IAS 33: Escrow Share Arrangements

Extract, IFRS Discussion Group Report on Meeting – September 11, 2014

Under the Capital Pool Company (referred to as "CPC") Program of the TSX Venture Exchange (referred to as "TSXV"), a shell company is formed with seed capital from founding investors. This shell company raises funds from other investors in an initial public offering with the intent of completing a qualifying transaction within 24 months. The other investors may include investors related or unrelated to the capital pool companies or founding investors but must include a certain number of arm's length investors. Qualifying transactions are typically the acquisition of a business. Certain shares issued by capital pool companies prior to the qualifying transaction are placed in escrow under TSX Venture Exchange rules. If a qualifying transaction occurs, the escrowed shares are typically released in tranches over three years. If a qualifying transaction does not occur within 24 months of listing, the TSX Venture Exchange may delist the capital pool company's shares. Escrowed shares are a trading restriction only. The shareholders still vote and receive dividends if declared.

Issue: Should these escrowed shares be considered contingently issuable shares or contingently returnable shares under IAS 33 **Earnings per Share** ***such that they should be excluded from the calculation of basic earnings per share (View A), or they should they be considered ordinary shares such that they are included in basic earnings per share (View B), prior to the qualifying transaction?***

View A – Exclude from basic earnings per share while shares in escrow.

Escrowed shares should be excluded from basic earnings per share (referred to as "EPS") until the escrow conditions have been removed because the shares meet the definition of either contingently returnable shares subject to recall (in accordance with paragraph 24 of IAS 33) or contingently issuable ordinary shares (in accordance with paragraph 5 of IAS 33). The necessary condition for the shares to be included in basic earnings per share is the completion of the qualifying transaction.

View B – Include in basic earnings per share from date of issuance.

The escrowed shares should not be treated as contingently issuable or contingently returnable. They have been issued for proceeds that are nonrefundable upon cancellation (and, therefore, were not issued for "little or no cash or other consideration"). Further, the shares do not meet the definition of contingently returnable shares because they are not subject to recall. The purpose of the Capital Pool Company Program is to complete a qualifying transaction and the entity issuing the escrow shares is committed to doing so.

The Group's Discussion

The majority of Group members supported View A, noting that escrowed shares should be excluded from basic earnings per share until the escrow conditions have been removed. Group members noted that the Capital Pool Company Program exists because the completion of a qualifying transaction is not considered perfunctory.

The Group recommended the AcSB be asked to determine if there is diversity in practice on this issue and the actions that should be taken. Those actions might include suggesting to CPA Canada's Oil and Gas Industry Task Force or Mining Industry Task Force that they publish material on this issue to raise awareness.