COMMITTEE OF EUROPEAN SECURITIES REGULATORS

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9th Extract from EECS's Database of Enforcement

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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, Corporate Reporting Standing Committee, 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 IASB Interpretation Committee (IASB IC).

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/0910-01: Classification of financial liabilities

Financial year end: 31 December 2008
Category of issue: Current liabilities
Standards or requirements involved: IAS 1 (2005)
Date decision taken: 30 April 2009

Description of the issuer's accounting treatment
At 31 December 2008, the issuer had several long-term debt obligations with different parties whose terms included minimum levels concerning the following: consolidated solvency ratio (equity (including long term quasi-equity)/total balance sheet), interest cover (consolidated EBITDA/total net interest costs), Senior and total leverage ratio (respectively the Senior and total net debt/consolidated EBITDA) and cash flow coverage.

Due to the sharp decline in the issuer's sales during the last quarter of 2008, only the consolidated solvency ratio was met at the balance sheet date. According to the terms of the credit documentation, a breach of a covenant entitles the creditor to call for immediate repayment of the amounts due without having to offer the issuer a period of grace.

In anticipation of the expected breach of the financial covenants at the end of 2008, the issuer initiated negotiations with its creditors during the last quarter of the year in order to obtain a letter waiving the covenants. The issuer obtained a waiver letter from its creditors in March 2009.

The issuer classified all of the debts as non-current liabilities at December 31, 2008.

The enforcement decision
The enforcer found that the issuer's classification of its debt obligations as non-current liabilities did not comply with IAS 1, paragraph 65, and concluded that they should have been disclosed as current liabilities in the 2008 financial statements.

Rationale for the enforcement decision
IAS 1 (2005), paragraphs 65-67 addresses the consequences of a breach in a long-term loan agreement. Paragraph 65 states that "When an entity breaches an undertaking under a long-term loan agreement on or before the balance sheet date with the effect that the liability becomes payable on demand, the liability is classified as current, even if the lender has agreed, after the balance sheet date and before the authorisation of the financial statements for issue, not to demand payment as a consequence of the breach. The liability is classified as current because, at the balance sheet date, the entity does not have an unconditional right to defer its settlement for at least twelve months after that date."

On 31 December 2008 the issuer was in breach of all but one of its debt covenants and, at that date, did not have an unconditional right to defer the settlement of the liabilities for at least twelve months after the balance sheet date of 31 December. The enforcer considered that the fact that the issuer had not yet received a notice of default at the balance sheet date was irrelevant as a notice of default in respect of the position on 31 December 31 would, necessarily, have to be issued after the balance sheet date.

IAS 1 (2005), paragraph 66, adds that the liability is classified as non-current if the lender has agreed by the balance sheet date to provide a period of grace ending at least twelve months after the balance sheet date, within which the entity can rectify the breach and during which the lender cannot demand immediate repayment. In the present case, however, no such prior agreement had been reached at the balance sheet date, the waiver letters being obtained only in March 2009.

Paragraph 65 of IAS 1 (2005) is supported by BC 22, both of which stipulate that a waiver of the lender's right to demand payment that is received after the balance sheet date should not be taken into account when classifying the liability at the year end.

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Decision ref. EECS/0910-02: Financial instruments – Hedge accounting

Financial year end: 30 November 2009
Category of issue: Financial instruments – Hedge accounting
Standards or requirements involved: IAS 39
Date decision taken: 20 December 2009

Description of the issuer's accounting treatment
In the financial years 2007 and 2008, certain of the issuer's swaps qualified for cash flow hedge accounting in accordance with IAS 39, paragraph 88. The swaps were entered into in order to hedge the variability of future interest payments on variable rate debts. In both years, as the hedge was considered to be effective, the portion of the gain or loss on the effective part of the instruments was recognised in other comprehensive income.

At the end of November 2009, the issuer cancelled the hedging relationship and, in order to terminate the swaps, paid compensation comprising two amounts: one corresponding to the effective part of the hedge recognised in other comprehensive income and the balance corresponding to the non-effective part of the hedge over the period.

The issuer chose not to apply IAS 39 to the termination of the hedge accounting for this transaction in its financial statements for the year ended 30 November 2009. According to the issuer, application of IAS 39 would conflict with the objective of fairly presenting the financial performance of the company. Therefore the issuer departed from the specific requirement of IAS 39, paragraph 101(a) and, referring to IAS 1 paragraph 19, recognised the entire amount of the compensation in its income statement.

The enforcement decision
The enforcer found that the treatment adopted by the issuer did not comply with IAS 39, paragraph 101(a), which specifies the accounting required when a hedging instrument is terminated, sold, or exercised. The enforcer did not agree that the issuer could rely on IAS 1, paragraph 19 to support a departure from the standard which requires the cumulative gain or loss on the hedging instrument to remain separately recognised in equity until the forecast transaction occurs.

Rationale
According to IAS 39 paragraph 101 (a), when a hedging instrument expires or is sold, terminated or exercised the entity discontinues prospectively the hedge accounting. In such cases, the cumulative gain or loss on the hedging instrument is to remain separately recognised in equity until the forecasted transaction occurs.

Therefore, on termination of the swaps, the issuer should recognise the cash payment against the fair value of the swaps recorded as debt. Hence, there would be no effect on profit and loss at the date of termination. The reclassification of the gain and loss accumulated in other comprehensive income should be reflected in the period during which the hedged cash flows will affect the income statement.

In addition, the enforcer concluded that the issuer was not facing an "extremely rare circumstance" in which compliance with a requirement of a standard would be so misleading that it would conflict with the objective of financial statements set out in the Framework (IAS 1, paragraph 19).

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Decision ref. EECS/0910-03: Revenue recognition

Financial year end: 31 December 2008
Category of issue: Revenue recognition
Standards or requirements involved: IAS 18
Date decision taken: 18 January 2010

Description of the issuer's accounting treatment
The issuer is a football club which has entered into contracts allowing it to earn sponsorship income over given periods. The services rendered in return for such sponsorship include access to web and e-mail based marketing, admission to football matches, including the provision of meals and other events. Some of these contracts are for periods of less than 12 months. It appears from the accounts that most of the contracts were entered into in December 2008.

The issuer's accounting policy for revenue recognition is as follows: "Sponsorships and services comprising both income and expenses for the company are accrued over the relevant individual financial years. Sponsorships primarily comprising participation to sports events whose main purpose is networking with other business community members and granting admission to the company's football matches are recognised at the date of conclusion of a binding agreement. Sponsorship agreements of this nature with a term of more than 12 months are accrued in order to give a true and fair view."

Based on the accounting policy described above, for sponsorship contracts of less than 12 months, the issuer recognised all income in full at the date when the contract was signed. Moreover, it did not take into account the fact that the contracts cover different types of services which are to be provided over the contract period. Recognising the income on a straight-line basis over the length of the contracts would have reduced equity by 17% at 31 December 2008.

The enforcement decision
The enforcer concluded that the issuer's recognition of revenue with respect to sponsorship contracts with a period of service of less than 12 months does not comply with paragraph 20 of IAS 18 which requires income from services to be recognized by reference to the stage of completion of the transaction at the end of the reporting period.

Rationale for the enforcement decision
IAS 18, 'Revenue', paragraph 4 states that the rendering of services typically involves the performance by an entity of a contractually agreed task over an agreed period of time. When the outcome of a transaction involving the rendering of services can be estimated reliably, the standard requires the revenue to be recognised by reference to the stage of completion of the transaction at the end of the reporting period (paragraph 20).

This requirement applies to all such transactions, irrespective of the length of the contract term. Accordingly, there is no legal basis for the issuer failing to accrue income arising from sponsorship contracts with a term of less than 12 months over the period of the contract. Income from sponsorship contracts which extend over two financial reporting periods cannot be recognized in full in the financial year in which they were entered into simply because the agreements are binding.

The issuer argued that it only assumes limited obligations under the sponsorship contract (mainly relating to the provision of meals) and that this could not be seen as the rendering of services per se. The issuer referred to IAS 18, Appendix 1, paragraph 117 to support its view. This paragraph, referring to 'Initiation, entrance and membership fees' states that "if the fee entitles the member to services or publications to be provided during the membership period [...], it is recognised on a basis that reflects the timing, nature and value of the benefits provided."

The enforcer did not agree with the issuer that this requirement permitted full and immediate revenue recognition in the circumstances of this case. The enforcer found it more relevant to refer to IAS 18, Appendix 1, paragraph 15, which concerns income from "artistic performances, banquets and other special events". Under this provision, income should be recognised on a basis which reflects "the extent to which services are performed at each event".

It was, therefore, the enforcer's overall assessment that the sponsorship income should be recognised as services are rendered and as football matches are played in accordance with IAS 18, paragraph 20. In practice, the entity should adopt a method that measures reliably the services performed as indicated in paragraphs 24 and 25.

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Decision ref. EECS/0910-04: Intangible assets

Financial year end: 31 December 2008
Category of issue: Intangible assets
Standards or requirements involved: IAS 38
Date decision taken: 19 September 2009

Description of the issuer's accounting treatment
The issuer operates in the art market, listing auction prices and indices. Over a period of 5 years, the issuer has developed (from 1999 to 2004) an internal electronic database of fine art auction records (covering paintings, prints, posters, drawings, miniatures, sculptures and installations, photographs and tapestries). The database is accessible to users in exchange for an annual subscription. The revenue derived from the subscription fees represents 95% of the issuer's total revenues The database, recognised in the issuer's financial statements as an intangible asset in accordance with IAS 38, represented 52% of its total assets as at the year end.

The database is not amortised, but is considered as an intangible asset having an indefinite useful life for the following reasons:
- There is no foreseeable limit to the period over which the database is expected to be used;
- There is no foreseeable risk of technical or commercial obsolescence. The data on the database is regularly updated to take into account current art auction records. The costs incurred on updating and maintaining the database are recognised in profit and loss;
- There are no legal constraints attaching to the data on the database and, consequently, there is no foreseeable limit to the issuer's control .

The issuer confirmed to the enforcer that, since the completion of the development of the database, all expenses related to its maintenance and updates have been expensed. Consequently, the gross carrying amount of the database has not changed over the period 2004-2008. The database is considered a cash-generating unit and is tested for impairment annually in accordance with IAS 36. The issuer disclosed that recoverable value was value in use, determined by applying a discounted cash-flow methodology. No impairment has been booked against the database.

The enforcement decision
The enforcer accepted the issuer's accounting treatment of the database as an asset with an indefinite useful life, in accordance with IAS 36, paragraphs 8 and 75 and which was supported by the results of impairment testing.

Rationale
The issuer recognised the database as an intangible asset at the date of transition to IFRS (opening balance sheet as of 1 January 2004).

With respect to the assessment of the useful life of the intangible assets, the enforcer analysed the factors set out in IAS 38 paragraph 90 with particular reference to the following:
- "the expected usage of the asset by the entity and whether the asset could be managed efficiently by another management team". The business model of the issuer is reliant on the existence of the database which generates 95% of its total revenue. Further, the database could be managed by another team.
- "technical, technological, commercial or other types of obsolescence". The database is maintained and updated on a regular basis. The data stored in the database contributes to the preparation of statistics available to the users of the database. The asset is a database not a piece of software and, therefore, the risk of either technical or commercial obsolescence is much lower.
- "the level of maintenance expenditure required to obtain the expected future economic benefits from the asset and the entity's ability to reach such a level". The level of expenditure required to maintain the database at its standard of performance and therefore to obtain expected future economic benefit seems to be reasonable as the database has been successfully running for the last 5 years.
- "the period of control over the asset and legal or similar limits on the use of the asset". The issuer is the legal owner of the database, there are no legal constraints on the use of the database and, therefore, no foreseeable limit to the issuer's control over the database.

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Decision ref. EECS/0910-05: Impairment of non-financial assets

Financial year end: 31 December 2008
Category of issue: Impairment of non-financial assets
Standards or requirements involved: IAS 36
Date decision taken: December 2009

Description of the issuer's accounting treatment
The issuer is a real estate investor and developer. At 31 December 2008, investments in retail (shopping) centres represented the main part of the company's total investments. The issuer focuses mainly on acquiring existing shopping centres where it foresees growth potential, through rental income as well as value appreciation. Development activities comprise a minor part of the issuer's operations.

The acquisition of an investment property is usually realised through the acquisition of a 'shell' company which holds the property. The 'shell' is created to make use of local tax opportunities or to minimise taxes when the property is sold, such as corporation tax on any profit on disposal. Normally the 'shell' company structure allows the owner to postpone corporation tax on any increase in the value of the property.

Operational shopping centres, as targeted by the issuer, are characterized by the presence of central management and contracts for operational services such as cleaning and maintenance. There are also leases with tenants. As a result of these arrangements, shopping centres can be individually managed as businesses by an owner. The issuer and enforcer are, therefore, both of the opinion that the acquisition of the shell company qualifies as a business combination because the shell company contains a business as defined in IFRS 3.

The price paid by the issuer for acquiring 100% of the shares of the 'shell' company is generally calculated as the fair value of the real estate adjusted for any working capital, the fair value of long term liabilities and the deferred tax obligation. In this particular case, working capital and long term liabilities have no further relevance.

In the issuer's financial statements, investment properties acquired through business acquisitions are recognised at fair value at the date of the transaction. The difference between the fair value of the investment property and the cost of the investment property for tax purposes results in a deferred tax liability measured at nominal value in accordance with IFRS 3. Subsequently, the issuer applies the fair value model for investment properties.

The issuer did not disclose its accounting treatment for impairment testing of goodwill in its accounts but, when approached, provided the enforcer with additional information.

Goodwill directly related to the deferred tax liability is only considered as impaired if and when the deferred tax liability is reduced below the amount at which it was first recognised. This reduction can be caused both by a reduction in the value of the real estate or a change in local tax regulations. As long as the deferred tax liability is equal to, or larger than, the goodwill, no impairment is booked. If the deferred tax liability decreases to an amount lower than the identified goodwill, the issuer recognises the difference between the goodwill and the deferred tax liability as an impairment.

The issuer explained its accounting treatment by confirming that almost all of its goodwill is due to the deferred tax liability and that it is normal in the industry to account for goodwill in the way described.

The enforcement decision

The enforcer found that non disclosure of both the methodology by which the recoverable amount of goodwill was determined and the assumptions underlying that methodology was in breach of the requirements of IAS 36, paragraph 134 . This paragraph requires the issuer to state the basis on which recoverable amount has been determined and to disclose the key assumptions on which it is based. Furthermore the enforcer expected that the basis used to determine the recoverable amount should be fair value less costs to sell.

Rationale

Goodwill recognised on the acquisition of an investment property through a business combination by real estate investment companies is normally a result of the fact that, in IFRS, deferred tax liabilities should be based on nominal rather than present value. IFRS recognises this inconsistency (IAS 36.BCZ86-89 and IAS 36.BCZ86-87) and concludes that the principles of IAS 12 prevail.

The fair value of both the property and the deferred tax liability are normally reflected in the purchase price of the business combination. The difference between this purchase price and the amounts recognised according to IFRS 3, where deferred tax is calculated at nominal value, is recognised as goodwill in the acquirer's balance sheet.

In accordance with IAS 36.80, for impairment testing purposes, goodwill is allocated to each individual real estate investment identified as a cash-generating unit ("CGU"). Periodically, but at least annually, the recoverable amount of the CGU is compared with its carrying amount. If this comparison results in a negative amount, the impairment is first allocated to the goodwill. Any further difference is subsequently allocated against the value of the investment property, as required by IAS 36.104.

The recoverable amount is the higher of fair value less costs to sell and value in use.

Value in use is a pre-tax valuation, as required by IAS 36.50(b). Consequently, when the recoverable amount is based on value in use, any goodwill recognised should be written off directly on day one.

Fair value less costs to sell is a post-tax valuation taking account of deferred taxs. According to IAS 36.78, the deferred tax liability should be included in calculating the carrying amount of the CGU since the transaction price also includes the effect of the deferred tax and the purchaser assumes the tax risk.

On this basis, the enforcer concluded that the impairment testing of goodwill should be based on fair value less costs to sell rather than on the difference between the goodwill and the nominal value of the deferred tax liability as assessed by the issuer. The financial statements should disclose both that the determination of the book value of the CGU relating to the impairment testing of goodwill should take deferred tax into account and that the recoverable value should be based on fair value less costs to sell.

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Decision ref. EECS/0910-06: Consolidation

Financial year end: 31 December 2008
Category of issue: Consolidation
Standards or requirements involved: IAS 27
Date decision taken: 22 February 2010

Description of the issuer's accounting treatment
The issuer is a provider of graphic and IT-based communication solutions. On 1 November 2008, the issuer sold 50% of its wholly-owned subsidiary, company A, to a third party, company B. Company B is a major international enterprise operating in the same industry as company A. The divestment was completed for reasons of industrial collaboration (the companies operate in the same industry).

The issuer, however, continued to account for company A as a subsidiary in its consolidated financial statements.

The issuer stated that the primary reason for this accounting treatment was the agreement that had been made with company B under which it was determined that the issuer would exercise general control over company A's operating and financial policies. The agreement also stipulated, however, that a number of important decisions required consensus by the two shareholders; that is, the issuer and company B. The issuer had appointed three of the four members of company A's board of directors.

Under the shareholder agreement, consensus is required with respect to:
• significant changes in the company's activities, acquisition or divestment of business entities;
• plans or budgets that deviate from the business plan;
• acquisitions, divestments or restructurings;
• accounting policies;
• distribution of dividends;
• agreements on financing or unusual guarantees;
• acquisition, leasing or divestment of assets with a value in excess of EUR 33 thousand;
• formation or change of material agreements such as distribution agreements with a term of 12 months;
• exclusive agreements;
• employment, change of employment terms or responsibilities or dismissal of senior employees;
• change of remuneration or other circumstances concerning related parties; and
• other material or unusual business transactions.

Furthermore, the issuer's decision-making powers are conditional on the fact that it makes banking facilities available to company A.

The enforcement decision
In accordance with IAS 27, 'Consolidated and Separate Financial Statements', the issuer was required to de-consolidate company A as a subsidiary from its group accounts as it did not control the entity.

Rationale
Under IAS 27, paragraph 13, control is generally presumed to exist when an enterprise owns more than half of the voting power in another entity. The paragraph also sets out circumstances in which an entity owning half or less of the voting power may also control that entity.

Against this background, the issuer argued that it controlled company A with reference to IAS 27, paragraph 13(b), which states that control exists when the company owns half or less of the voting power when there is "power to govern the financial and operating policies of the entity under a statute or an agreement".

The enforcer was not persuaded that the shareholder agreement presented by the issuer clearly showed its control of company A. The restrictions in the agreement with regards to decisions to be made in the ordinary course of business (such as consensus between shareholders required for acquisition of assets above a certain value, employment or dismissal of senior employees, distribution of dividends or establishment of loan facilities) indicated that the issuer did not control company A.

The issuer argued that the restrictions do not constitute a hindrance to the power to control as it is customary within the industry to require shareholder consensus for decisions of the types listed in the shareholders' agreement.

The enforcer was of the view, however, that the agreement contains so many significant restrictions with respect to operating and financial decisions that it does not entail control of company A. In addition, it was noted that the agreement lapses if company A establishes its own banking facilities. As shareholder consensus is required in respect of all significant decisions, the issuer is unable to utilize the position it has at board level where it has the power to cast the majority of votes.

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Decision ref. EECS/0910-07: Share-based payment

Financial year end: 30 September 2008
Category of issue: Share-based payment – grant date
Standards or requirements involved: IFRS 2
Date decision taken: December 2009

Description of the issuer's accounting treatment
The issuer launches and manages investment funds, sometimes co-investing in its funds.

A note to the IFRS financial statements gave details of an employee benefit trust established by the issuer as part of its employee incentive arrangements. The note stated that the scheme provided for the issue of up to 18.25m shares to employees over the three years ended 30 September 2008.

The note explained that the IFRS 2 charge in respect of this scheme had been determined by reference to the mid market price of an ordinary share of 6.375p on the approval date of the scheme of 4 February 2005. The note further explained that this date had been agreed to be the grant date for all shares issued to employees as this was the date when substantially all terms and conditions of the scheme were agreed by the parties.

In subsequent correspondence between the enforcer and the issuer, it was clarified that the scheme involved the award of share options to employees which vested after three years provided that the employees concerned were still employed by the issuer and on satisfaction of certain performance-related vesting conditions. The issuer granted options to its employees in three tranches, in the years ended 30 September 2005, 30 September 2006 and 30 September 2007 respectively. The total number of options issued was the same in each year and the exercise price was the same in that no amounts were payable by employees on exercise. The numbers allocated to individual employees differed, however, from year to year and, in addition, employees joining in the second and third years of the scheme were eligible for awards. The issuer also confirmed that the numbers of options were notified to employees on an annual basis and that the specific performance-related vesting conditions were also established on an annual basis.

The enforcement decision

The enforcer found that the issuer had not accounted for the share options in accordance with IFRS 2, 'Share-based Payment' as the charge had been determined applying a share price at a date other than that of the grant date as determined by the standard. The charge related to the awards granted in the subsequent years should have been determined based on the relevant grant date of each tranche.

Rationale for the enforcement decision

The relevant requirement was the definition of the grant date contained in Appendix A to the standard. This states that the grant date is "the date at which the entity and another party agree to a share-based payment arrangement, being when the entity and the counterparty have a shared understanding of the terms and conditions of the arrangement". The Appendix adds that, at grant date, the entity confers on the counterparty the right to cash, other assets or equity instruments of the entity provided any specified vesting conditions are met. The enforcer asked the issuer how it had applied this definition.

The issuer confirmed that it had treated 4 February 2005 as the grant date for the all the options granted in the three tranches. The enforcer put it to the issuer that a "shared understanding" must at least include the actual number of options to be granted and that therefore the grant date should be the date or dates on which the individual employees were notified of each grant of options.

The issuer accepted the enforcer's argument that a shared understanding of the terms and conditions of the arrangement only arose when the number of options and the specific performance conditions were notified to the individuals concerned. As the employees were notified of the grants on an annual basis, it followed that the share price used in the calculations should be that on the revised grant dates.

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Decision ref. EECS/0910-08: Financial instruments - disclosure

Financial year end: 31 December 2008
Category of issue: Financial instruments - disclosures
Standards or requirements involved: IFRS 7
Date decision taken: 17 November 2009

Description of the issuer's accounting treatment
In its 2008 annual accounts, the issuer disclosed quantitative information concerning credit risk as required by IFRS 7, paragraphs 34-36.

The information provided by the issuer merely distinguished between loans measured at amortised cost and loans measured at fair value. The characteristics of the issuer's loan portfolio, however, showed a significant exposure towards real estate in addition to several large exposures and investment credits.

The auditor's opinion contained an emphasis of matter paragraph which drew attention to management's disclosures around the recognition and measurement of loans and collateral. Uncertainty about the measurement of loans and collateral was also highlighted in the long-form audit report, which is only available to the board of directors and the enforcer.

The enforcement decision
The enforcer found that the issuer's accounting policy did not comply with IFRS 7, paragraph 6 or IFRS 7 appendix B, application guidance B3 which require financial instruments to be grouped into appropriate classes when providing the disclosures required by the standard .

Rationale for the enforcement decision
IFRS 7, paragraph 6 states:
"When this IFRS requires disclosures by class of financial instruments, an entity shall group financial instruments into classes that are appropriate to the nature of the information disclosed and that take into account the characteristics of those financial instruments. An entity shall provide sufficient information to permit reconciliation to the line items presented in the statement of financial position."

Furthermore IFRS 7, appendix B3 adds:
"An entity decides, in the light of its circumstances, how much detail it provides to satisfy the requirements of this IFRS, how much emphasis it places on different aspects of the requirements and how it aggregates information to display the overall picture without combining information with different characteristics."

The enforcer was of the opinion that, in the light of all the facts and circumstances, the issuer did not disclose quantitative information as required by IFRS 7, paragraphs 34-36 as it did not provide any information about its exposure to credit risk relating to real estate, large exposures or investment credits.

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Decision ref. EECS/0910-09: Impairment of non-financial assets disclosure

Financial year end: 31 December 2008
Category of issue: Impairment of non-financial assets - disclosures
Standards or requirements involved: IAS 36
Date decision taken: 7 January 2010

Description of the issuer's accounting treatment
As at 31 December 2008, 30% of the issuer's total assets consisted of goodwill. An impairment test resulted in a reported impairment charge of 19% of this balance, due to the difficult financial and economic environment.

The issuer disclosed in its consolidated financial statements that the recoverable amount of the cash-generating units was based on value in use. The issuer disclosed a pre-tax discount rate but explained that a post-tax rate had been applied in the impairment test.

The enforcement decision
The enforcer concluded that a pre-tax discount rate should be disclosed and used for calculating value in use when testing cash-generating units with goodwill for impairment, in accordance with IAS 36, paragraph 55 and appendix A, paragraph A20. In accordance with IAS 36 BC CZ 85, the pre-tax discount rate is best determined by an iterative computation and not by grossing up the post-tax discount rate by a standard rate of tax.

Rationale for the enforcement decision
The issuer explained that, initially, post-tax cash flows and a post-tax discount rate had been used for the value in use calculations of the cash generating units. The issuer used a post-tax discount rate because empirical capital market data on the risk premium before tax was not readily available.

In order to comply with the disclosure requirements of IAS 36, the issuer had grossed-up the post-tax discount rate by an average tax rate in order to determine a pre-tax discount rate. The issuer argued that discounting post-tax cash flows at a post-tax discount rate should, by definition, give the same result as discounting pre-tax cash flows at a pre-tax discount rate, and that this was supported by IAS 36 BCZ85.

The enforcer did not agree with the issuer. IAS 36, paragraphs 55 and appendix A, paragraph A20 specifically require the use of a pre-tax discount rate. Furthermore, IAS 36, BCZ84 concludes that value in use should be determined by using pre-tax cash flows and, hence, a pre-tax discount rate. IAS 36 BCZ85 merely illustrates the point that a post-tax discount rate grossed-up by a standard rate of tax is not always an appropriate pre-tax discount rate. In addition, the paragraph gives a worked example in which the 'real' pre-tax discount rate is determined by an iterative computation.

The enforcer concluded that this last approach can be used to determine the pre-tax discount rate and that the resulting rate should be disclosed in the financial statements.