REPLY FROM SECURITIES AND EXCHANGE COMMISSION

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., March 19, 1965.

Re H.R. 5012, H.R. 5013, H.R. 5014, H.R. 5015, H.R. 5016, H.R. 5017, H.R. 5018, H.R. 5019, H.R. 5020, H.R. 5021, H.R. 5237, H.R. 5406, H.R. 5520, H.R. 5583, H.R. 6172, 89th Congress.

Hon. WILLIAM L. DAWSON,
Chairman, Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: The Bureau of the Budget has advised that from the standpoint of the administration's program it has no objection to the comments in the Commission's memorandum on the above bills.

Sincerely yours,

HUGH F. OWENS, *Commissioner.*

MEMORANDUM ON H.R. 5012, 89TH CONGRESS

The provisions of H.R. 5012 are intended "[t]o make sure that the public gets the information it is entitled to have about public business * * *."[1] by amending section 161 of the Revised Statutes of the United States (5 U.S.C. 22), commonly known as the Federal "housekeeping" statute. To accomplish this purpose the bill would require that all agency records, with certain limited exceptions, be made available for inspection by any person.

This Commission agrees that unnecessary secrecy in the operation of the Government should be eliminated and that Government agencies should attempt to facilitate the securing of information by members of the public having a legitimate interest therein. Indeed, the enactment of the statutes administered by this Commission was in large part motivated by the desirability of making information available to members of the public which might be pertinent to their investment decisions. Accordingly, the vast bulk of material contained in this Commission's files is public and the Commission makes every effort to have it readily available to the press and to individual members of the public.[2] The Commission attempts to comply not only with the letter of section 3 of the Administrative Procedure Act, dealing with public information, but also with the spirit of that section. Rule 25(a) of the Commission's Rules of Practice provides that all information contained in documents filed with the Commission is public unless otherwise provided by statute or rule or directed by the Commission. In addition to complying with the publication provisions of section 3 of the Administrative Procedure Act, the Commission seeks to assure wide dissemination of its rule proposals, rules, opinions and interpretations adopted for the guidance of affected persons by furnishing copies of this material to the press, making it available for public inspection at the Commission's offices and sending copies to numerous persons on mailing lists which the Commission maintains. These mailing lists include persons who are directly subject to regulation by the statutes we administer as well as those who have requested certain classes of material from the Commission. The latter category alone includes more than 35,000 names.

On the other hand, the Commission treats certain types of matters as nonpublic, including documents afforded confidential treatment pursuant to schedule A, paragraph 30 of the Securities Act of 1933, section 24 of the Securities Exchange Act of 1934, section 22(b) of the Holding Company Act of 1935, section 45(a) of the Investment Company Act of 1940, and section 210 of the Investment Advisers Act of 1940, and proceedings in connection therewith, material obtained in any nonpublic proceeding, inter-agency and intra-agency correspondence, memorandums and working papers, documents relating to internal matters, preliminary copies of proxy material, correspondence with the public, and classified material.

The major difficulties that would be created for this Commission by enactment of H.R. 5012 would flow from possible arguments that various of the exceptions from the general disclosure requirements are not sufficiently broad to permit

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1 See remarks of Congressman Fascell when introducing H.R. 5013, an identical bill. 111 Congressional Record 2857 (1965).

2 The breadth of the material available to the public is demonstrated by the list which the Commission has prepared and issued to the public entitled "Compilation of Documentary Materials Available in the SEC," a copy of which is attached.