.	Correspondence from ASIC to third party and envelope	25/09/2012	5	Exempt	s. 47F, s. 37(2)(a)
17.	QLD Courts official receipt	11/10/2012	1	Release	
18.	ASIC internal criminal litigation summary	21/09/2012	1	Release	
19.	Email correspondence between ASIC and third party	20/09/2012 and 18/09/2012	2	Exempt	s. 37(1)(a), s. 45(1)
20.	Email correspondence between ASIC and third party	14/09/2012 and 31/08/2012	3	Exempt	s. 47F, s. 47E(d)
21.	Correspondence from ASIC to third party	31/08/2012	4	Exempt	s. 47F, s. 37(2)(a)

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22.	Correspondence from ASIC to third party	31/08/2012	1	Exempt	s. 47F, s. 47E(d)
23.	Searches	02/08/2012	3	Exempt	s. 47F, s. 37(1)(b), s. 37(2)(b)
24.	ASIC internal document	25/07/2012	8	Exempt	s. 47F, s. 37(1)(a), s. 37(1)(b), s. 47C(1)(a)
25.	ASIC internal document	23/07/2012	1	Exempt	s. 47F
26.	Searches	24/07/2012	51	Exempt	s. 47F, s. 37(1)(b), s. 37(2)(b)
27.	Correspondence from ASIC to third party and envelope	29/06/2012	6	Exempt	s. 47F
28.	Correspondence from ASIC to third party and envelope	29/06/2012	6	Exempt	s. 47F
29.	Correspondence from ASIC to third party and envelope	29/06/2012	6	Exempt	s. 47F, s. 37(2)(a)
30.	Correspondence from ASIC to third party	29/06/2012	2	Exempt	s. 47F
31.	Correspondence from ASIC to third party	29/06/2012	2	Exempt	s. 47F, s. 37(2)(a)
32.	Correspondence from ASIC to third party	29/06/2012	2	Exempt	s. 47F
33.	Correspondence from ASIC to third party	29/06/2012	2	Exempt	s. 47F
34.	Internal ASIC document	29/06/2012	1	Exempt	s. 47F
35.	Internal ASIC database documents	25/06/2012	20	Exempt	s. 47F, s. 37(1)(b), s. 37(2)(b), s. 47E(d)
36.	Correspondence to ASIC from third party with annexure	18/05/2012	5	Exempt	s. 47F
37.	Correspondence to ASIC from third party with annexure	18/05/2012	5	Exempt	s. 47F, s. 45(1)
38.	Statement from third party	18/05/2012	5	Exempt	s. 47F
39.	Annexure to Correspondence to ASIC from third party	Undated	50	Exempt	s. 45(1)
40.	Annexure to Correspondence to ASIC from third party	Undated	49	Exempt	s. 47F
41.	Annexure to Correspondence to ASIC from third party	Undated	52	Exempt	s. 47F

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[REDACTED]
to:

FOIrequest@asic.gov.au

18/08/2011 12:27 PM

Hide Details

From: [REDACTED]

To: "FOIrequest@asic.gov.au" <FOIrequest@asic.gov.au>,

History: This message has been forwarded.

This email message has been processed by MIMESweeper

We would like to obtain copies of the ASIC Assessment documents in relation to the complaints we made in 2010 – refer letters dated 9 April, 6 May and 19 July and ASIC' s reply dated 13 December 2010.

We understand from the Commonwealth Ombudsman that you provided that office *"with complete copies of its assessment of your complaints"* and that we can apply under the Freedom of Information Act 1982 for copies of those assessment documents.

This email is that application.

If you require any further information you require please do not hesitate to contact the writer.

Provision of the copies can be sent by whichever means is easiest for you – viz either email or mail

Regards

[REDACTED]

[REDACTED]

Divider Tab No. 44



Our Reference: FOI request dated 18 August 2011

10 October 2011



Dear 



ASIC

Australian Securities & Investments Commission

Level 24, 120 Collins Street
Melbourne VIC 3000
GPO Box 9827 Melbourne VIC 3001

Telephone: (03) 9280 3200
Facsimile: (03) 9280 3444

Request for access to documents under the Freedom of Information Act

Thank you for email dated 18 August 2011 requesting access to documents under the *Freedom of Information Act 1982 (FOI Act)*. I advise that your request was initially allocated to me for processing. I apologise for my oversight in not processing your request promptly and not acknowledging your request in writing.

You requested copies of the ASIC assessment documents relating to the complaints you lodged with ASIC in 2010 by letters dated 9 April, 6 May and 19 July 2011 as well as ASIC's reply dated 13 December 2010.

I understand the context of your request is that you have been advised by an officer from the Commonwealth Ombudsman that ASIC provided the Ombudsman with copies of the assessment documents. I am advised that ASIC provided the Ombudsman with assessment documents on a confidential basis in order to assist the Ombudsman's investigation into ASIC's handling of your complaints.

I am the authorised decision-maker under subsection 23(1) of the FOI Act for your request.

Documents within the terms of your request

Searches of ASIC records have identified two documents as coming within the terms of your request. The documents are set out in the table below.

Document	Title and description
1	Assessment created by Ms Jacqueline Sinclair of your concerns raised in your and your legal representative's initial letters to ASIC, approved 28 July 2010 (10 pages)
2	Assessment created by Ms Dea Tjahjana for ASIC's review of your complaint, approved 7 December 2010 (19 pages)

10 October 2011

Decision

I advise that I have decided that the documents identified above are exempt or conditionally exempt documents under the FOI Act and it is not in the public interest to release these documents. Accordingly, I have decided not to release these documents.

Reasons for decision

I consider the Documents 1 and 2 are exempt documents as they fall within the definition of exempt or conditionally exempt documents under paragraph 37(2)(b), subsection 47C(1) and paragraph 47E(d) of the FOI Act and it is not in the public interest to release the documents.

Subsection 37(2) of the FOI Act states that

A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:... (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures.

Subsection 47C(1) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of (a) an agency.

Section 47E of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to:... (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

ASIC is an agency for the purposes of the FOI Act.

Documents 1 and 2 are identified as ASIC's assessment of your reports of misconduct and ASIC's assessment of our review of your reports of misconduct.

As you may be aware, ASIC assesses every report of misconduct we receive to determine whether the information available suggests breaches of the corporate law or raises regulatory issues. Our assessments are our internal documents that consider whether any alleged breaches or regulatory issues revealed in the information warrant ASIC taking further action by way of a referral to a specialist team to conduct a surveillance or formal investigation or to commence regulatory proceedings.

10 October 2011

Assessments generally summarise the information provided to ASIC or revealed as a result of our preliminary enquiries. They will contain details of methods and procedures used and enquiries made by ASIC in enquiring into, investigating or otherwise dealing with matters arising out of breaches or evasions of the law. They contain opinions, advice and recommendations about the information gathered, as well as opinions, advice and recommendations about how any relevant law would or would not apply to the information. They also contain opinions, advice and recommendations on whether or not ASIC should take further action in relation to any regulatory issues raised in the information.

ASIC relies on information provided to it from members of the public and participants in our regulated community to undertake our regulatory responsibilities. ASIC also relies on its staff members' thorough, forthright and robust analysis (including opinion, advice and recommendation) of this information and the operation of related corporate laws in order to make decisions about which matters it will select for regulatory consideration and intervention.

I consider that ASIC taking a position to publicly release this kind of information (and documents 1 and 2 specifically) may result in the diminution of the future flow of information to ASIC which would, in turn, have a substantial adverse affect on the proper and efficient conduct of ASIC's operations. Similarly, releasing these documents could have a dampening effect on the veracity of ASIC staff's consideration of the information and relevant law, and conclusions drawn, including their willingness and ability to provide opinion, advice and recommendations. Further, public disclosure of our enquiry or investigation methods and procedures would, or would be reasonably likely to, compromise their effectiveness.

Public interest

The FOI Act provides that access must be given to a conditionally exempt document unless in the circumstances access would on balance be contrary to the public interest.

As required by section 11A of the FOI Act I have considered whether release of documents 1 and 2 would, on balance, be contrary to the public interest.

In particular, I have had regard to the following factors outlined in subsection 11B(3) as being factors favouring access to the document in the public interest:

1. Access to the documents would promote the objects of the FOI Act (including all matters set out in sections 3 and 3A).

I have had regard to the matters outlined in sections 3 and 3A which state that the FOI Act promotes disclosure of documents held by the Government of the Commonwealth.

10 October 2011

ASIC is Australia's corporate, markets and financial services regulator. We contribute to Australia's wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers. An important part of our role is receiving and assessing reports of misconduct concerning the individuals, companies and financial service entities we regulate from market participants and members of the public.

As stated above, release of documents 1 and 2 would, or could reasonably be expected to effect the future flow of information to ASIC which would, in turn, have a substantial adverse affect on the proper and efficient conduct of ASIC's operations. In my view, this is a process which could reasonably be expected to adversely impact on the proper and efficient conduct of ASIC's operations works against the public interest in having confident, informed and protected investors and consumers.

2. Access to the documents would inform debate on a matter of public importance.

The information contained in the assessment relates to concerns that you have raised about, among other things, the corporate governance practices of members of a board of a listed public company. While, in general, governance of public companies may be of importance to members of the public, particularly those members of the public engaged in investment, I consider that any public benefit that lies in disclosure of documents 1 or 2 is outweighed by the adverse affects on ASIC's decision making processes as outlined above.

3. Access to the documents would promote effective oversight of public expenditure.

I do not find that disclosure of documents 1 or 2 would promote effective oversight of public expenditure.

4. Access to the documents would allow a person to access his or her personal information

Documents 1 and 2 do contain personal information about you. This is information that you have provided. While release of the documents would allow you to access this information, as stated above, I consider that any public benefit that lies in disclosure of documents 1 or 2 is outweighed by the adverse affects on ASIC's decision making processes as outlined above.

I find that, on balance, disclosure of documents 1 and 2 would be contrary to the public interest. I find, therefore, that documents 1 and 2 are exempt from release under subsection 47C(1) and paragraph 47E(d) of the FOI Act, in addition to the exemption under paragraph 37(2)(b) of the FOI Act.

10 October 2011

Section 22

Section 22 of the FOI Act provides that:

- where an agency decides not to grant access to a document on the ground that it is an exempt document; and
- it is possible for the agency to make a copy of the document with such deletions that the copy would not be an exempt document; and
- it is reasonably practicable for the agency, having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for that work, to make such a copy:

the agency shall, unless it is apparent from the request or as a result of consultation by the agency with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.

I have considered whether, under section 22 of the FOI Act, it is possible to release the exempt documents with deletions such that the documents would no longer be exempt. I am of the view that such deletions would be so extensive that the exempt documents would either be misleading or unintelligible. Further, the information that would be disclosed in the main would likely be confined to the background information that you have provided in support of your complaint, which would already be known to you. I am therefore satisfied that it is not possible to make a copy of the exempt documents subject to deletions.

Review rights

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

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, Administrative Law GPO Box 9827 Sydney 2001 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 Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001 GPO Box 5218 Sydney NSW 2001.

10 October 2011

Please contact me on 03 9280 3530 if you have any questions in relation to this letter.

Yours sincerely

✓
Greg Hackett

**Authorised decision-maker pursuant to subsection 23(1) of the FOI Act for the
Australian Securities and Investments Commission**

Divider Tab No. 45



ASIC

Australian Securities & Investments Commission

Our Ref: PCS2011/28229

Level 24, 120 Collins Street
Melbourne VIC 3000
GPO Box 9827 Melbourne VIC 3001

8 December 2011

Telephone: (03) 9280 3200
Facsimile: (03) 9280 3444



By email and post:



Dear



**Request for Internal Review under section 54B
of the Freedom of Information Act 1982**

I refer to your letter of 8 November 2011 received by this office on the same day in which you requested that an internal review be conducted under section 54B of the Freedom of Information Act 1982 (FOI Act) in respect of the decision of Mr Greg Hackett dated 10 October 2011 refusing you access to certain documents ("the decision").

I also refer to your email dated 28 November 2011 to Ms Belinda Taneski in which you confirm that you would like to proceed with the review of the decision and would be agreeable, in the interest of ease or convenience, to confine the review to the

In reviewing the documents that are the subject of the internal review, I have determined that little or no ease or convenience would be gained by confining the review in the manner proposed in your email dated 28 November 2011. Accordingly, the review of the decision has been conducted on the basis of your request dated 18 August 2011.

Decision

I am authorised pursuant to section 23(1) of the FOI Act to conduct the internal review of the decision.

I advise that the outcome of my review is to confirm the decision of Mr Hackett not to release the documents requested by you.

Accordingly, I find that relevant documents are conditionally exempt under section 47C(1)(a) of the FOI Act.

Section 47G(1)(b) – business exemption

Section 47G(1)(b) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

Your reports of misconduct concern allegations regarding the affairs of [REDACTED]. The relevant documents contain assessments of the reported misconduct that relate to certain transactions, the corporate governance and the shareholding of certain persons in [REDACTED].

I am satisfied that such information is information concerning the business, commercial or financial affairs of [REDACTED]. I consider that release of the type of information contained in the relevant documents, being voluntarily provided information about an alleged breach of the relevant law, could reasonably be expected to prejudice the future supply of such information to ASIC for the purpose of ASIC's administration of relevant legislation.

I find, therefore, that the relevant documents are conditionally exempt under section 47G(1)(b) of the FOI Act.

Section 47E(d) – disclosure may adversely affect the proper and efficient conduct of ASIC's operations

Section 47E(d) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

ASIC relies on information provided by members of the public and the regulated community to undertake its regulatory responsibilities in relation to the laws it administers. Such information includes significant numbers of misconduct reports each year which assists ASIC to identify breaches of those laws. In the financial year ending 30 June 2011, ASIC received and assessed 15,634 reports of alleged misconduct. Assessing reports of misconduct is an important function of ASIC in undertaking its regulatory responsibilities.

I consider that a release of the type of information requested (i.e. the relevant documents) would, or could reasonably be expected to have a substantial adverse effect on the provision of information (including misconduct reports) to ASIC in the future and consequently on the efficient conduct of the operations of ASIC in that it may

prejudice future information supply about suspected breaches of the laws ASIC administers. This would in turn require the engagement of further people to gather intelligence, a process which would be expensive, inefficient and intrusive.

As noted above, disclosure of the relevant documents would constitute disclosure of information concerning the business, commercial or financial affairs of a corporation which could reasonably be expected to prejudice the future supply of information to ASIC for the purpose of ASIC's administration of relevant legislation. This, in turn would, or could reasonably be expected to, have a substantial adverse affect on the proper and efficient conduct of ASIC's operations.

Also, as noted above, disclosure of the methods and procedures utilised by ASIC in the assessment of misconduct reports would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures by enabling actions that could defeat their utility. This, in turn would, or could reasonably be expected to, have a substantial adverse affect on the proper and efficient conduct of ASIC's operations.

I find, therefore, that the relevant documents are conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations

As required by section 11A of the FOI Act, documents that are conditionally exempt must be released unless they would, on balance, be contrary to the public interest. I have considered the following factors outlined in subsection 11B(3) of the FOI Act as being factors favouring access to the relevant documents in the public interest:

- (i) *Access to the documents would promote the objects of the FOI Act (including all matters set out in sections 3 and 3A).*

I have had regard to the fact that the FOI Act promotes disclosure of documents held by the Australian Government.

ASIC is Australia's corporate, markets and financial services regulator. ASIC contributes to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers. One important way it achieves this is through regulatory action stemming from receipts and assessments of reports of misconduct by members of the public and members of the regulated community.

Taking into account the following factors:

- the importance of candour in the preparation of ASIC assessments; and
- the impact that disclosure of the type of documents requested would have on the supply of future information about misconduct reports and the future supply of information about the business, commercial or financial affairs of corporations,

I consider that the adverse affects on the proper and efficient conduct of ASIC's operations in ensuring that Australia's financial markets are fair and transparent and

supported by confident and informed investors and consumers would, on balance, outweigh any public benefit that lies in the disclosure of the relevant documents.

- (ii) *Access to the documents would inform debate on a matter of public importance.*

The documents falling within your request contain details of the investigatory techniques and methods employed by ASIC to investigate matters arising out of misconduct and breach report made to ASIC by you about a breach of the law in a particular set of circumstances. While I acknowledge that such documents would hold interest to you as complainants who have a vested interest in the outcome of the investigation, I am not satisfied that access to the documents would inform debate on a matter of importance to the public at large. I do not find that disclosure of the relevant documents would inform debate on a matter of public importance.

- (iii) *Access to the documents would promote effective oversight of public expenditure.*

Given that the documents sought in your request are not relevant to matters of public expenditure, I do not find that disclosure of the relevant documents would promote effective oversight of public expenditure.

- (iv) *Access to the documents would allow a person to access his or her personal information*

Whilst the relevant documents contain personal information about you, this information is information provided by you in your reports of misconduct. I do not find therefore that disclosure of the relevant documents would allow you to access personal information you have not already provided.

I find that, on balance, disclosure of the relevant documents would be contrary to the public interest.

Section 22

Section 22 of the FOI Act provides that where an agency or Minister decides not to grant access to a document on the ground that it is an exempt document and;

- it is possible for the agency or Minister to make a copy of the document with such deletions that the copy would not be an exempt document; and
- it is reasonably practicable for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for that work, to make such a copy,

the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.

I have considered whether, pursuant to section 22 of the FOI Act, it is possible to release the exempt documents with deletions such that the documents would no longer be exempt. I am of the view that such deletions would be so extensive that the exempt documents would either be misleading or unintelligible. I am therefore satisfied that it is not possible to make a copy of the exempt documents subject to deletions.

Further information

I provide you with the following information as required by the FOI Act.

In the event that you are dissatisfied with the decision:

1. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
2. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.

Yours faithfully

Gesuele Vermiglio

**Authorised decision-maker under subsection 23(1) of the FOI Act for the
Australian Securities and Investments Commission**

Divider Tab No. 46



FOI Request

to: [REDACTED]
foirequest
21/09/2012 04:13 AM
Hide Details
From: [REDACTED]
To: <foirequest@asic.gov.au>,
History: This message has been forwarded.

1 Attachment



Email-Vaughan Groves to [REDACTED] Dated 13-09-12.jpg

This email message has been processed by MIMESweeper

21st September 2012

Dear ASIC,

This is a request made under the FOI Act 1982

Please release the following information;

Recording of Conversation – Vaughan Groves (ASIC) and [REDACTED] Dated 17 September 2012 at 1:07 PM
All information that ASIC holds in relation to ALL matters I have raised, including to and from correspondence from ALL parties involved.

All information and correspondence to and from ALL parties, that was used to assess and finalise ASIC Reference No: [REDACTED] and please explain who is Lida Micri, as referred to in an email sent by Vaughan Groves to [REDACTED] – Dated 13 September 2012, Please find attached.

All information and correspondence to and from ALL parties, that was used to assess and finalise ASIC Report of Misconduct: [REDACTED]

All information and correspondence to and from ALL parties, that was used to assess and finalise ASIC Reference No: [REDACTED]

All information and correspondence to and from ALL parties, that was used to assess and finalise ASIC Reference No: [REDACTED]

All information and correspondence to and from ALL parties, that was used to assess and finalise ASIC Reference No: [REDACTED]

Please Post by Mail to;



Many Regards,



Divider Tab No. 47



ASIC

Australian Securities & Investments Commission

Our Reference: 42598/12

23 October 2012

Commonwealth Bank Building
240 Queen Street, Brisbane
GPO Box 9827 Brisbane QLD 4001
DX 322 Brisbane

Telephone: (07) 3367 4700
Facsimile: (07) 3367 4725



Dear [REDACTED]

Request under the Freedom of Information Act 1982 - For Access to Documents

I refer to your request dated 21 September 2012 under the *Freedom of Information Act 1982* (FOI Act) received by this office on the same date in which you sought access to documents in relation to the following:

1. Copies of all documents that ASIC holds which were used to assess and finalise the matters with ASIC reference numbers [REDACTED]



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

Documents relevant to your request

I have identified 23 documents as coming within the terms of your request. These are listed in the Schedule 1 to this letter.

Please note that, with the exception of document numbers 1, 6, 9, 15, and 19 of Schedule 1, I have not included documents sent to you by ASIC or documents you sent to ASIC as part of the request. While relevant exemptions under the FOI Act would ordinarily apply to some of these documents and not be released, I have instead, for your information and reference, provided you with copies of these documents on the basis they were provided by you or to you as the reporter of misconduct in the above mentioned ASIC reference numbers. These documents are identified in the attached Schedule 2. Please also note that I have not included publicly available documents as part of your request.

Released Documents

I advise that I have decided to release the document marked "Release" on the attached Schedule 1.

Documents which are to be released subject to deletions

You will note that one of the documents which is listed in the enclosed schedule is marked "PR" – meaning "Partial Release". I have in accordance with section 22 of the FOI Act deleted material which I consider falls outside the terms of your request or is exempt. Where the deletion has occurred because I consider the information to be exempt I have specified in the schedule the section/s upon which I rely to claim the exemption.

As noted above, the document is identified in the attached Schedule 1 by the term "PR". The grounds of exemption are also set out in the schedule.

Section 22

Section 22 of the FOI Act provides that where an agency or Minister decides not to grant access to a document on the grounds that it is an exempt document or that to grant access to a document would disclose information that would reasonably be regarded as irrelevant to the request: and, "it is possible for the agency....to make a copy of the document with such deletions that the copywould not be an exempt document: and...would not disclose such information....and it is reasonably practical for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for the work, to make such a copy...the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make and grant access to such a copy".

Exempt Documents

I advise that I have decided not to release the documents marked "Exempt" in the attached Schedule 1, under your request, on the grounds that the documents are exempt from release for the following reasons:

1. Document numbers 5, 8, 14, 18, 23 – ASIC assessment reports

1.1 Public Interest conditional exemptions

(a) Section 47C of the FOI Act – Public interest conditional exemption - Deliberative process

Section 47C of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would disclose matter (*deliberative matter*) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

- (a) an agency; or
- (b) a Minister; or
- (c) the Government of the Commonwealth; or
- (d) the Government of Norfolk Island.

The complaint assessment documents set out internal assessment procedures, preliminary assessments of evidence and recommendations regarding the future conduct of the relevant matters. These documents are used to record the decision making process involved in the assessing the report of misconduct. The documents contain details of methods and procedures used and enquiries made by ASIC in investigating or dealing with matters arising out of alleged breaches or evasions of the law, administered by ASIC. In my opinion, public disclosure of these methods and procedures would, or would be reasonably likely to, compromise their effectiveness. I therefore consider these documents to be exempt pursuant to this section.

(b) Section 47E of the Act Public interest conditional exemption – Effect on operations of agencies

The issue of "substantial adverse effect" is not limited to matters related to the internal administration of the agency but extends to the way in which an agency discharges or performs any of its functions. The word "substantial" has been interpreted as meaning "serious" or "significant" as opposed to minimal or remote.

As stated above, disclosure of the methods and procedures used and enquiries made by ASIC in the assessment of reports of misconduct would, or would reasonably be likely to prejudice the effectiveness of those methods and procedures. This, in turn would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of ASIC's operations. I am also of the view that there is a public interest concern in, as well as a public expectation that, a law enforcement agency, such as ASIC would pursue its investigative activities confidentially. This extends, among other things, to information it has acquired for the purpose of its investigations. Further, disclosure would, or could encourage certain members of the public to style their behaviour on the decision making process detailed in the assessment reports to avoid detection and would also be contrary to public interest. Accordingly, I consider that the public interest does not lie in disclosure but in the maintenance of the confidentiality of that information.

As such, I consider that documents numbers 5, 8, 14, 18, 23 are also exempt from release under section 47E of the FOI Act.

2. Document numbers 11, 12, 13, 21, 22 - Internal ASIC database searches and other internal email dated 10/09/2012

2.1 Public Interest conditional exemptions

(a) Section 47C of the FOI Act – Public interest conditional exemption - Deliberative process

I consider the above documents to be exempt pursuant to s47C of the FOI Act. The documents contain details of methods and procedures used and inquiries made by ASIC in investigating and dealing with matters arising out of alleged breaches or evasions of the law. In my view, public disclosure would or would be reasonably likely to compromise their effectiveness. Accordingly I consider that these documents are exempt documents pursuant to 47C of the Act.

(b) Section 47E of the Act Public interest conditional exemption – Effect on operations of agencies

Certain information is stored on ASIC's internal databases. Release of these documents would disclose part of the procedure ASIC officers use for the purpose of assessing reports of misconduct about alleged breaches of law, the disclosure of which may prejudice the effectiveness of those methods or procedures. Further, the above documents could indicate the nature and extent and the manner in which assessments of alleged breaches of the law are lawfully conducted by ASIC. As such, I am of the view that disclosure of the documents would reasonably expect to have a real and substantial adverse effect on the proper and efficient conduct of the operations of ASIC and are exempt from disclosure pursuant to s47E of the Act.

I have considered whether, pursuant to section 22 of the FOI Act, access should be granted to part of the aforementioned exempt documents. For the reasons above, explaining the basis of the exemptions applied in respect to the documents, I find that the documents are "exempt documents" as defined by the FOI Act. I further find that it would not be possible to make a copy of the documents with such deletions that the documents would not be exempt documents.

Charges

Please note that nil charges have been applied in relation to this FOI request as follows:

Search and retrieval time	Minimal – no charge	\$ Nil
Decision making time	First five hours – no charge	\$ Nil
Number of pages	Minimal – no charge	\$ Nil
Total:		\$ Nil.

Review Rights

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

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, Administrative Law GPO Box 9827 SYDNEY or by email to foirequest@asic.gov.au
2. You may apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.

3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001 GPO Box 5218 Sydney NSW 2001.

Yours sincerely

Kym Latham
(Authorised decision-maker under subsection 23(1) of the FOI Act)
for the Australian Securities and Investments Commission

Schedule 1 – Documents under the FOI request

No	Description of document	Date	No of folios	Decision on access	Relevant section
1	Copy of ASIC online complaint form with handwritten annotations by ASIC officer	07/11/2011	5	PR	s47C
2	File note of attempts to call [REDACTED]	11/11/2011	1	Release	N/A
3	File note of telephone discussion between ASIC officer and [REDACTED]	21/11/2011	2	Release	N/A
4	Handwritten file note by ASIC officer of telephone discussion with [REDACTED] 21/11/2011	21/11/2011	2	Release	N/A
5	ASIC assessment report	28/11/2011	3	Exempt	s47C, s47E
6	Forwarded email from [REDACTED] to ASIC	19/04/2012	15	Release	N/A
7	File note of telephone discussion between ASIC officer and [REDACTED]	20/04/2012	1	Release	N/A
8	ASIC assessment report	01/08/2012	7	Exempt	s47C, s47E
9	Forwarded email from [REDACTED] to ASIC	16/08/2012	2	Release	N/A
10	ASIC file note noting acknowledgement letter sent to [REDACTED]	16/08/2012	1	Release	N/A
11	Internal ASIC database searches	17/08/2012	4	Exempt	s47C, s47E
12	Internal ASIC database searches	10/09/2012	3	Exempt	s47C, s47E
13	Internal ASIC email	10/09/2012	1	Exempt	s47C, s47E
14	ASIC assessment report	11/09/2012	5	Exempt	s47C, s47E
15	Forwarded email from [REDACTED] to ASIC	16/08/2012	3	Release	N/A
16	File note noting acknowledgement letter sent to [REDACTED]	16/08/2012	1	Release	N/A
17	File note in relation to telephone discussions between ASIC officer and [REDACTED] dated 23, 24 and 31 August 2012	23/08/2012	2	Release	N/A
18	ASIC assessment report	06/09/2012	10	Exempt	s47C, s47E
19	Forwarded email from [REDACTED] to ASIC	17/08/2012	2	Release	N/A
20	File note noting acknowledgement letter sent to [REDACTED]	17/08/2012	1	Release	N/A
21	Internal ASIC database searches	11/09/2012	11	Exempt	s47C, s47E
22	Internal ASIC database searches	11/09/2012	7	Exempt	s47C, s47E
23	ASIC assessment report	13/09/2012	5	Exempt	s47C, s47E

Schedule 2 – Documents not included under the FOI request

No	Description of document	Date	No of pages
1	Ecomplaint No. 83288130 from [REDACTED]	07/11/2011	5
2	ASIC acknowledgement letter to [REDACTED] in relation to ASIC reference number 48721/11	07/11/2011	1
3	ASIC email to [REDACTED]	11/11/2011	1
4	Email from [REDACTED] to ASIC in response to ASIC email dated 11/11/2011	17/11/2011	2
5	Facsimile from [REDACTED] to ASIC	21/11/2011	70
6	ASIC letter to [REDACTED]	05/12/2011	1
7	Email from [REDACTED] to third party and various including ASIC officer	07/12/2011	4
8	Email from third party to various including [REDACTED] and ASIC officer in response to [REDACTED] email dated 07/12/2011	07/12/2011	6
9	ASIC acknowledgement email to [REDACTED] in relation to ASIC reference number 17795/12	24/04/2012	1
10	Email from [REDACTED] in response to ASIC's email dated 24/04/2012	24/04/2012	2
11	Email from [REDACTED] to ASIC officer	28/05/2012	3
12	Facsimile from [REDACTED] to ASIC officer	01/06/2012	75
13	Email from [REDACTED] to various including ASIC officer	29/06/2012	9
14	Email from [REDACTED] to various including ASIC office	30/06/2012	13
15	Email from [REDACTED] to ASIC and third party	27/07/2012	3
16	ASIC email to [REDACTED] and attached Report 152 Helping home borrowers in financial hardship dated May 2009	06/08/2012	47
17	Email from [REDACTED] to ASIC in response to ASIC email dated 06/08/2012	10/08/2012	5
18	ASIC acknowledgement email to [REDACTED] in relation to ASIC reference number 36085/12	17/08/2012	1
19	Email from [REDACTED] to ASIC officer in response to ASIC email dated 17/08/2012	22/08/2012	2
20	ASIC email to [REDACTED]	10/09/2012	1
21	ASIC email to [REDACTED]	11/09/2012	2
22	Email from [REDACTED] to ASIC officer in response to ASIC email dated 11/09/2012	13/09/2012	2
27	ASIC acknowledgement email to [REDACTED] in relation to ASIC reference number 36161/12	23/08/2012	1
28	ASIC email to [REDACTED]	06/09/2012	1
29	Email from [REDACTED] to ASIC in response to ASIC email dated 06/09/2012	13/09/2012	3
30	ASIC email to [REDACTED]	13/09/2012	4
31	Email from [REDACTED] to ASIC	17/09/2012	4
33	ASIC acknowledgement email to [REDACTED] in relation to ASIC reference number 36363/12	20/08/2012	1
34	ASIC email to [REDACTED]	13/09/2012	1

Divider Tab No. 48



FOI Request

to: [REDACTED]
foirequest
29/10/2011 10:45 PM
Hide Details

From: [REDACTED]
To: <foirequest@asic.gov.au>,
History: This message has been forwarded.

This email message has been processed by MIMESweeper

To whom this may concern,

Under the FOI act I request:

1. a copy of the ASIC report regarding [REDACTED] carried out by Mr John Cahill approximate date of document September 2011. This report contains information regarding investments and finance, and civil proceedings being engaged by [REDACTED] against investors.
2. ASIC report regarding [REDACTED] Approx date of documents September 2010 & September 2011
3. Any other information regarding [REDACTED] Complaint raised regarding Financial Ombudsman Service processes / timeframes. Approx date of documents September 2011.

Please provide information via email.

I am aware charges maybe imposed for the time spent for searching and retrieving relevant documents.

Kind regards,

[REDACTED]

[REDACTED]

Divider Tab No. 49



ASIC

Australian Securities & Investments Commission

Level 5, 100 Market Street, Sydney
GPO Box 9827 Sydney NSW 2001
DX 653 Sydney

Telephone: (02) 9911 2000
Facsimile: (02) 9911 2414

Our Reference: 47910/11

24 November 2011

By email: [REDACTED]

Dear [REDACTED]

Request Under the Freedom of Information Act 1982 For Access to Documents

I refer to your request under the Freedom of Information Act 1982 (FOI Act) dated 29 October 2011 and received by this office on 31 October 2011.

As per your correspondence, you seek access to the following:

- ASIC's report in relation to [REDACTED] as prepared by Mr John Cahill (approximate date of September 2011);
- ASIC's report/s in relation to [REDACTED] in relation to certain agricultural investments [REDACTED] approximate date of documents September 2010 and September 2011; and
- Information relating to [REDACTED] and you regarding Financial Ombudsman Service processes and timeframes (approximate date of documents September 2011).

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

I have identified 22 documents which come within the terms of your request. These are listed in the Schedule to this letter.

Decision to release documents

I advise that I have decided to release the documents marked as "Release" in the attached Schedule, pursuant to your request.

24 November 2011

Decision to not release documents

I advise that I have decided not to release the documents marked "Exempt" in the attached Schedule, pursuant to your request, on the grounds that the documents are exempt from release for the following reasons:

Section 45 – Document containing material obtained in confidence

Section 45(1) of the FOI Act states:

A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence.

I consider documents 11, 14 and 17-22 to be documents containing information received by ASIC in confidence by external third parties, as well as correspondence sent by ASIC to external third parties in confidence.

ASIC must take reasonable measures to prevent unauthorised use and disclosure of information it sends or receives in confidence in connection with its statutory functions. Persons or entities from whom ASIC obtains information would be less likely to cooperate and/or not be as forthcoming with information if the information communicated could be released under the FOI Act.

As such, I am of the opinion that the documents identified above are exempt from release pursuant to section 45 of the FOI Act. I note that section 45 of the FOI Act is not subject to a public interest test.

Section 47C – Deliberative process (public interest conditional exemption)

Section 47C(1)(a) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared, or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of ... (a) an agency.

'Deliberative processes' refers to the functions of an agency and, more specifically, it refers to its thinking processes. Documents that fall within this category include those that are concerned with decision making.

I consider documents 2 and 16-22 to be internal working documents, the disclosure of which would disclose consultations, deliberations, advice and recommendations made or undertaken by ASIC in the course of ASIC's deliberative processes.

24 November 2011

Section 47E – Certain operations of agencies (public interest conditional exemption)

Section 47E(d) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following: (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

I consider documents 2 and 15-21 to relate to the internal operations of ASIC and its functions as a regulator and administrator of the *Corporations Act 2001* and *ASIC Act 2001*.

In particular, documents 16-21 include information and/or intelligence received by ASIC from external third parties, and correspondence sent by ASIC to external third parties on a confidential basis. In addition, documents 2, and 15-21 are internal working documents created for the purposes of ASIC performing its functions as a regulator. All of these documents are not available to the general public.

Section 47F – Personal privacy (public interest conditional exemption)

Section 47F(1) and (2) of the FOI Act states:

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure about any person (including a deceased person). (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency ...must have regard to: (a) the extent to which the information is well known; (b) whether the person to whom the information relates is known .. to be associated with the matters dealt with in the document; (c) the availability of the information from publicly accessible sources; and (d) any other matter that the agency .. considers relevant.

"Personal information" means information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion (section 4(1)).

I consider that documents 17-21 contain personal information as defined above.

Public Interest

The FOI Act provides that access must generally be given to a conditionally exempt document unless it would be contrary to the public interest.

As required by section 11A of the FOI Act, I have considered whether the release of documents identified under sections 47C, 47E and 47F of the FOI Act would, on balance, be contrary to the public interest.

24 November 2011

In particular, I have had regard to the following factors outlined in section 11B(3) of the FOI Act being factors favouring access to the documents in the public interest:

(a) Promote the objects of the FOI Act

Disclosure of the documents identified under sections 47C, 47E and 47F of the FOI Act may to some degree increase scrutiny, discussion, comment and review of ASIC's performance in carrying out its functions, and exercising its powers under the laws it is responsible for administering.

(b) Inform debate on matters of public importance

I do not find that disclosure of documents identified under sections 47C, 47E and 47F of the FOI Act would inform debate on a matter of public importance as the information in the documents relates to a discrete matter.

(c) Promote effective oversight of public expenditure

I do not find that disclosure of documents identified under sections 47C, 47E and 47F of the FOI Act would promote effective oversight of public expenditure as these documents do not relate to matters of public expenditure.

(d) Allow a person access to his or her own personal information

I do not find that disclosure of documents identified under sections 47C, 47E and 47F of the FOI Act would allow you to access your personal information.

I have also had regard to factors weighing against disclosure of documents identified under sections 47C, 47E and 47F of the FOI Act.

In my view, disclosure of documents identified under section 47C of the FOI Act would be contrary to the public interest because it may impair the ability of ASIC officers to effectively consider the competing aspects of a matter under consideration, and may discourage staff from making and expressing observations, opinions and recommendations.

It is vital that the analysis of intelligence is done so without the knowledge that such documents can be produced. Full and frank analysis of intelligence is required to assist in the performance of ASIC's statutory functions and powers relating to the administration and enforcement of the law.

I consider that the release of documents containing information dealing with the analysis of intelligence would be likely to impede or have an adverse effect on the capacity of ASIC to effectively administer and enforce the law.

In regards to documents identified under section 47E(d) of the FOI Act, and as noted on page 3 of this decision, ASIC must take reasonable steps to prevent unauthorised use and disclosure of information it receives in confidence in order to promote the

24 November 2011

free flow of information from members of the general public, as well as the regulated population.

In addition, I consider disclosure of such methods and procedures used, and enquiries made by ASIC in its performing its regulatory functions would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of ASIC's operations.

As such, I am of the view that the public interest in disclosure is outweighed by the adverse effects on ASIC's regulatory function.

Documents identified under section 47F of the FOI Act include information and/or intelligence received by ASIC from external third parties on a confidential basis, as well as correspondence sent by ASIC to external third parties on a confidential basis.

Having regard to the factors set out in subsection 47F(2), I believe that the disclosure of documents identified under section 47F would involve the unreasonable disclosure of personal information. In addition, I have considered whether these documents would, on balance, be contrary to the public interest.

For the reasons outlined above in respect of section 47E(d) of the FOI Act, I have decided that disclosure of the documents would, on balance, be contrary to the public interest.

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

Section 22(1) of the FOI Act states that where an agency decides:

(i) to refuse to give access to an exempt document; or (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and (b) it is possible for the agency .. to prepare a copy (edited copy) of the document, modified by deletions, that the copy would not be an exempt document: and .. would not disclose such information....and it is reasonably practical for the agency ..., having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for the work, to make such a copy...the agency ... shall, unless it is apparent from the request or as a result of consultation by the agency ... with the applicant, that the applicant would not wish to have access to such a copy, make and grant access to such a copy".

I have considered whether, pursuant to section 22 of the FOI Act, access should be granted to part of the aforementioned exempt documents. I have decided that documents 2 and 11 may be released, with the exempt parts of those documents redacted. For the reasons above, explaining the basis of the exemptions applied in respect to the documents, I otherwise find that it would not be possible to make a copy of the documents with such deletions that the documents would not be exempt documents.

24 November 2011

Review Rights

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

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, Administrative Law, GPO Box 9827 Sydney NSW 2001, or by email to foirequest@asic.gov.au.
2. You may apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 5218 Sydney NSW 2001.
3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 5218 Sydney NSW 2001.

Yours faithfully

Caroline McCaffrie

**(Authorised decision-maker under subsection 23(1) of the FOI Act)
for the Australian Securities and Investments Commission**

24 November 2011

Schedule of Documents

No	Description of document	Date	No of folios	Decision on access	Relevant section
1	Correspondence received by ASIC from [REDACTED]	29/06/2011	26	Release	
2	Internal working document	27/07/2011	1	Exempt	s47C(1)(a) s47E(d)
3	Correspondence between ASIC and [REDACTED]	27/07/2011 – 28/07/011	4	Release	
4	Correspondence between ASIC and [REDACTED]	27/07/2011 – 28/07/2011	6	Release	
5	Correspondence received by ASIC from [REDACTED]	03/08/2011	24	Release	
6	File note of telephone conversation between ASIC Officer and [REDACTED]	05/08/2011	1	Release	
7	Correspondence received by ASIC from [REDACTED]	05/08/2011	5	Release	
8	Correspondence received by ASIC from [REDACTED]	05/08/2011	6	Release	
9	Correspondence received by ASIC from [REDACTED]	09/08/2011	16	Release	
10	File note of telephone conversation between ASIC Officer and [REDACTED]	10/08/2011	1	Release	
11	File note of telephone conversation between ASIC and [REDACTED] and file note of telephone conversation between ASIC Officer and a third party	01/09/2011	1	Partial release	s45(1)
12	Correspondence received by ASIC from [REDACTED]	13/09/2011	4	Release	
13	File note of telephone conversation between ASIC Officer and [REDACTED]	13/09/2011	1	Release	
14	File note of telephone conversation between ASIC Officer and a third party	19/10/2011	1	Exempt	s45(1)
15	Internal working document	29/10/2011	1	Exempt	s47C(1)(a) s47E(d)
16	Internal working document	Draft	11	Exempt	s47C(1)(a) s47E(d)
17	Internal working document	25/08/2011	3	Exempt	s45(1) s47C(1)(a) s47E(d) s47F

24 November 2011

18	Internal working document	25/08/2011	3	Exempt	s45(1) s47C(1)(a) s47E(d) s47F
19	Internal working document	25/08/2011	3	Exempt	s45(1) s47C(1)(a) s47E(d) s47F
20	Internal working document	25/08/2011	3	Exempt	s45(1) s47C(1)(a) s47E(d) s47F
21	Internal working document	25/08/2011	3	Exempt	s45(1) s47C(1)(a) s47E(d) s47F
22	File note of telephone conversation between ASIC Officer and a third party	19/10/2011	1	Exempt	s45(1)

Divider Tab No. 50



Case no [REDACTED]

to:
FOIrequest
06/05/2013 01:31 PM
Cc:

Hide Details

From: [REDACTED]
To: <FOIrequest@asic.gov.au>,
Cc: [REDACTED]
History: This message has been forwarded.

7 Attachments



image001.jpg image002.gif image003.jpg ASIC Pg 1 of application to voluntary deregister a company.JPG



ASIC Pg 2 of application to voluntary deregister a company.JPG ASIC response to dereg request jan 2013.JPG



ASIC Response.JPG

This email message has been processed by MIMESweeper

Please note we disagree with a response received from Mr B Hoareau and wish to appeal and exercise our rights under the Freedom of information Act 1982 and request ALL documents and emails in relation to our file and how the decision has come about.

Please find attached 2 letters received from ASIC which totally contradict each other and no reason has been specified or verbally stated when it is OK for a director to falsely claim that all points under subsection 601AA(2) of the Corporation Act 2001 have been met.

Also please note the letter with the decision was incorrectly addressed and was delayed in reaching ourselves as it was returned to the Post Office and in the last paragraph it states

`If you have any questions about this letter please contact me on [REDACTED]

Brain Hoareau
Misconduct and Breach Reporting
Stakeholder Services.`

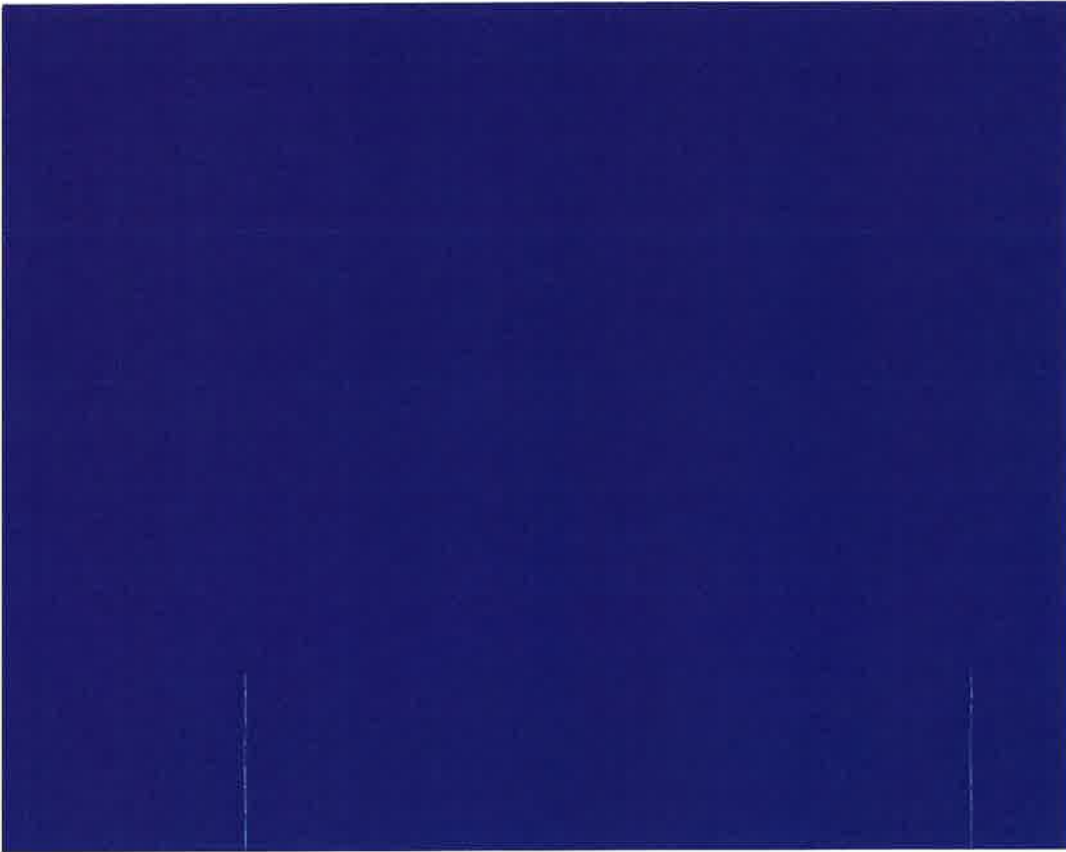
I have contacted Mr Hoareau s number and he is on holidays 26/04/13 to 07/05/13 surely another point of contact could have been left on his voicemail for the matter to be dealt with urgently.

Once we have recieved all information from yourselves we will then be contacting AAT (which is at a further cost!) both timely and monetary.

You are a regularly body looking after the public and theirs rights we believed however we have not witnessed this to date, the person we are bringing to your attention has served prison time previousley after you had proven a case against him in court and he is now up to no good again and yet you choose to take no action against him which I find totally bizzare and concerning after all you are a government body, if we cannot put our trust in you looking after our rights then who should that be left up to ?



Kind Regards



Divider Tab No. 51



ASIC

Australian Securities & Investments Commission

Level 24, 120 Collins Street
Melbourne VIC 3000
GPO Box 9827 Melbourne VIC 3001

Telephone: (03) 9280 3200
Facsimile: (03) 9280 3444
ASIC website: www.asic.gov.au

Our Reference: 18516/13

5 June 2013



By email:



Dear



**Request under the Freedom of Information Act 1982
For Access to Documents**

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) received by this office on 6 May 2013 in which you sought access to the following:

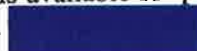
"...ALL documents and emails in relation to our file and how the decision has come about."

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

I have identified the documents which come within the terms of your request. These are listed in the Schedule to this letter. I have interpreted your request for documents about 'how the decision has come about' to be for the internal assessment document and for documents concerning the referral to the specialist team within ASIC.

As advised in my acknowledgement letter and discussed with you on 16 May 2013, the information which you provided to ASIC and documents which you already have a copy of have not been included in the terms of your request.

The application for voluntary deregistration was identified and has not been included in your request. This is because this document is available for purchase through the ASIC website and the relevant document number is



05 June 2013

Decision

I have decided to release the documents marked "Release" on the attached Schedule. The released documents are documents 2 and 6 in the Schedule and they are provided with this letter.

I advise that I have decided not to release the documents marked "Exempt" in the attached Schedule, on the grounds that the documents are exempt from release for the reasons set out in this letter.

Paragraph 37(2)(b) - Documents affecting enforcement of law and protection of public safety

Document 1 contains results of internal ASIC database searches. Documents 7, 8, 9 detail how ASIC assessed your report of misconduct.

Documents 1, 7, 8, 9 and 10 are exempt under paragraph 37(2) (b), which provides:

A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures

Reports of misconduct from the public are an important part of ASIC's intelligence gathering function. In assessing reports of misconduct, standard methods and procedures are used. Your report of misconduct was referred to a specialist team within ASIC for consideration.

The internal database search results contain details of intelligence held by ASIC and how that information is gathered and recorded.

The release of the assessment, referral documentation, recommendation and internal finalisation document would show the assessment procedure that ASIC applies to reports of misconduct and would list the specific criteria and priorities that ASIC uses to determine whether to take action. If the general public becomes aware of ASIC methods and procedures used for preventing, detecting, investigating or dealing with breaches or evasions of the law, those methods and procedures will no longer be effective.

The release of the documents would provide forewarning of the extent of intelligence held and considerations used by ASIC to assess reports of misconduct and of ASIC's regulatory response. This would include forewarning of the methods applied by specialist teams within ASIC.

05 June 2013

Section 47C - Public interest conditional exemptions--deliberative processes

Documents 3 and 4 contain instructions and opinions from the team leader provided to the analyst.

Documents 7, 8 and 9 contain information about the assessment of your report of misconduct.

Section 47C provides that a document is conditionally exempt if its disclosure under this Act would disclose matter (*deliberative matter*) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency.

The deliberative process is ASIC's thinking process.

It is important that team leaders can provide advice and direction freely to analysts.

The disclosure of those instructions and the assessment would reveal opinions, consultations, recommendations and deliberations which have taken place during the assessment procedure and were applied to the report of misconduct. The disclosure would be likely to hinder the capacity of ASIC to fully and properly consider reports of misconduct.

This exemption is subject to the public interest test.

Section 47E(d) - Public interest conditional exemptions--certain operations of agencies

Documents 1, 3, 5, 7, 8, 9 and 10 are exempt under section 47E(d) of the FOI Act.

Section 47E(d) provides that a document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The disclosure of these documents would provide details of the confidential considerations used by ASIC. The confidential methodology used by ASIC should not be made public as such information could assist persons to evade regulatory detection and action, as it would provide forewarning of ASIC's considerations.

This exemption is subject to the public interest test.

Public interest

The FOI Act provides that access must be given to a conditionally exempt document unless in the circumstances access would on balance be contrary to the public interest.

05 June 2013

- it is reasonably practicable for the agency, having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for that work, to make such a copy:

the agency shall, unless it is apparent from the request or as a result of consultation by the agency with the applicant that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.

I have considered whether, under section 22 of the FOI Act, it is possible to release the exempt documents with deletions such that the documents would no longer be exempt. I am of the view that such deletions would be so extensive that the exempt documents would be misleading and unintelligible. I am therefore satisfied that it is not practical to edit the documents for part release.

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 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, Administrative Law GPO Box 9827 SYDNEY or by email to foirequest@asic.gov.au
2. You may apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001

Yours sincerely

Fiona Crowe
(Authorised decision-maker under subsection 23(1) of the FOI Act)
for the Australian Securities and Investments Commission

05 June 2013

SCHEDULE OF DOCUMENTS

No	Description of document	Date	No of pages	Decision on access	Relevant sections
1	Internal ASIC database searches	7/3/2013	9	Exempt	37(2)(b), 47E(d)
2	ASIC Media Release	8/5/2000	1	Release	
3	File note – instruction from Team leader to analyst	7/3/2013	1	Exempt	47C, 47E(d)
4	Internal ASIC email	11/4/2013	1	Exempt	47C
5	Internal ASIC email	18/4/2013	2	Exempt	47E(d)
6	File note	8/3/2013	2	Release	
7	Referral to specialist team	18/4/2013	7	Exempt	37(2)(b), 47C, 47E(d)
8	Internal assessment	12/4/2013	7	Exempt	37(2)(b), 47C, 47E(d)
9	Recommendation for report of misconduct	22/4/2013	1	Exempt	37(2)(b), 47C, 47E(d)
10	Internal finalisation ASIC document for reports of misconduct	23/4/2013	2	Exempt	37(2)(b), 47E(d)

Divider Tab No. 52



FOI Request - Application under FOI Act

to:
foirequest
20/11/2012 12:11 PM
[Hide Details](#)
From: [REDACTED]
To: <foirequest@asic.gov.au>,
History: This message has been forwarded.

This email message has been processed by MIMESweeper

Dear Sir/Madam,

I write on behalf of an entity under my control entitled [REDACTED]. I make this application under the Freedom of Information Act.

My request for documentation relates to a finance arrangement from an unscrupulous finance firm entitled [REDACTED]. In summary, once our 36 month \$200,000 finance term had expired without default, [REDACTED] continued to draw instalment funds from our account, sighting that as we had not provided written notice that we wanted the finance term to end, the contract automatically renewed.

The Financial Services Ombudsman (COSL) was unable to assist us as [REDACTED] membership of COSL had expired several days before our claim was lodged and [REDACTED] failed to renew its membership. It was, and remains, effectively without any Ombudsman's affiliation. We applied to the ACCC and ASIC for their intervention to this rogue practice. Several letters were exchanged and I was unaware that processes were proceeding within the two agencies without my knowledge.

I learned in discussion with [REDACTED] General Counsel that there is an entire department of four lawyers at an independent office of [REDACTED] in Sydney, employed to process these rogue claims, just like mine. In other words [REDACTED] makes a fortune in suing clients, like me, for penalties following their dodgy contracts. You will note that there are many documented court cases in several cross state jurisdictions referencing [REDACTED] and Item 23 of their standard agreement.

We fought our case in the Melbourne Magistrates' court and lost. Our penalty was \$107,000 that we had to pay [REDACTED]. Payment was made 45 days later.

Once the payment was made I received a telephone call from [REDACTED] of the ACCC advising that there was progress in my application. He advised that ASIC had been in discussion with The Leasing Centre in relation to their practices and that there had been agreement by [REDACTED] to modify its practices to suit the issue I raised, and therefore reduce the number of entities sued in reliance to their dodgy contract.

At our court case, no evidence was adduced in relation to the changes that had been made. No witnesses attesting to the operation or management of these discussions were presented.

Had we been aware that these changes had been made, the outcome of our court case would have been favourable to us and the unreasonable penalty would not have applied. The data we seek will allow to us to seek a retrial, which I expect will not be contested.

I spoke at length with a Mr David Carton of ASIC, following our court case who advised that there were discussions and outcomes with [REDACTED]

My request is for copies of:

[REDACTED]
21/11/2014

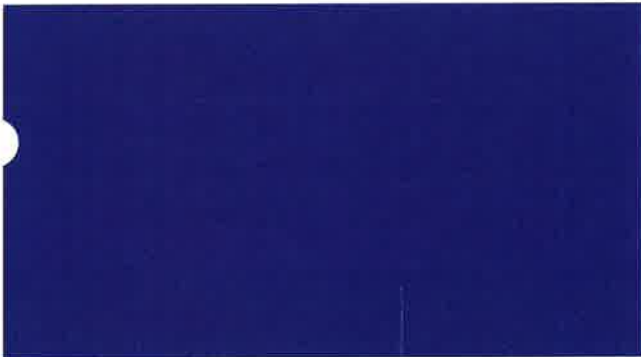
- Minutes of meetings, notes and copies of correspondence between ASIC and [REDACTED]
[REDACTED] detailing all discussions between ASIC and [REDACTED]
- Agreements made;
- Dates of meetings and conferences and names and positions of attendees; and
- Other outcomes, remedies, references to cases and any other information.

Should you require further particulars from me, please contact me on the details below.

I provide the email contact of this email, [REDACTED] and the address and telephone contact points as provided below for communication and delivery of correspondence.

Hoping you can assist.

Yours sincerely,



Divider Tab No. 53



ASIC

Australian Securities & Investments Commission

Our Ref: PMR2012/28795

21 January 2013

Level 5, 100 Market Street, Sydney
GPO Box 9827 Sydney NSW 2001
DX 653 Sydney

Telephone: (02) 9911 2000
Facsimile: (02) 9911 2414
ASIC website: www.asic.gov.au

Dear [REDACTED]

**Request under the *Freedom of Information Act 1982*
For Access to Documents**

I refer to your request under the *Freedom of Information Act 1982 (FOI Act)* received by this office on 20 November 2012 in which you sought access under the FOI Act to copies of the following documents detailing ASIC's dealings with [REDACTED]

- Minutes of meetings, notes and copies of correspondence between ASIC and [REDACTED] detailing all discussions between ASIC and [REDACTED]
- Agreements made;
- Dates of meetings and conferences and names and positions of attendees; and
- Other outcomes, remedies, references to cases and any other information.

The documents sought are only those documents that specifically relate to ASIC's dealings with [REDACTED] in relation to complaints made to ASIC about long-term commercial rental agreements that were automatically extended at the end of the finance term.

Consultation with affected organisation

On 14 December 2012, I informed you that ASIC was consulting with an affected organisation under s27 of the FOI Act, regarding documents within the scope of your request that may contain information which concerns the business, commercial or financial affairs of that organisation.

That consultation has now taken place. The affected organisation has appeal rights to my decisions on your request. As a result, I am unable to provide you with access to any documents until those appeal rights have been exhausted.

The Decision

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

I have identified 21 documents which come within the terms of your request. These are listed in the Schedule to this letter. Duplicates of the documents listed in the Schedule have not been included.

I advise that I have decided to release, with deletions, the documents marked "Partial Release" in the attached Schedule. These documents are released with deletions on the grounds that the deleted portions are exempt from release on the grounds outlined below.

Exempt Documents

I advise that I have decided not to release the documents marked "Exempt" in the attached Schedule, under your request, on the ground that the documents are exempt from release for the following reasons:

Documents 3, 5-7, 17-19 and 21: Conditionally exempt under s47C of the FOI Act

Section 47C— Deliberative Processes

Subsection 47C(1) of the FOI Act provides:

A document is conditionally exempt if its disclosure ... would disclose matter ... in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

- (a) an agency; or*
- (b) a Minister; or*
- (c) the Government of the Commonwealth; or*
- (d) the Government of Norfolk Island.*

Documents 3, 5-7, 17-19 and 21 contain preliminary opinions, considerations and recommendations relating to a particular surveillance matter conducted by ASIC involving [REDACTED]. The documents do not contain operational information or purely factual material, and are not covered by the exceptions in subsection 47C(3).

In relation to public interest considerations, I note that:

- factors in favour of release of these documents are that disclosure of this information may inform community of ASIC's operations and reasons for ASIC's decisions and inform debate on a matter of public importance; and

- factors against release of these documents are that disclosure could reasonably be expected to harm the interests of an individual or group of individuals and could prejudice the future operations of ASIC by indicating to the public internal investigative procedures and processes and potentially assisting other industry players to evade applicable laws and regulations.

I consider that the public interest in informing the community of ASIC's operations is outweighed by the potential harm to the affected individual or group of individuals due to the investigative nature of the matter and that it may prejudice ASIC's future investigations.

I find therefore that these documents are conditionally exempt pursuant to subsection 47C(1) of the FOI Act.

Documents 1-3, 5-7, 9-11, 13, 15 and 19: Conditionally exempt under s47E of the FOI Act

Section 47E – Certain operation of agencies

Section 47E of the FOI Act provides:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency; or*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency; or*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency; or*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Documents 1-3, 5-7, 9-11, 13, 15 and 19 refer to information provided to ASIC by [REDACTED] in the course of communications as part of responding to ASIC's inquiries.

In the proper conduct of its statutory functions, ASIC achieves regulatory outcomes in a number of forms. It is important to ASIC's functions that it be able to conduct communications with its relevant stakeholders to achieve appropriate outcomes. Release of information provided by [REDACTED] during inquiries made by ASIC is likely to inhibit full and frank participation of entities in negotiations with ASIC for voluntary rectification of conduct and so impact adversely upon ASIC's ability to operate properly and efficiently.

In relation to public interest considerations, I note that:

- factors in favour of release of these documents are that disclosure of this information may inform community of ASIC's operations and reasons for ASIC's decisions and inform debate on a matter of public importance;
- factors against release of these documents are that disclosure could reasonably be expected to impede cooperation of entities with ASIC in negotiating appropriate regulatory outcomes in an efficient manner.

I consider that the public interest in ASIC achieving appropriate regulatory outcomes to ensure compliance with laws that it administers in a proper and efficient manner outweighs the public interest in release of this information, and that, on balance, release of this information would be contrary to the public interest (subsection 11A(5) of the FOI Act).

I find therefore that these documents are conditionally exempt pursuant to section 47E of the FOI Act.

Documents 1-4, 8-20: Conditionally exempt under s47F of the FOI Act

Section 47F – Personal privacy

Subsection 47(1) of the FOI Act provides as a general rule:

A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Documents 1-4, 8-20 contain the names and contact details of individuals involved in ASIC's dealings with [REDACTED]

The documents contain information about the [REDACTED] who dealt with ASIC. Name and employment information of an individual are personal information within the meaning of that term in the FOI Act and *Privacy Act* 1988. I consider that in the circumstances, the release of this personal information would be unreasonable because it identifies individuals' workplace and contact details and the individual has not consented to its release.

In relation to public interest considerations, I note that disclosure of this information (as opposed to identification of the employer organisation):

- would not promote the objects of the FOI Act; inform debate on a matter of public importance; contribute to the administration of justice; or advance the fair treatment of individuals or entities in accordance with the law in their dealings with agencies;

- could reasonably be expected to prejudice the protection of an individual's right to privacy.

I further note that in *Colakovski v Australian Telecommunications Corp* (1991) 29 FCR, Heerey J stated:

...if the information disclosure were of no demonstrable relevance to the affairs of government and was likely to do no more than excite or satisfy the curiosity of people about the person whose personal affairs were disclosed...disclosure would be unreasonable.

I consider that the public interest in personal privacy outweighs the public interest in release of this information, and that on balance, release of this information would be contrary to the public interest (subsection 11A(5) of the FOI Act).

ASIC staff

I note that each of these documents also contains names and contact details of staff of ASIC. In relation to this information, I consider that although this information is personal information of these staff members, disclosure would only reveal that these individuals are public servants performing public duties. There is an additional public interest factor in favour of disclosure, being to promote the objects of the FOI Act to inform the community of the Government's operations.

Accordingly, I consider that this information is distinguishable from the name and contact details of the [REDACTED] and that, on balance, release of this information would not be unreasonable or contrary to the public interest (subsection 11A(5) of the FOI Act).

Documents 1-8, 11, 15, 17-19 and 21: Conditionally exempt under s47G of the FOI Act

Section 47G – Business

Subsection 47G(1) of the FOI Act provides:

A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

- (a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or*
- (b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.*

Documents 1-8, 11, 15, 17-19 and 21 contain business information regarding [REDACTED] and ASIC's inquiries into certain business processes. The documents in question relate to certain inquiries made by ASIC into [REDACTED] and how their business operates. If these documents were disclosed, it could be reasonably expected to adversely affect [REDACTED]

In relation to public interest considerations, I note that factors against the disclosure of The Leasing Centre's business information include:

- it could be reasonably be expected to harm the interests of an individual or group of individuals due to the investigative nature of the matter; and
- it could reasonably be expected to prejudice an agency's ability to obtain similar information in the future.

I find that the disclosure of this information would unreasonably affect [REDACTED] in respect of its lawful business, commercial or financial affairs.

Therefore, I am of the view that these documents are conditionally exempt under paragraph 47G(1)(a) of the FOI Act. I have taken into consideration the submissions made by the affected organisation in applying this provision.

Section 22

Section 22 of the FOI Act provides that where an agency or Minister decides not to grant access to a document on the ground that it is an exempt document and;

- It is possible for the agency or Minister to make a copy of the document with such deletions that the copy would not be an exempt document; and
- It is reasonably practicable for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for that work, to make such a copy,

the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.

I find that it would be possible to make a copy of Documents 4, 11-14, 16 and 20 with deletions such that the documents would not be exempt.

I have considered whether, under s22 of the FOI Act, access should be granted to a copy of the remainder of the documents with deletions. For the reasons explained above, I find that the documents are "exempt documents" as defined by the FOI Act. I further find that it would not be possible to make a copy of the documents with such deletions that the documents would not be exempt documents.

Access to Documents

I am unable to provide with access to the documents at this time. I will be able to provide you with access to the documents once:

1. you have paid the charge for processing your request, outlined below; and
2. the affected organisation mentioned exhausts its appeal rights.

Charges

The FOI Act provides that charges may be imposed for time spent processing your request. The assessment of the charge for processing your request is as follows:

Search and retrieval time:	2 hours x \$15.00 per hour	=	\$30.00
Decision making time*:	18 hours x \$20.00 per hour	=	\$360.00
Photocopying:	minimal – no charge	=	\$ NIL
Postage:	minimal – no charge	=	\$ NIL
Subtotal:		=	\$390.00
Minus decision making time		-	\$100.00
Total payable:		=	\$290.00

* The *Freedom of Information (Charges) Regulations 1982* provide that the first five hours of decision making time is free.

Under the FOI Act, you may challenge the charge assessment on the basis that it was wrongly calculated, or you may submit that it should be reduced or not imposed.

In deciding whether to vary the charges, I am required to take into account whether the imposition of the charge will cause you financial hardship and whether granting access to the documents in question is in the general public interest or in the interest of a substantial section of the public. Your submission should address these issues and any other factor you wish to bring to my attention which may assist me in making a decision.

Within 30 days of receipt of this notice, you must:

1. pay the charge; or
2. make a submission to me in writing stating that the charge has been wrongly assessed, or should be reduced, or should not be imposed, and setting out the reasons for your submission (addressing the issues mentioned above); or
3. withdraw your request in writing.

If I do not receive the required payment or a submission from you within 30 days, your request will be regarded as withdrawn.

Review Rights

I provide you with the following information as required by s26 of the FOI Act.

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 s54B of the FOI Act. This request should be addressed to me or to the Senior Manager, Administrative Law GPO Box 9827 SYDNEY or by email to foirequest@asic.gov.au
2. You may apply in writing to the Australian Information Commissioner for a review of my decision under s54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001GPO Box 5218 Sydney NSW 2001.

Yours sincerely

Evelyn Ong
(Authorised decision-maker under subsection 23(1) of the FOI Act)
for the Australian Securities and Investments Commission

SCHEDULE OF DOCUMENTS

No	Description of document	Date	Pages	Decision on access	Relevant sections in FOI Act
1	Letter from Emily Howman of ASIC to [REDACTED]	3 September 2010	2	Exempt	s47E s47F s47G
2	Letter from [REDACTED] to Emily Howman in response to document 20	8 September 2010	2	Exempt	s47E s47F s47G
3	Letter from Emily Howman of ASIC to [REDACTED] in response to document 21	21 September 2010	2	Exempt	s47C s47E s47F s47G
4	Letter from [REDACTED] in response to document 22	20 October 2010	1	Partial release	s22 s47F s47G
5	Summary of matter prior to ASIC meeting with [REDACTED]	Undated	4	Exempt	s47C s47E s47G
6	ASIC meeting notes of meeting with [REDACTED] on 11 November 2010	Undated	4	Exempt	s47C s47E s47G
7	Surveillance Report (internal)	Undated	1	Exempt	s47C s47E s47G
8	Letter from [REDACTED]	16 November 2010	1	Exempt	s47F s47G
9	Email from [REDACTED] to Emily Howman of ASIC attaching letter following meeting	16 November 2010	1	Exempt	s47E s47F
10	Email from Emily Howman of ASIC to [REDACTED] following up on progress post meeting	1 April 2011	1	Exempt	s47E s47F
11	Email from [REDACTED] to Emily Howman of ASIC in response to document 10	4 April 2011	1	Partial release	s22 s47E s47F
12	Email from from Emily Howman of ASIC to [REDACTED] following up on progress	21 June 2011	1	Partial release	s22 s47F
13	Email from [REDACTED] to Emily Howman of ASIC in response to document 12	23 June 2011	1	Partial release	s22 s47E s47F

14	Email from from Emily Howman of ASIC to [REDACTED] [REDACTED] following up on progress	4 July 2011	1	Partial release	s22 s47F
15	Email from [REDACTED] [REDACTED] to Emily Howman of ASIC in response to document 33	4 July 2011	1	Exempt	s47E s47F s47G
16	Template 12 month reminder letter from [REDACTED] [REDACTED]	4 July 2011	1	Partial release	s22 s47F
17	Email from from Emily Howman of ASIC to [REDACTED] [REDACTED] regarding reminder letter	8 July 2011	1	Exempt	s47C s47F s47G
18	Email from [REDACTED] [REDACTED] to Emily Howman of ASIC in response to document 36	14 July 2011	1	Exempt	s47C s47F s47G
19	Email from Emily Howman of ASIC to [REDACTED] [REDACTED] regarding reminder letter	15 July 2011	1	Exempt	s47C s47E s47F s47G
20	Email from [REDACTED] [REDACTED] to Emily Howman of ASIC in response to document 38	15 July 2011	1	Partial release	s22 s47F
21	Internal ASIC NFA Report	30 November 2011	1	Exempt	s47C s47G

Divider Tab No. 54



ASIC

Australian Securities & Investments Commission

66 St Georges Terrace, Perth
GPO Box 9827 Perth WA 6001
DX 158 Perth

Telephone: (08) 9261 9000
Facsimile: (08) 9261 4227
ASIC website: www.asic.gov.au

Our Reference: PMR 2012/28795

Your reference: [REDACTED]

11 April 2013



Via email and post.

Dear [REDACTED]

Freedom of Information Request (FOI) -Request for Internal Review.

I refer to your letter of 27 February 2013 which requested an internal review be conducted under s54B of the *Freedom of information Act 1982* (FOI Act).

This request was in response to ASIC's letter of 21 January 2013 which notified you of our decision on a FOI request we received from [REDACTED] for correspondence between ASIC and [REDACTED]

I am authorised to conduct the review under section 54 of the FOI Act.

Firstly I will clarify the numbering in the Schedule of documents. The cross referencing in the document Schedule attached to our letter of 21 January 2013 is incorrect. A list of documents prepared initially was then reduced to reflect the documents within the scope of the FOI request. When this was done, the cross referencing was not amended. All the documents within the scope of the request were contained in the Schedule attached to our letter of 21 January 2013. The cross referencing is now correct on the attached Schedule. In relation to your query on document 21, "NFA" is acronym for "No further action". In respect of your request for a copy of the submission made by [REDACTED] the FOI Act does not provide for release of submissions by affected third parties.

I advise that as a result of my review of the earlier decision I have decided to release the documents as set out in the attached Schedule to this letter.

In coming to my decision I have taken into consideration the matters that you raised in your letter and the submissions made to the primary decision maker. After considering the submissions and the documents I am of the view that:

1. Documents 4 and 8-20 are not exempt from disclosure.
2. Documents 1-3, 5-7 and 21 are conditionally exempt from disclosure under s47C s47E(d) and s47G and of the FOI Act. I also find that, on balance, it would be contrary to the public interest to release them.

I concur with the reasoning expressed by the primary decision maker in relation to Documents 1-3, 5-7 and 21 on the conditional exemptions under s47C, s47E(d) and s47G. In particular in relation to public interest considerations I consider that, on balance, the public interest in informing the community of ASIC's operations is outweighed by the expected harm to individuals and could prejudice future investigations of ASIC.

I have notified [REDACTED] as an affected third party of my decision.

The documents noted for release on the attached Schedule will not be disclosed until the review rights of all parties have expired.

Rights of Review

I provide you with the following information as required by the FOI Act.

In the event that you are dissatisfied with the decision:

1. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.

2. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner, GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.

Yours sincerely

Kate Hamilton
(Authorised internal reviewer under subsection 54(1) of the FOI Act)

Schedule of Documents

No	Description	Pages	Date	Decision on Access-release(R)/exempt	Relevant Section of FOI Act
1	Letter from Emily Howman of ASIC to [REDACTED]	2	3/9/2010	Exempt	S47C, s47E(d), s47G
2	Letter from [REDACTED] to Emily Howman in response to document 1	2	8/10/2010	Exempt	S47C, s47E(d), s47G
3	Letter from Emily Howman of ASIC to [REDACTED] in response to document 2	2	21/9/2010	Exempt	S47C, s47E(d), s47G
4	Letter from [REDACTED] in response to document 3	1	20/10/2010	R	
5	Summary of matter prior to ASIC meeting with [REDACTED]	4	undated	Exempt	S47C, s47E(d), s47G
6	ASIC meeting notes of meeting with [REDACTED] on 11 November 2010	4	undated	Exempt	S47C, s47E(d), s47G
7	Surveillance Report (internal)	1	undated	Exempt	S47C, s47E(d), s47G
8	Letter from [REDACTED] es	1	16/11/2010	R	
9	Email from [REDACTED] to Emily Howman of ASIC attaching letter following meeting	1	16/11/2010	R	
10	Email from Emily	1	1/4/2011	R	

No	Description	Pages	Date	Decision on Access-release(R)/exempt	Relevant Section of FOI Act
	Howman of ASIC to [REDACTED] [REDACTED] following up on progress post meeting				
11	Email from [REDACTED] es [REDACTED] Emily Howman of ASIC in response to document 10	1	4/4/2011	R	
12	Email from Emily Howman of ASIC to [REDACTED] [REDACTED] following up on progress	1	21/6/2011	R	
13	Email from [REDACTED] [REDACTED] Emily Howman of ASIC in response to document 12	1	23/6/2011	R	
14	Email from Emily Howman of ASIC to [REDACTED] [REDACTED] following up on progress	1	4/7/2011	R	
15	Email from [REDACTED] es [REDACTED] Emily Howman of ASIC in response to document 14	1	4/7/2011	R	
16	Template 12 month reminder letter from [REDACTED] [REDACTED]	1	undated	R	
17	Email from Emily Howman of ASIC to [REDACTED] [REDACTED] regarding reminder letter	1	8/7/2011	R	
18	Email from [REDACTED]	1	14/7/2011	R	

No	Description	Pages	Date	Decision on Access-release(R)/exempt	Relevant Section of FOI Act
	[REDACTED] to Emily Howman of ASIC in response to document 17				
19	Email from Emily Howman of ASIC to [REDACTED] [REDACTED] regarding reminder letter	1	15/7/2011	R	
20	Email from [REDACTED] to Emily Howman of ASIC in response to document 19	1	15/7/2011	R	
21	Internal ASIC No Further Action (NFA) Report	1	30/11/2011	Exempt	S47C S47E (d) S47G