

COMMISSION REGULATION (EC) No 1142/2009

of 26 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 Interpretations Committee's (IFRIC) Interpretation 17

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

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 27 November 2008, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 17 *Distribution of Non-cash Assets to Owners*, hereinafter 'IFRIC 17'. IFRIC 17 is an interpretation that provides clarification and guidance on the accounting treatment of distributions of non-cash assets to owners of an entity.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 17 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) The adoption of IFRIC 17 implies, by way of consequence, amendments to International Financial

Reporting Standard (IFRS) 5 and International Accounting Standard (IAS) 10 in order to ensure consistency between international accounting standards.

- (5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (6) 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 Interpretations Committee's (IFRIC) Interpretation 17 *Distributions of Non-cash Assets to Owners* is inserted as set out in the Annex to this Regulation;
2. International Financial Reporting Standard (IFRS) 5 is amended as set out in the Annex to this Regulation;
3. International Accounting Standard (IAS) 10 is amended as set out in the Annex to this Regulation.

Article 2

Each company shall apply IFRIC 17 and the amendments to IFRS 5 and IAS 10, 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 October 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, 26 November 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

⁽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

IFRIC 17	IFRIC Interpretation 17 <i>Distributions of Non-cash Assets to Owners</i>
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IFRIC INTERPRETATION 17***Distributions of Non-cash Assets to Owners***

REFERENCES

- IFRS 3 *Business Combinations* (as revised in 2008)
- IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*
- IFRS 7 *Financial Instruments: Disclosures*
- IAS 1 *Presentation of Financial Statements* (as revised in 2007)
- IAS 10 *Events after the Reporting Period*
- IAS 27 *Consolidated and Separate Financial Statements* (as amended in May 2008)

BACKGROUND

- 1 Sometimes an entity distributes assets other than cash (non-cash assets) as dividends to its owners (*) acting in their capacity as owners. In those situations, an entity may also give its owners a choice of receiving either non-cash assets or a cash alternative. The IFRIC received requests for guidance on how an entity should account for such distributions.
- 2 International Financial Reporting Standards (IFRSs) do not provide guidance on how an entity should measure distributions to its owners (commonly referred to as dividends). IAS 1 requires an entity to present details of dividends recognised as distributions to owners either in the statement of changes in equity or in the notes to the financial statements.

SCOPE

- 3 This Interpretation applies to the following types of non-reciprocal distributions of assets by an entity to its owners acting in their capacity as owners:
 - (a) distributions of non-cash assets (eg items of property, plant and equipment, businesses as defined in IFRS 3, ownership interests in another entity or disposal groups as defined in IFRS 5); and
 - (b) distributions that give owners a choice of receiving either non-cash assets or a cash alternative.
- 4 This Interpretation applies only to distributions in which all owners of the same class of equity instruments are treated equally.
- 5 This Interpretation does not apply to a distribution of a non-cash asset that is ultimately controlled by the same party or parties before and after the distribution. This exclusion applies to the separate, individual and consolidated financial statements of an entity that makes the distribution.
- 6 In accordance with paragraph 5, this Interpretation does not apply when the non-cash asset is ultimately controlled by the same parties both before and after the distribution. Paragraph B2 of IFRS 3 states that 'A group of individuals shall be regarded as controlling an entity when, as a result of contractual arrangements, they collectively have the power to govern its financial and operating policies so as to obtain benefits from its activities.' Therefore, for a distribution to be outside the scope of this Interpretation on the basis that the same parties control the asset both before and after the distribution, a group of individual shareholders receiving the distribution must have, as a result of contractual arrangements, such ultimate collective power over the entity making the distribution.
- 7 In accordance with paragraph 5, this Interpretation does not apply when an entity distributes some of its ownership interests in a subsidiary but retains control of the subsidiary. The entity making a distribution that results in the entity recognising a non-controlling interest in its subsidiary accounts for the distribution in accordance with IAS 27 (as amended in 2008).

(*) Paragraph 7 of IAS 1 defines owners as holders of instruments classified as equity.

- 8 This Interpretation addresses only the accounting by an entity that makes a non-cash asset distribution. It does not address the accounting by shareholders who receive such a distribution.

ISSUES

- 9 When an entity declares a distribution and has an obligation to distribute the assets concerned to its owners, it must recognise a liability for the dividend payable. Consequently, this Interpretation addresses the following issues:
- (a) When should the entity recognise the dividend payable?
 - (b) How should an entity measure the dividend payable?
 - (c) When an entity settles the dividend payable, how should it account for any difference between the carrying amount of the assets distributed and the carrying amount of the dividend payable?

CONSENSUS

When to recognise a dividend payable

- 10 The liability to pay a dividend shall be recognised when the dividend is appropriately authorised and is no longer at the discretion of the entity, which is the date:
- (a) when declaration of the dividend, eg by management or the board of directors, is approved by the relevant authority, eg the shareholders, if the jurisdiction requires such approval, or
 - (b) when the dividend is declared, eg by management or the board of directors, if the jurisdiction does not require further approval.

Measurement of a dividend payable

- 11 An entity shall measure a liability to distribute non-cash assets as a dividend to its owners at the fair value of the assets to be distributed.
- 12 If an entity gives its owners a choice of receiving either a non-cash asset or a cash alternative, the entity shall estimate the dividend payable by considering both the fair value of each alternative and the associated probability of owners selecting each alternative.
- 13 At the end of each reporting period and at the date of settlement, the entity shall review and adjust the carrying amount of the dividend payable, with any changes in the carrying amount of the dividend payable recognised in equity as adjustments to the amount of the distribution.

Accounting for any difference between the carrying amount of the assets distributed and the carrying amount of the dividend payable when an entity settles the dividend payable

- 14 When an entity settles the dividend payable, it shall recognise the difference, if any, between the carrying amount of the assets distributed and the carrying amount of the dividend payable in profit or loss.

Presentation and disclosures

- 15 An entity shall present the difference described in paragraph 14 as a separate line item in profit or loss.
- 16 An entity shall disclose the following information, if applicable:
- (a) the carrying amount of the dividend payable at the beginning and end of the period; and
 - (b) the increase or decrease in the carrying amount recognised in the period in accordance with paragraph 13 as result of a change in the fair value of the assets to be distributed.
- 17 If, after the end of a reporting period but before the financial statements are authorised for issue, an entity declares a dividend to distribute a non-cash asset, it shall disclose:
- (a) the nature of the asset to be distributed;

- (b) the carrying amount of the asset to be distributed as of the end of the reporting period; and
- (c) the estimated fair value of the asset to be distributed as of the end of the reporting period, if it is different from its carrying amount, and the information about the method used to determine that fair value required by IFRS 7 paragraph 27(a) and (b).

EFFECTIVE DATE

- 18 An entity shall apply this Interpretation prospectively for annual periods beginning on or after 1 July 2009. Retrospective application is not permitted. Earlier application is permitted. If an entity applies this Interpretation for a period beginning before 1 July 2009, it shall disclose that fact and also apply IFRS 3 (as revised in 2008), IAS 27 (as amended in May 2008) and IFRS 5 (as amended by this Interpretation).

*Appendix***Amendments to IFRS 5*****Non-current Assets Held for Sale and Discontinued Operations***

Paragraph 5A is added.

SCOPE

- 5A The classification, presentation and measurement requirements in this IFRS applicable to a non-current asset (or disposal group) that is classified as held for sale apply also to a non-current asset (or disposal group) that is classified as held for distribution to owners acting in their capacity as owners (held for distribution to owners).

After paragraph 5A the heading and paragraph 8 are amended, and paragraph 12A is added.

CLASSIFICATION OF NON-CURRENT ASSETS (OR DISPOSAL GROUPS) AS HELD FOR SALE OR AS HELD FOR DISTRIBUTION TO OWNERS

- 8 For the sale to be highly probable, the appropriate level of management must be committed to a plan to sell the asset (or disposal group), and an active programme to locate a buyer and complete the plan must have been initiated. Further, the asset (or disposal group) must be actively marketed for sale at a price that is reasonable in relation to its current fair value. In addition, the sale should be expected to qualify for recognition as a completed sale within one year from the date of classification, except as permitted by paragraph 9, and actions required to complete the plan should indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. The probability of shareholders' approval (if required in the jurisdiction) should be considered as part of the assessment of whether the sale is highly probable.
- 12A A non-current asset (or disposal group) is classified as held for distribution to owners when the entity is committed to distribute the asset (or disposal group) to the owners. For this to be the case, the assets must be available for immediate distribution in their present condition and the distribution must be highly probable. For the distribution to be highly probable, actions to complete the distribution must have been initiated and should be expected to be completed within one year from the date of classification. Actions required to complete the distribution should indicate that it is unlikely that significant changes to the distribution will be made or that the distribution will be withdrawn. The probability of shareholders' approval (if required in the jurisdiction) should be considered as part of the assessment of whether the distribution is highly probable.

Paragraph 15A and a footnote are added.

MEASUREMENT OF NON-CURRENT ASSETS (OR DISPOSAL GROUPS) CLASSIFIED AS HELD FOR SALE

- 15A An entity shall measure a non-current asset (or disposal group) classified as held for distribution to owners at the lower of its carrying amount and fair value less costs to distribute (*).

Paragraph 44D is added.

(*) Costs to distribute are the incremental costs directly attributable to the distribution, excluding finance costs and income tax expense.

EFFECTIVE DATE

- 44D Paragraphs 5A, 12A and 15A were added and paragraph 8 was amended by IFRIC 17 *Distributions of Non-cash Assets to Owners* in November 2008. Those amendments shall be applied prospectively to non-current assets (or disposal groups) that are classified as held for distribution to owners in annual periods beginning on or after 1 July 2009. Retrospective application is not permitted. Earlier application is permitted. If an entity applies the amendments for a period beginning before 1 July 2009 it shall disclose that fact and also apply IFRS 3 *Business Combinations* (as revised in 2008), IAS 27 (as amended in May 2008) and IFRIC 17.

Amendment to IAS 10***Events after the Reporting Period***

Paragraph 13 is amended.

DIVIDENDS

- 13 If dividends are declared after the reporting period but before the financial statements are authorised for issue, the dividends are not recognised as a liability at the end of the reporting period because no obligation exists at that time. Such dividends are disclosed in the notes in accordance with IAS 1 *Presentation of Financial Statements*.
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