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11 September 2024

[www.accc.gov.au](http://www.accc.gov.au)

Compliance Associate (Right to Know)

**Sent via email: [foi+request-11551-b9caa1de@righttoknow.org.au](mailto:foi+request-11551-b9caa1de@righttoknow.org.au)**

Dear Compliance Associate

### **Internal review decision on freedom of information request**

I refer to your email dated 14 August 2024 in which you request an internal review of our freedom of information decision of 22 July 2024. Your FOI request requested access to:

**[Part 1]**

*'I am requesting documents related CMC Markets Asia Pacific Pty Ltd, GFT Global Markets UK Limited, IG Markets Limited, Australian CFD Forum Limited and parties otherwise listed in Schedule 1 made December 2013.*

*In the submission a compliance plan was being developed by Ms. Jan Redfern PSM, former senior executive of ASIC and currently part time Senior Member of the Administrative Appeals Tribunal and the Guardianship Tribunal and independent governance and regulatory compliance consultant, to assist them in relation to a proposal to establish a CFD industry body and best practice standards for the Australian CFD industry.*

*Please provide documents about industry best practices and compliance plans created by Jan Redfern.'*

**[Part 2]**

*'Additionally documents about Trio Capital and fraud and the need John Hempton to Treasury to use only arrangements like Citco as custodian of client assets and strongly critical of the typical brokerage and clearing arrangements used by typical Hedge Funds.'*

Part 2 of your request was withdrawn in accordance with s.24AB(7) of the FOI Act because a practical refusal reason existed. Accordingly, your request is now limited to Part 1 as reproduced above.

## Decision

In accordance with s.54C of the Act, I affirm the initial decision refusing your request under s.24A(1) of the Act on the basis that the documents requested do not exist.

Your review rights are set out in Attachment A.

I am authorised under s.23 of the Act, to make this decision.

In making my decision, I have had regard to information provided to me by ACCC officers and to the submissions made in your internal review request dated 14 August 2024.

## Reasons for decision

Section 24A(1) of the Act relevantly provides (my emphasis):

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and
- (b) the agency or Minister is satisfied that the document:
  - (i) is in the agency's or Minister's possession but cannot be found; or
  - (ii) does not exist.**

Therefore, we may refuse a request for access to a document if we take all reasonable steps to find that document and we are satisfied that the document does not exist.

The ACCC took the following steps to locate the document:

- A thorough search of our databases by staff in the Mergers, Exemptions and Digital Division to locate any information or documents that relate to your request.
- Confirmation with relevant ACCC staff that worked on the matter at the time, including the relevant Director, that no such document exists.
- A thorough search in the relevant matter workspace in the ACCC's record management system by staff in the Mergers, Exemptions and Digital Division for documents matching, or similar to, the scope of the request provided by you.

Based on the nil results of these steps, I conclude that the requested document does not exist within the records of the ACCC.

I reiterate the further information provided to you by the initial decision maker about the relevant authorisation application.

Yours sincerely



Heather Thomas  
Principal Lawyer  
Specialist Advice and Services Division

Sent by email 11/09/2024

## Attachment A

### Internal Review – Information on rights of review

#### Review by the Information Commissioner

You can ask for a review of this internal review decision by the Australian Information Commissioner (IC).

#### Timeframe for requesting IC review

You have 60 days from the receipt of an access refusal decision to request IC review.

You may seek an extension to this timeframe from the OAIC.

#### Is there a charge?

There is no charge payable for requesting an IC review.

#### Requesting IC review

Your request for IC review must be in writing and include:

- your name and contact details
- a copy of the ACCC's decision that you disagree with (if you've received one)
- the reason(s) why you disagree with the decision

You can lodge your request for IC review online:

**Online:** <https://www.oaic.gov.au/contact-us#reviews>

#### Complaint to the Information Commissioner

You can request the Information Commissioner to investigate action taken by the ACCC in relation to this FOI request. The Information Commissioner will consider your complaint and, if appropriate, conduct an investigation. Any investigation will be completely independent.

#### Is there a charge?

There is no charge payable for making a complaint to the IC.

#### Lodging an IC complaint

You must lodge your complaint in writing and give a clear and brief description of each issue you're complaining about and what outcome you'd like.

You can lodge a complaint online:

**Online:** <https://www.oaic.gov.au/contact-us#complaints>