COMMISSION REGULATION (EC) No 1263/2008

of 16 December 2008

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 International Financial Reporting Interpretation Committee's (IFRIC) Interpretation 14

(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) On 5 July 2007, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 14 IAS 19 — The Limit on a defined benefit Asset, Minimum Funding Requirements and their Interaction, hereinafter 'IFRIC 14'. IFRIC 14 clarifies provisions of International Accounting Standard (IAS) 19 regarding the measurement of a defined benefit asset within the context of post-retirement defined benefit plans, when a minimum funding requirement exists. A defined benefit asset is a surplus of the fair value of the plan assets over the present value of the defined benefit obligation. IAS 19 limits its measurement to the present value of economic benefits available in the form of refunds from the plan or reductions in future contributions to the plan, which can be affected by minimum funding requirements.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 14 meets 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.

(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

In the Annex to Regulation (EC) No 1126/2008, International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 14 IAS 19 — The Limit on a defined benefit Asset, Minimum Funding Requirements and their Interaction is inserted as set out in the Annex to this Regulation.

Article 2

Each company shall apply IFRIC 14, 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 its publication in the *Official Journal of the European Union*.

(1) OJ L 243, 11.9.2002, p. 1.
(2) OJ L 320, 29.11.2008, 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, 16 December 2008.

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

INTERNATIONAL FINANCIAL REPORTING STANDARDS

IFRIC 14	IFRIC Interpretation 14 *IAS 19* — The Limit on a defined benefit Asset, Minimum Funding Requirements and their Interaction

IFRIC INTERPRETATION 14

IAS 19 — The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction

REFERENCES

— IAS 1 *Presentation of Financial Statements*

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

— IAS 19 *Employee Benefits*

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

BACKGROUND

1 Paragraph 58 of IAS 19 limits the measurement of a defined benefit asset to 'the present value of economic benefits available in the form of refunds from the plan or reductions in future contributions to the plan' plus unrecognised gains and losses. Questions have arisen about when refunds or reductions in future contributions should be regarded as available, particularly when a minimum funding requirement exists.

2 Minimum funding requirements exist in many countries to improve the security of the post-employment benefit promise made to members of an employee benefit plan. Such requirements normally stipulate a minimum amount or level of contributions that must be made to a plan over a given period. Therefore, a minimum funding requirement may limit the ability of the entity to reduce future contributions.

3 Further, the limit on the measurement of a defined benefit asset may cause a minimum funding requirement to be onerous. Normally, a requirement to make contributions to a plan would not affect the measurement of the defined benefit asset or liability. This is because the contributions, once paid, will become plan assets and so the additional net liability is nil. However, a minimum funding requirement may give rise to a liability if the required contributions will not be available to the entity once they have been paid.

SCOPE

4 This Interpretation applies to all post-employment defined benefits and other long-term employee defined benefits.

5 For the purpose of this Interpretation, minimum funding requirements are any requirements to fund a post-employment or other long-term defined benefit plan.

ISSUES

6 The issues addressed in this Interpretation are:

(a) when refunds or reductions in future contributions should be regarded as available in accordance with paragraph 58 of IAS 19;

(b) how a minimum funding requirement might affect the availability of reductions in future contributions;

(c) when a minimum funding requirement might give rise to a liability.

CONSENSUS

Availability of a refund or reduction in future contributions

7 An entity shall determine the availability of a refund or a reduction in future contributions in accordance with the terms and conditions of the plan and any statutory requirements in the jurisdiction of the plan.

8 An economic benefit, in the form of a refund or a reduction in future contributions, is available if the entity can realise it at some point during the life of the plan or when the plan liabilities are settled. In particular, such an economic benefit may be available even if it is not realisable immediately at the balance sheet date.

9 The economic benefit available does not depend on how the entity intends to use the surplus. An entity shall determine the maximum economic benefit that is available from refunds, reductions in future contributions or a combination of both. An entity shall not recognise economic benefits from a combination of refunds and reductions in future contributions based on assumptions that are mutually exclusive.

10 In accordance with IAS 1, the entity shall disclose information about the key sources of estimation uncertainty at the balance sheet date that have a significant risk of causing a material adjustment to the carrying amount of the net balance sheet asset or liability. This might include disclosure of any restrictions on the current realisability of the surplus or disclosure of the basis used to determine the amount of the economic benefit available.

The economic benefit available as a refund

The right to a refund

11 A refund is available to an entity only if the entity has an unconditional right to a refund:

(a) during the life of the plan, without assuming that the plan liabilities must be settled in order to obtain the refund (e.g. in some jurisdictions, the entity may have a right to a refund during the life of the plan, irrespective of whether the plan liabilities are settled); or

(b) assuming the gradual settlement of the plan liabilities over time until all members have left the plan; or

(c) assuming the full settlement of the plan liabilities in a single event (i.e. as a plan wind-up).

An unconditional right to a refund can exist whatever the funding level of a plan at the balance sheet date.

12 If the entity's right to a refund of a surplus depends on the occurrence or non-occurrence of one or more uncertain future events not wholly within its control, the entity does not have an unconditional right and shall not recognise an asset.

13 An entity shall measure the economic benefit available as a refund as the amount of the surplus at the balance sheet date (being the fair value of the plan assets less the present value of the defined benefit obligation) that the entity has a right to receive as a refund, less any associated costs. For instance, if a refund would be subject to a tax other than income tax, an entity shall measure the amount of the refund net of the tax.

14 In measuring the amount of a refund available when the plan is wound up (paragraph 11(c)), an entity shall include the costs to the plan of settling the plan liabilities and making the refund. For example, an entity shall deduct professional fees if these are paid by the plan rather than the entity, and the costs of any insurance premiums that may be required to secure the liability on wind-up.

15 If the amount of a refund is determined as the full amount or a proportion of the surplus, rather than a fixed amount, an entity shall make no adjustment for the time value of money, even if the refund is realisable only at a future date.

The economic benefit available as a contribution reduction

16 If there is no minimum funding requirement, an entity shall determine the economic benefit available as a reduction in future contributions as the lower of

(a) the surplus in the plan and

(b) the present value of the future service cost to the entity, i.e. excluding any part of the future cost that will be borne by employees, for each year over the shorter of the expected life of the plan and the expected life of the entity.

17 An entity shall determine the future service costs using assumptions consistent with those used to determine the defined benefit obligation and with the situation that exists at the balance sheet date as determined by IAS 19. Therefore, an entity shall assume no change to the benefits to be provided by a plan in the future until the plan is amended and shall assume a stable workforce in the future unless the entity is demonstrably committed at the balance sheet date to make a reduction in the number of employees covered by the plan. In the latter case, the assumption about the future workforce shall include the reduction. An entity shall determine the present value of the future service cost using the same discount rate as that used in the calculation of the defined benefit obligation at the balance sheet date.

The effect of a minimum funding requirement on the economic benefit available as a reduction in future contributions

18 An entity shall analyse any minimum funding requirement at a given date into contributions that are required to cover (a) any existing shortfall for past service on the minimum funding basis and (b) the future accrual of benefits.

19 Contributions to cover any existing shortfall on the minimum funding basis in respect of services already received do not affect future contributions for future service. They may give rise to a liability in accordance with paragraphs 23–26.

20 If there is a minimum funding requirement for contributions relating to the future accrual of benefits, an entity shall determine the economic benefit available as a reduction in future contributions as the present value of:

(a) the estimated future service cost in each year in accordance with paragraphs 16 and 17 less

(b) the estimated minimum funding contributions required in respect of the future accrual of benefits in that year.

21 An entity shall calculate the future minimum funding contributions required in respect of the future accrual of benefits taking into account the effect of any existing surplus on the minimum funding requirement basis. An entity shall use the assumptions required by the minimum funding requirement and, for any factors not specified by the minimum funding requirement, assumptions consistent with those used to determine the defined benefit obligation and with the situation that exists at the balance sheet date as determined by IAS 19. The calculation shall include any changes expected as a result of the entity paying the minimum contributions due. However, the calculation shall not include the effect of expected changes in the terms and conditions of the minimum funding requirement that are not substantively enacted or contractually agreed at the balance sheet date.

22 If the future minimum funding contribution required in respect of the future accrual of benefits exceeds the future IAS 19 service cost in any given year, the present value of that excess reduces the amount of the asset available as a reduction in future contributions at the balance sheet date. However, the amount of the asset available as a reduction in future contributions can never be less than zero.

When a minimum funding requirement may give rise to a liability

23 If an entity has an obligation under a minimum funding requirement to pay contributions to cover an existing shortfall on the minimum funding basis in respect of services already received, the entity shall determine whether the contributions payable will be available as a refund or reduction in future contributions after they are paid into the plan.

24 To the extent that the contributions payable will not be available after they are paid into the plan, the entity shall recognise a liability when the obligation arises. The liability shall reduce the defined benefit asset or increase the defined benefit liability so that no gain or loss is expected to result from applying paragraph 58 of IAS 19 when the contributions are paid.

25 An entity shall apply paragraph 58A of IAS 19 before determining the liability in accordance with paragraph 24.

26 The liability in respect of the minimum funding requirement and any subsequent remeasurement of that liability shall be recognised immediately in accordance with the entity's adopted policy for recognising the effect of the limit in paragraph 58 in IAS 19 on the measurement of the defined benefit asset. In particular:

(a) an entity that recognises the effect of the limit in paragraph 58 in profit or loss, in accordance with paragraph 61(g) of IAS 19, shall recognise the adjustment immediately in profit or loss;

(b) an entity that recognises the effect of the limit in paragraph 58 in the statement of recognised income and expense, in accordance with paragraph 93C of IAS 19, shall recognise the adjustment immediately in the statement of recognised income and expense.

EFFECTIVE DATE

27 An entity shall apply this Interpretation for annual periods beginning on or after 1 January 2008. Earlier application is permitted.

TRANSITION

28 An entity shall apply this Interpretation from the beginning of the first period presented in the first financial statements to which the Interpretation applies. An entity shall recognise any initial adjustment arising from the application of this Interpretation in retained earnings at the beginning of that period.