



U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

FREEDOM OF INFORMATION ACT (FOIA)
Annual Report for Fiscal Year 2012
(October 1, 2011 through September 30, 2012)

FOIA ANNUAL REPORT

FOR
10/01/2011
THROUGH
09/30/2012

Monday, November 26, 2012

The following **Annual Freedom of Information Act** report covers the Period 10/01/2011, through 09/30/2012, as required by 5 U.S.C. 552.

I. BASIC INFORMATION REGARDING REPORT

1. Questions concerning this report may be directed to:

John Livornese
Freedom of Information Act Officer
U.S. Securities and Exchange Commission (SEC)
100 F Street, NE
Washington, DC 20549

2. This report is available on the SEC's Web site : <http://www.sec.gov/foia/arfoia12.pdf>
3. To obtain a paper copy of this report, send a letter to the FOIA Officer at the address above or via email 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 Office is centralized. FOIA requests are considered received by the SEC only when they reach the Office of FOIA Services (see 17 CFR 200.80(d)(1) and (9)). Written requests should be submitted to the FOIA Officer at:

E-mail: foiapa@sec.gov

Fax: 202-772-9336 or 9337

Mail: Office of FOIA Services, U.S. Securities and Exchange Commission
100 F Street, NE, Suite 2736 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). The majority of FOIA requests to the Commission are from entities providing investor-related services such as due diligence and background checks on companies, investment advisors and broker-dealers or providing services that offer registration-related filings, or evidence of investigative proceedings. These requests often result in a finding of no records or "no information found" which is the most common disposition for requests to the Commission.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Provide any agency-specific acronyms or terms used in this Report.
2. Include the following 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 entireties 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).
3. Include the following concise descriptions of the nine FOIA exemptions:
- 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. § 78x(d)	(Foreign Securities Authorities)	N	1
15 U.S.C. § 80b-10(b)	Investment Advisors examinations or investigations	N	3
15 U.S.C. § 78u-6	Whistleblower	N	4

B. For Appeals			
Statute	Type of Information Withheld	Case Citation	Total Number of Times Relied upon by Agency
15 U.S.C. § 78q(h)(5)	Associated persons of broker-dealers, government securities brokers or dealers, or municipal securities dealers.	N	1

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
AGENCY	392	11292	11302	382

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									
				No Records	All Records Referred to Another Component Or Agency	Request Withdrawn	Fee Related Reason	Records Not Reasonably Described	Improper FOIA Request For Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	TOTAL
AGENCY	2391	332	479	7176	49	75	53	16	149	116	150	316	11302

B.(2) Disposition of FOIA Requests Other Reasons for Full Denials Based on Reasons Other than Exemptions		
Component	Description of Other Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
AGENCY	Referred to the web 118 Records lost or destroyed 165 Cancelled 33	316

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)
AGENCY	0	0	8	144	120	196	405	0	135	4	27	1	48	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
AGENCY	22	115	121	16

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
AGENCY	69	6	28	18	121

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)
AGENCY	0	1	1	6	10	8	44	0	8	0	3	0	3	0

C.(2) Reasons for Denial on Appeal – Reasons Other than Exemptions

	No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee Related Reason	Records not Reasonably Described	Improper Request For Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
AGENCY	2	0	0	0	0	1	0	2	0	0	13

C.(3) Reasons for Denial on Appeal Other Reasons

Component	Description of Other Reasons for Denials from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
AGENCY	Referred to Court 1 Moot 12	13

C.(4) Response Time for Administrative Appeals

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY	13	49	<1	441	0	0	0	0	0	0	0	0

C.(5) Ten Oldest Pending Administrative Appeals

	10th Oldest Appeal and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal and Number of Days Pending
AGENCY	2012-08-09 35	2012-06-20 72	2012-05-17 93	2012-05-17 93	2012-04-04 124	2012-03-20 135	2012-02-09 162	2011-12-02 208	2011-10-20 237	2010-10-08 495

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

A. Processed Requests Response Time for All Processed Perfected Requests												
	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY	6	14	<1	399	147	325	1	776	6	13	1	81

B. Processed Requests Response Time for Perfected Requests in Which Information Was Granted												
	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY	20	27	<1	399	147	325	21	776	16	16	10	22

C. Processed Requests Response Time in Day Increments															
Simple Requests															
	< 1 Day	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
AGENCY	147	8899	1,347	549	166	71	35	22	12	9	7	6	4	0	11274
Complex Requests															
	< 1 Day	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
AGENCY	0	3	0	0	0	0	0	0	2	0	0	0	0	4	9
Requests Granted Expedited Processing															
	< 1 Day	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
AGENCY	0	16	2	0	0	1	0	0	0	0	0	0	0	0	19

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
AGENCY	348	19	51	8	567	591	9	24	63

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
AGENCY	2010-07-29 545	2010-07-29 545	2010-06-23 570	2010-06-02 585	2010-05-27 588	2010-03-26 632	2010-03-24 634	2009-09-25 755	2009-09-18 760	2009-08-18 782

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
AGENCY	21	171	3	4	185

B. Requests for Fee Waiver				
	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY	12	20	1	4

IX. FOIA PERSONNEL AND COSTS

	PERSONNEL			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	Total Costs
AGENCY	27.42	9.4	36.82	\$5,129,895	\$132,600	\$5,262,495

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY	\$27,577	.54%

XI. FOIA Regulations (Including Fee Schedule)

17 CFR 200.80; 17 CFR 200.83; Fee Regulation: 17 CFR 200.80(e) and Schedule: [SEC FOIA Regulations; www.sec.gov/foia/feesche.htm](http://www.sec.gov/foia/feesche.htm)

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
AGENCY	172	11

Discuss/Explain the backlog here(Optional)

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

	Number of Consultations Received from Other Agencies that Were <u>Pending</u> 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 <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year
AGENCY	1	4	5	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
AGENCY	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 Years Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Years Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY	11555	11292	11562	11302

	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
AGENCY	81	172

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 Years Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Years Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY	169	115	162	121

	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
AGENCY	19	11

F. Discussion of Other FOIA Activities (Optional)
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