

appealed the determination that there are no documents responsive to your request, you also posed the following questions:

[W]ho determines whether a regional Federal Reserve Bank is subject to FOIA? Is it left to the regional bank? Is there an overall policy regarding FOIA as it pertains to regional banks. Are some regional Federal Reserve Banks covered by FOIA, while others are not? Is there correspondence related to all of this -- if so, who has it?

The purpose of this response is to provide clarification regarding the Deputy Secretary's determination dated May 28, 2021 ("May 2021 response") and address the questions you posed in your appeal. Please note, however, that the FOIA is a federal statute pursuant to which members of the public may request copies of federal agency records. It does not provide a means for asking questions.² Nevertheless, as a courtesy and in an effort to more fully explain the basis for the May 2021 response, I have included further information regarding the processing of your May 18, 2021, request, as well as the applicability of the FOIA to the Reserve Banks.

With regard to the search for records in response to your FOIA request dated May 18, 2021, please be advised that in connection with the May 2021 response, staff searched Board records and consulted with knowledgeable subject matter experts to determine whether there were any communications between Board and Reserve Bank staff about whether the Reserve Banks are subject to the FOIA but did not locate any such communications.

With respect to the questions posed in your appeal, please note that the Reserve Banks retain their own legal counsel to advise on a variety of legal issues, including whether Reserve Banks, in carrying out their own authorities, are subject to the FOIA. In this regard, it is our understanding that the position of the individual Reserve Banks is that they are not "agencies" that are subject to the FOIA when carrying out their own authorities. Accordingly, to the extent you remain interested in communications between staff at the FRB Minneapolis and outside entities in relation to the Page Amendment (as referenced in footnote 1 of this letter), such community outreach would have been conducted by FRB Minneapolis pursuant to their own authority independent from the Board.

² See *Thomas v. Comptroller of Currency*, 684 F. Supp. 2d 29, 33 (D.D.C. 2010) ("To the extent that plaintiff's FOIA requests were questions or requests for explanations of policies or procedures, these are not proper FOIA requests requiring the [agency's] response."); see, e.g., *Judicial Watch, Inc. v. Dep't of State*, 177 F. Supp. 3d 450, 456 (D.D.C. 2016) (finding that "[a] question is not a request for records under FOIA and an agency has no duty to answer a question posed as a FOIA request.").