

2016

# Chief FOIA Officer Report

of the Consumer Financial Protection Bureau

# Message from the CFPB Chief Operating Officer Sartaj Alag

The Consumer Financial Protection Bureau (CFPB) was established on July 21, 2010 under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law No. 111-203 (Dodd-Frank Act). The CFPB consolidates most Federal consumer financial protection authority in one place. Our mission is to create an agency that helps consumer finance work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.

It is our pleasure to submit our third annual report and highlight our accomplishments over the past calendar year. In submitting this report, I am continually impressed with our average response time to FOIA requests and the concentrated effort of our FOIA professionals on customer service. For example, our FOIA professionals strive to quickly address clarification issues with newly received requests, provide updates on the status of requests in a timely manner, and maintain open-communications with requesters during every step of the process. In addition to focusing on each request and requester's experience, our FOIA Office maintains a spotlight on FOIA throughout the CFPB by providing a weekly update on FOIA matters to leadership and soliciting feedback from various stakeholders on how to continually improve the FOIA process. The CFPB has continued to promote transparency efforts by posting the calendars of our past and present leadership, budget information, various types of reports, and updates regarding our regulations and guidance. The CFPB continues to develop innovative ways to further transparency and improve FOIA in the federal government.

Inquires about this report may be directed to the CFPB's FOIA Office at (855) 444-FOIA (3642) or [FOIA@cfpb.gov](mailto:FOIA@cfpb.gov).

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# I. Steps Taken to Apply the Presumption of Openness

A key mission of the CFPB is to make the financial products and services that consumers use more transparent. Transparency is at the core of our agenda and an essential part of how the CFPB operates. The public deserves to know what the CFPB is doing and how we are doing it. Therefore, our commitment to openness starts with creating a high level of awareness of FOIA among employees as well as focusing on effective communication with the public.

## *FOIA Training:*

- 1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?*

Yes. CFPB FOIA professionals attended the Department of Justice's Best Practices Workshop Series – Best Practices for Small Agencies. Other than DOJ events, CFPB FOIA professionals attended the American Society of Access Professionals 8<sup>th</sup> Annual National Training Conference, the AINS FOIA Users Group Conference, and the USDA Graduate School's Customer Service Excellence course.

- 2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.*

100%

- 3. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.*

N/A

## *Discretionary Disclosures:*

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt

from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

**4. *Does your agency have a distinct process or system in place to review records for discretionary release?***

The CFPB FOIA Office routinely conducts an analysis to determine if any of the responsive information to a request may be released as a matter of discretion. Additionally, the FOIA Office chairs a FOIA Awareness Group at the CFPB that meets on a weekly basis to discuss FOIA requests, discretionary disclosures, and other FOIA-related matters.

**5. *During the reporting period, did your agency make any discretionary releases of information?***

Yes.

**6. *What exemption(s) would have covered the material released as a matter of discretion?***

FOIA Exemption (b)(5)

**7. *Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.***

The CFPB released as a matter of discretion various types of information that were deliberative in nature. In general terms, this information included email communications, draft documents, agendas, and more.

**8. *If your agency was not able to make any discretionary releases of information, please explain why.***

N/A

***Other Initiatives:***

**9. *If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.***

The CFPB FOIA Manager participated in events to promote transparency in the FOIA process and promote awareness on FOIA-related topics. The FOIA Manager co-presented the “Working Together: Breaking the Silo Mentality” session at the ASAP Records Management Training conference. This session addressed how information prompts us to work together, building cross-functional relationships, records management implications, and eDiscovery. Another session at ASAP’s 8<sup>th</sup> Annual National Training Conference titled

“A Discussion on FOIA Public Liaisons” session concentrated on the role, methods to promote requester communications, communications strategies to promote a positive experience, and an update on the recent poll sponsored by the FOIA Advisory Committee. Additionally, the CFPB’s FOIA Manager led a discussion with FOIA leadership from federal agencies at the AINS FOIA Users Group Conference. This discussion focused on creating a collaborative culture; being innovative and leveraging technology; openFOIA; Release to One, Release to All pilot; the common FOIA regulations; and an update on the FOIA Advisory Committee.

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

The CFPB continually reviews the FOIA program in order to allocate the appropriate level of resources to efficiently process requests and to implement best practices.

### *Processing Procedures:*

1. *For Fiscal Year 2015, what was the average number of days your agency reported for expedited processing (Section VIII.A)?*

The average number of days for the CFPB to adjudicate requests for expedited processing was two days.

2. *If your agency’s average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.*

N/A

3. *On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.*

During Fiscal Year 2015, the CFPB did not send any “still interested” inquiries out to requesters.

### *Requester Services:*

- 4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.*

During Fiscal Year 2015, the CFPB did not make any changes to our FOIA Requester Service Center or Public Liaison role.

- 5. If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that that here.*

The CFPB already has a robust process in place for communicating with requesters to keep them apprised of the status of their requests as well as working to resolve disputes. In addition to the Public Liaison, CFPB FOIA Analysts routinely communicate with requesters via email and phone to discuss request status, searches, scope, refining keywords and general questions concerning the FOIA process.

### *Other Initiatives:*

- 6. If there are 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, eliminating redundancy, etc., please describe them here.*

The FOIA Office routinely collaborates with colleagues from each division and several program offices throughout the CFPB to continually evaluate the efficiency and effectiveness of the FOIA program. This approach enables the FOIA Office to continually improve and streamline the FOIA process, from leveraging technology to having effective communication with the public.

## III. Steps Taken to Increase Proactive Disclosures

The CFPB strives to lead by example by being transparent with respect to its own activities. The CFPB utilizes its website as the primary vehicle to share information on the

operations and work of the CFPB. These initiatives include posting the Leadership Calendars of its Director and Deputy Director; budget updates; general reports; guidance updates; and much more.

*Posting Material:*

1. *Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.*

The FOIA Office has the ability to utilize eFOIA software and review of FOIA logs to identify records that have been requested at least three times.

2. *Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.*

Yes. CFPB program offices suggest documents for proactive disclosure and follow an internal clearance process overseen by the Office of the Executive Secretariat.

3. *When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.*

N/A

4. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?*

N/A

5. *If so, please briefly explain what those challenges are.*

N/A

6. *Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.*

**Consumer Information.** The CFPB is focused on helping consumers make better decisions regarding financial products. Examples of published consumer information include a [Consumer Complaint Database](#) (anonymized complaint data), the [Home Mortgage Disclosure Act database](#), the Know Before You Owe initiative ([credit cards](#), [mortgages](#), and [student loans](#)), and other information that is routinely published on the [CFPB website](#).



**Leadership Calendars.** The CFPB remains committed to keeping the public informed about the daily work of the CFPB’s senior leadership by sharing their **calendars**. The CFPB has continued to post the monthly calendar of Director Richard Cordray. The calendars of past leaders Elizabeth Warren, Raj Date, and Steven Antonakes are archived on the website for the public to view as well.

**Budget Updates.** The CFPB continued to publish updates on its **budget**. Examples include budget and performance documents, financial reports, funding requests and acknowledgements, and information on the civil penalty fund.

**General Reports.** The CFPB continued to publish a variety of **reports** that shed light on the financial landscape and keep the American public informed and engaged in the work of the CFPB. Examples include annual, semi-annual, and other types of reports.

**Guidance Updates.** The CFPB continued to provide updates on **regulations** and **guidance**. Examples of regulatory information include final rules issued by the CFPB, proposed rules issued by the CFPB, other notices, and CFPB regulations. Examples of guidance information included supervision and examination materials, lists of depository institutions under the jurisdiction of the CFPB, compliance-related information for rules issued by the CFPB, and a variety of other guidance documents.

7. *Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.*

Yes. The CFPB uses **press releases** and **blog posts** to highlight the release of information for public awareness.

*Other Initiatives:*

8. *If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.*

In June 2015, the CFPB began publishing **consumer complaint narratives** where the consumer has consented to publication about mortgages, bank accounts and services, credit cards, debt collection, credit reporting, and more. These consumer narratives provide a firsthand account of the consumer’s experience and provide context to complaints, are easily searchable, and help spotlight specific trends. Additionally, the narratives can also help consumers to make more informed decisions as well as encourage companies to improve the overall quality of their products and services.

## IV. Steps Taken to Greater Utilize Technology

The CFPB is committed to transparency and believes that technology and innovation are fundamental to achieving mission of protecting consumers. The CFPB has employed technology in the overall management of the FOIA process, conducting searches for responsive records, and reviewing responsive records for release in an electronic format.

### *Making Material Posted Online More Useful:*

- 1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially the community of individuals who regularly access your agency's website.*

N/A

- 2. If yes, please provide examples of such improvements.*

N/A

- 3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?*

Yes.

- 4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.*

N/A

- 5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?*

Yes. The CFPB utilizes email to communicate to requesters, from the acknowledgement of a request to sending a response to the request.

- 6. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?*

N/A

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

The CFPB understands the importance of responding to requests within the timelines outlined in the FOIA statute. Additionally, the CFPB focuses on responding to appeals within the same amount of time (20 working days) as a request to provide requesters with a determination in a timely manner. The FOIA Office continues to look for ways to further streamline the process, effectively communicate with requesters, and leverage the most innovative techniques to provide a timely response to the public.

### *Simple Track:*

1. Does your agency utilize a separate track for simple requests?

Yes.

2. *If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?*

Yes. The average number of days for the CFPB to process simple requests was 10.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.*

The percentage of requests the CFPB processed in the simple track was 97%.

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

N/A

### *Backlogs:*

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

The CFPB did not have a backlog of requests at the close of Fiscal Year 2015.

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2015.

If your agency did not receive any requests in Fiscal Year 2015 and/or has no request backlog, please answer with "N/A."

N/A

7. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog report at the end of Fiscal Year 2014?

The CFPB did not have a backlog appeals at the end of Fiscal Year 2015.

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A."

N/A

9. *In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?*

Yes.

10. *If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.*

N/A

11. *Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?*

None

12. *In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?*

Yes

**13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

N/A

**14. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?**

The CFPB did not have any pending consultations at the end of Fiscal Year 2014.

**15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.**

N/A

***Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:***

**16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2014.**

The ten oldest requests from Fiscal Year 2014 were closed during the first quarter of Fiscal Year 2015.

**17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultations, and the date when you last contacted the agency where the consultation was pending.**

N/A

**18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2016.**

N/A

## VI. Use of FOIA's Law Enforcement "Exclusions"

The CFPB has not used any of the FOIA's statutory law enforcement exclusions during Fiscal Year 2014, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3).

1. *Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?*

No.

2. *If so, please provide the total number of times exclusions were invoked.*

N/A