

## COMMISSION REGULATION (EC) No 1165/2009

of 27 November 2009

**amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard (IFRS) 4 and IFRS 7**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards<sup>(1)</sup>, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008<sup>(2)</sup> certain international standards and interpretations that were in existence on 15 October 2008 were adopted.
- (2) On 5 March 2009, the International Accounting Standards Board (IASB) published amendments to International Financial Reporting Standard (IFRS) 4 *Insurance Contracts* and IFRS 7 *Financial Instruments: Disclosures* hereinafter 'amendments to IFRS 4 and 7'. The amendments to IFRS 4 and IFRS 7 aim at requiring enhanced disclosures about fair value measurements and liquidity risk associated with financial instruments.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendments to IFRS 4 and IFRS 7 meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and

neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions<sup>(3)</sup>, the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

- (4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Financial Reporting Standard (IFRS) 4 is amended as set out in the Annex to this Regulation;
2. IFRS 7 is amended as set out in the Annex to this Regulation.

*Article 2*

Each company shall apply the amendments to IFRS 4 and IFRS 7, as set out in the Annex to this Regulation, at the latest, as from the commencement date of its first financial year starting after 31 December 2008.

*Article 3*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 November 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

<sup>(1)</sup> OJ L 243, 11.9.2002, p. 1.

<sup>(2)</sup> OJ L 320, 29.11.2008, p. 1.

<sup>(3)</sup> OJ L 199, 21.7.2006, p. 33.

## ANNEX

## INTERNATIONAL ACCOUNTING STANDARDS

IFRS 4	Amendment to International Financial Reporting Standard 4 <i>Insurance Contracts</i>
IFRS 7	Amendments to International Financial Reporting Standard 7 <i>Financial Instruments: Disclosures</i>

**Amendments to International Financial Reporting Standard 7****Financial instruments: disclosures**

Paragraph 27 is amended. Paragraphs 27A and 27B are added.

## SIGNIFICANCE OF FINANCIAL INSTRUMENTS FOR FINANCIAL POSITION AND PERFORMANCE

**Other disclosures***Fair value*

- 27 An entity shall disclose for each class of financial instruments the methods and, when a valuation technique is used, the assumptions applied in determining fair values of each class of financial assets or financial liabilities. For example, if applicable, an entity discloses information about the assumptions relating to prepayment rates, rates of estimated credit losses, and interest rates or discount rates. If there has been a change in valuation technique, the entity shall disclose that change and the reasons for making it.
- 27A To make the disclosures required by paragraph 27B an entity shall classify fair value measurements using a fair value hierarchy that reflects the significance of the inputs used in making the measurements. The fair value hierarchy shall have the following levels:
- (a) quoted prices (unadjusted) in active markets for identical assets or liabilities (Level 1);
  - (b) inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly (ie as prices) or indirectly (ie derived from prices) (Level 2); and
  - (c) inputs for the asset or liability that are not based on observable market data (unobservable inputs) (Level 3).

The level in the fair value hierarchy within which the fair value measurement is categorised in its entirety shall be determined on the basis of the lowest level input that is significant to the fair value measurement in its entirety. For this purpose, the significance of an input is assessed against the fair value measurement in its entirety. If a fair value measurement uses observable inputs that require significant adjustment based on unobservable inputs, that measurement is a Level 3 measurement. Assessing the significance of a particular input to the fair value measurement in its entirety requires judgement, considering factors specific to the asset or liability.

- 27B For fair value measurements recognised in the statement of financial position an entity shall disclose for each class of financial instruments:
- (a) the level in the fair value hierarchy into which the fair value measurements are categorised in their entirety, segregating fair value measurements in accordance with the levels defined in paragraph 27A.
  - (b) any significant transfers between Level 1 and Level 2 of the fair value hierarchy and the reasons for those transfers. Transfers into each level shall be disclosed and discussed separately from transfers out of each level. For this purpose, significance shall be judged with respect to profit or loss, and total assets or total liabilities.
  - (c) for fair value measurements in Level 3 of the fair value hierarchy, a reconciliation from the beginning balances to the ending balances, disclosing separately changes during the period attributable to the following:
    - (i) total gains or losses for the period recognised in profit or loss, and a description of where they are presented in the statement of comprehensive income or the separate income statement (if presented);
    - (ii) total gains or losses recognised in other comprehensive income;
    - (iii) purchases, sales, issues and settlements (each type of movement disclosed separately); and
    - (iv) transfers into or out of Level 3 (eg transfers attributable to changes in the observability of market data) and the reasons for those transfers. For significant transfers, transfers into Level 3 shall be disclosed and discussed separately from transfers out of Level 3.

- (d) the amount of total gains or losses for the period in (c)(i) above included in profit or loss that are attributable to gains or losses relating to those assets and liabilities held at the end of the reporting period and a description of where those gains or losses are presented in the statement of comprehensive income or the separate income statement (if presented).
- (e) for fair value measurements in Level 3, if changing one or more of the inputs to reasonably possible alternative assumptions would change fair value significantly, the entity shall state that fact and disclose the effect of those changes. The entity shall disclose how the effect of a change to a reasonably possible alternative assumption was calculated. For this purpose, significance shall be judged with respect to profit or loss, and total assets or total liabilities, or, when changes in fair value are recognised in other comprehensive income, total equity.

An entity shall present the quantitative disclosures required by this paragraph in tabular format unless another format is more appropriate.

*Paragraph 39 is amended. Paragraph 44G is added.*

#### *Liquidity risk*

39 An entity shall disclose:

- (a) a maturity analysis for non-derivative financial liabilities (including issued financial guarantee contracts) that shows the remaining contractual maturities.
- (b) a maturity analysis for derivative financial liabilities. The maturity analysis shall include the remaining contractual maturities for those derivative financial liabilities for which contractual maturities are essential for an understanding of the timing of the cash flows (see paragraph B11B).
- (c) a description of how it manages the liquidity risk inherent in (a) and (b).

#### EFFECTIVE DATE AND TRANSITION

44G *Improving Disclosures about Financial Instruments* (Amendments to IFRS 7), issued in March 2009, amended paragraphs 27, 39 and B11 and added paragraphs 27A, 27B, B10A and B11A–B11F. An entity shall apply those amendments for annual periods beginning on or after 1 January 2009. In the first year of application, an entity need not provide comparative information for the disclosures required by the amendments. Earlier application is permitted. If an entity applies the amendments for an earlier period, it shall disclose that fact.

#### *Appendix A*

##### **Defined terms**

*The following term is amended.*

liquidity risk

The risk that an entity will encounter difficulty in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset.

#### *Appendix B*

##### **Application guidance**

*A heading and paragraph B11 are amended. Paragraphs B10A and B11A–B11F are added and paragraphs B12–B16 are deleted. Paragraphs B12 and B13 are replaced by paragraph B11C(a) and (b). Paragraphs B14 and B16 are replaced by paragraph B11D.*

#### **Nature and extent of risks arising from financial instruments (paragraphs 31–42)**

*Quantitative liquidity risk disclosures (paragraphs 34(a) and 39(a) and (b))*

B10A In accordance with paragraph 34(a) an entity discloses summary quantitative data about its exposure to liquidity risk on the basis of the information provided internally to key management personnel. An entity shall explain how those data are determined. If the outflows of cash (or another financial asset) included in those data could either:

- (a) occur significantly earlier than indicated in the data, or
- (b) be for significantly different amounts from those indicated in the data (eg for a derivative that is included in the data on a net settlement basis but for which the counterparty has the option to require gross settlement),

the entity shall state that fact and provide quantitative information that enables users of its financial statements to evaluate the extent of this risk unless that information is included in the contractual maturity analyses required by paragraph 39(a) or (b).

B11 In preparing the maturity analyses required by paragraph 39(a) and (b) an entity uses its judgement to determine an appropriate number of time bands. For example, an entity might determine that the following time bands are appropriate:

- (a) not later than one month;
- (b) later than one month and not later than three months;
- (c) later than three months and not later than one year; and
- (d) later than one year and not later than five years.

B11A In complying with paragraph 39(a) and (b), an entity shall not separate an embedded derivative from a hybrid (combined) financial instrument. For such an instrument, an entity shall apply paragraph 39(a).

B11B Paragraph 39(b) requires an entity to disclose a quantitative maturity analysis for derivative financial liabilities that shows remaining contractual maturities if the contractual maturities are essential for an understanding of the timing of the cash flows. For example, this would be the case for:

- (a) an interest rate swap with a remaining maturity of five years in a cash flow hedge of a variable rate financial asset or liability.
- (b) all loan commitments.

B11C Paragraph 39(a) and (b) requires an entity to disclose maturity analyses for financial liabilities that show the remaining contractual maturities for some financial liabilities. In this disclosure:

- (a) when a counterparty has a choice of when an amount is paid, the liability is allocated to the earliest period in which the entity can be required to pay. For example, financial liabilities that an entity can be required to repay on demand (eg demand deposits) are included in the earliest time band.
- (b) when an entity is committed to make amounts available in instalments, each instalment is allocated to the earliest period in which the entity can be required to pay. For example, an undrawn loan commitment is included in the time band containing the earliest date it can be drawn down.
- (c) for issued financial guarantee contracts the maximum amount of the guarantee is allocated to the earliest period in which the guarantee could be called.

B11D The contractual amounts disclosed in the maturity analyses as required by paragraph 39(a) and (b) are the contractual undiscounted cash flows, for example:

- (a) gross finance lease obligations (before deducting finance charges);
- (b) prices specified in forward agreements to purchase financial assets for cash;
- (c) net amounts for pay-floating/receive-fixed interest rate swaps for which net cash flows are exchanged;
- (d) contractual amounts to be exchanged in a derivative financial instrument (eg a currency swap) for which gross cash flows are exchanged; and
- (e) gross loan commitments.

Such undiscounted cash flows differ from the amount included in the statement of financial position because the amount in that statement is based on discounted cash flows. When the amount payable is not fixed, the amount disclosed is determined by reference to the conditions existing at the end of the reporting period. For example, when the amount payable varies with changes in an index, the amount disclosed may be based on the level of the index at the end of the period.

- B11E Paragraph 39(c) requires an entity to describe how it manages the liquidity risk inherent in the items disclosed in the quantitative disclosures required in paragraph 39(a) and (b). An entity shall disclose a maturity analysis of financial assets it holds for managing liquidity risk (eg financial assets that are readily saleable or expected to generate cash inflows to meet cash outflows on financial liabilities), if that information is necessary to enable users of its financial statements to evaluate the nature and extent of liquidity risk.
- B11F Other factors that an entity might consider in providing the disclosure required in paragraph 39(c) include, but are not limited to, whether the entity:
- (a) has committed borrowing facilities (eg commercial paper facilities) or other lines of credit (eg stand-by credit facilities) that it can access to meet liquidity needs;
  - (b) holds deposits at central banks to meet liquidity needs;
  - (c) has very diverse funding sources;
  - (d) has significant concentrations of liquidity risk in either its assets or its funding sources;
  - (e) has internal control processes and contingency plans for managing liquidity risk;
  - (f) has instruments that include accelerated repayment terms (eg on the downgrade of the entity's credit rating);
  - (g) has instruments that could require the posting of collateral (eg margin calls for derivatives);
  - (h) has instruments that allows the entity to choose whether it settles its financial liabilities by delivering cash (or another financial asset) or by delivering its own shares; or
  - (i) has instruments that are subject to master netting agreements.

B12-B16 [Deleted]

#### **Amendment to International Financial Reporting Standard 4**

##### ***Insurance Contracts***

*Paragraph 39(d) is amended.*

#### DISCLOSURE

##### **Nature and extent of risks arising from insurance contracts**

- 39 (d) information about credit risk, liquidity risk and market risk that paragraphs 31–42 of IFRS 7 would require if the insurance contracts were within the scope of IFRS 7. However:
- (i) an insurer need not provide the maturity analyses required by paragraph 39(a) and (b) of IFRS 7 if it discloses information about the estimated timing of the net cash outflows resulting from recognised insurance liabilities instead. This may take the form of an analysis, by estimated timing, of the amounts recognised in the statement of financial position.
  - (ii) ...