

## **ACCESS TO INFORMATION POLICY**

### **1. INTRODUCTION**

The Agulhas Management Company is incorporated to carry on business in the South African financial industry.

Agulhas is a private body<sup>1</sup> in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA). This policy documents the categories of records held by Agulhas and the procedures that need to be followed to request access to such records<sup>2</sup>.

### **2. PURPOSE**

PAIA applies to a record<sup>2</sup> of information in the possession or under Agulhas's control irrespective of whether it was created by Agulhas or not and regardless of when the record came into existence. The objectives of PAIA are to give effect to the constitutional right of access to information, namely:

- information held by Agulhas that is required for the exercise or protection of any rights and to give effect to that right subject to the justifiable limitations, including but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance.
- to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables any person to obtain access to Agulhas's records as swiftly, inexpensively and effortlessly as reasonably possible.

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<sup>1</sup> PAIA: Sec 1 defines a "private body" as any former or existing juristic person.

<sup>2</sup> PAIA: Sec 1 defines a "record" to be, of or in relation to a Agulhas, any record of information, regardless of the form or medium, in the possession or under the control of that Agulhas irrespective of whether it was created by Agulhas body or not.

### 3. THE SECTION 10 GUIDE ON HOW TO USE PAIA

The South African Human Rights Commission (SAHRC) has compiled and published a useful guide in terms of section 10 of PAIA, containing valuable information for the purposes of exercising any right in terms of PAIA. The guide is made available in all official languages on the website of the SAHRC at the following URL:

<https://www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf>

The contact details of the SAHRC are as follows:

Postal Address: : Private Bag 2700, Houghton, 2041

Telephone Number : 011 877 3600

Fax Number : 011 403 0625

Website : [www.sahrc.org.za](http://www.sahrc.org.za)

### 4. INFORMATION OFFICER PARTICULARS

Information Officer	Graeme Jonker
Street Address	146 Main Road, Walmer, Port Elizabeth, 6001
Postal Address	146 Main Road, Walmer, Port Elizabeth, 6001
Telephone	041 581 1525
Email	<a href="mailto:graeme@Agulhas.co.za">graeme@Agulhas.co.za</a>
Website	<a href="http://www.Agulhas.co.za">www.Agulhas.co.za</a>

### 5. RECORDS

Information / Documents available on Agulhas's website need not be requested in terms of PAIA. Any other information / documents must be made in the manner prescribed in this policy document.

#### 5.1 Records in terms of legislation

Agulhas is subject to all the laws of the Republic of South Africa. Agulhas holds the following information, documents or records in terms of various legislation, namely:

Basic Conditions of Employment Act, 75 of 1997

Collective Investment Schemes Control Act 45 of 2002

Companies Act, 71 of 2008

Compensation for Occupational Injuries and Health Diseases Act, 130 of 1993

Copyright Act, 98 of 1978

Employment Equity Act, 55 of 1998

Employment Equity Act, 55 of 1998  
Financial Advisory and Intermediary Services Act, 37 of 2002  
Financial Intelligence Centre Act, 38 of 2001  
Income Tax Act, 95 of 1967  
Labour Relations Act, 66 of 1995  
Occupational Health & Safety Act, 85 of 1993  
Skills Development Act, 9 of 1999  
Unemployment Insurance Act, 63 of 2001  
Value Added Tax Act, 89 of 1991

The list is not exhaustive.

## 5.2 Categories of records

### 5.2.1 Company records

- Company registration documents
- Minutes of Board meetings
- Minutes of Audit & Risk Committee meetings
- Resolutions
- Records pertaining to the appointment of directors, auditors, company secretary and other officers (where applicable)
- Share register and other statutory registers
- Statutory reports

### 5.2.2 Operation records

- Policies required in terms of applicable statute
- Services level agreements
- Internal policies and procedures
- Technologies and data systems, including software and licenses
- Professional indemnity
- Compliance reports
- Databases
- Funds and related records
- Internal correspondence

### 5.2.3 Financial records

- Annual Financial Statements for each entity as well as every fund
- Audit reports and other accounting records

- Income tax returns
- Bank statements and related records
- Register of assets
- Invoices and payments in respect thereof
- Donations made

#### 5.2.4 Income tax and other regulatory-related records

- PAYE records
- Documents issued to employees for income tax purposes
- Record of payments to SARS on behalf of employees
- Record of VAT payments and claims
- Annual levies and other fees paid to the FSCA

#### 5.2.5 Personnel and labour law related records

- Employment contracts and personnel records
- Other personnel-related contractual and quasi-legal records
- Records provided by a third party relating to personnel
- Recruitment and selection policies, procedures and reports
- Disciplinary actions and proceedings
- Salary records
- Leave records
- Remuneration records and policies
- COIDA levies and claims
- Skills and Development levies and rebates
- Skills and Development reports and plans
- Minutes of Employment Equity Committee meetings
- Employment Equity Plan
- Employment Equity reports
- Training records

## 6. **MAKING A REQUEST TO ACCESS ANY RECORDS HELD BY AGULHAS**

### 6.1 Form

A requestor must complete the prescribed Form C set out in Annexure A and submit it to the Information Officer of Agulhas at [graeme@Agulhas.co.za](mailto:graeme@Agulhas.co.za) / [kelly@Agulhas.co.za](mailto:kelly@Agulhas.co.za).

The requestor must specify in relation to which entity the request for access to records is applicable. The form must be completed in full. The requestor must provide sufficient details as to the type and extent of

information to which access is sought in order for the Information Officer to correctly identify the record required. The requestor must also state the format in which the record of information must be provided.

The requestor must identify the right he / she wants to exercise or that needs to be protected along with an explanation as to why the requested record is required.

If a request is made on behalf of another person, the requestor must submit proof of his / her authorization to do so.

If the request is granted then a further access fee must be paid for the search, reproduction, preparation and for any time that has exceeded the prescribed hour to search and prepare the record for disclosure.

## 6.2 Fees

A requestor that wants access to a record containing personal information relating to the requestor is not required to pay a request fee. Every other requestor must pay the required request fee from time to time.

If the preparation of the record requested requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted). A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.

Records may be withheld until the fees have been paid.

The fees can be downloaded from the following URL:

<https://www.sahrc.org.za/home/21/files/PAIA%20Notice%20on%20fees.pdf>

## 6.3 Decision on request and notice thereof

The Information Officer must consider the request within 30 days of having received the request. This period may be extended if necessary and in accordance with the prescripts for doing so. If the Information Officer fails to answer the request within 30 days, or the extension periods if applicable, the Information Officer will, for purposes of PAIA, be regarded as having refused the request.

Having considered the request, the Information Officer must take a decision and undertake the appropriate action in relation to that decision.

➤ If the request is denied:

- The requestor must be notified of the refusal of his / her request.

- Reasons for the refusal must be provided, including provisions of PAIA that are relied upon.
  - The requestor must be informed that he / she may lodge an application with a court against the refusal of the request.
  - If a deposit was paid, the Information Officer must repay the deposit amount to the requestor immediately following the notification that the requestor's request to information has been denied.
- If the request is granted:
- The requestor must be notified that his / her request has been granted.
  - The requestor must be informed of the form in which access to the record will be given.
  - The requestor must be provided with a break-down<sup>17</sup> of the access fee, or outstanding access fee if a deposit had been paid. The record may be withheld until the entire access fee has been paid.

## **7. GROUNDS ON ACCESS TO RECORDS MUST BE REFUSED**

Notwithstanding allowances on which Agulhas may grant a request for access to documents, which must be determined in accordance with the allowances set out in Chapter 4 of PAIA, Agulhas must refuse a request for access to a record if:

- The record unreasonably discloses personal information about a third party, including a deceased individual.
- The record contains commercial information of a third party which reveals:
  - trade secrets of that third party.
  - financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
  - information supplied in confidence by a third party, the disclosure of which could reasonably be expected:
    - (i) to put that third party at a disadvantage in contractual or other negotiations; or
    - (ii) to prejudice that third party in commercial competition.
- The record contains certain confidential information concerning a third party which Agulhas is mandated to protect in terms of an agreement between the parties.
- The safety of any individual or any property in relation to which the information sought pertains will be placed at risk if access is granted to the record.
- The record is privileged from production in legal proceedings.
- The record contains information in relation to Agulhas, or any one of the entities in the structure, which:

- reveals Agulhas’s trade secrets.
- reveals financial, commercial, scientific or technical information, other than trade secrets, of Agulhas, the disclosure of which would be likely to cause harm to the commercial or financial interests of Agulhas; or
- reveals information which, if disclosed:
  - (i) puts Agulhas at a disadvantage in contractual or other negotiations; or
  - (ii) prejudices Agulhas in commercial competition.
- The record reveals material information in relation research being carried out by or on behalf of a third party, or the record reveals material information in relation research being carried out by or on behalf of Agulhas.

## 8. AVAILABILITY OF THE PAIA POLICY

This manual is available for inspection at the offices of the company free of charge upon prior arrangement with the Information Officer. A copy is also made available on the website of the company.

VERSION	UPDATES
Version 1	Initial introduction

**ANNEXURE A: FORM C - REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

i.t.o Section 53(1) of the Promotion of Access to Information Act, 2 of 2000 [Regulation 10]

<b>A.</b>	<b>Particulars of Agulhas entity in relation to which request for access is made</b>	
1.	Information Officer:	
2.	Entity (Name and Registration No.):	
<b>B.</b>	<b>Particulars of person requesting access to the record</b>	
	<p>a) The particulars of the person who requests access to the record must be given below.</p> <p>b) The address and/or fax number in the Republic to which the information is to be sent must be given.</p> <p>c) Proof of the capacity in which the request is made, if applicable, must be attached.</p>	
1.	Name & Surname:	
2.	ID Number:	
3.	Postal Address:	
4.	Telephone Number:	
5.	Email Address:	
6.	Capacity of requestor	
<b>C.</b>	<b>Particulars of person on whose behalf request is made</b> (This section must be completed <b>ONLY</b> if a request for information is made on behalf of another person).	
1.	Name & Surname / Registered Name	
2.	ID No. / Reg No.	
<b>D.</b>	<b>Particulars of record to which access is sought</b>	
	<p>a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.</p> <p>b) If the provided space is inadequate, please continue on a separate folio and attach it to this form.</p> <p>c) c) The requester must sign all the additional folios.</p>	
1.	Description of record or relevant part thereof:	



2.	Reference number (if applicable):		
3.	Any further particulars of the record:		
<b>E.</b>	<b>Fees</b>		
	a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid. b) You will be notified of the amount required to be paid as the request fee. c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record. d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.		
1.	Reason for exemption from payment of fees:		
<b>F.</b>	<b>Form of access to record</b>		
	DISABILITY ACCOMODATION: If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.		
	GENERAL: Mark the appropriate box with an X. a) Compliance with your request in the specified form may depend on the form in which the record is available. b) Access in the form requested may be refused in certain circumstances. In such a case, you will be informed if access will be granted in another form. c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested.		
1.	<b>If the record is in written or printed form:</b>		
	Copy of record*	<input type="checkbox"/>	Inspection of record
2.	<b>If record consists of visual images</b> (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)		
	View images	<input type="checkbox"/>	Copy images*
		<input type="checkbox"/>	Transcription of images*
3.	<b>If record consists of recorded words or information which can be reproduced in sound:</b>		
	Listen to audio	<input type="checkbox"/>	Transcription of soundtrack (written / printed)*
4.	<b>If record is held on computer or in an electronic or machine-readable form:</b>		

	Printed copy of record*		Printed copy of information derived from record*		Copy of record in digital format*
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.				<b>YES</b>	<b>NO</b>
<b>G.</b>	<b>Particulars of right to be exercised or protected</b>				
	a) If the provided space is inadequate, please continue on a separate page and attach it to this form. b) The requester must sign all the additional pages.				
1.	Indicate which right is to be exercised or protected:				
2.	Explain why the record requested is required for the exercise or protection of the aforementioned right:				
<b>H.</b>	<b>Notice of decision regarding request for access</b>				
	a) You will be notified in writing whether your request has been approved/denied. b) If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.				
1.	How would you prefer to be informed of the decision regarding your request for access to the record?				

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Signature: \_\_\_\_\_

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE