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Sir David Tweedie
Chairman
International Accounting Standards Board
30 Cannon Street
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United Kingdom

Berlin, 26 November 2008

Dear David,

IASB Exposure Draft "Simplifying Earnings per Share – Proposed amendments to IAS 33"

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on the IASB Exposure Draft (ED) *Simplifying Earnings per Share – Proposed amendments to IAS 33*. We appreciate the opportunity to respond to the Exposure Draft.

Please find our detailed comments on the questions raised in the Exposure Draft in the appendix. Our main comments are summarised below.

As the IASB and FASB currently are working on more urgent projects, we question whether the boards should be spending scarce resources on these projects instead of working on the convergence and simplification of the EPS calculation. We do not deem work on the EPS project at this time essential.

Furthermore, we are uncertain whether the calculation of EPS has necessarily to be framed in an accounting standard as it is not an accounting issue.

If you would like to discuss any aspects of this comment letter in more detail, please do not hesitate to contact me.

Yours sincerely,

Liesel Knorr
President

Appendix

GASB comments on the questions set out in the IASB's Exposure Draft *"Simplifying Earnings per Share – Proposed amendments to IAS 33"*

Question 1: Mandatorily convertible instruments and instruments issuable for little or no cash or other consideration
Paragraphs 18 and 19 of the exposure draft propose that the weighted average number of ordinary shares should include only instruments that give (or are deemed to give) their holder the right to share currently in profit or loss of the period. If ordinary shares issuable for little or no cash or other consideration or mandatorily convertible instruments do not meet this condition, they will no longer affect basic EPS. (a) Do you agree that the weighted average number of ordinary shares for basic EPS should include only instruments that give (or are deemed to give) their holder the right to share currently in profit or loss of the period? Why or why not? (b) Does the exposure draft apply this principle correctly to mandatorily convertible instruments and ordinary shares issuable for little or no cash or other consideration? Why or why not?

1 We agree with the proposed principle that basic EPS should include only those instruments that give, or are deemed to give, the holder the right to share currently in profit or loss of the period with ordinary equity instrument holders. Following this approach, we support, to establish consistency, the proposal that mandatorily convertible instruments should be reflected in the basic EPS only if they meet the definition of a participating instrument.

2 On the other hand, in our view it is inconsistent to include contingently issuable shares in basic EPS only if they are exercisable for little or no cash or other consideration. Contrary to the inclusion of mandatorily convertible shares where only a formal act is needed for conversion, the criteria for including contingently issuable shares are different. If consistency is intended, the criteria to include an instrument into the denominator of basic EPS should be the same.

Question 2: Gross physically settled contracts to repurchase an entity's own shares and mandatorily redeemable ordinary shares
Paragraphs A31 and A32 of this exposure draft propose clarifying that an entity treats ordinary shares that are subject to a gross physically settled contract to repurchase its own shares as if the entity had already repurchased the shares. Therefore, the entity excludes those shares from the denominator of the EPS calculation. To calculate EPS, an entity allocates dividends to the financial liability relating to the present value of the redemption amount of the contract. Therefore,

the liability is a participating instrument and the guidance in paragraphs A23–A28 applies to this instrument. However, such contracts sometimes require the holder to remit back to the entity any dividends paid on the shares to be repurchased. If that is the case, the liability is not a participating instrument.

The Board proposes that the principles for contracts to repurchase an entity's own shares for cash or other financial assets should also apply to mandatorily redeemable ordinary shares.

Do you agree with the proposed treatment of gross physically settled contracts to repurchase an entity's own shares and mandatorily redeemable shares? Why or why not?

3 We agree with the proposal that an entity should treat ordinary shares that are subject to a gross physically settled contract to repurchase its own shares as if the entity had already repurchased the shares and should therefore exclude those shares from the denominator of the EPS calculation. This treatment is in line with common practice.

4 We nevertheless think that the wording of paragraphs A31 and A32 is unnecessarily complex. When dividends are allocated to ordinary shares that are subject to a gross physically settled contract to repurchase an entity's own shares, this financial liability participates in profit or loss and therefore meets the definition of a participating instrument. In our view, the exception that the holder has to remit back to the entity any dividends paid on the shares to be repurchased does not necessarily have to be included in the paragraph, as in this case the definition of a participating instrument is not met. Accordingly, we propose considering only those shares which ultimately participate in profit or loss. Then all financial instruments which ultimately participate in profit or loss would be included in the denominator, i.e. both, the ordinary shares that are subject to a gross physically settled contract to repurchase its own shares and the mandatorily redeemable ordinary shares.

Question 3: Instruments that are measured at fair value through profit or loss

For an instrument (or the derivative component of a compound instrument) that is measured at fair value through profit or loss, paragraphs 26 and A28 propose that an entity should not:

(a) adjust the diluted EPS calculation for the assumed exercise or conversion of that instrument; or

(b) apply the guidance for participating instruments and two-class ordinary shares in paragraphs A23–A28.

Do you agree that the fair value changes sufficiently reflect the effect on ordinary equity holders of instruments measured at fair value through profit or loss and that recognising those changes in profit or loss eliminates the need for further adjustments to the calculation of EPS? Why or why not?

5 We agree that the fair value changes sufficiently reflect the effect on ordinary equity holders of instruments measured at fair value through profit or loss and that no further adjustments to the calculation of EPS are needed.

Question 4: Options, warrants and their equivalents

For the calculation of diluted EPS, an entity assumes the exercise of dilutive options, warrants and their equivalents that are not measured at fair value through profit or loss. Similarly, paragraph 6 of this exposure draft proposes clarifying that to calculate diluted EPS an entity assumes the settlement of forward contracts to sell its own shares, unless the contract is measured at fair value through profit or loss. In addition, the boards propose that the ordinary shares arising from the assumed exercise or settlement of those potential ordinary shares should be regarded as issued at the end-of-period market price, rather than at their average market price during the period.

(a) Do you agree that to calculate diluted EPS an entity should assume the settlement of forward sale contracts on its own shares in the same way as options, warrants and their equivalents? Why or why not?

(b) Do you agree that ordinary shares arising from the assumed exercise or settlement of options, warrants and their equivalents should be regarded as issued at the end-of-period market price? Why or why not?

6 We agree, because from an economical point of view we do not see any difference in the assumption of settlement of forward sale contracts on its own shares and of options, warrants and their equivalents.

7 We agree that ordinary shares arising from the assumed exercise or settlement of options, warrants and their equivalents should be regarded as issued at the end-of-period market price rather than at the average market price. Nevertheless, while we are of the opinion that this amendment in fact gives a better but still not an entirely true/correct picture of the dilution, we regard the proposed new calculation as a better reflection of the dilution than the current calculation.

Question 5: Participating instruments and two-class ordinary shares

Paragraph A23 proposes to extend the scope of the application guidance for participating instruments to include participating instruments that are classified as liabilities. In addition, the Board proposes to amend the application guidance for participating instruments and two-class ordinary shares. The proposed application guidance would introduce a test to determine whether a convertible financial instrument would have a more dilutive effect if the application guidance in paragraph A26 and A27 for participating instruments and two-class ordinary shares is applied or if conversion is assumed. The entity would assume the more dilutive treatment for diluted EPS. Also, the amended application guidance would require that, if the test causes an entity to assume conversion of dilutive convertible instruments, diluted EPS should reflect actual dividends for the period.

In contrast, diluted EPS would not include dividends that might have been payable had conversion occurred at the beginning of the period.

Do you agree with the proposed amendments to the application guidance for participating instruments and two-class ordinary shares? Why or why not?

8 In general we take the view that the proposed test to determine whether a convertible financial instrument would have a more dilutive effect if the application guidance for participating instruments and two-class ordinary shares is applied or if conversion is assumed should only be applied if it gives rise to more decision-useful information. We object to the proposed test as being too complex and time-consuming, without providing sufficient additional benefit.

Question 6: Disclosure requirements

The Board does not propose additional disclosures beyond those disclosures already required in IAS 33.

Are additional disclosures needed? If so, what additional disclosures should be provided and why?

9 We agree that no additional disclosures should be required.