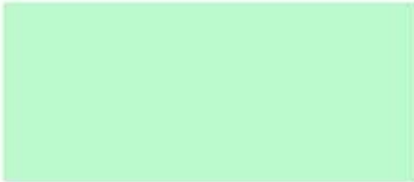


Your ref: Treasury VOFF #447

22 December 2016

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DX 423 Melbourne

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Dear Mr Telford

**Request pursuant to the Freedom of Information Act 1982 for access to documents
Transfer of request from the Treasury**

I refer to your request for access to documents under the Freedom of Information (FOI) Act 1982 dated 27 November 2016 addressed to the Commonwealth Treasury (**the Treasury**).

Under section 16(1) of the FOI Act, an agency is able to transfer a request made to it under the FOI Act if the requested document is not in its possession but in the possession of another agency or if the subject matter of the request is more closely connected with the functions of another agency.

The Treasury has transferred your request to ASIC under section 16(1) of the FOI Act because the subject matter of your request is more closely connected with the functions of ASIC.

As the Treasury received your request on 27 November 2016, ASIC has treated your request as though ASIC received it on the same day as the Treasury.

Your request states:

Appendix 4 is ASIC's review of its interactions with the Astarra Strategic Fund and Trio Capital Limited and its associated entities. The 'Appendix 4' is mentioned in ASIC's submission (page 11 dated September 2011) to the PJC Inquiry into the collapse of Trio Capital Limited. Victims of Financial Fraud (VOFF) have attempted to gain access to Appendix 4 through Freedom of Information requests but were blocked by s46 of the FOI Act (s46 enclosed). Legislation prevents ASIC from releasing Appendix 4. Therefore the Victims of Financial Fraud (VOFF Inc) seek from Treasury this information under the Freedom of Information Act 1982 (FOI Act):

Please provide VOFF with the Appendix 4 document.

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

Decision

I advise that I have decided not to release the document sought in your request on the grounds that the document is exempt from release under section 46 of the FOI Act for the following reason

Section 46 FOI Act

Section 46 of the FOI Act provides:

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) *be in contempt of court;*
- (b) *be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or*
- (c) *infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.*

Appendix 4 of ASIC's submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) Inquiry was provided on a confidential basis. Public disclosure of this document would infringe the privileges of the Parliament of the Commonwealth. Accordingly, I find that the document is exempt from release under section 46(c) of the FOI Act.

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".

I have considered whether, pursuant to section 22 of the FOI Act, access should be granted to part of the aforementioned exempt document. For the reasons above, explaining the basis of the exemption applied in respect to the document, I find that the document is an "exempt

documents" as defined by the FOI Act. I further find that it would not be possible to make a copy of the document with such deletions that the document would not be exempt.

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 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 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 enquiries@oaic.gov.au or by telephone on 1300 363 992
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 described above.

Yours faithfully



Mirijana Soldatic

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