Commission Regulation (EC) No 69/2009 of 23 January 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 amendments to International Financial Reporting Standard (IFRS) 1 and International Accounting Standard (IAS) 27 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 69/2009

of 23 January 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 amendments to International Financial Reporting Standard (IFRS) 1 and International Accounting Standard (IAS) 27

(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) In May 2008, the International Accounting Standards Board (IASB) published the amendments to IFRS 1 First-time Adoption of International Financial Reporting Standards and IAS 27 Consolidated and Separate Financial Statements ‘Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate’, hereinafter ‘amendments to IFRS 1 and IAS 27’. The amendments are the following: allow a first-time adopter in its separate financial statements to use as the deemed cost of an investment in a subsidiary, jointly controlled entity or associate either the fair value at the entity's date of transition to IFRSs or the previous GAAP carrying amount of the investment at that date; delete from IAS 27 the definition of the ‘cost method’, with the result that an investor is required to recognise as income in its separate financial statements all dividends received from a subsidiary, jointly controlled entity or associate, even if the dividend is paid out of pre-acquisition reserves; clarify how to determine the cost of an investment under IAS 27 when a parent company reorganises the operating structure of its group by establishing a new entity as its parent and this new parent obtains control of the original parent by issuing equity instruments in exchange for existing equity instruments of the original parent.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendments to IFRS 1 and

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 69/2009. 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*

IAS 27 meet 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) 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

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Reporting Financial Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* is amended as set out in the Annex to this Regulation;

2. International Accounting Standard (IAS 27) *Consolidated and Separate Financial Statements* is amended as set out in the Annex to this Regulation;

3. IAS 18, IAS 21 and IAS 36 are amended in accordance with the amendments to IAS 27 as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments to IFRS 1 and IAS 27, 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 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, 23 January 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

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ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRS 1 and IAS 27	Amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards* and IAS 27 *Consolidated and Separate Financial Statements* — Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate

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AMENDMENTS TO IFRS 1 FIRST-TIME ADOPTION OF INTERNATIONAL FINANCIAL REPORTING STANDARDS AND IAS 27 CONSOLIDATED AND SEPARATE FINANCIAL STATEMENTS

Amendments to IFRS 1 First-time Adoption of International Financial Reporting Standards

After paragraph 13(e), paragraph 13(ea) is added. After paragraph 23, a heading and paragraphs 23A and 23B are added. Paragraphs 25A and 34C are amended. After paragraph 44, a heading and paragraph 44A are added. After paragraph 47J, paragraph 47K is added.

RECOGNITION AND MEASUREMENT

Exemptions from other IFRSs

13 An entity may elect to use one or more of the following exemptions:

(a) …

(ea) investments in subsidiaries, jointly controlled entities and associates (paragraphs 23A and 23B);

(f) …

Investments in subsidiaries, jointly controlled entities and associates

23A When an entity prepares separate financial statements, IAS 27 *Consolidated and Separate Financial Statements* requires it to account for its investments in subsidiaries, jointly controlled entities and associates either:

(a) at cost or

(b) in accordance with IAS 39 *Financial Instruments: Recognition and Measurement*.

23B If a first-time adopter measures such an investment at cost in accordance with paragraph 23A(a), it shall measure that investment at one of the following amounts in its separate opening IFRS statement of financial position:

(a) cost determined in accordance with IAS 27 or

(b) deemed cost. The deemed cost of such an investment shall be its:

(i) fair value (determined in accordance with IAS 39) at the entity's date of transition to IFRSs in its separate financial statements or

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(ii) previous GAAP carrying amount at that date.

A first-time adopter may choose either (i) or (ii) above to measure its investment in each subsidiary, jointly controlled entity or associate that it elects to measure using a deemed cost.

Designation of previously recognised financial instruments

25A IAS 39 permits…

Exceptions to retrospective application of other IFRSs

Non-controlling interests

34C A first-time adopter shall apply the following requirements of IAS 27 (as amended in 2008) …

PRESENTATION AND DISCLOSURE

Use of deemed cost for investments in subsidiaries, jointly controlled entities and associates

44A Similarly, if an entity uses a deemed cost in its opening IFRS statement of financial position for an investment in a subsidiary, jointly controlled entity or associate in its separate financial statements (see paragraph 23B), the entity's first IFRS separate financial statements shall disclose:

(a) the aggregate deemed cost of those investments for which deemed cost is their previous GAAP carrying amount;

(b) the aggregate deemed cost of those investments for which deemed cost is fair value; and

(c) the aggregate adjustment to the carrying amounts reported under previous GAAP.

EFFECTIVE DATE

47K *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 and IAS 27), issued in May 2008, added paragraphs 13(ea), 23A, 23B and 44A. An entity shall apply those paragraphs for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the paragraphs for an earlier period, it shall disclose that fact.

Amendments to IAS 27 Consolidated and Separate Financial Statements (as amended by Improvements to IFRSs in May 2008)

In paragraph 4, the reference to the 'cost method' is deleted. After paragraph 38, paragraphs 38A-38C are added. After paragraph 45A, paragraphs 45B and 45C are added.

DEFINITIONS

[The reference to the 'cost method' is deleted.]

ACCOUNTING FOR INVESTMENTS IN SUBSIDIARIES, JOINTLY CONTROLLED ENTITIES AND ASSOCIATES IN SEPARATE FINANCIAL STATEMENTS

38A An entity shall recognise a dividend from a subsidiary, jointly controlled entity or associate in profit or loss in its separate financial statements when its right to receive the dividend is established.

38B When a parent reorganises the structure of its group by establishing a new entity as its parent in a manner that satisfies the following criteria:

(a) the new parent obtains control of the original parent by issuing equity instruments in exchange for existing equity instruments of the original parent;