

**U. S. Securities and Exchange Commission
Freedom of Information Act
Annual Report for Fiscal Year 2008
October 1, 2007 to September 30, 2008**

I. BASIC INFORMATION REGARDING REPORT

1. Questions concerning this report may be directed to:

Celia Winter
Freedom of Information/Privacy Act Officer
U. S. Securities and Exchange Commission (SEC)
100 F Street, NE
Washington, DC 20549-5100
2. This report is available on the SEC's Web site: <http://www.sec.gov/foia/arfoia08.pdf>
3. To obtain a paper copy of this report, send a letter to the FOIA/PA Officer at the address above or via e-mail to foiapa@sec.gov.

II. MAKING A FOIA REQUEST

A copy of our publication "How to make a FOIA Request" is available on the SEC web site:
<http://www.sec.gov/foia/howfo2.htm>

1. Address of office that receives FOIA requests:

The Commission's FOIA/Privacy Act Office is centralized. FOIA requests are considered received by the SEC only when they reach the Office of FOIA and Privacy Act Operations (see 17 CFR 200.80(d)(1) and (9)).

Written requests should be submitted to the FOIA/PA Officer at:

E-mail: foiapa@sec.gov
Fax: 202-772-9336 or 9337
Mail: Office of FOIA and Privacy Act Operations
Securities and Exchange Commission
U. S. 100 F Street, NE
Room 5100
Washington, DC 20549

2. Description of why some requests are not granted:
Many requests received by the SEC are for investigatory records, consumer complaints, and non-public correspondence. Some of these requests are denied because the records are related to on-going investigations (Exemption 7(A)), personal privacy (Exemptions 6 and 7(C)), and protected intra and inter-agency records (Exemption 5).

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-specific acronyms or terms used in this Report: None.
2. Definitions of terms used in this Report:
 - a. **Administrative Appeal** - a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
 - b. **Average Number** - the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
 - c. **Backlog** - the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
 - d. **Component** - for agencies that process requests on a decentralized basis, a "component" is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
 - e. **Consultation** - the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
 - f. **Exemption 3 Statute** - a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
 - g. **FOIA Request** - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)
 - h. **Full Grant** - an agency decision to disclose all records in full in response to a FOIA request.
 - i. **Full Denial** - an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
 - j. **Median Number** - the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
 - k. **Multi-Track Processing** - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

- i. **Expedited Processing** - an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** - a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** - a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. **Partial Grant/Partial Denial** - in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
 - m. **Pending Request or Pending Administrative Appeal** - a request or administrative appeal for which an agency has not taken final action in all respects.
 - n. **Perfected Request** - a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
 - o. **Processed Request or Processed Administrative Appeal** - a request or administrative appeal for which an agency has taken final action in all respects.
 - p. **Range in Number of Days** - the lowest and highest number of days to process requests or administrative appeals.
 - q. **Time Limits** - the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

Concise descriptions of the nine FOIA exemptions:

3.

- a. **Exemption 1:** classified national defense and foreign relations information
- b. **Exemption 2:** internal agency rules and practices
- c. **Exemption 3:** information that is prohibited from disclosure by another federal law
- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

IV. Exemption 3 Statutes

A. For Initial Requests

Statute	Type of Information Withheld	Case Citation	Total Number of Times Relied upon by Agency
15 U.S.C. § 80a-30(c)	Investment Company Examination	N	2
15 U.S.C. § 80b-10(b)	Investment Advisors examinations or investigations	N	2
15 U.S.C. § 78q(h)(5)	Associated persons of broker-dealers, government securities brokers or dealers, or municipal securities dealers.	N	2
41 U.S.C. §253b(m)	Contractor proposals	<i>Hornbostel v. US Dept of the Interior, 305 F. Supp. 2nd 21, 29-30 (D.D.C.2004)</i>	2

B. For Appeals

Statute	Type of Information Withheld	Case Citation	Total Number of Times Relied upon by Agency
15 U.S.C. § 80a-30(c)	Investment Company Examination	N	0
15 U.S.C. § 80b-10(b)	Investment Advisors examinations or investigations	N	3
15 U.S.C. § 78q(h)(5)	Associated persons of broker-dealers, government securities brokers or dealers, or municipal securities dealers.	N	0
41 U.S.C. §253b(m)	Contractor proposals	<i>Hornbostel v. US Dept of the Interior, 305 F. Supp. 2nd 21, 29-30 (D.D.C.2004)</i>	0

V. FOIA REQUESTS

A. Received, Processed and Pending FOIA Requests				
	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
HQ	6909	9586	15596	899

B. (1) Disposition of FOIA Requests – All Processed Requests					
	Number of Full Grants	Number of Partial Grants/ Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions	
				Other - *Explain in chart below	TOTAL
HQ	1635	453	612	12896	15596

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions”		TOTAL
HQ	<ul style="list-style-type: none"> Cancelled 170 Records are not reasonably described 19 Duplicate request 116 Fee-related issues 196 Not an agency record 15 No information found (appeal rights) 8764 Not a proper FOIA request for some other reason 7 Records lost or destroyed 87 Referred to public reference Referred to another agency 50 Referred to Court 6 Referred to another office 9 Referred to the web 313 Withdrawn 3134 	12896

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied														
	(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7) (A)	(b) (7) (B)	(b) (7) (C)	(b) (7) (D)	(b) (7) (E)	(b) (7) (F)	(b) (8)	(b) (9)
HQ	0	46	8	160	83	72	705	0	70	1	5	0	42	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals				
	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
HQ	36	196	187	45

B. Disposition of Administrative Appeals – All Processed Appeals					
	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other* Reasons	TOTAL
HQ	92	10	72	13	187

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied														
	(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7) (A)	(b) (7) (B)	(b) (7) (C)	(b) (7) (D)	(b) (7) (E)	(b) (7) (F)	(b) (8)	(b) (9)
HQ	0	1	1	2	4	1	81	0	2	0	1	0	0	0

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions	
	*Explain in chart below
HQ	13

C. (3) Reasons for Denial on Appeal – “Other” Reasons									
	Description of “Other” Reasons for Denials from Chart C (2) & Number of Times Those Reasons Were Relied upon								
HQ	<table border="0"> <tr> <td>Moot</td> <td>4</td> </tr> <tr> <td>No information found (appeal rights)</td> <td>4</td> </tr> <tr> <td>Withdrawn</td> <td>5</td> </tr> <tr> <td>TOTAL</td> <td>13</td> </tr> </table>	Moot	4	No information found (appeal rights)	4	Withdrawn	5	TOTAL	13
Moot	4								
No information found (appeal rights)	4								
Withdrawn	5								
TOTAL	13								

C. (4) Response Time for Administrative Appeals				
	Median	Average	Lowest	Highest
HQ	17	46	1	619

C. (5) Ten Oldest Pending Administrative Appeals										
	10th Oldest and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal and Number of Days Pending
HQ	04/21/2008 111	04/15/2008 117	03/26/2008 131	03/26/2008 131	03/24/2008 133	03/24/2008 133	11/21/2007 216	11/21/2007 216	11/08/2007 224	03/28/2005 883

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests – Response Time for All Processed Perfected Requests (By median, average, lowest and highest number of days)														
	SIMPLE				COMPLEX				EXPEDITED PROCESSING					
	Median	Average	Lowest	Highest	Median	Average	Lowest	Highest	Median	Average	Lowest	Highest		
HQ	66	158	1	870	570	575	8	820	2	3	1	6		
B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted (By median, average, lowest and highest number of days)														
	SIMPLE				COMPLEX				EXPEDITED PROCESSING					
	Median	Average	Lowest	Highest	Median	Average	Lowest	Highest	Median	Average	Lowest	Highest		
HQ	193	249	1	810	642	632	528	785	3	3	1	6		
C. Processed Requests – Response Time in Day Increments														
Simple Requests														
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
HQ	5880	1106	599	576	515	460	384	360	313	320	1227	1347	2376	15463
Complex Requests														
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
HQ	2	1	0	0	0	0	0	0	1	0	0	0	61	65
Requests Granted Expedited Processing														
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
HQ	2	0	0	0	0	0	0	0	0	0	0	0	0	2
D. Pending Requests – All Pending Perfected Requests														
	SIMPLE			COMPLEX			EXPEDITED PROCESSING							
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days					
HQ	860	87	108	15	162	254	0	0	0					

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
HQ	05/18/2007 344	05/10/2007 350	03/20/2007 387	03/15/2007 390	03/14/2007 391	01/11/2007 433	12/13/2006 452	12/28/2005 693	09/14/2005 764	08/01/2005 795

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
HQ	2	0	0	0	0

B. Requests for Fee Waiver¹

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
HQ	0	0	0	0

IX. FOIA PERSONNEL AND COSTS

PERSONNEL			COSTS		TOTAL COSTS
Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation Related Costs	
27	6.75	33.75	\$4,052,681	\$238,685	\$4,291,366

¹ No fee waiver requests were granted or denied in FY 08 for the following reasons: 1) there were no fees to assess; and/or 2) the fee waiver was implied due to the fee category of the requestor.

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
TOTALS	\$62,466	1.45%

XI. FOIA Regulations (Including Fee Schedule)

FOIA Regulations: 17 CFR 200.80 ; 17 CFR 200.83 ; Fee Regulation: 17 CFR 200.80(e)
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XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
HQ	899	45

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of <u>End</u> of the Fiscal Year
HQ	0	6	6	0

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
HQ	0	0	0	0	0	0	0	0	0	0

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged				
	NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS PROCESSED	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
HQ	9070	9586	12564	15596
	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report		Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report	
HQ	6909		899	

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged				
	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
HQ	143	196	207	187
	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report		Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report	
HQ	36		45	