



VIRGINIA
CONFLICT OF INTEREST AND
ETHICS ADVISORY COUNCIL

Ethics Council Meeting

November 23, 2021



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Disclosure of Cryptocurrency Holdings on the Statement of Economic Interests

Overview



- Background
- Policy Question
- Discussion

Background



- On at least two occasions, Ethics Council staff has been asked for guidance on whether cryptocurrencies (e.g., Bitcoin, Ethereum, Dogecoin) need to be listed on Schedule C of the Statement of Economic Interests.
- Based upon the instructions for that Schedule, which were decided and approved by the Council, the informal advice provided by staff was that cryptocurrencies should not be reported.

Background



- The instructions for Schedule C specify that what is being disclosed is “securities...invested in one business or Virginia governmental entity.”
- The instructions then state that securities include: Stocks, bonds, mutual funds, limited partnerships, and commodity futures contracts.

Background



- Cryptocurrencies do not meet that definition.
 - They are not an investment in a business.
 - They are an independent asset that is not tied to a company, akin to owning gold coins.

Policy Question



- A policy question has been raised: Should cryptocurrencies be reported by filers on Schedule C?

Policy Question



- Argument for reporting:
 - Some cryptocurrencies are traded frequently, and in that way, they more resemble stocks, stock options, or commodity futures.
 - In the interests of transparency, the public might like to know that an officer or employee has significant holdings in cryptocurrency.

Policy Question



- Argument for not reporting:
 - Officers and employees who file are only required to disclose assets and liabilities that may trigger a personal interest; i.e., salary or expected revenues from companies, or ownership interests in companies.
 - They do not disclose other assets.
 - No requirement to list how much money they have.
 - No requirement to list other valuable assets; e.g., gold coins, valuable artwork owned for investment purposes, etc.

Policy Question



- Should the instructions for Schedule C be amended, so that cryptocurrencies would need to be disclosed?
 - If yes, should the disclosure be for specific cryptocurrencies (e.g., Bitcoin, Dogecoin), or would the filer only disclose they own more than \$5,000 in cryptocurrencies, generally?

Discussion



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Possible Legislation to Require Notification to Local Clerks if Compensated to Influence Local Government Actions

Overview



- Background
- Possible Legislation
- Discussion

Background



- Last year, the Ethics Council reviewed Senate Bill 383 (McPike 2020).
- The bill required any individual who was compensated to “attempt to influence a local government action” provide notice of this fact to the local clerk of the locality, and pay a \$25 fee.
 - This notice would be valid for one calendar year.

Background



- As introduced, the bill applied to everyone, even local government officers and employees from neighboring localities.
- The term “local government action” was defined extremely broadly—“any other action requiring approval by a local government agency or local governing body.”
 - It would include even routine, transactional activities.

Background



- The Council voted to revisit the topic, and instructed staff to draft possible legislation that would preserve the concept of requiring compensated individuals to pay a fee and provide notice to local clerks. However:
 - The number of people who would be required to provide notice should be limited.
 - The definition of “local government action” should be narrowed.



Possible Legislation

- Using Senate Bill 383 as a template, the scope of the proposed legislation has been narrowed.
- The term “local government action” is limited to “the enactment, repeal or modification of an ordinance or resolution, including actions related to local taxes; the budget of a locality; or a land use proceedings.”



Possible Legislation

- The notification requirement would not apply to any of the individuals who are currently exempt from lobbying registration requirements, if acting in their official capacity, listed in subdivisions 1 through 5 of Va. Code § 2.2-421:
 - The Governor, the Lieutenant Governor, the Attorney General, the Cabinet Secretaries, and their immediate staffs
 - Members of the General Assembly and other legislative officials and employees
 - Local elected officials
 - Employees of state executive agencies
 - Officials and employees of the United States
- All local government employees or officers who are acting in an official capacity would also be exempt under this proposed bill.



Possible Legislation

- Any individual who was not exempted, and who is compensated to influence or attempt to influence a local government action, would be required to provide notice to the local clerk, along with a \$25 fee.
- The notice would consist of the name, telephone number, and business address of the entity providing the compensation and for the compensated individual, and the specific local government action the individual was attempting to influence.
- Notice would need to be provided within 15 days after the compensated individual communicated or attempted to communicate with a local government officer or employee.

Possible Legislation



- The notice would expire one calendar year after being filed.
- Failure to provide notice as required would be a Class 1 misdemeanor.

Discussion



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Council Functions

Legal Responsibilities and Duties



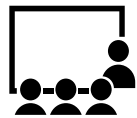
Issue Formal and Informal Guidance

Provided to persons covered by the Conflict of Interest Acts and lobbying laws.



Issue Travel Waivers

Only required when travel paid by a lobbyist, lobbyist's principal, or contractor.



Conduct Training

Conflict of Interest Act training is required every two years for filers.

Online Filing – Financial Disclosures

Annual Filing

Required to file per
Va. Code § 2.2-3114
and the Governor's
Executive Order
Number 8.

Due Date

Your SOEI is due
February 1 each year.



Annual Disclosures

Your agency
coordinator issues your
form and releases it on
or after January 1.

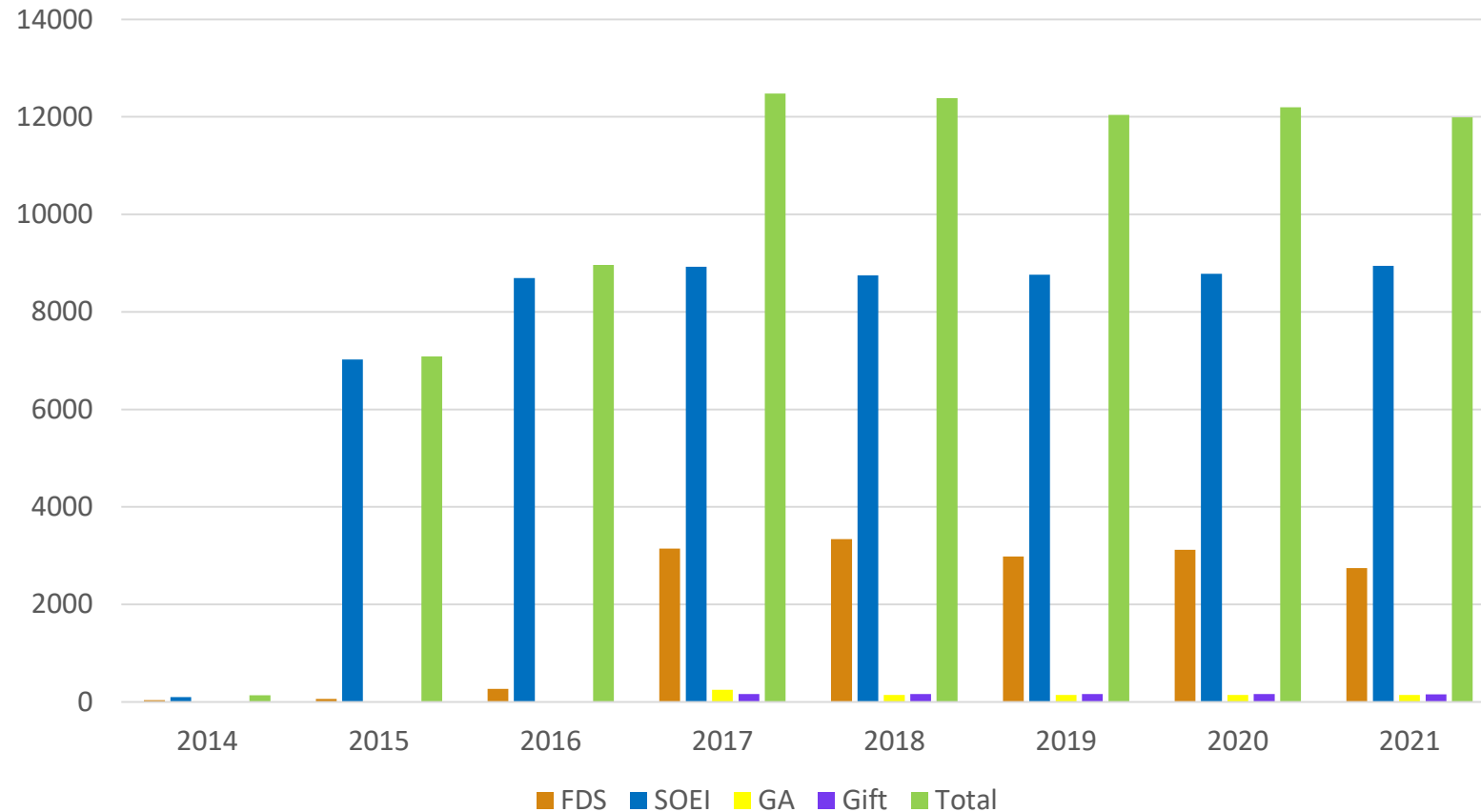
Annual Filing

You are required to
complete your form
electronically using the
Council's online system.

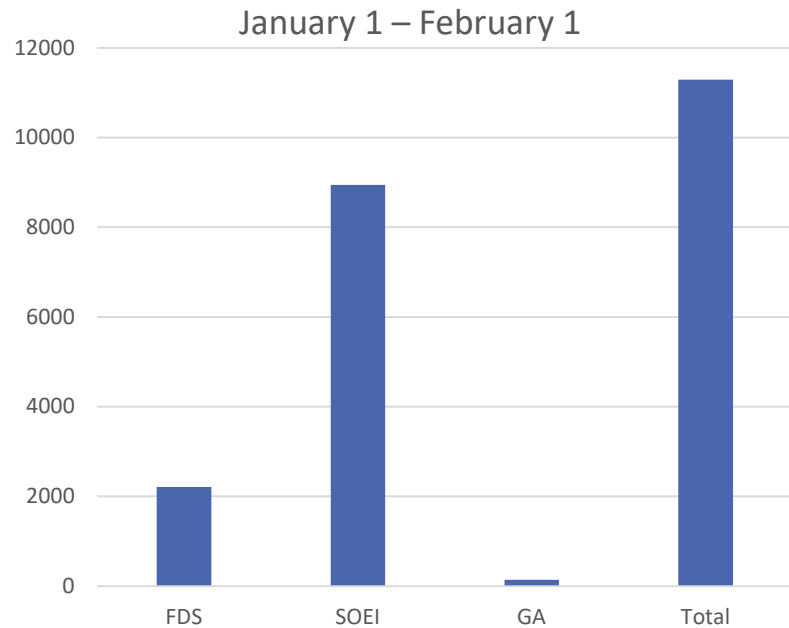
Financial Disclosures



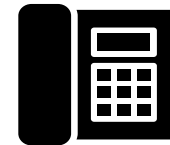
Forms Filed by Year



Filer Assistance



2021 Annual Filing Period
At-a-glance



270 phone calls



2,099 emails

Lobbyist Registrations

Lobbying Year

Lobbyists can register at any time during the lobbying year/period.

Disclosures

Annual disclosure reports due July 1.



Registrations

Registration period opens on May 1.

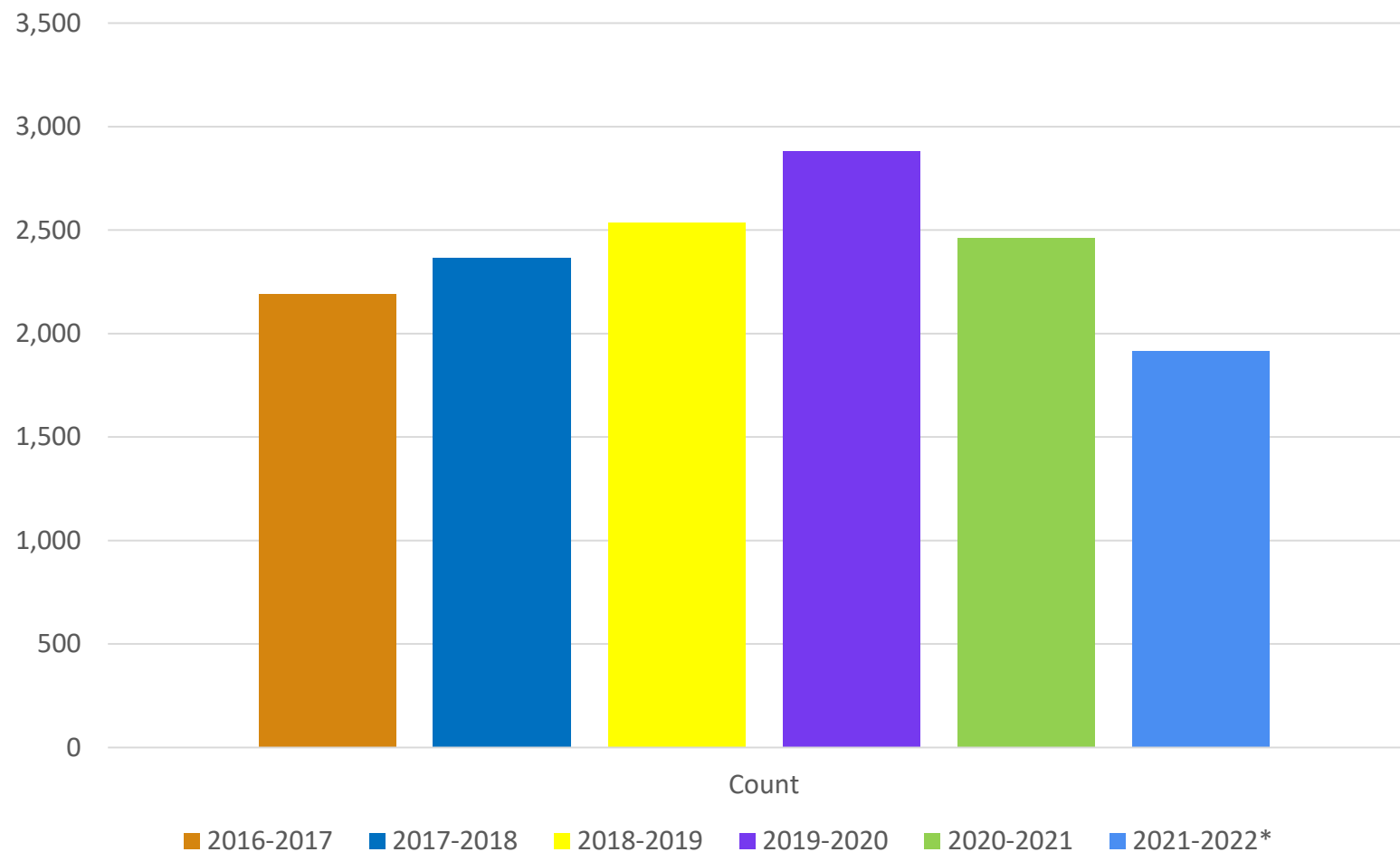
Annual Filing

Lobbyists can register at any time during the lobbying year/period.



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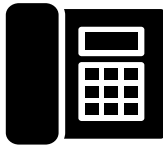
Lobbyist Registrations/Disclosures



“Customer” Support



Legal



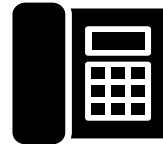
472 phone calls



1,416 emails



Operations



605 phone calls



6,561 emails

Adjournment