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SECURITIES AND EXCHANGE COMMISSION

Securities Act of 1933

Release No. 9398 / April 2, 2013

Securities Exchange Act of 1934

Release No. 69265 / April 2, 2013

Order Regarding Review of FASB Accounting Support Fee for 2013 under Section 109 of the Sarbanes-Oxley Act of 2002

The Sarbanes-Oxley Act of 2002 (the “Act”) provides that the Securities and Exchange Commission (the “Commission”) may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the “recoverable budget expenses” of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board (“FASB”) and its parent organization, the Financial Accounting Foundation (“FAF”), 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" under Section 108 of the Act.¹ As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2013. In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2013.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB, and the Governmental Accounting Standards Board ("GASB"), the FASB's sister organization, which sets accounting standards used by state and local government entities. The Commission has been advised by the FAF that neither the FAF, the FASB, nor the GASB accept contributions from the accounting profession.

The Commission understands that the Office of Management and Budget ("OMB") has determined that the FASB is included in sequestration anticipated by the the Budget Control Act of 2011 ("BCA").² So long as sequestration is applicable, we anticipate that the FAF will work with the Commission and Commission staff as appropriate regarding its implementation of sequestration. In that event, the Commission also requests the FAF to provide the Commission with information regarding the FAF's

¹ Financial Reporting Release No. 70.

² See "OMB Report Pursuant to the Sequestration Transparency Act of 2012" (P.L. 112-155), page 222 of 224 at: http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf.

plans for implementation of sequestration, including how it will impact 2013 spending for each of the FAF's program areas and cost categories.

After its review, the Commission determined that the 2013 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

IT IS ORDERED, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

Elizabeth M. Murphy
Secretary

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