Commission Regulation (EC) No 2237/2004 of 29 December 2004 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 IAS No 32 and IFRIC 1 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 2237/2004

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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 1725/2003[(2)] certain international standards and interpretations that were extant at 1 September were adopted.

(2) On 17 December 2003 the International Accounting Standard Board (IASB) published revised International Accounting Standard (IAS) 32 *Financial instruments: disclosure and presentation* as part of the IASB's initiative to improve 15 standards in time for them to be used by companies adopting IAS for the first time in 2005. In revising IAS 32, the IASB did not reconsider the fundamental approaches contained in it. IAS 32 establishes basic principles for the classification of instruments as liabilities or equity. In determining whether the instruments should be classified as liabilities or equity, the entity must consider all of the terms and conditions of the respective contract.

(3) Following bilateral discussions with representatives of the cooperative world and due to a request by the Commission, the IASB invited its International Financial Reporting Interpretation Committee (IFRIC), to develop an interpretation to facilitate the application of the revised IAS 32. A final interpretation, IFRIC 2 *Members' shares in cooperative entities and similar instrument* was published in final form on 25 November 2004. The effective date of application of this interpretation is the same as that for IAS 32. IFRIC 2 will be considered for endorsement by the European Commission as soon as possible in 2005.

(4) On 27 May 2004, the IASB released IFRIC Interpretation 1 *Changes in existing decommissioning, restoration and similar liabilities*. The Interpretation addresses the way to account for changes in existing decommissioning, restoration and similar

liabilities that fall within the scope of IAS 16 *Property, plant and equipment* and are recognised as a provision under IAS 37 *Provisions, contingent liabilities and contingent assets*.

(5) The consultation with technical experts in the field confirms that the revised IAS 32 *Financial instruments: disclosure and presentation* and IFRIC Interpretation 1 *Changes in existing decommissioning, restoration and similar liabilities* meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002 and in particular the requirement of being conducive to the European public good.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex to regulation (EC) No 1725/2003 is amended as follows:

(1) the text of International Accounting Standard (IAS) 32 *Financial instruments: disclosure and presentation* set out in the Annex to this Regulation, is inserted.

(2) the text of the Interpretation IFRIC 1 *Changes in existing decommissioning, restoration and similar liabilities* set out in the Annex to this Regulation, is inserted.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2005 at the latest.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 December 2004.

For the Commission

Charlie McCREEVY

Member of the Commission

ANNEX

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Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2237/2004. (See end of Document for details)*

INTERNATIONAL ACCOUNTING STANDARD 32

Financial Instruments: Disclosure and Presentation

This revised Standard supersedes IAS 32 (revised 2000) *Financial Instruments: Disclosure and Presentation* and should be applied for annual periods beginning on or after 1 January 2005. Earlier application is permitted.

OBJECTIVE

1. The objective of this Standard is to enhance financial statement users' understanding of the significance of financial instruments to an entity's financial position, performance and cash flows.

2. This Standard contains requirements for the presentation of financial instruments and identifies the information that should be disclosed about them. The presentation requirements apply to the classification of financial instruments, from the perspective of the issuer, into financial assets, financial liabilities and equity instruments; the classification of related interest, dividends, losses and gains; and the circumstances in which financial assets and financial liabilities should be offset. The Standard requires disclosure of information about factors that affect the amount, timing and certainty of an entity's future cash flows relating to financial instruments and the accounting policies applied to those instruments. This Standard also requires disclosure of information about the nature and extent of an entity's use of financial instruments, the business purposes they serve, the risks associated with them, and management's policies for controlling those risks.

3. The principles in this Standard complement the principles for recognising and measuring financial assets and financial liabilities in IAS 39 *Financial Instruments: Recognition and Measurement*.

SCOPE

4. ***This Standard shall be applied by all entities to all types of financial instruments except:***

   (a) ***those interests in subsidiaries, associates and joint ventures that are accounted for under IAS 27*** **Consolidated and Separate Financial Statements,** ***IAS 28*** **Investments in Associates** ***or IAS 31*** **Interests in Joint Ventures.** ***However, entities shall apply this Standard to an interest in a subsidiary, associate or joint venture that according to IAS 27, IAS 28 or IAS 31 is accounted for under IAS 39*** **Financial Instruments: Recognition and Measurement.** ***In these cases, entities shall apply the disclosure requirements in IAS 27, IAS 28 and IAS 31 in addition to those in this Standard. Entities shall also apply this Standard to all derivatives on interests in subsidiaries, associates or joint ventures.***

   (b) ***employers' rights and obligations under employee benefit plans, to which IAS 19*** **Employee Benefits** ***applies.***

   (c) ***rights and obligations arising under insurance contracts. However, entities shall apply this Standard to a financial instrument that takes the form of an insurance (or reinsurance) contract as described in paragraph 6, but principally involves the transfer of financial risks described in paragraph 52. In addition, entities shall apply this Standard to derivatives that are embedded in insurance contracts (see paragraphs 10-13 of IAS 39).***

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 2237/2004. (See end of Document for details)*

(d) ***contracts for contingent consideration in a business combination (see paragraphs 65-67 of IAS 22*** **Business Combinations*****). This exemption applies only to the acquirer.***

(e) ***contracts that require a payment based on climatic, geological or other physical variables (see paragraph AG1 of IAS 39). However, this Standard shall be applied to other types of derivatives that are embedded in such contracts (for example, if an interest rate swap is contingent on a climatic variable such as heating degree days, the interest rate swap element is an embedded derivative that is within the scope of this Standard — see paragraphs 10-13 of IAS 39).***

5. This Standard applies to recognised and unrecognised financial instruments. Recognised financial instruments include equity instruments issued by the entity and financial assets and financial liabilities that are within the scope of IAS 39. Unrecognised financial instruments include some financial instruments that, although outside the scope of IAS 39, are within the scope of this Standard (such as some loan commitments).

6. For the purposes of this Standard, an insurance contract is a contract that exposes the insurer to identified risks of loss from events or circumstances occurring or discovered within a specified period, including death (or in the case of an annuity, the survival of the annuitant), sickness, disability, property damage, injury to others and business interruption. The provisions of this Standard apply when a financial instrument takes the form of an insurance contract but principally involves the transfer of financial risks (see paragraph 52), for example, some types of financial reinsurance and guaranteed investment contracts issued by insurance and other entities. Entities that have obligations under insurance contracts are encouraged to consider the appropriateness of applying the provisions of this Standard in presenting and disclosing information about such obligations.

7. Other Standards specific to particular types of financial instrument contain additional presentation and disclosure requirements. For example, IAS 17 *Leases* and IAS 26 *Accounting and Reporting by Retirement Benefit Plans* incorporate specific disclosure requirements relating to finance leases and retirement benefit plan investments, respectively. In addition, some requirements of other Standards, particularly IAS 30 *Disclosures in the Financial Statements of Banks and Similar Financial Institutions*, apply to financial instruments.

8. ***This Standard shall be applied to those contracts to buy or sell a non-financial item that can be settled net in cash or another financial instrument, or by exchanging financial instruments, as if the contracts were financial instruments, with the exception of contracts that were entered into and continue to be held for the purpose of the receipt or delivery of a non-financial item in accordance with the entity's expected purchase, sale or usage requirements.***

9. There are various ways in which a contract to buy or sell a non-financial item can be settled net in cash or another financial instrument or by exchanging financial instruments. These include:

(a) when the terms of the contract permit either party to settle it net in cash or another financial instrument or by exchanging financial instruments;

(b) when the ability to settle net in cash or another financial instrument, or by exchanging financial instruments, is not explicit in the terms of the