

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
September 16, 2010

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Committee On The Judiciary,
On Consideration Of "Freedom of Information
Act Amendments to the Securities and Exchange Act, Investment
Company Act and Investment Advisers Act Of 2010"
September 16, 2010

Today, the Committee considers an important, bipartisan bill to ensure that the Freedom of Information Act (FOIA) remains an effective tool to provide public access to information about the stability of our financial markets. The Freedom of Information Act Amendments to the Securities and Exchange Act, Investment Company Act and Investment Advisers Act Of 2010, S. 3717, eliminates several broad FOIA exemptions for Security and Exchange Commission (SEC) records that were recently enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This bill will also help ensure that the SEC has access to the information that the Commission needs to carry out its new enforcement activities under the new reforms.

I thank Senators Grassley, Cornyn, and Kaufman for cosponsoring this important open government bill, and for working with me to promptly address this issue. I also thank the many open government organizations, including OpenTheGovernment.org, the Project on Government Oversight, the American Library Association and the Sunlight Foundation for their support of this bill.

I supported the historic Wall Street reform law, because that law takes significant strides toward enhancing transparency and accountability in our financial system. But, I am concerned that the FOIA exemptions in Section 929I of that law, which was originally drafted in the House of Representatives and included in the final legislation, could be interpreted and implemented in a way that undermines this very important goal.

The Freedom of Information Act has long recognized the need to balance the Government's legitimate interest in protecting confidential business records, trade secrets and other sensitive information from public disclosure, and preserving the public's right to know. To accomplish this, care must always be taken to ensure that exemptions to FOIA's disclosure requirements are narrowly and properly applied.

When Congress enacted the FOIA exemptions in Section 929I, we sought to ensure that the SEC had access to the information that the Commission needed to protect American investors - not to

shield information from the public. I am also troubled by attempts in recent weeks to retroactively apply these exemptions to pending FOIA matters.

I am also troubled by the sweeping interpretation that the Commission has expressed, to date, that these exemptions would shield from public scrutiny all information provided to the Commission in connection with its broad examination and surveillance activities.

To truly restore stability and accountability to our financial system, Congress should take immediate steps to clarify this matter and eliminate overly broad FOIA exemptions. Not surprisingly, there is growing concern about these exemptions from across the ideological and political spectrum.

I have said many times that open government is neither a Democratic issue, nor a Republican issue - it is truly an American value and virtue that we all must uphold. It is in this bipartisan spirit that Senators from both sides of the aisle have joined together to on this bill. I urge every Member of the Committee to support this good government bill. The Senate should pass this important legislation without delay.

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