

is yes, the respondent must provide the name of the parent or affiliate and the type of institution. The "General Instructions" to Schedule I also are amended to refer to the definition of "bank" in § 3(a)(6) of the Securities Exchange Act of 1934 ("Exchange Act").³

Form G-405 is required to be submitted by registered government securities brokers and dealers to the SEC or to a self-regulatory organization according to an SEC approved plan. Financial institutions that have filed notice as government securities brokers and dealers are not required to file Form G-405.

The disclosure of this additional information would correspond to similar changes made by the SEC to Form X-17A-5, also known as the "FOCUS" Report, in November 1992.⁴ The Treasury shares the SEC's belief that having knowledge of the economic and financial characteristics of brokers and dealers, including organizational affiliations with U.S. banks, is useful for regulatory purposes. This form change will also achieve consistency with the SEC approach and will assure consistent treatment for all government securities brokers and dealers.

The amendments to Form G-405 become effective June 12, 1995. The Department has consulted with the National Association of Securities Dealers ("NASD") regarding the implementation of the form changes. The Department understands that the NASD will distribute the amended Form G-405 to its members that are registered government securities brokers and dealers. Copies of the Form G-405 may also be obtained by contacting the NASD.

List of Subjects in 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 17 CFR Chapter IV is amended as follows:

³ 15 U.S.C. 78c(a)(6). Under this section, the term "bank" is defined as: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; (c) any other banking institution doing business under the laws of any state or the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by state or federal authority having supervision over banks; and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in the above paragraphs.

⁴ Securities Exchange Act Release No. 31398 (November 4, 1992), 57 FR 53261 (November 9, 1992).

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 449 continues to read as follows:

Authority: 15 U.S.C. 78o-5(a), (b)(1)(B), (b)(4).

2. Schedule I of Form G-405 is amended to add new instruction 15(a), (b) and (c) to the General Instructions, to redesignate Questions 15-18 as Questions 16-19, and add new Question 15 to read as follows:

Note: The text of Form G-405 does not appear in the Code of Federal Regulations.

Form G-405, Report on Finances and Operations of Government Securities Brokers and Dealers, Schedule I:

* * * * *

General Instructions

* * * * *

15(a), (b) & (c)—Report whether respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank. If the answer is "yes," provide the name of the affiliated bank and/or bank holding company, and describe the type of institution. The term "bank" is defined in § 3(a)(6) of the Securities Exchange Act of 1934.

* * * * *

15. (a) Respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank.

(Enter applicable code: 1=Yes 2=No)

(b) Name of parent or affiliate _____

(c) Type of institution _____

* * * * *

§ 400.6 and 405.3 [Amended]

3. For each section indicated in the list above, remove the Office of Management and Budget control number from the parenthetical statement at the end of each section, and add in its place "1535-0089".

§ 403.4 [Amended]

4. Add at the end of § 403.4 the following parenthetical:

§ 403.4 Customer protection—reserves and custody of securities.

(Approved by the Office of Management and Budget under control number 1535-0089)

Dated: April 3, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95-9057 Filed 4-12-95; 8:45 am]

BILLING CODE 4810-39-W

17 CFR Part 449

Form G-FIN-4

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Adoption of form amendments.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is adopting amendments to Form G-FIN-4, which is the form that associated persons of financial institutions that are government securities brokers and dealers are required to file with such financial institutions, pursuant to sections 15C(a), (b)(1)(B) and (b)(4) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78o-5(a), (b)(1)(B) and (b)(4)) and sections 400.4 and 449.3 of the regulations issued under the Government Securities Act of 1986 ("GSA"). The amendments update the disciplinary background provisions of the form to reflect amendments to the federal securities laws, and provide the financial institutions of the associated persons and the appropriate regulatory authorities for the financial institutions with more useful information. The Department is adopting the amendments unchanged from their proposed form.

EFFECTIVE DATE: June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director), or Lee Grandy (Government Securities Specialist) at 202-219-3632. (TDD for hearing impaired: 202-219-3988.)

SUPPLEMENTARY INFORMATION:

I. Background and Analysis

The Department adopted Form G-FIN-4 (Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer) in the implementing regulations for the GSA issued on July 24, 1987 (52 FR 27910). Sections 400.4 and 449.3¹ of the GSA regulations require the form to be used by associated persons of financial institutions that are government securities brokers and dealers to provide the financial institutions and the appropriate regulatory agencies with certain information concerning employment, residence and statutory disqualification. Under the GSA regulations, associated persons that have a current Form U-4 (Uniform Application for Securities Industry Registration or Transfer) or Form MSD-4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) on file with their financial institution are not required to file Form

¹ 17 CFR 400.4 and 17 CFR 449.3, respectively.

G-FIN-4. Associated persons are not required to file G-FIN-4 forms with their financial institutions if the institutions are exempt from filing notice as government securities brokers or dealers pursuant to Part 401 of the GSA regulations.

The Department published the amendments to Form G-FIN-4 in proposed form on December 27, 1994,² and the comment period closed on January 26, 1995. Treasury received no comments in response to the proposed changes.

The changes to the body of Form G-FIN-4 relate to Item 17, which requests information concerning the disciplinary history of the associated person. The changes reflect amendments to the Exchange Act by the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Remedies Act")³ and the International Securities Enforcement Cooperation Act of 1990 ("ISECA").⁴

Specifically, the amendments to Form G-FIN-4 amend question C of Item 17 to add paragraph (5), which asks the associated person whether the SEC or the Commodity Futures Trading Commission ("CFTC") has ever imposed a civil money penalty on the associated person, or ordered the associated person to cease and desist from any activity. The disclosure of this additional information corresponds to the SEC's expanded administrative and civil enforcement authorities under the Remedies Act.

The amendments to Form G-FIN-4 also add a definition of "foreign financial regulatory authority"⁵ to Item 17, and add this term to question 17.D. Thus, question 17.D. now inquires whether the associated person has ever been the subject of a finding by any

federal regulatory agency, any state regulatory agency or "foreign financial regulatory authority". The definition of "foreign financial regulatory authority" added to Form G-FIN-4 is essentially the definition the ISECA added to section 3(a)(52) of the Exchange Act. Questions 17.A. and 17.B. have been amended to clarify that the inquiries now apply to information related to foreign as well as domestic courts.

Any associated person that determines that additional disclosure is required under revised Item 17 will need to file an amendment to Form G-FIN-4 on or promptly after the effective date of the Form amendments. See part II below for discussion of new filing requirements.

The amendments also modify Item 5 to reflect the Office of Thrift Supervision as the successor to the Federal Home Loan Bank Board. Thus, the "Director, Office of Thrift Supervision" is now listed as one of the appropriate regulatory agencies with which the financial institutions may be required to file the form.

In light of the technical changes made by the Government Securities Act Amendments of 1993 to the definition of "appropriate regulatory agency",⁶ the amendments also make corresponding changes to Item 3 of the general instructions for Form G-FIN-4.

These amendments ensure that Form G-FIN-4 will provide a more complete description of the associated person's disciplinary history. The amendments to Form G-FIN-4 also conform to similar changes made by the National Association of Securities Dealers ("NASD") to Form U-4 in November 1991,⁷ and by the SEC to Form BD (Uniform Application for Broker-Dealer Registration) in July 1992.⁸

II. Filing Instructions

The amendments to Form G-FIN-4 become effective June 12, 1995. Thus, all new associated persons of financial institutions that are government securities brokers and dealers filing on or after that date will be required to file the revised Form G-FIN-4 with their institutions, though those filing before the effective date are encouraged to use the revised form. In addition, associated persons that have previously filed a G-FIN-4 should review their G-FIN-4 filings to determine whether they contain all of the information required by amended Item 17. To the extent that

revisions to Form G-FIN-4 result in an affirmative answer to a question in Item 17, associated persons will be required to file with their institution an amendment to their Form G-FIN-4 by June 12, 1995 (or as soon as possible after that date). Financial institution government securities brokers or dealers are required to file the new or revised G-FIN-4 forms with their appropriate regulatory agency in accordance with section 400.4(d)(1). Associated persons who answer "no" to all of the questions in amended Item 17 will not be required to file an updated Form G-FIN-4 at that time.

In consultations with the appropriate regulatory agencies on the implementation of the form changes, the Department understands that the agencies will distribute the revised Form G-FIN-4 to their financial institutions that are government securities brokers and dealers so that the institutions can provide the form to their associated persons. Copies of the G-FIN-4 may also be obtained by contacting the appropriate regulatory agencies for financial institutions.

III. Special Analysis

It has been determined that these amendments are not a "significant regulatory action" as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

In the preamble to the proposal, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Department certified that these amendments to Form G-FIN-4, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. In reviewing the final form amendment herein and in light of the fact that no comments were received, the Department has concluded that there is no reason to alter the previous certification.

List of Subjects in 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 17 CFR Part 449 is amended as follows:

Part 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 449 is revised to read as follows:

Authority: 15 U.S.C. 78o-5(a), (b)(1)(B), (b)(4).

² 59 FR 66496 (December 27, 1994).

³ Pub. L. No. 101-429, 104 Stat. 931 (October 15, 1990). The Remedies Act gave the Securities and Exchange Commission ("SEC") the authority to seek civil monetary penalties in court proceedings and to impose monetary penalties and order disgorgement in administrative proceedings. The Remedies Act also provided the SEC with both temporary and permanent cease and desist order authority to prevent violations of securities laws.

⁴ Pub. L. No. 101-550, 104 Stat. 2713 (November 15, 1990). The ISECA gave the SEC the authority to bar, suspend or restrict the activities of broker-dealers and associated persons or those persons seeking to become associated with a broker-dealer, based upon the findings of a foreign court or foreign securities authority. By amending the GSA, the ISECA also gave similar authority to the appropriate regulatory agencies for financial institutions that are government securities brokers or dealers regarding associated persons or those persons seeking to become associated with such entities. The ISECA also provided that certain types of actions taken by foreign financial regulatory authorities will be deemed a statutory disqualification.

⁵ 15 U.S.C. 78c(a)(52).

⁶ Pub. L. No. 103-202, 107 Stat. 2344 (1993).

⁷ National Association of Securities Dealers Notice to Members No. 91-73 (November, 1991).

⁸ Securities Exchange Act Release No. 34-30958 (July 27, 1992), 57 FR 34028 (July 31, 1992).

2. Form G-FIN-4 is amended to revise Item 5, Item 17 and the general instructions to read as follows:

Note: The text of Form G-FIN-4 does not appear in the Code of Federal Regulations.

Form G-FIN-4—Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer:

Item 5
Item 17

General Instructions

* * * * *

In Item 5, "Federal Home Loan Bank Board" is deleted and "Director, Office of Thrift Supervision" is added so that the modified question reads: "To be filed with the following (indicate one): Board of Governors of the Federal Reserve System * * * Comptroller of the Currency * * * Federal Deposit Insurance Corporation * * * Director, Office of Thrift Supervision * * * Securities and Exchange Commission."

In Item 17, Definitions, the term "Foreign Financial Regulatory Authority" is added with the following meaning: "Foreign Financial Regulatory Authority—Includes any (A) foreign securities authority; (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of investment or investment-related activities; or (C) membership organization, a function of which is to regulate the participation of its members in the activities listed above."

Item 17.A., "in a domestic or foreign court" is added so that the modified question reads: "Have you, within the 10 years preceding the date of this filing, been convicted of or plead guilty or nolo contendere ("no contest") in a domestic or foreign court to:"

Item 17.B., "domestic or foreign" is added so that the modified question reads: "Has any domestic or foreign court ever:"

Item 17.C.(5) is added to read as follows: "(5) imposed a civil money penalty on you, or ordered you to cease and desist from any activity?"

Item 17.D., "foreign financial regulatory authority" is added so that the modified question reads: "Has any other federal regulatory agency, any state regulatory agency or foreign financial regulatory authority ever:"

Item 17.F., "other than as reported in Items 17.A., B., or D." is added so that the modified question reads: "Has any foreign government, court, regulatory agency, or exchange ever entered an order against you related to investments

or fraud other than as reported in Items 17.A., B., or D.?"

In the general instructions to Form G-FIN-4, Items 3.b., 3.c., and 3.d. are revised to read as follows:

3.b. "The Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;"

3.c. "The Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);"

3.d. "The Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation; and"

Dated: April 3, 1995.
Frank N. Newman,
Deputy Secretary.
[FR Doc. 95-9056 Filed 4-12-95; 8:45 am]
BILLING CODE 4810-39-W

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 87C-0316]

Listing of Color Additives Exempt From Certification; Astaxanthin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. This action is in response to a petition filed by Hoffmann-La Roche, Inc.

DATES: Effective May 16, 1995, except as to any provisions that may be stayed by the filing of proper objections; written

objections and request for a hearing by May 15, 1995.

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

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3078.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the Federal Register of December 2, 1987 (52 FR 45867), FDA announced that a color additive petition (CAP 7C0211) had been filed by Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110-1199. The petition requested that the color additive regulations in part 73 (21 CFR part 73) be amended to provide for the safe use of astaxanthin as a color additive in the feed of salmonid fish. The petition was filed under section 706(d) (now section 721(d)) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(d) (now 379e(d)).

II. Safety of the Petitioned Use

Astaxanthin is 3, 3'-dihydroxy- β , β -carotene-4, 4'-dione. Pure crystalline astaxanthin must be stored in the absence of light, heat, and oxygen to minimize chemical changes and decomposition that would result in loss of color. Thus, it is necessary to produce a stabilized form of astaxanthin for it to be marketed for addition to salmonid feed for the purpose of coloring the fish flesh.

The petitioner manufactures crystalline astaxanthin in a stabilized beadlet form and has presented evidence in the petition to establish the length of the shelf-life of this beadlet. Under § 70.25(a)(4) (21 CFR 70.25(a)(4)), expiration dates for the product in sealed and open containers must be stated on the label of a color additive. FDA finds that, given the concerns about shelf life, the expiration dates are a material fact that must be disclosed on the label of the product under sections 201(n) and 403(a)(1) of the act (21 U.S.C. 321(n) and 343(a)(1)).

Astaxanthin occurs in the flesh of wild salmon at levels ranging from about 4 to 34 parts per million and is responsible for its pink or red coloration (Ref. 1). Wild salmon consume astaxanthin as a component of their natural diet and deposit a portion of the astaxanthin unchanged in their flesh