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)

COMMISSION REGULATION (EC) No 1142/2009

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(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.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1142/2009. 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*

(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

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ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRIC 17	IFRIC Interpretation 17 *Distributions of Non-cash Assets to Owners*

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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[(4)] 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,

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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).

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