

COMMISSION REGULATION (EC) No 1164/2009

of 27 November 2009

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 Interpretations Committee's (IFRIC) Interpretation 18

(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 in existence at 15 October 2008 were adopted.
- (2) On 29 January 2009, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 18 *Transfers of Assets from Customers*, hereinafter 'IFRIC 18'. IFRIC 18 is an interpretation that provides clarification and guidance on the accounting for transfers of items of property, plant and equipment from customers, or cash to acquire or construct an item of property, plant and equipment.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 18 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 Commission that it is well-balanced and objective.

(4) The adoption of IFRIC 18 implies, by way of consequence, amendments to International Financial Reporting Standard (IFRS) 1 in order to facilitate the first time adoption of IFRS.

(5) Regulation (EC) No 1126/2008 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 1126/2008 is amended as follows:

1. International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 18 *Transfers of Assets from Customers* is inserted as set out in the Annex to this Regulation;
2. International Financial Reporting Standard (IFRS) 1 is amended as set out in the Annex to this Regulation.

Article 2

Each company shall apply IFRIC 18 and the amendments to IFRS 1, 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 October 2009.

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, 27 November 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

⁽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.

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRIC 18	IFRIC Interpretation 18 <i>Transfers of Assets from Customers</i>
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IFRIC INTERPRETATION 18
Transfers of Assets from Customers

REFERENCES

- *Framework for the Preparation and Presentation of Financial Statements*
- IFRS 1 *First-time Adoption of International Financial Reporting Standards (as revised in 2008)*
- IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*
- IAS 16 *Property, Plant and Equipment*
- IAS 18 *Revenue*
- IAS 20 *Accounting for Government Grants and Disclosure of Government Assistance*
- IFRIC 12 *Service Concession Arrangements*

BACKGROUND

- 1 In the utilities industry, an entity may receive from its customers items of property, plant and equipment that must be used to connect those customers to a network and provide them with ongoing access to a supply of commodities such as electricity, gas or water. Alternatively, an entity may receive cash from customers for the acquisition or construction of such items of property, plant and equipment. Typically, customers are required to pay additional amounts for the purchase of goods or services based on usage.
- 2 Transfers of assets from customers may also occur in industries other than utilities. For example, an entity outsourcing its information technology functions may transfer its existing items of property, plant and equipment to the outsourcing provider.
- 3 In some cases, the transferor of the asset may not be the entity that will eventually have ongoing access to the supply of goods or services and will be the recipient of those goods or services. However, for convenience this Interpretation refers to the entity transferring the asset as the customer.

SCOPE

- 4 This Interpretation applies to the accounting for transfers of items of property, plant and equipment by entities that receive such transfers from their customers.
- 5 Agreements within the scope of this Interpretation are agreements in which an entity receives from a customer an item of property, plant and equipment that the entity must then use either to connect the customer to a network or to provide the customer with ongoing access to a supply of goods or services, or to do both.
- 6 This Interpretation also applies to agreements in which an entity receives cash from a customer when that amount of cash must be used only to construct or acquire an item of property, plant and equipment and the entity must then use the item of property, plant and equipment either to connect the customer to a network or to provide the customer with ongoing access to a supply of goods or services, or to do both.
- 7 This Interpretation does not apply to agreements in which the transfer is either a government grant as defined in IAS 20 or infrastructure used in a service concession arrangement that is within the scope of IFRIC 12.

ISSUES

- 8 The Interpretation addresses the following issues:
 - (a) Is the definition of an asset met?
 - (b) If the definition of an asset is met, how should the transferred item of property, plant and equipment be measured on initial recognition?

- (c) If the item of property, plant and equipment is measured at fair value on initial recognition, how should the resulting credit be accounted for?
- (d) How should the entity account for a transfer of cash from its customer?

CONSENSUS

Is the definition of an asset met?

- 9 When an entity receives from a customer a transfer of an item of property, plant and equipment, it shall assess whether the transferred item meets the definition of an asset set out in the *Framework*. Paragraph 49(a) of the *Framework* states that 'an asset is a resource controlled by the entity as a result of past events and from which future economic benefits are expected to flow to the entity.' In most circumstances, the entity obtains the right of ownership of the transferred item of property, plant and equipment. However, in determining whether an asset exists, the right of ownership is not essential. Therefore, if the customer continues to control the transferred item, the asset definition would not be met despite a transfer of ownership.
- 10 An entity that controls an asset can generally deal with that asset as it pleases. For example, the entity can exchange that asset for other assets, employ it to produce goods or services, charge a price for others to use it, use it to settle liabilities, hold it, or distribute it to owners. The entity that receives from a customer a transfer of an item of property, plant and equipment shall consider all relevant facts and circumstances when assessing control of the transferred item. For example, although the entity must use the transferred item of property, plant and equipment to provide one or more services to the customer, it may have the ability to decide how the transferred item of property, plant and equipment is operated and maintained and when it is replaced. In this case, the entity would normally conclude that it controls the transferred item of property, plant and equipment.

How should the transferred item of property, plant and equipment be measured on initial recognition?

- 11 If the entity concludes that the definition of an asset is met, it shall recognise the transferred asset as an item of property, plant and equipment in accordance with paragraph 7 of IAS 16 and measure its cost on initial recognition at its fair value in accordance with paragraph 24 of that Standard.

How should the credit be accounted for?

- 12 The following discussion assumes that the entity receiving an item of property, plant and equipment has concluded that the transferred item should be recognised and measured in accordance with paragraphs 9–11.
- 13 Paragraph 12 of IAS 18 states that 'When goods are sold or services are rendered in exchange for dissimilar goods or services, the exchange is regarded as a transaction which generates revenue.' According to the terms of the agreements within the scope of this Interpretation, a transfer of an item of property, plant and equipment would be an exchange for dissimilar goods or services. Consequently, the entity shall recognise revenue in accordance with IAS 18.

Identifying the separately identifiable services

- 14 An entity may agree to deliver one or more services in exchange for the transferred item of property, plant and equipment, such as connecting the customer to a network, providing the customer with ongoing access to a supply of goods or services, or both. In accordance with paragraph 13 of IAS 18, the entity shall identify the separately identifiable services included in the agreement.
- 15 Features that indicate that connecting the customer to a network is a separately identifiable service include:
- (a) a service connection is delivered to the customer and represents stand-alone value for that customer;
 - (b) the fair value of the service connection can be measured reliably.
- 16 A feature that indicates that providing the customer with ongoing access to a supply of goods or services is a separately identifiable service is that, in the future, the customer making the transfer receives the ongoing access, the goods or services, or both at a price lower than would be charged without the transfer of the item of property, plant and equipment.
- 17 Conversely, a feature that indicates that the obligation to provide the customer with ongoing access to a supply of goods or services arises from the terms of the entity's operating licence or other regulation rather than from the agreement relating to the transfer of an item of property, plant and equipment is that customers that make a transfer pay the same price as those that do not for the ongoing access, or for the goods or services, or for both.

Revenue recognition

- 18 If only one service is identified, the entity shall recognise revenue when the service is performed in accordance with paragraph 20 of IAS 18.
- 19 If more than one separately identifiable service is identified, paragraph 13 of IAS 18 requires the fair value of the total consideration received or receivable for the agreement to be allocated to each service and the recognition criteria of IAS 18 are then applied to each service.
- 20 If an ongoing service is identified as part of the agreement, the period over which revenue shall be recognised for that service is generally determined by the terms of the agreement with the customer. If the agreement does not specify a period, the revenue shall be recognised over a period no longer than the useful life of the transferred asset used to provide the ongoing service.

How should the entity account for a transfer of cash from its customer?

- 21 When an entity receives a transfer of cash from a customer, it shall assess whether the agreement is within the scope of this Interpretation in accordance with paragraph 6. If it is, the entity shall assess whether the constructed or acquired item of property, plant and equipment meets the definition of an asset in accordance with paragraphs 9 and 10. If the definition of an asset is met, the entity shall recognise the item of property, plant and equipment at its cost in accordance with IAS 16 and shall recognise revenue in accordance with paragraphs 13–20 at the amount of cash received from the customer.

EFFECTIVE DATE AND TRANSITION

- 22 An entity shall apply this Interpretation prospectively to transfers of assets from customers received on or after 1 July 2009. Earlier application is permitted provided the valuations and other information needed to apply the Interpretation to past transfers were obtained at the time those transfers occurred. An entity shall disclose the date from which the Interpretation was applied.
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Appendix

Amendment to IFRS 1

First-time Adoption of International Financial Reporting Standards (as revised in 2008)

A1 In Appendix D paragraph D1 is amended as follows.

D1 An entity may elect to use one or more of the following exemptions:

- (a) share-based payment transactions (paragraphs D2 and D3);
- (m) financial assets or intangible assets accounted for in accordance with IFRIC 12 *Service Concession Arrangements* (paragraph D22);
- (n) borrowing costs (paragraph D23); and
- (o) transfers of assets from customers (paragraph D24).'

A2 After paragraph D23 a heading and paragraph D24 are added.

Transfers of assets from customers

D24 A first-time adopter may apply the transitional provisions set out in paragraph 22 of IFRIC 18 *Transfers of Assets from Customers*. In that paragraph, reference to the effective date shall be interpreted as 1 July 2009 or the date of transition to IFRSs, whichever is later. In addition, a first-time adopter may designate any date before the date of transition to IFRSs and apply IFRIC 18 to all transfers of assets from customers received on or after that date.'
