Fourth Council Directive of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies (78/660/EEC) (repealed)

[F1SECTION 7a

Valuation at fair value

Article 42a

1 By way of derogation from Article 32 and subject to the conditions set out in paragraphs 2 to 4 of this Article, Member States shall permit or require in respect of all companies or any classes of companies valuation at fair value of financial instruments, including derivatives.

Such permission or requirement may be restricted to consolidated accounts as defined in Directive 83/349/EEC.

2 For the purpose of this Directive commodity-based contracts that give either contracting party the right to settle in cash or some other financial instrument shall be considered to be derivative financial instruments, except when:

a they were entered into and continue to meet the company's expected purchase, sale or usage requirements;
b they were designated for such purpose at their inception; and
c they are expected to be settled by delivery of the commodity.

3 Paragraph 1 shall apply only to liabilities that are:

a held as part of a trading portfolio; or
b derivative financial instruments.

4 Valuation according to paragraph 1 shall not apply to:

a to non-derivative financial instruments held to maturity;
b to loans and receivables originated by the company and not held for trading purposes; and
c to interests in subsidiaries, associated undertakings and joint ventures, equity instruments issued by the company, contracts for contingent consideration in a business combination as well as other financial instruments with such special characteristics that the instruments, according to what is generally accepted, should be accounted for differently from other financial instruments.

5 By way of derogation from Article 32, Member States may in respect of any assets and liabilities which qualify as hedged items under a fair value hedge accounting system, or identified portions of such assets or liabilities, permit valuation at the specific amount required under that system.

Article 42b

1 The fair value referred to in Article 42a shall be determined by reference to:

a a market value, for those financial instruments for which a reliable market can readily be identified. Where a market value is not readily identifiable for an instrument but can be identified for its components or for a similar instrument, the market value may be derived from that of its components or of the similar instrument; or b a value resulting from generally accepted valuation models and techniques, for those instruments for which a reliable market cannot be readily identified. Such valuation models and techniques shall ensure a reasonable approximation of the market value.

2 Those financial instruments that cannot be measured reliably by any of the methods described in paragraph 1, shall be measured in accordance with Articles 34 to 42.

Article 42c

1 Notwithstanding Article 31(1)(c), where a financial instrument is valued in accordance with Article 42b, a change in the value shall be included in the profit and loss account. However, such a change shall be included directly in equity, in a fair value reserve, where:

a the instrument accounted for is a hedging instrument under a system of hedge accounting that allows some or all of the change in value not to be shown in the profit and loss account; or

b the change in value relates to an exchange difference arising on a monetary item that forms part of a company's net investment in a foreign entity.

2 Member States may permit or require a change in the value on an available for sale financial asset, other than a derivative financial instrument, to be included directly in equity, in the fair value reserve.

3 The fair value reserve shall be adjusted when amounts shown therein are no longer necessary for the implementation of paragraphs 1 and 2.

Article 42d

Where valuation at fair value of financial instruments has been applied, the notes on the accounts shall disclose:

(a) the significant assumptions underlying the valuation models and techniques where fair values have been determined in accordance with Article 42b(1)(b);

(b) per category of financial instruments, the fair value, the changes in value included directly in the profit and loss account as well as changes included in the fair value reserve;

(c) for each class of derivative financial instruments, information about the extent and the nature of the instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flows; and

(d) a table showing movements in the fair value reserve during the financial year.

[
F2Article 42e

By way of derogation from Article 32, Member States may permit or require in respect of all companies or any classes of company the valuation of specified categories of assets other than financial instruments at amounts determined by reference to fair value.

Such permission or requirement may be restricted to consolidated accounts as defined in Directive 83/349/EEC.

Textual Amendments

F2 Inserted by Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings (Text with EEA relevance).

Article 42f

Notwithstanding Article 31(1)(c), Member States may permit or require in respect of all companies or any classes of company that, where an asset is valued in accordance with Article 42e, a change in the value is included in the profit and loss account.**]]**

Textual Amendments

F2 Inserted by Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings (Text with EEA relevance).

Textual Amendments

F1 Inserted by Directive 2001/65/EC of the European Parliament and of the Council of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions.