Commission Regulation (EU) 2017/1989 of 6 November 2017 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 Accounting Standard 12 (Text with EEA relevance)

COMMISSION REGULATION (EU) 2017/1989

of 6 November 2017

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(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 standards and interpretations that were in existence at 15 October 2008 were adopted.

(2) On 19 January 2016, the International Accounting Standards Board (IASB) published amendments to International Accounting Standard (IAS) 12 *Income Taxes*. The amendments aim to clarify how to account for deferred tax assets related to debt instruments measured at fair value.

(3) The consultation with the European Financial Reporting Advisory Group confirms that the amendments to IAS 12 meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.

(4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

(5) The IASB set the effective date of the amendments to IAS 12 as from 1 January 2017. Therefore, the provisions of this Regulation should apply retroactively to ensure legal certainty for the issuers concerned and consistency with other accounting standards laid down in Regulation (EC) No 1126/2008.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2017/1989. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 1

In the Annex to Regulation (EC) No 1126/2008, International Accounting Standard (IAS) 12 *Income Taxes* is amended as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments referred to in Article 1 at the latest, as from the commencement date of its first financial year starting on or after 1 January 2017.

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, 6 November 2017.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) 2017/1989. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

Recognition of Deferred Tax Assets for Unrealised Losses(Amendments to IAS 12)
Amendments to IAS 12 *Income Taxes*

Paragraph 29 is amended and paragraphs 27A, 29A and 98G are added. An example following paragraph 26 is also added. Paragraphs 24, 26(d), 27 and 28 have not been amended but are included for ease of reference.

Deductible temporary differences

24 A deferred tax asset shall be recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised, unless the deferred tax asset arises from the initial recognition of an asset or liability in a transaction that:

(a) **is not a business combination; and**

(b) **at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss).**

However, for deductible temporary differences associated with investments in subsidiaries, branches and associates, and interests in joint arrangements, a deferred tax asset shall be recognised in accordance with paragraph 44.

…

26 The following are examples of deductible temporary differences that result in deferred tax assets:

(a) …

(d) certain assets may be carried at fair value, or may be revalued, without an equivalent adjustment being made for tax purposes (see paragraph 20). A deductible temporary difference arises if the tax base of the asset exceeds its carrying amount.

Example illustrating paragraph 26(d)

Identification of a deductible temporary difference at the end of Year 2:

Entity A purchases for CU 1 000, at the beginning of Year 1, a debt instrument with a nominal value of CU 1 000 payable on maturity in 5 years with an interest rate of 2 % payable at the end of each year. The effective interest rate is 2 %. The debt instrument is measured at fair value.

At the end of Year 2, the fair value of the debt instrument has decreased to CU 918 as a result of an increase in market interest rates to 5 %. It is probable that Entity A will collect all the contractual cash flows if it continues to hold the debt instrument.

Any gains (losses) on the debt instrument are taxable (deductible) only when realised. The gains (losses) arising on the sale or maturity of the debt instrument are calculated for tax purposes as the difference between the amount collected and the original cost of the debt instrument.

Accordingly, the tax base of the debt instrument is its original cost.

The difference between the carrying amount of the debt instrument in Entity A's statement of financial position of CU 918 and its tax base of CU 1 000 gives rise to a deductible temporary difference of CU 82 at the end of Year 2 (see paragraphs 20 and 26(d)), irrespective of whether Entity A expects to recover the carrying amount of the debt instrument by sale or by use, ie by holding it and collecting contractual cash flows, or a combination of both.