



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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28 June 2024

Nina Hendy

By email: foi+request-11484-ab61692e@righttoknow.org.au

**Freedom of Information Request No. FOI 117- 2024
Notice of decision**

I refer to your request dated **4 June 2024** under the *Freedom of Information Act 1982 (FOI Act)* in which you seek access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request states the following:

"I have spoken to a number of Australians who have lost millions to financial advisers who have acted inappropriately with their funds.

This includes financial advisers who have been full-time employed by a financial advice firm, and financial advisers who act independently.

I would like to know how many financial advisers ASIC has investigated in the past year, how many of those resulted in a ban, and exactly how many current investigations into the professional behaviour of financial advisers remain open right now?

Also, how long does an investigation tend to take, and what does the process of an investigation entail? Do you speak to victims who have lost money in the process of an investigation?"

I have interpreted "past year" to comprise of information from 1 July 2023 to date. With respect to the fourth paragraph of your request, a request made under the FOI Act only gives the applicant the right to access documents held by ASIC.

Searches undertaken

All reasonable steps were carried out by the Strategic Reporting team to undertake searches relevant to the terms of the request. The searches involved using manual and keyword searches across ASIC's case management system.

I am satisfied that all relevant searches in response to the terms of the FOI request have been conducted.

Decision

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

I have taken the following material into account in making my decision:

- the terms of your request;
- details of the searches conducted by ASIC staff;
- the FOI Act, specifically sections 17 and 22 of the FOI Act; and
- the Australian Information Commissioner's FOI Guidelines issued under s 93A of the FOI Act (FOI Guidelines).

Section 17(1) of the FOI Act provides that where a request is made for information that does not exist in discrete written form and an agency is able to produce a document containing the information by use of a computer system that is ordinarily available for retrieving the information it must produce a document containing that information.

In accordance with section 17(1) of the FOI Act, ASIC has generated a written document containing information on the number of banning decisions made against financial advisers and the number of current investigations into the professional behaviour of financial advisers that remain open from 1 July 2023 to date in discrete form. This has been done on the basis that it does not appear from your request that you wish to be provided with a computer tape or disk on which that information may be recorded.

Please note the document generated by ASIC only includes the number of banning decisions made against financial advisers. Given that the FOI request specifically seeks this information, the document does not include additional information related to civil and criminal outcomes made against financial advisers in the same period.

Section 17(2) of the FOI Act provides that ASIC is not required to produce a written document containing the information in discrete form if it would substantially and unreasonably divert the resources of the agency from its other operations. I have been advised by ASIC's Strategic Reporting team that producing a document on the number of investigations against financial advisers in the past year and the time taken to investigate would be an unreasonable diversion of ASIC's resources.

Accordingly, ASIC has generated a written document containing information in response to certain parts of your request and I have decided to grant access in part to this document as described in the below schedule.

Section 22 of the FOI Act:

Section 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document with exempt and irrelevant matter deleted in prescribed circumstances (ss 22(1)). I note that I have provided an edited copy of a document with irrelevant material redacted under this provision of the FOI Act.

Additional information:

In relation to the fourth paragraph of your request, this information is publicly available on ASIC's website.

The ASIC Annual Report provides information on the length of time taken to complete certain types of investigations. This information can be found in Section 2 of the [ASIC Annual Report 2022–23](#). The process of an investigation is set out in [INFO 151 - ASIC's approach to](#)

[enforcement](#) and the [Regulatory Guide 98](#) provides information on ASIC's powers to make banning orders. [INFO 172 - Cooperating with ASIC](#) provides information on ASIC's interactions with people/entities that may have information on the misconduct that ASIC investigates.

Review rights

In the event that you are dissatisfied with the decision

1. You may, within 30 days after the day on which you have been notified of this decision, apply in writing to ASIC for an internal review of my decision under section 54B of the FOI Act. This review is an independent process conducted by a Senior Freedom of Information Officer at ASIC. This request should be addressed to me or to the Senior Manager, Freedom of Information, 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 Office of the Australian Information Commissioner (OAIC) for a review of my decision under section 54N of the FOI Act. You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at foidr@oaic.gov.au or by telephone on 1300 363 992.

Right to complain

3. You may lodge a complaint with the OAIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIC as set out above.

If you have any questions or wish to discuss, please contact me on (02) 9911 2454 or by email at shoumia.nithianantha@asic.gov.au.

Yours sincerely

Shoumia

Shoumia Nithiananthan
Privacy and Freedom of Information Lawyer
Australian Securities and Investments Commission (ASIC)

Schedule of document

Description of document	Date	Pages	Decision on access	Relevant sections
Summary statistics	12 June 2024	3	Partial access	Deletion of irrelevant material under section 22 of the FOI Act