Commission Regulation (EC) No 2106/2005 of 21 December 2005 amending Regulation (EC) No 1725/2003 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) 39 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 2106/2005

of 21 December 2005

amending Regulation (EC) No 1725/2003 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) 39

(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 1725/2003[(2)], certain international standards and interpretations that were extant at 14 September 2002 were adopted.

(2) The Commission adopted International Accounting Standard (IAS) 39 with the exclusion of certain provisions relating to the full Fair Value Option and hedge accounting, by Commission Regulation (EC) No 2086/2004 of 19 November 2004 amending Regulation (EC) No 1725/2003 on the adoption of certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards the insertion of IAS 39[(3)]. The Commission adopted improved IAS 39 standard for limited fair value option by Commission Regulation (EC) No 1864/2005[(4)].

(3) On 14 April 2005, the International Accounting Standards Board (IASB) published an amendment to IAS 39 allowing entities in particular to designate, in certain circumstances, a forecast intragroup transaction denominated in a foreign currency as the hedged item in consolidated financial statements. It is a common risk management practice to designate the foreign currency risk of a forecast intragroup transaction as the hedged item and the current IAS 39 did not permit hedge accounting for this. Under the current IAS 39 only a transaction external to the entity can be designated as a hedged item.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2106/2005. (See end of Document for details)*

(4) The consultation with technical experts in the field confirms that the amendments to IAS 39 meet the technical criteria for adoption set out in Article 3 of Regulation (EC) No 1606/2002.

(5) Regulation (EC) No 1725/2003 should therefore be amended accordingly.

(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

In the Annex to Regulation (EC) No 1725/2003 International Accounting Standard (IAS) 39 is amended as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments to IAS 39 as set out in the Annex to this Regulation as from the commencement date of its 2006 financial year at the latest.

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, 21 December 2005.

For the Commission

Charlie McCREEVY

Member of the Commission

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 2106/2005. (See end of Document for details)*

ANNEX

International Accounting Standard (IAS) 39 is amended as follows:

INTERNATIONAL ACCOUNTING STANDARDS

IAS No	Title
IAS 39	*Financial Instruments: Recognition and measurement*

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1. Paragraph 80 is replaced by the following:

80. For hedge accounting purposes, only assets, liabilities, firm commitments or highly probable forecast transactions that involve a party external to the entity can be designated as hedged items. It follows that hedge accounting can be applied to transactions between entities or segments in the same group only in the individual or separate financial statements of those entities or segments and not in the consolidated financial statements of the group. As an exception, the foreign currency risk of an intragroup monetary item (e.g. a payable/receivable between two subsidiaries) may qualify as a hedged item in the consolidated financial statements if it results in an exposure to foreign exchange rate gains or losses that are not fully eliminated on consolidation in accordance with IAS 21 “The Effects of Changes in Foreign Exchange Rates”. In accordance with IAS 21, foreign exchange rate gains and losses on intragroup monetary items are not fully eliminated on consolidation when the intragroup monetary item is transacted between two group entities that have different functional currencies. In addition, the foreign currency risk of a highly probable forecast intragroup transaction may qualify as a hedged item in consolidated financial statements provided that the transaction is denominated in a currency other than the functional currency of the entity entering into that transaction and the foreign currency risk will affect consolidated profit or loss.

2. The following paragraphs 108A and 108B are inserted:

108A. An entity shall apply the last sentence of paragraph 80, and paragraphs AG99A and AG99B, for annual periods beginning on or after 1 January 2006. Earlier application is encouraged. If an entity has designated as the hedged item an external forecast transaction that

(a) is denominated in the functional currency of the entity entering into the transaction,

(b) gives rise to an exposure that will have an effect on consolidated profit or loss (ie is denominated in a currency other than the group’s presentation currency), and

(c) would have qualified for hedge accounting had it not been denominated in the functional currency of the entity entering into it,