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December 2, 2008

Exposure Draft of Proposed Amendments to IAS 33, *Simplifying Earnings Per Share*
International Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

RE: Exposure Draft: Simplifying Earnings Per Share

Dear IASB Members:

The International Organization of Securities Commissions (IOSCO) Standing Committee No. 1 on Multinational Disclosure and Accounting (Standing Committee No. 1) thanks you for the opportunity to provide our comments regarding the International Accounting Standards Board (IASB or the Board) Exposure Draft on International Accounting Standards No. 33, *Simplifying Earnings Per Share*, (the Exposure Draft or the ED).

IOSCO is committed to promoting the integrity of international markets through promotion of high quality accounting standards, including rigorous application and enforcement. Members of Standing Committee No. 1 seek to further IOSCO's mission through thoughtful consideration of accounting and disclosure concerns and pursuit of improved transparency of global financial reporting. The comments we have provided herein reflect a general consensus among the members of Standing Committee No. 1 and are not intended to include all of the comments that might be provided by individual securities regulator members on behalf of their respective jurisdictions.

General Observations

Simplification and Convergence

Standing Committee No. 1 appreciates the efforts of the IASB and the U. S. Financial Accounting Standards Board (FASB) to simplify earnings per share (EPS) computations and to converge the guidance between U. S. and international financial reporting standards. As indicated in the ED, the goal of the project was to reduce differences that could be resolved in a short period of time and thus was limited to achieving convergence of the denominator of the EPS computation. While this project's scope is narrow, we believe that if it does simplify

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certain of the guidance, clarify other guidance, and achieve denominator convergence, then the amendments are worth finalizing even though true convergence in EPS cannot occur until the numerators are the same. However, while achieving some convergence is the goal of this project, we note in several of our specific responses below instances where the language in definitions or provisions between the standards seems sufficiently different as to raise the question whether reasonable persons would interpret the guidance in U.S. GAAP and IFRS in the same manner. Minor differences in wording can lead to major differences in application. In the interest of clarity and true convergence, we urge that the amendments to IAS 33 and FAS 128 use the same concepts, language and examples to the extent possible, while respecting differences in terminology that already exist between the two sets of standards.

Instruments that Are Measured at Fair Value through Profit or Loss

While Standing Committee No. 1 is generally supportive of efforts to simplify EPS, we are concerned about the Board's conclusion that the dilutive effect of instruments that are measured at fair value through profit or loss is best achieved solely through recognition of changes in the fair value of such contracts in profit or loss. Based on the discussions in the basis for conclusions, it is not clear that the Board has sufficiently researched whether the benefits of this approach to preparers offset the potential costs to financial statement users of having a diluted EPS metric that may be less reflective of the dilutive effects of potential ordinary shares outstanding during the period. While some may suggest that investor needs could be met by disclosure of sufficient information to allow re-computation of diluted EPS consistent with existing EPS methodology for such instruments, we are not supportive of this alternative. Why amend an existing standard to eliminate what investors may consider to be preferable methods of reflecting dilution for certain instruments and then compensate by providing disclosures to allow re-computation of EPS using the preferred methods? We believe that the Board should conduct further research to determine the approach that provides investors with the most useful information and then adopt that approach.

We further observe that if one goal of the ED is to simplify the EPS computation, we question how an additional method of determining the dilutive effects of certain types of instruments would be considered a simplification. There are already two existing methods: the assumed conversion (if-converted) and the assumed exercise (treasury stock) methods. While we acknowledge the difficulty in simplifying EPS until the project on financial instruments with the characteristics of equity is completed, given the state of that guidance and the mixed attribute measurement model, the new method for instruments at fair value through profit or loss may just add to the inconsistency in EPS treatment that is being applied to similar instruments.

Responses to the Board's Questions

Question 1 (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?

Standing Committee No. 1 agrees that the weighted average number of ordinary shares for basic EPS should include only instruments that give holders a right to share currently in profit or loss of the period. That guidance is consistent with the objective of basic EPS in IAS 33. However, Standing Committee No. 1 believes that the Board should consider clarifying the guidance on instruments that are "... deemed to give) their holder the right to share currently in profit or loss of the period" and hence are required to be included in basic EPS. Based on

the language in paragraph 17 of the ED, it appears that ordinary shares that are currently issuable for little or no cash or other consideration are “deemed to have the right” to share currently in profit and loss. We believe some explanation should be provided in the basis for conclusions on the Board’s rationale for why such instruments are deemed to have current participation rights because such instruments may not in fact have explicit participation rights. If an instrument does have explicit dividend rights, it would be included in basic EPS as a participating instrument under the two-class method and the guidance on shares issuable for little or no cash or other consideration may be unnecessary. An explanation of the rationale would enable users to better understand why this guidance is being provided and the circumstances in which it applies.

Further, we note that neither the amendments to the standard itself nor the application guidance provide clear guidance on how “little or no cash or other consideration” should be evaluated. In contrast, we note that the proposed amendment to paragraph 10 of Statement of Financial Accounting Standard 128(R), *Earnings Per Share* (FAS 128R), indicates that its analogous concept of “little or no cost” is evaluated relative to the end-of-period market price of the ordinary shares and provides an example to illustrate the analysis. Moreover, in identifying such instruments, FAS 128R uses two concepts: (a) “An instrument that is currently exercisable for little or no cost to the holder”, and (b) “Shares that are currently issuable for little or no cost to the holder.” Is the guidance in the IAS 33 amendment on ordinary shares currently issuable for little or no cash or other consideration intended to encompass both types of instruments identified in FAS 128R? In the interest of clarity and convergence, we recommend consistency in the amendments of IAS 33 and FAS 128R.

We also note that the definition of “contingently issuable share” has been changed to eliminate the phrase “for little or no cash or other consideration,” which suggests that the concept of contingently issuable share has continuing relevance for diluted EPS, but is no longer relevant for basic EPS. The prior guidance in paragraph 20 of the ED related to contingently issuable shares to be included in basic EPS has been eliminated and replaced by the guidance in paragraph 19 regarding “ordinary shares that are currently issuable for little or no cash or other consideration”. However, as shown in Example D.1 in the illustrative examples, ordinary shares issuable for little or no cash or other consideration are included in basic EPS from the period when “the shares are currently exercisable” and they are included in diluted EPS “from the beginning of the period in which the conditions for issue of the ordinary shares are satisfied.” We recommend that either in the standard or the application guidance, the Board clarify the relationship between these concepts, for example, by indicating that ordinary shares that are currently issuable for little or no cash or other consideration may be a subset of contingently issuable shares and may in fact be included in basic as well as in diluted EPS. In addition, the language quoted above in example D.1 should be changed to “currently issuable” from “currently exercisable.”

Question 1(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?

Regarding mandatorily convertible instruments, it appears such instruments will no longer be included in basic EPS unless participating. These instruments will now follow the guidance for convertible instruments generally and will be considered in diluted EPS. This answer appears consistent with the principle for basic EPS, as it appears that such instruments, unless participating, would not *currently* have the right to share in earnings and loss of the entity.

For ordinary shares issuable for little or no cash consideration, see the response to Question 1(a) above.

Question 2 - 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?

Standing Committee No. 1 believes that for gross physically settled forward contracts to repurchase an entity's own shares and mandatorily redeemable shares, the proposed accounting to exclude such shares from basic and diluted EPS appears appropriate since for accounting purposes such shares are not considered outstanding and it is clear that given the passage of time such instruments will no longer be outstanding. However, it is not clear why written put options that require physical settlement with an entity's own shares or optionally redeemable shares should be presumed to be repurchased for EPS purposes if the holder would only exercise the put option if it is in-the-money. If it is not clear that such shares will in fact be redeemed, then it is not apparent that the best treatment of the contract for EPS purposes is to exclude the instruments from EPS, as following the reverse treasury stock method might be more dilutive. Further, as discussed below, certain of the instruments, such as written put options, might not in fact be participating securities and hence there may be no dilutive effect from such securities in EPS other than the income statement effects, yet these contracts would not be accounted for at fair value through profit and loss.

We also observe that the guidance in paragraph A32 on contracts to repurchase an entity's own shares for cash or other financial assets is unclear. That guidance states: "To calculate earnings per share, an entity allocates dividends to that financial liability. As a consequence, the liability participates in profit or loss of the entity and meets the definition of a participating instrument." Is this sentence providing a factual statement, a description of the existing accounting for dividends as a component of profit or loss under IAS 32, or describing an attribution of profit or loss for calculating EPS under the ED? The basis for conclusions suggests that the Board in fact believes that such instruments generally have explicit dividend rights. However, that may not in fact be the case, particularly for free standing options as discussed further below. Given the different possible interpretations of the language in paragraph A32, we recommend that the Board clarify its intentions in the application guidance itself rather than in the basis for conclusions.

Put options and forwards on shares and mandatorily or optionally redeemable shares (puttable shares) appear to have different likelihoods of having explicit dividend rights. It is likely that holders of puttable shares would be entitled to receive dividends, but it is less likely that holders of physically-settlable put options or forwards that are accounted for similarly to puttable shares under IAS 32 will necessarily have explicit participation rights. If the dilutive effect of mandatorily or optionally redeemable shares or physically settled written put options is captured in the ED primarily based on the instrument's participation rights, we are concerned that written put options or forwards to purchase shares would not be considered participating, if the only form of participation was through a reduction in exercise or settlement price. We believe the guidance regarding such instruments should explicitly address whether a reduction in exercise or settlement price at or around dividend dates is considered a right to participate in dividends. We wonder whether, if not participating, the proposed treatment will sufficiently reflect the dilution from such instruments.

Further, it appears that the general guidance in paragraph A32 could be paraphrased as follows: If a contract to repurchase an entity's own shares has rights to participate (whether distributed or undistributed) that have not been fully reflected *in* profit and loss as interest costs, then the additional rights should be reflected in basic EPS by attribution of profit and loss to such instruments in accordance with the guidance in A23-28 on participating instruments. We recommend that the Board clarify the guidance in paragraph A32 and provide an example of this attribution and its effect on EPS.

Question 3 - 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?

As noted above under "General Observations", we believe that prior to adopting the proposed amendments related to instruments measured at fair value through profit and loss, the Board should carefully consider what the objective is of the metric "diluted earnings per share" and whether this amendment is consistent with that objective. We believe the objective of diluted EPS is to show the potential dilution to shareholders from all the potential ordinary shares that are outstanding during the period. This is essentially a "pro forma" computation that attempts to capture the reduction in profit or loss for the period attributable to an ordinary shareholder that might occur from having more shares outstanding arising from existing potential common shares. Thus it is not clear to us that solely recognizing dilution through the earnings impact of instruments measured at fair value through profit or loss adequately captures the notion of dilution from potential share issuances that concerns investors who follow this metric.

Question 4 (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?

Standing Committee No. 1 believes that the guidance in IAS 33 for forward sales contracts on an entity's own shares is reasonable. However, we recommend that the guidance for forward sale contracts be made explicit in the standard itself rather than only being made clear in the basis for conclusions. Adding the words "and forward contracts are settled" to the definition of dilution in paragraph 6 and the sentence on forwards at the end of the definition of "options, warrants and their equivalents" does not clearly specify the mechanics of the method that is to be applied to forwards. The basis for conclusions (paragraph BC24) explains that for forward contracts to issue an entity's own shares, one is to apply the assumed exercised/settled method, as if the instrument were a written call option. We recommend that this clarification be placed into the standard or the application guidance.

Question 4 (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?

Standing Committee No. 1 agrees that the end-of-period market price does offer a more simplified approach to the computation of diluted EPS under the assumed exercised method. However we observe that using an average price or beginning-of-period price seems more consistent with the assumption that options are exercised as of the later of the beginning of the period or the date the instrument was issued. We note that the basis for conclusions

indicates that using the end-of-period price rather than the average price simplifies the computation and also resolves the conflict in the standard between using an average price, but assuming the shares are outstanding since the beginning of the period. In some respects, using the end-of-period price rather than the average price seems to result in an even greater conflict in IAS 33 rather than resolving the conflict since the shares are assumed outstanding as of the beginning of the period, not the end of the period.

Question 5 - Do you agree with the proposed amendments to the application guidance for participating instruments and two-class ordinary shares? Why or why not?

Standing Committee No. 1 agrees that adding a definition of participating instrument is an improvement to IAS 33, as that standard currently does not specify as clearly as the amendment which instruments are to be considered participating. However, we note that the proposed amendment to IAS 33 and FAS 128R both contain new definitions of a participating security, but they are not identical. Paragraph 6 of IAS 33 ED states that a participating instrument is “an instrument that gives its holder the right to participate in dividends with ordinary shares according to a predetermined formula”. On the other hand, the amendment in proposed FAS 128R to the glossary in FAS 128 would define “participating security” as (in part), “A security that may participate in current-period earnings with common stock according to a predetermined formula (for example, two for one) with, at times, an upper limit on the extent of participation (for example, up to, but not beyond, a specified amount per share), whether or not that participation is conditioned upon the occurrence of a specified event.” We did note that paragraph A23(a) of IAS 33 does expand upon the basic definition of participating instrument by providing examples similar to those in the FAS 128 definition cited above. Nonetheless, we believe that even the small differences in the definitions, such as the use of “a right to participate in dividends” in the IAS 33 ED versus the arguably more inclusive “may participate in current-period earnings” in the FAS 128R ED could lead to differences in interpretation. Since one of the goals of the EPS amendments is convergence, Standing Committee No. 1 urges the Boards to use the same language to the extent possible.

Standing Committee No. 1 notes that the ED does not address some EPS issues but instead refers to certain U. S. GAAP guidance in the basis for conclusions (paragraph BC8) with a statement indicating that such literature goes beyond the level of detail in IAS 33. We wondered if the reference to this U.S. GAAP literature in the basis for conclusions was intended to be an implicit endorsement of the guidance in such literature. For example, EITF 04-8 addresses when the dilutive effect of contingently convertible instruments with a market-price contingency should be included in diluted EPS computations. Is it the intention of the Board that such guidance be followed rather than going through the hierarchy specified in paragraphs 11-12 of IAS 8 that applies when judgment must be used in absence of an IFRS that specifically applies to a transaction? We believe this should be clarified in a final standard.

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?

Standing Committee No. 1 agrees with the Board’s proposal not to expand disclosures beyond those required in IAS 33. In addition, consistent with our general comment above regarding instruments that are measured at fair value through profit or loss, we do not

recommend an alternative disclosure requirement to provide information that would enable users to calculate diluted EPS consistent with the existing methodology for such instruments. That is, if determining dilution in accordance with the existing standard is preferable to investors then that methodology should be retained.

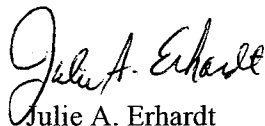
Other Observations

Standing Committee No. 1 recommends that the Board consider relocating the guidance in paragraphs A31-A32, "Contracts to repurchase an entity's own shares for cash or other financial assets." Paragraphs A31-A32 do not appear to provide implementation guidance regarding the principle in paragraph 11, which is the fundamental computational guidance for basic EPS. The guidance in A31-A32 appears to address special circumstances in which certain shares are not considered outstanding. This guidance might be better located within the standard itself, such as indicating a special situation under the heading "Basic earnings per share" or, alternatively, the references to these paragraphs might be relocated to the section labeled "Shares" that does address numerous other issues on which shares are to be included in outstanding shares.

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We appreciate your thoughtful consideration of the comments raised in this letter. If you have any questions or need additional information on the recommendations and comments that we have provided, please do not hesitate to contact me at 202-551-5300.

Sincerely,



Julie A. Erhardt
Chairman
IOSCO Standing Committee No. 1