

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HISTORY ASSOCIATES INCORPORATED,

Plaintiff,

v.

Case No. 1:24-cv-1857-ACR

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Defendant.

JOINT STATUS REPORT

Plaintiff History Associates Incorporated and Defendant the Federal Deposit Insurance Corporation (“FDIC”) hereby submit this joint status report.

1. As explained in the joint status reports filed on January 16, January 26, and January 30, the parties have been conferring regarding: (1) the appropriate next steps to take in light of the declarations and information provided by the FDIC, and (2) an agreement to resolve the attorney’s fees issue. *See* ECF 91; ECF 92.

2. As explained in more detail below, the parties have conferred and believe that a stipulated dismissal of this action is warranted based on additional information the FDIC has provided and the FDIC’s agreement to pay in full History Associates’ demand for \$188,440 in attorney’s fees for work related to Count I of the amended complaint. Once the FDIC remits payment, the parties will file a stipulation of dismissal pursuant to Rule 41(a)(1)(A)(ii).

Count I of the Amended Complaint

3. On November 8, 2023, at the direction of Coinbase, Inc., History Associates submitted a Freedom of Information Act (“FOIA”) request to the FDIC seeking “[c]opies of all ‘pause letters’ described in” a report the FDIC’s Office of Inspector General published in October 2023.

ECF 37-2 at 1. According to the OIG report, the FDIC issued these pause letters “to certain FDIC-supervised financial institutions asking them to pause, or not expand, planned or ongoing crypto-related activities.” ECF 72-5 at 8. On January 22, 2024, the FDIC denied the request on the ground that “[b]y its very nature, the information . . . requested, if it exists and could be located, would be” exempt from disclosure. ECF 37-2 (citing FOIA Exemptions 4 and 8). Following an administrative appeal, the FDIC upheld the initial denial and categorically withheld the pause letters, asserting that “there is no question that the ‘pause letters’ would . . . fall entirely within the ‘all-inclusive’ scope of Exemption 8 and would not include any segregable, non-exempt material.” ECF 37-3 at 6.

4. History Associates filed suit on June 27, 2024. ECF 1. During a September 2024 pre-motion conference, the Court instructed the FDIC to prepare a *Vaughn* index and “go through [a sample of] the [pause] letters . . . and determine whether any part of the letter can be sent over with the rest of it redacted” by October 18. ECF 25-1 at 10:5, 14-18.

5. On October 18, the FDIC produced only a *Vaughn* index. *See* ECF 25 at 2. On October 24, History Associates informed the FDIC that it was not satisfied with the FDIC’s summary of the pause letters contained in the *Vaughn* index and that it intended to seek *in camera* review of the pause letters. *See id.* On November 4, at History Associates’ request, ECF 25, the Court ordered the FDIC, “[p]ursuant to the Court’s instructions at the September 18, 2024, hearing,” to review all the pause letters and to “determine what portions should be redacted and to produce the redacted letters to Plaintiff by November 22,” Nov. 4, 2024, Minute Order.

6. On November 22, 2024, the FDIC produced redacted pause letters, and on December 6, 2024, History Associates sought *in camera* review of a sample of the unredacted letters. ECF 26.

7. On December 12, following its *in camera* review of those letters, the Court issued an order expressing “concern[] with what appear[ed] to be FDICs lack of good-faith effort in making nuanced redactions” and ordered the FDIC to “make more thoughtful redactions, and provide the new redactions” by January 3, 2025. Dec. 12, 2024, Minute Order.

8. On January 3, 2025, the FDIC produced pause letters with fewer redactions. *See* ECF 27-2. The FDIC also informed History Associates that it had construed the FOIA request to seek only pause letters “shared with the OIG,” as opposed to all pause letters “described in” the OIG’s report. ECF 27 at 3-4. The Court determined that the FDIC had misconstrued History Associates’ FOIA request and ordered the FDIC to search for and produce any remaining pause letters by February 7, 2025. Jan. 22, 2025, Minute Order.

9. On January 20, 2025, Travis Hill was designated as Acting Chairman of the FDIC. On January 21, 2025, then-Acting (now) Chairman Hill set forth his agenda, including to “[a]dopt a more open-minded approach to innovation and technology adoption” and to “[r]eevaluate [the FDIC’s] disclosure practices, and expand transparency in areas that do not impact safety and soundness or financial stability.” Press Release, *Statement from Acting Chairman Travis Hill* (Jan. 21, 2025), <https://www.fdic.gov/news/press-releases/2025/statement-acting-chairman-travis-hill>.

10. On February 5, 2025, the FDIC produced 790 pages of additional documents. *See* ECF 32. In a press release accompanying that production, the FDIC Chairman stated:

Upon becoming Acting Chairman, I directed staff to conduct a comprehensive review of all supervisory communications with banks that sought to offer crypto-related products or services. While this review remains underway, we are releasing a large batch of documents today, in advance of a court-ordered deadline of Friday. Our decision to release these documents reflects a commitment to enhance transparency, beyond what is required by the Freedom of Information Act (FOIA), while also attempting to fulfill the spirit of the FOIA request.

Previously, the FDIC released 25 so-called ‘pause’ letters sent to 24 institutions interested in pursuing crypto- or blockchain-related activities. The documents that we are releasing today show that requests from these banks were almost universally met with resistance, ranging from repeated requests for further information, to multi-month periods of silence as institutions waited for responses, to directives from supervisors to pause, suspend, or refrain from expanding all crypto- or blockchain-related activity. Both individually and collectively, these and other actions sent the message to banks that it would be extraordinarily difficult—if not impossible—to move forward. As a result, the vast majority of banks simply stopped trying. Press Release, *FDIC Releases Documents Related to Supervision of Crypto-Related Activities* (Feb. 5, 2025), <https://tinyurl.com/3t7cmaa5>.

11. The FDIC later supplemented its production on February 21, 2025, *see* ECF 48-2, and March 14, 2025, *see* ECF 48-3.

12. The parties cross-moved for summary judgment regarding whether the FDIC’s continued redactions to the documents it had produced complied with FOIA. *See* ECF 72; ECF 76. The parties disputed whether the FDIC could redact two discrete categories of information: (1) the numerical percentage cap that banks imposed on deposits from crypto companies; and (2) the names of public blockchains the banks proposed to use. *See* ECF 76-1, at 38-40.

13. At a motions hearing on November 19, this Court declared that the FDIC had “violated FOIA” by initially categorically withholding the pause letters and “redacting information in the pause letters that is not subject to Exemption 8 or would not impair any interest protected by Exemption 8.” Nov. 19, 2025, Hearing Tr. 16:16-19, 17:12. The Court also stated that the FDIC should consider issuing declarations that provide additional information about the two remaining contested categories of redactions. *See* Nov. 19 Hearing Tr. 8:10-20, 13:10-14.

14. On January 12, 2026, the FDIC produced to History Associates a declaration providing additional information about the deposit cap percentages and the nature of the redacted public blockchains. Ex. A at 2.

Count II of the Amended Complaint

15. Count II of the amended complaint alleges that the FDIC maintained four unlawful FOIA policies or practices: (1) “applying a ‘categorical approach’ when it asserts that records are exempt from disclosure under Exemption 8”; (2) “construing FOIA requests narrowly”; (3) “regularly fail[ing] to conduct a search reasonably calculated to uncover all responsive records within the agency’s possession or control”; and (4) “fail[ing] to take the steps necessary to ensure that records responsive to FOIA requests are properly preserved, including implementing litigation holds when a FOIA suit is brought.” ECF 37 ¶¶ 120-23.

16. At the motions hearing on November 19, 2025, the Court and the parties discussed possible resolutions of the policy-or-practice claims without further litigation, with the Court identifying steps that the FDIC might take to address the outstanding issues and ordering the parties to meet and confer. The FDIC subsequently took further action, as follows:

a. ***Categorical Denials Under Exemption 8.*** The Court stated that the FDIC could produce a declaration stating that it “do[es] not categorically withhold all documents that invoke Exemption 8,” Nov. 19, 2025, Hearing Tr. 72:1-5. On January 12, the FDIC produced a declaration stating that “neither the FDIC nor any of its divisions or offices have a policy or practice of categorically withholding all responsive information every time the FDIC receives a FOIA request implicating FOIA Exemption 8 (including requests for bank supervisory documents).” Ex. B at 2.

b. ***Narrow Constructions of FOIA Requests.*** In addition to its existing guidance, the Court stated that the FDIC could consider incorporating express language to its FOIA training materials instructing FOIA reviewers to construe requests “liberally.” Nov. 19, 2025, Hearing Tr. 22:22-23:13. On January 28, the FDIC agreed to add the following

language to a new policy document applicable to all FDIC divisions and groups: “The purpose of these procedures is to summarize the policies, procedures, practices, and responsibilities for FDIC personnel who coordinate, search for documents related to, evaluate, or process FOIA requests assigned to a Division/Office by the FDIC’s FOIA and Privacy Act (FOIA-PA) Group, which is within the Legal Division. This summary document is a resource for FDIC employees and does not alter the agency’s adherence to FOIA’s general requirement that a FOIA request be individually assessed and liberally construed and that any exemption(s) and foreseeable harm analysis be applied on a fact specific, case-by-case basis.”

c. ***Inadequate Searches.*** The Court instructed the parties to meet and confer regarding whether the FDIC could supplement its FOIA training materials by providing additional guidance to employees on how to conduct searches and to meet and confer regarding others of History Associates’ FOIA requests. *See* Nov. 19, 2025, Hearing Tr. 24:20-25:17, 27:6-7. On January 28, the FDIC agreed to elaborate on certain of its existing FOIA training materials to identify additional possible locations or databases from which potentially responsive records may be located during a search. The FDIC, in its discretion, has also agreed to give expedited treatment to a new FOIA request History Associates may submit (namely, a request seeking records that it sought under a previous request). Should History Associates submit such a request, the FDIC will negotiate in good faith regarding the search terms the agency will use to process that request.

d. ***Failure to Adequately Preserve Records.*** The Court directed the parties to discuss the FDIC’s retention policy for the agency’s database that houses bank supervisory communications (RADD). Nov. 19, 2025, Hearing Tr. 39:20-40:12. On December 16, the

FDIC provided additional information to History Associates regarding the RADD retention policy, including that the “workpapers exception” does not apply to the pause letters.

Attorney’s Fees

17. FOIA provides that a “court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.” 5 U.S.C. § 552(a)(4)(E)(i).

18. During the hearing on November 19, 2025, this Court invited History Associates to file a motion for attorney’s fees. Nov. 19, 2025, Hearing Tr. 18-19.

19. On January 12, at the FDIC’s request, History Associates sent the FDIC a demand requesting the agency pay \$188,440 in attorney’s fees for work related to Count I of the amended complaint.

20. On January 23, the FDIC agreed to pay the full amount of the demanded fees on the conditions that History Associates dismiss its claims and that it agree not to seek additional fees.

21. Based on the Court’s determination that the FDIC’s original withholding of pause letters violated FOIA; the FDIC’s subsequent production of the pause letters pursuant to the Court’s orders; the additional documents, declarations, and information the FDIC has provided; the additional detail to its policies and training materials the FDIC has committed to include; and the attorney’s fees the FDIC has agreed to pay, History Associates has agreed to voluntarily dismiss its amended complaint and not to seek additional fees against the FDIC in connection with this case.

22. Once the FDIC remits payment for the \$188,440 in attorney’s fees, the parties will file a stipulation of dismissal under Rule 41(a)(1)(A)(ii).

Date: February 6, 2026

/s/ Jonathan C. Bond

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Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HISTORY ASSOCIATES INCORPORATED,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Defendant.

Case No. 1:24-cv-1857-ACR
FILED UNDER SEAL

**SECOND SUPPLEMENTAL DECLARATION OF [REDACTED] IN
SUPPORT OF THE FDIC'S MOTION FOR SUMMARY JUDGMENT**

I, [REDACTED] pursuant to 28 U.S.C. § 1746, declare the following:

1. I am employed by the Federal Deposit Insurance Corporation (FDIC) [REDACTED]

[REDACTED] RMS promotes stability and public confidence in the nation's financial system through examining and supervising insured financial institutions, leading sound policy development, and monitoring and responding to existing and emerging risks.

2. I adopt and incorporate here my July 9, 2025, Declaration in Support of the FDIC's Motion for Summary Judgment on Count I and my August 27, 2025, Supplemental Declaration in Support of the FDIC's Motion for Summary Judgment. I submit this Second Supplemental Declaration in further support of the FDIC's Motion for Summary Judgment and more specifically in response to the Court's inquiries at the November 19, 2025, hearing regarding two items: the redactions of bank-imposed deposit caps and public blockchain redactions contained in the records released to History Associates in response to their FOIA

requests. The statements contained in this Second Supplemental Declaration are based on my personal knowledge and on information provided to me in my official capacity.

3. Following the November 19, 2025, hearing, my staff and I re-reviewed these two types of redactions contained in the records released to History Associates in response to their FOIA requests.

4. Regarding the Court's inquiry about redactions of bank-imposed deposit caps subject to the parties' cross-motions for summary judgment, none of those deposit caps (all of which were imposed by the banks) were 15 percent. Furthermore, the bank-imposed deposit-cap figures that were redacted were not uniform.

5. Regarding the Court's inquiry about the names of public blockchains that were redacted within the records that were subject to the parties' cross-motions for summary judgment, the FDIC only redacted the names of less commonly used blockchains or product marketing terms. I believe that divulging the names of the less commonly used public blockchains, when taken in concert with other available information identified in my August 27, 2025, Supplemental Declaration and based on my understanding of search-related technology advancements, could reveal the underlying bank's identity in these records. Among other reasons, this is so because, at the time the FDIC issued these letters, banks' utilization of blockchain technology was nascent. Although thousands of insured depository institutions (IDIs) existed, only a small percentage of IDIs had embarked on projects involving their use of blockchain. Moreover, at that time, blockchain projects sometimes chose to publicly identify the name of the participating IDI. Therefore, I believe that revealing the names of less prevalent public blockchains could reveal the identity of the IDI.

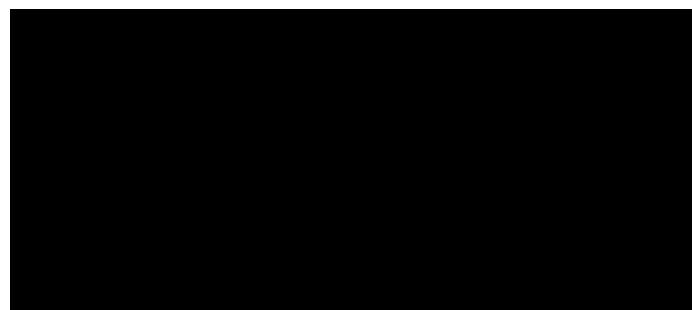
6. Based on my experience as [REDACTED] at the FDIC, I believe it is reasonably foreseeable that divulging the names of the banks or altering the redactions in the documents released to Plaintiff in a manner that would allow identification of the names of the banks or their potential customers or business partners, including less commonly used public blockchains, would negatively affect the FDIC's supervisory relationships with both the institutions whose name was divulged and banks in general. Specifically, I am aware that certain third parties have claimed to have used artificial intelligence to identify certain of these banks.

Using AI and Other Modern Tech: Analyzing the FDIC Pause Letters, RegReform, Davis Wright Tremaine Webinar (Mar. 14, 2025), <https://bit.ly/4fhvuNp>.

7. As stated in more detail in my August 27, 2025, Supplemental Declaration in Support of the FDIC's Motion for Summary Judgment, releasing the percentage caps and names of the less commonly used public blockchains would foreseeably harm the FDIC's supervisory relationships with the banks that provided them and frustrate the agency's ability to evaluate other similar risk-management controls on a cooperative and ongoing basis.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on this 12th day of January 2026, [REDACTED]

A large rectangular area of the page is completely blacked out, indicating a redacted signature.

Federal Deposit Insurance Corporation

Exhibit B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HISTORY ASSOCIATES INCORPORATED,

Plaintiff,

v.

Case No. 1:24-cv-1857-ACR

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Defendant.

**DECLARATION OF [REDACTED] IN RESPONSE TO THE COURT'S
INQUIRY AT THE NOVEMBER 19, 2025 HEARING**

I, [REDACTED] pursuant to 28 U.S.C. § 1746, declare the following:

1. I am employed by the Federal Deposit Insurance Corporation (FDIC) as the [REDACTED]

[REDACTED] I assumed the role of [REDACTED]

[REDACTED] In this position, [REDACTED]

[REDACTED] I also [REDACTED]

2. I submit this Declaration in response to the Court's inquiry at the November 19, 2025 hearing regarding whether, as a matter of policy or practice, the FDIC categorically withholds all documents that invoke FOIA Exemption 8. ECF No. 88, Hr'g Tr. at 72:4-8 and 15-21 (Nov. 19, 2025).

3. [REDACTED] I am familiar with the procedures followed by the FDIC when responding to requests for agency information under the FOIA.

4. I am specifically knowledgeable of Plaintiff History Associates Incorporated's FOIA requests that are at issue in this litigation and the corresponding searches conducted by the FDIC. Through [REDACTED] I have also become familiar with this civil action and Plaintiff's legal claims.

5. I have reviewed the November 19, 2025 hearing transcript, including the discussion of the FDIC's policies on FOIA requests for "bank supervisory documents." *See* ECF No. 88, Hr'g Tr. at 40-73 (Nov. 19, 2025).

6. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

7. FOIA Exemption 8 protects information "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." 5 U.S.C. § 552(b)(8).

8. Addressing the Court's request at the November 19, 2025 hearing, although FOIA Exemption 8 is broad, neither the FDIC nor any of its divisions or offices have a policy or practice of categorically withholding all responsive information every time the FDIC receives a FOIA request implicating FOIA Exemption 8 (including requests for bank supervisory documents).¹

9. As FOIA requests are received, the FOIA Group evaluates each request on a case-by-case basis.

10. FDIC employees within the FOIA Group and who serve as FOIA coordinators in most FDIC divisions and offices are responsible for coordinating, processing, and responding to all FOIA requests.

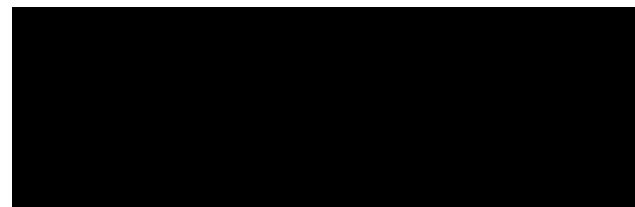
¹ *See* ECF No. 88 Hr'g Tr. at 70-73.

11. Consistent with the March 15, 2022 Attorney General Memo entitled “Freedom of Information Act Guidelines,” these employees are trained not to withhold information “that might technically fall within an exemption . . . unless the agency can identify a foreseeable harm.” ECF No. 53-1 at 55 and 76-3 at 56. These employees are also trained that, “[i]n case of doubt, openness should prevail.” *Id.*

12. It is my understanding that these instructions reflect the FDIC’s view of its legal obligations under the FOIA and that this understanding has been communicated to FDIC employees responsible for coordinating, processing, and responding to FOIA requests.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on this 11th day of January 2026, [REDACTED].



Federal Deposit Insurance Corporation