

November 21, 1977

Janet Studley, Esquire
Counsel
Subcommittee on Federal Spending
Practices and Open Government of
The Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Ms. Studley:

This letter is in response to your request for certain information pertaining to our experience in administering the Government in the Sunshine Act ("Act"), P.L. 94-409, in preparation for oversight hearings on the Act by the subcommittee.

1. We have included as Appendix A, a copy of all Federal Register notices prepared by the Commission in response to your request to receive this information.
2. Included as Appendix B is a copy of our current Sunshine Act regulations.
3. You have also requested a statement of the procedures followed by the Commission to assure that the public is aware of the Commission's meetings. As you may remember, we described those procedures in Commissioner's Loomis' letter of September 13, 1977, to Senator Chiles. We indicated at that time, in relevant part, that,

"In general, our rules provide that notices of prospective open meetings are to be posted on the public information board in the lobby of the Securities and Exchange Commission at least one week prior to the consideration of any matter listed therein; these notices are also submitted at that time to the Federal Register for publication. Should the Commission determine, by recorded vote, that earlier consideration of any matter not previously posted is necessary, public announcement is made, posted in the lobby, and submitted to the Federal Register at the earliest practicable time. This announcement contains a brief description of the subject matter to be discussed, the date, place and time at which the Commission will consider the matter, whether the meeting, or any portions of it, will be open or closed, and the name and telephone number of a Commission official designated to respond to requests for information concerning the meeting at which the matter is to be discussed. In addition, the Wednesday edition of the Commission's daily publication, the "SEC News Digest," contains announcements of the Commission meetings, both open and closed, for the following week, and revises that information as soon as practicable when changes from the previously announced schedule are made * * *. The "SEC News Digest" has a current circulation of over 3,000 and is subscribed to by many persons who regularly follow the Commission's activities. In addition, to allow the public to better understand the discussion during open meetings,

the Commission has informally begun to distribute to attendees at these meetings summaries of relevant background information pertaining to agenda items.”

4. You further asked what interpretations of the Act our implementing regulations contain. As can be seen from our regulations, for the most part they closely track the language of the Act. They establish the standard to be considered in the determination to close a meeting (17 CFR § 200.402); describe the content, timing, and admendment to notices of Commission meetings (17 CFR § 200.403); indicate what procedures are to be followed when a determination to close a meeting has been made (17 CFR § 200.403-404); codify the need for a certification by the General Counsel in order to close a Commission meeting (17 CFR § 200.406); provide for the keeping of transcripts and minutes of closed meetings (17 CFR § 200. 407); describe the method by which public access to transcripts and minutes of closed Commission meetings may be obtained (17 CFR § 200.408); and prescribe the procedures for administrative appeals with respect to determinations to open or close meetings (17 CFR § 200.409).

Nevertheless, to the extent that our Sunshine Act regulations supplement or add-to the language of the Act, they could be considered “interpretations.” In particular, 12 CFR § 200.401 defines key terms used in the Act, and in 17 CFR § 200.402(a) examples of the scope of exemptions to the general requirements of public disclosures are provided.*

5. Finally, you request a tally-sheet of the number of open and closed Commission meetings held since March, 1977. The list set forth below is accurate through November 18, 1977. You should also be aware that, at any particular meeting, the number of separate and independent matters which may be considered by the Commission will vary considerably.

* But, see, 12 CFR § 200.402(b) which provides that:

“The examples set forth [in] § 200.402(a)(1) through (10) of particular matters which may be the subject of closed Commission deliberations are to be construed as illustrative, but not as exhaustive, of the cope of exemptions.

COMMISSION MEETINGS UNDER SUNSHINE ACT

	<u>OPEN</u>	<u>CLOSED</u>
MARCH	1	4
APRIL	7	9
MAY	10	11
JUNE	6	12
JULY	7	11
AUGUST	6	11
SEPTEMBER	7	13
OCTOBER	7	8
NOVEMBER	7	9

I hope this fully answers the questions addressed to us. If you have any other questions or wish to discuss further any matter raised herein, please let me know.

Sincerely

Harvey L. Pitt
General Counsel

HLP/TSB/sam

Enclosures