

A law recently enacted will ensure that all NIH-funded research results are available free of charge to the public. The Consolidated Appropriations Act, 2008 requires the NIH to implement policy obligating all investigators funded by the NIH to submit to the National Library of Medicine's online archive, known as PubMed Central, an electronic version of their final, peer-reviewed manuscripts no later than 12 months after the official date of publication. The manuscripts will then be available to the public for free on the PubMed Central website.

The current NIH public access policy encourages but does not require NIH-funded researchers to submit their manuscripts to PubMed. As a result, the NIH found that less than 4% of investigators choose to submit their manuscript to PubMed, and instead submit to journals that require the public to pay to read the manuscript. The rationale behind the Act is that taxpayers have already paid for the research through their taxes, so they should not have to pay again to read the results. This law is a part of the government's recent efforts to ensure transparency in research results and that the public has access to credible and current information regarding scientific research.

Institutions should take measures to ensure compliance with this mandate, including reviewing their policies, educating investigators about their obligations and adding appropriate language to clinical trial, grant and sponsored research agreements.

We will continue to monitor the Act and keep you informed as to changes and updates in the law.

If you have any questions regarding this Client Alert, please contact:

Cathy J. Frankel

(212) 554-7848

cfrankel@mosessinger.com

Linda A. Malek

(212) 554-7814

lmalek@mosessinger.com

Jill E. Anderson

(212) 554-7836

janderson@mosessinger.com

Samuel J. Servello

(212) 554-7872

sservello@mosessinger.com

MOSES & SINGER LLP

MOSES & SINGER LLP has served its clients skillfully and decisively since 1919. We provide cost-effective and result-focused legal services in the following primary areas:

- Banking and Finance
- Business Reorganization, Bankruptcy and Creditors' Rights
- Corporate Securities and M & A
- Employment and Labor
- Entertainment, Advertising, IP and Internet/Technology
- Healthcare
- Hotel and Hospitality
- Litigation
- Matrimonial
- Private Funds
- Legal Ethics & Law Firm Practice
- Real Estate
- Tax
- Trusts and Estates and Wealth Preservation

The Chrysler Building
405 Lexington Avenue
New York, NY 10174-1299
Tel: 212.554.7800
Fax: 212.554.7700

2200 Fletcher Avenue
Fort Lee, NJ 07024
Tel: 201.363.1210
Fax: 201.363.9210
Abraham Y. Skoff, Esq.,
Managing Attorney for New Jersey

Disclaimer

Viewing this or contacting Moses & Singer LLP does not create an attorney-client relationship. This is intended as a general comment on certain legal issues. It does not contain a complete legal analysis or constitute an opinion of Moses & Singer LLP or any member of the firm on the legal issues herein described. This contains timely information that may eventually be modified or rendered incorrect by future legislative or judicial developments. It is recommended that readers not rely on this general guide in structuring or analyzing individual transactions but that professional advice be sought in connection with any such transaction. To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Attorney Advertising

It is possible that under the laws, rules or regulations of certain jurisdictions, this document may be construed as an advertisement or solicitation.

Copyright © 2008 Moses & Singer LLP
All Rights Reserved