



OFFICE OF INSPECTOR GENERAL

Evaluation Report

2013-AA-B-001

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

January 18, 2013

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

Report Contributors

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Abbreviations

AIG	American International Group, Inc.
Board	Board of Governors of the Federal Reserve System
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010
Federal Reserve	Federal Reserve System
FOIA	Freedom of Information Act
FOMC	Federal Open Market Committee
FRA	Federal Reserve Act
FRB-NY	Federal Reserve Bank of New York
GAO	Government Accountability Office
OIG	Office of Inspector General
Reserve Bank	Federal Reserve Bank
TAF	Term Auction Facility
TALF	Term Asset-Backed Securities Loan Facility



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

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

Summary of Recommendations

Rec. no.	Report page no.	Recommendation	Responsible office
No recommendations.			



OFFICE OF INSPECTOR GENERAL
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

January 18, 2013

MEMORANDUM

TO: Scott G. Alvarez
General Counsel

William B. English
Director, Division of Monetary Affairs

FROM: Andrew Patchan Jr. *Andrew Patchan Jr.*
Associate Inspector General for Audits and Attestations

SUBJECT: *OIG Report: No Changes Recommended to Freedom of Information Act Exemption Included in the Amended Federal Reserve Act*

As required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the Office of Inspector General studied the impact that the Freedom of Information Act (FOIA) exemption established under section 11(s) of the amended Federal Reserve Act has had on the public's ability to access information about the administration of emergency credit facilities, discount window lending programs, and open market operations by the Board of Governors of the Federal Reserve System. The act also requires us to report our results to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and the Committee on Financial Services of the U.S. House of Representatives.

Attached is our report on the subject matter. We concluded that the FOIA exemption in section 11(s) of the amended 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. We are not recommending any change to this FOIA exemption.

We provided you and the Federal Reserve Banks of New York and Boston with a copy of our draft report for review and comment. In your response, you indicated that you agreed with our conclusion. We have included your response as an appendix to our report.

We appreciate the cooperation that we received from Federal Reserve System staff during our evaluation. This report will be added to our public website and will be summarized in our next semiannual report to

Congress. Please contact Cynthia Gray, Senior OIG Manager, at 202-973-5040 or me at 202-973-5003 if you would like to discuss this report or any related issues.

Attachment

cc: Chairman Ben S. Bernanke
Vice Chair Janet L. Yellen
Governor Elizabeth A. Duke
Governor Daniel K. Tarullo
Governor Sarah Bloom Raskin
Governor Jeremy C. Stein
Governor Jerome H. Powell
Mr. Robert deV. Frierson

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Introduction

Objectives

The Freedom of Information Act (FOIA) creates a right of public access to the records of federal agencies, including the Board of Governors of the Federal Reserve System (Board) and the Federal Open Market Committee (FOMC). Federal agencies must release records (or portions thereof) that are requested by the public unless these records are excluded from FOIA or fall under one of the nine FOIA exemptions. To enhance the public's access to Federal Reserve System (Federal Reserve) information, section 1103 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) amended the Federal Reserve Act (FRA) by adding section 11(s). Under section 11(s), the Board is required to publicly disclose detailed transaction-level information concerning the Federal Reserve's emergency credit facilities, discount window lending programs, and open market operations. To allow these programs to function effectively, however, section 11(s) authorizes the Board to delay the disclosure of this information for designated time frames. Further, section 11(s) provides a FOIA exemption that exempts these records from release to the public until the mandated disclosure dates.

Section 1103 of the Dodd-Frank Act requires that the Office of Inspector General (OIG) of the Board study this FOIA exemption. Specifically, the OIG is to

1. study the impact that the FOIA exemption has had on the public's ability to access information about the Board's administration of emergency credit facilities, discount window lending programs, and open market operations
2. make any recommendations on whether the FOIA exemption should remain in effect
3. submit a report on the findings of its study to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and the Committee on Financial Services of the U.S. House of Representatives

We conducted this evaluation and prepared this report to fulfill these statutory requirements. Details on our scope and methodology are in appendix A, and the nine FOIA exemptions are listed in appendix B.

Background

The Federal Reserve's Emergency Credit Facilities, Discount Window Lending Programs, and Open Market Operations

Consistent with its role as the nation's central bank, the Federal Reserve took action to respond to the financial crisis of 2007–2009 by providing liquidity to the private sector, supporting the functioning of credit markets, and reducing financial strains.¹ Under section 13(3) of the FRA,² the Board authorized the Federal Reserve Bank of New York (FRB-NY) and the Federal Reserve Bank of Boston to create emergency credit facilities with broad-based eligibility and for specific institutions. This exercise of authority under unusual and exigent circumstances, coupled with modifications to the Board's more traditional tools (e.g., discount window lending program and open market operations), was followed by calls for increased transparency surrounding the Board's actions. In addition, there were requests from the public under FOIA for information related to these actions, such as borrowers' names, loan amounts, and pledged collateral. The Federal Reserve provided information about the interest rates and other terms of these programs, the amounts lent, and the eligibility criteria for participants, as well as regular status reports. However, the Board withheld transaction-level information using existing FOIA exemptions due to concerns that the release of this information would harm the effectiveness of these tools.³

On July 21, 2010, Congress enacted the Dodd-Frank Act, in part, to address a variety of issues raised by the financial crisis and to promote increased transparency. Among other things, the Dodd-Frank Act amended the FRA by adding section 11(s). The Board's disclosure requirements under section 11(s) of the FRA, and the related FOIA exemption, apply to three types of Federal Reserve activities: emergency credit facilities, discount window lending programs, and open market operations. The following describes each of these activities and how each is used by the Federal Reserve.

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1. The FRA created the Federal Reserve as the central bank of the United States to provide the nation with a safer, more flexible, and more stable monetary and financial system. The Federal Reserve is composed of the Board, 12 regional Federal Reserve Banks, and the FOMC.
 2. Section 13(3) of the FRA—A section of the FRA that, prior to the enactment of the Dodd-Frank Act, read, in part, as follows: “In unusual and exigent circumstances, the Board of Governors of the Federal Reserve System . . . may authorize any Federal reserve bank . . . to discount for any individual, partnership, or corporation, notes, drafts, and bills of exchange . . . [that are] . . . secured to the satisfaction of the Federal reserve bank: *Provided* . . . that such individual, partnership, or corporation is unable to secure adequate credit accommodations from other banking institutions. All such discounts for individuals, partnerships, or corporations shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.”
 3. On March 31, 2011, in response to two opinions of the United States Court of Appeals for the Second Circuit, the Federal Reserve released documents related to the discount window. *Bloomberg, L.P.v. Bd. of Governors of the Fed. Reserve Sys.*, 601 F.3d 143 (2d Cir. 2010); *Fox News Network, LLC v. Bd. of Governors of the Fed. Reserve Sys.*, 601 F.3d 158 (2d Cir. 2010).

Emergency Credit Facilities

Pursuant to section 13(3) of the FRA, the Board authorized the following six emergency credit facilities with broad-based eligibility to stabilize the financial system and support economic activity:

Facility	Purpose
Term Securities Lending Facility	Designed to promote liquidity in the financing markets for U.S. Treasury and other securities and, thus, foster the functioning of financial markets more generally. Loaned U.S. Treasury securities to primary dealers against eligible collateral.
Primary Dealer Credit Facility	Intended to provide primary dealers ^a with the ability to obtain overnight loans using eligible assets as collateral to secure such loans. Before the creation of this facility, primary dealers had no access to a “lender of last resort” credit facility.
Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility	Intended to address liquidity strains faced by money market mutual funds and borrowers in the commercial paper markets and assist money market mutual funds in meeting investor redemption demands.
Commercial Paper Funding Facility	Intended to increase the liquidity of the commercial paper markets and provide an immediate funding source for companies, allowing them to continue to finance day-to-day operations, such as payroll, purchasing, and lending.
Money Market Investor Funding Facility	Intended to restore confidence and liquidity in the money markets, which are critical to the short-term financing needs of businesses. This facility was never utilized.
Term Asset-Backed Securities Loan Facility (TALF)	Intended to assist the credit markets in meeting the credit needs of consumers and businesses by facilitating the issuance of asset-backed securities backed by pools of assets—such as auto loans, credit card loans, equipment loans, student loans, or small-business loans—and improving the market conditions for asset-backed securities more generally. ^b

^a Firms that are authorized to buy and sell U.S. government securities with FRB-NY’s Open Market Desk, which operates on behalf of the FOMC, in order to implement monetary policy.

^b Only the TALF has outstanding loans. As of October 31, 2012, these loans totaled approximately \$1.2 billion, and they are scheduled to mature no later than March 2015, according to the TALF terms and conditions. The other facilities’ loans were repaid in full with interest.

In addition to its broad-based emergency lending, the Board authorized assistance to avert the disorderly failures of institutions, such as the Bear Stearns Companies, Inc., and American International Group, Inc. (AIG).⁴ Board officials believed that disorderly failures could have further strained the financial system as a whole and harmed the U.S. economy.

4. The loans authorized by the Board, and extended by FRB-NY, as part of the assistance to AIG and to facilitate the acquisition of the Bear Stearns Companies, Inc., have been repaid in full with interest. The Dodd-Frank Act amended section 13(3) of the FRA so that the Board may no longer use this provision to authorize a loan or other financial assistance to a single and specific company.

Discount Window Lending Programs

In addition to creating emergency credit facilities, the Federal Reserve modified the terms of discount window lending, one of its traditional monetary policy tools. Discount window lending (1) helps achieve the target federal funds rate,⁵ (2) serves as a safety valve by relieving pressure in markets for federal funds, and (3) helps promote basic stability of the payment system. Each Federal Reserve Bank (Reserve Bank) uses its discount window to extend primary credit on a short-term basis to eligible depository institutions in its district at rates above the FOMC's target federal funds rate.

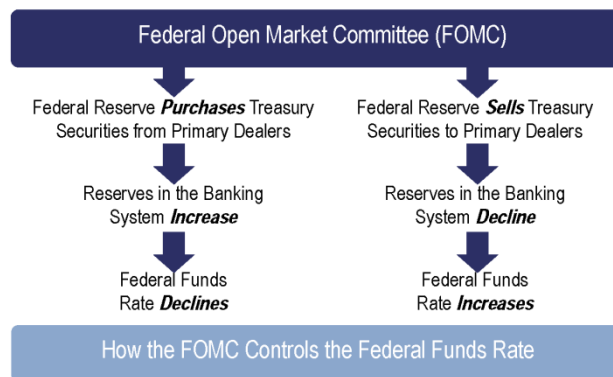
Depository institutions eligible for primary credit at the discount window include certain commercial banks, thrift institutions, and U.S. branches and agencies of foreign banks in generally sound financial condition. The Reserve Banks generally determine eligibility for credit according to criteria based mainly on the borrower's examination ratings and capital levels. Loans from the discount window must be secured by collateral acceptable to the lending Reserve Bank, and most performing or investment-grade assets held by depository institutions are acceptable. Given the above-market pricing for credit, the Federal Reserve expects that institutions will use the discount window as a backup source of funding. The central banks of most industrialized countries have similar lending facilities that extend collateralized credit at an above-market rate.

During the financial crisis, the Federal Reserve made several modifications to its discount window lending programs to help relieve liquidity strains in depository institutions and in the banking system as a whole, including lowering the primary credit rate and extending the maximum term on primary credit loans. In addition, in December 2007 the Federal Reserve created the Term Auction Facility (TAF) to improve depository institutions' access to term funding (i.e., funding that is longer than overnight). The TAF provided credit through an auction mechanism to depository institutions in generally sound financial condition.

Open Market Operations

The Federal Reserve considers open market operations to be its primary monetary policy tool. The principal goal of open market operations is to affect the federal funds rate, which impacts other rates throughout the economy, by influencing the amount of reserve balances in the banking system. The Federal Reserve has traditionally sold or purchased securities, primarily U.S. Treasury securities and federal agency securities, either in outright purchases or sales or through repurchase agreements,⁶ in the open market using primary dealers. By adjusting the level of reserve balances,⁷ the Federal Reserve influences the federal funds rate as shown by the following diagram.

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5. The FOMC targets the overnight uncollateralized lending rate between banks, known as the federal funds rate.
 6. A repurchase agreement is a financial transaction in which the holder of a security obtains funds by selling that security to another financial market participant under an agreement to repurchase the security at a fixed price on a predetermined future date.
 7. Depository institutions hold reserve balances at a Reserve Bank to meet their reserve requirements with the Federal Reserve and to clear financial transactions with other financial institutions. Reserve requirements are the percentage of certain deposits that depository institutions must hold in reserve in the form of cash or in an account at a Reserve Bank.



In addition, to address heightened pressures in term funding markets during the financial crisis, the Federal Reserve conducted a series of what were called single-tranche term repurchase agreements from March 2008 to December 2008. These repurchase agreements provided funding to primary dealers for up to 28 days to help address liquidity pressures across a number of financing markets and supported the flow of credit to U.S. households and business. Furthermore, since late 2008 the FOMC has used large-scale asset purchases of Treasury, agency, and agency-backed securities to put downward pressure on longer-term interest rates and ease financial conditions more broadly.

Disclosure Requirements of the FRA

Congress enacted the Dodd-Frank Act, in part, to address a variety of issues raised by the financial crisis and to promote increased transparency. The Dodd-Frank Act amended the FRA by adding section 11(s) to enhance the public’s access to Federal Reserve–related information in several ways. For example, it requires the Board to publicly disclose specified information concerning the borrowers and counterparties participating in emergency credit facilities, discount window lending programs, and open market operations that are authorized or conducted by the Board or a Reserve Bank. The specific information required for disclosure under section 11(s) of the FRA includes

- the names and identifying details of each borrower, participant, or counterparty in any credit facility or covered transaction⁸
- the amount borrowed by or transferred by or to a specific borrower, participant, or counterparty in any credit facility or covered transaction
- the interest rate or discount paid by each borrower, participant, or counterparty in any credit facility or covered transaction
- information identifying the types and amounts of collateral pledged or assets transferred in connection with participation in any credit facility or covered transaction

8. A covered transaction is defined as including two different transactions: (1) open market operation transactions with a nongovernmental third party conducted under the first undesignated paragraph of section 14 of the FRA, or subparagraph (a), (b), or (c) of the second undesignated paragraph of the same section; and (2) discount window advances made under section 10B of the FRA after the date of enactment of the Dodd-Frank Act (i.e., July 21, 2010).

The Dodd-Frank Act amendments to the FRA require the release of this borrower and counterparty (transaction-level) information but permit a delay of this release to allow these emergency credit facilities, discount window lending programs, and open market operations to function effectively. For emergency credit facilities, public disclosure is required one year after the effective date of the termination by the Board of the authorization of the credit facility. For discount window lending programs and open market operations transactions, the Board is required to disclose the information on the last day of the eighth calendar quarter following the calendar quarter in which these transactions were conducted.

The Dodd-Frank Act amendments to the FRA include a FOIA exemption to allow for this transaction-level information to be kept confidential until the relevant mandatory release dates. Section 11(s) of the FRA provides the Chairman of the Board with the authority to publicly release this information earlier “if the Chairman determines that such disclosure would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose or conduct of covered transactions.”

Results of 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 FOMC 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 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 results of audits, 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 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 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 the potential for adverse impacts from the earlier release of information, we are not recommending any change to the FOIA exemption that Congress provided in section 11(s) of the FRA.

The FOIA Exemption in Section 11(s) of the FRA Has Not Been Used to Withhold Information

We determined from our analysis of FOIA requests received by the Board and the FOMC that the FOIA exemption in section 11(s) of the FRA had not been used as of October 31, 2012. From the enactment of the Dodd-Frank Act on July 21, 2010, through October 31, 2012, the Board and the FOMC received a total of 2,033 FOIA requests,⁹ of which less than 1 percent pertained to activities related to the administration and operation of emergency credit facilities, discount window lending programs, or open market operations that would be covered by the FOIA exemption. However, we determined that neither the Board nor the FOMC has utilized the FOIA exemption provided in section 11(s) of the FRA to withhold information in response to any FOIA requests.

The FOIA exemption in section 11(s) of the FRA does not impact the public's ability to obtain documents concerning the emergency credit facilities, which are no longer operational, because transaction-level information for these facilities has already been released by the Board as

9. As government agencies, both the Board and FOMC are subject to FOIA; the Reserve Banks are not federal agencies and therefore are not subject to FOIA.

required by statute. If any FOIA requests had been made for discount window lending programs and open market operations information from July 21, 2010, through October 31, 2012, related documents (or portions thereof) could have been withheld based on the FOIA exemption in section 11(s) of the FRA. Should such a case have occurred, the release of requested documents would likely have been delayed until the end of the relevant statutorily permitted deferral period, which could be as long as eight calendar quarters unless the Chairman determines that “earlier disclosure would have been in the public interest and would not have harmed the effectiveness of the relevant credit facility or the purpose or conduct of covered transactions.” However, we determined that the FOIA exemption provided in section 11(s) of the FRA had not been used to withhold information in response to any FOIA requests.

Information Related to the Administration of Emergency Credit Facilities, Discount Window Lending Programs, and Open Market Operations Is Publicly Available

The Board and the Reserve Banks maintain websites that provide a wide variety of information to the public regarding the administration of emergency credit facilities, discount window lending programs, and open market operations.¹⁰ This information includes statutorily mandated disclosures, such as the specific transaction-level information required by section 1109(c) of the Dodd-Frank Act and section 11(s) of the amended FRA, as well as reports resulting from independent oversight. The Board has also published information beyond that which is required by statute to further the transparency of its programs and operations. This information includes Board activities during the financial crisis, press releases, and information regarding the emergency credit facilities, discount window lending programs, and open market operations, such as aggregate amounts borrowed, interest rate information, and collateral requirements. As an example, each week the Board publishes statistical releases titled *Factors Affecting Reserve Balances of Depository Institutions and Condition Statement of Federal Reserve Banks* on its website. The weekly release, also known as the H.4.1, includes total borrowing under the Board’s lending programs for the nation as a whole, as well as the sum of borrowing under all programs for each Federal Reserve District.¹¹ In addition, the Board’s website is linked to, and supplemented by, the public websites of various Reserve Banks that assist the Board in its administration of these programs. Information from select websites is summarized below.

Mandated Disclosure of Transaction-level Information

The Board publishes a significant amount of information about its administration of emergency credit facilities, discount window lending programs, and open market operations. Prior to the Dodd-Frank Act, the Board did not release transaction-level information, such as the names of specific borrowers, amounts borrowed, and other information now mandated for disclosure under section 1109(c) of the Dodd-Frank Act and section 11(s) of the FRA.

10. The home pages of the Board and Reserve Banks are provided in appendix C.

11. <http://www.federalreserve.gov/releases/h41/current/h41.htm>.

One-time Disclosure Requirements under Section 1109(c) of the Dodd-Frank Act

On December 1, 2010, the Board published on its website transaction-level information to address the one-time disclosure requirements Congress incorporated into section 1109(c) of the Dodd-Frank Act.¹² This disclosure included loans and other financial assistance provided during the period beginning on December 1, 2007, and ending on July 21, 2010, the date of enactment of the Dodd-Frank Act. For this purpose, the Board established a webpage and posted

- the identity of each business, individual, entity, or foreign central bank to which the Board or a Reserve Bank provided assistance
- the type of financial assistance provided
- the value or amount of that financial assistance
- the date on which the financial assistance was provided
- the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms
- the specific rationale for each such facility or program

This information release was in a spreadsheet format that provided functionality to the public, including the capability to search and manipulate data.

Disclosure Requirements under Section 11(s) of the FRA

On September 28, 2012, the Board released additional information to meet its ongoing disclosure requirement under section 11(s) of the FRA. In conformance with section 11(s) of the FRA, the information was disclosed on the last day of the eighth calendar quarter following the calendar quarter in which the covered transaction was conducted. This requirement was addressed by posting discount window lending program information in spreadsheet format to the Board's website,¹³ and by posting open market operation information to the FRB-NY website.¹⁴ For both discount window lending programs and open market operations, this information included

- the names and identifying details of each borrower, participant, or counterparty in any credit facility or covered transaction
- the amount borrowed by or transferred by or to a specific borrower, participant, or counterparty in any credit facility or covered transaction
- the interest rate or discount paid by each borrower, participant, or counterparty in any credit facility or covered transaction
- information identifying the types and amounts of collateral pledged or assets transferred in connection with participation in any credit facility or covered transaction

12. http://www.federalreserve.gov/newsevents/reform_transaction.htm.

13. http://www.federalreserve.gov/newsevents/reform_quarterly_transaction.htm.

14. http://www.newyorkfed.org/markets/OMO_transaction_data.html.

No emergency lending or credit facility transactions were included in this release because the last emergency credit facility was closed for new loans on March 31, 2010, and for new loan extensions on June 30, 2010.

In the event that the Board, with the approval of the Secretary of the Treasury, does authorize any loan or other financial assistance under section 13(3) of the FRA in the future, it must provide a detailed report to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and the Committee on Financial Services of the U.S. House of Representatives within seven days. This report, which must be updated every 30 days, is required to include

- the justification for the exercise of authority to provide such assistance
- the identity of the recipients of such assistance
- the date and amount of the assistance and the form in which the assistance was provided
- the material terms of the assistance, including
 - duration
 - collateral pledged and the value thereof
 - all interest, fees, and other revenue or items of value to be received in exchange for the assistance
 - any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance
 - the expected costs to the taxpayers of such assistance

However, upon the written request of the Chairman of the Board, the information related to the identity of the participants in an emergency lending program or facility; the amounts borrowed by each participant in any such program or facility; and identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility, shall be kept confidential and made available only to the chairpersons or ranking members of the committees described above.

Information Available to the Public from Independent Audits of Federal Reserve Activities

The Board maintains a website devoted to independent audits of its activities as required by the Dodd-Frank Act.¹⁵ This website includes information on audits of the accounting, financial reporting, and internal controls of the Board and the Reserve Banks and provides links to reports issued by both the Board's OIG and the Government Accountability Office (GAO) regarding the emergency loan programs and other assistance authorized by the Board during the financial crisis.¹⁶ This website also contains links to reports from the annual independent audits conducted on the Board's and the Reserve Banks' financial statements, as well as those of related limited liability companies.¹⁷

15. http://www.federalreserve.gov/faqs/about_12784.htm.

16. Completed and active GAO reviews and completed OIG audits, reviews, and assessments are also listed in the Board's *Annual Report*.

17. Specially created limited liability companies were created to work in support of some emergency credit facilities.

Board OIG's Audit of the Emergency Lending Facilities

Our office conducted an audit of the broad-based emergency credit facilities and issued a report detailing our findings in November 2010.¹⁸ This report included a description of each of the six emergency credit facilities, including their purpose, operation, and risks, as well as the combined usage of these facilities, outstanding loans, and their expiration dates. The report noted that the combined usage of the lending facilities peaked at \$600 billion on November 5, 2008, and that as of June 30, 2010, the Board reported that none of the lending facilities had experienced any financial losses. The report also identified risks in the operation of these facilities, as well as actions taken to mitigate these risks. Further, the report stated that, overall, general indicators of market stress suggested that the lending facilities helped to stabilize financial markets and that each of the six lending facilities expired as market conditions improved. This report did not include any recommendations. As of October 31, 2012, outstanding loans extended under TALF totaled approximately \$1.2 billion and were scheduled to mature no later than March 2015. All other loans have been repaid.

GAO's Audit of the Emergency Loan Programs

As required by section 1109 of the Dodd-Frank Act, GAO conducted a one-time audit of the emergency loan programs and other assistance authorized by the Board from December 1, 2007, through July 21, 2010.¹⁹ For each of these programs or assistance, where relevant, GAO's objectives included a review of (1) the basis and purpose for its authorization, as well as accounting and financial reporting internal controls; (2) the use, selection, and payment of vendors; (3) management of conflicts of interest; (4) policies in place to secure loan repayment; and (5) the treatment of program participants.

In its related audit report,²⁰ GAO concluded that the financial crisis provided invaluable experience that the Federal Reserve can apply in the future should the use of these authorities again become warranted. GAO made recommendations to further strengthen policies for selecting vendors, ensuring the transparency and consistency of decisionmaking involving the implementation of any future emergency programs and managing risks related to these programs. The Board agreed that these recommendations would benefit its response to future crises, indicated that actions have been identified and taken to address a number of the recommendations, and stated that it would strongly consider how to best respond to those recommendations not already addressed.

18. OIG, *The Federal Reserve's Section 13(3) Lending Facilities to Support Overall Market Liquidity: Function, Status, and Risk Management*, November 16, 2010, http://www.federalreserve.gov/oig/files/FRS_Lending_Facilities_Report_final-11-23-10_web.pdf.

19. Section 1102 of the Dodd-Frank Act amended 31 U.S.C. 714 to grant authority to GAO to conduct audits, including onsite examinations, of the Board of Governors, a Federal Reserve Bank, or a credit facility, if the Comptroller General determines that such audits are appropriate for assessing specified aspects of credit facilities or covered transactions. While GAO has audited the emergency loan programs and assistance, including those discussed in this report, as of October 31, 2012, GAO has not audited discount window lending or open market operations, other than the TAF program.

20. GAO, *Opportunities Exist to Strengthen Policies and Processes for Managing Emergency Assistance*, GAO-11-696, July 2011, http://www.federalreserve.gov/newsevents/reform_audit_gao.htm.

GAO's Review of Assistance to AIG

Also linked to the Board's website, among other GAO reports, is *Review of Federal Reserve System Financial Assistance to American International Group, Inc.*²¹ This report details the results of GAO's audit of the Board's approval of entity-specific emergency lending to AIG. GAO reported that AIG assistance offered insights that could help guide future government action and improve ongoing oversight of systemically important financial institutions. GAO made no new recommendations in this report but reiterated previous recommendations aimed at improving the Federal Reserve's documentation standards and conflict-of-interest policies. In response, the Board noted a number of actions it had taken, such as creating a new division to focus on market pressures and developments that may create economic instability, working with the Financial Stability Oversight Council and other federal financial regulators to identify threats to financial stability, implementing changes to the supervision and regulation of the derivatives market, and developing a program of annual stress testing of large financial firms within the Board's purview. The Board also noted that FRB-NY had taken steps to manage situations that could give rise to actual or potential conflicts among firms that played an advisory or administrative role with FRB-NY related to AIG.

Independent and Other Financial Audits

The financial statements of the Board, the Reserve Banks, and limited liability companies, which include the emergency credit facilities' accounts and activities and their related financial reporting internal controls, are audited annually by an independent auditing firm, and the results are linked to the website devoted to independent audits of Federal Reserve activities discussed above (see footnote 15). These independent financial statement audits, as well as other audits and reviews conducted by the Board OIG and the Reserve Banks' internal audit functions, did not report any significant accounting or financial reporting internal control issues concerning the emergency credit facilities.

Emergency Credit Facilities Websites

As the Federal Reserve introduced new credit facilities and liquidity programs in response to the financial crisis, the Board and the Reserve Banks provided supporting information to the public. This information typically included

- a Board or FOMC press release announcing the facility or program
- a listing in the Monetary Policy "Monetary Tools" section of the Board public website
- operational information and frequently asked questions on the FRB-NY or other Reserve Bank public websites (while the Reserve Bank information was directed primarily to potential participants in the credit and liquidity programs, the information was also available to the public)

21. GAO, *Review of Federal Reserve System Financial Assistance to American International Group, Inc.*, GAO-11-616, September 2011, <http://www.gao.gov/assets/590/585560.pdf>.

Additionally, as new programs became operational, they were generally added to the weekly H.4.1 release. In some cases, such as for introduction of the Commercial Paper Funding Facility, detailed accounting explanations were presented in cover notes to the H.4.1.

A key source of publicly available information is the Board's "Credit and Liquidity Programs and the Balance Sheet" webpage,²² which can be accessed via a link on the Board's homepage. The "Credit and Liquidity Programs and the Balance Sheet" webpage was initially published in early 2009 and is intended to increase understanding of the tools employed to address the financial crisis. This webpage consolidates sources of information, such as links to liquidity and credit facilities. It also provides other information, including an overview of the Federal Reserve's response to the financial crisis,²³ weekly statistical and balance sheet releases with related information,²⁴ Federal Reserve financial statements,²⁵ and links to other information and resources designed to enhance transparency.

The overview page of the "Credit and Liquidity Programs and the Balance Sheet" webpage also provides links to aggregate data, such as collateral and rate setting, but does not include the individual details by borrowing transaction that are protected at the transaction level by the FOIA exemption that is the focus of this report.²⁶ There is also a link to reports and disclosures that are required of the Board,²⁷ as well as links to webpages that provide aggregate lending data. As an example, each week the Board reports total borrowing under its lending programs for the nation as a whole, as well as the sum of borrowing under all programs for each Federal Reserve District. This information is published on the Board's website as H.4.1 releases.²⁸

As required under section 129 of the Emergency Economic Stabilization Act,²⁹ in the fall 2008 the Board began providing reports to Congress on the emergency credit facilities it established. These reports, which the Board makes available on its website,³⁰ include the rationale for each program, the amount of collateral pledged, and an assessment of the expected gain or loss to the public. In October 2009, the Board began to incorporate these reports into its monthly report on the "Credit and Liquidity Programs and the Balance Sheet."³¹ These reports are still being submitted for the TALF, the last remaining emergency credit facility. Also linked to this webpage is a webpage titled "Other Lending Facilities," which provides additional background

22. <http://www.federalreserve.gov/monetarypolicy/bst.htm>.

23. http://www.federalreserve.gov/monetarypolicy/bst_crisisresponse.htm.

24. http://www.federalreserve.gov/monetarypolicy/bst_fedsbalancesheet.htm.

25. http://www.federalreserve.gov/monetarypolicy/bst_fedfinancials.htm.

26. http://www.federalreserve.gov/monetarypolicy/bst_ratesetting.htm.

27. http://www.federalreserve.gov/monetarypolicy/bst_reports.htm.

28. <http://www.federalreserve.gov/releases/h41/current/h41.htm>.

29. Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, § 129, 122 Stat. 3765, 3796-97 (2008).

30. http://www.federalreserve.gov/monetarypolicy/bst_reports.htm.

31. After August 2012, this became a quarterly publication.

on these facilities that were designed to provide liquidity directly to borrowers and investors in key credit markets.³²

Discount Window Lending Websites

The Board and the Reserve Banks maintain public webpages with information about the administration of discount window lending programs. This information includes the history and use of discount window lending programs as well as the statutory framework that governs them. As an example, the Federal Reserve publication, *The Federal Reserve System Purposes and Functions*,³³ is available via the Board’s website. This publication provides a broad overview and history of discount window lending programs and open market operations, and it provides a summary of the laws and regulations that guide the administration of these operations. Also, aggregate information is available via the Board’s “Credit and Liquidity Programs and the Balance Sheet” webpage, including discount window lending in table 1 of the H.4.1 statistical release and in “Loans” in tables 8 and 9 of that release.

In addition to the discount window lending information contained on the websites of the Board and the individual Reserve Banks, the Federal Reserve maintains a public website solely devoted to the discount window.³⁴ This website includes information regarding the administration of the programs offered, aggregate lending information, and real-time interest rates that would be charged to any institutions that access this lending on a given day. It explains that the FRA provides much of the statutory framework that governs discount window lending, and the programs and policies that implement this framework are set forth in Regulation A, *Extensions of Credit by Federal Reserve Banks*.³⁵ Furthermore, this website states that institutions that use the discount window must comply with the following publicly available Federal Reserve operating circulars:

- *Operating Circular No. 1.*³⁶ This circular contains the terms for opening, maintaining, and terminating a master account with a Reserve Bank, as well as general provisions regarding Reserve Bank services applicable to institutions whether or not they maintain a Reserve Bank account.
- *Operating Circular No. 8.*³⁷ This circular specifies the purposes for which the Reserve Banks may hold collateral and contains the terms applicable to certain types of collateral pledges.

32. http://www.federalreserve.gov/monetarypolicy/bst_lendingother.htm.

33. <http://www.federalreserve.gov/pf/pf.htm>.

34. <http://www.frbdiscowindow.org/index.cfm>.

35. Regulation A governs borrowing by eligible institutions at the Federal Reserve discount window.

36. http://www.frbservices.org/files/regulations/pdf/operating_circular_1_090111.pdf.

37. http://www.frbservices.org/files/regulations/pdf/operating_circular_8.pdf.

- *Operating Circular No. 10.*³⁸ This circular sets forth the terms under which an entity may, in accordance with the FRA and regulations promulgated thereunder by the Board, obtain advances from, incur obligations to, or pledge collateral to a Reserve Bank.

The discount window website provides links to the FRA,³⁹ Regulation A,⁴⁰ and the circulars described above. In addition, the Federal Reserve maintains the Reserve Bank services website,⁴¹ which provides access to all the circulars governing services provided to banks by the Federal Reserve.⁴²

Open Market Operations Websites

The Board and FRB-NY maintain webpages with publicly available information concerning the administration of open market operations.⁴³ As with the discount window lending programs discussed above, *The Federal Reserve System Purposes and Functions* provides an overview and history of open market operations, and the Board provides links on the “Credit and Liquidity Programs and the Balance Sheet” webpage to other pages that provide aggregate data.

Each open market operation (transaction) affects the Federal Reserve’s balance sheet; the size and nature of the effect depends on the specifics of the operation. In its weekly H.4.1 statistical release, the Federal Reserve’s outright holdings of Treasury securities, agency securities, and agency mortgage-backed securities are reported in tables 1, 8, and 9. Table 2 of the H.4.1 also includes securities holdings by maturity distribution. Table 3 of the H.4.1 release provides more detail on mortgage-backed securities holdings, including the Federal Reserve’s commitments to purchase and sell these securities, along with information related to cash and cash equivalents associated with the mortgage-backed securities purchase program.

The open market operations section of the FRB-NY website explains what open market operations are, what their purpose is, and how they are carried out.⁴⁴ Additional details on open market operations, including the names of the primary dealers,⁴⁵ information on auctions,

38. http://www.frb services.org/files/regulations/pdf/operating_circular_10.pdf.

39. <http://www.federalreserve.gov/aboutthefed/fract.htm>.

40. <http://www.frbdiscountwindow.org/regulationa.cfm?hdrID=15&dtlID=79>.

41. <http://www.frb services.org/>.

42. http://www.frb services.org/regulations/operating_circulars.html.

43. http://www.federalreserve.gov/monetarypolicy/bst_openmarketops.htm, and <http://www.newyorkfed.org/markets/openmarket.html>, respectively.

44. <http://www.newyorkfed.org/markets/openmarket.html>.

45. http://www.newyorkfed.org/markets/pridealers_current.html.

CUSIPs,⁴⁶ operation announcements and results, statements and operating policies,⁴⁷ and portfolio holdings data,⁴⁸ are also available on this website. FRB-NY reports each week's purchases and sales of mortgage-backed securities on its website, while purchases and sales of Treasury securities and agency debt are reported in its standard reporting of permanent open market operations.⁴⁹ FRB-NY also publishes a detailed explanation of open market operations in its annual *Domestic Open Market Operations Reports*.⁵⁰

Specific monetary policy decisions of the FOMC and directives to FRB-NY to conduct open market operations are available in the FOMC's policy statements and minutes on the FOMC webpage of the Board's public website.⁵¹ In addition, this webpage also includes links to Beige Books, officially titled *Summary of Commentary on Current Economic Conditions by Federal Reserve District*,⁵² which summarize anecdotal information on current economic conditions of the 12 Federal Reserve Districts. Via the "Transcripts and Other Historical Materials" link,⁵³ the public can search by year and, on a five-year delay, gain access to Green Books, officially titled *Current Economic and Financial Conditions*, which provide in-depth analysis of the U.S. and international economy; and Blue Books, officially titled *Monetary Policy Alternatives*, which provide background and context on monetary policy alternatives for FOMC consideration. The FOMC webpage also includes policy statements and other documents relevant to the Board's administration of open market operations.

Altering the FOIA Exemption Could Have Adverse Effects

Section 11(s) of the FRA provides for a delay of information disclosure to allow emergency credit facilities, discount window lending programs, and open market operations to function effectively. Federal Reserve officials expressed concerns that the existing release of detailed, transaction-level information, as well as any potential earlier releases, would have adverse effects on institutions that access these facilities and on the broader financial markets, as well as on the effectiveness of these emergency credit facilities and lending programs as tools to effect monetary policy decisions and respond to financial crises. Documented cases of the negative effects of real-time information disclosure are limited because central banks generally release

46. CUSIP is the abbreviation for Committee on Uniform Securities Identification Procedures. A CUSIP number identifies most securities, including stocks of all registered U.S. and Canadian companies and U.S. government and municipal bonds. The CUSIP system—owned by the American Bankers Association and operated by Standard & Poor's—facilitates the clearing and settlement process of securities.

47. http://www.newyorkfed.org/markets/op_policies.html.

48. http://www.newyorkfed.org/markets/soma/sysopen_accholdings.html.

49. Permanent open market operations involve outright purchases or sales of securities for the System Open Market Account, which is the Federal Reserve's portfolio.

50. http://www.newyorkfed.org/markets/annual_reports.html.

51. <http://www.federalreserve.gov/monetarypolicy/fomc.htm>.

52. <http://www.federalreserve.gov/monetarypolicy/beigebook/default.htm>.

53. http://www.federalreserve.gov/monetarypolicy/fomc_historical.htm.

only aggregate information. However, the limited instances and studies we reviewed offered support for the concerns expressed to us by Federal Reserve officials.

Effects on Individual Institutions

Board and Reserve Bank officials expressed concern that the public may interpret an institution's utilization of the Board's lending programs as an indication of an undisclosed financial problem. Reserve Bank officials stated that the public could perceive that institutions accessing discount window primary credit are financially weak, when in fact the current primary credit program is based on the premise that the institutions are financially sound. In 2008, the Chairman stated that

the efficacy of the discount window has been limited by the reluctance of depository institutions to use the window as a source of funding. The "stigma" associated with the discount window, which if anything intensifies during periods of crisis, arises primarily from banks' concerns that market participants will draw adverse inferences about their financial condition if their borrowing from the Federal Reserve were to become known.

Board officials echoed this sentiment when stating that the stigma associated with discount window borrowing can place an institution in a weakened condition by causing a loss of public confidence, a sudden outflow of deposits (a "run"), a loss of confidence by market analysts, a drop in the institution's stock price, and a withdrawal of market sources of liquidity. Further, officials stated that the removal of the FOIA exemption might cause institutions to wait until they were under enormous pressure before coming to the Federal Reserve for discount window credit. Reserve Bank officials informed us that they thought the future effectiveness of both discount window lending and emergency credit facilities during a crisis is already limited due to the existing releases of participant information.

Regarding open market operations, Board officials thought that the willingness of dealers to participate would decrease if the transaction-level information was released earlier, which would make the Board's operations much more expensive. Reserve Bank officials stated that the impact of the current delayed disclosure mandated by section 11(s) of the FRA is not clear. They stated that dealers' activities in open market operations are generally thought of as market positions. After primary dealers exit their positions, they are probably not concerned about revealing the transaction information, in that aspects of these positions may have already been factored in by the market. However, officials also stated that there might be a premium placed on transactions if trading participants were named in a transaction-level disclosure on a real-time basis, and that even a small premium could result in a large monetary impact given the trading volume of open market operations. Officials noted that one indication of a minimal impact from the current delayed release of detailed transaction-level information is that primary dealers continue to do business with the Federal Reserve.

Effects on Financial Markets and the Effectiveness of Emergency Credit Facilities, Discount Window Lending Programs, and Open Market Operations

Federal Reserve officials stated that the removal of the FOIA exemption would undermine the ability of the Board to conduct its business and limit the effectiveness of policy tools such as the discount window. Officials noted that the discount window has a dual role: It is used to help implement monetary policy, and it is used to provide liquidity during periods of crisis. They stated that institutions are concerned with a negative perception around accessing the discount window and that the removal of the FOIA exemption in section 11(s) of the FRA might cause banks to wait too long, until they were under enormous pressure, before coming to the Federal Reserve, which would not alleviate pressures in the markets.

Further, officials stated that they believed that even the statutorily deferred disclosures may negatively impact the future effectiveness of emergency credit facilities, discount window lending programs, and open market operations to respond to financial crises and effect monetary policy decisions. Officials noted that some financial institutions had already expressed that they would not be willing to borrow from the Federal Reserve, limiting the effectiveness of these facilities and programs. Relative to open market operations, officials stated that primary dealers know that with a real-time release of information, competitors will know if primary dealers take a big position, and that is not viewed positively by the primary dealers. Officials stated that the willingness of dealers to participate could decrease, which would make the Federal Reserve's operations much more expensive.

Documented Cases and Related Effects

The Board and the central banks of other countries typically restrict transaction-level information about lending activity to avoid branding healthy banks with temporarily insufficient liquidity as financially weak. In the recent financial crisis, retail runs were rare because of deposit insurance and other changes in our financial system. Thus, we found few modern cases of real-time information disclosure triggering runs on banks. Similarly, we found that related studies on the impact of disclosure were limited. However, the few instances and studies we reviewed offered support for the concerns expressed to us by officials of the Board, the FOMC, and the Reserve Banks.

During the 19th and early 20th centuries, financial panics stressed the U.S. economy, leading to bank failures and business bankruptcies that severely disrupted the economy and led to the eventual creation of the Federal Reserve in 1913. In addition, the Banking Act of 1933 created the Federal Deposit Insurance Corporation to maintain stability and public confidence in the nation's financial system by insuring deposits, examining and supervising financial institutions for safety and soundness and consumer protection, and managing receiverships. Nonetheless, bank runs in many countries, including the United States, were common during the Great Depression, and the failure of the nation's banking system to effectively provide funding to troubled depository institutions contributed significantly to the economy's vulnerability to financial panics.

Cases in recent history that illustrate the potential impact of real-time disclosure of financial information on institutions include the following:

- A run on Citigroup in Asia in 1991 occurred after a statement was made in Congress that the organization was “technically insolvent” and suspected of benefitting from access to the Federal Reserve’s discount window lending. It was widely reported that this statement, coupled with the earlier failure of the Bank of Credit and Commerce International,⁵⁴ led to depositor unease and this run on Citigroup.
- Another run of note involved Great Britain’s Northern Rock in 2007. In this case, the Bank of England was to provide emergency support to Northern Rock in the form of a loan secured against the company’s highest quality assets. News of this assistance was reported the day prior to the announcement of support, and the bank experienced a run severe enough to require a government guarantee of bank deposits to halt its momentum.
- There was a similar run in 2008 when money market mutual funds experienced massive outflows after the Reserve Primary Fund suffered losses related to the failure of Lehman Brothers. This event caused widespread concern among investors regarding the creditworthiness of financial institutions, including money market mutual funds that had invested in financial institutions, and precipitated the Federal Reserve creating some of the emergency credit facilities to support the money market mutual fund and the commercial paper markets.

We also identified studies that supported the concept of a stigma associated with discount window borrowing and its associated impact on depository institutions that access discount window borrowing. These studies included discussions regarding how a stigma was evidenced during the recent financial crisis by banks willing to pay a higher premium to borrow from the TAF rather than borrow from the discount window.⁵⁵ One study found that a discount window stigma is economically relevant because it increased banks’ borrowing costs to obtain liquidity during the crisis.

In terms of the broader financial market, another study noted that during severe financial crises, many asset prices plummet, impairing their liquidity provision function at the worst possible time and resulting in fire sales of assets. This study noted that these fire sales are at the core of the amplification mechanism observed in severe financial crises—large amounts of distressed asset sales depress asset prices, which exacerbate financial distress, which leads to further asset sales, and the downward spiral goes on.

54. On July 5, 1991, in response to what has been described as one of the biggest bank frauds in history, regulators in seven countries raided and took control of branch offices of the Bank of Credit and Commerce International. It was reported that monetary losses from the scandal were huge, with estimates ranging from \$10 billion to \$17 billion, although the bank’s liquidators have since made some recoveries for creditors.

55. Under the TAF, the Federal Reserve auctioned term funds to depository institutions. All depository institutions that were eligible to borrow under the primary credit program were eligible to participate in these auctions. All advances were required to be fully collateralized. Each auction was for a fixed amount, with the rate determined by the auction process (subject to a minimum bid rate).

Conclusion

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 about the Board's administration of emergency credit facilities, discount window lending programs, or open market operations. This exemption works in tandem with the permitted deferral period for information disclosure to ensure the effectiveness of the emergency credit facilities, discount window lending programs, and open market operations as intended by the Dodd-Frank Act. We determined that neither the Board nor the FOMC has utilized the FOIA exemption in section 11(s) of the FRA from the enactment of the Dodd-Frank Act through October 31, 2012. We also found that a significant amount of information is available to the public concerning the Board's administration of these facilities, programs, and operations. Further, we noted that there are potential adverse effects of the earlier release of transaction-level information. For these reasons, we are not recommending any change to the FOIA exemption that Congress provided by amending section 11(s) of the FRA.

Appendix A

Scope and Methodology

We performed this evaluation as directed by section 1103 of the Dodd-Frank Act. To fulfill our mandates, we reviewed relevant statutes, including FOIA, the Dodd-Frank Act, the FRA, and their relevant legislative history. We also reviewed selected GAO and OIG reports, as well as news articles, court briefs, testimonies, and decisions. In addition, we interviewed officials and staff from the Board, the FOMC, and the Reserve Banks of New York and Boston. We selected these Reserve Banks because, in addition to conducting discount window lending as all Reserve Banks do, these two Reserve Banks operated emergency credit facilities during the financial crisis, and FRB-NY conducts open market operations under the direction of the FOMC.

To determine the impact of the FOIA exemption on the public's ability to access information about the Board's administration of emergency credit facilities, discount window lending programs, and open market operations, we identified information regarding the administration of these programs that is publicly available and that is, therefore, not impacted by this FOIA exemption. This information includes regulations, circulars, reports, testimonies, press releases, and other information that is publicly available from the websites of the Board, the Reserve Banks, and GAO. We also met with officials and staff from the Board, the FOMC, and select Reserve Banks, and we reviewed the information released by the Board and the Reserve Banks in response to the Dodd-Frank Act disclosure requirements to date. In addition, we worked with personnel from the Board's and the FOMC's FOIA offices to identify and review FOIA requests made to the Board and the FOMC for documents with information that is protected by this FOIA exemption, as well as the actual usage of this FOIA exemption from its availability with the enactment of the Dodd-Frank Act on July 21, 2010, through October 31, 2012, the end of our FOIA review period.

To determine whether to make any recommendations regarding whether the FOIA exemption in section 11(s) of the FRA should remain in effect, we attempted to identify any actual impact of the usage of this FOIA exemption. In addition, we interviewed officials and staff from the Board, the FOMC, and the Reserve Banks to discuss the potential impact of information disclosure. We utilized various search tools and also worked with staff at the Library of Congress and the Federal Reserve Board Research Library to research case studies and articles concerning similar disclosure issues and potential effects of information release. We also considered the intent of the Dodd-Frank Act, as stated in the *Joint Explanatory Statement of the Committee of Conference*, that the Federal Reserve "will publicly disclose data on discount window and open market operations, and details about emergency lending, after a delay that will allow these tools to function effectively."

We conducted our evaluation fieldwork from June 2012 through November 2012 in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix B

FOIA Exemptions

Under FOIA, the following records of federal agencies may be exempt from disclosure:

1. **National defense.** Any information that is specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to the executive order.
2. **Internal personnel rules and practices.** Any information related solely to the internal personnel rules and practices of the Agency.
3. **Statutory exemption.** Any information specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), if the statute (a) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or (b) establishes particular criteria for withholding or refers to particular types of matters to be withheld.
4. **Trade secrets; commercial or financial information.** Any matter that is a trade secret or that constitutes commercial or financial information obtained from a person and that is privileged or confidential.
5. **Inter- or intra-agency memorandums.** Information contained in inter- or intra-agency memorandums or letters that would not be available by law to a party (other than an agency) in litigation with an agency.
6. **Personnel and medical files.** Any information contained in personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
7. **Information compiled for law enforcement purposes.** Any records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (a) could reasonably be expected to interfere with enforcement proceedings; (b) would deprive a person of a right to a fair trial or an impartial adjudication; (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (d) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution that furnished information on a confidential basis; (e) would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or (f) could reasonably be expected to endanger the life or physical safety of any individual.
8. **Examination, inspection, operating, or condition reports, and confidential supervisory information.** Any matter that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency

responsible for the regulation or supervision of financial institutions, including a state financial institution supervisory agency.

9. Geological and geophysical information and data, including maps concerning wells.

Appendix C

Federal Reserve Bank and System Websites

The Board of Governors of the Federal Reserve System website: <http://www.federalreserve.gov/>

Federal Reserve Bank Discount Window & Payment System Risk website:
<http://www.frbdiscountwindow.org/>

Federal Reserve Bank Services website: <http://www.frbservices.org/>

Federal Reserve Bank websites:

Atlanta, GA	http://www.frbatlanta.org/
Boston, MA	http://www.bostonfed.org/
Chicago, IL	http://www.chicagofed.org/webpages/index.cfm
Cleveland, OH	http://www.clevelandfed.org/
Dallas, TX	http://dallasfed.org/
Kansas City, MO	http://www.kansascityfed.org/
Minneapolis, MN	http://www.minneapolisfed.org/index.cfm
New York, NY	http://www.newyorkfed.org/index.html
Philadelphia, PA	http://www.philadelphiafed.org/index.cfm
Richmond, VA	http://www.richmondfed.org/
San Francisco, CA	http://www.frbsf.org/
St. Louis, MO	http://www.stlouisfed.org/

Appendix D Management Response



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

January 14, 2013

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

Mr. Mark Bialek
Inspector General
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

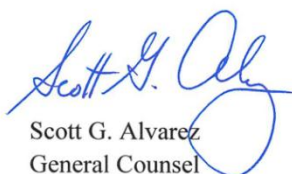
Dear Inspector General Bialek:

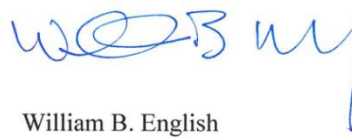
We have reviewed the final draft of your report "No Changes Recommended to Freedom of Information Act Exemption Included in the Amended Federal Reserve Act". Thank you for giving us the opportunity to provide these comments.

As you detail in your report, in recent years the Federal Reserve has initiated a number of new reports and web-available data collections to provide the public with extensive information about our lending, emergency credit programs and open market operations. Your report also notes that the time delay of the release of information specified in section 11(s) of the amended Federal Reserve Act is vital to ensure that the Federal Reserve is able to appropriately address liquidity pressures and market dislocations that could arise in a future financial crisis. Thus, it is important that this exemption remain in place and we appreciate that your evaluation report does not recommend any changes to the current release schedules.

Thank you again for your thorough work and providing us the opportunity to make these comments.

Sincerely,


Scott G. Alvarez
General Counsel


William B. English
Director, Division of
Monetary Affairs



OFFICE OF INSPECTOR GENERAL
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

HOTLINE

1-800-827-3340

OIGHotline@frb.gov

Report Fraud, Waste, and Abuse

Those suspecting possible wrongdoing may contact the
OIG Hotline by mail, e-mail, fax, or telephone.

Office of Inspector General, c/o Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW, Mail Stop K-300, Washington, DC 20551
Attention: OIG Hotline

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Questions about what to report?

Visit the OIG website at www.federalreserve.gov/oig
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