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(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 108/2006

of 11 January 2006

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 Financial Reporting Standards (IFRS) 1, 4, 6 and 7, International Accounting Standards (IAS) 1, 14, 17, 32, 33, and 39, International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 6

(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) On 30 June 2005, the International Accounting Standards Board (IASB) issued Amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards* and the Basis for Conclusions of IFRS 6 *Exploration for and evaluation of mineral resources*, to clarify the wording of an exception provided to first-time adopters of IFRSs who choose to adopt IFRS 6 before 1 January 2006.

(3) On 18 August 2005 the IASB published IFRS 7 *Financial instruments: Disclosure*. It introduces new requirements to improve the information on financial instruments that is given in entities' financial statements. It replaces IAS 30 *Disclosures in the Financial Statements of Banks and Similar Financial Institutions* and some of the requirements in IAS 32 *Financial Instruments: Disclosure and Presentation*.

(4) On 18 August 2005 the IASB also issued an Amendment to IAS 1 *Presentation of Financial Statements — Capital Disclosures* which introduces requirements for disclosures about an entity's capital.

(5) On 18 August 2005 the IASB issued Amendments to IAS 39 *Financial Instruments: Recognition and Measurement* and IFRS 4 *Insurance Contracts — Financial Guarantee Contracts*. The amendments are intended to ensure that issuers of financial guarantee contracts include the resulting liabilities in their balance sheet.

(6) On 1 September 2005 the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 6 *Liabilities arising from Participating in a Specific Market — Waste Electrical and Electronic Equipment*, hereinafter 'IFRIC 6'. IFRIC 6 clarifies the accounting for liabilities for waste management costs.

(7) The consultation with technical experts in the field confirm that IFRS 1, IFRS 4, IFRS 7, IAS 1, IAS 39 and IFRIC 6 meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.

(8) The adoption of IFRS 7 implies, by way of consequence, amendments to other international accounting standards in order to ensure consistency between international accounting standards. Those consequential amendments are affecting IFRS 1, IFRS 4, IAS 14, IAS 17, IAS 32, IAS 33, and IAS 39.

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

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

(1) OJ L 243, 11.9.2002, p. 1.

(2) OJ L 261, 13.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 2106/2005 (OJ L 337, 22.12.2005, p. 16).

HAS ADOPTED THIS REGULATION:

Article 1

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

1. International Financial Reporting Standard (IFRS) 1 *First-time Adoption of IFRSs* is amended in accordance with Amendments to IFRS 1 and the Basis for Conclusions of IFRS 6 *Exploration for and evaluation of mineral resources* as set out in the Annex to this Regulation;

2. The International Accounting Standard (IAS) 30 Disclosures in the Financial Statements of Banks and Similar Financial Institutions is replaced by IFRS 7 *Financial instruments: Disclosure* as set out in the Annex to this Regulation;

3. International Accounting Standard (IAS) 1 *Presentation of Financial Statements — Capital Disclosures* is amended in accordance with the Amendment to IAS 1 as set out in the Annex to this Regulation;

4. IAS 39 *Financial Instruments: Recognition and Measurement* and IFRS 4 *Insurance Contracts* are amended in accordance with Amendments to IAS 39 and IFRS 4 as set out in the Annex to this Regulation;

5. International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 6 *Liabilities arising from Participating in a Specific Market — Waste Electrical and Electronic Equipment* is inserted as set out in the Annex to this Regulation;

6. The adoption of IFRS 7 implies, by way of consequence, amendments to IFRS 1 and 4 and IAS 14, IAS 17, IAS 32, IAS 33 and IAS 39 in accordance with Appendix C of IFRS 7 as set out in the Annex to this Regulation;

7. IAS 32 is amended in accordance with the Amendments to IAS 39 and IFRS 4 as set out in the Annex to this Regulation.

Article 2

(1) Each company shall apply the Amendment to IFRS 1 and the Amendments to IAS 39 and IFRS 4 as set out in the Annex to this Regulation as from the commencement date of its 2006 financial year at the latest.

(2) Each company shall apply IFRS 7 and the Amendment to IAS 1 as set out in the Annex to this Regulation as from the commencement date of its 2007 financial year at the latest.

(3) Each company shall apply IFRIC 6 as set out in the Annex to this Regulation as from the commencement date of its 2006 financial year at the latest.

However, companies with a December commencement date shall apply IFRIC 6 as from the commencement date of its 2005 financial year at the latest.

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, 11 January 2006.

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

INTERNATIONAL FINANCIAL REPORTING STANDARDS

IFRS 1	Amendments to IFRS 1 *First-time Adoption of IFRSs* and the Basis for Conclusions of IFRS 6 *Exploration for and evaluation of mineral resources*
IFRS 7	IFRS 7 *Financial instruments: Disclosure*
IAS 1	Amendment to IAS 1 *Presentation of Financial Statements — Capital Disclosures*
IAS 39 IFRS 4	Amendments to IAS 39 *Financial Instruments: Recognition and Measurement* and IFRS 4 *Insurance Contracts — Financial Guarantee Contracts*
IFRIC 6	IFRIC Interpretation 6 *Liabilities arising from Participating in a Specific Market — Waste Electrical and Electronic Equipment*

IFRIC INTERPRETATION 6

Liabilities arising from Participating in a Specific Market — Waste Electrical and Electronic Equipment

REFERENCES

— IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*

— IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*

BACKGROUND

1. Paragraph 17 of IAS 37 specifies that an obligating event is a past event that leads to a present obligation that an entity has no realistic alternative to settling.

2. Paragraph 19 of IAS 37 states that provisions are recognised only for 'obligations arising from past events existing independently of an entity's future actions'.

3. The European Union's Directive on Waste Electrical and Electronic Equipment (WE&EE), which regulates the collection, treatment, recovery and environmentally sound disposal of waste equipment, has given rise to questions about when the liability for the decommissioning of WE&EE should be recognised. The Directive distinguishes between 'new' and 'historical' waste and between waste from private households and waste from sources other than private households. New waste relates to products sold after 13 August 2005. All household equipment sold before that date is deemed to give rise to historical waste for the purposes of the Directive.

4. The Directive states that the cost of waste management for historical household equipment should be borne by producers of that type of equipment that are in the market during a period to be specified in the applicable legislation of each Member State (the measurement period). The Directive states that each Member State shall establish a mechanism to have producers contribute to costs proportionately 'e.g. in proportion to their respective share of the market by type of equipment.'

5. Several terms used in the Interpretation such as 'market share' and 'measurement period' may be defined very differently in the applicable legislation of individual Member States. For example, the length of the measurement period might be a year or only one month. Similarly, the measurement of market share and the formulae for computing the obligation may differ in the various national legislations. However, all of these examples affect only the measurement of the liability, which is not within the scope of the Interpretation.

SCOPE

6. This Interpretation provides guidance on the recognition, in the financial statements of producers, of liabilities for waste management under the EU Directive on WE&EE in respect of sales of historical household equipment.

7. The Interpretation addresses neither new waste nor historical waste from sources other than private households. The liability for such waste management is adequately covered in IAS 37. However, if, in national legislation, new waste from private households is treated in a similar manner to historical waste from private households, the principles of the Interpretation apply by reference to the hierarchy in paragraphs 10–12 of IAS 8. The IAS 8 hierarchy is also relevant for other regulations that impose obligations in a way that is similar to the cost attribution model specified in the EU Directive.

ISSUE

8. The IFRIC was asked to determine in the context of the decommissioning of WE&EE what constitutes the obligating event in accordance with paragraph 14(a) of IAS 37 for the recognition of a provision for waste management costs:

— the manufacture or sale of the historical household equipment?

— participation in the market during the measurement period?

— the incurrence of costs in the performance of waste management activities?

CONSENSUS

9. Participation in the market during the measurement period is the obligating event in accordance with paragraph 14(a) of IAS 37. As a consequence, a liability for waste management costs for historical household equipment does not arise as the products are manufactured or sold. Because the obligation for historical household equipment is linked to participation in the market during the measurement period, rather than to production or sale of the items to be disposed of, there is no obligation unless and until a market share exists during the measurement period. The timing of the obligating event may also be independent of the particular period in which the activities to perform the waste management are undertaken and the related costs incurred.

EFFECTIVE DATE

10. An entity shall apply this Interpretation for annual periods beginning on or after 1 December 2005. Earlier application is encouraged. If an entity applies the Interpretation for a period beginning before 1 December 2005, it shall disclose that fact.

TRANSITION

11. Changes in accounting policies shall be accounted for in accordance with IAS 8.