# COMMISSION REGULATION (EC) No 1329/2006

## of 8 September 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 the International Financial Reporting Interpretations Committee's (IFRIC's) Interpretations 8 and 9

**(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 12 January 2006, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 8 *Scope of IFRS 2*. IFRIC 8 clarifies that the accounting standard International Financial Reporting Standard (IFRS) 2 *Share-based Payment* applies to arrangements where an entity makes share-based payments for apparently nil or inadequate consideration.

(3) On 1 March 2006, IFRIC published IFRIC Interpretation 9 *Reassessment of Embedded Derivatives*. IFRIC 9 clarifies certain aspects of the treatment of embedded derivatives under IAS 39 *Financial Instruments: Recognition and Measurement*.

(4) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 8 and IFRIC 9 meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.

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

(6) 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 1725/2003 is amended as follows:

1. The International Financial Reporting Interpretations Committee's (IFRIC's) Interpretation 8 Scope of IFRS 2 is inserted as set out in the Annex to this Regulation;

2. IFRIC's Interpretation 9 Reassessment of Embedded Derivatives is inserted as set out in the Annex to this Regulation.

*Article 2*

(1) Each company shall apply IFRIC 8 as set out in the Annex to this Regulation as from the commencement date of its 2006 financial year at the latest, except for companies with a January, February, March or April commencement date which shall apply IFRIC 8 as from the commencement date of the 2007 financial year at the latest.

(2) Each company shall apply IFRIC 9 as set out in the Annex to this Regulation as from the commencement date of its 2006 financial year at the latest, except for companies with a January, February, March, April or May commencement date which shall apply IFRIC 9 as from the commencement date of the 2007 financial year at the latest.

[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 708/2006 (OJ L 122, 9.5.2006, p. 19).

*Article 3*

This Regulation shall enter into force on the third day following 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, 8 September 2006.

*For the Commission*
Charlie McCREEVY
*Member of the Commission*

*ANNEX*

**INTERNATIONAL FINANCIAL REPORTING STANDARDS**

| | |
|---|---|
| IFRIC 8 | IFRIC Interpretation 8 *Scope of IFRS 2* |
| IFRIC 9 | IFRIC Interpretation 9 *Reassessment of Embedded Derivatives* |

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## IFRIC INTERPRETATION 9

## Reassessment of Embedded Derivatives

### References

— IAS 39 *Financial Instruments: Recognition and Measurement*

— IFRS 1 *First-time Adoption of International Financial Reporting Standards*

— IFRS 3 *Business Combinations*

### Background

1. IAS 39 paragraph 10 describes an embedded derivative as 'a component of a hybrid (combined) instrument that also includes a non-derivative host contract — with the effect that some of the cash flows of the combined instrument vary in a way similar to a stand-alone derivative.'

2. IAS 39 paragraph 11 requires an embedded derivative to be separated from the host contract and accounted for as a derivative if, and only if:

   (a) the economic characteristics and risks of the embedded derivative are not closely related to the economic characteristics and risks of the host contract;

   (b) a separate instrument with the same terms as the embedded derivative would meet the definition of a derivative; and

   (c) the hybrid (combined) instrument is not measured at fair value with changes in fair value recognised in profit or loss (ie a derivative that is embedded in a financial asset or financial liability at fair value through profit or loss is not separated).

### Scope

3. Subject to paragraphs 4 and 5 below, this Interpretation applies to all embedded derivatives within the scope of IAS 39.

4. This Interpretation does not address remeasurement issues arising from a reassessment of embedded derivatives.

5. This Interpretation does not address the acquisition of contracts with embedded derivatives in a business combination nor their possible reassessment at the date of acquisition.

### Issue

6. IAS 39 requires an entity, when it first becomes a party to a contract, to assess whether any embedded derivatives contained in the contract are required to be separated from the host contract and accounted for as derivatives under the Standard. This Interpretation addresses the following issues:

   (a) Does IAS 39 require such an assessment to be made only when the entity first becomes a party to the contract, or should the assessment be reconsidered throughout the life of the contract?

   (b) Should a first-time adopter make its assessment on the basis of the conditions that existed when the entity first became a party to the contract, or those prevailing when the entity adopts IFRSs for the first time?

### Consensus

7. An entity shall assess whether an embedded derivative is required to be separated from the host contract and accounted for as a derivative when the entity first becomes a party to the contract. Subsequent reassessment is prohibited unless there is a change in the terms of the contract that significantly modifies the cash flows that otherwise would be required under the contract, in which case reassessment is required. An entity determines whether a modification to cash flows is significant by considering the extent to which the expected future cash flows associated with the embedded derivative, the host contract or both have changed and whether the change is significant relative to the previously expected cash flows on the contract.

8. A first-time adopter shall assess whether an embedded derivative is required to be separated from the host contract and accounted for as a derivative on the basis of the conditions that existed at the later of the date it first became a party to the contract and the date a reassessment is required by paragraph 7.

### Effective date and transition

9. An entity shall apply this Interpretation for annual periods beginning on or after 1 June 2006. Earlier application is encouraged. If an entity applies the Interpretation for a period beginning before 1 June 2006, it shall disclose that fact. The Interpretation shall be applied retrospectively.