Federal Deposit Insurance Corporation
Annual Freedom of Information Act Report
Fiscal Year 2012
(For the period 10/01/2011 through 09/30/2012)

I. BASIC INFORMATION REGARDING THIS REPORT

1. The FDIC contact person for questions about this Report is Hugo A. Zia, Supervisory Counsel, FOIA/Privacy Act Group, FDIC Legal Division, 550 17th St. NW, VS-D8122, Washington, DC 20429; Telephone: (703) 562-2671; Fax: (703) 562-2797.

2. This Report is available on the FDIC web site at http://www.fdic.gov/about/freedom/reports.html.

3. A paper copy of this Report may be obtained by downloading it from the FDIC web site or by requesting a copy from the FDIC Public Information Center, 3501 N. Fairfax Dr., Room E-1005, Arlington, VA 22226; Telephone: (703) 562-2200, or (877) 275-FDIC (3342); Fax: (703) 562-2296 or E-mail: publicinfo@FDIC.gov.

II. MAKING A FOIA REQUEST TO THE FDIC

1. All FOIA requests to the FDIC must be in writing and either (i) directed to the FOIA/Privacy Act Group, FDIC Legal Division, 550 17th St. NW, Washington, DC 20429, or (ii) submitted electronically through the FDIC's Electronic FOIA Request form on the web site at http://www2.fdic.gov/efoiarequest/index.asp, or by facsimile to (703) 562-2797, or by e-mail to EFOIA@FDIC.gov. The FDIC publication entitled "FOIA Guide – Gaining Access to FDIC Information" explains in detail how to submit a FOIA request to the FDIC. The FOIA Guide is available on the FDIC web site at http://www.fdic.gov/about/freedom/Guide.html.

2. Some FOIA requests are denied in whole or in part because the information requested is exempted from disclosure by the FOIA (5 U.S.C. § 552 (b)). The exemptions most often applicable to information requested from the FDIC include (b)(4), (b)(5), (b)(6) and (b)(8). The FDIC receives a great deal of privileged and private financial information concerning individuals, businesses, and banking entities by virtue of its roles as a federal financial institution regulatory agency as well as the appointed receiver of virtually all failed U.S. depository institutions. Therefore, exemptions (b)(4) and (b)(6) are invoked to withhold confidential or privileged material. The FDIC is also the primary regulator of most state-chartered financial institutions and therefore prepares or receives bank examination reports and related material. Such records are exempted from FOIA disclosure in order to promote frank communications between financial institutions and the FDIC examination staff and to maintain stability in the financial system. Accordingly, the FDIC invokes FOIA exemptions (b)(5) and (b)(8) for these purposes. Other exemptions, such as (b)(2), (b)(7)(A), or (b)(7)(C) are used occasionally. In some cases, records cannot be located.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. There are no FDIC-specific acronyms or other terms used in this Report.

2. Definition 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.

   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 request 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 upon which the agency relies 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. Concise descriptions of the nine FOIA exemptions:

a. **Exemption 1**: classified national defense and foreign relations information.

b. **Exemption 2**: information that is related solely to the internal personnel rules and practices of an agency.

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. Exemption 3 Statutes Relied upon to Withhold Information

Statute	Type of Information Withheld	Supporting Case Citation	Total Number of Times Relied upon by FDIC
31 U.S.C. § 5319 (Bank Secrecy Act)	Reports pertaining to monetary instruments transactions filed under subchapter II of	*Hulstein v. DEA*, No. 10-4112, 2011 U.S. Dist. LEXIS 25788, at *7-8 (N.D. Iowa Mar.	2

chapter 53 of title 31 and records of those reports	11, 2011); *Berger v. IRS*, 487 F. Supp. 2d 482, 496-97 (D.N.J. 2007), *aff'd on other grounds*, 288 F. App'x 829 (3d Cir. 2008), *cert. denied*, 129 S. Ct. 2789 (U.S. 2009); *Sciba v. Bd. of Governors of the Fed. Reserve Sys.*, No. 04-1011, 2005 WL 3201206, at *6 (D.D.C. Nov. 4, 2005).	

V. FOIA REQUESTS

A.   Received, Processed and Pending FOIA Requests (both perfected and non-perfected)

Number of Requests Pending as of the Start of the Fiscal Year	Number of Requests Received in the Fiscal Year	Number of Requests Processed in the Fiscal Year	Number of Requests Pending as of the End of the Fiscal Year
48	931	943	36

B. (1) Disposition of FOIA Requests – All Processed Requests

Full Grant	Partial Grant/ Partial Denial	Full Denial Based on Exemptions	Full Denial No Records	Full Denial Records Referred to Another Agency	Full Denial Request Withdrawn	Full Denial Fee Related	Full Denial Records Not Reasonably Described	Full Denial Improper FOIA Request for Other Reason	Full Denial Not Agency Record	Full Denial Dup. Req.	Full Denial Other see B.(2) below	FDIC Total
225	163	50	112	7	37	91	88	35	108	10	17	943

B. (2) Disposition of FOIA Requests – "Other" Reasons for "Full Denials Based on Reasons Other than Exemptions" from Section V.B. (1) Chart

Description of "Other" Reasons for Denials from Chart B(1) & Number of Times Those Reasons Were Relied Upon	Total
Consent by party to whom the requested records pertain required.	17

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
3	42	2	128	53	146	3	1	5	1	3	0	56	0

VI. APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals

Number of Appeals Pending as of the Start of the Fiscal Year	Number of Appeals Received in the Fiscal Year	Number of Appeals Processed in the Fiscal Year	Number of Appeals Pending as of the End of the Fiscal Year
2	44	40	6

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
28	6	1	5	40

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
0	0	0	1	2	1	0	0	0	0	0	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 see C.(3) below
1	0	2	1	0	0	0	1	0	0	0

C. (3) Reasons for Denial on Appeal – "Other" Reasons from Section VI. C (2) Chart

Description of "Other" Reasons for Denial on Appeal from Chart C. (2) & Number of Times Those Reasons Were Relied Upon	Total
0	0

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
20	19.82	<1	50

C. (5) Ten Oldest Pending Administrative Appeals

	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
Date Received	N/A	N/A	N/A	N/A	09/27/2012	09/20/2012	09/19/2012	09/14/2012	09/04/2012	05/11/2012

Number of Days Pending	0	0	0	0	1	6	7	10	18	97

VII. RESPONSE TIME FOR PROCESSED AND PENDING FOIA 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
5	8.81	<1	73	1	10.15	<1	56	1	8.13	<1	102

B. Processed Requests – Response Time for Perfected Requests Where Information 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
10	12.56	<1	73	22	22.32	<1	56	1	11.24	<1	102

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	FDIC Total
725	109	8	3	0	0	0	0	0	0	0	0	0	845

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	FDIC Total
46	10	3	0	0	0	0	0	0	0	0	0	0	59

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	FDIC Total
36	1	1	0	0	1	0	0	0	0	0	0	0	39

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
36	6.5	8	0	N/A	N/A	0	N/A	N/A

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
Date Received	09/11/2012	09/10/2012	09/10/2012	09/07/2012	09/07/2012	09/06/2012	09/04/2012	08/31/2012	08/27/2012	08/27/2012
Number of Days Pending	13	14	14	15	15	16	18	19	23	23

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
39	102	1	2.25	135

B. Requests for Fee Waiver

Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
21	60	1	0.33

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
11	6.5	17.5	$2,773,641	0	$2,773,641

X. FEES COLLECTED FOR PROCESSING REQUESTS

Total Amount of Fees Collected	Percentage of Total Costs
$27,756	1%

XI. FOIA REGULATIONS AND FEE SCHEDULE

The FDIC FOIA regulations are available at www.fdic.gov/regulations/laws/rules/2000-3800.html#2000part309. Paper copies of this Report contain the full text of the regulations. The FDIC Records Fee Schedule is set forth below and it is also available at http://www.fdic.gov/about/freedom/fees.html.

FEDERAL DEPOSIT INSURANCE CORPORATION
RECORDS FEE SCHEDULE
March 1, 2012

In accordance with 12 C.F.R. § 309.5(f), the Federal Deposit Insurance Corporation hereby sets forth the fees to be charged for the production of agency records. These fees will be effective for records requests submitted thirty days or more from the above date of issuance. Persons requesting records from the FDIC shall be charged for the direct costs of search, review and duplication as set forth at 12 C.F.R. § 309.5(f), unless such costs are less than $10.00. The following fees shall be in effect until further notice.

Hourly labor rates:

 Executive level staff -- $121.00
 Professional level staff -- $83.00
 Clerical level staff -- $36.00

Duplication:

 $0.20 per page
 CD/DVD - $5.00

Special products

 Certain reports, manuals and other products are offered at set prices by agency components which produce them. Prices may be obtained upon request.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

Number of Backlogged Requests as of the End of the Fiscal Year	Number of Backlogged Appeals as of the End of the Fiscal Year
0	1

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

Number of Consultations Received from Other Agencies that Were Pending as of the Start of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at the FDIC as of the End of the Fiscal Year
0	0	0	0

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

	10th	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
Date Received	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Number of Days Pending	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 <u>Received</u>		Number of Requests <u>Processed</u>	
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**
1250	931	1409	943

Number of Requests Backlogged	
Number of Backlogged Requests as of the End of the Fiscal Year from Previous Annual Report	**Number of Backlogged Requests as of the End of the Fiscal Year from Current Annual Report**
2	0

E. Comparison of Numbers of Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

Number of Appeals <u>Received</u>		Number of Appeals <u>Processed</u>	
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**
39	44	38	40

Number of Appeals Backlogged	
Number of Backlogged Appeals as of the End of the Fiscal Year from Previous Annual Report	**Number of Backlogged Appeals as of the End of the Fiscal Year from Current Annual Report**
0	1