

PRIVACY IMPACT ASSESSMENT

Freedom of Information Act (FOIA)

July 2011

FDIC Internal System

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System Overview

The Federal Deposit Insurance Corporation (FDIC) is an independent agency of the U.S. government that protects the funds depositors place in banks and savings associations. Through publications and FDIC's web site (www.fdic.gov), the FDIC provides the public with a significant amount of information about Corporate activities and FDIC-insured institutions. When individuals are unable to find the information they seek, they may file a record request with the FDIC Freedom of Information Act (FOIA) program, which is administered by the FDIC's Legal Division. The FDIC is required to process and respond to the request, in a timely manner.

In order to automate compliance with record access and disclosure requirements under FOIA¹ and other federal information regulations² and to enhance the availability of FDIC records to the public, the FDIC's Legal Division, FOIA/Privacy Act Group, has implemented a comprehensive suite of data management tools, hereinafter referred to as the "FOIA System". Specifically, the FOIA System enables the Legal Division to track and fulfill FOIA requests filed by members of the public seeking access to nonpublic FDIC records, as well as requests from individuals seeking access to or amendment of records about themselves, pursuant to the Privacy Act of 1974 (PA)³. The new FOIA System replaces FDIC's FOIA-PA STAR system and includes five (5) years of requestor data that has been migrated to the new system.

The FOIA System consists of the following two components:

1. **FOIAXpress:** automates and streamlines the tracking, processing and reporting of the FOIA/PA requests received by the FDIC Legal Division's FOIA/PA Group, who use the system to:
 - Log and track the receipt and processing of each FOIA or PA request from individuals (i.e., "requesters"), using data that is either received from the requester or automatically generated by the system about the request and the requester (e.g., record number).
 - Record the status of the request, relevant deadlines, and other key events or data, such as the Corporation's response to the request, and any related administrative appeals or court litigation if the request was denied.
 - Scan, store, redact and manage copies of the nonpublic Corporation records that have been gathered in response to each request, some of which contain personally identifiable information (PII) about the requester or about other individuals mentioned or discussed in the scanned records.

¹ The Freedom of Information Act (FOIA) is a federal statute that generally provides that any person has a right, enforceable in court, of access to federal agency records, except to the extent the records are protected from disclosure by any of the nine exemptions contained in the law or by one of three special law enforcement record exclusions. The FOIA was amended by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA). Among other things, E-FOIA grants the public access to certain government documents via computer telecommunications.

² The FOIA System automates FDIC's compliance with record access and disclosure requirements under several regulations including the: 1966 Freedom of Information Act (FOIA), 1996 Electronic FOIA (E-FOIA) regulations, and the 2005 Executive Order 13392 for Improving Agency Disclosure of Information.

³ The Privacy Act is a federal statute that permits an individual to seek access to agency records pertaining to him or herself, provided the record is maintained within a "system of records" –i.e., the record is retrieved by that individual requester's name or personal identifier.

- Track FOIA processing statistics and fees, and generate compliance reports on the number, type, and disposition of FOIA requests processed, as required by the U.S. Department of Justice.
2. **Public Access Link (PAL):** a secure web-based component that enables the public to submit and view their FOIA and PA requests; download their requested documents; and view documents in the FDIC's online Public Reading Room.

Personally Identifiable Information (PII) in FOIA

FOIA contains personally identifiable information (PII) and non-PII of members of the public, FDIC employees and contractors. When making written FOIA/PA requests, individual requestors provide both required and optional information directly to the FDIC by mail, fax, or online via the PAL online form available on the FDIC website (www.fdic.gov). Each Requester File/Case Folder and corresponding responsive materials are stored in FOIAXPress and contain both PII and non-PII of requestors such as: full name, address, telephone number, e-mail address, user name and password (required for online users), Social Security Number (SSN), description of information requested, financial information, maximum fee requestor is willing to pay, employment records, employment identification number, medical records, legal documents (e.g., criminal records), education records, and representative contact information (for individuals filing on behalf of a requestor).

Additionally, communication (e.g., letters, e-mails, and facsimiles) to and from the requesting party may include PII and non-PII. The PII captured during this process is entered or scanned into FOIAXPress for the purpose of adding to the relevant requester record.

Purpose & Use of Information in FOIA

The data maintained in FOIA is both relevant and necessary for the purpose for which the system was designed, namely to support the processing and tracking of requests for information received from individuals and the responses to such requests.

The personal information maintained in FOIA is relevant and necessary for purposes of identification as required by FDIC regulations (e.g., Privacy Act requests). In some cases, personal information is necessary to fulfill statutory mandates or to contact individuals regarding their rights under Federal Law.

Sources of Information in FOIA

Information in FOIA derives from a wide range of sources, including:

- **Individual Requesters:** Members of the public and FDIC employees and contractors filing written FOIA and Privacy Act requests with FDIC by mail, fax or via an online request form located on the FDIC website (www.fdic.gov).
- **FDIC FOIA-PA STAR system:** The previous FDIC FOIA-PA STAR system securely migrated five (5) years of records to the new FOIA system. The FDIC FOIA-PA STAR system is now retired.
- **FDIC Legal Division FOIA/PA Group staff:** Authorized staff may enter additional information into the FOIA system in the course of processing and responding to the requests, such as information required to verify the identity of the requester or notes from staff discussions with requesters.
- **FDIC Divisions and Offices:** FDIC Divisions and Offices provide records that may contain information about individuals that are required to fulfill the request. These responsive documents are scanned and uploaded, and stored in the FOIA system by the Division's respective FOIA Coordinator. These documents may be redacted to protect certain information. Both original and redacted versions are stored in the FOIA system.
- **FDIC General Counsel:** In cases where the initial FOIA request for records is denied, either in whole or in part, the requester has the right to appeal the denial to the FDIC's General Counsel within 30 business days after receipt of notification of the denial. The information may contain additional information relevant to consideration of the appeal. The appeal is received by the FOIA/PA Group staff, recorded in FOIAXpress, and referred to the Commercial Litigation Unit, the responsible party for appellate review and for updating the system with information about appeal status.
- **FDIC Division of Finance:** The FDIC Division of Finance enters the amount of fees paid or not paid by the requester into the FOIA system.

In most cases, no other Federal agencies provide data for use in the FOIA system. Under certain circumstances, FDIC is the recipient of FOIA request referrals, including records from other Federal agencies, and the relevant information is entered into the FOIAXpress system by FOIA/PA Group staff. Additionally, FDIC may refer a FOIA request to another Federal agency FOIA office for response. In such cases, information relative to the referral and response is included in the FOIAXpress system by authorized FOIA personnel.

Notice & Consent

Individuals do not have the opportunity to "opt out" of providing their information for inclusion in FOIA. Requestor name, address, description of information requested, and the maximum fee he/she is willing to pay is necessary for the FDIC to communicate with the requester and process requests. The requester may choose to provide additional contact information such as email address, telephone number, or fax number, to expedite and facilitate the FDIC's processing of the request.

In some cases, materials provided in response to FOIA requests may contain PII about the requestor or about other individuals mentioned or discussed in the

responsive records. Individuals with PII that may be contained in responsive FOIA records do not have the opportunity to “opt out” of providing their information for inclusion in FOIA. The Freedom of Information Act and the Privacy Act legally determine whether the FDIC is required to disclose or to withhold such records from a requester seeking access under those laws.

Access to Data in FOIA

Access to FOIA is determined on a “need to know” basis and requires the approval of the FOIA Program Manager/Data Owner in the FDIC Legal Division.

Authorized FDIC users have limited access to the FOIA system:

- **FDIC Legal Division FOIA/PA Group Specialists and Supervisors:** Authorized members of the FDIC Legal Division have access to FOIA as necessary to create case files, upload responsive documents, redact records, and prepare the final responses to FOIA/PA requests and appeals and to prepare periodic reports, as required by law, executive order or Corporation directive. A limited number of FOIA/PA Group supervisory personnel in the FDIC Legal Division have administrative access rights to the FOIA system to ensure the proper functioning of the system.
- **FDIC Division FOIA/PA Coordinators:** Authorized designated liaisons from other FDIC Offices/Divisions have access on a “need to know basis” to carry out their duties, such as uploading responsive materials to the FOIA system.
- **FDIC General Counsel:** Authorized FDIC General Counsel staff in the Commercial Litigation Unit has access to the FOIA system to review appeals cases and enter information related to the status and outcome of the appeals.
- **FDIC Division of Finance (DOF) staff:** Authorized FDIC DOF staff has access to the FOIA system to enter requester fee amounts that are paid or outstanding.
- **Division of Information Technology (DIT) staff:** Authorized DIT staff may have access to the information maintained in FOIA, as necessary, to administer and support the FOIA System operations.

Additionally, individual requestors using the PAL online request feature on the FDIC FOIA web page (www.fdic.gov) only have access to their own registration and request information.

Data Sharing

Other Systems that Share or Have Access to Data in the System:

No other systems currently share or have access to data in the FOIA system.

System Name	System Description	Type of Information Processed
N/A	N/A	N/A

Data Accuracy in FOIA

Initial FOIA request data is either manually entered or scanned into the FOIA system by authorized Corporate personnel. Requestor information is collected directly from the requesters themselves via mail, fax or PAL online FOIA/PA requests and related communications. Additionally, information may be collected through FOIA referrals from other agencies. Requesters or their representatives are responsible for providing accurate data to the FDIC or other agencies to process their request.

Security measures and controls are in place to ensure that the identity of the individual seeking access to his or her own records is appropriately verified to prevent the disclosure of records to someone other than the requester or their representative.

Data Security for FOIA

The FOIA Program Manager/Data Owner has overall responsibility for protecting the privacy rights of individuals. All authorized FDIC users who have access to data in the FOIA System must have prior approval of the FOIA Program Manager/Data Owner in the FDIC Legal Division before access is granted to the system. Additionally, the system's functional security limits a user's access to specific functions and regulates a user's ability to update data for a specific function.

All authorized FDIC users and contractors must take the mandatory annual FDIC Information Security and Privacy Awareness Training, which includes specific policies and procedures for responsibility and accountability of information regarding compromise and the prevention of misuse of data. All users are responsible for protecting personal information covered by the Privacy Act and must certify that they agree to abide by the system's Rules of Behavior to retain access to the system. Contractors must sign an annual Contractor Confidentiality Agreement to be granted access for the purpose of providing support and maintenance of the FOIA system.

Audit logs are maintained and used to ensure that access and operations are appropriate and necessary. Additionally, security controls are in place to ensure the data is free from viruses and malicious code. The FDIC uses encryption technology to protect the transmission of the data submitted by or downloaded to requesters, as well as, used to ensure that the data stored in PAL is secure.

System of Records Notice (SORN)

The FOIA system operates under FDIC Privacy Act SORN 30-64-0022, *Freedom of Information Act and Privacy Act Request Records*.

Contact Us

To learn more about the FDIC's Privacy Program, please visit:
<http://www.fdic.gov/about/privacy/>.

If you have a privacy-related question or request, email Privacy@fdic.gov or one of the [FDIC Privacy Program Contacts](#). You may also mail your privacy question or request to the FDIC Privacy Program at the following address: 3501 Fairfax Drive, Arlington, VA 22226.

