



## Executive Summary:

# No Changes Recommended to Freedom of Information Act Exemption Included in the Amended Federal Reserve Act

2013-AA-B-001

January 18, 2013

### Purpose

The Freedom of Information Act (FOIA) creates a public right of access to the records of federal agencies, including the Board of Governors of the Federal Reserve System (Board). The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) amended the Federal Reserve Act (FRA) with the addition of section 11(s) and created a FOIA exemption for specified information regarding the emergency credit facilities, discount window lending programs, and open market operations administered by the Board.

The Dodd-Frank Act requires that we (1) study the impact that this FOIA exemption has had on the public's ability to access information about the Board's administration of these facilities, programs, and operations; (2) make any recommendations as to whether the FOIA exemption should remain in effect; and (3) submit a report on our findings to specified congressional committees.

### Background

During the recent financial crisis, the Federal Reserve System took actions to provide liquidity, stabilize credit markets, and reduce financial strains. These actions were followed by requests for certain Board documents under FOIA. In some cases, the Board withheld information using existing FOIA exemptions due to concerns that the release of certain information would harm the effectiveness of the emergency credit facilities, discount window lending programs, and open market operations. The amended FRA requires the Board to disclose transaction-level information concerning emergency credit facilities, discount window lending programs, and open market operations on a time-delayed basis to allow these programs to function effectively. The amended FRA also provides a FOIA exemption to maintain the confidentiality of this information until the mandated disclosure dates.

### Findings

During our evaluation, we did not find evidence that the FOIA exemption included in section 11(s) of the amended FRA has impacted the public's ability to access information concerning the Board's administration of emergency credit facilities, discount window lending programs, or open market operations. We determined that neither the Board nor the Federal Open Market Committee has utilized the FOIA exemption in section 11(s) of the FRA to withhold information regarding any FOIA requests received from July 21, 2010, the date the exemption became effective, through October 31, 2012, the end of our FOIA review period. We also found that the Federal Reserve System provides a significant amount of publicly available information about the administration of these facilities, programs, and operations that includes statutorily mandated disclosures. Published information also includes broad-based reporting, program administrative terms and conditions, and aggregate data, such as weekly statistical reports and balance sheet information. In addition, we noted that if the FOIA exemption in section 11(s) of the FRA was eliminated, the earlier release of transaction-level information could have adverse impacts on individual institutions and the broader financial markets, as well as on the effectiveness of the emergency credit facilities, discount window lending programs, and open market operations as tools to effect monetary policy and respond to financial crises.

Given our determination that the FOIA exemption in section 11(s) of the FRA has not impacted the public's ability to access information about the Board's administration of emergency credit facilities, discount window lending programs, or open market operations and that there is the potential for adverse impacts with earlier releases of information, we are not recommending any change to the FOIA exemption that Congress provided in section 11(s) of the amended FRA.

We provided a draft of our report to officials of the Board and the Federal Reserve Banks of New York and Boston for their review and comment. The Board's formal response indicated that it agreed with our conclusion, and we included the response as appendix D to our report. These officials also provided technical comments under separate cover, which we incorporated as appropriate.

Access the full report: [http://www.federalreserve.gov/oiq/files/FRB\\_FOIA\\_Exemption\\_full\\_January2013.pdf](http://www.federalreserve.gov/oiq/files/FRB_FOIA_Exemption_full_January2013.pdf)

For more information, contact the OIG at 202-973-5000 or visit <http://www.federalreserve.gov/oiq>.