

FOIA Requests Seek Release of All Forms SH Filed with the SEC

From recent discussions we have had with the staff at the Securities and Exchange Commission (SEC), we have learned that a Freedom of Information Act (FOIA) request has been made by The New York Times Company for every Form SH filed with the SEC to date. The staff also confirmed that there have been a handful of additional FOIA requests seeking only selected Forms SH, as well as additional blanket requests. During the course of our discussions, we also learned that the staff intends to send a notification of denial to all requestors within the next week asserting the FOIA exemptions outlined in the interim final temporary rule adopting Form SH (Release No. 34-58785). The notification of denial will advise the FOIA requestor of the right to appeal the decision to the General Counsel of the SEC. Filers will not be notified of a FOIA request unless the FOIA requestor appeals to the General Counsel seeking the public release of Forms SH relating only to an individual filer (i.e., not with respect to a blanket request for all Forms SH filed).

If you would like to learn more about the issues raised by this update, please contact your usual Ropes & Gray adviser.