

2015

Chief FOIA Officer Report

of the Consumer Financial Protection Bureau



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 second annual report and highlight our accomplishments over the past calendar year. In submitting this report, I take pride in emphasizing our quick response time to FOIA requests and exemplify our commitment to engaging the public. For example, the CFPB has engaged consumers through information published in our Consumer Complaint Database, the Home Mortgage Disclosure Act database, and the Know Before You Owe initiatives. Additionally, the CFPB continues to promote transparency into our operations by posting the calendars of our Director and Deputy Director, budget information, various types of reports, and updates regarding our regulations and guidance. In addition to these efforts, the CFPB recently developed a FOIA Transparency Plan that provides a vision for proactively posting records and identifying those “frequently requested” records under the FOIA. 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.

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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 FOIA Requester Roundtables on Maximizing the Administrative Appeal Process, Providing Estimated Dates of Completion, and Reducing Backlogs and Improving Timeliness. Additionally, CFPB FOIA professionals attended DOJ's FOIA Administrative Forum and Best Practices Workshop on Proactive Disclosures & Making Online Information More Useful. Other than DOJ events, CFPB FOIA professionals attended the Office of Government Information Services Alternative Dispute Resolution course and the American Society of Access Professionals Annual National Training Conference.

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. *In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once a year. Please provide the status of your agency's implementation of this plan.*

As stated in the 2014 Chief FOIA Officer Report, the CFPB is committed to making the appropriate learning and development opportunities available to FOIA professionals. Employees are encouraged to complete Individual Development Plans (IDP) to document both short- and long-term developmental goals and create a path to achieve those goals. While these IDPs are not mandatory, they provide employees an opportunity to create goals, forecast training, and evaluate progress toward career objectives.

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 has determined that various types of information may be released as a matter of discretion that was 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 FOIA Office partnered with the American Society of Access Professionals (ASAP) to host a Lunch and Learn event titled "The Impact of Government Disclosures" to celebrate Sunshine Week 2014. Topics open for discussion focused on disclosures that shed light on agency operations, benefits of engaging the public in policymaking, and information to assist consumers. Panelists included the CFPB's General Counsel and representatives

from the requester community (National Security Archive and OpenTheGovernment.org).

Additionally, members of the FOIA Office participated in events to promote transparency in the FOIA process and promote awareness on FOIA-related topics. For example, the FOIA Manager participated in two panels at the ASAP 7th Annual National Training Conference that focused on the new Government Information Specialist (GIS) job series and a discussion on utilizing technology in the FOIA process. These sessions discussed the formulation of the new GIS series, promoting career growth through training and position description development, and the various skills associated with the series. The technology session concentrated on accessibility (508 compliance), stripping metadata/removing header information on electronic documents, the intersection of FOIA and eDiscovery, and issues surrounding requests for records in databases. The FOIA Public Liaison participated in a discussion titled “Building a Bridge Between FOIA Requesters and Federal Agencies” hosted by Cause of Action. This discussion focused on the types of records frequently requested and helpful tips about the FOIA process.

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 2014, 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 three 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

Requester Services:

3. *Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?*

Yes. OGIS contact information is included in appellate determination responses or offered to the requester when the FOIA Office is unable to resolve an issue with the requester.

4. *When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributed to search, review, and duplication?*

Yes. The CFPB normally notifies requesters of their fee category at the receipt of a new request, through an acknowledgement letter. When fees are assessed, the requester is provided the approximate work hours to search and review the responsive records. Additionally, the requester is usually informed of the estimated page count and the fees associated with the search and review. The requester is given the opportunity to narrow the scope of their request in order to reduce the fees associated with processing the request. Lastly, the requester is informed of the process to authorize the fees, advance payments requirements (if applicable), and the appropriate reference to the CFPB's fee schedule.

5. *If estimated fee estimates are particularly high, does your agency provide an explanation for the estimate to the requester?*

Yes. The CFPB routinely communicates with requesters concerning their requests, including clarification and fee matters. For example, the CFPB will contact a requester to further clarify or narrow a request prior to providing a large fee estimate.

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 decisions the CFPB undertakes every day. 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. *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. The newly created FOIA Transparency Plan generally defines the process to identify, review, and post information to the CFPB's public website. This plan suggests specific records to consider for proactive posting that are based on FOIA requirements and federal or state best practice examples. Records being considered for posting during Fiscal Year 2015 include awarded contracts, FOIA logs, and FOIA responses.

2. *Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.*

Yes. Collaboration occurs with various CFPB stakeholders and/or the internal [agency] clearance process.

3. *Describe your agency's process or system for identifying "frequently requested" records that should be posted online.*

The FOIA Office will utilize eFOIA software and conduct a monthly review of FOIA logs to identify records that have been requested at least three times. After identification, the CFPB will post those records in accordance with DOJ guidance and the newly created FOIA Transparency Plan.

4. *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 calendars of Director Richard Cordray and Deputy Director Steven Antonakes to the website. The calendars of past leaders Elizabeth Warren and Raj Date 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.

Other Initiatives:

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

In July of 2014, the CFPB released a **proposal** for public comment to expand the information in its public consumer complaint database to include consumer narrative descriptions of what happened, to provide important context to the complaint, help the public to detect specific trends in the market, aid consumer decision-making, and drive improved customer service.

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.*

Yes.

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

The CFPB has released tools to make Consumer Complaint Data and Home Mortgage Disclosure Act (HMDA) data more useful to the public. The Consumer Complaint Database contains certain individual-level field data collected by the CFPB, including the type of complaint, the date of submission, the consumer's zip code, and the company that the complaint concerns. The database also includes information about the actions taken on a complaint – whether the company's response was timely, how the company

responded, and whether the consumer disputed the company's response. The database does not include confidential information about a consumer's identity.

The Consumer Financial Protection Bureau (CFPB) has also launched an online tool to provide consumers with easy access to public mortgage information collected under the Home Mortgage Disclosure Act (HMDA). The tool enables greater transparency by helping inform people of trends in their local mortgage markets. The CFPB tool focuses on the number of mortgage applications and originations, in addition to loan purposes and loan types for 2010 through 2012. Using the tool, the public can see nationwide summaries or they can choose interactive features that allow them to isolate the information for metropolitan areas. The public can easily explore millions of data points with these user-friendly graphs and charts.

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

No.

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

N/A

5. *Did your agency successfully post all four quarterly reports for Fiscal Year 2014?*

No.

6. *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.*

The CFPB will coordinate with their Office Technology & Innovation to begin posting 2015 quarterly reports to consumerfinance.gov in April 2015. Additionally, the CFPB will coordinate with the Department of Justice (OIP) to add the CFPB to the FOIA Quarterly XML Generator for posting quarterly reports to FOIA.gov.

7. *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.

8. *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 2014, 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 9.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.*

The percentage of requests the CFPB processed in the simple track was 94%.

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 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

Yes. There were two requests backlogged in Fiscal Year 2013 and zero at the end of Fiscal Year 2014.

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 2014. If your agency did not receive any requests in Fiscal Year 2014 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 2014, did that backlog decrease as compared with the backlog report at the end of Fiscal Year 2013?

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

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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

N/A

9. *In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 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 2013 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?*

N/A

12. *In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

N/A

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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.*

N/A

14. *In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

The CFPB did not have any pending consultations at the end of Fiscal Year 2013.

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 2013 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 2013.*

The ten oldest requests from Fiscal Year 2013 were closed during the first quarter of Fiscal Year 2014. There were no pending appeals or consultations at the end of Fiscal Year 2013.

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 2015.*

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 2013?*

No.

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

N/A