



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

FREEDOM OF INFORMATION ACT (FOIA)

Annual Report for Fiscal Year 2018

(October 1, 2017 through September 30, 2018)

FOIA ANNUAL REPORT

FOR

10/01/2017

THROUGH

09/30/2018

The following **Annual Freedom of Information Act** report covers the
Period 10/01/2017 through 09/30/2018, 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/arfoia18.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

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)). Written requests should be submitted to the FOIA Officer at:

E-mail: foiapa@sec.gov

Fax: 202-772-9337

Mail: Office of FOIA Services, U.S. Securities and Exchange Commission 100 F Street, NE, Suite 2745
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.
3. A link to the SEC's FOIA regulations and Fee Schedule are available on the SEC's Web site: <https://www.sec.gov/oso/foia-relevant-foia-docs.html>.

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. **Perfect 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. Exemptions 3 Statutes

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
41 U.S.C. § 2102 (amending 41 U.S.C. § 423 (a)(1))* (Procurement Integrity Act)	Contractor bid or proposal information; source selection information	Legal & Safety Employer Research, Inc. v. U.S. Dep't of the Army, No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum).	SEC	2	2
15 U.S.C. § 80a-30(c)	Investment Company Examination	N/A	SEC	1	1
15 U.S.C. § 78x(d)	Foreign Securities Authorities	N/A	SEC	1	1
15 U.S.C. § 78u-6	Information that could identify a whistleblower	N/A	SEC	32	32
42 U.S.C. § 247d-6b(d)	Information identifying the location of materials in the stockpile under subsection (a) of this section	N/A	SEC	3	3
41 U.S.C. § 4702 (formerly at 41 U.S.C. § 253b(m)(1))	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts	Sinkfield v. HUD, No. 10-885, 2012 U.S. Dist. LEXIS 35233, at *13-15 (S.D. Ohio Mar. 15, 2012); Margolin v. NASA, No. 09-CV-00421, 2011 WL 1303221, at *6 (D. Nev. Mar. 31, 2011); Hornbostel v. U.S. Dep't of the Interior, 305 F. Supp. 2d 21, 30 (D.D.C. 2003), summary affirmance granted, No. 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).	SEC	2	2
5 U.S.C. App 3 § 7(b)(IG Act)	Names of employees who provide information or complaints to the Inspector General	N/A	SEC	7	7
15 U.S.C. § 80b-4	Reports by Investment Adviser	N/A	SEC	4	4
5 U.S.C. app. 4 § 107(a)(2) (Ethics in Government Act of 1978)	Confidential financial disclosure information pertaining to certain government employees	Meyerhoff v. EPA, 958 F.2d 1498, 1500-02 (9th Cir. 1992); Boyd v. Exec. Office for U.S. Attorneys, 161 F. Supp. 3d 1, 7 (D.D.C. 2015); Seife v. NIH, 874 F. Supp. 2d 248, 254 (S.D.N.Y. 2012).	SEC	1	1

V. FOIA REQUESTS / A. Received, Processed and Pending FOIA Requests

Agency / Component	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	559	14,229	14,248	540

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

Agency / Component	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									TOTAL
				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	
AGENCY	5,819	858	723	6,015	209	308	46	32	35	37	166	0	14,248

V. FOIA REQUESTS / B. (2) Disposition of FOIA Requests – Other Reasons

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
AGENCY	N/A	N/A	N/A

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

Agency / Component	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
AGENCY	0	4	52	366	301	586	624	3	392	28	30	2	54	0

VI. ADMINISTRATIVE APPEALS / A. Received, Processed and Pending Administrative Appeals

Agency / Component	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	621	637	6

VI. ADMINISTRATIVE APPEALS / B. Disposition of Administrative Appeals – All Processed Appeals

Agency / Component	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	514	26	87	10	637

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

Agency / Component	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
AGENCY	0	0	9	4	93	27	311	0	29	1	1	0	9	0

VI. ADMINISTRATIVE APPEALS / C. (2) Reasons for Denial on Appeal – Reasons Other Than Exemptions

Agency / Component	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	0	0	3	0	0	7	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS / C. (3) Reasons for Denial on Appeal – Other Reasons

Agency / Component	Description of "Other" Reasons for Denial on Appeal from Chart C(2)	Number of Times "Other" Reason Was Relied Upon	TOTAL
AGENCY	N/A	N/A	N/A

VI. ADMINISTRATIVE APPEALS / C. (4) Response Time for Administrative Appeals

Agency / Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY	7.00	14.14	<1	383

VI. ADMINISTRATIVE APPEALS / C. (5) Ten Oldest Administrative Appeals

Agency / Component		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
AGENCY	Date of Appeal	N/A	N/A	N/A	N/A	2018-09-28	2018-09-28	2018-09-27	2018-09-20	2018-09-11	2018-09-05
	Number of Days Pending	N/A	N/A	N/A	N/A	N/A	N/A	1	6	13	17

VII. A. Processed Requests – Response Time for All Processed Perfected Requests

Agency / Component	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	7	11.79	<1	780	630	515	23	942	10	10	9	11

*Due to a system limitation, the chart in this section may contain information about unperfected requests.

VII.D. Pending Requests – All Pending Perfected Requests

Agency / Component	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	534*	8	24	5	745	792	1	70	70

*Due to a system limitation, the chart in this section may contain information about unperfected requests.

VII.E. Pending Requests – Ten Oldest Pending Perfected Requests

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4 th *	3rd	2nd	Oldest Request
AGENCY	Date of Receipt	2017-02-03	2016-12-23	2016-12-14	2016-09-02	2016-08-01	2016-04-05	2016-02-12	2015-10-09	2015-09-15	2014-02-04
	Number of Days Pending	417	444	451	520	544	625	661	745	763	1168

VIII.A. Requests for Expedited Processing

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY	4	310	6.5	5.75	302

VIII.B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY	101	353	1	1.58

IX. FOIA Personnel and Costs

Agency / Component	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	34	10	44	\$9,096,609.00	\$186,604.00	\$9,283,213.00

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY	\$33,179.65	.36%

XI.A. Number of Times Subsection (C) Used

Agency / Component	Number of Times Subsection (C) Used
AGENCY	20

XI.B. Number of Subsection (A)(2) Postings

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
AGENCY	1,386	665,271

XII.A. Backlogs of FOIA Requests and Administrative Appeals

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
AGENCY	112	0

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

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the 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 the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
AGENCY	0	10	10	0

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

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
AGENCY	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

XII.D.1. Comparison of Numbers of Requests from Previous and Current Annual Report

Agency / Component	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
AGENCY	13,063	14,229	13,069	14,248

XII.D.2. Comparison of Backlogged Requests from Previous and Current Annual Report

Agency / Component	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	73	112

XII.E.1. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report

Agency / Component	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY	624	621	605	637

XII.E.(2). Comparison of Backlogged Administrative Appeals from Previous and Current Annual Report

Agency / Component	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	13	0