

COMMISSION REGULATION (EU) No 244/2010

of 23 March 2010

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) 2

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international accounting standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 18 June 2009, the International Accounting Standards Board (IASB) published Amendments to International Financial Reporting Standard (IFRS) 2 Share-based Payment, hereinafter 'amendment to IFRS 2'. The amendment to IFRS 2 provides clarification on the accounting treatment of share-based transactions in which the supplier of the goods or services is paid in cash and the obligation is incurred by another group entity (group cash-settled share-based payment transactions).
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendment to IFRS 2 meets 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 ⁽³⁾, 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 2 Share-based Payment is amended in accordance with the Amendments to International Financial Reporting Standard IFRS 2 Share-based Payment, as set out in the Annex to this Regulation;
2. International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 8 and IFRIC Interpretation 11 are deleted.

Article 2

Each company shall apply the amendments, 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 2009.

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, 23 March 2010.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 243, 11.9.2002, p. 1.

⁽²⁾ OJ L 320, 29.11.2008, p. 1.

⁽³⁾ OJ L 199, 21.7.2006, p. 33.

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRS 2	Amendments to IFRS 2 Share-based Payment
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Amendments to IFRS 2 *Share-based Payment*

SCOPE

Paragraph 2 is amended and paragraph 3 is deleted and paragraph 3A is added.

- 2 An entity shall apply this IFRS in accounting for all share-based payment transactions, whether or not the entity can identify specifically some or all of the goods or services received, including:

- (a) *equity-settled share-based payment transactions,*
- (b) *cash-settled share-based payment transactions, and*
- (c) transactions in which the entity receives or acquires goods or services and the terms of the arrangement provide either the entity or the supplier of those goods or services with a choice of whether the entity settles the transaction in cash (or other assets) or by issuing equity instruments,

except as noted in paragraphs 3A–6. In the absence of specifically identifiable goods or services, other circumstances may indicate that goods or services have been (or will be) received, in which case this IFRS applies.

- 3 [Deleted]

- 3A A share-based payment transaction may be settled by another group entity (or a shareholder of any group entity) on behalf of the entity receiving or acquiring the goods or services. Paragraph 2 also applies to an entity that

- (a) receives goods or services when another entity in the same group (or a shareholder of any group entity) has the obligation to settle the share-based payment transaction, or
- (b) has an obligation to settle a share-based payment transaction when another entity in the same group receives the goods or services

unless the transaction is clearly for a purpose other than payment for goods or services supplied to the entity receiving them.

EQUITY-SETTLED SHARE-BASED PAYMENT TRANSACTIONS

Paragraph 13A is added as follows.

Overview

- 13A In particular, if the identifiable consideration received (if any) by the entity appears to be less than the fair value of the equity instruments granted or liability incurred, typically this situation indicates that other consideration (i.e. unidentifiable goods or services) has been (or will be) received by the entity. The entity shall measure the identifiable goods or services received in accordance with this IFRS. The entity shall measure the unidentifiable goods or services received (or to be received) as the difference between the fair value of the share-based payment and the fair value of any identifiable goods or services received (or to be received). The entity shall measure the unidentifiable goods or services received at the grant date. However, for cash-settled transactions, the liability shall be remeasured at the end of each reporting period until it is settled in accordance with paragraphs 30–33.

Share-based payment transactions among group entities

After paragraph 43, a heading and paragraphs 43A–43D are added.

SHARE-BASED PAYMENT TRANSACTIONS AMONG GROUP ENTITIES (2009 AMENDMENTS)

- 43A For share-based payment transactions among group entities, in its separate or individual financial statements, the entity receiving the goods or services shall measure the goods or services received as either an equity-settled or a cash-settled share-based payment transaction by assessing:

(a) the nature of the awards granted, and

(b) its own rights and obligations.

The amount recognised by the entity receiving the goods or services may differ from the amount recognised by the consolidated group or by another group entity settling the share-based payment transaction.

43B The entity receiving the goods or services shall measure the goods or services received as an equity-settled share-based payment transaction when:

(a) the awards granted are its own equity instruments, or

(b) the entity has no obligation to settle the share-based payment transaction.

The entity shall subsequently remeasure such an equity-settled share-based payment transaction only for changes in non-market vesting conditions in accordance with paragraphs 19–21. In all other circumstances, the entity receiving the goods or services shall measure the goods or services received as a cash-settled share-based payment transaction.

43C The entity settling a share-based payment transaction when another entity in the group receives the goods or services shall recognise the transaction as an equity-settled share-based payment transaction only if it is settled in the entity's own equity instruments. Otherwise, the transaction shall be recognised as a cash-settled share-based payment transaction.

43D Some group transactions involve repayment arrangements that require one group entity to pay another group entity for the provision of the share-based payments to the suppliers of goods or services. In such cases, the entity that receives the goods or services shall account for the share-based payment transaction in accordance with paragraph 43B regardless of intragroup repayment arrangements.

EFFECTIVE DATE

Paragraph 63, a heading and paragraph 64 are added.

63 An entity shall apply the following amendments made by *Group Cash-settled Share-based Payment Transactions* issued in June 2009 retrospectively, subject to the transitional provisions in paragraphs 53–59, in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* for annual periods beginning on or after 1 January 2010:

(a) the amendment of paragraph 2, the deletion of paragraph 3 and the addition of paragraphs 3A and 43A–43D and of paragraphs B45, B47, B50, B54, B56–B58 and B60 in Appendix B in respect of the accounting for transactions among group entities.

(b) the revised definitions in Appendix A of the following terms:

— cash-settled share-based payment transaction,

— equity-settled share-based payment transaction,

— share-based payment arrangement, and

— share-based payment transaction.

If the information necessary for retrospective application is not available, an entity shall reflect in its separate or individual financial statements the amounts previously recognised in the group's consolidated financial statements. Earlier application is permitted. If an entity applies the amendments for a period beginning before 1 January 2010, it shall disclose that fact.

WITHDRAWAL OF INTERPRETATIONS

64 *Group Cash-settled Share-based Payment Transactions* issued in June 2009 supersedes IFRIC 8 *Scope of IFRS 2* and IFRIC 11 *IFRS 2 — Group and Treasury Share Transactions*. The amendments made by that document incorporated the previous requirements set out in IFRIC 8 and IFRIC 11 as follows:

- (a) amended paragraph 2 and added paragraph 13A in respect of the accounting for transactions in which the entity cannot identify specifically some or all of the goods or services received. Those requirements were effective for annual periods beginning on or after 1 May 2006.
- (b) added paragraphs B46, B48, B49, B51–B53, B55, B59 and B61 in Appendix B in respect of the accounting for transactions among group entities. Those requirements were effective for annual periods beginning on or after 1 March 2007.

Those requirements were applied retrospectively in accordance with the requirements of IAS 8, subject to the transitional provisions of IFRS 2.

DEFINED TERMS

In Appendix A, the following definitions are amended and a footnote is added.

cash-settled share-based payment transaction	A share-based payment transaction in which the entity acquires goods or services by incurring a liability to transfer cash or other assets to the supplier of those goods or services for amounts that are based on the price (or value) of equity instruments (including shares or share options) of the entity or another group entity.
equity-settled share-based payment transaction	A share-based payment transaction in which the entity <ul style="list-style-type: none"> (a) receives goods or services as consideration for its own equity instruments (including shares or share options), or (b) receives goods or services but has no obligation to settle the transaction with the supplier.
share-based payment arrangement	An agreement between the entity (or another group ^(e) entity or any shareholder of any group entity) and another party (including an employee) that entitles the other party to receive <ul style="list-style-type: none"> (a) cash or other assets of the entity for amounts that are based on the price (or value) of equity instruments (including shares or share options) of the entity or another group entity, or (b) equity instruments (including shares or share options) of the entity or another group entity, provided the specified vesting conditions , if any, are met. <p>^(e) A 'group' is defined in paragraph 4 of IAS 27 <i>Consolidated and Separate Financial Statements</i> as 'a parent and its subsidiaries' from the perspective of the reporting entity's ultimate parent.</p>
share-based payment transaction	A transaction in which the entity <ul style="list-style-type: none"> (a) receives goods or services from the supplier of those goods or services (including an employee) in a share-based payment arrangement, or (b) incurs an obligation to settle the transaction with the supplier in a share-based payment arrangement when another group entity receives those goods or services.

SCOPE OF IFRS 2

In Appendix B *Application guidance*, a heading and paragraphs B45–B61 are added.

Share-based payment transactions among group entities (2009 amendments)

B45 Paragraphs 43A–43C address the accounting for share-based payment transactions among group entities in each entity's separate or individual financial statements. Paragraphs B46–B61 discuss how to apply the requirements in paragraphs 43A–43C. As noted in paragraph 43D, share-based payment transactions among group entities may take place for a variety of reasons depending on facts and circumstances. Therefore, this discussion is not exhaustive and assumes that when the entity receiving the goods or services has no obligation to settle the transaction, the transaction is a parent's equity contribution to the subsidiary, regardless of any intragroup repayment arrangements.

B46 Although the discussion below focuses on transactions with employees, it also applies to similar share-based payment transactions with suppliers of goods or services other than employees. An arrangement between a parent and its subsidiary may require the subsidiary to pay the parent for the provision of the equity instruments to the employees. The discussion below does not address how to account for such an intragroup payment arrangement.

B47 Four issues are commonly encountered in share-based payment transactions among group entities. For convenience, the examples below discuss the issues in terms of a parent and its subsidiary.

Share-based payment arrangements involving an entity's own equity instruments

B48 The first issue is whether the following transactions involving an entity's own equity instruments should be accounted for as equity-settled or as cash-settled in accordance with the requirements of this IFRS:

- (a) an entity grants to its employees rights to equity instruments of the entity (e.g. share options), and either chooses or is required to buy equity instruments (i.e. treasury shares) from another party, to satisfy its obligations to its employees; and
- (b) an entity's employees are granted rights to equity instruments of the entity (e.g. share options), either by the entity itself or by its shareholders, and the shareholders of the entity provide the equity instruments needed.

B49 The entity shall account for share-based payment transactions in which it receives services as consideration for its own equity instruments as equity-settled. This applies regardless of whether the entity chooses or is required to buy those equity instruments from another party to satisfy its obligations to its employees under the share-based payment arrangement. It also applies regardless of whether:

- (a) the employee's rights to the entity's equity instruments were granted by the entity itself or by its shareholder(s);
or
- (b) the share-based payment arrangement was settled by the entity itself or by its shareholder(s).

B50 If the shareholder has an obligation to settle the transaction with its investee's employees, it provides equity instruments of its investee rather than its own. Therefore, if its investee is in the same group as the shareholder, in accordance with paragraph 43C, the shareholder shall measure its obligation in accordance with the requirements applicable to cash-settled share-based payment transactions in the shareholder's separate financial statements and those applicable to equity-settled share-based payment transactions in the shareholder's consolidated financial statements.

Share-based payment arrangements involving equity instruments of the parent

B51 The second issue concerns share-based payment transactions between two or more entities within the same group involving an equity instrument of another group entity. For example, employees of a subsidiary are granted rights to equity instruments of its parent as consideration for the services provided to the subsidiary.

B52 Therefore, the second issue concerns the following share-based payment arrangements:

- (a) a parent grants rights to its equity instruments directly to the employees of its subsidiary: the parent (not the subsidiary) has the obligation to provide the employees of the subsidiary with the equity instruments; and
- (b) a subsidiary grants rights to equity instruments of its parent to its employees: the subsidiary has the obligation to provide its employees with the equity instruments.

A parent grants rights to its equity instruments to the employees of its subsidiary (paragraph B 5 2 (a))

B53 The subsidiary does not have an obligation to provide its parent's equity instruments to the subsidiary's employees. Therefore, in accordance with paragraph 43B, the subsidiary shall measure the services received from its employees in accordance with the requirements applicable to equity-settled share-based payment transactions, and recognise a corresponding increase in equity as a contribution from the parent.

B54 The parent has an obligation to settle the transaction with the subsidiary's employees by providing the parent's own equity instruments. Therefore, in accordance with paragraph 43C, the parent shall measure its obligation in accordance with the requirements applicable to equity-settled share-based payment transactions.

A subsidiary grants rights to equity instruments of its parent to its employees (paragraph B 5 2 (b))

B55 Because the subsidiary does not meet either of the conditions in paragraph 43B, it shall account for the transaction with its employees as cash-settled. This requirement applies irrespective of how the subsidiary obtains the equity instruments to satisfy its obligations to its employees.

Share-based payment arrangements involving cash-settled payments to employees

B56 The third issue is how an entity that receives goods or services from its suppliers (including employees) should account for share-based arrangements that are cash-settled when the entity itself does not have any obligation to make the required payments to its suppliers. For example, consider the following arrangements in which the parent (not the entity itself) has an obligation to make the required cash payments to the employees of the entity:

- (a) the employees of the entity will receive cash payments that are linked to the price of its equity instruments.
- (b) the employees of the entity will receive cash payments that are linked to the price of its parent's equity instruments.

B57 The subsidiary does not have an obligation to settle the transaction with its employees. Therefore, the subsidiary shall account for the transaction with its employees as equity-settled, and recognise a corresponding increase in equity as a contribution from its parent. The subsidiary shall remeasure the cost of the transaction subsequently for any changes resulting from non-market vesting conditions not being met in accordance with paragraphs 19–21. This differs from the measurement of the transaction as cash-settled in the consolidated financial statements of the group.

B58 Because the parent has an obligation to settle the transaction with the employees, and the consideration is cash, the parent (and the consolidated group) shall measure its obligation in accordance with the requirements applicable to cash-settled share-based payment transactions in paragraph 43C.

Transfer of employees between group entities

B59 The fourth issue relates to group share-based payment arrangements that involve employees of more than one group entity. For example, a parent might grant rights to its equity instruments to the employees of its subsidiaries, conditional upon the completion of continuing service with the group for a specified period. An employee of one subsidiary might transfer employment to another subsidiary during the specified vesting period without the employee's rights to equity instruments of the parent under the original share-based payment arrangement being affected. If the subsidiaries have no obligation to settle the share-based payment transaction with their employees, they account for it as an equity-settled transaction. Each subsidiary shall measure the services received from the employee by reference to the fair value of the equity instruments at the date the rights to those equity instruments were originally granted by the parent as defined in Appendix A, and the proportion of the vesting period the employee served with each subsidiary.

- B60 If the subsidiary has an obligation to settle the transaction with its employees in its parent's equity instruments, it accounts for the transaction as cash-settled. Each subsidiary shall measure the services received on the basis of grant date fair value of the equity instruments for the proportion of the vesting period the employee served with each subsidiary. In addition, each subsidiary shall recognise any change in the fair value of the equity instruments during the employee's service period with each subsidiary.
- B61 Such an employee, after transferring between group entities, may fail to satisfy a vesting condition other than a market condition as defined in Appendix A, e.g. the employee leaves the group before completing the service period. In this case, because the vesting condition is service to the group, each subsidiary shall adjust the amount previously recognised in respect of the services received from the employee in accordance with the principles in paragraph 19. Hence, if the rights to the equity instruments granted by the parent do not vest because of an employee's failure to meet a vesting condition other than a market condition, no amount is recognised on a cumulative basis for the services received from that employee in the financial statements of any group entity.
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