Report

10th Extract from the EECS's Database of Enforcement

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European Securities and Markets Authority

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Introduction

Following a decision by the European Union, the Committee of European Securities Regulators ("CESR") has been transformed into the European Securities and Markets Agency ("ESMA") with effect from 1 January 2011.

European 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 ESMA group charged with accounting issues, Corporate Reporting Standing Committee, the European Enforcers Coordination Sessions (EECS) is a forum in which all EU National Enforcers of financial information 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 IFRS Interpretations Committee (IFRS IC, formerly IFRIC).

As proposed in CESR Standard No 2 on Financial Information, "Coordination of Enforcement Activities", ESMA 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, ESMA 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;
- here 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;

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

I Decision ref EECS/0111-01 - Classification of financial liabilities

Financial year end: 31 December 2009
Category of issue: Classification of financial liabilities
Standards or requirements involved: IAS 1
Date decision taken: 26 April 2010

Description of the issuer's accounting treatment

1. In the issuer's preliminary announcement of its results for the period ending 31 December 2009, released in March 2010, the issuer reported "Non current interest bearing loans and borrowings" representing more than 40% of total liabilities. Upon enquiry by the regulator, it transpired that at the end of the reporting period, a fully owned operational subsidiary of the issuer had breached a financial covenant in respect of a long-term borrowing. The subsidiary no longer had the unconditional right to defer the settlement of the loan for at least twelve months after 31 December.

2. On 12 March 2010 the subsidiary had obtained a waiver letter from its creditor confirming that it would not seek repayment of the loan as a consequence of the breach.

The enforcement decision

3. The enforcer found that the issuer's loan should be presented as a current liability in accordance with the requirements of IAS 1 –*Presentation of Financial Statements*.

Rationale for the enforcement decision

4. Under IAS 1 (revised), a liability is classified as current when an entity does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting period. Paragraphs 74-76 of the standard address the consequences of a breach of a provision of a long-term loan agreement in the following terms: "*When an entity breaches an undertaking under a long-term loan agreement on or before the end of the reporting period with the effect that the liability becomes payable on demand, the liability is classified as current, even if the lender has agreed, after the reporting period 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 end of the reporting period, the entity does not have an unconditional right to defer its settlement for at least twelve months after that date."*

5. The issuer's wholly- owned subsidiary was in breach of a financial covenant relating to a long term loan arrangement at the end of the reporting period , based on its 31 December 2009 non-consolidated accounts. The breach was reported in the issuer's consolidated statement of financial position at that date. These consolidated financial statements were approved by the Board of Directors in March 2010. One day later, the subsidiary obtained a waiver from its creditor that it would not demand payment as a consequence of the breach.

II Decision ref EECS/0111-02 - Classification of financial liabilities

Financial year end: 31 December 2008
Category of issue: Classification of financial liabilities
Standards or requirements involved: IAS 1
Date decision taken: 13 December 2009

Description of the issuer's accounting treatment

6. In December 2008, the issuer concluded two leasing agreements with a leasing company (the "lessor") and undertook to comply with certain covenants during the term of the lease agreements. The agreements stipulated that, in the event of a failure by the issuer to fulfill any of the contractual obligations, or having failed to rectify any such breach within a one month period, the lessor had the right to unilaterally terminate the leasing agreements. In such a case, the lessor would be entitled to require the issuer to pay all unpaid amounts due before the termination of the agreements, including penalties and interest payments according to the payment schedule.

7. Two years previously, in 2006, a subsidiary of the issuer had taken out a bank loan, with a repayment date of November 2011. Under the terms of that agreement, the subsidiary undertook to comply with certain debt covenants. The agreement stipulated that, in the event of a failure by the subsidiary to fulfill its contractual obligations, the subsidiary could be required to repay the entire debt outstanding within 10 days of notification.

8. According to the information provided by the issuer, as of 31 December 2008, neither the issuer nor its subsidiary were in compliance with the covenants stipulated in either the leasing or the bank loan agreement, respectively. It was additionally established that on 30 November 2008 the issuer was not in compliance with the specified leasing covenants and one month after the point at which the breach had been established, according to the conditions specified in the agreement, i.e. on 31 December 2008 the issuer was still not in compliance with the specified leasing covenants.

9. In the 2008 consolidated financial statements, the debts relating to the leasing company and the bank loan were classified as current and non-current in accordance with the payment schedules included in the agreements, with the major part of the liability (representing 38% of the total liabilities) classified as non-current.

10. Furthermore, the enforcer had received from the lessor a notification confirming the failure to comply with the covenants as of 31 December 2008. Thus, as of 31 December 2008, having failed to fulfill their contractual obligations and being in breach of relevant covenants, both the leasing company and the bank were entitled to require the Issuer to repay the debts immediately.

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The enforcement decision

11. The enforcer found that the issuer's presentation of the major part of its debt arising from the two arrangements as a non-current liability was not in accordance with IAS 1, paragraph 60 which specifies the circumstances in which liabilities are to be classified as current. In the enforcer's view, all the amounts outstanding in respect of these arrangements at 31 December 2008 should have been disclosed as a current liability.

Rationale for the enforcement decision

12. IAS 1(2005), paragraph 60 stipulates that a liability shall be classified as current where it is due to be settled within 12 months after the reporting date, and the entity does not have an unconditional right to defer settlement of the liability for at least 12 months after the end of the reporting period.

13. As of 31 December 2008, the issuer and its subsidiary failed to comply with the terms of the leasing and loan agreements and did not have an unconditional right to defer settlement of the liability for at least 12 months from the end of the reporting period.

III Decision ref EECS/0111-03 - Classification of financial liabilities

Financial year end: 31 December 2009
Category of issue: Classification of financial liabilities
Standards or requirements involved: IAS 1
Date decision taken: 1 July 2010

Description of the issuer's accounting treatment

14. The issuer operates in the mining industry. It is constructing and operating a mine which is financed, in part, by a project loan borrowed in 2008. In the 2008 financial statements and up to and including the third quarter interim period in 2009, the issuer had classified the project loan as a non-current liability in accordance with paragraph 69 of IAS 1 (revised 2008) . In the statement of financial position at the 2009 year end, the issuer reclassified the project loan as a current liability.

15. In the 2009 financial statements, the issuer disclosed, as an event after the reporting period, that the project loan had been settled with cash received under a metal production agreement. On signing the agreement, under which the issuer is obliged to deliver a certain amount of ore to the contracting party over a number of years, the issuer received a down payment. The issuer also disclosed that a letter of intent (not legally binding) in connection with the agreement, had been signed by the end of the 2009 financial year. In the directors' report for the year, the issuer stated that the project loan was classified as a current liability due to the fact that the loan had been settled in February 2010, which was earlier than originally agreed with the banks. The issuer published a stock exchange release on the signing of the metal production agreement on 11 February 2010 and when the 2009 financial statements were authorised for issue on 23 February 2010.

16. In the first quarter interim report of 2010, the issuer disclosed down payment received under the long-term metal production agreement as a non-current liability. The enforcer was concerned by the classification of the project loan as a current liability in the statement of financial position at 2009 year end. When questioned why it had classified the project loan as a current liability, the issuer answered that it had reclassified the project loan in accordance with paragraph 31 of IFRS 7 – *Financial Instruments:*

Disclosures. The issuer was of the opinion that this classification provided a true and fair view of the liquidity and financial position of the issuer at the end of the year.

The enforcement decision

17. The enforcer concluded that IFRS 7, specifically paragraph 31, applies only to information disclosed in the financial statements and not to the classification of liabilities. Therefore, the standard was not relevant to the issue at hand. Further, the enforcer found that the classification of the project loan as a current liability did not comply with paragraph 69 of IAS 1.

Rationale for the enforcement decision

18. In respect of the 2009 annual financial statements, the metal production agreement, effective in February 2010, was a non-adjusting event after the reporting period as determined in accordance with paragraph 3(b) of IAS 10 – *Events after the Reporting Period*. The metal production agreement did not discuss settling the project loan with prepayments received from the agreement, but was a separate decision made by the issuer.

19. The issuer conceded that the project loan could also have been classified as a non-current liability in accordance with paragraph 69 of IAS 1. Paragraph 69(a)-(d) of IAS 1 states that liabilities are to be classified as current if any one of four specified conditions (a)-(d) is met. All other liabilities are to be classified as non-current. The enforcer concluded that the project loan should have been classified as a non-current liability in the 2009 statement of financial position because the issuer did not meet any of the conditions set out in paragraph 69(a)-(d) of IAS 1:
    a. The project loan is not a liability which would be settled in the issuer`s normal operating cycle (paragraph 69(a) of IAS 1). The project loan is, according to paragraph 71 of IAS 1, a financial liability providing financing on a long-term basis (i.e. it is not part of the working capital used in the entity´s normal operating cycle) and is not due for settlement within twelve months after the reporting period.
    b. The issuer did not hold the project loan primarily for the purpose of trading (paragraph 69(b) of IAS 1) but for the purpose of financing the construction of the mine.
    c. The project loan was not due to be settled within twelve months after the reporting period (paragraph 69(c) of IAS 1).
    d. The issuer had an unconditional right to defer settlement of the liability for at least 12 months after the reporting period, because the project loan was not due to be settled within twelve months after the reporting period (paragraph 69(d) of IAS 1).

IV Decision ref EECS/0111-04 – Government grants

Financial year end: 31 December 2008
Category of issue: Classification of governments grants
Standards or requirements involved: IAS 18, IAS 20
Date decision taken: 26 April 2010

Description of the issuer's accounting treatment

20. The issuer is a producer of green power. Specifically, it manages a number of local projects that process biomass into energy. The issuer identifies potential biomass projects and performs feasibility studies with the aim of eventually taking responsibility for the development, construction and operation of

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the projects, in close co-operation with selected suppliers and partners. The issuer's sales comprise mainly the sale of electricity and green certificates.

21. Green certificates represent the environmental value of renewable energy generated. Under the national scheme, the issuer's generation of green power is first certified by an independent organisation which confirms the origin of production. The issuer then receives a certain number of green certificates depending on, and proportional to, the volume of green electricity generated and the amount of CO_2 the installation has saved in comparison to a referenced installation plant. The green certificates are allocated to the issuer on a quarterly basis by the regional government agency based on thresholds of quarterly production. The issuer can trade the green certificates separately from the energy that is produced.

22. A minimum amount of the electricity delivered by a supplier (who is not necessarily the producer of the electricity) to users has to be green electricity. Suppliers with only grey or 'dirty' electricity (i.e. electricity not produced with renewable energy sources), can buy green certificates either on the market on which they are traded or directly from a producer. Beyond the recording of their sale (when the conditions of IAS 18 – Revenue paragraph 14 were fulfilled), which is contracted at fixed prices under a long-term off-take agreement, no information relating to the accounting treatment accorded to green certificates was provided in the issuer's 2008 annual financial statements. On enquiry, it was confirmed that transactions with the regional government agency (acquisition of certificates) were not recognised in the accounting process. Furthermore, no information was provided in the accounting policies about the green certificates which were not sold at the end of the reporting period.

The enforcement decision

23. The enforcer required the issuer to determine, apply and disclose appropriate policies covering the acquisition, the presentation and measurement of the certificates within its primary statements. Following extensive discussions with the issuer, the enforcer agreed that the green certificates should be accounted for as government grants in accordance with IAS 20 – *Accounting for Government Grants and Disclosure of Government Assistance.*

Rationale for the enforcement decision

24. The enforcer found that the green certificates qualify as government grants in accordance with IAS 20, paragraph 3 as they represent assistance by government in the form of resources provided to an entity in return for past compliance with certain conditions relating to its operating activities. The certificates are income-related grants according to the standard, as the certificates are not long-term assets.

25. The qualification of the green certificates as income-related grants had a number of implications for the issuer's financial reporting. In accordance with paragraph 29 of IAS 20, the green certificates allocated by the regional government must be presented as a credit in the statement of comprehensive income, either separately or under a general heading such as 'Other income'; alternatively, they must be deducted in reporting the related expense. As required by paragraph 39 of the standard, the issuer had to disclose an accounting policy for government grants and provide the additional disclosures required in respect of the nature and extent of the government assistance given and any unfulfilled conditions or other contingencies attaching.

26. To the extent that the certificates were not sold by the end of the accounting period, the issuer proposed to recognise them under inventories in accordance with IAS 2 - *Inventories* as it was agreed that they are held for sale in the ordinary course of business within the meaning of paragraph 2.6 (a) of that standard. On sale, the income from green certificates is, in line with IAS 18, presented as 'Sale of

green certificates' and the related green certificates, included in inventory, are charged to production as part of the cost of sales.

27. The accounting policies relating to the accounting treatment of the green certificates were required to be disclosed in the financial statements as they were considered relevant to an understanding of the issuer's financial statements as required by paragraph 117 of IAS 1.

V Decision ref EECS/0111-05 – Presentation of financial instruments

Financial year end: 30 June 2009
Category of issue: Financial instruments
Standards or requirements involved: IAS 32, IAS 39
Date decision taken: August 2010

Description of the issuer's accounting treatment

28. The issuer had, at its reporting date, 16,794,000 m.u. 0.60 convertible cumulative preference shares ("CCPS") in issue. The issuer disclosed, in its 2009 financial statements, that each CCPS carried the right, subject to the availability of distributable profits, to the payment of a fixed cumulative preference dividend equal to 6% (less tax credit deduction) of its nominal value from 1 July 1996 and was convertible, at the option of the holder, into a fixed number of ordinary and deferred shares. The CCPS shares had been issued in 1994.

29. The issuer had accounted for the CCPS as a compound financial instrument and had recognised a debt and equity component of 3.57 m.u million, of which 3.03 m.u. million had been categorised as a non-current liability and 6.51 m.u million respectively. The enforcer understood, from the information available in the financial statements, that the CCPS were not redeemable at the option of the issuer and, therefore, that they appeared to give the holders the right to a cumulative dividend into perpetuity. On the understanding that the 6% fixed cumulative preference dividend was a market rate at the date of issue, the fair value of the future obligation, on initial recognition, would be equal to the proceeds received.

30. The issuer explained to the enforcer that, at the date of issue of the CCPS, the present value of the liability component had been derived using a discount rate of 12.26% which represented the market rate of debt with similar terms but without the conversion option.

31. The enforcer understood that the liability component of the CCPS was the present value of the 6% dividend into perpetuity discounted at the prevailing market rate at the time of issue of 12.26%. If this was the case, however, it seemed to the enforcer that the present value of a dividend payable into perpetuity would be 0.26 m.u. per share ((0.60 x 0.06 x 0.90 for the tax credit) at a rate of 0.12263)). On the understanding that there were 16,794,000 shares in issue at the year-end, the enforcer had expected to see a non-current outstanding liability of 4.3 m.u million (16,794,000 x 0.26) in the accounts but was only able to locate an amount of 3.03 m.u million categorised as a non current liability.

32. In explaining the liability component, the issuer explained that there had been a two year dividend holiday on issue of the CCPS which had been taken into account in the initial measurement of the liability component but which had not since been considered.

The enforcement decision

33. The enforcer accepted the issuer's determination of the market rate of interest used to determine the liability component at the date of issue of the CCPS. In respect of the dividend holiday, however, the enforcer found that the benefit should have been unwound over the period and therefore, that the non-current liability was materially understated by 1.41 m.u million in its 2009 financial statements.

Rationale for the enforcement decision

34. Paragraph 47 of IAS 39 - *Financial Instruments: Recognition and Measurement* requires all financial liabilities to be measured, after initial recognition, at amortised cost using the effective interest rate. The fact that the benefit of the initial dividend holiday had not been unwound meant that the effective interest rate determined by the issuer led to a material understatement of the liability at the end of the reporting period of the accounts under review.

VI Decision ref EECS/0111-06 – Income Tax

Financial year end: 31 December 2008
Category of issue: Accounting treatment of income tax adjustments
Standards or requirements involved: IAS 1, IAS 8, IAS 12
Date decision taken: 13 December 2009

Description of the issuer's accounting treatment

35. The taxation note to the issuer's annual financial report showing the major components of tax expense included a credit in respect of "Adjustments to current tax in respect of prior years". The reconciliation of the notional tax amount to the income tax expense also included two line items titled "other adjusting items" and "adjustments to current and deferred tax in respect of prior years". The narrative disclosures in the taxation note disclosed that there was a net charge to the Consolidated Income Statement in respect of "a review of recognised temporary differences and tax accruals".

36. These items related to adjustments arising from tax audits by taxation authorities in several jurisdictions in relation to previous reporting periods. The charge for 'a review of recognised temporary differences and tax accruals' comprised two separate amounts in respect of the finalisation of the assessment of previous reporting periods as well as the non-recoverability of the deferred tax asset for future periods and the release of a corporation tax accrual. The issuer also noted that no penalties were expected to be applied by the taxation authorities and an amount for interest charges was accrued and included in the 2009 accounts in respect of these audits.

37. From its review of the financial report and queries raised with the issuer, the enforcer established that the tax adjustments resulting from the taxation authority audits were being treated by the issuer as a change in estimate. The enforcer considered whether these adjustments should have been treated as a prior period error, rather than as a change in estimate under IAS 8.

The enforcement decision

38. Following consideration of the issuers' arguments, the enforcer did not disagree with the issuer's assessment that the adjustments to taxation were appropriately treated as changes in estimates. The enforcer considered that tax expenses can be difficult to estimate correctly, particularly when an issuer operates in many jurisdictions and that tax computations are often open for review or audit by taxation authorities for a number of years after the end of the reporting period.

39. However, it was the view of the enforcer that the amount arising from the impact of derecognising a deferred tax asset and the amount in respect of the release of a corporation tax accrual arising from the tax settlement, represented components which were separate to the other components of the tax expense, and therefore should have been separately disclosed in accordance with IAS 12 – *Income taxes*, paragraph 79.

Rationale for the enforcement decision

40. IAS 8 – *Accounting Policies, Changes in Accounting Estimates and Errors*, paragraph 36 provides that the effect of a change in an accounting estimate shall be recognised prospectively by including it in profit or loss in the period of the change. IAS 8, paragraph 42 states that an entity shall correct material prior period errors retrospectively in the first set of financial statements authorised for issue after their discovery by restating the comparative amounts.

41. IAS 8, paragraph 5 states that a prior period error is an omission from or misstatement in the entity's financial statements arising from a failure to use or misuse of reliable information that was available at the time of authorisation of the financial statements and could reasonably be expected to have been obtained and taken into account at the time of their preparation and presentation.

42. The enforcer queried the issuer as to whether the audit adjustments arose from a failure to use reliable information which was available during previous reporting periods, such as failing to correctly apply the provisions of tax law, rules or other guidelines of taxation authorities. As a result of the enforcer's investigation of this matter, it was established that:

    a. the issues that resulted in the tax audit adjustment were not a breach of tax law but related predominantly to transfer pricing issues for which there was a range of possible outcomes that were negotiated with the taxation authorities;
    b. the adjustments arising from the outcome of the audits arose post detailed negotiations and agreement with the taxation authorities during 2009, although the audits had been ongoing over a number of years;
    c. at the end of 2008, the issuer appears to have accounted for all known issues arising from the audits to that date; and
    d. that the deferred tax adjustment in 2009 could not have been foreseen as at the end of 2008 because a change in the scope of the audit to encompass the future reporting periods occurred in 2009.

43. The enforcer then considered the requirements of IAS 12, paragraph 79 to separately disclose the major components of tax expense. Paragraphs 80(b), (c), and (g) respectively provide that such components may include any adjustments recognised in the period for current tax of prior periods, the deferred tax expense relating to the origination and reversal of temporary differences and the deferred tax expense arising from the write-down, or reversal of a previous write-down, of a deferred tax asset are such components. On this basis, the enforcer found that separate disclosure of certain elements of the tax adjustments was required.

VII Decision ref EECS/0111-07 - Classification in the cash flow statement

Financial year end: 31 December 2008
Category of issue: Classification of foreign exchange losses in the cash-flow statement
Standards or requirements involved: IAS 7, IAS 21
Date decision taken: 1 July 2010

Description of the issuer's accounting treatment

44. An issuer acquired two overseas subsidiaries during the year ended 31 December 2008. The company's consolidated cash flow statement showed a loss of 711,008 m.u. as the effect of foreign exchange rate changes on cash and cash equivalents. Prior to the acquisition of its overseas operations the company did not appear to hold any foreign currency denominated cash. In the context of net cash and cash equivalents of 90,960 m.u. acquired during the year, the reported exchange loss seemed to the enforcer to be unexpectedly high.

45. The enforcer could also not understand from the published accounts how the movement in certain working capital balances reported in the reconciliation between operating loss and cash outflow from operations had been determined.

The enforcement decision

46. The enforcer found that the accounts did not comply with paragraph 28 of IAS 7- *Statement ofCash Flows* which states that unrealised gains and losses arising from changes in foreign exchange rates are not cash flows.

Rationale for the enforcement decision

47. The enforcer initially asked the issuer to explain how certain balances reported in the consolidated cash flow statement and related notes had been determined. The issuer acknowledged that amounts reported in the consolidated cash flow statement included, in error, the effect of changes in foreign exchange rates arising on the retranslation of its overseas operations. As a consequence, cash outflow from operating activities originally reported as 19,712 m.u. was understated by 805,126 m.u. and should, therefore, have been reported as 824,838 m.u. in the 2008 accounts. There was no effect on the opening and closing cash position as previously reported.

48. Paragraph 28 of IAS 7 states that unrealised gains and losses arising from changes in foreign exchange rates are not cash flows. However, the effect of exchange rate changes on cash and cash equivalents held or due in a foreign currency is reported in the cash flow statement in order to reconcile cash and cash equivalents at the beginning and the end of the period. This amount is presented separately from cash flows from operating, investing and financing activities and includes the differences, if any, had those cash flows been reported at the end of period exchange rates.

49. The method of translation for foreign operations under paragraph 32 of IAS 21 -,*The Effects of Changes in Foreign Exchange Rates*, requires monetary and non-monetary assets and liabilities to be translated at the closing rate and income and expense items to be translated at the rate ruling at the date of the transaction or an average rate that approximates to the actual exchange rates, for example, an average rate for the period. All exchange differences are taken to a separate component of equity, until disposal of the foreign operation when they are recycled to the income statement.

50. All exchange differences relating to the retranslation of a foreign operation's opening net assets to the closing rate will have been taken directly to reserves. As such exchange differences have no cash flow effect; they will not be included in the consolidated cash flow statement. However, where the opening net assets include foreign currency cash and cash equivalents, then, to that extent, the exchange difference arising on their retranslation at the closing rate for the current period will have been reflected in the closing balances. Such translation differences should be reported in the cash flow statement to determine the total movement in cash and cash equivalents in the period.

VIII Decision ref EECS/0111-08 – Intangible assets

Financial year end: 31 December 2008
Category of issue: Disclosure of intangible assets
Standards or requirements involved: IAS 38
Date decision taken: 13 December 2009

Description of the issuer's accounting treatment

51. The issuer is a football club which pays a fee on the transfer of a football player from another club to its own football team (transfer costs). Such amounts paid are capitalised and amortised over the period of the transfer agreement with the individual football player.

52. At the reporting date, capitalised transfer costs represented approximately 25% of total assets whereas the additions during the year represented approximately 107% of the total capitalised amounts at the reporting date. The majority of the additions during the year is due to the transfer amounts paid on the acquisition of four players. The issuer's 2008 annual financial statements did not provide any of the disclosures that are required by paragraph 122. (b) of IAS 38 – *Intangible assets*.

The enforcement decision

53. The enforcer found that the accounts did not comply with paragraph 122(b) of IAS 38 which requires disclosure of certain information in respect of any individual intangible asset that is material to the entity's financial statements.

Rationale for the enforcement decision

54. IAS 38 requires a description of any intangible asset that is material to the entity's financial statements, with disclosure of its carrying amount and the remaining amortisation period. On enquiry, the issuer provided the enforcer with an analysis of the net book value as of the year end of the capitalised transfer costs, split by players. The net book value represented around 7% of the total assets.

55. The issuer explained that paragraph 122 (b) disclosures had not been provided in respect of any player on account of the following:
    a. the information was sensitive and could prejudice the issuer's position when negotiating player transfers from other clubs.
    b. other clubs do not provide the disclosure – nor those who prepare accounts in accordance with the issuer's national GAAP and which includes a similar disclosure requirement.
    c. Finally, the issuer argued that shareholders are interested only in the total amount of transfer costs capitalised and have no interest in the amounts in respect of individual players.

56. In response, the enforcer noted that IAS 38 does not include an exemption for the disclosure of information that might be considered sensitive or otherwise prejudicial. Comparison with the reporting practices of other non-listed clubs who prepare accounts in accordance with a different framework was not relevant to the decision. Finally, the enforcer explained that IFRS is based on the perceived information requirements of all users of accounts which includes, but is not restricted to, shareholders.

IX Decision ref EECS/0111-09– Share-based payment

Financial year end: 31 December 2008
Category of issue: Share-based payment
Standards or requirements involved: IFRS 2
Date decision taken: 18 March 2009

Description of the issuer's accounting treatment

57. In February 2008, the issuer entered into a borrowing arrangement for 99 m.u. million with 5 banks. The borrowing was represented by 10,000 bonds with 15,000,000 associated callable subscription and/or acquisition warrants exercisable without preferential rights as part of a prospective listing of the warrants on the stock exchange in February 2012. The warrants become exercisable at any time from that date until the 7th anniversary of their issuance. Each warrant gives the right to subscribe or buy one share of the issuer at a fixed price. In the case where the employee is leaving the company, he has to return the share options.

58. As part of the agreement with the banks, they have to arrange for the sale of the warrants to the management of the issuer at a price of 0.34 m.u., price that has been determined by an independent expert. The main parameters used in the calculation of the option were: dividend yield, expected volatility, risk-free interest rate, life of the options, current price of the underlying shares, exercise price and a 30% discount (0.114 m.u.) for the four years of restriction, as the options cannot be exercised for 4 years.

59. As a consequence, there is a difference between the price paid by the management to buy the warrants and the value of the option recognised as equity in the consolidated financial statements of the issuer according to IFRS 2 – *Share-based Payment*, the difference being the discount for the 4-year restriction which has not been taken into account by the issuer to assess the fair value of the options at initial recognition. The issuer accounted for the difference between the option fair value and the warrant price as an expense allocated over the vesting period, according to IFRS 2.

The enforcement decision

60. The enforcer accepted the accounting treatment of the issuer on the grounds of IFRS 2 paragraphs B3 and B10 which require consideration of actual or hypothetical transactions, not only with employees, but rather with all actual or potential market participants when assessing the fair value for shares and for share options respectively.

Rationale for the enforcement decision

61. The enforcer took into consideration the IFRIC agenda rejection in November 2006 on the fair value measurement of post-vesting transfer restrictions. IFRIC's agenda rejection states that the valuation of the options under IFRS 2 should include a discount for restrictions if the post-vesting restrictions affect the price that a knowledgeable, willing market participant would pay for that share.

62.The IFRC rejection is based on the following:

a. IFRS 2 paragraph B3 states that “if the shares are subject to restrictions on transfer after vesting date, that factor shall be taken into account, but only to the extent that the post-vesting restrictions affect the price that a knowledgeable, willing market participant would pay for that share. For example, if the shares are actively traded in a deep and liquid market, post-vesting transfer restrictions may have little, if any, effect on the price that a knowledgeable, willing market participant would pay for those shares”,

b. IFRS 2 paragraph BC 168 notes that “the objective is to estimate the fair value of the share option, not the value from the employee’s perspective”,

c. IFRS 2 paragraph B10 indicates that “for share options granted to employees, factors that affect the value of the option from the individual employee’s perspective only are not relevant to estimating the price that would be set by a knowledgeable, willing market participant”.

63. IFRIC noted that theses paragraphs require consideration of actual or hypothetical transactions, not only with employees, but rather with all actual or potential market participants willing to invest in restricted shares that had been or might be offered to them.

64.In that case, the shares are actively traded in a deep and liquid market and therefore it seems very unlikely to the enforcer that market participants would get a 30% discount on the shares for a 4-year restriction. For that reason the 30% discount is an advantage granted to the management of the issuer and should be accounted for accordingly over the vesting period.