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Subject:	COMMISSION REGULATION (EU) .../... of XXX amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard 4

Delegations will find attached document D051300/02.

Encl.: D051300/02



Brussels, **XXX**
[...]
[...](2017) **XXX** draft

D051300/02

COMMISSION REGULATION (EU) .../...

of **XXX**

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard 4

(Text with EEA relevance)

COMMISSION REGULATION (EU) .../...

of **XXX**

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard 4

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards¹, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008² certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 12 September 2016, the International Accounting Standards Board (IASB) published amendments to International Financial Reporting Standard (IFRS) 4, Applying IFRS 9 *Financial Instruments* with IFRS 4 *Insurance Contracts* ('amendments to IFRS 4'). The amendments to IFRS 4 aim to address the temporary accounting consequences of the different effective dates of IFRS 9 and the new standard for insurance contracts replacing IFRS 4 (IFRS 17).
- (3) The objective of IFRS 9 is to improve the financial reporting of financial instruments by addressing concerns that arose in this area during the financial crisis. In particular, IFRS 9 responds to the G20's call to move to a more forward-looking model for the recognition of expected losses on financial assets.
- (4) The amendments to IFRS 4 permit entities that predominantly undertake insurance activities the option to defer the effective date of IFRS 9 until 1 January 2021. The effect of such a deferral is that the entities concerned may continue to report under the existing standard, International Accounting Standard (IAS) 39, *Financial Instruments: Recognition and Measurement*. The amendments to IFRS 4 also permit entities that issue insurance contracts to remove from profit or loss some of the additional

¹ OJ L 243, 11.9.2002, p. 1.

² Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

accounting mismatches and temporary volatility that could occur when applying IFRS 9 before IFRS 17 is implemented.

- (5) Following consultations with the European Financial Reporting Advisory Group, the Commission concludes that the amendments to IFRS 4 meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.
- (6) The Commission, however, considers that the amendments to IFRS 4 are not sufficiently broad in scope to meet the needs of all significant insurance entities in Union. In particular, the insurance sector within a financial conglomerate would not be eligible to defer the application of IFRS 9, which could put them at a competitive disadvantage. Therefore, the insurance sector of a financial conglomerate falling within the scope of Directive 2002/87/EC of the European Parliament and of the Council³ should be allowed to defer the application of IFRS 9 until 1 January 2021.
- (7) A deferral of the application of IFRS 9 by the insurance sector in a conglomerate would mean the application of two different accounting standards within one financial conglomerate which could create opportunities for accounting arbitrage as well as possibly lead to difficulties for investors in understanding the consolidated financial statements. Therefore, such a deferral should be subject to certain conditions. To prevent the group transferring financial instruments between sectors in order to benefit from a more favourable accounting treatment, a temporary prohibition on transfer of financial instruments, other than financial instruments that are measured at fair value with changes in fair values through profit and loss, should apply. Only transfers of financial instruments that qualify for de-recognition from the accounts of the transferring entity should be subject to the prohibition of transfer. Financial instruments issued by an entity of the group should not be subject to this prohibition because intra-group holdings of financial instruments are eliminated in the consolidated accounts of the conglomerate.
- (8) The deferral of the application of IFRS 9 is consistent in its approach with IFRS 4 which permits insurance groups to consolidate subsidiaries without conforming the measurement of insurance liabilities from subsidiaries' local generally accepted accounting policies to the accounting policies used by the rest of the group. While the use of non-uniform accounting policies may reduce the understandability of the financial statements, users of the financial statements will already be familiar with the financial reporting under IAS 39 and the deferral is only for a limited period of time. The conditions for use of the deferral should also mitigate any such concerns.
- (9) The deferral of the application of IFRS 9 for the insurance sector within a financial conglomerate should be limited in time because it is important that the improvements introduced by IFRS 9 become effective as soon as possible and IFRS 17 will have an effective date of application of 1 January 2021.
- (10) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

³ Directive 2002/87/EC of the European Parliament and Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1).

- (11) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EC) No 1126/2008, International Financial Reporting Standard (IFRS) 4 *Insurance Contracts* is amended as set out in the Annex to this Regulation.

Article 2

A financial conglomerate as defined in Article 2(14) of Directive 2002/87/EC may elect that none of its entities operating in the insurance sector within the meaning of Article 2(8)(b) of that Directive apply IFRS 9 in the consolidated financial statements for financial years the commencement of which precedes 1 January 2021 where all of the following conditions are met:

- (a) no financial instruments are transferred between the insurance sector and any other sector of the financial conglomerate after [Publications Office set date = the date of entry in force of this Regulation] other than financial instruments that are measured at fair value with changes in fair value recognised through the profit or loss account by both sectors involved in such transfers;
- (b) the financial conglomerate states in the consolidated financial statements which insurance entities in the group are applying IAS 39;
- (c) disclosures requested by IFRS 7 are provided separately for the insurance sector applying IAS 39 and for the rest of the group applying IFRS 9.

Article 3

1. Each company shall apply the amendments referred to in Article 1 as from the commencement date of its first financial year starting on or after 1 January 2018.
2. However, a financial conglomerate may choose to apply the amendments referred to in Article 1 subject to the conditions laid down in Article 2 as from the commencement date of its first financial year starting on or after 1 January 2018.

Article 4

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

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

Done at Brussels,

*For the Commission
The President
Jean Claude Juncker*