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Introduction

EU National Enforcers of financial information monitor and review financial statements and consider whether they comply with IFRS and other applicable reporting requirements, including relevant national law.

Operating under the operational CESR group charged with accounting issues, CESR-Fin, EECS is a forum in which all EU National Enforcers of financial information, whether CESR members or not, meet to exchange views and discuss experiences of enforcement of IFRS. A key function of EECS is the analysis and discussion of decisions taken by independent EU National Enforcers in respect of financial statements published by issuers with securities traded on a regulated market and who prepare their financial statements in accordance with IFRS.

EECS is not a decision-making forum. It neither approves nor rejects decisions taken by EU National Enforcers who apply their judgement, knowledge and experience to the particular circumstances of the cases that they consider. Relevant factors may include other areas of national law beyond the accounting requirements. Interested parties should therefore consider carefully the individual circumstances when reading the cases. As IFRS are principles based, there can be no one particular way of dealing with numerous situations which may seem similar but in substance are different. Consistent application of IFRS means consistent with the principles and treatments permitted by the standards.

Decisions taken by Enforcers do not provide generally applicable interpretations of IFRS, which remains the role of the International Financial Reporting Interpretations Committee (IFRIC).

As proposed in CESR Standard No 2 on Financial Information, 'Co-Ordination of Enforcement Activities', CESR has developed a confidential database of enforcement decisions taken by individual EECS members as a source of information to foster appropriate application of IFRS. In response to public comment to the Standard, CESR committed to publish extracts of the database to provide issuers and users of financial statements with similar assistance.

Publication of enforcement decisions will inform market participants about which accounting treatments EU National Enforcers may consider as complying with IFRS; that is, whether the treatments are considered as being within the accepted range of those permitted by the standards or IFRIC interpretations. Such publication, together with the rationale behind these decisions, will contribute to a consistent application of IFRS in the European Union.

Decisions that deal with simple or obvious accounting matters, or oversight of IFRS requirements, will not normally be published, even if they were material breaches leading to sanctions. The selection criteria are based on the above stated objectives, and accordingly, only decisions providing market participants with useful guidance will be published.

On this basis, all cases submitted to the enforcement database are considered as appropriate for publication, unless:

- Similar decisions have already been published by CESR, and publication of a new one would not add any substantial value to the fostering of consistent application;
- The decision deals with a simple accounting issue that, even having been considered a material infringement, does not in itself have any accounting merit;
- There is no consensus in the EECS to support the submitted decision.
- A particular EU National Enforcer, on a grounded and justified basis, believes that the decision should not be published;

CESR will continue publishing further extracts from the database on a regular basis.



Decision ref.EECS/1209-01: Restructuring of financial obligations

Financial year end: 30 September 2008 / Annual Financial Statements

Category of issue: Restructuring of financial obligations

Standard involved: IAS 39

Date of the decision: 2 March 2009

Description of the issuer's accounting treatment

In February 2005, the issuer implemented a comprehensive restructuring of its financial obligations. The restructuring included amending the issuer's principal financing agreements, specifically, the conditions of several long-term borrowings. The effect of the restructuring was to provide new cash resources to the Group, to reduce or defer cash payment obligations and to provide flexibility for investment and development.

On the borrowings, the restructuring mainly consisted of the deferral of principal repayments (by 3 or 5 years) and an increase in the effective interest rates on certain parts of the issuer's debt (euribor +3% instead of euribor +0,84% as it was before the restructuring). At the date of the negotiation (28 February 2005), the renegotiated debts amounted to € 482 million which constituted 25% of the total long-term financial liabilities.

These changes were considered by the issuer to be "substantial modifications of the terms of existing financial liabilities" and therefore, were accounted for as an extinguishment of the original debt and the recognition of new debt in accordance with IAS 39, paragraph 40.

The issuer recognised in profit and loss the difference between the carrying amount of the original debt that was extinguished and the fair value of the new debt. This resulted in a profit of 69 million euro. The issuer also charged profit and loss with 9.7 million euro in issue and renegotiation costs. The issuer recognised the new debt at its fair value on the balance sheet.

After initial recognition, the issuer subsequently measured the new debt at amortised cost using the effective interest method.

The enforcement decision

The enforcer accepted that the accounting treatment adopted complied with IAS 39.

Rationale for the enforcement decision

IAS 39, paragraph 40 provides that an exchange between an existing borrower and lender of debt instruments with substantially different terms should be accounted for as an extinguishment of the original debt and the recognition of a new financial liability. AG 62 states that, for this purpose, terms are substantially different if the discounted present value of the cash flows under the new terms, including any fees paid net of any fees received and discounted using the original effective interest rate, is at least 10 per cent different from the discounted present value of the remaining cash flows of the original financial liability.

The enforcer satisfied itself that the discounted present value of the cash flows under the new terms, using the initial effective interest rate, were indeed more than 10% different from the discounted present value of the remaining cash flows of the original debt. On that basis, the enforcer concluded that the new terms of the debt were substantially different from the initial terms and that paragraph 40 of IAS 39 was applicable.

AG 62 also states that where an exchange of debt instruments is accounted for as an extinguishment, any costs or fees incurred are recognised as part of the gain. The enforcer therefore agreed that the 9.7 million euro costs and fees incurred in the restructuring should be recognised as part of the gain.



Decision ref.EECS/1209-02: Classification of a loan

Financial year end: 31 December 2008 / Interim Financial Statements

Category of issue: Classification of loan

Standard involved: IAS 1

Date of the decision: 23 April 2009

Description of the issuer's accounting treatment

In November 2008, the issuer defaulted on an interest payment on an issued bond loan of USD 100 million. The loan agreement stipulates that such default can lead to an obligation to repay the whole of the loan immediately, including incurred interest and expenses. The bondholders, however, issued a waiver postponing the interest payment until 19 December 2008. On 17 December the issuer summoned a meeting of the bondholders and requested a further waiver of the interest payment to February 5 2009. The extension was granted by the bondholders at a further meeting held on January 6.

The issuer classified the loan as long term debt in its balance sheet at 31 December (issued February 26) on the basis that the loan was not in default at the balance sheet date as the bondholders had issued waivers and had not sought redemption.

The enforcement decision

The enforcer found that the loan should have been classified as short term debt as the issuer did not have an unconditional right to defer payment for at least twelve months after the balance sheet date as required by IAS 1, paragraphs 65 and 66 in order to be classified as short term debt.

Rationale

According to IAS 1 paragraph 60 d a liability should be classified as current if it is due to be settled within twelve months after the balance sheet date. Paragraph 65 clarifies that, if an issuer breaches an undertaking under a long-term loan agreement on or before the balance sheet date, such that the debt becomes payable on demand, the loan is classified as current even if the lender agrees, after the balance sheet date, not to demand payment as a consequence of the breach. It follows from IAS 1 paragraph 66 that a liability should also be classified as current if a waiver is issued before the balance sheet date, but does not give the issuer a period of grace ending at least twelve months after the balance sheet date.

In the enforcer's opinion, the default on the interest payment in November represented a default that could have led to a claim from the bond holders to repay the totality of the loan immediately, inclusive of incurred interest and expenses. As the waiver was issued after the balance sheet date, and only postponed payment for a short period, the issuer did not have an unconditional right to defer the payment for at least twelve months after the balance sheet date as required by the standard in order to be classified as long term debt.

* * *

Decision ref.EECS/1209-03: Presentation of financial instruments

Financial year end: 31 December 2007 / Annual Financial Statements

Category of issue: Presentation of financial instruments

Standard involved: IFRS 7

Date of the decision: 16 October 2008

Description of the issuer's accounting treatment



The issuer is a financial institution with significant US sub- prime related investments classified as available for sale investments.

The issuer's financial statements disclosed how much of the fair value of the available for sale investments was determined, in whole or in part, directly by reference to published price quotations in an active market or was estimated using a valuation technique supported by observable market data or was estimated using a valuation technique supported by non observable market data as required by paragraph 27 of IFRS 7.

In a subsequent analysts' presentation, the issuer presented this same information in respect of its US sub-prime related investments and which was not disclosed in the accounts. The issuer did not consider there to be any requirement to disclose this information on a product basis in the accounts but provided it voluntarily to analysts believing there to be an interest in information that went beyond that required by the specific disclosure requirements of IFRS 7.

The enforcement decision

The enforcer found that the information about the US sub-prime investments disclosed to analysts should also have been presented in the accounts in accordance with paragraph 27(b)(c) of IFRS 7.

Rationale for the enforcement decision

The objective of IFRS 7 is to require disclosures that enable users to evaluate the significance of financial instruments for the entity's financial position and performance and the nature and extent of risks arising from financial instruments to which the entity is exposed.

Although the information required by paragraphs 6 and 27 of IFRS 7 do not specifically require it to be provided on a product basis, it was concluded that, in this case, the additional detail was necessary in order to enable users to evaluate the significance of US sub-prime investments to the issuer's position and performance and to meet the objective of the standard.

* * *

Decision ref.EECS/1209-04: Classification of cash and cash equivalents

Financial year end: 31 March 2008 / Annual Financial Statements

Category of issue: Classification of cash and cash equivalents

Standard involved: IAS 7

Date of the decision: 31 March 2008

Description of the issuer's accounting treatment

The issuer, a private equity and venture capital provider, presented in its 2008 accounts an amount of 538 million euro as cash and cash equivalents on the face of its balance sheet as required by IAS 1, paragraph 68. The accounting policies stated that, in accordance with paragraph 108 of the standard, cash and cash equivalents comprised cash on hand, cash with banks and short-term deposits, explaining that cash and cash equivalents were carried at nominal value but that the carrying amounts approximated their fair value, given their short-term nature.

The notes to the accounts on the other hand, disclosed an analysis of the 538 million MU as marketable securities and other instruments of 456 million euro, short-term bank deposits of 18 million MU and cash and other cash equivalents of 64 million MU. The note explained that the marketable securities were invested in "immediately realizable instruments like bonds, CDOs and investment funds".



The enforcement decision

The enforcer concluded that, contrary to its stated accounting policy, the amounts included in cash and cash equivalents on the issuer's balance sheet comprised amounts, the nature of which did not satisfy the definition of cash and cash equivalents as set out in IAS 7.

Rationale for the enforcement decision

IAS 7, paragraph 6, defines cash as cash on hand and demand deposits and cash equivalents as short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

The enforcer noted that the 538 million euro reported on the face of the balance sheet comprised certain investments that do not meet this definition. Contrary to the stated accounting policies, the financial statements showed that significant value reductions were booked through profit and loss in respect of certain investments included in cash and cash equivalents, for example, the CDOs. It also appeared to the enforcer that some of the investments were neither short-term nor liquid.

* * *

Decision ref.EECS/1209-05: Revenue recognition

Financial year end: 31 December 2007 / Annual Financial Statements

Category of issue: Revenue recognition

Standard involved: IAS 18

Date of the decision: 23 December 2008

Description of the issuer's accounting treatment

The issuer designs, realises and manages business solutions and IT infrastructures.

The issuer enters into contracts with both customers and suppliers. The supplier produces bug fixes and provides new releases and updates. Client complaints and requests are channelled through the issuer's service department which has a maintenance contract with the customer. The terms of the contract support accruals accounting by the issuer.

Up to and including 2006, the issuer recognised revenue (and related costs) on standard software maintenance contracts when the customer was invoiced, which was at the beginning of the contract period. As of 2007, the issuer recognised revenue (and the related costs) on a straight-line basis over the contract term, presenting the change as a change in an accounting estimate.

As a result, revenue and cost of sales were adjusted by 1.8 million euro and 1.2 million euro respectively in the third quarter of 2007, reducing that year's profits by some 600,000 euro.

The enforcement decision

The enforcer found that the change in accounting treatment should have been presented as a correction of an error in accordance with IAS 8, as the previous policy applied was not in accordance with paragraph 20 of IAS 18, 'Revenue' which requires revenue arising from transactions involving the rendering of services to be recognised with reference to the stage of completion at the balance sheet date.

Rationale for the enforcement decision

The enforcer did not agree that the change in accounting treatment fell to be accounted for as a change in estimate. According to IAS 8 paragraph 5 changes in an accounting estimate result from



changes in circumstances, new information or more experience and which was not the case in this instance.

The issuer's explanation for the treatment was as follows.

Midway through December 2006, the issuer had acquired company X which recognised revenue derived from a similar type of maintenance contract as the issuer on a straight line basis over the term of the contract.

The issuer considered both policies to comply with the requirements of IAS 18, paragraph 20 but, on advice, and in response to analyst comment, it decided to adopt the practice of entity X for the group. Without offering any further explanation, the issuer concluded that the two recognition methodologies did not, in substance, represents two different accounting policies and did not, therefore, consider adoption of the new practice to be a change in policy.

The issuer presented the change as a change in accounting estimate as, in its view, its previous policy complied with the standard and did not breach any of its requirements..

IAS 18 paragraph 20, requires that revenue associated with the rendering of a service should be recognised by reference to the stage of completion of the transaction at the end of the reporting period, providing that the outcome of the transaction can be estimated reliably. IAS 18 paragraph 26 states that, when the outcome cannot be estimated reliably, revenue should be recognised only to the extent that expenses are recoverable.

The enforcer concluded that, given that the maintenance contract with the customer involved the rendering of services over a period, the previous policy applied of recognising revenue on invoice at the commencement of the contract did not comply with IAS 18. The subsequent change in policy to one which recognised revenue over the contract term, therefore, was the correction of an error rather than a change in estimate and should have been presented as such in accordance with IAS 8 and been effected retrospectively.

* * *

Decision ref.EECS/1209-06: Customer loyalty programme

Financial year end: 31 March 2009 / Annual Financial Statements

Category of issue: Customer loyalty programme

Standard involved : IFRIC 13

Date of the decision: 28 August 2009

Description of the issuer's accounting treatment

The issuer, an airline, operates a customer loyalty programme in which members are granted "loyalty points" when they buy airline tickets. Members can redeem the points for air travel or other services with the issuer or with its partner companies participating in the programme and which include certain airline companies, credit card companies, hotel chains and car rental companies.

In its previous financial statements, the accounting treatment for these points had been as follows:

- The estimated value of all the points outstanding was calculated as the estimated value of a point multiplied by the number of points granted, not yet redeemed;
- The estimated value of a point was not the fair value but was an estimate based on the specific terms and conditions of the programme;



- The estimated value of all the points was recognised as a deduction against revenue (not as an expense) and recognised as a liability on the balance sheet and described as ‘deferred revenue’; and
- The revenue for these points was recognised when the points were redeemed.

Up to 31 March 2008, the value of a point had been calculated as a weighted average of three components. First, a component reflecting those points which were going to be redeemed with the issuer: the value of this component was based on the discounted incremental cost of the passenger carried (e.g. catering, ticket issue costs, etc). Second, a component reflecting those points which were going to be redeemed with a partner: the value of the component was based on the billing from the issuer’s partners in the programme. Finally a component reflecting those points which were never going to be redeemed and to which no value was attributed.

The weighting of each component was based on the issuer’s historic data of how the points had been redeemed in practice.

The issuer chose to apply IFRIC 13 as of 1st April 2008. The main impact for the issuer was that the points now had to be measured at their fair value.

The issuer retained the same 3 components but changed the method used to measure the component reflecting those points which will be redeemed with the issuer to fair value, the fair value being based on the “average” fare of the issuer. The extra cost for fuel is excluded as the client usually pays for this extra charge.

The enforcement decision

The enforcer found that the accounting treatment adopted by the issuer complied with the requirements of IFRIC 13, specifically, that the points were accounted for at their fair value.

Rationale for the enforcement decision

IFRIC 13 is effective for annual reporting periods beginning on or after 1 January 2009, although early application is permitted.

Paragraph 6 of the IFRIC requires that the consideration allocated to the award credits is measured by reference to their fair value, i.e. the amount for which the award credits could be sold separately. Paragraph AG 2 clarifies that the fair value of the points should be reduced to take account of the proportion of awards that are not expected to be redeemed.

* * *

Decision ref.EECS/1209-07: Segmental reporting

Financial year end: 30 June 2008 / Annual Financial Statements

Category of issue: Segmental reporting

Standard involved: IFRS 8

Date of the decision: 25 September 2008

Description of the issuer’s accounting treatment

The issuer, whose shares are listed and traded on an unregulated market, early applied IFRS 8 ‘Operating Segments’ in its December 2007 financial statements as part of its transition to IFRS.

The accounts did not disclose certain information required by IFRS 8, on the grounds of commercial sensitivity. The omitted information included the segmental analysis of revenues from external customers; the operating segments responsible for revenue from major customers, and the measure of profit or loss reported to the chief operating decision maker.



The auditors' opinion was qualified on the basis of disagreement in relation to non-compliance with IFRS 8.

The enforcement decision

The enforcer found that the accounts did not comply in all respects with the requirements of IFRS 8.

Rationale for the enforcement decision

When challenged, the issuer argued that making the specific disclosures required by IFRS 8 might affect its competitive position.

The enforcer noted that IFRS 8 does not provide for a 'competitive harm' exemption. Paragraph 44 of the Basis for Conclusions for the standard explains that the IASB concluded that such an exemption would be inappropriate because it would provide a means for broad non-compliance with the IFRS.

* * *

Decision ref.EECS/1209-08: Provisions and contingent liabilities

Financial year end: 31 December 2007 / Annual Financial Statements

Category of issue: Provisions and contingent liabilities

Standard involved: IAS 37

Date of the decision: 28 April 2008

Description of the issuer's accounting treatment

The issuer builds, develops and manages airports.

In July 2007, the National Council of State, responding to a request submitted by several airlines, cancelled the issuer's tariff decisions for 2006 (the period from May 2006 to March 2007) applicable to airport fees, on the grounds that not all of the procedural rules had been complied with. For the same reason, the airlines also submitted another motion to the Council of State in April 2007 calling for the cancellation of the 2007 airport fees for the period from April 2007 to March 2008.

Drawing from the conclusions of the July 2007 ruling on the 2006 tariff procedure, the issuer issued a new 2006 tariff procedure and, as a precautionary measure, as the Council had not yet ruled on the second motion, a new 2007 tariff procedure. The government approved both the new 2006 and 2007 tariffs with retrospective effect and which were, in fact, at the same level as those originally proposed.

The issuer interpreted the Council ruling to mean that it did not question the tariffs as such - but rather the procedure by which they had originally been determined. Most notably, the Council had not required the issuer to reimburse any of the sums it had received under the original tariff.

Air transport operators nevertheless lodged appeals with the Commercial Court in January 2008 for reimbursement of a portion of the amounts they had paid in 2006 and 2007 as they felt these were not justified in view of the decision by the Council of State. The sum of the appeals amounted to less than 3 MU at the date of publication of the 2007 financial statements (0.04% of the total assets). In the course of 2008, the Council of State rejected the appeals of the transport operators.

The enforcer noted that the issuer had not registered a provision in respect of this matter in its 2007 financial statements nor referred to any contingent liability on the basis that it did not consider the conditions for recognising a contingent liability to have been met, particularly those set out in paragraphs 14 and 28 of IAS 37.



The enforcement decision

The enforcer accepted the accounting treatment of the issuer, namely that no provision was necessary and that no contingent liability need be disclosed.

Rationale for the enforcement decision

The enforcer considered carefully the conditions set out in IAS 37 relating to the recognition of a provision (paragraph 14) and those regarding the reporting of contingent liabilities (paragraphs 28 and 86).

At the date of the publication of the financial statements, there was no present obligation as a result of a past event which would be required to support the recognition of a provision as no decision had been made by the Council of State that the issuer should reimburse all or even part of the fees.

It was not probable that an outflow of resources would be required, as referred to in paragraph 14.b since the Government approved both the 2006 and 2007 fees. There was, therefore, no reliable estimate of the amount that may have to be paid by the issuer, indeed, if any were to be required at all (paragraph 14.c).

For the same reasons, the issuer and the enforcer were both of the opinion that there was no cause for the issuer to disclose a contingent liability as the outflow of resources, if any, was still very remote (paragraph 28).

* * *

Decision ref.EECS/1209-09: Correction of an error

Financial year end: 31 December 2007 / Annual Financial Statements

Category of issue: correction of an error

Standard involved: IAS 8

Date of the decision: 2 February 2009

Description of the issuer's accounting treatment

Based on its review of the issuer's 2006 annual accounts the enforcer concluded that the consolidated cash flow statement did not comply with IAS 7 in all material respects. The issuer made a public announcement to this effect in November 2007.

In its 2007 annual accounts, the issuer included the corrected 2006 consolidated cash flow figures as the comparative numbers to the 2007 consolidated cash flow statement. The 2007 accounts did not, however, include any reference to the fact that the comparative numbers accompanying the 2007 cash flow statement had been corrected.

The enforcement decision

The enforcer concluded that the changes to the comparative figures were material errors and should have been adjusted in accordance with IAS 8, paragraph 42 and supported by the relevant disclosures and which would have included disclosure of the nature of the prior period errors.

Rationale

The enforcer did not accept the issuer's argument that the corrections to the 2006 cash flow statement had been adequately communicated to the market through its announcement in November 2007 and that no further disclosures were necessary in the 2007 accounts.

IAS 1, paragraphs 14 and 15 state that in virtually all circumstances a fair presentation is achieved by compliance with applicable IFRSs. The fact that relevant information has already been



communicated to the market does not release an issuer from the obligation to apply IFRS standards when preparing its annual accounts. A press announcement cannot stand in the place of information that is required to be disclosed, and audited, within a set of annual financial statements.

* * *

Decision ref.EECS/1209-10: Half-yearly consolidated cash flow statement

Financial year end: 30 April 2008 / Interim Financial Statements

Category of issue: Half-yearly consolidated cash-flow statement

Standard involved: IAS 34

Date of the decision: 19 June 2009

Description of the issuer's accounting treatment

The issuer's half-yearly consolidated condensed cash flow statement did not include all of the headings and subtotals that were included in its prior year annual cash flow statement. Specifically, the headings 'Cash flows from operating activities' and 'Changes in operating assets and liabilities' were omitted, together with their constituent components. There was, however, a sub-total for 'Net cash flows from operating activities'. Moreover, in the absence of those headings, no note was provided explaining either the nature or amounts comprising the cash flows from operating activities.

The enforcement decision

The enforcer concluded that the issuer had failed to comply with IAS 34, paragraph 10 as the headings and subtotals 'cash flows from operating activities' and 'changes in operating assets and liabilities', were omitted from the group condensed cash flow statement.

Rationale for the enforcement decision

Paragraph 10 of IAS 7 states that 'the cash flow statement shall report cash flows during the period classified by operating, investing and financing activities'. Since the issuer's cash flow statement was entitled a 'condensed cash flow statement' and included subtotals on operating, investing and financing activities, the issuer argued that it met the minimum requirements of IAS 7.

The enforcer considered the argument that since IAS 34 does not define what constitutes a 'condensed cash flow statement', that it could have less information than a complete cash flow statement, although the minimum requirements of IAS 7 should be applied.

IAS 34, paragraph 10, however, requires that condensed financial statements should include, at a minimum, each of the headings and subtotals that were included in the entity's most recent annual financial statements and concluded that the issuer did not comply in this respect.

* * *

Decision ref.EECS/1209-11: Related party disclosures

Financial year end: 31 December 2007 / Annual Financial Statements

Category of issue: related party disclosures

Standard involved: IAS 24

Date of the decision: 19 August 2008



Description of the issuer's accounting treatment

The issuer has a two-tier board structure consisting of a management board and a supervisory board.

From the parent company accounts and directors' report it appears that the issuer remunerates its board members as follows:

- Annual base salary
- Variable annual compensation (bonus)
- Share options

In the consolidated accounts, within the related parties note, the issuer disclosed the total remuneration paid to directors and non - executive directors and a total for these two groups. No further breakdown of the remuneration was provided.

The management board comprises both the executive and non-executive directors. The remuneration of the supervisory directors however, was not included in the key management disclosures.

The enforcement decision

The enforcer found that the exclusion of the remuneration of the supervisory board from key management personnel disclosures did not comply with the requirements of IAS 24, paragraph 9 which defines key management personnel as those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

The enforcer also concluded that the issuer did not comply with paragraph 16 of the standard which requires key management personnel remuneration to be analysed by category.

Rationale

Some members of the supervisory and management boards are of a particular EU nationality. The issuer was of the opinion that in that jurisdiction, it is not accepted to provide information about remuneration that could be traced back to individuals. Consequently, the issuer explained that he had provided the information in the annual accounts in an ambiguous way to prevent users of the financial statements from tracing remuneration information to specific individuals. The enforcer did not accept this explanation.

IAS 24, paragraph 16 states that an entity should disclose key management personnel compensation in total and for each of the following categories:

- (a) short-term employee benefits;
- (b) post-employment benefits;
- (c) other long-term benefits;
- (d) termination benefits; and
- (e) share-based payment.

By not providing an analysis of the total remuneration into the categories prescribed by the standard, the disclosure of key management personnel did not comply with the requirements of IAS 24.

* * *



Decision ref.EECS/1209-12: Provisional purchase price allocation of a business combination

Financial year end: 31 December 2008 / Interim Financial Statements

Category of issue: Provisional purchase price allocation of a business combination

Standard involved: IFRS 3

Date of the decision: 15 December 2008

Description of the issuer's accounting treatment

The issuer is an alternative provider of electricity and gas and is quoted on an unregulated market. In June 2007 the issuer acquired an entity which develops wind energy projects. As at 31 December 2007 the purchase price allocation (PPA) was not completely finalised and the issuer booked goodwill of 12 million MU on a provisional basis. No explanation was provided in the notes to the financial statements about why the PPA was provisional nor the nature of the information required in order to finalise it.

During the first half of 2008, the issuer finalised the fair values of the acquiree's identifiable assets and liabilities, in particular the fair value of internally generated intangible assets. Consequently, in its half-yearly financial statement to 30 June 2008, it booked an adjustment which resulted in negative goodwill and a gain in the income statement of 7 million MU.

Sometime after the publication of its half-yearly financial statements, the issuer realised that it made an error and that the negative goodwill of 7 million MU should not have been booked as a gain in 2008 but should have been booked retrospectively at the date of acquisition (June 2007), in accordance with IFRS 3, paragraph 62.

The enforcement decision

The enforcer agreed with the issuer that there was an error which should be corrected.

Rationale for the enforcement decision

IFRS 3 paragraph 62 states that, in respect of business combinations, "the acquirer shall recognise any adjustments to the provisional values as a result of completing the initial accounting (a) within 12 months of the acquisition date and (b) from the acquisition date". As a consequence, the negative goodwill of 7 million MU should not have been booked as a gain in the first half of 2008 but adjusted retrospectively at the date of acquisition, namely June 2007.

* * *

Decision ref.EECS/1209-13: Purchase price allocation of a business acquisition

Financial year end: 31 December 2006 / Annual Financial Statements

Category of issue: Purchase price allocation of a business acquisition

Standard involved: IFRS 3

Date of the decision: 13 January 2009

Description of the issuer's accounting treatment

The issuer had acquired several international oil service companies in recent years leading to goodwill of over 1.1 billion MU as at 30th of June 2007, representing approximately 36 % of the issuer's total assets. None of the acquired companies had many fixed assets. The issuer stated that the acquisitions had been made because of human capital and the opportunity for synergies and



cross-selling opportunities.

Company A was acquired on 1st of June 2006, at a cost of 152.7k. Company B was acquired on the 1st of July 2006 at a cost of 342.5k.

The issuer explained the general principles and methodologies it applied when allocating the cost of its business combinations to the assets and liabilities acquired. The issuer estimated the fair value of the assets based on what it was prepared to pay for them. The issuer further clarified that what it was willing to pay was influenced by its future plans for the businesses.

The issuer described how these general principles were applied to the acquisition of companies A and B as follows: Company A had contract-based customer relationships with well-known domestic and international companies and some oil companies from the former Soviet Union at the acquisition date. Company B similarly had customer relationships with international oil companies. The issuer had estimated the fair value of all of these customer relationships to be zero because the issuer already enjoyed relationships with the majority of those customers.

Of the consideration given for the acquisitions, 9% and 14% respectively was allocated to other intangible assets that could be recognised separately from goodwill, being, in the main, development assets in company A and customer contracts, internally developed software and a database in company B.

The enforcement decision

The enforcer found that the issuer's allocation of the cost of acquisition of companies A and B was not based on "fair value" as defined in IAS 38, paragraph 40 or IFRS 3 paragraph B16g. Further, the enforcer concluded that application of fair value in accordance with IFRS would result in the identification and allocation of the cost of the business combinations to other types of intangible assets in addition to those recognised by the issuer.

Rationale for the enforcement decision

IFRS 3, paragraph 36 requires an acquirer to allocate the cost of a business combination by recognising the acquiree's identifiable assets, liabilities and contingent liabilities that satisfy the recognition criteria at their fair values at the date of acquisition, in accordance with paragraph 37 of the standard.

The fair value of intangible assets that are not traded in an active market is determined at the amount that would be paid for the assets in an arms length transaction between knowledgeable and willing parties, based on the best information available, as required by paragraph B16g of IFRS 3. The fair value is not an amount that is specific to the acquirer, nor should it take into account the acquirer's intentions for the future of the acquired business.

Based on the information provided by the issuer, the enforcer concluded that the cost of business combinations A and B had been allocated to assets based on the value that they had for the issuer specifically at the date of acquisition and which was not, therefore in compliance with IFRS.

Both companies had identifiable contract-based customer relationships in terms of contracts and framework agreements at the date of acquisition and which were therefore identifiable in accordance with IAS 38, paragraph 12b.

To be recognised separately, the identifiable assets, liabilities and contingent liabilities have to satisfy the probability and reliable measurement criteria of IFRS 3. For intangible assets acquired in business combinations the probability recognition criterion is always considered to be satisfied, as explained in paragraph 33. Furthermore, IAS 38, paragraph 35 states that the fair value of intangible assets acquired in business combinations can normally be measured sufficiently reliably to be recognised separately from goodwill.



The enforcer therefore concluded that a part of the cost of the business combinations of companies A and B should be allocated to customer relationships, assuming there to be a positive value at the date of acquisition and notwithstanding the fact that many of the customers were already known to the issuer.

Further, the enforcer concluded that the fair value of the customer relationships could not be based on the lack of the issuer's willingness to pay but, rather, should reflect what another well-informed buyer without previous customer relationships with these customers would be willing to pay for those assets.

* * *

Decision ref.EECS/1209-14: Business combination under common control

Financial year end: 31 December 2008 / Annual Financial Statements / Pre-Clearance

Category of issue: Business combination under common control

Standard involved: IAS 8

Date of the decision: 13 June 2008

Description of the issuer's accounting treatment

The issuer is a significant industrial and services group.

Step 1: Spin-out

In 2008, the issuer reorganized certain of its subsidiaries. It decided to transfer to a separate legal entity (entity B) all of its water and waste treatment activities (the "spin-out"). In exchange, the issuer received 100% of the shares and voting rights of entity B.

Step 2: Distribution

Immediately after the spin-out, the issuer distributed - and thus admitted to trading - 65% of the shares of entity B to its own shareholders, in proportion to their holdings in the issuer's capital (the "distribution").

After the distribution, the issuer still owned 35% of entity B and, according to a shareholders' agreement signed by other institutional investors, it still controlled entity B.

As the companies and activities transferred to entity B were under common control, as defined in paragraph 3 of IFRS 3, the issuer was not required to apply that standard to its accounting for the business combination. The issuer followed the requirements of IAS 8 and decided, in accordance with paragraphs 8-10, to apply the pooling of interests method to the combination.

As the issuer still controlled entity B after the distribution, it decided to recognise the impact of the distribution of the shares at net book value and against equity. As at 30 June 2008, equity therefore decreased by 2.3 billion MU (with a proportionate increase in minority interest).

The enforcement decision

The enforcer accepted the issuer's proposed accounting treatment.

Rationale for the enforcement decision

In the absence of a specific standard prescribing how to account for a business combination under common control, the enforcer considered that the application of the pooling of interests method was acceptable. Given that the issuer controlled entity B both before and after the whole transaction, the



enforcer accepted the reclassification, at net book value, of the 65% of shares of entity B which were subsequently distributed.

IAS 27 (revised 2008), paragraph 30, clearly states that “Changes in a parent’s ownership interest in a subsidiary that do not result in a loss of control are accounted for as equity transactions...” In addition, paragraph BC41 also specifies that “... no gain or loss from these changes should be recognised in profit or loss. It also means that no change in the carrying amounts of the subsidiary’s assets (including goodwill) should be recognised as a result of such changes.”

* * *

Decision ref.EECS/1209-15: Identification of the acquirer in a business combination

Financial year end: 31 December 2008 / Annual Financial Statements / Pre-Clearance

Category of issue: Identification of the acquirer in a business combination

Standard involved: IFRS 3

Date of the decision: 5 September 2008

Description of the issuer’s accounting treatment

The issuer and entity A, a non-listed company, entered into a business combination in September 2008. The issuer acquired 100% of the shares and voting rights of entity A by issuing around 100 million new shares. According to the purchase agreement, the issuer is the legal acquirer.

Before the transaction, the issuer’s capital was distributed as follows:

- Entity B: 46% of the voting rights
- Public: 54% of the voting rights

100% of the shares of entity A were owned by entity C.

Prior to the transaction, there was no link between the issuer and entity C and the fair value of entity A was significantly greater than the fair value of the issuer.

After the transaction, the issuer’s capital was distributed as follows:

- Entity B: 17% of the voting rights
- Public: 20% of the voting rights
- Entity C: 63% of the voting rights

Under the terms of the agreement:

- The board of directors of the issuer comprises the Chairman and 10 other members; 5 members are appointed by entity B and 5 members by entity C;
- The Chairman is appointed by entity B;
- The Board strives to make decisions unanimously but if this cannot be achieved it can decide on the basis of simple majority.
- The 5 board members appointed by entity C have a right of veto on certain important decisions, specifically, the annual budget and variances from it above 20%, the appointment and dismissal of the auditor, payment of any exceptional distribution, the merger or acquisition of a business, acquisition of assets or participations of a value of more than 30% of the market capitalisation of the group;
- A CEO and a vice-CEO, both with the same management responsibilities and with the same power to bind the company, are appointed by the issuer on an annual basis; and
- The agreement will remain effective and in force until 31 December 2011. It will terminate if either entity B or entity C ceases to hold any securities or pursuant to an agreement in writing between all the parties concerned.



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The issuer was of the opinion that it is the acquirer in this transaction, because, in accordance with IFRS 3, paragraph 19b, it has the power to govern the financial and operating policies of entity A by agreement, as it appoints the majority of the Board.

The enforcement decision

The enforcer did not support the issuer's opinion. According to the enforcer, the transaction is a reverse acquisition and, in accordance with IFRS 3, paragraph 21, entity A should be considered the acquirer.

Rationale for the enforcement decision

IFRS 3 requires an acquirer to be identified in all business combinations; the acquirer being the entity that obtains control of the other combining entity. Guidance on how to determine the acquirer is provided in paragraphs 19 to 21 of the standard.

IFRS 3, paragraph 21 states that "...all pertinent facts and circumstances shall be considered to determine which of the combining entities has the power to govern the financial and operating policies of the other entity (or entities) so as to obtain benefits from its (or their) activities."

Control is defined as the power to govern the operating and financial policies of an entity or business so as to obtain benefits from its activities. There is a presumption that an entity achieves control over another entity when it acquires more than one half of the voting rights, unless it can be demonstrated that such ownership does not constitute control.

There is a strong presumption that the former shareholders of entity A (entity C) have obtained control since, in terms of voting rights, their stake amounts to 63% after the transaction.

The enforcer considered very carefully the full guidance provided by the standard on how to identify the acquirer, taking account of all the specific facts and circumstances of the case.

Paragraph 19 of the standard considers circumstances where a combining entity might obtain control over another even if it does not acquire more than one half of the voting rights. With a view to this guidance, the enforcer concluded that:

- Entity C owns more than half of the voting rights of the combined entity.
- Contrary to the issuer, the enforcer did not think it clear whether the issuer had the power to govern the financial and operating policies of entity A either by law or agreement (paragraph 19b)
- The composition of the Board does not give the issuer (or its former shareholders) the power to govern the financial and operating policies given that the board members appointed by Entity C have a right of veto on major decisions.
- In theory, according to the agreement, the issuer (and its former shareholders) has the power to appoint or remove the majority of the members of the board or equivalent governing body of the combined entity (paragraph 19c). Entity B appoints 5 out of the 10 board members and the Board Chair is appointed by the issuer. According to the agreement, however, decisions are, where possible, taken unanimously. Therefore, in practice, these board members do not have the power to govern the financial and operating policies of the combined entity.
- In theory, according to the agreement, the issuer (and its former shareholders) has the power to cast the majority of votes at meetings of the board of directors or equivalent governing body of the other entity (paragraph 19d). Again, according to the agreement, however, decisions are, if possible, taken unanimously and the Board members appointed by entity C have a right of veto on major decisions.

Taking account of all the facts and circumstances, the enforcer was of the view that the transaction was a reverse acquisition and that entity A, the private entity, was the acquirer having entered into the transaction to obtain a stock exchange listing. The business combination, therefore, is a reverse



acquisition as described in paragraph 21 of IFRS 3.

In coming to its decision, the enforcer also considered the criteria set out in IFRS 3, paragraph 20, which sets out, by way of example, certain factors that might help in determining the identify of the acquirer. Specifically, it noted that the fair value of A was significantly greater than the fair value of the issuer and, therefore, that entity A was likely to be the acquirer. Paragraph 20b was not applicable as neither cash nor assets had been given up in the business combination and paragraph 20c did not apply because, although entity B appoints 5 out of the 10 Board Members, the 5 appointed by entity C have the right of veto on major decisions.

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Decision ref.EECS/1209-16: Identifying the acquirer in a business combination

Financial year end: 31 December 2009 / Prospectus

Category of issue involved: Identification of the acquirer in a business combination

Standard involved: IFRS 3

Date of the decision: 10 February 2009

Description of the issuer's accounting treatment

Three parties, (group B, financier C and entity D) entered into an arrangement concerning a listed company, the issuer. The purpose of the arrangement was to refinance the issuer by transferring control to group B and forming a new combined entity with an improved business concept.

The financial position of the issuer before the transaction was very weak and, without refinancing, it would not have been able to continue as a going concern as its business was nearing the end of its life cycle.

Group B, a private group with various businesses, had no ownership interest in the issuer prior to the arrangement. C, the main financier of the issuer had an ownership interest and a significant amount of its convertible bonds. For C, the arrangement presented a way of exiting its investment at an acceptable price. Entity D, a small private entity, owned 25 % of the issuer prior to the arrangement and operated as one of its subcontractors. The arrangement offered D a way of adding value to its investment and of enabling it to continue doing business with the issuer, one of its main clients.

The issuer's ownership interests before and after the arrangement are summarized as follows:

	Group B	Financier C	Entity D	Other Shareholders
BEFORE	0%	5%	25%	70%
AFTER	63%	0%	10%	27%

The arrangement consisted of several phases that were contingent on each other and which were carried out within a very short time frame of each other.

In the first phase, group B gained control of the issuer by purchasing 11% shares from some institutional shareholders and by agreement with C and D who acted on its behalf at the general meeting, supporting the board nominees and other proposals of group B.

Immediately after the new board was nominated, the issuer acquired a small business of group B



(entity B), as part of the overall agreement. The aim of the acquisition was to improve the business concept of the issuer by combining its existing business with that of entity B, which was significantly smaller than the issuer. The acquisition cost was financed by a loan from group B.

In the final phase of the arrangement, Group B acquired the majority of the share capital of the issuer by purchasing shares from C who first converted all its convertible bonds to shares of the issuer and making an offer to all remaining shareholders of the issuer to purchase their shares. With the exception of the bond conversion, no new shares were issued.

The issuer intended accounting for the acquisition of entity B as a transaction under common control on the basis that, in its view, entity B and the issuer were under common control immediately before the acquisition of entity B and which control was not intended to be transitory post the transaction.

The enforcement decision

The enforcer concluded that the transaction was not to be accounted for as one under common control as it did not meet the definition criteria of IFRS 3. Paragraph 10 of the standard defines a common control transaction as one in which all of the combining entities are controlled by the same party or parties both before and after that business combination and control is not transitory. IFRIC Update (March 2006) clarified that common control is not transitory when the combining entities or businesses have been under common control for a period before the combination.

As the transaction did not satisfy the definition of a common control transaction, the arrangement fell to be accounted for as a business combination within the scope of IFRS 3 applying the purchase method.

Rationale for the enforcement decision

Whether the phases of the overall arrangement were to be treated as a single, or as separate transactions - was critical to determining the accounting treatment.

The overall arrangement was negotiated as one transaction consisting of several phases designed to achieve an overall commercial effect: that is, to combine the businesses of the issuer and entity B and transfer the control of the issuer to Group B. The separate phases of the arrangement would not have been justified economically on their own: the issuer would not have been able to acquire entity B without the financing from Group B and Group B would not have sold one of its businesses (entity B) to the issuer without gaining control over the issuer and being able to improve its business concept. Therefore, the enforcer concluded that the phases of the transaction were to be treated as linked and as a single transaction.

Since the requirements of IFRS 3 for a common control transaction require the entities to be controlled by the same party both before and after the transaction, the criteria were not fulfilled by the arrangement because the issuer and entity B were not controlled by the same party before the arrangement.

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Decision ref.EECS/1209-17: Collective assessment for impairment of loans

Financial year end: 31 December 2007

Category of issue: Collective assessment for impairment of loans

Standard involved: IAS 39

Date of decision: 24 April 2008

Introduction

The decision deals with a bank's collective assessment of loans and consists of a number of sub decisions, each dealing with different aspects of the assessment. Each sub decision is dealt with separately (a description, the enforcement decision and the rationale for the decision).

a) Calculation of collective impairment is based solely on customers with low credit quality

Description

For business customers with loans exceeding 100.000 MU the bank's collective impairment assessment which was based on a rating model was only based on customers with very low credit quality. According to the bank, customers with better ratings were not taken into account as these customers were expected most likely to be able to service their loans and would not, therefore, impact on the collective impairment calculated when customers migrate from their initial rating classes at recognition to poorer rating classes.

Decision

The enforcer did not accept this aspect of the bank's approach.

Rationale for the decision

According to IAS 39, paragraph AG 85, the process for estimating impairment should consider all credit exposures, not simply those of a poor quality. All downward migrations from one credit grade to another should be considered, not only those reflecting a severe deterioration in credit.

b) No explicit adjustment of Basel II parameters

Description

The bank used a rating model based on Basel II parameters ($PD \times LGD \times AE = EL$, where PD is probability of default, LGD is loss given default, AE is actual exposure and EL is expected loss). These parameters used for capital adequacy purposes were not adjusted for financial reporting purposes although the bank claimed that the differences were taken into account when making an overall management judgement at the end of the process.

Decision

The accounting treatment was not accepted by the enforcer.

Rationale for the decision

There are many differences between a Basel II calculation of expected losses and the calculation of collective impairment according to IFRS which is based on incurred losses (IAS 39, paragraph .63). PD in a Basel calculation is based on a 12 month time horizon whereas IFRS requires impairment losses to be based on the remaining lives of the loans, that is, the total future cash flow, in accordance with IAS 39, paragraph AG 92. EL in a Basel calculation is based on expected losses also taking into account loss events that are expected to occur within the next 12 months whereas IFRS is based solely on incurred loss events. LGD in a Basel calculation is based on a through-the-cycle approach where a downturn has to be taken into account whereas IFRS adopts a point-in-time approach, pursuant to paragraph AG 89.



Given these differences, Basel parameters cannot be applied for financial reporting purposes without adjustment and there was no convincing evidence that this was done when management applied its judgement at the end of the process.

c) Inadequate consideration for loss identification period (LIP)

Description

An important element of calculating impairment losses is assessing LIP. This period is defined as the period from when a loss event incurs to when it is identified as an individual impairment. The bank assumed that LIP cannot exceed 12 months as all business exposures are renegotiated at least once a year.

Decision

The enforcer did not accept the bank's assumption.

Rationale for the decision

Only during LIP will a loss event have an impact on collective impairment. After that period, impairment is identified individually. The condition for using a maximum LIP period of 12 months is that all losses have been identified at individual level by then, cf. IAS 39. AG 88 which says that collective impairment losses is an interim step pending individual impairment losses.

The bank was not able to produce convincing evidence that all loss events are known merely because the loans are renegotiated at least annually. The bank's assumption was thus not supported by experience as required by paragraph AG 89. The enforcer found that it is most likely that LIP varies depending on customer type and type of loss event and concluded that this level of variation should be taken into account.

d) Collective impairment is not based solely on the decrease in expected future cash flows since initial recognition

Description

By using the Basel parameters for the assessment, expected future cash flows included also the initial losses expected as these are not deducted for the capital adequacy calculation.

Decision

The enforcer did not accept this aspect of the bank's calculation of impairment losses.

Rationale for the decision

Pursuant to IAS 39, paragraph 59 impairment losses are only incurred when loss events have occurred after initial recognition, implying that recognition of impairment at initial recognition is not possible, also as in AG 92. By including the initial expected losses the bank's approach was not in accordance with that required by the standard.

e) Systematic override of the calculation based on the model

Description

In addition to the calculation based on the model as described above the bank also calculated a "maximum loss interval" based on a PD=1. The bank then determined the losses to recognise at an amount falling between the interval and the result provided by the model but at a level that was systematically much higher than that calculated using the bank's own rating model.

Decision

The enforcer concluded that this aspect of the bank's approach was not in accordance with IAS 39.

Rationale for the decision

According to IAS 39, paragraph AG89, future cash flows should be based on historical loss experience and which is reflected in the rating model used by the bank. However, by systematically overriding the model result by applying management judgement and determining losses which are much higher than those derived from the model, the bank disregarded its own loss experiences.

f) Management judgement includes loss events already considered by the model**Description**

When applying management judgement, the bank took into consideration a number of loss events that had occurred in the last 1-2 years.

Decision

The enforcer did not find this accounting treatment appropriate on the basis that it appeared to lead to double-counting.

Rationale for the decision

As the bank rated its business customers on a quarterly basis, it could be assumed that a number of the loss events which had occurred within the last 1-2 years already had affected customer ratings.

g) The collective assessment of a group is not based on the group's own characteristics**Description**

For business customers with loans below 100.000 MU, the bank used the same loss percentages as those calculated for customers with more substantial loans, with an adjustment factor to reflect an additional administrative overhead and the fact that less is known about the financial situation of these customers. The bank argued that the smaller business customers are undoubtedly affected by the same loss events as the larger business customers. The bank argued that the additional administrative overhead was justified by the fact that case officers dealing with smaller customers are responsible for more customers than those dealing with larger customers.

Decision

The enforcer found that this aspect of the banks' approach was not in accordance with IAS 39, paragraph AG 89.

Rationale for the decision

According to paragraph AG 89, the assessment of the future cash flows from a group should be based on historical loss experience for assets with similar credit characteristics. By merely assuming that the smaller customers have similar credit risk characteristics as the larger ones the bank did not comply with AG 89. The bank should incorporate its loss experience of the smaller customers in its assessment.

h) For private customers the bank relied on experienced judgement only**Description**

The bank had no model for assessment of impairment of loans to private customers but, instead, relied only solely on management judgement. This assessment was based solely on changes in interest rates and on the assumption that all customers belonged to the same group.



Decision

This aspect of the accounting treatment was considered by the enforcer not to be in accordance with IAS 39.

Rationale for the decision

It follows from IAS 39, paragraphs 59, 62-63, AG 87, AG 89, AG 91 and 92, that a model should be in place in order to make collective impairment assessment and that management judgement, however experienced, is not sufficient

According to IAS 39, paragraph AG87, customers should be grouped on the basis of sharing similar credit risk characteristics that are indicative of their ability to pay all amounts due according to contractual terms. As there was a very large number of customers in different geographical areas it was very unlikely that these customers would all share similar credit risk characteristics.

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