

November 30, 2005

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RE: File Reference No. 1240-001, *Earnings per Share - an amendment of FASB Statement No. 128*

Dear Ms. Bielstein:

PricewaterhouseCoopers LLP appreciates the opportunity to respond to the Financial Accounting Standards Board's (FASB or the "Board") Exposure Draft, *Earnings per Share – an amendment of FASB Statement No. 128* (the "proposed Standard"). We support the issuance of guidance to clarify and converge earnings per share ("EPS") computations in the U.S. to make them more consistent with IAS 33, *Earnings per Share*, thereby improving the comparability of EPS data on a global basis. Although the proposed amendment will not resolve certain conceptual issues with FAS 128, nor will it reduce the complexity of the current EPS model, we support the proposed standard because it will achieve convergence with IAS 33 in key areas.

The International Accounting Standards Board ("IASB") recently decided to publish an exposure draft of proposed amendments to IAS 33 that would change the application of the treasury stock method regarding the extinguishment of a liability as assumed proceeds to continue the process of converging EPS computations. Consistent with our comments above, we support the IASB's decision in this regard. However, the IASB has proposed going a step further and extending the amended treasury stock method to convertible instruments, thereby eliminating the if-converted method, at least for convertible debt instruments. This additional proposed change would create new divergence from the proposed Standard.

Recognizing that the capital markets will continue to produce innovative financial instruments that will affect EPS, in the future we would be supportive of developing an EPS model that better reflects the economic dilution of complex instruments to current shareholders and moves toward the elimination of differing methods of computing dilution for economically similar instruments. However, we believe that amending FAS 128 and IAS 33 on a staggered basis is not in the best interests of the capital markets. Accordingly, we recommend that the Board work together with the IASB on any further changes to the EPS model to maintain convergence of the two standards.

The comments below are intended to improve the operation and clarity of the proposed standard.

Extinguishment of a Liability Is Assumed Proceeds

We agree conceptually with the proposed change to include the carrying amount of an extinguished liability in assumed proceeds when applying the treasury stock method for certain types of instruments that are classified as liabilities but are potentially settleable in shares. Economically, there is no difference between receiving cash in exchange for shares and avoiding having to pay cash in exchange for shares. However, we recommend that the final standard

better articulate the principle that supports this change, to assist preparers in assessing when liability-classified instruments should be accounted for using the treasury stock method (i.e., where the carrying amount of the liability is included in assumed proceeds) vs. the if-converted method for purposes of computing diluted EPS. We believe the Board's intent is that instruments, such as warrants, that fail the tests for equity classification in Emerging Issues Task Force Issue No. 00-19 should be included in assumed proceeds when applying the treasury stock method. However, it may be hard to draw distinctions between certain types of instruments, such as very off-market forward contracts which are legally forward contracts but economically act as mandatorily convertible securities. We believe that preparers may find it difficult to differentiate which method to use for various instruments and diversity in practice will result.

Paragraph A14 acknowledges that there are practice issues in determining whether to apply the treasury stock or if-converted methods and that the Board hopes to address some of those questions in its project on liabilities and equity. However, we believe it would be helpful if the final standard provided the conceptual justification to support the application method. FAS 128 is, by its nature, a rules-based standard. We believe that further guidelines in this area may reduce diversity in practice and improve the clarity of the standard.

Regarding the measurement alternatives outlined in Issue 2, we believe including in assumed proceeds the carrying amount of the liability as of the end of the period would be more consistent with the treasury stock method in general as well as the concepts in paragraphs 31-32 of FAS 128 and is simpler to apply. Accordingly, we believe that using the carrying amount is preferable to the proposed alternative approach of measuring the liability at the average share price during the period and including a theoretical value as proceeds. That alternative approach would essentially leave any mark-to-market adjustments of the liability in the numerator and result in no shares in the denominator. This is akin to assuming cash settlement and seems contrary to the notion in paragraph 29 of FAS 128 that it shall be assumed that contracts will be settled in common stock. Further, requiring the calculation of an additional fair value of the liability based on average share price solely for EPS purposes will require a computational effort that we do not believe is justified.

Share-Based Payment Arrangements

In the amendment to paragraph 21 of FAS 128, which details the components that comprise assumed proceeds, we believe (c) should state "the **average** amount of compensation cost attributed to future services and not yet recognized." This would more clearly articulate the concept demonstrated in Illustration 8 of FAS 128, as amended by Statement of Financial Accounting Standards No. 123 (revised 2004), *Share-Based Payment* ("FAS 123(R)"), and eliminate confusion in practice. In addition, it would be helpful if (d) clarified whether the ending or average stock price should be used to compute the amount of excess tax benefits that would be credited to additional paid in capital assuming exercise. Based on the computations in Illustration 8 of FAS 128, as amended by FAS 123(R), we believe that the average stock price should be used.

Contingently Issuable Shares

In paragraph 30b., we suggest that the last sentence clarify that the contingently issuable shares shall be included in the denominator of diluted EPS as of the beginning of the **quarterly and year-to-date** periods. This will make it clear that there is a separate year-to-date computation.



Mandatorily convertible instrument – paragraph 171 (glossary)

We believe the definition in the first sentence should be expanded to clarify that the instrument has no provisions for cash settlement by either party. For example, if the instrument could be called or put back to the entity earlier for cash, or if there is a call or put feature triggered by a contingent event, the shares are not unconditionally issuable and should not be included in the basic EPS computation. Also, we believe it would be helpful if the guidance clarified that when more than a minimum number of shares could be issued, the minimum shares that will be issued are considered mandatorily convertible and included in basic EPS, and any additional shares should be considered for inclusion in the diluted EPS computation.

Effective Date and Transition

Paragraph 4. should be revised to state "Retrospective application ... have been settled for cash or modified such that the **instrument can no longer be settled** in shares." This change would encompass contingent features as well as features that are at the issuer's option.

If you have any questions on our comments, please contact Jay Seliber (973-236-7277) or Marvin (Bud) Thomas (973-236-4989).

Sincerely,

A handwritten signature in cursive script that reads "PricewaterhouseCoopers LLP".

PricewaterhouseCoopers LLP