Commission Regulation (EU) 2017/1988 of 3 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 Financial Reporting Standard 4 (Text with EEA relevance)

COMMISSION REGULATION (EU) 2017/1988

of 3 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 12 September 2016, the International Accounting Standards Board (IASB) published amendments to International Financial Reporting Standard (IFRS) 4, Applying IFRS 9 *Financial Instruments* with IFRS 4 *Insurance Contracts* (‘amendments to IFRS 4’). The amendments to IFRS 4 aim to address the temporary accounting consequences of the different effective dates of IFRS 9 and the new standard for insurance contracts replacing IFRS 4 (IFRS 17).

(3) The objective of IFRS 9 is to improve the financial reporting of financial instruments by addressing concerns that arose in this area during the financial crisis. In particular, IFRS 9 responds to the G20's call to move to a more forward-looking model for the recognition of expected losses on financial assets.

(4) The amendments to IFRS 4 permit entities that predominantly undertake insurance activities the option to defer the effective date of IFRS 9 until 1 January 2021. The effect of such a deferral is that the entities concerned may continue to report under the existing standard, International Accounting Standard (IAS) 39, *Financial Instruments: Recognition and Measurement*. The amendments to IFRS 4 also permit entities that issue insurance contracts to remove from profit or loss some of the additional accounting mismatches and temporary volatility that could occur when applying IFRS 9 before IFRS 17 is implemented.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2017/1988. 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*

(5) Following consultations with the European Financial Reporting Advisory Group, the Commission concludes that the amendments to IFRS 4 meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.

(6) The Commission, however, considers that the amendments to IFRS 4 are not sufficiently broad in scope to meet the needs of all significant insurance entities in Union. In particular, the insurance sector within a financial conglomerate would not be eligible to defer the application of IFRS 9, which could put them at a competitive disadvantage. Therefore, the insurance sector of a financial conglomerate falling within the scope of Directive 2002/87/EC of the European Parliament and of the Council[(3)] should be allowed to defer the application of IFRS 9 until 1 January 2021.

(7) A deferral of the application of IFRS 9 by the insurance sector in a conglomerate would mean the application of two different accounting standards within one financial conglomerate which could create opportunities for accounting arbitrage as well as possibly lead to difficulties for investors in understanding the consolidated financial statements. Therefore, such a deferral should be subject to certain conditions. To prevent the group transferring financial instruments between sectors in order to benefit from a more favourable accounting treatment, a temporary prohibition on transfer of financial instruments, other than financial instruments that are measured at fair value with changes in fair values through profit and loss, should apply. Only transfers offinancial instruments that qualify for de-recognition from the accounts of the transferring entity should be subject to the prohibition of transfer. Financial instruments issued by an entity of the group should not be subject to this prohibition because intra-group holdings of financial instruments are eliminated in the consolidated accounts of the conglomerate.

(8) The deferral of the application of IFRS 9 is consistent in its approach with IFRS 4 which permits insurance groups to consolidate subsidiaries without conforming the measurement of insurance liabilities from subsidiaries' local generally accepted accounting policies to the accounting policies used by the rest of the group. While the use of non-uniform accounting policies may reduce the understandibility of the financial statements, users of the financial statements will already be familiar with the financial reporting under IAS 39 and the deferral is only for a limited period of time. The conditions for use of the deferral should also mitigate any such concerns.

(9) The deferral of the application of IFRS 9 for the insurance sector within a financial conglomerate should be limited in time because it is important that the improvements introduced by IFRS 9 become effective as soon as possible and IFRS 17 will have an effective date of application of 1 January 2021.

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

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

HAS ADOPTED THIS REGULATION:

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Article 1

In the Annex to Regulation (EC) No 1126/2008, International Financial Reporting Standard (IFRS) 4 *Insurance Contracts* is amended as set out in the Annex to this Regulation.

Article 2

A financial conglomerate as defined in Article 2(14) of Directive 2002/87/EC may elect that none of its entities operating in the insurance sector within the meaning of Article 2(8)(b) of that Directive apply IFRS 9 in the consolidated financial statements for financial years the commencement of which precedes 1 January 2021 where all of the following conditions are met:

(a) no financial instruments are transferred between the insurance sector and any other sector of the financial conglomerate after 29 November 2017 other than financial instruments that are measured at fair value with changes in fair value recognised through the profit or loss account by both sectors involved in such transfers;

(b) the financial conglomerate states in the consolidated financial statements which insurance entities in the group are applying IAS 39;

(c) disclosures requested by IFRS 7 are provided separately for the insurance sector applying IAS 39 and for the rest of the group applying IFRS 9.

Article 3

1 Each company shall apply the amendments referred to in Article 1 as from the commencement date of its first financial year starting on or after 1 January 2018.

2 However, a financial conglomerate may choose to apply the amendments referred to in Article 1 subject to the conditions laid down in Article 2 as from the commencement date of its first financial year starting on or after 1 January 2018.

Article 4

This Regulation shall enter into force on the twentieth 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, 3 November 2017.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

Applying IFRS 9 *Financial Instruments* with IFRS 4 *Insurance Contracts* (Amendments to IFRS 4)

Amendments to IFRS 4 *Insurance Contracts*

Paragraph 3 is amended.

SCOPE

…

3. This IFRS does not address other aspects of accounting by insurers, such as accounting for financial assets held by insurers and financial liabilities issued by insurers (see IAS 32 *Financial Instruments: Presentation*, IFRS 7 and IFRS 9 *Financial Instruments*), except:

(a) paragraph 20A permits insurers that meet specified criteria to apply a temporary exemption from IFRS 9;

(b) paragraph 35B permits insurers to apply the overlay approach to designated financial assets; and

(c) paragraph 45 permits insurers to reclassify in specified circumstances some or all of their financial assets so that the assets are measured at fair value through profit or loss.

…

Paragraph 5 is amended.

…

5. For ease of reference, this IFRS describes any entity that issues an insurance contract as an insurer, whether or not the issuer is regarded as an insurer for legal or supervisory purposes. All references in paragraphs 3(a)–3(b), 20A–20Q, 35B–35N, 39B–39M and 46–49 to an insurer shall be read as also referring to an issuer of a financial instrument that contains a discretionary participation feature.

…

New headings are added below paragraphs 20, 20K and 20N. New paragraphs 20A–20Q are added.

RECOGNITION AND MEASUREMENT

…

Temporary exemption from IFRS 9

20A IFRS 9 addresses the accounting for financial instruments and is effective for annual periods beginning on or after 1 January 2018. However, for an insurer that meets the criteria in paragraph 20B, this IFRS provides a temporary exemption that permits, but does not require, the insurer to apply IAS 39 *Financial Instruments: Recognition and Measurement* rather than IFRS 9 for annual periods beginning before 1 January 2021. An insurer that applies the temporary exemption from IFRS 9 shall:

(a) **use the requirements in IFRS 9 that are necessary to provide the disclosures required in paragraphs 39B–39J of this IFRS; and**

(b) **apply all other applicable IFRSs to its financial instruments, except as described in paragraphs 20A–20Q, 39B–39J and 46–47 of this IFRS.**

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20B An insurer may apply the temporary exemption from IFRS 9 if, and only if:

(a) **it has not previously applied any version of IFRS 9[(4)], other than only the requirements for the presentation of gains and losses on financial liabilities designated as at fair value through profit or loss in paragraphs 5.7.1(c), 5.7.7–5.7.9, 7.2.14 and B5.7.5–B5.7.20 of IFRS 9; and**

(b) **its activities are predominantly connected with insurance, as described in paragraph 20D, at its annual reporting date that immediately precedes 1 April 2016, or at a subsequent annual reporting date as specified in paragraph 20G.**

20C An insurer applying the temporary exemption from IFRS 9 is permitted to elect to apply only the requirements for the presentation of gains and losses on financial liabilities designated as at fair value through profit or loss in paragraphs 5.7.1(c), 5.7.7–5.7.9, 7.2.14 and B5.7.5–B5.7.20 of IFRS 9. If an insurer elects to apply those requirements, it shall apply the relevant transition provisions in IFRS 9, disclose the fact that it has applied those requirements and provide on an ongoing basis the related disclosures set out in paragraphs 10–11 of IFRS 7 (as amended by IFRS 9 (2010)).

20D An insurer's activities are predominantly connected with insurance if, and only if:

(a) the carrying amount of its liabilities arising from contracts within the scope of this IFRS, which includes any deposit components or embedded derivatives unbundled from insurance contracts applying paragraphs 7–12 of this IFRS, is significant compared to the total carrying amount of all its liabilities; and

(b) the percentage of the total carrying amount of its liabilities connected with insurance (see paragraph 20E) relative to the total carrying amount of all its liabilities is:

  (i) greater than 90 per cent; or

  (ii) less than or equal to 90 per cent but greater than 80 per cent, and the insurer does not engage in a significant activity unconnected with insurance (see paragraph 20F).

20E For the purposes of applying paragraph 20D(b), liabilities connected with insurance comprise:

(a) liabilities arising from contracts within the scope of this IFRS, as described in paragraph 20D(a);

(b) non-derivative investment contract liabilities measured at fair value through profit or loss applying IAS 39 (including those designated as at fair value through profit or loss to which the insurer has applied the requirements in IFRS 9 for the presentation of gains and losses (see paragraphs 20B(a) and 20C)); and

(c) liabilities that arise because the insurer issues, or fulfils obligations arising from, the contracts in (a) and (b). Examples of such liabilities include derivatives used to mitigate risks arising from those contracts and from the assets backing those contracts, relevant tax liabilities such as the deferred tax liabilities for taxable temporary differences on liabilities arising from those contracts, and debt instruments issued that are included in the insurer's regulatory capital.

20F In assessing whether it engages in a significant activity unconnected with insurance for the purposes of applying paragraph 20D(b)(ii), an insurer shall consider:

(a) only those activities from which it may earn income and incur expenses; and