



United States House of Representatives
One Hundred Eighteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

April 12, 2023

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Chair Gensler:

Thank you for your April 11 letter related to your efforts to comply with our document request. Unfortunately, your commitment in the letter to “continue [the] ongoing review of Commission records and supplement the production of responsive materials and information, as appropriate” is insufficient. On February 10, 2023, we sent you a letter requesting documents related to charges filed by the Securities and Exchange Commission (SEC) against Sam Bankman-Fried.¹ Ignoring the deadline, the SEC actively impeded Committee staff from discussing the request with anyone in the Office of the General Counsel until Chairman Huizenga formally requested a conversation with the SEC General Counsel. The subsequent staff level conversations have yet to yield any of the requested documents.

On March 15, 2023, your staff provided a staff-level briefing on the SEC enforcement process. While the briefing provided interesting information related to parallel investigations. It was not responsive to anything requested in the letter. Moreover, the 232 pages of documents provided by your staff after the briefing are publicly available and not responsive to the request.

Your staff subsequently requested that we narrow the scope of the requested information in order to start a rolling production. Committee staff obliged and produced a narrowed list of custodians, a narrowed time frame, and a list of easily identifiable documents, such as the staff recommendation memo presented to the Commission for a vote on charges. Committee staff followed up more than a week later to check on the progress and were told that it was a “time consuming and extensive process,” without any indication that a production was incoming.² This is unacceptable.

We expect the staff recommendation memo to be produced immediately and all other material gathered as a result of the narrowed scope to be produced no later than 5:00 p.m. on

¹ Letter from Patrick McHenry, Chairman, H. Comm. on Fin. Services, and Bill Huizenga, Chairman, Sub. Comm. on Oversight and Investigations, to Gary Gensler, Chairman, U.S. Securities and Exchange Comm’n (Feb. 10, 2023).

² Email from SEC staff to Committee staff (Apr. 5, 2023).

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April 17, 2023. Failure to produce the requested information could result in the Committee considering using compulsory process, if necessary, to obtain the requested information.

The Committee on Financial Services has jurisdiction to oversee the activities of the Securities and Exchange Commission pursuant to Rule X of the Rules of the House of Representatives. If you have any questions, please contact Kyle Smithwick of the Committee on Financial Services Majority staff at kyle.smithwick@mail.house.gov. Thank you for your attention to this important matter.

Sincerely,



Patrick McHenry
Chairman



Bill Huizenga
Chairman
Subcommittee on Oversight and
Investigations

cc: The Honorable Maxine Waters, Ranking Member
The Honorable Al Green, Ranking Member, Subcommittee on Oversight and
Investigations

INSTRUCTIONS

For the purpose of this Request:

1. In complying with this Request, you are required to produce all responsive records that are in your possession, custody, or control. You shall also produce records that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as records that you have placed in the temporary possession, custody, or control of any third party. Requested records shall not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or individual denoted in this Request has been, or is also known by any other name than that herein denoted, the Request shall be read also to include that alternative identification.
3. The Committee considers all members of a document “family” to be responsive to the Request if any single “member” of that “family” is responsive, regardless of whether the “family member” in question is “parent” or “child.”
4. It shall not be a basis for refusal to produce records that any other person or entity also possesses non-identical or identical copies of the same records.
5. If a date or other descriptive detail set forth in this Request referring to a record is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the Request, you are required to produce all records which would be responsive as if the date or other descriptive detail were correct.
6. Records produced in response to this Request shall be produced as they were kept in the normal course of business together with copies of file labels, dividers, or identifying markers with which they were associated when the Request was delivered.
7. In complying with this Request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements. Any assertion by a Request recipient of any such non-constitutional legal bases for withholding records or other materials shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Chairman of the Committee has consented to recognize the assertion as valid.
8. If you withhold records in whole or in part on the basis of a claim of a privilege or protection, you are required to follow the following procedure. You may only withhold that portion of a record over which you assert a claim of privilege or protection.

Accordingly, you may only withhold a record in its entirety if you maintain that the entire record is privileged or protected. Otherwise, you must produce the record in redacted form. In the event that a record is withheld in whole or in part on the basis of privilege or protection you must provide a privilege log containing the following information concerning each discrete claim of privilege or protection: (a) the privilege or protection asserted; (b) the type of record; (c) the date, author, and addressee (d) the relationship of the author and addressee to each other; and (e) a general description of the nature of the record that, without revealing information itself privileged or protected, will enable the Committee to assess your claim of privilege or protection. In the event a record or a portion thereof is withheld under multiple discrete claims of privilege or protection, each claim of privilege or protection must be separately logged. In an event portion of a record are withheld on discrete claims of privilege or protection, each separate claim of privilege or protection within that record must be separately logged.

9. A privilege log must be produced contemporaneously with the withholding of any record in whole or in part on the basis of a privilege or protection. Privilege logs must be produced as a native Microsoft Excel file. All privilege logs must be accompanied by the certification of your counsel in a form compliant with 28 U.S.C. § 1746 that all assertions of privilege or protection contained therein are consistent with these Instructions and are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law, or for establishing new law. Failure to strictly comply with these provisions constitutes waiver of any asserted privilege or protection. In the Chairman's discretion, this waiver may extend to the subject matter of the underlying records.
10. If any record responsive to this Request was, but no longer is, in your possession, custody, or control, you must file a certificate in a form compliant with 28 U.S.C. § 1746 signed by your counsel and the natural person that you designate as most knowledgeable regarding the circumstances under which the record ceased to be in your possession, custody, or control which: (a) identifies the record (stating its date, author, subject, and recipients); and (b) explains the circumstances under which the record ceased to be in your possession, custody, or control or was placed in the possession, custody, or control of a third party; (c) identifies the person who currently has possession, custody, or control over the record; and (d) identifies each person who authorized the disposition of the record or who had or has knowledge of that disposition.
11. If any record responsive to this Request cannot be located, you must immediately file a certificate in a form compliant with 28 U.S.C. § 1746 signed by you or your counsel and the natural person that you designate as most knowledgeable regarding the circumstances describing with particularity the efforts made to locate the record and the specific reason for its disappearance, destruction, or unavailability.
12. This Request is continuing in nature and applies to any newly discovered information. Any record not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery. If you discover any portion of your response is incorrect in a material respect you must immediately and

contemporaneously file with the Committee a certificate in a form compliant with 28 U.S.C. § 1746, signed by your counsel, and the natural person that you designate as most knowledgeable regarding your document production, setting forth: (1) how you became aware of the defect in the response; (2) how the defect came about (or how you believe it to have come about); and (3) a detailed description of the steps you took to remedy the defect.

13. A cover letter shall be included with each production and include the following:
 - a. A list of each piece of media included in the production with its unique production volume number;
 - b. A list of custodians, identifying the Bates range for each custodian;
 - c. A list of Specifications, identifying the Bates range of documents responsive to each Specification;
 - d. The time zone in which the emails were standardized during conversion; and
 - e. All Bates Prefix and Suffix formats for records contained in the production.
14. You must identify any documents which you believe to contain confidential or proprietary information.
15. In the event a complete response requires the transmission of classified information, provide as much information as possible in unclassified form in your response and send all classified information under separate cover via the Office of House Security.
16. Records must be produced to the Committee in accordance with the attached *Electronic Production Instructions* to be considered to be in compliance with the Request. Failure to produce records in accordance with the attached *Electronic Production Instructions*, may, in an exercise of the Committee's discretion, be deemed an act of contumacy.
17. If properties or permissions are modified for any records produced electronically, receipt of such records will not be considered full compliance with the Request.
18. Upon completion of the record production, you must submit a certificate, in a form compliant with 28 U.S.C. § 1746, signed by you and your counsel regarding your record production, stating that: (a) a diligent search has been completed of all records in your possession, custody, or control which reasonably could contain responsive records; (b) the search complies with good forensic practices; (c) records responsive to this Request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's Request or in anticipation of receiving the Committee's Request; and (d) all records located during the search that are responsive have been produced to the Committee or withheld in whole or in part on

the basis of an assertion of a claim of privilege or protection in compliance with these Instructions.

19. When representing a witness or entity before the Committee in response to a subpoena, records request, or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

Definitions

The following definitions apply both to terms within the Request, these Instructions, and these Definitions.

1. The term “Request” means the items enumerated in the accompanying cover letter.
2. The term “record” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), text messages, instant messages, MMS or SMS messages, contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term. By definition a “communication” (as that term is defined herein) is also a “record” if the means of communication is any written, recorded, or graphic matter of any sort whatsoever, regardless of how recorded, and whether original or copy.
3. The term “records in your possession, custody or control” means (a) records that are in your possession, custody, or control, whether held by you or your employees; (b) records that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) records that have been placed in the possession, custody, or control of any third party.
4. The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), text message, iMessage, MMS or SMS message, Discord message, Google Hangouts message,

Microsoft Teams message, Slack message, Skype message, Signal message, Telegram message, Viber message, WhatsApp message, regular mail, telexes, releases, or otherwise, and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices, to any of the foregoing.

5. “Communication with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc’d or bcc’d, both parties are cc’d or bcc’d, or some combination thereof.
6. The term “person” is defined as any natural person or any legal entity, including, without limitation, any business or governmental entity or association, and all subsidiaries, divisions, partnerships, properties, affiliates, branches, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, and any employee, and any other units thereof.
7. The term “employee” means a current or former: officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, permanent employee, staff employee, attorney, agent (whether de jure, de facto, or apparent, without limitation), advisor, representative, attorney (in law or in fact), lobbyist (registered or unregistered), borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, provisional employee, or subcontractor.
8. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this Request any information which might otherwise be construed to be outside its scope. The terms “all,” “any,” and “each” shall each be construed as encompassing any and all. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.
9. The terms “pertaining to,” “referring,” “relating,” or “concerning” with respect to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
10. The term “indicating” with respect to any given subject means anything showing, evidencing, pointing out or pointing to, directing attention to, making known, stating, or expressing that subject of any sort, form, or level of formality or informality, whatsoever, without limitation.
11. When referring to a person, “to identify” means to give, to the extent known: (1) the person’s full name; (2) present or last known address; and (3) when referring to a natural person, additionally: (a) the present or last known place of employment; (b) the natural person’s complete title at their employment; and (c) the individual’s business address.

When referring to documents, “to identify” means to give, to the extent known, the: (1) type of document; (2) general subject matter; (3) date of the document; and (4) author, addressee, and recipient.

12. The term “analysis” means any document judging, reviewing, evaluating, auditing, assessing, appraising, examining, studying, investigating, inquiring, exploring, or other like activity, of any sort, form, or level of formality or informality, whatsoever, without limitation.

ELECTRONIC PRODUCTION INSTRUCTIONS

Record productions shall be prepared according to, and strictly adhere to, the following standards:

1. Records produced shall be organized, identified, and indexed electronically.
2. Only alphanumeric characters and the underscore (“_”) character are permitted in file and folder names. Special characters are not permitted.
3. Two sets of records shall be delivered, one set to the Majority Staff and one set to the Minority Staff.
4. Production media and produced records shall not be encrypted, contain any password protections, or have any limitations that restrict access and use.
5. Records shall be produced to the Committee on one or more CDs, memory sticks, thumb drives, or USB hard drives. Production media shall be labeled with the following information: Case Number, Production Date, Producing Party, Bates Range.
6. Records produced to the Committee shall include an index describing the contents of the production. To the extent that more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box, or folder shall contain an index describing its contents.
7. All records shall be Bates-stamped sequentially and produced sequentially.
8. When you produce records, you shall identify the paragraph or number in the Committee’s Request to which the records respond and add a metadata tag listing that paragraph or number in accordance with **Appendix A**.
9. All submissions must be organized by custodian unless otherwise instructed.
10. Productions shall include:
 - a. A Concordance Data (.DAT) Load File in accordance with metadata fields as defined in **Appendix A**.
 - b. A Standard Format Opticon Image Cross-Reference File (.OPT) to link produced images to the records contained in the .DAT file.
 - c. A file (can be Microsoft Word, Microsoft Excel, or Adobe PDF) defining the fields and character lengths of the load file.
11. The production format shall include images, text, and native electronic files. Electronic files must be produced in their native format, i.e., the format in which they are ordinarily used and maintained during the normal course of business. For example, a Microsoft

Excel file must be produced as a Microsoft Excel file rather than an image of a spreadsheet. **NOTE:** An Adobe PDF file representing a printed copy of another file format (such as Word Document or Webpage) is NOT considered a native file unless the record was initially created as a PDF.

- a. Image Guidelines:
 1. Single or multi page TIFF files.
 2. All TIFF images must have a unique file name, i.e., Bates Number.
 3. Images must be endorsed with sequential Bates numbers in the lower right corner of each image.
 - b. Text Guidelines:
 1. All text shall be produced as separate text files, not inline within the .DAT file.
 2. Relative paths shall be used to link the associated text file (FIELD: TEXTPATH) to the record contained in the load file.
 3. Associated text files shall be named as the BEGBATES field of each record.
 - c. Native File Guidelines:
 1. Copies of original email and native file records/attachments must be included for all electronic productions.
 2. Native file records must be named per the BEGBATES field.
 3. Relative paths shall be used to link the associated native file (FIELD: NATIVEFILELINK) to the record contained in the load file.
 4. Associated native files shall be named as the BEGBATES field of each record.
12. All record family groups, *i.e.*, email attachments, embedded files, etc., should be produced together and children files should follow parent files sequentially in the Bates numbering.
 13. Only 1 load file and one Opticon image reference file shall be produced per production volume.

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14. All extracted text shall be produced as separate text files.
15. Record numbers in the load file should match record Bates numbers and TIFF file names.
16. All electronic record produced to the Committee should include the fields of metadata listed in **Appendix A**.

Appendix A

Production Load File Formatting and Delimiters:

- The first line shall be a header row containing field names.
- Load file delimiters shall be in accordance with the following:
 - Field Separator: ¶ (20) Text Qualifier: þ (254)
 - Newline: \n (10) Multi-Value Separator: ; (59)
 - Nested Value Separator: \ (92)
- All Date / Time Data shall be split into two separate fields (see below).
 - Date Format: mm/dd/yyyy—*i.e.*, 05/18/2015
 - Time Format: hh:mm:ss A—*i.e.*, 08:39:12 AM

Required Metadata Fields

Field Name	Sample Data	Description
FIRSTBATES	EDC0000001	First Bates number of native file record/email
LASTBATES	EDC0000001	Last Bates number of native file record/email **The LASTBATES field should be populated for single page records/emails.
ATTACHRANGE	EDC0000001– EDC0000015	Bates number of the first page of the parent record to the Bates number of the last page of the last attachment “child” record
BEGATTACH	EDC0000001	First Bates number of attachment range
ENDATTACH	EDC0000015	Last Bates number of attachment range
CUSTODIAN	Smith, John	Email: mailbox where the email resided Attachment: Individual from whom the record originated
FROM	John Smith	Email: Sender Native: Author(s) of record **semi-colon should be used to separate multiple entries
TO	Coffman, Janice; LeeW [mailto:LeeW@MSN.com]	Recipient(s) **semi-colon should be used to separate multiple entries

Field Name	Sample Data	Description
CC	Frank Thompson [mailto: frank.Thompson@cdt.com]	Carbon copy recipient(s) **semi-colon should be used to separate multiple entries
BCC	John Cain	Blind carbon copy recipient(s) **semi-colon should be used to separate multiple entries
SUBJECT	Board Meeting Minutes	Email: Subject line of the email Native: Title of record (if available)
DATE_SENT	10/12/2010	Email: Date the email was sent Native: (empty)
TIME_SENT	07:05 PM GMT	Email: Time the email was sent/ Time zone in which the emails were standardized during conversion. Native: (empty) **This data must be a separate field and cannot be combined with the DATE_SENT field
TIME_ZONE	GMT	The time zone in which the emails were standardized during conversion. Email: Time zone Native: (empty)
NATIVEFILELINK	D:\001\ EDC0000001.msg	Hyperlink to the email or native file record **The linked file must be named per the FIRSTBATES number
MIME_TYPE	MSG	The content type of an Email or native file record as identified/extracted from the header
FILE_EXTEN	MSG	The file type extension representing the Email or native file record; will vary depending on the email format
AUTHOR	John Smith	Email: (empty) Native: Author of the record
DATE_CREATED	10/10/2010	Email: (empty) Native: Date the record was created
TIME_CREATED	10:25 AM	Email: (empty) Native: Time the record was created **This data must be a separate field and cannot be combined with the DATE_CREATED field
DATE_MOD	10/12/2010	Email: (empty) Native: Date the record was last modified

Field Name	Sample Data	Description
TIME_MOD	07:00 PM	Email: (empty) Native: Time the record was last modified **This data must be a separate field and cannot be combined with the DATE_MOD field
DATE_ACCESSD	10/12/2010	Email: (empty) Native: Date the record was last accessed
TIME_ACCESSD	07:00 PM	Email: (empty) Native: Time the record was last accessed **This data must be a separate field and cannot be combined with the DATE_ACCESSD field
PRINTED_DATE	10/12/2010	Email: (empty) Native: Date the record was last printed
NATIVEFILESIZE	5,952	Size of native file record/email in KB **Use only whole numbers
PGCOUNT	1	Number of pages in native file record/email
PATH	J:\Shared\SmithJ\October Agenda.doc	Email: (empty) Native: Path where native file record was stored including original file name
INTFILEPATH	Personal Folders\Deleted Items\Board Meeting Minutes.msg	Email: original location of email including original file name Native: (empty)
INTMSGID	<000805c2c71b\$75977050\$cb8306d1@MSN>	Email: Unique Message ID Native: (empty)
MD5HASH	d131dd02c5e6eec4693d9a0698aff95c2fcab58712467eab4004583eb8fb7f89	MD5 Hash value of the record
TEXTPATH	\TEXT\AAA0001.txt	Path to the record's text file that contains extracted text to be used for processing. Every record has a relative path to its text file in this field. Note: These paths may also be fully qualified; and thus, do not have to be relative.
NATIVEFILEPATH	\NATIVES\MESSAGING1.msg. \NATIVES\ATTACHMENT1.doc	Path to the record's native file. Every record has a relative path to its native file in this field. Note: These paths may also be fully qualified; and thus, do not have to be relative.

Field Name	Sample Data	Description
HANDWRITTEN	YES	Field should be marked “YES” if the record has any handwritten notes or other text that is not contained in the text file
REDACTED	YES	Field should be marked “YES” if the record contains any redactions, “NO” otherwise

Metadata Fields Required Upon Specific Request

Field Name	Sample Data	Description
TAGS	FirstPass\Responsible; FirstPass\ForQC	If requested—a list of tags assigned to the record. Multiple tags are separated by the multi-value separator, for example: “A; B; C”, and nested tags are denoted using the nested value separator, for example: “X\Y\Z”. Tags for attachments will appear under the custom field “ATTACHMENT_TAGS”.
FOLDERS	JohnDoeDocs\FirstPass	If requested—a list of folders of which the record is a part. Multiple folders are separated by the multi-value separator, for example: “A; B; C”, and nested folders are denoted using the nested value separator, for example: “X\Y\Z”. Folders for attachments will appear under the custom field “ATTACHMENT_FOLDERS”.