

publicity should charges not be proved appears to outweigh possible disadvantages to the public.

5. The Commission does not cite or use unpublished opinions or orders as precedents in other proceedings.

The Commission's staff renders interpretative and advisory assistance to the public, as described in 17 CFR 202.2. Where there have been numerous interpretations dealing with a particular subject, the Commission sometimes publishes summaries of the views expressed. See answer No. 6, *infra*. On at least one occasion some years ago a brief submitted on behalf of the Commission in litigation referred to a body of such interpretations, even though they had not yet been summarized in a document made publicly available.

6. Public material in the Commission's records and files may be inspected in the Commission's public reference rooms during regular business hours. Copies of such material are sold to any person. Transcripts of public hearings may be purchased by anyone. See 17 CFR 200.80, rule 25 of the Commission's Rules of Practice, 17 CFR 201.25, and answer No. 3, *supra*.

Interpretations and legal opinions are expressed in Commission's decisions and substantive rules and also in briefs filed in courts on the Commission's behalf. When proposed substantive rules are published for public comment, interpretations or legal opinions are occasionally included with the explanation of the proposed rule. As described in answer No. 5, *supra*, and in the attached comment on H.R. 5012 at pages 4 and 6, the Commission's staff renders interpretative and advisory assistance to members to the public, as does the Commission itself on occasion, and summaries of a body of these interpretations are sometimes published for the general public. See, e.g., Statement of the Commission Regarding Limitations of the Availability of So-called "Private Offering Exemption," Securities Act Release No. 4552, November 6, 1962, 27 Fed. Reg 11316. See generally, 17 CFR 211, 231, 241, 251, 261, 271, 276, and 281. Commissioners and senior members of the staff also express their interpretations of statutes and rules in speeches, briefing conferences, law review articles, etc.

7. The past 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. With respect to section 3 of the Administrative Procedure Act, we attempt to comply not only with the letter of its provisions but with the spirit thereof, as is shown in answers 2, 3, and 6, *supra*, and in the attached comments on H.R. 5012 at pages 1-2.

We are of the view, however, that certain material in the Commission's files should not be subject to general public scrutiny and limitations on its availability are accordingly imposed. Some material is accorded confidential treatment under certain statutory procedures, as described in the attached comment on H.R. 5012 at pages 2-3. Certain other material is treated as nonpublic to further the usefulness of the advisory assistance provided by the Commission's staff, to protect members of the public from unfair injury and to facilitate free communication among Government officials, all as described in the attached comment at pages 3-9. In addition, the Commission's investigatory files are treated as nonpublic to protect innocent persons, those who provide information concerning possible violations of law and the efficacy of our investigative and prosecutive activities.

8. The Commission does not require private parties dealing with it to resort to organization or procedure not published in the Federal Register.

9. The Commission does not utilize the provision in section 3 of the Administrative Procedure Act that excuses the publication of rules where there is involved a function of the United States requiring secrecy in the public interest.

10. The Commission does not publish its directives to the staff concerning internal agency management relating to such subjects as budgetary matters, travel, personnel administration and building, equipment and supplies management.

11. The materials which are available to the public as being matters of official record within the meaning of section 3(c) of the Administrative Procedure Act are described in answers numbers 3 and 6, *supra*, in rule 25 of the Commission's Rules of Practice, 17 CFR 201.25, and at 17 CFR 200.80. In addition, see the itemization of public materials in the enclosed list which the Commission has prepared and issued to the public entitled "Compilation of Documentary Materials Available in the SEC."

You have also asked us to provide two copies of every regulation, directive, order or other document issued by the Commission to implement 5 U.S.C. 1002. For the most part section 3 of the Administrative Procedure Act merely codified procedures that had already been followed by this Commission. Therefore the