

Metrics Reporting and Confidentiality

10. Are the quantitative measurements that a banking entity reports under Appendix A of the final rule protected by the Freedom of Information Act (“FOIA”)?

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The staffs of the Agencies encourage banking entities subject to Appendix A to evaluate exemptions available under the FOIA for their reported metrics information and to request confidential treatment as appropriate. Some firms have stated that metrics data reported to the Agencies represent confidential proprietary information of the banking entity. Exemption 4 of the FOIA protects matters that are trade secrets and commercial or financial information obtained from a person that is privileged or confidential.¹ Other exemptions may also apply. We expect to maintain the confidentiality of the reported metrics information to the extent permitted by law.

¹ 5 U.S.C. § 552(b)(4). The FDIC’s FOIA regulation regarding the treatment of confidential commercial information is codified at 12 CFR §309.5(g)(4).