2013 Chief FOIA Officer Report Federal Deposit Insurance Corporation Richard J. Osterman, Jr., Acting Chief FOIA Officer March 2012 - March 2013

Section I: Steps Taken to Apply the Presumption of Openness

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

Describe steps taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. Answer the questions listed below and include any other pertinent information:

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Yes. The FDIC's FOIA/Privacy Act Group ("FOIA Group") conducted training on the FOIA at the in-house "core functions" seminar for attorneys and paralegals held in May 2012.

The FOIA Group also provided training to the staff of the Corporation's Office of Corporate Risk Management (OCRM) on FOIA law and procedures.

Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

Members of the FOIA Group attended the *Advanced Freedom of Information Act Seminar* conducted by the Department of Justice in April 2012, the 2012 Annual FOIA Report and 2013 Chief FOIA Officer Report Refresher Training course in October 2012, and the FOIA Litigation Seminar in November 2012.

FOIA Coordinators from the FDIC's Division of Risk Management Supervision (RMS) attended *The Freedom of Information Act for Attorneys and Access Professionals* held in February 2012.

Attorney General Holder's FOIA Guidelines strongly encouraged agencies to make discretionary releases of information, and the Office of Information Policy (OIP) encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

2. Did your agency make any discretionary releases of otherwise exempt information?

Yes. The FDIC made discretionary disclosures of exempt records pursuant to 12 C.F.R. § 309.6 ("Part 309"), which provides that under appropriate circumstances,

discretionary disclosures may be authorized by the Director of the FDIC division having primary authority over the exempt records in question or by the General Counsel, or their designees. The Chairman of the FDIC may also authorize such disclosure. In accordance with Part 309, both FDIC headquarters and Regional Offices make discretionary disclosures on a case-by-case basis in response to written requests received for exempt information.

3. What exemptions would have covered the information that was released as a matter of discretion?

FOIA exemptions that would have covered the information that was released as a matter of discretion include Exemptions 5 and 8.

4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

The FDIC has made partial discretionary releases of information contained in or related to reports of examination.

5. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

The FDIC continues to use its website, social media and publications to proactively make information available to the general public. For example, the FDIC posts on its website copies of resolution agreements and summaries of bids received as soon as practicable after a bank fails; the video presentation *Deposit Insurance Coverage - Certain Retirement Accounts* is now available on YouTube as are videos of specific interest to community bankers; and the Fall 2012 special edition of the *FDIC Consumer News* (available online or by mail) contains quick tips for young adults and teens to help them manage their money

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

As the Attorney General emphasized in his FOIA Guidelines, "[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."

Describe steps taken to ensure that your agency system for responding to requests is effective and efficient. Answer the questions below and then include any additional pertinent information:

1. Do FOIA professionals within your agency have sufficient IT support?

Yes.

2. Do your FOIA professionals work with your agency's Open Government Team?

Yes.

3. Has your agency assessed whether adequate staff is being devoted to FOIA administration?

Yes. The FDIC reviews the workload, backlog, and response time of the FOIA Group and divisional FOIA coordinators on an ongoing basis to assess whether adequate staffing is being devoted to FOIA administration. Between the end of Fiscal Year 2011 and the end of Fiscal Year 2012, average response times were reduced for simple, complex and expedited requests. In addition, the FDIC ended Fiscal Year 2012 with no backlog of requests. Thus, present staffing appears adequate.

4. Describe 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, streamlining consultations, eliminating redundancy, etc.

The FOIA Group produces weekly reports which are used to monitor the processing of requests. In addition, the FOIA Group routinely monitors its automated FOIA system to ensure that it operates efficiently and effectively. When necessary, FDIC employees from outside the FOIA Group have been assigned to assist in the processing of FOIA requests.

Section III: Steps Taken to Increase Proactive Disclosures

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

Describe steps taken to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures. Answer the questions listed below and include other pertinent information:

1. Provide examples of materials that your agency has posted this year.

Information added to the FDIC's website (FDIC.gov) is highlighted in the "What's New" section of the Corporation's external home page. Material posted on the FDIC's website in the past year includes: the Summer 2012 edition of

Supervisory Insights, a publication that discusses emerging issues faced by bank supervisors; memoranda and other documents presented to the FDIC's Board of Directors at open board meetings held throughout the year; the Chief Financial Officer's (CFO) Report to the Board for the fourth quarter of 2011 and the first two quarters of 2012 highlighting the Corporation's financial activities and results; the 1st and 2nd Quarter 2012 editions of the Quarterly Banking Profile, a publication that provides a report card on the status and performance of the banking industry; the Spring and Summer 2012 editions of the *FDIC Consumer* News, a newsletter that provides practical guidance on how to become a smarter, safer user of financial services; the public portions of resolution plans submitted by "systemically important financial institutions" under the Dodd-Frank Wall Street Reform and Consumer Protection Act; updates to the FDIC's Compliance Examination Manual; and the results of the 2011 FDIC National Survey of Unbanked and Underbanked Households. A list of the many types of material currently posted on the FDIC's public website is attached to this Report as Appendix A.

2. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?

Yes. The FDIC is always looking to improve the user experience and obtain user feedback on its website. The FDIC measures user interaction several ways: participation in the American Customer Satisfaction Survey; real-time activity measurement on website activity through Adobe Site Catalyst; and using metrics from the GovDelivery email subscription service to measure citizen engagement efforts. These metrics assist the FDIC in determining the need for any new information or design of FDIC.gov. The metrics are reviewed on a quarterly basis. The FDIC also invites the public to submit questions, comments or suggestions about its website by e-mail to the Webmaster (webmaster@fdic.gov).

3. If so, provide examples of such improvements.

FDIC BankFind was redesigned in November 2012 to enhance the look and usability of the site, including improved ease of use from mobile devices. BankFind allows the public to locate information on FDIC-insured banking institutions.

The FDIC uses the Google Search Appliance to perform searches throughout FDIC.gov. In the last year, we have upgraded this appliance to the latest version and we have updated search results pages to allow users to view the results by relevance or by date.

4. Describe any other steps taken to increase proactive disclosures at your agency.

FDIC.gov and Social Media Outlets

The FDIC's website hosts 55,000 web pages and files and over 30 data tools that allow users to get detailed information on all FDIC laws, regulations, policies, and programs. FDIC.gov also presents links that enable users to subscribe to email or Really Simple Syndication (RSS) notifications whenever public information is updated. This information is also repurposed within FDIC channels on social media sites such as Facebook and Twitter to expand the ability to notify stakeholders when information or policies are updated. The FDIC also has a YouTube channel (http://www.youtube.com/user/FDICchannel) with original content ranging from messages from the Chairman regarding special events; and public service messages on deposit insurance coverage to panels addressing relevant banking and consumer issues. The YouTube channel also hosts audio, including versions of the FDIC Consumer News publication and recorded conference calls on subjects dealing with banking policies. The attached Appendix A shows the types of items currently posted on FDIC.gov and provides a sense of the volume of information that is available.

FDICIG.gov

The FDIC Office of Inspector General (OIG) public website gives detailed information on OIG publications, the OIG Hotline, OIG press releases, goals, special alerts, and organization.

Webcasts

The FDIC allows users to watch open board meetings, advisory committee meetings, banking profile briefings and special events live through its webcasting capabilities. Users with an Internet connection may watch the meeting and events, download presentations, and view running captions to see the discussions between participants as they are happening.

FDICconnect

FDICconnect is a secure website that allows FDIC-insured institutions to efficiently conduct business and exchange information with the FDIC. Internet applications hosted within FDICconnect are used to conduct business with insured financial institutions. Financial institutions can submit various applications and filings to the FDIC and retrieve quarterly deposit insurance assessment statements and correspondence online.

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." Answer the following targeted questions:

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Yes. FOIA requests can be submitted electronically through the Electronic FOIA Request form on the FDIC's website at http://www2.fdic.gov/efoiarequest/index.asp, or by facsimile to (703) 562-2797, or by e-mail to EFOIA@FDIC.gov.

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

All FOIA requests received by the FDIC are processed, on a centralized basis, by the FOIA Group.

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?

Yes, if the request is submitted through the FDIC's public access web portal which became operational in late December 2012.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

The following information is provided to the FOIA requester on the status of a request: tracking number, received date, last perfected date, estimated delivery date, and current status. The requester also has the ability to electronically download documents that are being released in response to the request.

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

Yes.

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

N/A.

Use of technology to facilitate processing of requests:

7. Beyond using technology to redact documents, is your agency taking steps to utilize 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?

Yes.

8. If so, describe the technological improvements being made.

The FDIC is upgrading its FOIA processing software and has add a public access web portal which provides a more efficient means of submitting, tracking, and responding to FOIA requests as well as sharing records with the public. In addition, as part of its ongoing Information Management and Compliance program, the FDIC is implementing a new Records and Information Management (RIM) program that provides for more efficient management of all types of paper and electronic records. The initial focus of RIM is on email messages. The **email**+ component of RIM will improve management of emails, making those emails that are responsive to FOIA requests easier to locate and retrieve.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests.

- 1. Refer to Section VII.A of your agency's Annual FOIA Report for figures on FOIA Requests Response Time for All Processed Requests
 - a. Does your agency utilize a separate track for simple requests?

Yes.

b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

Yes. The average number of days to process simple requests in Fiscal Year 2012 was 8.81 days. This is an improvement of 23% over Fiscal Year 2011 when the average number of day to process simple requests was 11.42 days.

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

N/A.

- 2. Refer to Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, for figures on backlogged requests/appeals, and Sections VII.E and VI.C.(5) on the ten oldest pending requests/appeals
 - a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

N/A (the FDIC had no backlog of requests at the close of Fiscal Year 2012).

b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

No. At the close of Fiscal Year 2012, the FDIC had one backlogged appeal, whereas the FDIC had no backlog of such appeals at the close of Fiscal Year 2011.

c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

Yes.

d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

Yes. The two appeals pending at the end of Fiscal Year 2011 were closed in Fiscal Year 2012.

3. If you answered "no" to any question in "item 2," answer the following questions and include any additional explanation:

Request Backlog:

a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

N/A.

b	. Was the lack of a reduction in the request backlog caused by a loss of staff?
	N/A.
c	Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?
	N/A.
d	. What other causes, if any, contributed to the lack of a decrease in the request backlog?
	N/A.
Administrative Appeal Backlog:	
a	. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?
	No.
b	. Was the lack of a reduction in the appeal backlog caused by a loss of staff?
	No.
c	Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?
	Yes.
d	. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?
	N/A.
requ mult an es inter	issued guidance encouraging agencies to make interim releases on ests that involve a voluminous amount of material or require searches in iple locations. If your agency had a backlog in Fiscal Year 2012, provide timate of the number of cases in the backlog where a substantive, im response was provided during the fiscal year, even though the est was not finally closed.
N/A	(the FDIC had no backlog of requests at the close of Fiscal Year 2012).

Use of FOIA's Law Enforcement "Exclusions"

Answer the following questions concerning the use of the FOIA's statutory law enforcement exclusions, 5 U.S.C. \S 552(c)(1), (2), (3):

Did your agency invoke a statutory exclusion during Fiscal Year 2012?
No.

2. If so, what is the total number of times exclusions that were invoked? N/A.

Spotlight on Success

Describe here one success story that you would like to highlight as emblematic of your agency's efforts.

Between the end of Fiscal Year 2011 and the end of Fiscal Year 2012, average response times were reduced for simple, complex and expedited requests by 23% (from 11.42 days to 8.81 days), 52% (from 21.29 days to 10.15 days), and 69% (from 26.29 days to 8.13 days), respectively.

2013 CHIEF FOIA OFFICER REPORT APPENDIX A

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