COMMISSION REGULATION (EC) No 1004/2008

of 15 October 2008

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 Accounting Standard (IAS) 39 and International Financial Reporting Standard (IFRS) 7

(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 of 29 September 2003 ([2]) certain international standards and interpretations that existed on 14 September 2002 were adopted.

(2) On 13 October 2008, the International Accounting Standards Board (IASB) adopted amendments to international accounting standard (IAS) 39 financial instruments: recognition and measurement and international financial reporting standard (IFRS) 7 financial instruments: disclosures, hereinafter 'amendments to IAS 39 and IFRS 7'. The amendments to IAS 39 and IFRS 7 allow the reclassification of certain financial instruments out of the category 'held-for-trading' in rare circumstances. The current financial crisis is considered to be such a rare circumstance which would justify the use of this possibility by companies.

(3) In accordance with the amendments to IAS 39 and IFRS 7, companies should be allowed to reclassify certain financial instruments as from 1 July 2008.

(4) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendments to IAS 39 and IFRS 7 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 European Commission that it is well-balanced and objective.

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

(6) Considering the context of the current financial turmoil and the fact that certain financial instruments are no longer traded or related markets have become inactive or distressed, there is a need to give immediate effect to the amendments allowing for reclassification of certain financial instruments and this Regulation consequently should enter into force as a matter of urgency.

(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

In the Annex to Regulation (EC) No 1725/2003, international accounting standard (IAS) 39 financial instruments: recognition and measurement and international financial reporting standard (IFRS) 7 financial instruments: disclosures are amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

([1]) OJ L 243, 11.9.2002, p. 1.
([2]) OJ L 261, 13.10.2003, p. 1.
([3]) OJ L 199, 21.7.2006, p. 33.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 October 2008.

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IAS 39	Amendments to IAS 39 *financial instruments: recognition and measurement*
IFRS 7	IFRS 7 *financial instruments: disclosures*

Reclassification of financial assets (amendments to IAS 39 financial instruments: recognition and measurement and IFRS 7 financial instruments: disclosures)

Amendments to IAS 39

Paragraph 50 is amended and paragraphs 50B to 50F and 103G are added.

MEASUREMENT

Reclassifications

50 An entity:

(a) shall not reclassify a derivative out of the fair value through profit or loss category while it is held or issued;

(b) shall not reclassify any financial instrument out of the fair value through profit or loss category if upon initial recognition it was designated by the entity as at fair value through profit or loss; and

(c) may, if a financial asset is no longer held for the purpose of selling or repurchasing it in the near term (notwithstanding that the financial asset may have been acquired or incurred principally for the purpose of selling or repurchasing it in the near term), reclassify that financial asset out of the fair value through profit or loss category if the requirements in paragraph 50B or 50D are met.

An entity shall not reclassify any financial instrument into the fair value through profit or loss category after initial recognition.

50B A financial asset to which paragraph 50(c) applies (except a financial asset of the type described in paragraph 50D) may be reclassified out of the fair value through profit or loss category only in rare circumstances.

50C If an entity reclassifies a financial asset out of the fair value through profit or loss category in accordance with paragraph 50B, the financial asset shall be reclassified at its fair value on the date of reclassification. Any gain or loss already recognised in profit or loss shall not be reversed. The fair value of the financial asset on the date of reclassification becomes its new cost or amortised cost, as applicable.

50D A financial asset to which paragraph 50(c) applies that would have met the definition of loans and receivables (if the financial asset had not been required to be classified as held for trading at initial recognition) may be reclassified out of the fair value through profit or loss category if the entity has the intention and ability to hold the financial asset for the foreseeable future or until maturity.

50E A financial asset classified as available for sale that would have met the definition of loans and receivables (if it had not been designated as available for sale) may be reclassified out of the available-for-sale category to the loans and receivables category if the entity has the intention and ability to hold the financial asset for the foreseeable future or until maturity.

50F If an entity reclassifies a financial asset out of the fair value through profit or loss category in accordance with paragraph 50D or out of the available-for-sale category in accordance with paragraph 50E, it shall reclassify the financial asset at its fair value on the date of reclassification. For a financial asset reclassified in accordance with paragraph 50D, any gain or loss already recognised in profit or loss shall not be reversed. The fair value of the financial asset on the date of reclassification becomes its new cost or amortised cost, as applicable. For a financial asset reclassified out of the available-for-sale category in accordance with paragraph 50E, any previous gain or loss on that asset that has been recognised in other comprehensive income in accordance with paragraph 55(b) shall be accounted for in accordance with paragraph 54.

EFFECTIVE DATE AND TRANSITION

103G *Reclassification of financial assets* (Amendments to IAS 39 and IFRS 7), issued in October 2008, amended paragraphs 50 and AG8, and added paragraphs 50B–50F. An entity shall apply those amendments from 1 July 2008. An entity shall not reclassify a financial asset in accordance with paragraph 50B, 50D or 50E before 1 July 2008. Any reclassification of a financial asset made in periods beginning on or after 1 November 2008 shall take effect only from the date when the reclassification is made. Any reclassification of a financial asset in accordance with paragraph 50B, 50D or 50E shall not be applied retrospectively to reporting periods ended before the effective date set out in this paragraph.

In Appendix A *Application guidance*, paragraph AG8 is amended.

Effective interest rate

AG8 If an entity revises its estimates of payments or receipts, the entity shall adjust the carrying amount of the financial asset or financial liability (or group of financial instruments) to reflect actual and revised estimated cash flows. The entity recalculates the carrying amount by computing the present value of estimated future cash flows at the financial instrument's original effective interest rate. The adjustment is recognised as income or expense in profit or loss. If a financial asset is reclassified in accordance with paragraph 50B, 50D or 50E, and the entity subsequently increases its estimates of future cash receipts as a result of increased recoverability of those cash receipts, the effect of that increase shall be recognised as an adjustment to the effective interest rate from the date of the change in estimate rather than as an adjustment to the carrying amount of the asset at the date of the change in estimate.

Amendments to IFRS 7

Paragraph 12 is amended and paragraphs 12A and 44E are added.

SIGNIFICANCE OF FINANCIAL INSTRUMENTS FOR FINANCIAL POSITION AND PERFORMANCE

Statement of financial position

Reclassification

12 If the entity has reclassified a financial asset (in accordance with paragraphs 51 to 54 of IAS 39) as one measured:

(a) at cost or amortised cost, rather than fair value; or

(b) at fair value, rather than at cost or amortised cost;

it shall disclose the amount reclassified into and out of each category and the reason for that reclassification.

12A If the entity has reclassified a financial asset out of the fair value through profit or loss category in accordance with paragraph 50B or 50D of IAS 39 or out of the available-for-sale category in accordance with paragraph 50E of IAS 39, it shall disclose:

(a) the amount reclassified into and out of each category;

(b) for each reporting period until derecognition, the carrying amounts and fair values of all financial assets that have been reclassified in the current and previous reporting periods;

(c) if a financial asset was reclassified in accordance with paragraph 50B, the rare situation, and the facts and circumstances indicating that the situation was rare;

(d) for the reporting period when the financial asset was reclassified, the fair value gain or loss on the financial asset recognised in profit or loss or other comprehensive income in that reporting period and in the previous reporting period;

(e) for each reporting period following the reclassification (including the reporting period in which the financial asset was reclassified) until derecognition of the financial asset, the fair value gain or loss that would have been recognised in profit or loss or other comprehensive income if the financial asset had not been reclassified, and the gain, loss, income and expense recognised in profit or loss; and

(f) the effective interest rate and estimated amounts of cash flows the entity expects to recover, as at the date of reclassification of the financial asset.

EFFECTIVE DATE AND TRANSITION

44E *Reclassification of financial assets* (amendments to IAS 39 and IFRS 7), issued in October 2008, amended paragraph 12 and added paragraph 12A. An entity shall apply those amendments from 1 July 2008.