

**Chief FOIA Officer Report**  
**Federal Deposit Insurance Corporation**  
**March 2011**

**I. Steps Taken to Apply the Presumption of Openness**

1. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

- a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

The FDIC continues to increase the vast amount of information posted on the Corporation's Webpages. FDIC personnel responsible for processing FOIA requests have been briefed on the Obama FOIA Memorandum and the FOIA Guidelines, and copies of both documents have been distributed along with a memorandum prepared by the FDIC's FOIA/Privacy Group ("FOIA Group") summarizing the requirements of the Obama FOIA Memorandum. The in-house memorandum is available on the FDIC's internal Legal Research Bank.

The FOIA Group has been actively engaged in publicizing and disseminating the policies contained in the Obama FOIA Memorandum and the FOIA Guidelines to other FDIC personnel through training sessions and our agency website.

- b. What training has been attended and/or conducted on the new FOIA Guidelines?

FOIA Group personnel have attended training on the FOIA provided by the Department of Justice in which the FOIA Guidelines were reviewed. Both the Obama FOIA Memorandum and the FOIA Guidelines have been emphasized to the FDIC's attorneys and paralegals at the Core Functions Seminars held throughout the past year.

Actions Planned include an in-house training session to be held for FOIA Group staff and Division Coordinators. New FOIA Specialists will be encouraged to attend FOIA training sponsored by DOJ and other vendors.

- c. How has your agency created or modified your internal guidance to reflect the presumption of openness?

No modifications were necessary since the filing of our last annual report.

Actions Planned include addressing the presumption of openness at staff meetings of the FOIA Group staff and with FOIA Division and Office Coordinators.

d. To what extent has your agency made discretionary releases of otherwise exempt information?

The FDIC makes discretionary disclosures of exempt records pursuant to regulation 12 C.F.R. §309.6 (“Part 309”), which provides that under appropriate circumstances, discretionary disclosures may be authorized by the Director of the FDIC division having primary authority over the exempt records or by the General Counsel, or their designees. The Chairman of the FDIC may also authorize such disclosure. In accordance with Part 309, both FDIC headquarters and Regional Offices continuously make discretionary disclosures on a case-by-case basis in response to numerous written requests received for exempt information. There is no formal report which tracks the number of requests received and granted.

e. What exemptions would have covered the information that was released as a matter of discretion?

Primarily Exemption 8 (information contained in or related to financial institution examination, operating, or condition reports) since most of the requests received seek non-public, confidential information involving open banks that are supervised or regulated by the FDIC.

f. How does your agency review records to determine whether discretionary releases are possible?

Requests for exempt records are reviewed, and determinations to release are made, on a case-by-case basis in accordance with the requirements specified in Part 309.

g. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Data and information are continuously posted on the FDIC’s public website. The attached index shows the types of items currently posted on the FDIC’s public website and provides a sense of the volume of information that is available.

h. Additional actions:

The FDIC proactively disclosed the Chairman’s calendar and correspondence from members of Congress on its public website. The FDIC also created and

maintained the FDIC Open Government webpages to facilitate transparency, participation, and collaboration in FDIC operations in accordance with OMB's Open Government Directive.

Actions Planned include continuing to respond to requests under the FOIA in a manner that is consistent with the policies established in the President's FOIA Memorandum and the Attorney General's FOIA Guidelines; and to identify and post records of public interest online.

2. Report the extent to which the numbers of requests where records have been released in full and the numbers of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.

Processed Requests - Full Grant – Fiscal Year 2009: 1507

Processed Requests - Full Grant – Fiscal Year 2010: 915

Processed Requests - Partial Grant – Fiscal Year 2009: 153

Processed Requests - Partial Grant – Fiscal Year 2010: 175

In November 2009, the FDIC began posting summaries of the bids it received on failed financial institutions on its website. This practice significantly reduced the number of FOIA requests received for such information and is a factor in the reduction in the total number of requests where records were released in Fiscal Year 2010.

Although the total number of requests where records were released by the FDIC, in full or in part, was lower in Fiscal Year 2010 than in Fiscal Year 2009, that total --1090 -- still represents the second-highest number of records releases in the past decade.

Instances where records were released in full decreased by 39.3% from Fiscal Year 2009 to Fiscal Year 2010. Instances where records were released in part increased by 14.4% from Fiscal Year 2009 to Fiscal Year 2010.

## **II. Steps Taken to Ensure that Your Agency Has an Effective System for Responding to Requests**

Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support. To do so, answer the questions

below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

- a. Do FOIA professionals within your agency have sufficient IT support?

Yes. Personnel from the FDIC's Division of Information Technology (DIT), the Legal Information Technology Unit (LITU), and the contractor that provides technical support for the commercial FOIA processing software used by the FDIC are available on an as-needed basis. Also see below concerning the introduction of new FOIA processing software during 2010.

- b. Describe how your agency's FOIA professionals interact with your Open Government Team.

One of the attorneys in the FOIA Group is a member of the FDIC's Open Government Team and contributed to the development of the FDIC's Open Government Plan.

- c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

Management reviewed and studied the FOIA Group's work load and staffing needs, culminating in the creation and posting of three additional FOIA Specialist positions. Two of those positions have already been filled, while the third is expected to be filled shortly.

- d. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

In September 2010, the FDIC implemented a state-of-the-art web-based commercial computer application to process FOIA requests in a more efficient and effective manner. Extensive training was provided to personnel involved in the FDIC's FOIA program. Deskside coaching is also readily available to troubleshoot problems and to ensure that FOIA Group staff and all Division FOIA coordinators receive optimal training in an individualized, personal learning environment.

In conjunction with the implementation of the new software, the FDIC also purchased a separate component which will allow FOIA requesters to directly input their information into the system and will substantially decrease the initial processing times for all requests received. The FDIC is also completing the migration of data from the previous database system into the new system, which will place all FOIA historical requester and processing information into one unified system and thereby eliminate the need to navigate between two separate systems in order to find historical data.

The FOIA Group and the Corporate Litigation Unit (CLU), the office in the Legal Division responsible for handling FOIA administrative appeals for the FDIC, worked together to streamline the processing of appeals. The implementation of new commercial FOIA processing software has also increased efficiency in the appellate process since the processing records for every denial are now readily accessible online by the CLU.

e. Additional information

FOIA Group personnel work closely with Division and Office FOIA Coordinators to insure that the FOIA program works as effectively as possible. The online FOIA request submission form, which allows requesters to directly input their requests on the FDIC's website, was revised to enhance user-friendliness and efficiency.

### **III. Steps Taken To Increase Proactive Disclosures**

1. Describe here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines. In doing so, answer the questions listed below and describe any additional steps taken by your agency to make proactive disclosures of information.

- a. Has your agency added new material to your agency website since last year?

Yes. There has been a substantial increase in the amount of new material added to FDIC's website during the last year. The FDIC regularly updates and adds new information to the website. Many of the latest updates and additions to the website are catalogued at: <http://www.fdic.gov/whatsnew/>.

- b. What types of records have been posted?

There are many types and categories of records that have been posted, such as: the Chairman's schedule; frequently requested correspondence between the FDIC and members of Congress; FDIC Open Government Plan; summaries of the bids received by the FDIC for failed financial institutions and structured sale transactions; transactional documents for structured sale transactions; and FDIC Initiatives under the Dodd-Frank Wall Street Reform and Consumer Protection Act. A printout of the index of the records posted on the FDIC website is attached as "Appendix A."

- c. Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.

The Chairman's schedule, correspondence between the FDIC and members of Congress, summaries of the bids received by the FDIC for failed financial institutions and structured sale transactions, and transactional documents for structured sale transactions.

- d. What system do you have in place to routinely identify records that are appropriate for posting?

We continuously assess the nature of the FOIA requests received in order to identify the types of information that are currently in demand and that could be posted on our website to most effectively serve the public interest, and we regularly confer with management concerning the appropriateness of such posting.

- e. How do you utilize social media in disseminating information?

The FDIC maintains pages on Facebook, Twitter, and YouTube to provide the public with access to information about the FDIC and its activities, including many different alerts, such as news releases, Financial Institution Letters, consumer updates, statistical publications and others. The FDIC also provides RSS feed covering various topics.

- f. Describe any other steps taken to increase proactive disclosures at your agency.

None are presently needed.

- g. Additional information.

Not applicable.

#### **IV. Steps Taken To Greater Utilize Technology**

For this section of your Chief FOIA Officer Report for 2011, please answer the following questions:

- 1. Electronic receipt of FOIA requests:
  - a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?

The FDIC has a centralized system for responding to FOIA requests. Under the FDIC's FOIA regulations, FOIA requests must be submitted to the FOIA Group,

which has the capability to receive requests electronically. About 95% of FOIA requests made to the FDIC during 2010 were received through this electronic system.

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

There was no increase in the number of components at the FDIC receiving FOIA requests electronically since the filing of our last Chief FOIA Officer Report. Since our system for receiving FOIA requests is centralized in one organizational component (the FOIA Group), there is no need for an increase in such components.

- c. What methods does your agency use to receive requests electronically?

FOIA requests may be submitted to the FDIC electronically by completing the online request form located on the FDIC's website at: <http://www2.fdic.gov/efoiarequest/index.asp> or by e-mail, [EFOIA@FDIC.gov](mailto:EFOIA@FDIC.gov).

## 2 Electronic tracking of FOIA requests:

- a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?

The FOIA Group has the capability to electronically track FOIA requests submitted to the FDIC, and is the only component that needs such capability.

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

There was no increase in the number of components at the FDIC tracking FOIA requests electronically since the filing of our last Chief FOIA Officer Report. As noted above, however, such electronic tracking has been improved during 2010 by the introduction of new commercial FOIA processing software.

- c. What methods does your agency use to track requests electronically?

Since September 2010, the FOIA Group tracks requests electronically on commercial FOIA processing software. Requests received prior to the implementation of this software are tracked electronically on the FDIC's previous database.

3. Electronic processing of FOIA requests:

- a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?

The FOIA Group has the capability to process all FOIA requests electronically.

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

There was no increase in the number of components at the FDIC processing FOIA requests electronically since the filing of our last Chief FOIA Officer Report.

- c. What methods does your agency use to process requests electronically?

FOIA requests are processed electronically using commercial FOIA processing software. Other computer programs are utilized to search for electronic records, such as e-mail.

4. Electronic preparation of your Annual FOIA Report:

- a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system?

The annual FOIA report for 2010 and prior years was prepared manually using information taken from the FDIC's previous database.

- b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.

Beginning with the report for Fiscal Year 2011, the annual FOIA report will be prepared using the commercial FOIA processing software acquired by the FDIC, and we anticipate that this will result in considerable improvement over prior years' preparations.



## V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year. Second, report whether your agency closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them your agency did close.

The number of backlogged requests that remained pending at the end Fiscal Year 2010 was significantly reduced – by 36 percent – compared to Fiscal Year 2009. The backlog of appeals was completely eliminated. Considering the high volume of FOIA requests processed during Fiscal Year 2010 (2004 requests) – the second-highest number of initial requests processed by the FDIC in the past decade – the overall reduction in backlog is a noteworthy accomplishment.

Backlogged Requests – Decreased by 61 (36%)

Number of Requests Backlogged Fiscal Year 2009: 170

Number of Requests Backlogged Fiscal Year 2010: 109

Backlogged Appeals – Eliminated

Number of Appeals Backlogged Fiscal Year 2009: 2

Number of Appeals Backlogged Fiscal Year 2010: 0

Nine of the ten oldest pending requests were closed in Fiscal Year 2010 (and the tenth pending request from Fiscal Year 2009 was closed in October 2010, just after the close of Fiscal Year 2010). All four of the oldest pending appeals from Fiscal Year 2009 – including the 2 backlogged appeals - were closed in Fiscal Year 2010.

2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred. In doing so, answer the following and then include any other additional explanation:
  - a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?  
  
Not applicable.
  - b. Is the backlog increase caused by a loss of staff?

Not applicable.

- c. Is the backlog increase caused by an increase in the complexity of the requests received?

Not applicable.

- d. What other causes, if any, contributed to the increase in backlog?

Not applicable.

- 3. Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so answer the following questions and then also include any other steps being taken to improve timeliness.

- a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

We continuously monitor backlogs, workload, and timeliness of responses through various reporting mechanisms, including the use of management reporting capabilities of the commercial FOIA processing software to monitor and track the progress of all FOIA matters. The progress and status of all high-profile FOIA matters are further monitored in a weekly report that is submitted to the FDIC Chairman and other senior FDIC managers. We will continue to set annual goals to reduce backlogs by at least 10 percent over the previous year.

- b. Has your agency increased its FOIA staffing?

The Supervisory Counsel position in the FOIA Group was filled in late summer 2010 and three FOIA Specialists have recently been added to the Group.

- c. Has your agency made IT improvements to increase timeliness?

As noted above, the FDIC now utilizes commercial FOIA processing software to process all FOIA requests.

- d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

The FDIC's General Counsel serves as Chief FOIA Officer for the Corporation. The Chief FOIA Officer has taken an active role in monitoring the productivity and timeliness of the FOIA Group in handling FOIA requests, giving direction on various legal/policy issues and approving the addition of additional FOIA Specialist positions as needed to improve the Corporations' capacity to process requests.

### **Spotlight on Success**

Due to the increase in the number of FOIA requests for the FDIC Chairman's public schedule, the FDIC has posted it in the FDIC's electronic Reading Room at: <http://www.fdic.gov/about/freedom/chairmanschedule.html>. Updates to the published calendar occur on a quarterly basis. This has improved the FDIC's transparency and administrative efficiency.

In response to numerous requests for information about the bids received by the FDIC on failed financial institutions, the FDIC now posts bid summaries for whole-bank transactions on its Failed Bank Information webpages. Following a policy adopted by the FDIC Board of Directors, the names of winning and losing bidders as well and bid amounts are disclosed in these summaries, except that the name of the cover (second-best) bidder and the amount of the cover bid are withheld for one year after a transaction has closed. This has improved transparency about the bidding process.

## CHIEF FOIA OFFICER ANNUAL REPORT

### APPENDIX A

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Deposit Insurance Assessments  
Deposit Insurance Coverage Frequently Asked Questions  
Deposit Insurance for Accounts Held by Government Depositors  
Deposit Insurance Summary  
Deposit Insurance: An Annotated Bibliography  
EDIE, the Electronic Deposit Insurance Estimator  
Electronic Deposit Insurance Estimator -- Downloadable Version  
Facts About Bank Investments  
FDIC Guide to Calculating Deposit Insurance Coverage for Revocable and Irrevocable Trusts  
Guidance for Developing Effective Deposit Insurance Systems  
Insured or Not Insured  
International Directory of Deposit Insurers  
Never Lose a Penny  
One-time Assessment Credit Report  
Reform of Deposit Insurance  
Risk-Based Assessment System  
Strengthening Financial Risk Management at the FDIC  
Uninsured Investment Products: A Pocket Guide for Financial Institutions  
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Your Investments: Consumer Facts

##### **Consumer Protection:**

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Beware of Foreclosure Rescue and Loan Modification Scams  
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Community Affairs Program  
Community Affairs Program - Regional and Area Offices  
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Credit Reports and Scores  
Customer Assistance Online Form  
Don't Be an On-line Victim: How to Guard Against Internet Thieves and Electronic Scams  
FDIC Consumer News  
FDIC Loss Sharing Proposal to Promote Affordable Loan Modifications  
FDIC Model Safe Accounts Pilot  
FDIC's Depositor Bill of Rights  
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## **Industry Analysis:**

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FDIC Outlook  
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FDIC Study of Bank Overdraft Programs  
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FYI: An Update on Emerging Issues in Banking  
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Mailing Addresses and FAX (facsimile) Numbers for Failed Banks  
Managing the Crisis: The FDIC and RTC Experience  
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Reports of Changes to FDIC Financial Institution & Office Structure  
Resolutions Handbook  
S&L Crisis: A Chrono-Bibliography  
Statistics at a Glance  
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Summary of Deposits  
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FDIC - DOJ Memorandum of Understanding - Memorandum of Understanding Regarding  
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FDIC - DOJ Memorandum of Understanding - Senior Interagency Group Policy Statement  
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Financial Institution Regulatory Agencies  
FDIC and Financial Regulatory Reform  
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FDIC Enforcement Decisions & Orders  
FDIC Federal Register Citations  
FDIC Law, Regulations & Related Acts  
FFIEC Information Technology Examination Handbook  
Financial Institution Letters (FILs) Addressing Information Technology Issues  
Financial Privacy  
Foreign Banking: Part 347  
Guide to the Interagency Country Exposure Review Committee Process  
Guidelines for Payday Lending  
Implementation of the New Basel Capital Accord in the U.S.  
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**Asset Sales:**

Affordable Housing Program  
Bargain Properties  
Closed Loan Sales  
Closed Real Estate Sales  
Confidentiality Agreement (31kb PDF file)  
FDIC Excess Office Equipment  
FDIC Power of Attorney  
FDIC Real Estate for Sale  
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