

§ 200.313

implied promise that the identity of the source would be held in confidence.

(Pub. L. 93-579, Sec. k, 5 U.S.C. 552a(k))

[40 FR 44073, Sept. 24, 1975, as amended at 52 FR 2677, Jan. 26, 1987; 54 FR 24332, June 7, 1989; 54 FR 46373, Nov. 3, 1989; 60 FR 32795, June 23, 1995; 65 FR 55186, Sept. 13, 2000]

§ 200.313 Inspector General exemptions.

(a) Pursuant to section (j) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of Inspector General of the Commission that contains the Investigative Files shall be exempted from the provisions of 5 U.S.C. 552a, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), and 17 CFR 200.303, 200.304, 200.306, 200.307, 200.308, 200.309 and 200.310, insofar as the system contains information pertaining to criminal law enforcement investigations.

(2) [Reserved]

(b) Pursuant to section (k) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the system of records maintained by the Office of Inspector General of the Commission that contains the Investigative Files shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) and 17 CFR 200.303, 200.304, and 200.306, insofar as it contains investigatory materials compiled for law enforcement purposes.

(2) [Reserved]

[55 FR 19872, May 14, 1990]

17 CFR Ch. II (4-1-03 Edition)

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

AUTHORITY: 5 U.S.C. 552b, unless otherwise noted. Section 200.410 also is issued under 29 U.S.C. 794.

SOURCE: 42 FR 14693, Mar. 16, 1977, unless otherwise noted.

§ 200.400 Open meetings.

Except as otherwise provided in this subpart, meetings of the Commission shall be open to public observation.

§ 200.401 Definitions.

As used in this subpart:

(a) *Meeting* means the joint deliberations of at least the number of individual members of the Securities and Exchange Commission required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 200.42 or § 200.43 (respecting seriatim and duty officer disposition of Commission business, respectively), or by §§ 200.403, 200.404, or 200.405 (respecting whether particular Commission deliberations shall be open or closed and related matters).

(b) *Portion of a meeting* means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meetings described in § 200.403.

(c) *Open*, when used in the context of a Commission meeting or a portion thereof, means that the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting, consistent with the provisions of § 200.410 (respecting decorum at meetings and other related matters).

(d) *Closed*, when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of a meeting.

(e) *Announce*, and *make publicly available*, when used in the context of the

dissemination of information, mean, in addition to any specific method of publication described in this subpart, that a document containing the information in question will be posted for public inspection in, or adjacent to, the lobby of the Commission's headquarters offices, and will be available to the public through the Commission's Public Reference Section and the Commission's Office of Public Affairs, all in Washington, DC

(f) The term *likely to*, as used in § 200.402, illustrating the circumstances under which Commission meetings may be closed, and the circumstances in which information may be deleted from the notice of Commission meetings, means that it is more probable than not that the discussion of Commission business, or publication of information, reasonably could encompass matters which the Commission is authorized, by the Government in the Sunshine Act, Pub. L. 94-409, as implemented by this subpart, to consider or discuss at a closed meeting (or a closed portion of a meeting).

(g) The term *financial institution*, as used in § 200.402(a), authorizing the closure of certain Commission meetings, includes, but is not limited to, banks, savings and loan associations, credit unions, brokers and dealers in securities or commodities, exchanges dealing in securities or commodities, national securities associations, investment companies, investment advisers, securities industry self-regulatory organizations subject to 15 U.S.C. 78s, and institutional managers as defined in 15 U.S.C. 78m(f).

(h) The term *person* includes, but is not limited to, any corporation, partnership, company, association, joint stock corporation, business trust, unincorporated organization, government, political subdivision, agency, or instrumentality of a government.

[42 FR 14693, Mar. 16, 1977, as amended at 60 FR 17202, Apr. 5, 1995]

§ 200.402 Closed meetings.

(a) *Nonpublic matters.* Pursuant to the general or special procedures for closing Commission meetings, as set forth in § 200.404 or § 200.405, respectively, a meeting, or any portion thereof, shall be closed to public observation where

the Commission determines that such meeting, or a portion thereof, is likely to:

(1) Disclose matters specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy, and in fact properly classified pursuant to such executive order.

(2) Relate solely to the internal personnel rules and practices of the Commission or any other agency, including, but not limited to, discussion concerning:

(i) Operation rules, guidelines, and manuals of procedure for investigators, attorneys, accountants, and other employees, other than those rules, guidelines, and manuals which establish legal requirements to which members of the public are expected to conform; or

(ii) Hiring, termination, promotion, discipline, compensation, or reward of any Commission employee or member, the existence, investigation, or disposition of a complaint against any Commission employee or member, the physical or mental condition of any Commission employee or member, the handling of strictly internal matters, which would tend to infringe on the privacy of the staff or members of the Commission, or similar subjects.

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

(i) Information contained in letters of comment in connection with registration statements, applications for registration or other material filed with the Commission, replies thereto, and related material which is deemed to have been submitted to the Commission in confidence or to be confidential at the instance of the registrant or person who has filed such material unless the contrary clearly appears; and