Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards

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on the application of international accounting standards

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95(1) thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the Economic and Social Committee[(2)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(3)],

Whereas:

(1) The Lisbon European Council of 23 and 24 March 2000 emphasised the need to accelerate completion of the internal market for financial services, set the deadline of 2005 to implement the Commission's Financial Services Action Plan and urged that steps be taken to enhance the comparability of financial statements prepared by publicly traded companies.

(2) In order to contribute to a better functioning of the internal market, publicly traded companies must be required to apply a single set of high quality international accounting standards for the preparation of their consolidated financial statements. Furthermore, it is important that the financial reporting standards applied by Community companies participating in financial markets are accepted internationally and are truly global standards. This implies an increasing convergence of accounting standards currently used internationally with the ultimate objective of achieving a single set of global accounting standards.

(3) Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies[(4)], Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts[(5)], Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions[(6)] and Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance companies[(7)] are also addressed to publicly traded Community companies. The reporting requirements set out in these Directives cannot ensure the high level of transparency and comparability of financial reporting from all publicly traded Community companies which is a necessary condition for building an integrated capital market which operates effectively, smoothly and efficiently. It is therefore necessary to supplement the legal framework applicable to publicly traded companies.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 1606/2002 of the European Parliament and of the Council. 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*

(4) This Regulation aims at contributing to the efficient and cost-effective functioning of the capital market. The protection of investors and the maintenance of confidence in the financial markets is also an important aspect of the completion of the internal market in this area. This Regulation reinforces the freedom of movement of capital in the internal market and helps to enable Community companies to compete on an equal footing for financial resources available in the Community capital markets, as well as in world capital markets.

(5) It is important for the competitiveness of Community capital markets to achieve convergence of the standards used in Europe for preparing financial statements, with international accounting standards that can be used globally, for cross-border transactions or listing anywhere in the world.

(6) On 13 June 2000, the Commission published its Communication on 'EU Financial Reporting Strategy: the way forward' in which it was proposed that all publicly traded Community companies prepare their consolidated financial statements in accordance with one single set of accounting standards, namely International Accounting Standards (IAS), at the latest by 2005.

(7) International Accounting Standards (IASs) are developed by the International Accounting Standards Committee (IASC), whose purpose is to develop a single set of global accounting standards. Further to the restructuring of the IASC, the new Board on 1 April 2001, as one of its first decisions, renamed the IASC as the International Accounting Standards Board (IASB) and, as far as future international accounting standards are concerned, renamed IAS as International Financial Reporting Standards (IFRS). These standards should, wherever possible and provided that they ensure a high degree of transparency and comparability for financial reporting in the Community, be made obligatory for use by all publicly traded Community companies.

(8) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(8)] and with due regard to the declaration made by the Commission in the European Parliament on 5 February 2002 concerning the implementation of financial services legislation.

(9) To adopt an international accounting standard for application in the Community, it is necessary firstly that it meets the basic requirement of the aforementioned Council Directives, that is to say that its application results in a true and fair view of the financial position and performance of an enterprise — this principle being considered in the light of the said Council Directives without implying a strict conformity with each and every provision of those Directives; secondly that, in accordance with the conclusions of the Council of 17 July 2000, it is conducive to the European public good and lastly that it meets basic criteria as to the quality of information required for financial statements to be useful to users.

(10) An accounting technical committee should provide support and expertise to the Commission in the assessment of international accounting standards.

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(11) The endorsement mechanism should act expeditiously on proposed international accounting standards and also be a means to deliberate, reflect and exchange information on international accounting standards among the main parties concerned, in particular national accounting standard setters, supervisors in the fields of securities, banking and insurance, central banks including the ECB, the accounting profession and users and preparers of accounts. The mechanism should be a means to foster common understanding of adopted international accounting standards in the Community.

(12) In accordance with the principle of proportionality, the measures provided for in this Regulation, in requiring that a single set of international accounting standards be applied to publicly traded companies, are necessary to achieve the objective of contributing to the efficient and cost-effective functioning of Community capital markets and thereby to the completion of the internal market.

(13) In accordance with the same principle, it is necessary, as regards annual accounts, to leave to Member States the option to permit or require publicly traded companies to prepare them in conformity with international accounting standards adopted in accordance with the procedure laid down in this Regulation. Member States may decide as well to extend this permission or this requirement to other companies as regards the preparation of their consolidated accounts and/or their annual accounts.

(14) In order to facilitate an exchange of views and to allow Member States to coordinate their positions, the Commission should periodically inform the accounting regulatory committee about active projects, discussion papers, point outlines and exposure drafts issued by the IASB and about the consequential technical work of the accounting technical committee. It is also important that the accounting regulatory committee is informed at an early stage if the Commission intends not to propose to adopt an international accounting standard.

(15) In its deliberations on and in elaborating positions to be taken on documents and papers issued by the IASB in the process of developing international accounting standards (IFRS and SIC-IFRIC), the Commission should take into account the importance of avoiding competitive disadvantages for European companies operating in the global marketplace, and, to the maximum possible extent, the views expressed by the delegations in the Accounting Regulatory Committee. The Commission will be represented in constituent bodies of the IASB.

(16) A proper and rigorous enforcement regime is key to underpinning investors' confidence in financial markets. Member States, by virtue of Article 10 of the Treaty, are required to take appropriate measures to ensure compliance with international accounting standards. The Commission intends to liaise with Member States, notably through the Committee of European Securities Regulators (CESR), to develop a common approach to enforcement.

(17) Further, it is necessary to allow Member States to defer the application of certain provisions until 2007 for those companies publicly traded both in the Community and on a regulated third-country market which are already applying another set of internationally accepted standards as the primary basis for their consolidated accounts

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as well as for companies which have only publicly traded debt securities. It is nonetheless crucial that by 2007 at the latest a single set of global international accounting standards, the IAS, apply to all Community companies publicly traded on a Community regulated market.

(18) In order to allow Member States and companies to carry out the necessary adaptations to make the application of international accounting standards possible, it is necessary to apply certain provisions only in 2005. Appropriate provisions should be put in place for the first-time application of IAS by companies as a result of the entry into force of the present regulation. Such provisions should be drawn up at international level in order to ensure international recognition of the solutions adopted,

HAVE ADOPTED THIS REGULATION:

Article 1

Aim

This Regulation has as its objective the adoption and use of international accounting standards in the Community with a view to harmonising the financial information presented by the companies referred to in Article 4 in order to ensure a high degree of transparency and comparability of financial statements and hence an efficient functioning of the Community capital market and of the Internal Market.

Article 2

Definitions

For the purpose of this Regulation, 'international accounting standards' shall mean International Accounting Standards (IAS), International Financial Reporting Standards (IFRS) and related Interpretations (SIC-IFRIC interpretations), subsequent amendments to those standards and related interpretations, future standards and related interpretations issued or adopted by the International Accounting Standards Board (IASB).

Article 3

Adoption and use of international accounting standards

[[F1]1 The Commission shall decide on the applicability within the Community of international accounting standards. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(2).**]**

2 The international accounting standards can only be adopted if:

— they are not contrary to the principle set out in Article 2(3) of Directive 78/660/EEC and in Article 16(3) of Directive 83/349/EEC and are conducive to the European public good and,

— they meet the criteria of understandability, relevance, reliability and comparability required of the financial information needed for making economic decisions and assessing the stewardship of management.