Commission Regulation (EU) No 1293/2009 of 23 December 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 Accounting Standard (IAS) 32 (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1293/2009

of 23 December 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 Accounting Standard (IAS) 32

(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 on 15 October 2008 were adopted.

(2) On 8 October 2009, the International Accounting Standards Board (IASB) published an amendment to International Accounting Standard (IAS) 32 *Financial instruments: presentation* – Classification of Rights Issues, hereinafter 'amendment to IAS 32'. The amendment to IAS 32 clarifies how to account for certain rights when the issued instruments are denominated in a currency other than the functional currency of the issuer. If such instruments are issued pro rata to the issuer's existing shareholders for a fixed amount of cash, they should be classified as equity even if their exercise price is denominated in a currency other than the issuer's functional currency.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendment to IAS 32 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.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 1293/2009. 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) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EC) No 1126/2008, International Accounting Standard (IAS) 32 *Financial instruments: presentation* is amended as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendment to IAS 32, 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 January 2010.

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 December 2009.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 1293/2009. 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

INTERNATIONAL ACCOUNTING STANDARDS

IAS 32	Amendment to IAS 32 *Financial Instruments: Presentation*

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CLASSIFICATION OF RIGHTS ISSUES

Amendment to IAS 32 *Financial Instruments: Presentation*

Paragraphs 11 and 16 are amended. Paragraph 97E is added.

DEFINITIONS (SEE ALSO PARAGRAPHS AG3–AG23)

11 The following terms are used in this Standard with the meanings specified:

…

A *financial liability* is any liability that is:

(a) **…**

(b) **a contract that will or may be settled in the entity's own equity instruments and is:**

(i) **a non-derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity instruments; or**

(ii) **a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose, rights, options or warrants to acquire a fixed number of the entity's own equity instruments for a fixed amount of any currency are equity instruments if the entity offers the rights, options or warrants pro rata to all of its existing owners of the same class of its own non-derivative equity instruments. Also for these purposes the entity's own equity instruments …**

PRESENTATION

Liabilities and equity (see also paragraphs AG13–AG14J and AG25–AG29A)

16 When an issuer applies the definitions in paragraph 11 to determine whether a financial instrument is an equity instrument rather than a financial liability, the instrument is an equity instrument if, and only if, both conditions (a) and (b) below are met.

(a) …

(b) If the instrument will or may be settled in the issuer's own equity instruments, it is:

(i) a non-derivative that includes no contractual obligation for the issuer to deliver a variable number of its own equity instruments; or

(ii) a derivative that will be settled only by the issuer exchanging a fixed amount of cash or another financial asset for a fixed number of its own equity instruments. For this purpose, rights, options or warrants to acquire a fixed