

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

**Chief FOIA Officer Report**



**Office of Support Operations**

**February 29, 2016**

**Content of 2016 Chief FOIA Officer Reports**

**Chief FOIA Officer: Barry Walters, Director, Office of Support Operations**

**Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

***FOIA Training:***

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?

- Training can include holding an agency-wide FOIA conference, holding a seminar on a particular FOIA topic, or providing training to FOIA or agency staff during a staff meeting, among other types of training.
- The training provided here should be substantive and should cover the application of the law and policy. Conversely, your agency's efforts to provide training on the use of technology or IT tools (such as case management systems) that assist in the processing of requests should be addressed below in response to Question 4 of Section IV of your Chief FOIA Officer Report.

Yes.

2. If yes, please provide a brief description of the type of training conducted and the topics covered.

Within the reporting period, FOIA attorneys within the SEC's Office of the General Counsel conducted training that focused on the application of FOIA exemptions, adequacy of search, responsiveness of records and fee related issues.

The Office of FOIA Services provided in-house training to all SEC FOIA professionals on the application of FOIA exemptions, drafting clear and concise correspondence and communicating with requesters.

3. If no, please explain why your agency did not hold training during the reporting period, such as if training offered by other agencies was sufficient for your agency's training needs.

N/A

4. Did your FOIA professionals attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

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- Such training or events can include offerings from OIP, your own agency or another agency or organization.

SEC FOIA professionals attended the American Society of Access Professionals (ASAP) 8th National Training Conference. FOIA staff also attended the following courses offered by DOJ, Office of Information Policy: The FOIA for Attorneys and Access Professionals, DOJ Advanced FOIA Seminar, and the FOIA Processing Workshop. Further, FOIA staff attended IAPP Certification Foundation and Certified Information Privacy Professional/G Training.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100% of the SEC's full-time FOIA staff attended substantive FOIA training.

6. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

### ***Outreach:***

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

- This question addresses outreach that is conducted outside of the individual request or appeal process. Outreach activities can include engaging with frequent requesters by holding meetings or events which include them, conducting surveys or otherwise soliciting requester feedback, or participating in any other requester initiative coordinated by your agency or by others, such as OIP.
- Example: An agency receives numerous requests from one organization seeking similar types of records. The organization does not know how the agency organizes its records or how its FOIA professionals must conduct searches. When submitting FOIA requests, the organization often submits broad requests that take a long time to process and that result in the review of a lot of records that are ultimately of no interest to the requester. The agency holds a meeting with the organization to discuss its record keeping system, search capabilities, and overall FOIA process to assist the organization in the formulation of future FOIA requests. Because of the meeting, the organization now submits more targeted requests that result in the agency being able to provide the requester the records it is interested in more quickly.

Yes. In April 2015, the Chief FOIA Officer, the FOIA Officer and FOIA counsel met with "good government" groups, the National Security Archive, the Center for Effective Government and the Sunlight Foundation, to solicit from them what could be done to improve transparency and FOIA processing at the SEC. Throughout the remainder of the reporting period, the SEC

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reached out to these groups to determine if there was anything further that might be done to assist them. Senior FOIA professionals also met with a requester who was responsible for filing approximately 2,550 requests during FY2015 in order to better understand his needs and to provide more meaningful responses.

8. If you did not conduct any outreach during the reporting period, please explain why.

N/A

### ***Discretionary Releases:***

9. Does your agency have a distinct process or system in place to review records for discretionary release?

- If so, please briefly describe this process.
- If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?

SEC FOIA staff members are instructed to conduct a foreseeable harm analysis where FOIA exemptions are applicable. This is done in keeping with the guidance provided by the Office of Information Policy and the memoranda issued by the President and the Attorney General.

Each FOIA request is unique, and decisions to release or withhold records or portions thereof are made on a case-by-case basis after reviewing the records. As part of the processing of each FOIA request, SEC FOIA professionals have been directed to review responsive records for information that may be subject to discretionary release. This information is then further analyzed so that a release determination can be made.

10. During the reporting period, did your agency make any discretionary releases of information?

Yes.

11. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's 2009 FOIA Memoranda.

For all of the SEC's discretionary releases, the information released as a matter of discretion could have been withheld pursuant to FOIA Exemption 5.

12. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Discretionary releases occurred primarily where the SEC could have relied upon the deliberative process privilege to withhold the information. The information subject to discretionary release was generally within emails and other correspondence reflecting communications between SEC

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staff. Although this information is protected under Exemption 5, after determining that no harm would result, the SEC elected to release the information in an effort to increase transparency.

Specific examples of records released discretionarily include portions of internal emails pertaining to the FOIA Improvement Act (S.2520), Division of Enforcement investigations into exchange-traded funds (ETFs), and the Office of FOIA Services' use of Glomar responses. Further examples include portions of memoranda from the SEC's Office of Inspector General, and from the Office of the Chief Accountant to the Office of Public Affairs.

13. If your agency was not able to make any discretionary releases of information, please explain why. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

N/A

### ***Other Initiatives:***

14. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA?

- Efforts can include training for non-FOIA professionals, distributing memoranda on the FOIA, announcements on FOIA matters, making available OIP's FOIA for Senior Executive's briefing video, distributing the FOIA infographic developed by OIP, having your agency staff take OIP's FOIA for all Federal Employees eLearning module, etc.

The FOIA Officer and the FOIA Branch Chiefs conducted training for SEC non-FOIA professionals responsible for assisting with FOIA processing within all SEC regional offices. The training emphasized employee obligations under the FOIA. The training also included, among other things, instruction on fees and fee waivers, FOIA exemptions, timeliness of responses and the processing of complex vs. simple requests. Many SEC non-FOIA professionals that assist with the administration of the FOIA also attended the training detailed in No. 2 above. In addition, the SEC has made available to staff OIP's "FOIA for all Federal Employees" eLearning module. Further, the SEC has posted to its intranet a link to OIP's FOIA for Senior Executive's briefing video. Senior Officers at the SEC have been encouraged to watch this video.

15. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

- If any of these initiatives are online, please provide links in your description.

The SEC publishes on its internal website a statement from the Chair of the SEC discussing the importance of the FOIA and transparency and the role SEC staff in complying with the FOIA.

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Attached to the Chair's statement is the President's Memorandum. On the SEC's public-facing FOIA website the following links are provided:

- [From the President: Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act](#)
- [From the Attorney General: Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act](#)

### **Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

The Attorney General's 2009 FOIA Guidelines emphasized that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient.

You should also include any additional information that describes your agency's efforts in this area.

#### ***Processing Procedures:***

1. For Fiscal Year 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2015 Annual FOIA Report.

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2015.

The average number of days to adjudicate a request for expedited treatment, as reported in the SEC's FY2015 Annual FOIA Report, was 6.23.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A

3. If your agency has a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.

- If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.

The SEC has centralized FOIA processing.

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4. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.

The SEC only issues "continued interest" letters to those requesters in our complex track. FOIA staff sends the letters approximately every 6 months while the request is still pending. Consistent with OIP guidance, requesters are afforded 30 days to respond. In each instance, an acknowledgment letter has already been issued and the requester has been provided with a point of contact and contact information. In addition, the requester has been afforded the opportunity to narrow the scope of the request such that it might be processed in the SEC's simple track.

### ***Requester Services:***

5. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.

- If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that here.

SEC FOIA Public Liaisons are available directly by email or telephone. This contact information is located on the SEC's public website. SEC FOIA Public Liaisons assisted requesters by helping them understand the FOIA process generally and how it is implemented at the SEC. Another valuable service that SEC FOIA Public Liaisons provide to requesters is helping them to refine the scope of overly broad requests, as well as those that would yield a voluminous amount of records and/or require a significant amount of time to fulfill. As FOIA experts and SEC employees, the public liaisons are ideally suited to handle these matters, since they have both the procedural and institutional knowledge to assist requesters.

In a recent example, a requester sought more than 10 years of enforcement data. A FOIA Public Liaison learned that due to the extended period covered and the voluminous number of records, the request would be placed in the complex track and potentially take years to complete. The liaison contacted the requester to discuss various options that could best serve their needs. The FOIA Public Liaison coordinated with SEC staff from two program offices, while keeping the requester apprised of the status. With significant effort the requester's needs were met in a timely manner.

### ***Other Initiatives:***

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

With record increases in new requests, as described in “Success Stories” below, the FOIA program is constantly striving to identify process improvements. For example, the SEC’s Office of FOIA Services began using a file transfer tool that allows for the transmission of up to 20GB of electronic records. Previously, requesters could only receive emails that did not exceed 15MB. Electronic records that were larger than 15MB were placed on CDs, drives or DVDs and sent via conventional mail. Use of this tool has allowed for faster and more efficient processing. In another instance, the SEC placed a link on its FOIA webpage that allows requesters an electronic means of filing an appeal. <http://www.sec.gov/foia.shtml>.

### **Section III: Steps Taken to Increase Proactive Disclosures**

Both the President’s and Attorney General’s FOIA memoranda focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

#### ***Posting Material:***

1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.

The SEC utilizes OIP’s “Rule of Three” with respect to identifying “frequently requested” records for posting online. Upon receipt of each request, SEC FOIA professionals conduct a search of the electronic FOIA tracking system for all prior requests made for the same records. Under normal circumstances, where it is determined that there have been three requests made for the same records; the materials are posted to the SEC’s website at [Frequently Requested FOIA Documents](#).

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency’s process or system.

- Please note that this question is directed towards proactive disclosure of records that go beyond frequently requested records required to be posted under Subsection (a)(2) of the FOIA.



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The SEC complies with the President's FOIA Memorandum directing agencies to "take affirmative steps to make information public" without waiting for specific requests, and to "use modern technology to inform citizens about what is known and done by their Government." Routinely, the SEC proactively posts information to its website in an effort to be more transparent and to better serve the public.

SEC FOIA staff review every request to determine where there may be a heightened public interest in the responsive records or an expectation of future interest. These records are then considered for proactive disclosure by posting them to the SEC's website.

Due to the high volume of information posted daily by the SEC, there is also guidance on prioritization of requests for public posting. The Office of FOIA Services generally obtains top-level posting priority — meaning that requests for posting to the FOIA web page receive a same day or 1- day priority.

3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

- Please note that this question is directed at the efforts of actually posting the records online once all disclosure determinations have been made. For example, efforts to load the records in your web content platform or making the releasable documents accessible in compliance with Section 508 of the Rehabilitation Act.

Section 508 compliance is not addressed by FOIA staff. SEC Office of Information Technology staff ensures compliance.

4. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Yes.

5. If so, please briefly explain those challenges.

In isolated instances, records comprised of aggregate data were so large that posting was problematic. For example, the SEC has received numerous requests for historical Form ADV, part 2 (brochure) data. Form ADV is the uniform form used by investment advisers to register with the SEC. Because of challenges with the size of the files, when such a request is received SEC staff will upload the data to a hard drive, which is then sent to the requester.

With respect to posting aggregate data, FOIA staff coordinates with other SEC program offices in attempting to find less costly, more efficient ways to accomplish this.

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6. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

Over the course of the past several years, the SEC began to frequently receive FOIA requests from the academic community for Electronic Data Gathering Analysis and Retrieval system (EDGAR) web log data. In response, the Office of FOIA Services coordinated with the Division of Economic and Risk Analysis (DERA) and assembled information on internet search traffic for EDGAR filings through SEC.gov from 2003 through 2015. This data was posted to the SEC's website and is periodically updated. Prior to making this proactive disclosure, because of the size of the files, it was necessary for requesters to provide hard drives to FOIA staff. Uploading the data and returning it to the requester generally took several months.

<http://www.sec.gov/data/edgar-log-file-data-set>.

The Office of Municipal Securities is now posting a list of "registered municipal advisors" on the Frequently Requested FOIA Documents webpage. The names of SEC registered municipal advisor firms (including sole proprietorships), as well as their SEC reporting file numbers and Central Index Key (CIK) numbers can now be located at

<http://www.sec.gov/foia/docs/muniadvisors-archive.htm>.

In July 2015, in an effort to increase the transparency of the SEC's filing review program, staff within the Division of Corporation Finance began releasing through the EDGAR system correspondence with issuers relating to Securities Act registration statements that are not selected for review. Traditionally these documents have not been released to the public absent a FOIA request.

<http://www.sec.gov/corpfin/announcement/cf-announcement---no-review-letters.html>.

During the reporting period, the SEC introduced the Electronic Filings in Administrative Proceedings (eFAP) system and implemented regulations pertaining to administrative proceedings. The new regulations required persons involved in administrative proceedings to submit all documents and other items electronically. Requiring electronic submissions acted to increase transparency by making filings and other information concerning administrative proceedings more readily available to the public.

<https://www.sec.gov/litigation/apdocuments.shtml>.

7. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.

- For example, this can be done through social media or with the offering of e-mail subscription services.

The SEC's main webpage allows for easy access to an array of information and records. The website includes a prominent link to a page entitled "What's New on the SEC Website." This page provides a daily list of the most recent materials posted to the SEC website. The public may sign up for email alerts on the SEC's main webpage. In addition, the SEC provides access to social media alerts at <http://www.sec.gov/news/socialmedia.shtml>, to include Twitter, Facebook, LinkedIn, YouTube and Flickr. The SEC also hosts RSS feeds, which are a helpful

online resource for staying current on the most recent materials posted to the SEC website, including EDGAR filings.

### ***Other Initiatives:***

8. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

The SEC is always examining its practices in an effort to improve all aspects of FOIA processing, to include increasing proactive disclosures. An example from the reporting period is the posting of all SEC FOIA logs by quarter.

### **Section IV: Steps Taken to Greater Utilize Technology**

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

### ***Making Material Posted Online More Usable:***

1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website?

- Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.

Yes.

2. If yes, please provide examples of such improvements.

- If your agency is already posting material in its most useful format, please describe these efforts.

The SEC regularly updates a log of additions to the website, which keeps visitors apprised of new information (<http://www.sec.gov/news/whatsnew/wn-today.shtml>). Further, a "search" feature was recently implemented on the SEC's FOIA webpage. The SEC also has a form available for the public to provide feedback and suggestions. [SEC FOIA Feedback Survey](#)

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3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?

The SEC's Office of FOIA Services routinely works with IT specialists and with the Office of Public Affairs (OPA) in order to find ways to accommodate the requester community by enhancing search and access capabilities. For example, OPA has recently assisted with the restructuring of the SEC's FOIA public webpage. FOIA staff also coordinates with other SEC program offices in order to post information. An example, described in greater detail in Section III, No. 6, is where FOIA professionals worked with DERA staff to post aggregate data related to the EDGAR system. In another instance, FOIA staff worked closely for several months with multiple program offices in order to obtain complex aggregate data from a self-regulatory organization, the Financial Industry Regulatory Authority (FINRA), and make it publicly available. [Form ADV Data](#).

### *Use of Technology to Facilitate Processing of Requests:*

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for new a case management system, or for search, redaction, or other processing tools.

- Please note that this question is focused on training provided to your FOIA professionals for the use of technology and IT tools that assist them in their day-to-day work of processing requests. Your agency's efforts to provide substantive training on the FOIA itself and the requirements of the law should be addressed in response to Question 1 of Section I of your Chief FOIA Officer Report.

All SEC FOIA professionals attended in-house, technical training pertaining to upgrades made during the reporting period to the SEC's FOIA processing application and tracking system, FOIA Xpress. SEC FOIA staff also attended training offered by contractor staff related to upgrades to this same system.

5. Beyond using technology to redact documents, is your agency taking steps to use more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, describe the technological improvements being made.

The SEC is active in exploring technologies that would contribute to FOIA program improvements and overall transparency. An example is the usage of the file transfer tool described in Section II, No. 6 of this report.

The SEC is presently engaged in implementing a system that will allow for on-line tracking capability. Specifically, the SEC will be utilizing a public-facing web portal that complements the FOIA Xpress system currently in place at the SEC, the Public Access Link (PAL).

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6. Are there additional tools that could be utilized by your agency to create further efficiencies?

As stated above, the SEC is always looking for tools that will allow for more efficient processing. Employing these tools is often contingent upon cost and the availability of resources.

### ***Other Initiatives:***

7. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?

- Please see OIP's guidance for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website, but not appearing on FOIA.gov, please contact OIP in order to resolve the issue.)

Yes.

8. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2016.

N/A

9. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? *See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications."* (Nov. 22, 2013) If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?

- If decentralized, please indicate whether all components use email or other electronic means to communicate with requesters.
- Please note that this includes all types of communications throughout the FOIA process.

Yes. SEC FOIA professionals use email as the primary means of communicating with FOIA requesters.

10. If your agency does not communicate electronically with requests as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? *See id.*

- If decentralized, please indicate whether any of your agency's components have specific limitations or restrictions for the use of such means and if those components have informed requesters of such limitations.

N/A

**Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs**

The President's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

*For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2015 Annual FOIA Report and, when applicable, your agency's 2014 Annual FOIA Report.*

**Simple Track:** Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Yes.

2. If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

Approximately 99% of the requests processed were placed in our simple track.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A

**Backlogs:** Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

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5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

No.

6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

A backlog increase resulted primarily from a pronounced increase in the number of requests received. From FY2014 to FY2015 there was a 13% increase. The increase in the number of requests received included an approximately 200% increase in the number of requests placed in the complex track.

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2015.

- To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

The percentage of requests that make up the backlog out of the total number of requests received by the SEC in FY2015 is 2.55%.

### **BACKLOGGED APPEALS**

8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

Yes.

9. If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.

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- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

N/A

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals *received* by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A."

- To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

The percentage of appeals that make up the backlog out of the total number of appeals received by the SEC in FY2015 is 1.41%.

### ***Backlog Reduction Plans:***

11. In the 2015 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2014 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2015?

N/A

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2015, what is your agency's plan to reduce this backlog during Fiscal Year 2016?

N/A

***Status of Ten Oldest Requests, Appeals, and Consultations:*** Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.



### **TEN OLDEST REQUESTS**

13. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No.

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

- For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed six of them, you should note that you closed six out of seven "oldest" requests.

Nine out of the ten oldest requests were closed.

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

One request of the ten oldest was withdrawn by the requester. Requests placed within the SEC's complex track are processed on a first-in, first-out basis. Substantive interim responses are not issued until processing begins when a request arrives at the front of the queue.

### **TEN OLDEST APPEALS**

16. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

- For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.

Nine out of the ten oldest appeals were closed.

## TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes.

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

- For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.

N/A

### *Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:*

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2014.

All but one of the ten oldest requests was within the complex track, which involve a far greater volume of records that must be located and reviewed. Coordination with multiple SEC program offices is typically required.

21. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2016.

For the ten oldest requests, the SEC's Office of FOIA Services designates teams to process the complex requests, beginning with the oldest. The requests within the complex track are worked on each day.

### *Interim Responses:*

23. Does your agency have a system in place to provide interim responses to requesters when appropriate? *See OIP Guidance, "The Importance of Good Communication with FOIA Requesters."* (Mar. 1, 2010)

Yes.

24. If your agency had a backlog in Fiscal Year 2015, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

A substantive, interim response was issued in approximately 5-10% of the cases in the SEC's backlog for FY2015.

#### **Use of the FOIA's Law Enforcement Exclusions**

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?

Yes.

2. If so, please provide the total number of times exclusions were invoked.

The SEC invoked the c1 exclusion on ten occasions during the reporting period.

#### **Success Story**

Out of all the activities undertaken by your agency since March 2015 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

During the reporting period, the SEC experienced a 13% increase in the number of requests it received. Consequently, the SEC processed more FOIA requests than it had in any prior year. This occurred despite the receipt of increasingly complex requests. These significant milestones were achieved as a result of focused training and program oversight, working smarter and support from the highest levels of SEC management.