

survey, covers business enterprises engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, U.S. branches and agencies of foreign banks whether or not they accept domestic deposits, savings and loans, savings banks, and bank holding companies, i.e., holding companies for which over 50 percent of their total income is from banks which they hold, and

(ii) On a fully consolidated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded \$3 million (positive or negative) at the end of, or for, its 1997 fiscal year:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes; or

(C) Net income after provision for U.S. income taxes.

(4) Form BE-12(X)—Benchmark Survey of Foreign Direct Investment in the United States—1997, Claim for Exemption from Filing BE-12(LF), BE-12(SF), and BE-12 Bank must be completed and filed within 30 days of the date it was received, or by May 31, 1998, whichever is sooner, by:

(i) Each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1997 fiscal year (whether or not the U.S. affiliate, or its agent, is contacted by BEA concerning its being subject to reporting in the 1997 benchmark survey), but is exempt from filing Form BE-12(LF), Form BE-12(SF), and Form BE-12 Bank; and

(ii) Each U.S. business enterprise, or its agent, that is contacted, in writing, by BEA concerning its being subject to reporting in the 1997 benchmark survey but that is not otherwise required to file the Form BE-12(LF), Form BE-12(SF), or Form BE-12 Bank.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be filed to report the aggregate holdings, unless written permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately.

(e) *Exemption.* (1) A U.S. affiliate as consolidated, or aggregated in the case of real estate investments, is not required to file a Form BE-12(LF), BE-12(SF), or Form BE-12 Bank if each of the following three items for the U.S. affiliate (not just the foreign parent's share) did not exceed \$3 million (positive or negative) at the end of, or for, its 1997 fiscal year:

(i) Total assets (do not net out liabilities);

(ii) Sales or gross operating revenues, excluding sales taxes; and

(iii) Net income after provision for U.S. income taxes.

(2) If a U.S. business enterprise was a U.S. affiliate at the end of its 1997 fiscal year but is exempt from filing a completed Form BE-12(LF), BE-12(SF), or Form BE-12 Bank, it must nevertheless file a completed and certified Form BE-12(X).

(f) *Due date.* A fully completed and certified Form BE-12(LF), Form BE-12(SF), or BE-12 Bank is due to be filed with BEA not later than May 31, 1998. A fully completed and certified Form BE-12(X) is due to be filed with BEA within 30 days of the date it was received, or by May 31, 1998, whichever is sooner.

[FR Doc. 98-1541 Filed 1-22-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33-7495; 34-39558; 35-26818; 39-2361; IC-23002]

RIN 3235-AG96

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting an updated edition of the EDGAR Filer Manual and is providing for its incorporation by reference into the Code of Federal Regulations.

DATES: Effective: The amendment to 17 CFR part 232 (Regulation S-T) will be effective on January 26, 1998.

Other dates: The new edition of the EDGAR Filer Manual (Release 5.40) will be effective on January 26, 1998. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of January 26, 1998.

FOR FURTHER INFORMATION CONTACT: In the Office of Information Technology, Michael E. Bartell at (202) 942-8800; for questions concerning investment company filings, Ruth Armfield Sanders, Senior Counsel, Division of Investment Management, at (202) 942-0633; and for questions concerning Corporation Finance company filings, Margaret R. Black at (202) 942-2933.

SUPPLEMENTARY INFORMATION: The Commission today announces the

adoption of an updated EDGAR Filer Manual ("Filer Manual"), which sets forth the technical formatting requirements governing the preparation and submission of electronic filings through the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.¹ Compliance with the provisions of the Filer Manual is required in order to assure the timely acceptance and processing of filings made in electronic format.² Filers should consult the Filer Manual in conjunction with the Commission's rules governing mandated electronic filing when preparing documents for electronic submission.³

In this edition of the EDGAR System and the Filer Manual (Release 5.40), filers will be able to specify either an Internet address or a CompuServe address or both to receive messages on the status of an electronic filing. Since messages sent through Internet may not be as secure as messages sent via CompuServe, certain company information will be omitted from Internet messages for suspended filings and test filings.

Release 5.40 adds two EDGAR submission types for filings submitted by investment companies and deletes or changes the header information of several existing submission types. These changes are being made to accommodate the recent rule and form amendments changing the method by which certain investment companies calculate and pay registration fees.⁴ The following submission types have been added for

¹ The Filer Manual originally was adopted on April 1, 1993, and became effective on April 26, 1993. Release No. 33-6986 (Apr. 1, 1993) [58 FR 18638]. The most recent update to the Filer Manual was implemented on August 23, 1997. See Release No. 33-7432 (July 29, 1997) [62 FR 41841].

² See Rule 301 of Regulation S-T (17 CFR 232.301).

³ See Release Nos. 33-6977 (Feb. 23, 1993) [58 FR 14628], IC-19284 (Feb. 23, 1993) [58 FR 14848], 35-25746 (Feb. 23, 1993) [58 FR 14999], and 33-6980 (Feb. 23, 1993) [58 FR 15009] for a comprehensive treatment of the rules adopted by the Commission governing mandated electronic filing. See also Release No. 33-7122 (Dec. 19, 1994) [59 FR 67752], in which the Commission made the EDGAR rules final and applicable to all domestic registrants. Release No. 33-7427 (July 1, 1997) [62 FR 36450], adopting the most recent minor amendments to the EDGAR rules; and Release No. 33-7472 (Oct. 24, 1997) [62 FR 58647], in which the Commission announced that, as of January 1, 1998, it would not accept paper filings required to be filed electronically.

⁴ See Release No. 33-7448 (Sep. 10, 1997) [62 FR 47934]. The rule amendments adopted in that release provided for automatic registration of an indefinite number of securities by all open-end management investment companies and unit investment trusts. As a result, election by these issuers of registration of an indefinite number of shares is no longer necessary or appropriate. Accordingly, all EDGAR submission types used for making that election are being eliminated.

the filing of initial registration statements and pre-effective amendments on Form N-14 by closed-end investment companies: N-14 8C and N-14 8C/A. In addition, the following investment company submission types will no longer be subject to fees and the fee-related tags have been removed: N-1, N-1/A, N-1A, N-1A/A, N-3, N-3/A, N-4, N-4/A, N-14, N-14/A, N-14AE, N-14AE/A, S-6, S-6/A, and 487. Finally, submission types 24F-2NT and 24F-3NT (and their amendments) must be filed within 90 days of the registrant's fiscal year end. This is a change from the 60-day requirement in effect prior to October 11, 1997.

The following investment company submission types will no longer be accepted by the EDGAR system: 24F-1, 24F-2EL, 24F-2EL/A, 24F-2TM, 24F-2TM/A, N-1A EL, N-1A EL/A, N-3 EL, N-3 EL/A, N-4 EL, N-4 EL/A, S-6EL24, S-6EL24/A, 485A24E, 485A24F, 485B24E, 485B24F, 485BXT, 485BXTF, N14EL24, N14EL24/A, N14AE24, and N14AE24/A.

Rule 301 of Regulation S-T also is being amended to provide for the incorporation by reference of the Filer Manual into the Code of Federal Regulations, which incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The revised Filer Manual and the amendment to Rule 301 will be effective on January 26, 1998.

Paper copies of the updated Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1-2, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronic format copies will be available on the EDGAR electronic bulletin board and posted to the SEC's Web Site. The SEC's Web Site address for the Manual is <http://www.sec.gov/asec/ofis/filerman.htm>. Copies also may be obtained from Disclosure Incorporated, the paper and microfiche contractor for the Commission, at (800) 638-8241.

Since the Filer Manual relates solely to agency procedure or practice, publication for notice and comment is not required under the Administrative Procedure Act.⁵ It follows that the requirements of the Regulatory Flexibility Act⁶ do not apply.

The effective date for the updated Filer Manual and the rule amendments is January 26, 1998. In accordance with the Administrative Procedure Act 5

U.S.C. 553(d)(3), the Commission finds that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system is scheduled to be upgraded to Release 5.40 on January 24, 1998. The Commission believes that it is necessary to coordinate the effectiveness of the updated Filer Manual with the scheduled system upgrade in order to avoid confusion to EDGAR filers.

Statutory Basis

The amendment to Regulation S-T is being adopted under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,⁷ Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,⁸ Section 20 of the Public Utility Holding Company Act of 1935,⁹ Section 319 of the Trust Indenture Act of 1939,¹⁰ and Sections 8, 30, 31, and 38 of the Investment Company Act.¹¹

List of Subjects in 17 CFR Part 232

Incorporation by reference, Investment companies, Registration requirements, Reporting and recordkeeping requirements, Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a-8, 80a-29, 80a-30 and 80a-37.

2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Electronic filings shall be prepared in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The January 1998 edition of the *EDGAR Filer Manual: Guide for Electronic Filing with the U.S. Securities and Exchange Commission (Release 5.40)* is incorporated into the Code of Federal Regulations by reference, which action was approved by the Director of the Federal Register in accordance with 5

U.S.C. 552(a) and 1 CFR part 51. Compliance with the requirements found therein is essential to the timely receipt and acceptance of documents filed with or otherwise submitted to the Commission in electronic format. Paper copies of the EDGAR Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1-2, 450 5th Street, N.W., Washington, D.C. 20549. They also may be obtained from Disclosure Incorporated by calling (800) 638-8241. Electronic format copies are available through the EDGAR electronic bulletin board and posted to the SEC's Web Site. The SEC's Web Site address for the Manual is <http://www.sec.gov/asec/ofis/filerman.htm>. Information on becoming an EDGAR E-mail/electronic bulletin board subscriber is available by contacting CompuServe Inc. at (800) 576-4247.

By the Commission.

Dated: January 20, 1998.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-1646 Filed 1-22-98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175 and 178

[Docket No. 95F-0210]

Indirect Food Additives: Adhesives and Components of Coatings; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,2'-(2,5-thiophenediyl)-bis(5-tert-butylbenzoxazole) as an optical brightener in pressure-sensitive adhesives and in all polymers used in contact with food. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: The regulation is effective January 23, 1998. Submit written objections and requests for a hearing by February 23, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

⁵ 5 U.S.C. 601-612.

⁶ 5 U.S.C. 553(b).

⁷ 15 U.S.C. 77f, 77g, 77h, 77j and 77s(a).

⁸ 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w and 78ll.

⁹ 15 U.S.C. 79t.

¹⁰ 15 U.S.C. 77sss.

¹¹ 15 U.S.C. 80a-8, 80a-29, 80a-30 and 80a-37.