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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
COM(2005)

Draft

COMMISSION REGULATION (EC) No .../..

of [...]

amending Regulation (EC) No 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council, as regards IFRS 1, IAS 39 and SIC 12 (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 standards¹, and in particular Article 3 (1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1725/2003² certain international standards and interpretations that were extant at 14 September 2002 were adopted, including interpretation of the Standing Interpretations Committee (SIC) 12 *Consolidation - Special purpose entities*.
- (2) On **17 December 2003** the International Accounting Standard Board (IASB) published revised International Accounting Standard (IAS) 39 *Financial Instruments: Recognition and Measurement*. IAS 39 establishes mainly basic principles for recognising and measuring financial assets and financial liabilities and was adopted by the European Commission by Commission Regulation (EC) No 2086/2004³ as of 19

¹ OJ L 243, 11.09.2003, p.1

² OJ L 261, 13.10.2003, p.1. Regulation as amended by Regulation (EC) No 707/2004 OJ L 111, 17.4.2004, p.3)

³ OJ L 363, 09.12.2004, p.1

November 2004, with the exception of certain provisions on the use of the full fair value option and on hedge accounting.

- (3) On 17 December 2004, the IASB published amendment to IAS 39 *Financial Instruments: Recognition and Measurement- Transition and Initial Recognition of Financial Assets and Financial Liabilities* as part of the IASB's initiative to facilitate the changeover to IAS/IFRS for European companies, especially those registered with the American Securities and Exchange Commission (SEC). The amendment allows, but does not require, entities to adopt an approach to transition that is easier to implement than that in the previous version of IAS 39, and will enable entities to eliminate any reconciling differences between the IASB's Standards and US GAAP.
- (4) On 11 November 2004, the International Financial Reporting Interpretations Committee (IFRIC) issued amendment to IFRIC Interpretation SIC 12 *Scope of SIC 12; Consolidation—Special Purpose Entities*. The Amendment deals with the current scope exclusion in SIC 12 for post-employment benefit plans and equity compensation plans (SIC-12.6). The purpose of the change in scope is to ensure consistency with the requirements of IAS 19 *Employee benefits* and to introduce consequential changes required by the recent adoption of IFRS 2 *Share-based Payment*⁴.
- (5) The Commission has concluded that the amended standard and the amended interpretation meet the criteria set out in Article 3 (2) of Regulation (EC) No 1606/2002. The consultation with technical experts in the field also supports that both amendments meet the technical criteria for adoption.
- (6) The adoption of the amendments to IAS 39 implies, by way of consequence, amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards* in order to ensure consistency between international accounting standards.
- (7) Regulation (EC) No 1725/2003 should therefore be amended accordingly.
- (8) The amendments should exceptionally take effect for a company's financial year starting on or after 1 January 2005, i.e. from a point in time before the publication of this regulation. The retrospective application is exceptionally justified as to facilitate first-time adopters the preparation of accounts in accordance with IAS/IFRS.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee.

HAS ADOPTED THIS REGULATION:

⁴ OJ L 41, 11.02.2005, p.1

Article 1

Annex to regulation (EC) No 1725/2003 is amended as follows:

- (1) The text of the **Amendments to International Accounting Standard (IAS) 39 *Financial Instruments: Recognition and Measurement - Transition and Initial Recognition of Financial Assets and Financial Liabilities*** is inserted as set out in the Annex to this Regulation.
- (2) The text of the **IFRIC Amendment to SIC 12 *Scope of SIC 12; Consolidation—Special Purpose Entities*** is inserted as set out in the Annex to this Regulation.
- (3) The adoption of the amendments to IAS 39 implies, by way of consequence, amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards* in order to ensure consistency between international accounting standards.

Article 2

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

It shall apply to each financial year of a company starting on or after 1 January 2005.

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

Done at Brussels, [...]

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

INTERNATIONAL FINANCIAL REPORTING STANDARDS	
IAS 39	Amendments to International Accounting Standard (IAS) 39 <i>Financial Instruments: Recognition and Measurement – Transition and Initial Recognition of Financial Assets and Financial Liabilities</i>
SIC 12	IFRIC Amendment to SIC 12 <i>Scope of SIC 12; Consolidation—Special Purpose Entities</i>

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