



**Australian Securities
and Investments Commission**

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12 August 2024

Me

By email: foi+request-11674-e37f88d3@righttoknow.org.au

Dear applicant

**Freedom of Information Request No. FOI 150-2024
Notice of Decision**

I refer to your request dated **12 July 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:

*"1. A copy of the CDDA authorisation by the Minister that was in place until it purportedly lapsed in 2015 2. A copy of any correspondence, subsequent to the lapsing, from ASIC to the relevant Minister (incl their office) where ASIC agitates to be re-authorised for CDDA 3. A copy of any correspondence that is a reply to the correspondence in [2]
Final versions only
Duplicates excluded
SES or equivalent personal information included (incl a/SES)
Email domains included
All first names included."*

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

The 30-day statutory time period for processing your request commenced on the day after the day on which your request was received.

Searches undertaken

All reasonable steps were carried out 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 for documents responsive 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.

My decision is to provide full access to part 1 of the FOI request and refuse access to parts 2 and 3 of the FOI request on the basis that there are no documents in scope.

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; and
- the FOI Act, specifically sections 11 and 24A of the FOI Act; and the Australian Information Commissioner's FOI Guidelines issued under s 93A of the FOI Act (FOI Guidelines).

Reasons for my decision

Requests may be refused if documents cannot be found, do not exist or have not been received

Section 24A(1) of the FOI Act sets out the following:

(1) 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.

Searches were conducted by ASIC's Commission Counsel team for documents in response to your request. The searches involved using manual and keyword searches across the relevant case management systems such as SharePoint and Outlook for documents between ASIC and "relevant Minister (incl their office)." No documents falling within the terms of parts 2 and 3 of your request were identified.

My decision is to therefore refuse your request for access to parts 2 and 3 of your FOI request under section 24A of the FOI Act on the basis that ASIC has taken all reasonable steps to find documents within the scope of your request and I am satisfied that they cannot be found or do not exist.

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	Page(s)	Decision on access	Relevant section(s)
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