

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Chief FOIA Officer Report



**Office of Freedom of Information Act
and Privacy Act Operations**

March 15, 2010

I. Steps Taken to Apply the Presumption of Openness

1. Description

Securities and Exchange Commission (SEC) Chairman Mary Schapiro sent a memorandum to all staff members highlighting the Freedom of Information Act (FOIA) memoranda issued by President Obama and Attorney General Holder. The Chairman expressed her commitment to “improving our FOIA program so that we respond to requests in a timely manner, treat all requesters equally, and provide as much information as possible without adversely affecting our mission.” All personnel in the Commission’s FOIA Office have been briefed on the meaning and importance of the memoranda and the Chairman’s message.

2. Disclosure Comparisons

During fiscal year (FY) 09, the SEC granted 1,278 requests in full and 374 requests in part. During FY08, 1,635 requests were granted in full and 453 in part. However, it is important to note that the SEC processed fewer requests in FY09 (8,285) as compared to FY08 (15,596). Thus, as a percentage of requests processed, requests granted in full rose from 10% in FY08 to 15% in FY09, and requests granted in part rose from 3% in FY08 to 5% in FY09.

II. Steps Taken to Ensure that the SEC has an Effective System for Responding to Requests

The SEC maintains an effective, efficient system for responding to FOIA requests. An electronic system is used for processing and responding to requests, and on-site contractor support is available several days a week. Individuals designated as “FOIA Liaisons” are located within each division and office of the Commission. All personnel performing FOIA-related duties have access to the electronic processing system.

The FOIA Office receives excellent support from the Office of Information Technology, ranging from access to a number of agency-wide systems that may contain responsive documents to maintenance of internal systems used for processing and responding to requests. The FOIA Office also receives excellent support from the Office of the Secretary, which is responsible for updating FOIA-related content on our public website.

III. Steps Taken to Increase Proactive Disclosures

In conjunction with the issuance of the new FOIA Guidelines and the Open Government Directive issued in December 2009, the SEC now posts on its website the following information which was not previously available online: Fails-to-Deliver Data under 10,000 Shares between September 16, 2008 and July 1, 2009; Public Company Bankruptcy Cases Opened and Monitored for Fiscal Year 2009; and, Investment Company Series and Class Information.

Discussions are ongoing regarding the proactive disclosure of other records, but technical and regulatory changes that may be required before doing so must be evaluated.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically? Yes
2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically? Not applicable
3. Does your agency track requests electronically? Yes
4. If not, what are the current impediments to your agency utilizing a system to track requests electronically? Not applicable
5. Does your agency use technology to process requests? Yes
6. If not, what are the current impediments to your agency utilizing technology to process requests? Not applicable
7. Does your agency utilize technology to prepare your Annual FOIA Report? Yes
8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report? Not applicable

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

1. Backlog Status

The number of backlogged requests decreased from 770 in FY08 to 196 in FY09. The oldest pending request at the end of FY09 was dated June 1, 2006. The oldest pending request at the end of FY08 was August 1, 2005. The number of backlogged appeals decreased from 40 in FY08 to 21 in FY09. The oldest pending appeal at the end of FY09 and FY08 was dated March 28, 2005.

2. Backlog Reduction Steps

Reducing the backlog is extremely challenging when there is a tremendous increase in the number of incoming requests. Through February 2010, the SEC is experiencing a 65% increase in the number of requests as compared to the same period in FY09. Additional full-time staff has been added during FY10 to deal with the increase in requests.

3. Steps to Improve Timeliness

In FY09 75% of all requests were processed in 20 days or less. The average number of days to process an administrative appeal fell from 46 in FY08 to 33 in FY09. To improve these performance measures the staff is evaluating ways to streamline processes and make more documents publicly available without the need for filing a FOIA request.