Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) Each person who pays, either directly or through another person, the annual fee set forth in § 310.8(c), each person excepted under § 310.8(c) from paying the annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee (''the annual period''). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $55 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $27 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–20252 Filed 8–24–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 211, 231, and 241

[Release Nos. 33–9062A; 34–60519A; FR–80A]

Commission Guidance Regarding the Financial Accounting Standards Board's Accounting Standards Codification

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is publishing interpretive guidance regarding the release by the Financial Accounting Standards Board (''FASB'') of its FASB Accounting Standards Codification™ (''FASB Codification'').

DATES: *Effective Date:* August 25, 2009.

FOR FURTHER INFORMATION CONTACT: Questions about specific filings should be directed to staff members responsible for reviewing the documents the registrant files with the Commission. General questions about this release should be referred to Jenifer Minke-Girard, Senior Associate Chief Accountant, or Jeffrey S. Cohan, Senior Special Counsel, Office of the Chief Accountant, at (202) 551–5300, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

SUPPLEMENTARY INFORMATION:

I. Background

Section 108 of the Sarbanes-Oxley Act of 2002 [1] amended Section 19(b) of the Securities Act of 1933 [2] to provide that the Commission may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets specified criteria. On April 25, 2003, the Commission issued a policy statement concluding that the FASB and its parent organization, the Financial Accounting Foundation, satisfied the criteria for an accounting standard setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as ''generally accepted'' for purposes of the federal securities laws.[3]

On June 30, 2009, the FASB issued FASB Statement of Financial Accounting Standards No. 168, *The FASB Accounting Standards Codification™ and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162* (Statement No. 168), to establish the FASB Codification as the source of authoritative non-Commission accounting principles recognized by the FASB to be applied by nongovernmental entities in the preparation of financial statements in conformity with U.S. generally accepted accounting principles (''U.S. GAAP''). Statement No. 168 is effective for financial statements issued for interim and annual periods ending after September 15, 2009. The FASB Codification reorganizes existing U.S. accounting and reporting standards issued by the FASB and other related private-sector standard setters, and all guidance contained in the FASB Codification carries an equal level of authority.[4]

The FASB Codification directly impacts certain of the Commission's rules, regulations, releases and staff bulletins (collectively referred to in this release as ''Commission's rules and staff guidance''), which refer to specific FASB standards or other private sector standard-setter literature under U.S. GAAP, because such references are now superseded by the FASB Codification. The Commission is therefore issuing interpretive guidance to avoid confusion on the part of issuers, auditors, investors, and other users of financial statements and Commission rules and staff guidance.

II. Discussion

Many parts of the Commission's rules and staff guidance include direct references to specific standards under U.S. GAAP. For example, Regulation S–X, which, together with the Commission's Financial Reporting Releases, sets forth the form and content of and requirements for financial statements required to be filed with the Commission,[5] includes specific references to specific standards under U.S. GAAP.[6] In addition, some parts of the Commission's rules and staff guidance outside of the financial statement context include specific references to specific standards under U.S. GAAP, such as in Item 402 of Regulation S–K regarding disclosure of executive compensation.[7]

Given the possible confusion between the Commission's rules and staff guidance, on the one hand, and the FASB Codification, on the other hand, the Commission believes it is necessary to publish the guidance in this release. Concurrent with the effective date of the FASB Codification, references in the Commission's rules and staff guidance to specific standards under U.S. GAAP should be understood to mean the corresponding reference in the FASB Codification. We note that the FASB Codification includes a cross-reference finding tool that can assist users in identifying where previous accounting literature resides in the FASB Codification. The Commission and its staff also intend to embark on a longer term rulemaking and updating initiative to revise comprehensively specific

[1] Public Law 107–204, 116 Stat. 745 (2002).

[2] 15 U.S.C. 77s(b).

[3] See Commission Statement of Policy Reaffirming the Status of the FASB as a Designated Private-Sector Standard Setter, Release Nos. 33–8221; 34–47743; IC–26028; FR–70 (April 25, 2003) [68 FR 23333 (May 1, 2003)].

[4] The FASB Codification is available at *http://asc.fasb.org/home.*

[5] 17 CFR 210.1–01.

[6] See, *e.g.,* Rule 1–02(u) of Regulation S–X [17 CFR 210.1–02(u)], which defines the term ''related parties'' by reference to FASB Statement of Financial Accounting Standards No. 57, *Related Party Disclosures.*

[7] 17 CFR 229.402.

references to specific standards under U.S. GAAP in the Commission's rules and staff guidance.

It should be noted that although the FASB has stated that the FASB Codification supersedes existing references in U.S. GAAP, the FASB Codification does not supersede Commission rules or regulations. We understand that the FASB Codification, as a service to users, includes references to some Commission rules and staff guidance. However, the FASB Codification is not the authoritative source for such content, nor does its inclusion in the FASB Codification affect how such content may be updated in the future.

III. Codification Update

The ''Codification of Financial Reporting Policies'' announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated by adding at the end of Section 101, under the Financial Reporting Number (FR–80A) assigned to this interpretive release, the text in Sections I and II of this release.

The Codification is a separate publication of the Commission. It will not be published in the **Federal Register**/Code of Federal Regulations.

List of Subjects

17 CFR Part 211

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 231 and 241

Securities.

Amendments to the Code of Federal Regulations

■ For the reasons set out in the preamble, the Commission is amending title 17, chapter II of the Code of Federal Regulations as set forth below:

PART 211—INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

■ Part 211, Subpart A, is amended by adding Release No. FR–80A and the release date of August 18, 2009 to the list of interpretive releases.

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ Part 231 is amended by adding Release No. 33–9062A and the release date of August 18, 2009 to the list of interpretive releases.

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ Part 241 is amended by adding Release No. 34–60519A and the release date of August 18, 2009 to the list of interpretive releases.

By the Commission.

Dated: August 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–20381 Filed 8–24–09; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2009–N–0344]

Microbiology Devices; Reclassification of Herpes Simplex Virus Types 1 and 2 Serological Assays

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is implementing a direct final rule correcting the regulation classifying herpes simplex virus (HSV) serological assays by removing the reference to HSV serological assays other than type 1 and type 2. When reclassifying this device, FDA mistakenly distinguished between HSV serological assays type 1 and type 2 and all other HSV serological assays. At that time, and today, the only preamendments HSV serological assays which FDA was aware of were type 1 and type 2 and, therefore, the classification of HSV assays other than type 1 and type 2 was incorrect. FDA is correcting the classification of this device to eliminate possible confusion resulting from this error. Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule under FDA's usual procedure for notice and comment to provide a procedural framework to finalize the rule in the event we receive significant adverse comment and withdraw this direct final rule.

DATES: This rule is effective December 7, 2009. Submit written or electronic comments on the direct final rule by October 8, 2009. If we receive no significant adverse comments within the specified comment period, we intend to publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends. If we receive any timely significant adverse comment, we will withdraw this final rule in part or in whole by publication of a document in the **Federal Register** within 30 days after the comment period ends.

ADDRESSES: You may submit comments, identified by Docket No FDA–2009–N–0344, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- *Fax:* 301–827–6870.
- *Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]:* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Scott McFarland, Center for Devices and Radiological Health WO/66, rm. 5543, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD, 301–796–6217.

SUPPLEMENTARY INFORMATION: