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(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2238/2004

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 IASs IFRS 1, IASs Nos 1 to 10, 12 to 17, 19 to 24, 27 to 38, 40 and 41 and SIC Nos 1 to 7, 11 to 14, 18 to 27 and 30 to 33

(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 2002 were adopted.

(2) On 18 December 2003, the International Accounting Standard Board (IASB) published 13 revised International Accounting Standards and gave notice of the withdrawal of IAS 15 *Information reflecting the effects of changing prices*. The purpose of the revision was the further improvement of the quality and consistency of the body of existing International Accounting Standards (IASs).

(3) In general, the objectives of this improvement project were to reduce or eliminate alternatives, redundancies and conflicts within the standards, to deal with some convergence issues and to make improvements in the structure of existing IASs. Furthermore, IASB decided to incorporate existing interpretations into the improved standards in order to increase transparency and consistency and make the standards more comprehensive.

(4) The consultation with technical experts in the field confirms that the revised IASs meet the technical criteria for adoption set out in Article 3 of Regulation (EC) No 1606/2002, and in particular the requirement of being conducive to the European public good.

(5) The adoption of the standards of the 'Improvement projects' implies, by way of consequence, amendments to other international accounting standards and interpretations in order to ensure consistency between international accounting standards. Those consequential amendments are affecting International Financial Reporting Standard (IFRS) No 1, International Accounting Standards (IASs) Nos 7, 12, 14, 19, 20, 22, 23, 29, 30, 34, 35, 36, 37, 38 and 41 and interpretation by the Standard Interpretation Committee (SIC) Nos 7, 12, 13, 21, 22, 25, 27 and 32. By adoption of those standards the interpretations by the Standard Interpretation Committee (SIC) Nos 1, 2, 3, 6, 11, 14, 18, 19, 20, 23, 24, 30 and 33 are superseded.

(6) Regulation (EC) 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 International Accounting Standards (IASs) Nos 1, 2, 8, 10, 16, 17, 21, 24, 27, 28, 31, 33 and 40 are replaced by the text set out in the Annex to this Regulation;

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[1] OJ L 243, 11.9.2002, p. 1.

[2] OJ L 261, 13.10.2003, p. 1. Regulation as amended by Regulation (EC) No 2237/2004 (OJ L 393, 31.12.2004, p. 1).

2. IAS 15 and SIC Nos 1, 2, 3, 6, 11, 14, 18, 19, 20, 23, 24, 30 and 33 are deleted;

3. the adoption of IAS 1 implies, by way of consequence, amendments to IAS Nos 12, 19, 34, 35 and 41 in order to ensure consistency between international accounting standards;

4. the adoption of IAS 2 implies, by way of consequence, amendments to IAS 14 and IAS 34 in order to ensure consistency between international accounting standards;

5. the adoption of IAS 8 implies, by way of consequence, amendments to IFRS1, IAS Nos 7, 12, 14, 19, 20, 22, 23, 34, 35, 36, 37 and 38 and SIC Nos 12,13, 21, 22, 25, 27 and 31 in order to ensure consistency between international accounting standards;

6. the adoption of IAS 10 implies, by way of consequence, amendments to IAS Nos 22, 35 and 37 in order to ensure consistency between international accounting standards;

7. the adoption of IAS 16 implies, by way of consequence, amendments to IFRS1, IAS Nos 14, 34, 36, 37 and 38 and SIC Nos 13, 21 and 32 in order to ensure consistency between international accounting standards;

8. the adoption of IAS 21 implies, by way of consequence, amendments to IFRS1, IAS Nos 7, 12, 29, 34, 38 and 41 and SIC 7 in order to ensure consistency between international accounting standards;

9. the adoption of IAS 24 implies, by way of consequence, amendments to IAS 30 in order to ensure consistency between international accounting standards;

10. the adoption of IAS 27 implies, by way of consequence, amendments to IAS 22 and SIC 12 in order to ensure consistency between international accounting standards;

11. the adoption of IAS 31 implies, by way of consequence, amendments to SIC 13 in order to ensure consistency between international accounting standards.

Article 2

This Regulation shall enter into force on the third day following 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

INTERNATIONAL ACCOUNTING STANDARDS

IAS No	Title
IAS 1	Presentation of Financial Statements
IAS 2	Inventories
IAS 8	Accounting policies, changes in accounting estimates and errors
IAS 10	Events after the balance sheet date
IAS 16	Property, plant and equipment
IAS 17	Leases
IAS 21	The effects of changes in foreign exchange rates
IAS 24	Related party disclosures
IAS 27	Consolidated and separate financial statements
IAS 28	Investments in associates
IAS 31	Interests in Joint Ventures
IAS 33	Earnings per share
IAS 40	Investment property

INTERNATIONAL ACCOUNTING STANDARD 27

Consolidated and Separate Financial Statements

SUMMARY

This revised Standard supersedes IAS 27 (revised 2000) *Consolidated Financial Statements and Accounting for Investments in Subsidiaries* and should be applied for annual periods beginning on or after 1 January 2005. Earlier application is encouraged.

SCOPE

1. ***This Standard shall be applied in the preparation and presentation of consolidated financial statements for a group of entities under the control of a parent.***

2. This Standard does not deal with methods of accounting for business combinations and their effects on consolidation, including goodwill arising on a business combination (see IAS 22 *Business Combinations*).

3. ***This Standard shall also be applied in accounting for investments in subsidiaries, jointly controlled entities and associates when an entity elects, or is required by local regulations, to present separate financial statements.***

DEFINITIONS

4. ***The following terms are used in this Standard with the meanings specified:***

Consolidated financial statements are the financial statements of a group presented as those of a single economic entity.

Control is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.

The cost method is a method of accounting for an investment whereby the investment is recognised at cost. The investor recognises income from the investment only to the extent that the investor receives distributions from accumulated profits of the investee arising after the date of acquisition. Distributions received in excess of such profits are regarded as a recovery of investment and are recognised as a reduction of the cost of the investment.

A group is a parent and all its subsidiaries.

***Minority interest** is that portion of the profit or loss and net assets of a subsidiary attributable to equity interests that are not owned, directly or indirectly through subsidiaries, by the parent.*

***A parent** is an entity that has one or more subsidiaries.*

***Separate financial statements** are those presented by a parent, an investor in an associate or a venturer in a jointly controlled entity, in which the investments are accounted for on the basis of the direct equity interest rather than on the basis of the reported results and net assets of the investees.*

***A subsidiary** is an entity, including an unincorporated entity such as a partnership, that is controlled by another entity (known as the parent).*

5. A parent or its subsidiary may be an investor in an associate or a venturer in a jointly controlled entity. In such cases, consolidated financial statements prepared and presented in accordance with this Standard are also prepared so as to comply with IAS 28 *Investments in Associates* and IAS 31 *Interests in Joint Ventures*.

6. For an entity described in paragraph 5, separate financial statements are those prepared and presented in addition to the financial statements referred to in paragraph 5. Separate financial statements need not be appended to, or accompany, those statements.

7. The financial statements of an entity that does not have a subsidiary, associate or venturer's interest in a jointly controlled entity are not separate financial statements.

8. A parent that is exempted in accordance with paragraph 10 from presenting consolidated financial statements may present separate financial statements as its only financial statements.

PRESENTATION OF CONSOLIDATED FINANCIAL STATEMENTS

9. ***A parent, other than a parent described in paragraph 10, shall present consolidated financial statements in which it consolidates its investments in subsidiaries in accordance with this Standard.***

10. ***A parent need not present consolidated financial statements if and only if:***

    (a) the parent is itself a wholly–owned subsidiary, or is a partially-owned subsidiary of another entity and its other owners, including those not otherwise entitled to vote, have been informed about, and do not object to, the parent not presenting consolidated financial statements;

    (b) the parent's debt or equity instruments are not traded in a public market (a domestic or foreign stock exchange or an over–the–counter market, including local and regional markets);

    (c) the parent did not file, nor is it in the process of filing, its financial statements with a securities commission or other regulatory organisation for the purpose of issuing any class of instruments in a public market;

    and

    (d) the ultimate or any intermediate parent of the parent produces consolidated financial statements available for public use that comply with International Financial Reporting Standards.

11. A parent that elects in accordance with paragraph 10 not to present consolidated financial statements, and presents only separate financial statements, complies with paragraphs 37-42.

SCOPE OF CONSOLIDATED FINANCIAL STATEMENTS

12. ***Consolidated financial statements shall include all subsidiaries of the parent, except those referred to in paragraph 16.***

13. Control is presumed to exist when the parent owns, directly or indirectly through subsidiaries, more than half of the voting power of an entity unless, in exceptional circumstances, it can be clearly demonstrated that such ownership does not constitute control. Control also exists when the parent owns half or less of the voting power of an entity when there is: [*]

    (a) power over more than half of the voting rights by virtue of an agreement with other investors;

    (b) power to govern the financial and operating policies of the entity under a statute or an agreement;

    (c) power to appoint or remove the majority of the members of the board of directors or equivalent governing body and control of the entity is by that board or body;

    or

    (d) power to cast the majority of votes at meetings of the board of directors or equivalent governing body and control of the entity is by that board or body.

14. An entity may own share warrants, share call options, debt or equity instruments that are convertible into ordinary shares, or other similar instruments that have the potential, if exercised or converted, to give the entity voting power or reduce another party's voting power over the financial and operating policies of another entity (potential voting rights). The existence and effect of potential voting rights that are currently exercisable or convertible, including potential voting rights held by another entity, are considered when assessing whether an entity has the power to govern the financial and operating policies of another entity. Potential voting rights are not currently exercisable or convertible when, for example, they cannot be exercised or converted until a future date or until the occurrence of a future event.

15. In assessing whether potential voting rights contribute to control, the entity examines all facts and circumstances (including the terms of exercise of the potential voting rights and any other contractual arrangements whether considered individually or in combination) that affect potential voting rights, except the intention of management and the financial ability to exercise or convert.

16. ***A subsidiary shall be excluded from consolidation when there is evidence that (a) control is intended to be temporary because the subsidiary is acquired and held exclusively with a view to its disposal within twelve months from acquisition and (b) management is actively seeking a buyer. Investments in such subsidiaries shall be classified as held for trading and accounted for in accordance with IAS 39*** **Financial Instruments: Recognition and Measurement.**

17. When a subsidiary previously excluded from consolidation in accordance with paragraph 16 is not disposed of within twelve months, it shall be consolidated as from the date of acquisition (see IAS 22). Financial statements for the periods since acquisition shall be restated.

18. Exceptionally, an entity may have found a buyer for a subsidiary excluded from consolidation in accordance with paragraph 16, but may not have completed the sale within twelve months of acquisition because of the need for approval by regulators or others. The entity is not required to consolidate such a subsidiary if the sale is in process at the balance sheet date and there is no reason to believe that it will not be completed shortly after the balance sheet date.

19. A subsidiary is not excluded from consolidation simply because the investor is a venture capital organisation, mutual fund, unit trust or similar entity.

20. A subsidiary is not excluded from consolidation because its business activities are dissimilar from those of the other entities within the group. Relevant information is provided by consolidating such subsidiaries and disclosing additional information in the consolidated financial statements about the different business activities of subsidiaries. For example, the disclosures required by IAS 14 *Segment Reporting* help to explain the significance of different business activities within the group.

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[*] See also SIC-12 *Consolidation — Special Purpose Entities*.

21. A parent loses control when it loses the power to govern the financial and operating policies of an investee so as to obtain benefit from its activities. The loss of control can occur with or without a change in absolute or relative ownership levels. It could occur, for example, when a subsidiary becomes subject to the control of a government, court, administrator or regulator. It could also occur as a result of a contractual agreement.

CONSOLIDATION PROCEDURES

22. In preparing consolidated financial statements, an entity combines the financial statements of the parent and its subsidiaries line by line by adding together like items of assets, liabilities, equity, income and expenses. In order that the consolidated financial statements present financial information about the group as that of a single economic entity, the following steps are then taken:

    (a) the carrying amount of the parent's investment in each subsidiary and the parent's portion of equity of each subsidiary are eliminated (see IAS 22, which describes the treatment of any resultant goodwill);

    (b) minority interests in the profit or loss of consolidated subsidiaries for the reporting period are identified;

    and

    (c) minority interests in the net assets of consolidated subsidiaries are identified separately from the parent shareholders' equity in them. Minority interests in the net assets consist of:

        (i) the amount of those minority interests at the date of the original combination calculated in accordance with IAS 22;

        and

        (ii) the minority's share of changes in equity since the date of the combination.

23. When potential voting rights exist, the proportions of profit or loss and changes in equity allocated to the parent and minority interests are determined on the basis of present ownership interests and do not reflect the possible exercise or conversion of potential voting rights.

24. ***Intragroup balances, transactions, income and expenses shall be eliminated in full.***

25. Intragroup balances and transactions, including income, expenses and dividends, are eliminated in full. Profits and losses resulting from intragroup transactions that are recognised in assets, such as inventory and fixed assets, are eliminated in full. Intragroup losses may indicate an impairment that requires recognition in the consolidated financial statements. IAS 12 *Income Taxes* applies to temporary differences that arise from the elimination of profits and losses resulting from intragroup transactions.

26. ***The financial statements of the parent and its subsidiaries used in the preparation of the consolidated financial statements shall be prepared as of the same reporting date. When the reporting dates of the parent and a subsidiary are different, the subsidiary prepares, for consolidation purposes, additional financial statements as of the same date as the financial statements of the parent unless it is impracticable to do so.***

27. ***When, in accordance with paragraph 26, the financial statements of a subsidiary used in the preparation of consolidated financial statements are prepared as of a reporting date different from that of the parent, adjustments shall be made for the effects of significant transactions or events that occur between that date and the date of the parents financial statements. In any case, the difference between the reporting date of the subsidiary and that of the parent shall be no more than three months. The length of the reporting periods and any difference in the reporting dates shall be the same from period to period.***

28. ***Consolidated financial statements shall be prepared using uniform accounting policies for like transactions and other events in similar circumstances.***

29. If a member of the group uses accounting policies other than those adopted in the consolidated financial statements for like transactions and events in similar circumstances, appropriate adjustments are made to its financial statements in preparing the consolidated financial statements.

30. The income and expenses of a subsidiary are included in the consolidated financial statements from the date of acquisition as defined in IAS 22. The income and expenses of a subsidiary are included in the consolidated financial statements until the date on which the parent ceases to control the subsidiary. The difference between the proceeds from the disposal of the subsidiary and its carrying amount as of the date of disposal, including the cumulative amount of any exchange differences that relate to the subsidiary recognised in equity in accordance with IAS 21 *The Effects of Changes in Foreign Exchange Rates*, is recognised in the consolidated income statement as the gain or loss on the disposal of the subsidiary.

31. ***An investment in an entity shall be accounted for in accordance with IAS 39* Financial Instruments: Recognition and Measurement *from the date that it ceases to be a subsidiary, provided that it does not become an associate as defined in IAS 28 or a jointly controlled entity as described in IAS 31.***

32. ***The carrying amount of the investment at the date that the entity ceases to be a subsidiary shall be regarded as the cost on initial measurement of a financial asset in accordance with IAS 39.***

33. ***Minority interests shall be presented in the consolidated balance sheet within equity, separately from the parent shareholders' equity. Minority interests in the profit or loss of the group shall also be separately disclosed.***

34. The profit or loss is attributed to the parent shareholders and minority interests. Because both are equity, the amount attributed to minority interests is not income or expense.

35. Losses applicable to the minority in a consolidated subsidiary may exceed the minority interest in the subsidiary's equity. The excess, and any further losses applicable to the minority, are allocated against the majority interest except to the extent that the minority has a binding obligation and is able to make an additional investment to cover the losses. If the subsidiary subsequently reports profits, such profits are allocated to the majority interest until the minority's share of losses previously absorbed by the majority has been recovered.

36. If a subsidiary has outstanding cumulative preference shares that are held by minority interests and classified as equity, the parent computes its share of profits or losses after adjusting for the dividends on such shares, whether or not dividends have been declared.

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

37. ***When separate financial statements are prepared, investments in subsidiaries, jointly controlled entities and associates shall be accounted for either:***

    (a) at cost,

    or

    (b) in accordance with IAS 39.

    The same accounting shall be applied for each category of investments.

38. This Standard does not mandate which entities produce separate financial statements available for public use. Paragraphs 37 and 39-42 apply when an entity prepares separate financial statements that comply with International Financial Reporting Standards. The entity also produces consolidated financial statements available for public use as required by paragraph 9, unless the exemption provided in paragraph 10 is applicable.

39. ***Investments in jointly controlled entities and associates that are accounted for in accordance with IAS 39 in the consolidated financial statements shall be accounted for in the same way in the investor's separate financial statements.***

DISCLOSURE

40. ***The following disclosures shall be made in consolidated financial statements:***

(a) the fact that a subsidiary is not consolidated in accordance with paragraph 16;

(b) [Deleted]

(c) the nature of the relationship between the parent and a subsidiary when the parent does not own, directly or indirectly through subsidiaries, more than half of the voting power;

(d) the reasons why the ownership, directly or indirectly through subsidiaries, of more than half of the voting or potential voting power of an investee does not constitute control;

(e) the reporting date of the financial statements of a subsidiary when such financial statements are used to prepare consolidated financial statements and are as of a reporting date or for a period that is different from that of the parent, and the reason for using a different reporting date or period;

and

(f) the nature and extent of any significant restrictions (eg resulting from borrowing arrangements or regulatory requirements) on the ability of subsidiaries to transfer funds to the parent in the form of cash dividends or to repay loans or advances.

41. ***When separate financial statements are prepared for a parent that, in accordance with paragraph 10, elects not to prepare consolidated financial statements, those separate financial statements shall disclose:***

(a) the fact that the financial statements are separate financial statements; that the exemption from consolidation has been used; the name and country of incorporation or residence of the entity whose consolidated financial statements that comply with International Financial Reporting Standards have been produced for public use; and the address where those consolidated financial statements are obtainable;

(b) a list of significant investments in subsidiaries, jointly controlled entities and associates, including the name, country of incorporation or residence, proportion of ownership interest and, if different, proportion of voting power held;

and

(c) a description of the method used to account for the investments listed under (b).

42. ***When a parent (other than a parent covered by paragraph 41), venturer with an interest in a jointly controlled entity or an investor in an associate prepares separate financial statements, those separate financial statements shall disclose:***

(a) the fact that the statements are separate financial statements and the reasons why those statements are prepared if not required by law;

(b) a list of significant investments in subsidiaries, jointly controlled entities and associates, including the name, country of incorporation or residence, proportion of ownership interest and, if different, proportion of voting power held;

and

(c) a description of the method used to account for the investments listed under (b);

and shall identify the financial statements prepared in accordance with paragraph 9 of this Standard, IAS 28 and IAS 31 to which they relate.

EFFECTIVE DATE

43. ***An entity shall apply this Standard for annual periods beginning on or after 1 January 2005. Earlier application is encouraged. If an entity applies this Standard for a period beginning before 1 January 2005, it shall disclose that fact.***

WITHDRAWAL OF OTHER PRONOUNCEMENTS

44. This Standard supersedes IAS 27 *Consolidated Financial Statements* and *Accounting for Investments in Subsidiaries* (revised in 2000).

45. This Standard supersedes SIC-33 *Consolidation and Equity Method— Potential Voting Rights and Allocation of Ownership Interests*.

APPENDIX

Amendments to Other Pronouncements

The amendments in this appendix shall be applied for annual periods beginning on or after 1 January 2005. If an entity applies this Standard for an earlier period, these amendments shall be applied for that earlier period.

A1. In IAS 22 *Business Combinations* paragraph 1 is amended to read as follows:

1. The following terms are used in this Standard with the meanings specified:

…

A subsidiary is an entity, including an unincorporated entity such as a partnership, that is controlled by another entity (known as the parent).

Minority interest is that portion of the profit or loss and net assets of a subsidiary attributable to equity interests that are not owned, directly or indirectly through subsidiaries, by the parent.

A2. [Amendment not applicable to bare Standards]

A3. SIC-12 *Consolidation — Special Purpose Entities* is amended as described below.

The reference is amended to read as follows:

Reference: IAS 27 *Consolidated and Separate Financial Statements*

Paragraphs 9, 10 and 11 are amended to read as follows:

9. In the context of an SPE, control may arise through the predetermination of the activities of the SPE (operating on 'autopilot') or otherwise. IAS 27.13 indicates several circumstances which result in control even in cases where an entity owns one half or less of the voting power of another entity. Similarly, control may exist even in cases where an entity owns little or none of the SPE's equity. The application of the control concept requires, in each case, judgement in the context of all relevant factors.

10. In addition to the situations described in IAS 27.13, the following circumstances, for example, may indicate a relationship in which an entity controls an SPE and consequently should consolidate the SPE (additional guidance is provided in the Appendix to this Interpretation):

(a) in substance, the activities of the SPE are being conducted on behalf of the entity according to its specific business needs so that the entity obtains benefits from the SPE's operation;

(b) in substance, the entity has the decision-making powers to obtain the majority of the benefits of the activities of the SPE or, by setting up an 'autopilot' mechanism, the entity has delegated these decision-making powers;

(c) in substance, the entity has rights to obtain the majority of the benefits of the SPE and therefore may be exposed to risks incident to the activities of the SPE;

or

(d) in substance, the entity retains the majority of the residual or ownership risks related to the SPE or its assets in order to obtain benefits from its activities.

11. [Deleted]

A4. In International Financial Reporting Standards, including International Accounting Standards and Interpretations, applicable at December 2003, references to the current version of IAS 27 *Consolidated Financial Statements* and *Accounting for Investments in Subsidiaries* are amended to IAS 27 *Consolidated and Separate Financial Statements*.