Commission Regulation (EC) No 1263/2008 of 16 December 2008 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 Interpretation Committee's (IFRIC) Interpretation 14 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1263/2008

of 16 December 2008

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 Interpretation Committee's (IFRIC) Interpretation 14

(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 extant at 15 October 2008 were adopted.

(2) On 5 July 2007, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 14 IAS 19 — The Limit on a defined benefit Asset, Minimum Funding Requirements and their Interaction, hereinafter 'IFRIC 14'. IFRIC 14 clarifies provisions of International Accounting Standard (IAS) 19 regarding the measurement of a defined benefit asset within the context of post-retirement defined benefit plans, when a minimum funding requirement exists. A defined benefit asset is a surplus of the fair value of the plan assets over the present value of the defined benefit obligation. IAS 19 limits its measurement to the present value of economic benefits available in the form of refunds from the plan or reductions in future contributions to the plan, which can be affected by minimum funding requirements.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 14 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

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endorsement and advised the European Commission that it is well-balanced and objective.

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

(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 Financial Reporting Interpretations Committee's (IFRIC) Interpretation 14 IAS 19 — The Limit on a defined benefit Asset, Minimum Funding Requirements and their Interaction is inserted as set out in the Annex to this Regulation.

Article 2

Each company shall apply IFRIC 14, 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 December 2008.

Article 3

This Regulation shall enter into force on the third day following 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, 16 December 2008.

For the Commission

Charlie McCREEVY

Member of the Commission

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ANNEX

INTERNATIONAL FINANCIAL REPORTING STANDARDS

IFRIC 14	IFRIC Interpretation 14 *IAS 19* — The Limit on a defined benefit Asset, Minimum Funding Requirements and their Interaction

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IFRIC INTERPRETATION 14

IAS 19 — The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction

REFERENCES

— IAS 1 *Presentation of Financial Statements*

— IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*

— IAS 19 *Employee Benefits*

— IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*

BACKGROUND

1 Paragraph 58 of IAS 19 limits the measurement of a defined benefit asset to 'the present value of economic benefits available in the form of refunds from the plan or reductions in future contributions to the plan' plus unrecognised gains and losses. Questions have arisen about when refunds or reductions in future contributions should be regarded as available, particularly when a minimum funding requirement exists.

2 Minimum funding requirements exist in many countries to improve the security of the post-employment benefit promise made to members of an employee benefit plan. Such requirements normally stipulate a minimum amount or level of contributions that must be made to a plan over a given period. Therefore, a minimum funding requirement may limit the ability of the entity to reduce future contributions.

3 Further, the limit on the measurement of a defined benefit asset may cause a minimum funding requirement to be onerous. Normally, a requirement to make contributions to a plan would not affect the measurement of the defined benefit asset or liability. This is because the contributions, once paid, will become plan assets and so the additional net liability is nil. However, a minimum funding requirement may give rise to a liability if the required contributions will not be available to the entity once they have been paid.

SCOPE

4 This Interpretation applies to all post-employment defined benefits and other long-term employee defined benefits.

5 For the purpose of this Interpretation, minimum funding requirements are any requirements to fund a post-employment or other long-term defined benefit plan.

ISSUES

6 The issues addressed in this Interpretation are:

(a) when refunds or reductions in future contributions should be regarded as available in accordance with paragraph 58 of IAS 19;

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(b) how a minimum funding requirement might affect the availability of reductions in future contributions;

(c) when a minimum funding requirement might give rise to a liability.

CONSENSUS

Availability of a refund or reduction in future contributions

7 An entity shall determine the availability of a refund or a reduction in future contributions in accordance with the terms and conditions of the plan and any statutory requirements in the jurisdiction of the plan.

8 An economic benefit, in the form of a refund or a reduction in future contributions, is available if the entity can realise it at some point during the life of the plan or when the plan liabilities are settled. In particular, such an economic benefit may be available even if it is not realisable immediately at the balance sheet date.

9 The economic benefit available does not depend on how the entity intends to use the surplus. An entity shall determine the maximum economic benefit that is available from refunds, reductions in future contributions or a combination of both. An entity shall not recognise economic benefits from a combination of refunds and reductions in future contributions based on assumptions that are mutually exclusive.

10 In accordance with IAS 1, the entity shall disclose information about the key sources of estimation uncertainty at the balance sheet date that have a significant risk of causing a material adjustment to the carrying amount of the net balance sheet asset or liability. This might include disclosure of any restrictions on the current realisability of the surplus or disclosure of the basis used to determine the amount of the economic benefit available.

The economic benefit available as a refund

The right to a refund

11 A refund is available to an entity only if the entity has an unconditional right to a refund:

(a) during the life of the plan, without assuming that the plan liabilities must be settled in order to obtain the refund (e.g. in some jurisdictions, the entity may have a right to a refund during the life of the plan, irrespective of whether the plan liabilities are settled); or

(b) assuming the gradual settlement of the plan liabilities over time until all members have left the plan; or

(c) assuming the full settlement of the plan liabilities in a single event (i.e. as a plan wind-up).

An unconditional right to a refund can exist whatever the funding level of a plan at the balance sheet date.

12 If the entity's right to a refund of a surplus depends on the occurrence or non-occurrence of one or more uncertain future events not wholly within its control, the entity does not have an unconditional right and shall not recognise an asset.

13 An entity shall measure the economic benefit available as a refund as the amount of the surplus at the balance sheet date (being the fair value of the plan assets less the present value of the defined benefit obligation) that the entity has a right to receive as a refund, less any associated costs. For instance, if a refund would be subject to a tax other than income tax, an entity shall measure the amount of the refund net of the tax.