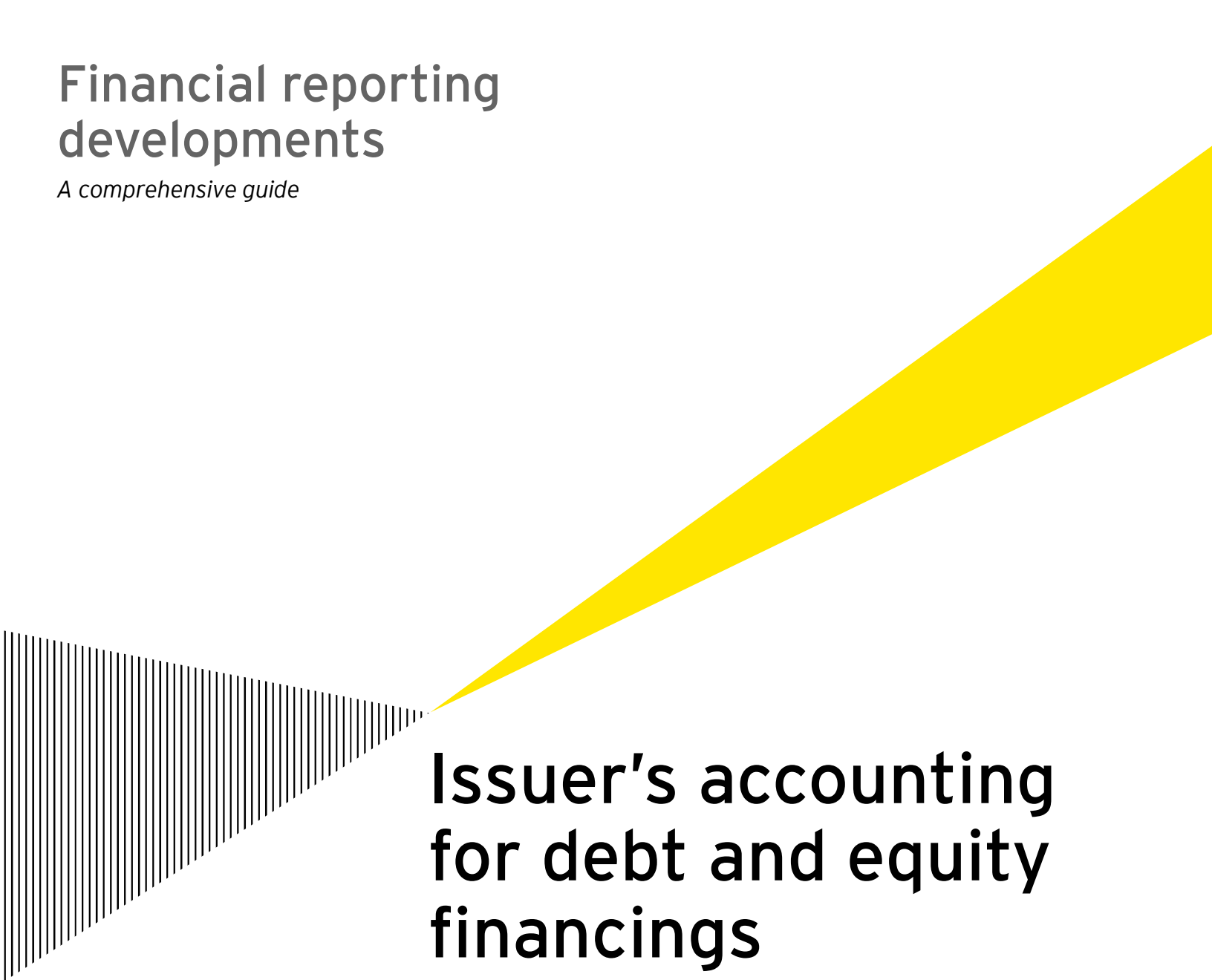


Financial reporting developments

A comprehensive guide



Issuer's accounting for debt and equity financings

November 2012

To our clients and other friends

The accounting for the issuance of debt and equity instruments is among the more complex areas of US GAAP. That complexity is caused not only by the sophistication of financial instruments and features, but also the patchwork of accounting guidance that has evolved over time. Consider convertible debt. Issuers can account for convertible debt in up to five different ways, depending on the instrument's terms.

This publication is designed to provide you with a roadmap to help you analyze the accounting for the issuance of debt and equity instruments, including specific transactions. Selected subsequent accounting considerations are also included. The appendices provide further insight into the accounting literature on specific parts of the analysis.

Given the variety of instruments and potential features, an instrument's terms should be fully understood in order to properly apply the accounting guidance. Moreover, accounting for the issuance of debt and equity instruments often requires significant judgment based on the individual facts and circumstances. While this publication includes our views and interpretations on many practice issues, other views may also be acceptable.

We hope this publication helps you understand and apply the accounting for the issuance of debt and equity instruments. As always, Ernst & Young professionals are available to answer any questions you may have.

The logo for Ernst & Young LLP, featuring the company name in a stylized, handwritten-style script.

November 2012

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Notice to readers:

This publication includes excerpts from and references to the FASB Accounting Standards Codification (the Codification or ASC). The Codification uses a hierarchy that includes Topics, Subtopics, Sections and Paragraphs. Each Topic includes an Overall Subtopic that generally includes pervasive guidance for the topic and additional Subtopics, as needed, with incremental or unique guidance. Each Subtopic includes Sections that in turn include numbered Paragraphs. Thus, a Codification reference includes the Topic (XXX), Subtopic (YY), Section (ZZ) and Paragraph (PP).

Throughout this publication references to guidance in the codification are shown using these reference numbers. References are also made to certain pre-codification standards (and specific sections or paragraphs of pre-Codification standards) in situations in which the content being discussed is excluded from the Codification.

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1 Overview

1.1 Debt and equity financings

Companies raise capital by issuing debt and equity instruments, which can take many forms. Frequently, companies offer several debt and equity instruments in a single transaction, which may include additional elements, such as warrants or conversion features, to meet investors' demands. Most of those transactions are designed with a focus on tax, earnings per share (EPS) and other financing and financial reporting considerations.

The combination of instruments and features increases the complexity of the accounting analysis both at issuance and on an ongoing basis.

1.2 Accounting considerations

An issuer's accounting for debt and equity depends on the instruments issued. For an option or forward on the issuer's own shares (generally referred to in this publication as "equity contracts"), the analysis focuses on whether the equity contract should be classified as an asset or liability, which is adjusted to fair value through earnings each reporting period, or as equity, which is not subsequently remeasured. In contrast, the analysis for shares or debt requires consideration of whether the instrument contains embedded features (e.g., puts, calls, conversion options) that may require separate accounting. In addition, despite their form, shares may need to be classified as a liability or under SEC rules as temporary (mezzanine) equity. If the securities issued are convertible into common stock, the issuer is required to evaluate whether a portion of the issuance proceeds should be allocated to a separate component in equity.

To evaluate the accounting considerations, issuers may want to consider the following questions:

- ▶ Which instruments are being issued?
- ▶ Are there any rights or obligations that should be considered a freestanding financial instrument?
- ▶ Should the instrument(s) issued be classified as an asset or liability or in equity?
- ▶ Should the entire instrument, or part of the instrument, be carried at fair value through earnings?
- ▶ Are there embedded features such as conversion, put or call options that require separate accounting?
- ▶ What are the accounting considerations if the instrument is convertible into common stock?
- ▶ How does the SEC staff's guidance on redeemable securities affect the instrument's classification?

This chapter provides a high level summary of the key accounting considerations for debt and equity transactions, including general overview of the guidance.

1.2.1 Identifying all freestanding financial instruments

When companies issue multiple instruments in a single transaction (e.g., debt and warrants), it isn't always clear what is a freestanding instrument (e.g., detachable warrant) and what is an embedded feature (e.g., a conversion option). In addition, a freestanding instrument may be evaluated differently than an embedded feature with the same economics (such as a written put option). Moreover, US GAAP may dictate the accounting for the feature, regardless of where it is documented (such as certain registration rights in connection with a convertible instrument issuance).

The first step in evaluating the accounting for debt and equity instruments is to identify all freestanding financial instruments. Freestanding instruments should first be separately analyzed and accounted for, and then evaluated to determine whether embedded features within those instruments should be bifurcated or accounted for separately.

ASC 480, *Liabilities – Distinguishing Liabilities from Equity*, defines a freestanding financial instrument as a financial instrument that is entered into (1) separately and apart from any of the entity's other financial instruments or equity transactions or (2) in conjunction with some other transaction and is legally detachable and separately exercisable. In contrast, ASC 815, *Broad Transactions – Derivatives and Hedging*, defines embedded derivatives as implicit or explicit terms that affect some or all of the cash flows or the value of other exchanges required by the instrument in a manner similar to a derivative instrument.

The determination of whether an instrument is freestanding or embedded in an instrument involves understanding both the form and substance of the transaction and may involve substantial judgment. The specific document in which a term or feature is described is not determinative when evaluating whether that term or feature is considered freestanding or embedded. Moreover an instrument is not necessarily freestanding just because it is documented in a separate contract. Similarly, rights and obligations documented in a single agreement may be treated as separate freestanding instruments. The accounting should generally follow the contractual terms, not the intent of the parties.

Factors to be considered in making this determination include whether:

- ▶ The instruments were issued separately or concurrently and in contemplation of each other.
- ▶ The rights, obligations or instruments can be separated, including consideration of any transferability provisions or restrictions in the legal documents constituting the transaction.
- ▶ The exercise of one instrument results in the termination of the other instrument (e.g., through redemption, simultaneous exercise or expiration).

1.2.1.1

Combining freestanding financial instruments

Issuers may find that, in certain circumstances, the economic substance of multiple freestanding financial instruments may suggest that accounting for them on a combined basis is more appropriate.

ASC 480 prohibits the combination of any freestanding financial instrument within its scope with any other instruments unless required by ASC 815 (in which case they would become a derivative and generally would be accounted for at fair value). The FASB prohibited combining an instrument within the scope of ASC 480 with any other instrument to avoid the inadvertent or planned circumvention of the requirements of ASC 480. For example, combining an instrument that is otherwise a liability within the scope of ASC 480 (e.g., a written put) with another freestanding instrument (e.g., a share) might (1) cause a freestanding instrument to be considered to be embedded in another instrument and therefore not within the scope of ASC 480 (as that guidance applies only to freestanding instruments), (2) change the reported amount of the liability or (3) change the required measurement method.

ASC 815 prohibits separating a single contract meeting the definition of a derivative into separate components to circumvent the derivative guidance. Therefore, ASC 815-10-25-6 states that the following indicators should be considered in the aggregate and, if present, cause separate transactions to be viewed as a unit:

- ▶ The transactions were entered into contemporaneously and in contemplation of one another.
- ▶ The transactions were executed with the same counterparty (or structured through an intermediary).
- ▶ The transactions relate to the same risk.
- ▶ There is no apparent economic need, nor substantive business purpose, for structuring the transactions separately that could not also have been accomplished in a single transaction.

Illustration 1-1

Entity A enters into a forward contract to purchase 1,000,000 shares of Entity B's stock in six months for \$5 per share. Simultaneously, Entity A enters into a forward contract to sell 900,000 shares of Entity B's stock in 6 months for \$5 per share. The purchase and sale contracts are both with Entity B. There is no market mechanism to facilitate net settlement of the contracts and both contracts require physical delivery of Entity B's shares in exchange for the forward price. On a gross basis, neither contract is readily convertible to cash because the market cannot rapidly absorb the specified quantities without significantly affecting the share price (e.g. the trading volume for Entity B's shares is currently about 100,000 shares daily). However, on a net basis, Entity A has a forward purchase contract to buy 100,000 of Entity B's shares, a quantity that can be rapidly absorbed by the market and thus is readily convertible to cash.

In this example, if the transactions were entered into with the same counterparty, executed simultaneously, relate to the same risk and there is no clear business purpose for structuring the transactions separately, the two forward contracts should be combined and accounted for as a derivative because the structured transaction circumvents the application of derivative accounting pursuant to ASC 815.

As a result of the FASB's conclusion in ASC 480, the decision to combine two instruments that are issued contemporaneously should be made under the following framework:

- ▶ Combine two instruments if required under ASC 815, then evaluate the combined instruments under ASC 480 and ASC 815.
- ▶ If both (1) ASC 815 does not require the combination of the two instruments and (2) one of the instruments is within the scope of ASC 480, do not combine the two instruments.
- ▶ If both (1) ASC 815 does not require the combination of the two instruments and (2) neither of the instruments is within the scope of ASC 480, evaluate the instruments using the basic concepts around combination.

The basic concepts related to combination were discussed pre-Codification in EITF 02-2, "When Certain Contracts That Meet the Definition of Financial Instruments Should Be Combined for Accounting Purposes." That Issue provided considerations in determining whether separate transactions should be combined for accounting purposes and were based on various models for combining instruments, including the guidance in ASC 815-10-25-6. While those concepts were very similar to those in ASC 815-10-25-6, the third criteria was modified somewhat to require not only that the separate transactions or contracts being evaluated share at least one underlying, but also that changes in that underlying (holding the prices of all other underlyings constant) result in at least one substantially offsetting change in fair value for those transactions or contracts.

The EITF did not complete work on the issue, but the SEC staff observer did note that the SEC staff would continue to challenge the accounting for transactions for which it appears that multiple contracts have been used to circumvent GAAP. As a result, judgment is required given the particular facts and circumstances to determine if freestanding contracts should be combined for accounting purposes.

In practice, having sufficiently different settlement dates may indicate that the instruments relate to different risks and thus provide support for separate accounting for the two instruments.

Determining whether two or more contracts should be combined is a matter of facts and circumstances requiring the use of professional judgment.

1.2.2 Distinguishing liabilities from equity (ASC 480)

ASC 480 distinguishes liabilities from equity for certain freestanding financial instruments. The guidance requires liability classification for the following three types of instruments:

- ▶ Mandatorily redeemable shares
- ▶ Instruments other than an outstanding share that, at inception, embody, or are indexed to, an obligation to buy back the issuer's equity shares that could require the transfer of assets
- ▶ Instruments that embody a conditional obligation, or shares that embody an unconditional obligation, to issue a variable number of the issuer's equity shares and at inception, the monetary value of the obligation is based solely or predominantly on:
 - ▶ A fixed value known at inception (e.g., an obligation to deliver shares with a fair value at settlement equal to \$1,000)
 - ▶ Variations in something other than the fair value of the issuer's equity shares (e.g., an obligation to deliver shares with a fair value at settlement equal to the value of one ounce of gold)
 - ▶ Variations that move in the opposite direction to changes in fair value of the issuer's shares (e.g., net share settled written put options)

1.2.2.1 Debt

Debt is classified as a liability because of its legal form. However, certain debt instruments may fall within one of the categories in ASC 480. For example, share-settled debt that requires the issuer to settle the instrument by delivering a variable number of shares with a then-current fair value equal to the principal amount of the debt would also be a liability pursuant to ASC 480. Debt instruments outside the scope of ASC 480 are usually carried at amortized cost, unless an election is made pursuant to one of the fair value options provided in ASC 815 and ASC 825, *Broad Transactions – Financial Instruments*.

1.2.2.2 Stock

Companies may issue preferred stock that is mandatorily redeemable. ASC 480 requires mandatorily redeemable financial instruments to be classified as liabilities. Shares are mandatorily redeemable pursuant to ASC 480 if it is certain that the issuer will redeem those shares. That certainty would exist if the issuer is required to redeem the shares on a contractual maturity date or upon an event that is certain to occur (e.g., upon the death of the investor). Shares that are optionally redeemable or convertible into another class of shares before a mandatory redemption date are not considered mandatorily redeemable pursuant to ASC 480 because the redemption is not certain.

Shares that require settlement in a variable number of another class of shares upon a mandatory settlement date, with a monetary value of the settlement obligation equal to a fixed or predominantly fixed amount, may also require liability classification pursuant to ASC 480. An example of such instrument is share-settled preferred stock.

1.2.2.3 Equity contracts

Forwards, options or warrants should be carefully evaluated pursuant to ASC 480. Certain contracts that may require the issuer to transfer assets (e.g., cash) in exchange for its own shares are liabilities (or sometimes assets) pursuant to ASC 480. One example is a physically settled written put option that may require the issuer to pay cash in exchange for its shares upon the holder's exercise. A less obvious example is a warrant on conditionally redeemable preferred shares. Upon the exercise of the warrant, the holder is entitled to preferred shares that may require the issuer to transfer assets upon redemption.

Equity contracts can also fall within ASC 480 if they require, or may require, the issuer to transfer a variable number of shares and the monetary value of the shares does not expose the holder to risks and rewards similar to those of an owner. For example, the value of a net share settled written put option to the holder increases as the share price declines, which is inversely related to the issuer's equity shares, and therefore, requires liability classification.

Refer to Appendix A for a comprehensive discussion of ASC 480.

1.2.3

Derivatives and embedded derivatives (ASC 815)

Freestanding financial instruments that are not within the scope of ASC 480 should be evaluated pursuant to ASC 815. Those instruments may either be derivatives themselves or may contain embedded features that would be derivatives if freestanding. Those instruments or features should be accounted for as derivatives and measured at fair value continuously.

To be a derivative pursuant to ASC 815, an instrument must be a financial instrument or other contract (or embedded feature) with all of the following characteristics:

- ▶ One or more underlyings. An underlying is a variable whose changes are observable or otherwise objectively verifiable and whose movements cause the cash flows or fair value of the financial instrument or other contract to fluctuate. Examples of an underlying include a share price, an interest rate, a commodity price and the occurrence or nonoccurrence of an event.
- ▶ One or more notional amounts or payment provisions or both. While the underlying is the variable, the notional amount is a quantity that determines the size of the change caused by the movement of the underlying. Notional amounts are, for example, the number of underlying shares or the number of barrels of crude oil. A payment provision is an alternative to a notional amount in which the contract specifies a fixed or determinable settlement to be made if the underlying behaves in a specified manner. The underlying and the notional amount determine the amount of settlement, and in some cases, whether or not a settlement is required.
- ▶ No initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors. Derivatives do not require the parties to the contract to initially invest in, own, or exchange the underlying asset or liability. In fact, there is usually no exchange of cash (or a relatively small amount) at the date that two parties enter into a derivative contract. The initial net investment in a hybrid instrument should not be considered the initial net investment in an embedded derivative.
- ▶ Net settlement provisions through (1) implicit or explicit terms, (2) a market mechanism outside the contract or (3) delivery of an asset that, because the delivered asset is readily convertible to cash, puts the recipient in a position not substantially different from net settlement (a gross settlement that is economically equivalent to a net settlement). Net settlement is a one-way transfer of an asset, usually cash or shares, from the counterparty in a loss position to the counterparty in a gain position that settles the obligation. In contrast, a gross settlement involves an exchange, whereby Party A transfers cash to Party B, and Party B transfers an asset to Party A. To be a derivative, the contract must either explicitly permit net settlement or place the receiving party in a position that is essentially equivalent to net settlement.

The nature of a share underlying a contract or feature can affect the assessment of net settlement. For example, publicly traded shares of a company are generally considered readily convertible to cash unless the market for the shares is not active and the number of shares to be exchanged (given the smallest increment available for conversion) is large relative to the daily trading volume of the underlying shares. However, if the underlying is a share in a private company, the contract or feature may not meet the net settlement criterion.

1.2.3.1 Debt and stock

Debt and stock generally do not meet the definition of a derivative because they typically require a payment in cash (or other assets) equal to the fair value of the debt or stock. However, debt and stock may be hybrid instruments that contain embedded features (e.g., conversion option, puts or calls) that require bifurcation (refer to section 1.2.3.3 below).

1.2.3.2 Equity contracts

Options or forwards issued by private companies may not meet the net settlement criterion when those equity contracts require physical settlement because the underlying shares usually are not freely transferrable and thus not deemed readily convertible to cash. In contrast, a warrant that requires physical settlement in shares of a public company that allows the recipient of those shares to easily sell them in the market without affecting the price would put the holder in a position not substantially different from a holder of a warrant net settled in cash.

An equity contract that is accounted for pursuant to ASC 480 should still be evaluated pursuant to ASC 815 to determine whether it also meets the definition of a derivative, in which case the related derivatives disclosures should also be made.

1.2.3.3 Embedded derivatives and bifurcation

While a financial instrument may not meet the definition of a derivative in its entirety, it may contain contractual terms that function similar to a derivative. Debt and stock often contain embedded features that require additional analysis. Debt and stock containing embedded features are referred to as hybrid instruments, which should be analyzed to determine whether any of the embedded features should be bifurcated (i.e., accounted for separately). The most common embedded derivatives in debt and stock instruments are conversion options, puts, calls and other interest rate features.

ASC 815-15-25-1 requires an embedded derivative to be bifurcated if all three of the following conditions are met:

- ▶ The economic characteristics and risks of the embedded derivative are not clearly and closely related to the economic characteristics and risks of the host contract.
- ▶ The hybrid instrument is not remeasured at fair value under otherwise applicable US GAAP with changes in fair value reported in earnings as they occur.
- ▶ A separate instrument with the same terms as the embedded derivative would be considered a derivative instrument subject to derivative accounting (the initial net investment for the hybrid instrument should not be considered to be the initial net investment for the embedded derivative).

After identifying, evaluating and concluding on which features (e.g., conversion option, puts, calls, other embedded features) require bifurcation, a single derivative comprising all the bifurcatable features should be separated from the debt host instrument. ASC 815 requires that the derivative be initially measured and recorded at fair value and the residual value assigned to the host contract.

Embedded derivatives may be broadly categorized as one of the following:

- ▶ Option-based embedded derivatives – A feature where one party (the holder of the option) has a gain and the other party (the writer of the option) has a loss at exercise. This is referred to as an asymmetrical payout profile. The writer of the option receives a premium for assuming the risk of loss and the holder of the option pays a premium for having the option, often in the form of an adjustment to the interest rate or other terms of the instrument. Examples of option-based embedded derivatives are conversion options, redemption features (puts as written options and calls

as purchased options) and interest rate caps and floors. Some options require explicit exercise by the holder (such as conversion options and redemption features) and others require automatic exercise (such as interest rate caps and floors).

- ▶ Forward-based embedded derivatives – A feature where either party can have a gain, with the other party having a loss depending on whether the underlying (market prices or rates) is above or below the price or rate stipulated in the contract. This is referred to as a symmetrical payout profile. When the fair value of the underlying equals the stipulated price or rate at settlement, neither party has a gain or loss. A forward-based embedded derivative requires performance on both sides, as opposed to one party having the right to force performance. An example of a forward-based embedded derivative would be a mandatory conversion feature, where the debt must settle in a fixed number of shares at maturity. Embedded forward-based features are generally less frequent than option-based features.

The initial measurement of a bifurcated derivative depends on whether the embedded derivative is option-based or forward-based. Generally, an option-based embedded derivative is bifurcated based on the stated terms documented in the hybrid instrument, while a forward-based embedded derivative is separated from the host contract based on terms that result in the fair value of that forward-based embedded derivative generally being equal to zero at the inception of the hybrid instrument.¹

Refer to sections 2.3 and 3.3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further guidance on the definition of a derivative and bifurcation of embedded derivatives.

1.2.4 Contracts (or features) in an entity's own equity (ASC 815-40)

If an instrument (or embedded feature) is indexed to, and potentially settled in, the issuer's own stock, ASC 815-40, *Derivatives and Hedging/Contracts in Entity's Own Equity*, should be applied to determine whether:

- ▶ The freestanding instrument (or embedded feature) that meets the definition of a derivative qualifies for the exception from derivative accounting pursuant to ASC 815-10-15-74(a).
- ▶ The freestanding instrument that does not meet the definition of a derivative (e.g., some private company contracts) should be classified in equity.

Examples include freestanding equity contracts such as warrants and forward contracts, as well as embedded conversion options in debt or preferred shares and embedded puts or calls in preferred or common shares.

ASC 815-40 states that contracts should be classified as equity instruments (and not as an asset or liability) if they are both:

- ▶ Indexed to its own stock (ASC 815-40-15)
- ▶ Classified in stockholders' equity in its statement of financial position (ASC 815-40-25)

ASC 815-40-15 outlines a two step evaluation to determine whether an instrument (or embedded feature) is indexed to the issuer's own stock. The first step is to evaluate any contingent exercise provisions. If an exercise contingency is an observable market or index unrelated to the issuer, the instrument would not be considered indexed to the issuer's own stock.

¹ Examples throughout this publication assume that an option-based embedded derivative is bifurcated at a fair value other than zero. Alternative methods for bifurcating option-based features may exist based on the specific facts and circumstances.

The second step requires an analysis of provisions that could change the instrument's settlement amount. In general, the instrument (or feature) must settle in an amount based on an exchange of a fixed amount of cash (or principal amount of debt) for a fixed number of shares. Frequently, equity contracts or equity-linked features contain provisions that require adjustment to the terms upon certain events (e.g., tender offer, delisting, merger or acquisition). Those provisions should be carefully analyzed under the second step, as there are a number of exceptions to the general concept.

ASC 815-40-25 provides guidance to determine whether an instrument that is indexed to the issuer's own stock should be classified in equity. That determination depends heavily on how the instrument settles and whether an acceptable form of settlement is entirely within the control of the issuing entity. The basic principle underlying the equity classification guidance is that instruments that require net cash settlement (or the issuer can be forced or presumed to net cash settle) are assets or liabilities and those that require settlement in shares (or the issuer can choose a form of settlement that involves either party transferring shares) are equity instruments.

ASC 815-40-25 includes other detailed conditions that must be met for equity classification. Those conditions focus on whether the issuer will have the ability, in all cases, to effect the settlement in shares. Otherwise, net cash settlement is presumed and equity classification is not permitted.

Freestanding equity-classified instruments are initially measured at fair value (or allocated value). Subsequent changes in fair value are not recognized as long as the contract continues to be classified in equity. In contrast, if a freestanding instrument that was indexed to the issuer's own stock fails the requirements for equity classification, it is generally initially measured at fair value and should be classified as an asset or liability. The equity classification guidance specifies that subsequent changes in fair value are recorded in earnings.

Embedded derivatives that meet the requirements of ASC 815-40 (i.e., are indexed to the entity's own stock and classified in stockholders' equity) should not be bifurcated.

Refer to Appendix B for a comprehensive discussion of the equity classification guidance.

1.2.5 Accounting for convertible instruments (ASC 470-20)

Convertible instruments (primarily convertible debt and convertible preferred stock) should be further analyzed when the embedded conversion feature is not bifurcated pursuant to ASC 815, including ASC 815-40, because there may be further accounting for the conversion option.

1.2.5.1 Cash conversion guidance

The cash conversion guidance in ASC 470-20, *Debt/Debt with Conversion and Other Options/Cash Conversion*, should be considered when evaluating the accounting for convertible debt instruments (this includes certain convertible preferred stock that is classified as a liability) to determine whether the conversion feature should be recognized as a separate component of equity. The cash conversion guidance applies to all convertible debt instruments that upon conversion may be settled entirely or partially in cash or other assets where the conversion option is not bifurcated and separately accounted for pursuant to ASC 815.

The cash conversion guidance requires the issuer to separately account for the liability (debt) and equity (conversion option) components of the convertible debt instrument in a manner that reflects the issuer's nonconvertible debt borrowing rate. To do that, the issuer allocates the proceeds from issuance to a liability component based on the fair value of the instrument excluding the conversion feature (but including any other embedded features present in the instrument) and the residual to a component classified in equity.

The difference between the principal amount of the debt and the proceeds allocated to the liability component is subsequently amortized as interest expense. The equity component is not subject to subsequent remeasurement. The issuer should reassess the conversion option at each reporting date to determine whether it continues to qualify for equity classification pursuant to ASC 815-40.

Refer to Appendix C for a detailed discussion of the cash conversion guidance.

1.2.5.2 **Beneficial conversion feature guidance**

A conversion option that is not bifurcated as a derivative pursuant to ASC 815 and not accounted for as a separate equity component under the cash conversion guidance should be evaluated to determine whether it is beneficial to the investor at inception (a beneficial conversion feature) or may become beneficial in the future due to potential adjustments (often referred to as a contingent beneficial conversion feature). The beneficial conversion feature guidance in ASC 470-20 applies to convertible stock as well as convertible debt. Recognition of a beneficial conversion feature typically results in higher interest or dividend charges over the life of the instrument.

A beneficial conversion feature is defined as a nondetachable conversion feature that is in the money at the commitment date. An option is in the money if its effective exercise price (i.e., conversion price) is less than the current fair value of the share. For purposes of measuring a beneficial conversion feature, the effective conversion price should be based on the proceeds received or allocated to the convertible debt instrument (including embedded derivatives).

The beneficial conversion feature guidance requires recognition of the conversion option's in-the-money portion (the intrinsic value of the option) in equity, with an offsetting reduction to the carrying amount of the convertible instrument. The resulting discount is amortized as interest expense or as a dividend (depending on whether the convertible instrument is debt or stock) over either the life of the instrument (if a stated maturity date exists) or to the earliest conversion date (if no stated maturity date).

A convertible instrument may contain conversion terms that change upon the occurrence of a future event or as a result of antidilution adjustment provisions. A subsequent change to the conversion ratio or conversion price may trigger the recognition of an additional beneficial conversion feature.

Refer to Appendix D for a comprehensive discussion on accounting for beneficial conversion features.

1.2.6 **Classification and measurement of redeemable securities (ASC 480-10-S99-3A)**

Public entities should consider the SEC's guidance (included in ASC 480-10-S99, *SEC Materials*) when evaluating the accounting for redeemable shares classified as equity. That guidance addresses the balance sheet presentation (temporary or "mezzanine" equity versus permanent equity) and measurement of equity classified shares that are redeemable for cash or other assets in any of the following ways:

- ▶ At a fixed or determinable price on a fixed or determinable date
- ▶ At the option of the holder
- ▶ Upon the occurrence of an event that is not solely within the control of the issuer

ASC 480-10-S99-3A, *SEC Staff Announcement: Classification and Measurement of Redeemable Securities*, requires classification outside of permanent equity for redeemable instruments for which the redemption triggers are outside of the issuer's control. Therefore, it is important that redemption features within those instruments are carefully analyzed to assess the effect on the instrument's classification. The assessment of whether the redemption of an equity security could occur outside of the issuer's control should be made without regard to the probability of the event or events that may result in the instrument becoming redeemable.

ASC 480-10-S99-3A provides guidance that may require subsequent remeasurement of equity instruments classified outside of permanent equity. The measurement requirements vary depending on whether the instrument is (1) currently redeemable or (2) probable of becoming redeemable in the future. The subsequent remeasurement, if required, may affect the issuer's EPS.

This guidance also applies to the equity component of convertible debt or shares of a subsidiary (noncontrolling interests). ASC 480-10-S99-3A provides specific classification and measurement guidance on those instruments.

Freestanding equity contracts that are classified in equity pursuant to ASC 815-40 are not subject to the SEC's guidance on redeemable securities because, if the instruments were redeemable on a specified date or upon the occurrence of an event that is not in the issuer's control, they would not meet the conditions in ASC 815-40 to be classified in equity.

Refer to Appendix E for a comprehensive discussion of the SEC staff's guidance on redeemable equity securities.

1.2.7 Allocation of proceeds

When multiple instruments are issued in a single transaction, the total proceeds from the transaction should be allocated among the individual freestanding instruments identified. The allocation occurs after identifying (1) all the freestanding instruments and (2) the subsequent measurement basis for those instruments. The subsequent measurement basis helps inform how the proceeds should be allocated. After the proceeds are allocated to the freestanding instruments, those instruments should be further evaluated for embedded features that may need to be bifurcated or separated.

Generally, proceeds may be allocated based on one of the following methods:

- ▶ Fair value method – The instrument being analyzed is allocated a portion of the proceeds equal to its fair value, with the remaining proceeds allocated to the other instruments as appropriate.
- ▶ Relative fair value method – The instrument being analyzed is allocated a portion of the proceeds based on the proportion of its fair value to the sum of the fair values of all the instruments covered in the allocation.
- ▶ Residual value method – The instrument being analyzed is allocated the remaining proceeds after an allocation is made to all other instruments covered in the allocation.

If debt or stock is issued with detachable warrants, the guidance in ASC 470-20-25-2 (applied by analogy to stock) requires that the proceeds be allocated to the two instruments based on their relative fair values. This method is generally appropriate if debt or stock is issued with any other freestanding instrument that is classified in equity (such as a detachable forward contract) or as a liability but not subject to subsequent fair value accounting (such as a detachable forward contract to purchase shares – accounted for under an accretion model in ASC 480).

We understand that the FASB staff and the SEC staff believe that a freestanding instrument issued in a basket transaction should be initially measured at fair value if it is required to be subsequently measured at fair value pursuant to US GAAP, with the residual proceeds from the transaction allocated to any remaining instruments based on their relative fair values.

The following is a general outline of the application of the allocation methods to certain combinations of instruments:

Instruments issued and subsequent measurement model	Allocation methodology
Instrument A – not at fair value Instrument B – not at fair value	Relative fair value basis of both instruments
Instrument A – at fair value Instrument B – not at fair value	Fair value to Instrument A and residual value to Instrument B
Instrument A – not at fair value Instrument B – not at fair value Instrument C – not at fair value	Relative fair value basis of all instruments
Instrument A – at fair value Instrument B – not at fair value Instrument C – not at fair value	Fair value to Instrument A with residual allocated to Instruments B and C on relative fair value basis
Instrument A – at fair value Instrument B – at fair value Instrument C – not at fair value	Fair value to both Instruments A and B with residual allocated to Instrument C

If the sum of the fair values of the individual instruments being issued and the issuance proceeds are significantly different, there may be little or no proceeds allocated to the instrument(s) that are not subsequently measured at fair value. In that case, the issuer should challenge (1) the valuation of the individual financial instruments and (2) whether there are additional rights or obligations requiring separate accounting.

The amount of proceeds allocated to an instrument may affect the initial accounting for the instrument. For example, a redemption feature (put or call) in debt is an embedded derivative that may require bifurcation based in part on the existence of any premiums or discounts on the debt host. Likewise, the determination of whether a beneficial conversion feature exists may be strongly influenced by any discount on the instrument. Therefore, the allocation of proceeds is usually performed prior to completing the accounting analysis for each instrument.

1.3 Navigating the transaction documents

A thorough understanding of the transaction and the terms of each instrument is required to determine the appropriate accounting for debt and equity transactions.

The primary legal agreements that specify the terms of debt and equity arrangements may include: promissory note or indenture (for debt), articles of incorporation or certificate of designation (for stock) and an ISDA contract (for equity contracts). There may also be ancillary agreements to the transaction, such as securities purchase agreements, shareholders' agreements, investors' rights agreements, share lending agreements and registration rights agreements. Those agreements specify other contractual terms related to the transaction that may affect the accounting evaluation (e.g., may have terms that would be considered freestanding financial instruments or embedded in the primary instruments issued).

A transaction may also include a registration statement, prospectus and prospectus supplement (generally public transactions) or an offering memorandum (generally private transactions). Those documents may contain summary information about the instruments being issued and their contractual terms. While those documents may be helpful to understanding the transaction, they do not establish the legal rights and obligations related to the instruments being issued.

The review of the underlying documents should focus on the terms that establish the rights and obligations of the parties to the arrangements, especially those terms related to cash flows or other consideration exchanges, including terms that:

- ▶ Establish amounts to be paid or received
- ▶ Identify events that trigger additional payments or receipts
- ▶ Identify events that cause the timing of a cash flow or consideration exchange to change
- ▶ Relate to any value flows, such as conversion options, including the conversion ratio, events that trigger or delay a conversion, and the events that cause a conversion ratio to be adjusted
- ▶ Require or may require an action from either the issuer (e.g., registration of securities, maintenance of registration statements, right or obligation to issue more securities in the future) or the investor (e.g., right or obligation to purchase more securities in the future)

1.3.1

International Swaps and Derivatives Association (ISDA) contracts

Equity contracts can be documented in different forms. However, many transactions are documented in ISDA contracts.

ISDA, a trade organization of participants in the market for over-the-counter financial instruments, has created standard ISDA documentation for financial instruments. The documentation for a single ISDA equity contract usually consists of:

- ▶ Master Agreement – Describes the overall relationship between the issuer and the counterparty and contains terms applicable to any future transactions. A single Master Agreement may support several individual transactions, each documented by a specific ISDA confirmation.
- ▶ Equity Definitions – Provide a common set of contract terms and terminology to standardize the documentation process. The definitions are periodically updated (e.g., the 2011 definitions) and past versions (e.g., the 2006 definitions) may still be referenced in a current transaction.
- ▶ Confirmation – Specifies the terms of an individual transaction, including which elections from within the Master Agreement or Equity Definitions are being selected or modified. The terms of the instrument are provided in the ISDA Confirmation, which makes references to the Master Agreement and Equity Definitions.

When using ISDA contracts, all three together form the contractual terms and should be analyzed under the relevant accounting guidance.

The terms of the ISDA documentation should be carefully considered in light of the indexation and equity classification guidance discussed in section 1.2.4. Any adjustment and settlement provisions and early termination provisions should be carefully reviewed because they may have a significant effect on the classification of the instrument. At the beginning of the analysis, the ISDA confirmation should be reviewed to determine which adjustment and settlement methods described in the Master Agreement and Equity Definitions have been elected for the particular equity contract. Those methods should be traced through all of the documents and definitions to identify the triggers for termination or adjustment and how it is settled.

1.4 How to use this publication

This publication is intended to serve as a reference tool to assist issuers in accounting for debt and equity transactions at issuance. Selected subsequent accounting considerations are also included. This publication has been divided into chapters based on the basic instrument types as follows:

- ▶ Chapter 2 – Debt
- ▶ Chapter 3 – Common and preferred stock
- ▶ Chapter 4 – Equity contracts
- ▶ Chapter 5 – Selected transactions

Chapters 2 through 4 provide guidance for determining an issuer's accounting for the type of instruments covered in the chapter. Common structures and features are included throughout the chapters. Flowcharts are also provided to help in navigating the accounting framework.

Chapter 5 includes a discussion of some common but more complex debt and equity transactions observed in the market. Examples include exchangeable debt (or preferred share), auction-rate securities, remarketable put bonds, share-lending arrangements and warrants for redeemable shares.

The appendices supplement the chapters and provide a detailed discussion of the key accounting considerations discussed in the flowcharts. The guidance in the appendices generally addresses various instrument types.

2 Debt

2.1 Overview and general descriptions of types of debt

Debt is an amount owed for funds borrowed. While debt can have many different features, the debtor typically agrees to repay the lender the amount borrowed (the principal) plus interest (a return on the borrowed funds). Principal may be paid back over time or at maturity. Interest is generally paid at fixed intervals over a specified period of time, but may accrue over time on the unpaid principal balance, resulting in a single payment of principal and interest in the future at maturity. A contractual agreement, generally a note (if borrowed from a bank or other intermediary) or an indenture (if borrowed under a security or bond offering to multiple investors), establishes the terms of the obligation.

2.1.1 Debt terminology

The following terms are generally used when discussing debt:

- ▶ Principal (par amount or face amount) – The amount to be repaid at the maturity date or over time. (Frequently, the principal amount equals the initial gross proceeds before considering debt issuance costs.)
- ▶ Coupon – The periodic interest payments the issuer must make to the debt holder. (The payments can be monthly, quarterly, semi-annually, annually or any other negotiated frequency.)
- ▶ Coupon rate or stated interest rate – The predetermined interest rate used to calculate the coupon payments on the debt. (These rates are often expressed as a fixed percentage of the principal amount or are variable based on a market index (LIBOR or a US Treasury rate) plus a fixed spread that is generally based on the creditworthiness of the issuer (and any related collateral) at issuance. In some cases, the spread over the referenced rate may adjust over time.)
- ▶ Maturity – A defined date on which the issuer must repay the debt's principal amount
- ▶ Issue price – The price at which investors buy the debt when it is first issued
- ▶ Premium and discount – Part of the issue price that is in excess of (premium) or less than (discount) the par amount
- ▶ Accreted or carrying amount – The issue price increased or decreased by the unamortized premium or discount and unamortized issuance costs

Debt that is not convertible is sometimes referred to as "straight debt" or "term debt." Debt may be convertible into another instrument (typically shares) during its life.

2.1.2 Common types of debt instruments

2.1.2.1 Convertible debt

Convertible debt provides the investor with the ability to convert the debt into equity securities (common or preferred) of the issuer (or sometimes a subsidiary of the issuer or the issuer's parent), usually at some predetermined ratio. The debt includes a conversion option (or forward in the case of mandatorily convertible debt), which is an embedded written call option (or forward sale) on the underlying shares by the issuer to the investor. Convertible debt is considered to be a hybrid instrument because it contains an embedded feature (i.e., conversion feature).

While most convertible debt instruments provide the investor an option to convert, certain convertible debt requires the holder to convert the instrument into the underlying equity security either on or before a specified date or upon the occurrence of certain events (e.g., completion of the issuer's initial public offering or receipt of stockholders' approval of the conversion). Those securities generally provide investors with higher yields than optionally convertible instruments, to compensate the holders for the fact that conversion may be required when the shares to be received are worth less than the principal amount of the notes.

Similar to typical nonconvertible debt, convertible debt generally includes a principal amount, coupon and maturity date. Convertible instruments contain the following elements related to the embedded conversion option:

- ▶ Conversion price – The price at which a convertible debt can be converted into the underlying equity security
- ▶ Conversion rate (or conversion ratio) – The number of underlying equity securities to be received by investors at the time of conversion for each fixed dollar value of convertible debt (principal value of each note/conversion price)
- ▶ Parity value (or conversion value) – The as-converted value of each note (current underlying equity security trading price multiplied by the number of shares into which the debt is convertible)
- ▶ Conversion spread – The amount by which the parity value of the convertible debt exceeds the accreted value (sometimes referred to as conversion premium)

Conversion terms vary by instrument, but historically have taken several forms (including Instruments A, B and C that were described previously in ASC 815-15-55-77, before being superseded by ASC 470-20-65-1):

- ▶ Classic convertible debt – Upon conversion, the issuer must satisfy the obligation entirely in shares based on the fixed number of shares into which the debt is convertible.
- ▶ Instrument A – Upon conversion, the issuer must satisfy the obligation entirely in cash based on the conversion value.
- ▶ Instrument B – Upon conversion, the issuer may choose to satisfy the entire obligation in either stock or cash in an amount equal to the conversion value.

- ▶ Instrument C – Upon conversion, the issuer must satisfy the accreted value of the obligation (the amount accrued to the benefit of the holder exclusive of the conversion spread) in cash and may choose to satisfy the conversion spread (the excess conversion value over the accreted value) in either cash or stock.
- ▶ Instrument X – As identified by market convention, provides that upon conversion, the issuer may settle the conversion value of the debt in shares, cash or any combination of shares and cash.

The types and terms of convertible debt can vary significantly. The most common variations are discussed in section 2.2.4.

2.1.2.2 Zero-coupon bond

A zero-coupon bond is a debt instrument that is issued at a discount to its par amount at inception and pays no interest during the life of the instrument. When held to maturity, the bond is redeemed at its par amount, with the return to those investors being the difference between the amount paid for the bond at issuance and the amount received at maturity. As there are no periodic coupon payments, the investor is not subject to the reinvestment risk (risk of reinvesting cash receipts at a lower market interest rate) that investors in coupon-paying instruments assume. Refer to section 2.4.3.1.1 for a discussion of the effective interest method.

2.1.2.3 Term-extending debt

Debt instruments may have a stated maturity that may be extended either at the election of the issuer or the investor or upon the occurrence of specific events or conditions. The instrument may specify a stated interest rate for the extended period that was set at inception or require a reset of the interest rate to either a then-market rate or to a formulaic rate. Refer to section 2.2.6.3 for more information on these types of debt instruments.

2.1.2.4 Share-settled debt

Share-settled debt is settled using equity shares of the issuer as a form of currency in lieu of cash. That is, the debt is settled in a variable number of shares with a then-current fair value equal to the principal amount of the debt. For example, an issuer would share settle debt with a principal amount of \$1,000 by issuing 50 shares when the common shares are trading at \$20. In some cases, a slight discount to the fair value of the share may be used in determining the number of shares to be delivered. Refer to section 2.2.4.7 for additional information on this type of instrument.

2.1.2.5 Indexed debt

A debt instrument's contractual interest and/or principal payments may be adjusted based on the price of a commodity or an index other than a variable interest rate (e.g., the price of gold or the S&P 500). Depending on the terms of the instrument, such adjustments may cause the contractual payments (i.e., principal and/or interest) to increase or decrease. Refer to section 2.2.6.4 for additional information on these types of debt instruments.

2.1.2.6 Exchangeable debt

Exchangeable debt permits the investor to exchange the debt for the shares of a company unrelated to the issuer. Some indentures, often called “mandatorily exchangeable,” require that, at maturity, debt holders accept a determinable number of common shares in an unrelated entity. In many cases, the number of shares is determined by the share price at the exchange date in relation to a price range specified at inception. If the price is at or below the range, the number of shares is fixed. If the price is within the range, the number of shares may vary and the investor receives shares with a fair value equal to the face amount of the debt. If the price is above the range, the investor receives a fixed number of shares, and therefore participates in a portion of the upside of the underlying equity securities.

Those instruments are often used to monetize an underlying investment held by the issuer. Mandatorily exchangeable debt typically has a shorter life than other long-term debt. Refer to section 5.1 in Chapter 5 for further discussion of exchangeable debt.

2.1.2.7 Inflation-indexed debt

Inflation-indexed debt provides protection to the holder against the risk of inflation through periodic adjustments of the principal amount to reflect changes in some measure of inflation, such as the Consumer Price Index. The coupon payments are determined by applying the fixed coupon rate to the inflation-adjusted principal amount. For example, if the annual coupon of the debt were 10% and the underlying principal of the debt were \$10,000, the annual interest payment would be \$1,000. If the inflation index increased by 10%, the principal of the debt would increase to \$11,000. The coupon rate would remain at 10%, resulting in an interest payment of \$1,100 (\$11,000 x 10%). Refer to section 2.2.6.4 for additional information on these types of debt instruments.

2.1.2.8 Perpetual debt

Perpetual debt, which is often deeply subordinated, has no stated maturity and pays regular interest payments indefinitely. In many ways, perpetual debt is similar to preferred stock in that the coupon payments are similar to dividend payments and the principal is typically payable only upon liquidation of the issuer. Perpetual debt is classified as a liability because it is legally an obligation of the issuer and the holder generally has creditor’s rights. Although perpetual debt does not have a maturity date, it may be redeemable (callable) by the issuer after a stated period. Refer to section 2.4.3.1.2 for more information for these types of instruments.

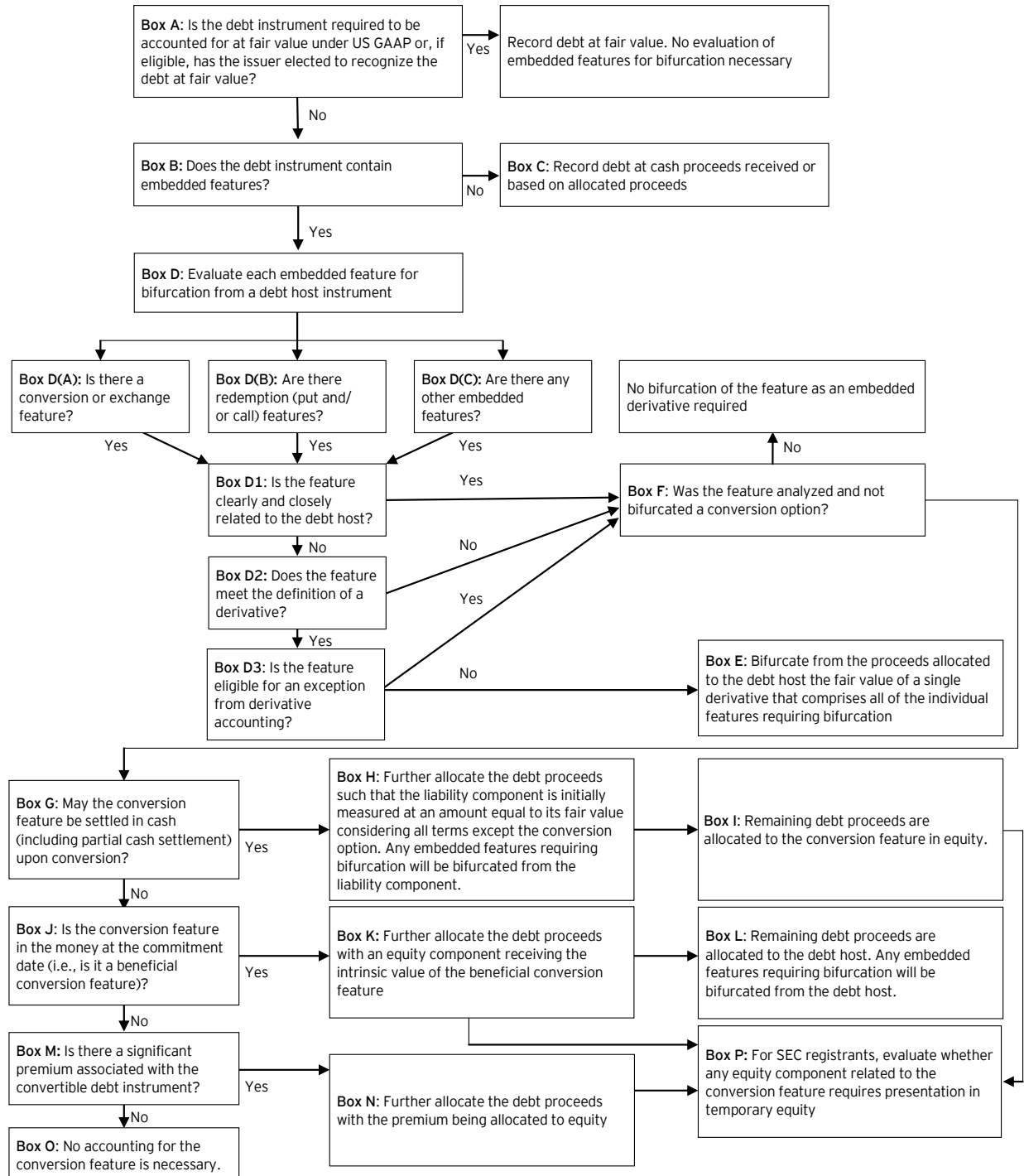
2.1.2.9 Step-up bond

A step-up bond is a type of variable-rate debt instrument with a coupon rate that increases over time. The terms of the step-up feature are typically predetermined when the bond is issued. Many step-up bonds include a call option that permits the issuer to redeem the debt instrument before maturity, which provides issuers with protection in the event market interest rates decrease. In some cases, the step up in the interest rate encourages the issuer to call the bond. Refer to section 2.2.6.6 for additional information on these types of debt instruments.

2.2 Issuer's initial accounting for debt instruments (including flowchart)

This section describes the steps generally necessary to determine the accounting for debt (including convertible debt) at issuance. In particular, this section provides considerations related to embedded conversion options, redemption features and other common embedded features.

The following flowchart summarizes the analysis at a conceptual level and should be used in conjunction with the interpretive guidance that begins after the flowchart.



2.2.1 **Box A – Debt instruments accounted for at fair value**

ASC 815-15-25-1(b) states that a hybrid instrument that is measured at fair value each period with changes in fair value reported in earnings as they occur should not be evaluated for embedded derivatives.

Debt is usually not subsequently measured at fair value unless an election is made pursuant to the separate fair value options provided in both ASC 815 and ASC 825. The fair value option may not be elected for certain types of debt. In limited situations, debt may be in the scope of ASC 480 and measured at fair value on an ongoing basis.

For example, ASC 825-10-15-5(f) prohibits an entity from electing the fair value option for financial instruments that are, in whole or in part, classified by the issuer as a component of shareholders' equity (including temporary equity).

Based on this restriction, the fair value option may not be elected for convertible debt that is in the scope of the cash conversion guidance (evaluated in Box G of the flowchart) or the beneficial conversion feature guidance (evaluated in Box J of the flowchart).

Under the fair value option in ASC 815-15-25-4 through 25-6, if the issuer has determined a debt instrument has an embedded derivative that requires bifurcation pursuant to ASC 815-15-25-1, the issuer may elect the fair value option for the hybrid instrument.

Although not entirely clear in the guidance, we generally believe a fair value option may not be elected for a convertible debt instrument with a component classified in equity, even if the instrument contains a non-equity-related bifurcatable derivative under ASC 815. That is, a convertible debt instrument that was precluded from being measured at fair value pursuant to the option in ASC 825 should not be eligible for the fair value option pursuant to ASC 815.

2.2.2 **Box B – Identifying embedded features**

ASC 815-10-20 defines an embedded derivative as an implicit or explicit term that affects some or all of the cash flows or the value of other exchanges required by a contract in a manner similar to a derivative instrument. Those embedded features may or may not meet the definition of a derivative pursuant to ASC 815. Instruments that themselves are not derivatives may contain embedded features, and are referred to as hybrid instruments, which are comprised of a host contract (e.g., a debt host) and one or more embedded features.

ASC 815-15 requires an instrument that is not a derivative itself to be evaluated for embedded features that should be bifurcated and separately accounted for as freestanding derivatives. Bifurcated embedded derivatives are split from the hybrid instrument and recorded in the same manner as a freestanding derivative pursuant to ASC 815 (i.e., recorded at fair value with subsequent changes in fair value recognized in earnings each period).

Debt instruments should be carefully reviewed to identify any terms that could result in a change in either the amount or timing (or both) of any cash or other value flows or settlements. Common embedded features in debt instruments include conversion options, redemption features (e.g., call option or put option), contingent interest, term extension options and make-whole provisions (incremental value delivered at a settlement date before the stated maturity date presumably to compensate the investor for some lost future cash flows or value).

Refer to section 2.2.3.4 for evaluating whether an embedded feature meets the definition of a derivative.

2.2.3 Box D and Boxes D1, D2 and D3 – Evaluating embedded features for bifurcation

Embedded features should be evaluated as potential embedded derivatives that should be bifurcated. Box D(A) and Box D(B) represent two broad categories of features commonly found in debt instruments: conversion options and redemption (put/call) features, respectively. Box D(C) includes any other features that could meet the definition of a derivative and require bifurcation.

Box D1, Box D2 and Box D3 apply to any contractual feature requiring analysis as a potential embedded derivative. The questions in those boxes align closely with the criteria in ASC 815-15-25-1, which requires an embedded feature to be bifurcated if all three of the following conditions are met:

- a. The economic characteristics and risks of the embedded derivative are not clearly and closely related to the economic characteristics and risks of the host contract.
- b. The hybrid instrument is not remeasured at fair value under otherwise applicable US GAAP with changes in fair value reported in earnings as they occur.
- c. A separate instrument with the same terms as the embedded derivative would be considered a derivative instrument subject to derivative accounting (the initial net investment for the hybrid instrument should not be considered to be the initial net investment for the embedded derivative).

Under criterion (a), if an embedded feature being analyzed is clearly and closely related to the host, bifurcation is not required. To evaluate this criterion, the host contract should be properly identified.

Criterion (b) is not addressed because the hybrid instrument is not being measured at fair value pursuant to the analysis in Box A.

Criterion (c) considers not only whether the embedded feature meets the definition of a derivative (evaluated as if it were a freestanding instrument with the same terms), but also whether it is eligible for an exception from derivative accounting. If the embedded feature would not be a derivative if freestanding, either because it does not meet the definition of a derivative or because it does meet the definition but receives an exception from derivative accounting under ASC 815, bifurcation is not required.

Refer to Chapter 3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for additional information on embedded derivatives.

2.2.3.1 Unit of analysis

Each embedded feature identified in a contract generally is evaluated for bifurcation. There are different approaches used to determine whether an embedded feature requires bifurcation. Under one approach, each embedded feature is evaluated individually. Under another, similar embedded features may be (or in some cases should be) combined. The approach followed for the unit of analysis (i.e., embedded features evaluated individually or in a group) may affect whether some or all of those embedded features should be bifurcated.

For example, consider a typical contingently convertible debt instrument (or “CoCo,” which is described in section 2.2.4.4) that may be converted in four different situations (e.g., based on the trading price, parity, a notice of redemption or a specified corporate transaction), with each situation representing the resolution of a contingency in the instrument. The contractual conversion features in a CoCo could be analyzed in two ways. Under one approach, the instrument would have a single conversion option with four separate triggers that permit conversion (e.g., based on the trading price of the common stock, parity, a notice of redemption or a specified corporate transaction). Under another approach, the instrument could be viewed to have four conversion options, each of which is exercisable only upon the occurrence of a certain event (i.e., the trading price of the common stock, parity, a notice of redemption or a specified corporate transaction).

Judgment will be required to determine when it is appropriate (or necessary) to combine terms into a single embedded feature to be evaluated for bifurcation. Factors to be considered include the commonality of the underlyings, a detailed analysis of the calculation of related settlement amounts, the situations in which settlements may be required and default provisions related to the terms.

If the instrument were viewed to have one option with multiple exercise triggers, the entire conversion option would be bifurcated if any individual trigger or related settlement met the requirements for bifurcation. Under the second approach (four options, each with its own exercise trigger), only each individual trigger or related settlement requiring separate accounting would be bifurcated. The valuation of that bifurcated derivative would be based on the conversion option (or options, if several required bifurcation) value that included an input for the probability of the trigger (or triggers) occurring. The remaining conversion options would not be bifurcated.

We generally believe both approaches are acceptable for contingently convertible debt, but the approach should be consistently applied. The second approach may not be applied in all circumstances (e.g., for a freestanding equity contract, ASC 815-15-25-7 indicates that a single freestanding derivative should not be split into multiple derivatives). Therefore, a freestanding warrant that has four exercise contingencies should be viewed as a single equity contract.

Once the appropriate unit of analysis is determined, each unit should be evaluated in accordance with the criteria in ASC 815-15-25-1 described below. If more than one feature requires bifurcation, a single derivative comprising all bifurcatable features should be separated. Refer to section 2.2.7 for further discussion.

2.2.3.2 Meaning of “clearly and closely related”

The clearly and closely related evaluation generally refers to a comparison of the economic characteristics and risks of the embedded feature to those of the host instrument. The concept is not specifically defined in the guidance, but is illustrated throughout the examples in ASC 815-15-25-23 through 25-51. Generally, the underlying that causes the value of the embedded feature to fluctuate, must be related to the inherent economic nature of the host instrument to be considered clearly and closely related to the host instrument.

If the economic characteristics and risks of the embedded feature are clearly and closely related to the economic characteristics and risks of the host contract, ASC 815 does not require bifurcation of the feature, and there is no separate accounting as a derivative.

This concept is illustrated throughout the discussion and examples in ASC 815-15-25-23 through 25-51.

2.2.3.3 Identifying the host contract in a debt instrument

The nature of the host contract should be determined to assess whether an embedded feature is considered clearly and closely related to the host contract. US GAAP defines an equity host as a residual interest in an entity, and a debt host as any other financial instrument host contract. From the examples in ASC 815-40-25, it can be inferred that interest, credit and inflation can be considered debt-host-like characteristics. A legal form debt instrument would have a debt host.

Some instruments could be legal form equity instruments that are classified as a liability pursuant to the guidance in ASC 480, such as preferred stock that is mandatorily redeemable. For public companies, the host instrument (the preferred stock) should be evaluated pursuant to ASC 815-10-S99-3 to determine whether the host instrument is more akin to debt or equity. As the instrument would have a stated maturity date or some form of date-certain redemption in order to be classified as a liability pursuant to ASC 480, the host instrument most likely would be deemed a debt-like host. Private companies may also consider that guidance. Refer to section 3.2.6 in Chapter 3 for further discussion of how the host contract of shares should be determined.

The terms of the host debt instrument are based on the stated or implied substantive terms of the hybrid instrument. Those terms may include a fixed rate, variable rate, zero coupon, discount or premium or some combination thereof. The characteristics of the host debt instrument should not be expressed in a manner that would result in identifying an embedded derivative that is not already clearly present in a hybrid instrument. For example, a fixed-rate debt instrument should not be considered a variable-rate debt host with an embedded variable-to-fixed interest rate swap.

We generally believe the debt host of a typical convertible debt instrument is generally a nonconvertible, fixed-rate debt instrument with a stated maturity date that pays interest at the issuer's current borrowing rate for the contractual life of the instrument. Under this approach, when evaluating interest-related features (such as put/call provisions) against the host instrument in convertible debt, the interest rate on the host should be the fixed rate that would have been set on a nonconvertible instrument and should be higher than the convertible instrument's contractual fixed rate.

2.2.3.4 Definition of a derivative instrument

To be a derivative pursuant to ASC 815, an instrument should have all of the following characteristics:

- ▶ A derivative's cash flows or fair value must fluctuate and vary based on the changes in one or more underlyings.
- ▶ The contract contains one or more notional amounts or payment provisions or both.
- ▶ The contract requires no initial net investment, or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.
- ▶ The contract (1) provides for net settlement, (2) can be settled net through a market mechanism outside the contract or (3) provides for delivery of an asset that, because the delivered asset is readily convertible to cash, puts the recipient in a position not substantially different from net settlement (a gross settlement that is economically equivalent to a net settlement).

Refer to section 1.2.3 in Chapter 1 and section 2.3 in Chapter 2 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for additional guidance on the definition of a derivative.

2.2.4 Box D(A) and Boxes D1, D2 and D3 – Evaluating embedded conversion options

The conversion feature in convertible debt should be evaluated for potential bifurcation under the criteria in ASC 815-15-25-1, which includes the considerations described in section 2.2.3. If the option meets the definition of a derivative, the analysis should also consider whether the conversion feature, if freestanding, would receive an exception from derivative accounting.

While issued less frequently, debt may also be exchanged into equity of another entity (referred to as exchangeable debt). The evaluation of an exchange feature for potential bifurcation should follow the guidance discussed in section 2.2.3 and this section. However, because the debt is not convertible into equity of the issuer, the exchange feature would generally be bifurcated. This section primarily focuses on the evaluation of conversion features. Refer to section 5.1 in Chapter 5 for further discussion of exchangeable debt.

2.2.4.1 **Determining whether a conversion option is clearly and closely related to the debt host instrument**

To be considered clearly and closely related to the debt host in convertible debt, the embedded feature's underlying should relate to economic characteristics and risks that affect debt, such as interest rates, credit considerations or inflation.

Most commonly, the economic characteristics and risks of a conversion option embedded in a debt instrument are considered related to those of an equity instrument, because its value is influenced principally by the underlying equity security's fair value (and the volatility in that fair value). Therefore, the economic characteristics and risks of an embedded conversion option in a debt instrument should not be considered clearly and closely related to the economic characteristics and risks of a debt host contract, as stated in ASC 815-15-25-51.

2.2.4.2 **Determining whether a conversion option meets the definition of a derivative**

The criteria for the definition of a derivative should generally be applied to conversion features as follows:

- ▶ Underlying and notional amount – The underlying is the price (i.e., fair value) of the equity instrument to be issued when the embedded conversion option is exercised, and the notional amount is the number of shares into which the debt instrument is convertible.
- ▶ No initial net investment – The implicit premium for the embedded conversion option at inception is considered the initial investment (not the initial investment in the convertible debt instrument), which should generally be less than the fair value of the underlying equity security.
- ▶ Net settlement – An embedded conversion option may require physical settlement (i.e., no possibility that the conversion option will settle in cash, such as “classic convertible debt” described in section 2.1.2.1) such that, upon conversion, the issuer is required to deliver the underlying equity shares in settlement of the convertible debt. An embedded conversion option that requires physical settlement would meet the net settlement requirement only if the shares to be delivered upon conversion are “readily convertible to cash” as described in ASC 815.

For example, a share of a publicly traded company is generally considered readily convertible to cash unless the market for the shares is not active and the number of shares to be exchanged (given the smallest increment available for conversion) is large relative to the daily trading volume of the underlying shares. However, if the underlying share is of a private company, the conversion option would generally not meet the net settlement criteria in a physical settlement unless there is sufficient active trading to result in a conclusion that a common share is readily convertible to cash.

In some cases, a convertible debt instrument may contractually require net settlement of the embedded conversion option. This net settlement of the conversion feature could be in shares or cash. For example, Instrument C provides that the conversion spread (i.e., the intrinsic value of the conversion option) is to be settled in net cash or net shares upon conversion. Instruments A, B and X also permit net settlement. In these cases, the embedded conversion option would meet the net settlement characteristic of a derivative even if the underlying shares were not readily convertible to cash.

2.2.4.3 Exceptions from derivative accounting

Notwithstanding that an embedded feature, if freestanding, may meet all the characteristics of a derivative, an embedded feature (including conversion options) should not be bifurcated if the feature is eligible for a scope exception from ASC 815. The most common exception for a conversion feature is provided by ASC 815-10-15-74(a), which states that contracts issued or held by that reporting entity that are both (1) indexed to its own stock and (2) classified in stockholders' equity in its statement of financial position are not considered derivative instruments in the scope of ASC 815. That analysis draws on the indexation and classification guidance in ASC 815-40 related to contracts in an entity's own stock.

If the embedded conversion option does not qualify for the scope exception in ASC 815-10-15-74(a), the issuer should determine whether the feature is eligible for other scope exceptions in ASC 815. While it is unlikely the instrument would qualify for any other exceptions, in the event convertible debt instruments are issued to nonemployees as compensation for goods or services, an exception may exist pursuant to ASC 815-10-15-74(b), which excludes contracts issued in a company's own securities for stock-based compensation addressed in ASC 718, *Compensation – Stock Compensation*, or ASC 505-50, *Equity Based Payments to Non-Employees*. This exception applies only during the period prior to completion of performance, as clarified in ASC 815-10-55-49 through 55-53. Once performance has occurred, equity instruments granted to a nonemployee for goods or services become subject to the requirements of ASC 815.

2.2.4.3.1 Meaning of "indexed to issuer's own stock"

To determine whether a conversion feature is indexed to the issuer's own stock, it should be analyzed pursuant to ASC 815-40-15-5 through 15-8, including the related implementation guidance. The examples in ASC 815-40-55-26 through 55-48 should, in particular, be considered. There are two steps for evaluating a feature. The first step evaluates any contingent exercise provisions. The second step requires an analysis of features that could change the instrument's settlement amount.

In the first step, an exercise contingency (as defined in the indexation guidance) does not preclude an instrument (or embedded feature) from being considered indexed to an entity's own stock provided that it is not based on either of the following:

- ▶ An observable market, other than the market for the issuer's stock (if applicable)
- ▶ An observable index, other than an index calculated or measured solely by reference to the issuer's own operations (e.g., sales revenue of the issuer, earnings before interest, taxes, depreciation and amortization of the issuer, net income of the issuer or total equity of the issuer)

In the second step, an instrument (or embedded feature) is considered indexed to an entity's own stock if its settlement amount equals the difference between (1) the fair value of a fixed number of the entity's equity shares and (2) a fixed monetary amount or a fixed amount of a debt instrument issued by the entity. While the second step appears to be a strict "fixed-for-fixed" concept, an exception is provided so that if the feature's strike price or the number of shares used to calculate the settlement amount is not fixed, the embedded feature could still be considered indexed to an entity's own stock if the only variables that could affect the settlement amount would be inputs to a fair value valuation model for a fixed-for-fixed forward or option on equity shares.

Any feature that adjusts the embedded conversion option should be carefully analyzed. Those features could include antidilution provisions (e.g., adjustments for stock splits or dividends) as well as provisions that adjust the conversion price or rate to protect the investor from a loss of value due to events that were not expected to occur or events in the control of the issuer that could be detrimental to the holder (e.g., as merger, tender offer, nationalization, insolvency or delisting). Refer to section B3 in Appendix B for a comprehensive discussion of the indexation guidance.

If based on the indexation guidance the conversion option is not considered indexed to the issuer's own stock, it would not qualify for the scope exception in ASC 815-10-15-74(a) and should be bifurcated.

2.2.4.3.2

Meaning of "classified in stockholders' equity"

To determine whether an embedded conversion feature would be classified in stockholders' equity if considered freestanding, ASC 815-40-25-1 through 25-43 should be considered, including the related implementation guidance (primarily codified in ASC 815-40-55-1 through 55-18). This guidance is referred to throughout this publication as "the equity classification guidance."

The equity classification guidance generally indicates that an embedded conversion option on a company's own stock, if freestanding, would be considered to be classified in equity under either of the following types of settlement:

- ▶ Required physical settlement or net share settlement
- ▶ Issuer has a choice of net cash settlement or settlement in its own shares (physical settlement or net share settlement), regardless of the intent of the issuer

However, an embedded conversion option would not be considered classified in equity if either of the following provisions is present:

- ▶ Required net cash settlement (including a requirement to net cash settle if an event occurs that is outside the control of the issuer)
- ▶ Holder has choice of net cash settlement or settlement in shares (physical settlement or net share settlement)

ASC 815-40-25-7 through 25-38 include additional conditions that should be met for equity classification, including whether the issuer will have the ability, in all cases, to settle in shares. Those additional conditions need not be met for conventional convertible debt (refer to section 2.2.4.10 for guidance on conventional convertible debt). If any condition (as summarized below) is not met for a debt instrument that is not conventional convertible debt, the embedded conversion option would not be considered classified in stockholders' equity and should be bifurcated:

- ▶ Settlement is permitted in unregistered shares
- ▶ Entity has sufficient authorized and unissued shares
- ▶ Contract contains an explicit share limit
- ▶ No required cash payments if entity fails to timely file
- ▶ No cash-settled top-off or make-whole provisions
- ▶ No counterparty rights rank higher than shareholder rights
- ▶ No collateral requirements

Those criteria should be applied on a theoretically possible standard. Issuers should also evaluate the implementation guidance in ASC 815-40-55-2 through 55-6 that discusses circumstances where equity classification is appropriate despite the possibility of a cash settlement if holders of the same class of underlying shares also would receive cash in exchange for their shares.

Refer to section B4 in Appendix B for a comprehensive discussion of the equity classification guidance.

2.2.4.4 Contingently convertible debt

In a traditional convertible debt instrument, the holder may exercise its option to convert the notes into a number of underlying securities at any time. In contrast, contingently convertible (“CoCo”) debt generally entitles the holder to convert only after certain contingencies have been satisfied. Contingently convertible debt often also allows conversion at the end of its life.

When exercise contingencies exist and the conversion feature meets the definition of a derivative, the issuer should evaluate each of those contingencies to determine whether they would preclude the conversion option from being considered indexed to its own stock. This evaluation should be made in the first step under the indexation guidance, which requires that the contingent exercise provisions not be based on an observable market (other than the market for the issuer’s stock) or an observable index (other than those calculated or measured solely by reference to the issuer’s own operations). Refer to section 2.2.4.3 and Appendix B for further discussion of these requirements.

The most common exercise contingencies in a CoCo are:

- ▶ Common stock trading price – A holder may convert the note if the last reported price of the stock for a specified period is more than some percentage of the conversion price. For example, a convertible debt instrument with a conversion price of \$12 and a contingent conversion trigger of 130% may permit conversion only if the stock trades above \$15.60 ($\$12 \times 130\%$) for 20 out of the 30 days before the end of the quarter.
- ▶ Satisfaction of trading price condition or “parity trigger” – A holder may convert during a specified period (often five business days) after any period in which the trading price per \$1,000 principal amount of the debt for each day of that period was less than a percentage (e.g., 95%) of the parity value. For example, assume a convertible instrument with a conversion price of \$12 and a conversion ratio of 83.33 shares is convertible only when the debt is trading at less than 95% of its parity (as converted) value. In this example, if the trading price of the underlying stock is \$15, the debt would be convertible only when it was trading at less than \$1,187.50 (or 95% of \$1,250, which is the parity value ($83.33 \text{ shares} \times \15)).
- ▶ Notice of redemption – A holder may convert the note if the notes have been called for redemption by the issuer.
- ▶ Specified corporate transactions – A holder may convert the note upon the occurrence of specified corporate transactions. These corporate events may include “fundamental change” triggers similar to those discussed in section 2.2.5.

Many common exercise contingencies pass the first step of the indexation guidance because they are contingent upon the trading price of the issuer’s equity shares or are not contingent on any observable market or index unrelated to the entity’s own stock or operations.

Parity trigger exercise contingencies are specifically addressed in ASC 815-40-55-45 through 55-46, which states in part:

The market price trigger and parity provision exercise contingencies are based on observable markets; however, those contingencies relate solely to the market prices of the entity’s own stock and its own convertible debt...therefore, Step 1 does not preclude the warrants from being considered indexed to the entity’s own stock.

Conversion exercise contingencies based on an observable market other than the market for the issuer's stock or an observable index other than those referenced to the issuer's own operations preclude the embedded conversion option from being considered indexed to the entity's own stock. For example, if the embedded conversion option permits the holder to convert only if LIBOR increases or decreases by 200 basis points, the conversion feature would fail Step 1 of the evaluation under the indexation guidance, because LIBOR is an observable index that is not calculated or measured based on the market for the issuer's own stock or measured solely by reference to the issuer's own operations.

Refer to section 2.2.3.1 for how individual contingencies should be considered in evaluating embedded conversion features for bifurcation and section B3 in Appendix B for more information on the evaluation of exercise contingencies under the indexation guidance.

2.2.4.5 “Time value make-whole” features

Debt instruments may include some form of a make-whole provision, which provides that in the event of conversion by the investor under certain circumstances (e.g., change of control), the issuer is required to deliver to the holder additional consideration beyond the settlement of the conversion obligation. The additional consideration may be provided in cash or shares, usually at the issuer's option. There are two frequent forms of the make-whole feature: an “interest make-whole” and a “time value make-whole.” Refer to section 2.2.6.2 for a discussion on interest make-whole features.

A time value make-whole feature is designed to compensate the investor for lost benefits of the investment (including the time value of the remaining term of the conversion option) upon conversion because of the occurrence of certain fundamental change events (refer to section 2.2.5) that result in early settlement of the instrument.

The number of additional shares to be provided to the investor is generally determined based on (1) the date on which the fundamental change occurs or becomes effective and (2) the price per share of the underlying equity security at that time, as set forth in the indenture.

In some cases, a make-whole provision may be triggered on any conversion, rather than certain contingent conversions. In those situations, the feature should be carefully evaluated to determine if it should be evaluated as part of the basic conversion option. Refer to the discussion of determining the unit of analysis in section 2.2.3.1 for further guidance.

Because time value make-whole provisions are not clearly and closely related to the debt host and would meet the definition of a derivative if considered freestanding, they should be evaluated under the indexation guidance to determine whether they would be afforded the scope exception pursuant to ASC 815-10-15-74(a). This evaluation is generally performed in conjunction with the analysis of the embedded conversion feature.

ASC 815-40-55-46 indicates that if the fair value of the shares into which the debt is convertible plus the make-whole shares would be expected to approximate the fair value of the convertible debt instrument at the settlement date (assuming no change in the pricing inputs – other than stock price and time – since the instrument's inception), the time value make-whole feature would not violate the fixed-for-fixed concept in the indexation guidance because the number of make-whole shares is determined based on a table with axes of stock price and time, which would both be inputs in a fair value measurement of a fixed-for-fixed option on equity shares.

The following is an example of a typical time value make-whole table (except for the “Amount” column, which has been added for reference) that could be included in an indenture. Based upon the stock price and the effective date, the number of additional shares per note can be determined.

Stock price	Effective date							
	1 December 20X0		1 December 20X1		1 December 20X2		1 December 20X3	
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount
\$ 15.00	5.00	\$ 75.00	5.00	\$ 75.00	5.00	\$ 75.00	5.00	\$ 75.00
\$ 20.00	3.80	76.00	3.58	71.60	3.15	63.00	2.00	40.00
\$ 25.00	2.50	62.50	2.15	53.75	1.60	40.00	1.05	26.25
\$ 30.00	1.75	52.50	1.40	42.00	0.85	25.50	0.80	24.00
\$ 35.00	1.25	43.75	0.95	33.25	0.35	12.25	0.25	8.75
\$ 40.00	1.00	40.00	0.65	26.00	0.24	9.60	–	–
\$ 45.00	0.75	33.75	0.50	22.50	0.15	6.75	–	–
\$ 50.00	0.50	25.00	0.35	17.50	0.10	5.00	–	–

In evaluating whether the time value make-whole satisfies the criteria discussed in step 2 of the indexation guidance, the terms of the indenture should provide that the stock price used to determine the make-whole payment should be the fair value of a share used as an input to an appropriate valuation model (e.g., Black-Scholes, lattice or other appropriate model that is based on the instrument's terms and valuation theory) for a fixed-for-fixed option or forward. That is, if the stock price were determined based on a formula or other method that is designed to approximate fair value, but is not an actual fair value measurement, that variable affecting the settlement amount is not an input to a fair value model and thus the feature cannot be considered indexed to the issuer's own shares.

To satisfy the indexation guidance, the make-whole amounts should represent compensation for the expected loss in the time value component at settlement (assuming no change in pricing inputs, other than stock price and time, since the instrument's inception). Accordingly, the make-whole amount should fluctuate with the “Stock Price” and the “Effective Date” axes in a manner that is reasonably expected to compensate the investor for the value lost upon an early conversion.

For example, the time value of a conversion option typically decreases as the term to maturity shortens and decreases as the share price (fair value of the share) moves further away (higher or lower) from the contractual conversion price. In cases where the make-whole amount results in a fixed or predominantly fixed value for a number of different share prices on the same date, the make-whole provision may not be considered indexed to the entity's own stock. Rather, it may be more akin to an interest make-whole feature. A feature expressed in such a table would likely require bifurcation (as discussed further in section 2.2.6.2).

If the time value make-whole feature and the base conversion option are considered indexed to the entity's own equity, the exception in ASC 815-10-15-74(a) related to the feature being classified in equity if freestanding should also be considered, as discussed in section 2.2.4.3.2.

While ASC 815 does not explicitly address the unit of an embedded feature that should be evaluated, make-whole provisions are generally evaluated as part of the embedded conversion feature based on the make-whole illustration in ASC 815-40-55-46, which implies that the entire conversion option – including the make-whole provision – should be evaluated together. However, the original EITF consensus that was codified was not intended to interpret the unit of analysis for embedded derivatives. Therefore, it is not clear what should be bifurcated if the make-whole feature is not considered indexed to the entity's own stock.

If the make-whole feature requires bifurcation, we generally believe there are three approaches that could be considered, among others, based in part on the discussion of contingent conversion options (as discussed in section 2.2.3.1):

- ▶ Associate the make-whole feature with the entire conversion option and bifurcate the entire conversion option
- ▶ Associate the make-whole feature with only those options (of the multiple embedded conversion options) that share the same trigger as the make-whole feature and bifurcate those separate conversion options
- ▶ Bifurcate the make-whole feature

2.2.4.6

“Equity-kicker” or embedded warrant features

In addition to permitting the investor to participate in increases in the value of the issuer’s equity through exercise of a conversion option, a convertible debt instrument may provide an additional equity-kicker or embedded warrant. This feature generally permits investors, upon conversion, to receive an additional number of the underlying equity securities in the event the issuer’s underlying equity security is trading above the initial conversion price. The additional number of equity securities is typically determined based on the following formula:

$$\text{Additional shares} = [(\text{stock price} - \text{conversion price}) \times \text{incremental share factor}] / \text{stock price}$$

The incremental share factor is typically defined in the agreement.

In general, this type of provision is consistent with the indexation guidance because the adjustment is made based on the share price of the underlying equity security, which would also be an input in a fair value measurement of a fixed-for-fixed option on equity shares. However, to qualify for the second part of the exception in ASC 815-10-15-74(a), the equity kicker should also be classified in equity if freestanding. This evaluation, in part, requires that the issuer have sufficient authorized and unissued shares available to settle the entire convertible instrument (including the equity-kicker). When a debt instrument has a conversion option, an equity kicker and any other features settled in shares such as make-wholes, the need for any caps on those features should be carefully considered in evaluating whether the issuer has sufficient shares to meet all of its outstanding share delivery obligations (refer to ASC 815-40-25-10(c)).

Refer to section B4.4.3.1 in Appendix B for further discussion of equity kickers, including when multiple limits are provided.

2.2.4.7

Share-settled debt

Convertible debt typically provides the investor with the ability to convert the debt into a fixed number of the issuer’s equity securities (to be adjusted only under certain events). As a result, the value the holder receives upon conversion is based entirely on the price of the shares. However, some debt instruments may settle by providing the holder with a variable number of shares with an aggregate fair value equaling the debt principal outstanding. (In some cases, a slight discount to the fair value of the share price may be used to determine the number of shares to be delivered, resulting in settlement at a premium.)

Because the value that the holder receives at settlement does not vary with the value of the shares, that settlement provision is not considered a conversion option and the debt instrument would not be considered convertible debt unless it also contained a conversion option (as discussed in section 2.1.2.1). Instead, this provision should first be evaluated pursuant to ASC 480-10-25-14 (refer to Appendix A). If not subject to that guidance, the provision should be evaluated as a redemption feature under section 2.2.5. A settlement provision that is not a conversion option should not be considered under the beneficial conversion guidance (discussed in section 2.2.10).

2.2.4.8 Debt that is convertible into shares of a subsidiary or the parent

ASC 815-40-15-5C states that freestanding financial instruments (and embedded features) for which the payoff to the counterparty is based, in whole or in part, on the stock of a consolidated subsidiary are not precluded from being considered indexed to the entity's own stock in the consolidated financial statements of the parent if the subsidiary is a substantive entity. Accordingly, if the subsidiary is considered to be a substantive entity, an embedded option to convert debt (issued by the parent or the subsidiary) into a substantive subsidiary's shares may be considered indexed to the issuer's own stock in the consolidated financial statements if the two steps in the indexation guidance are met, as discussed in section 2.2.4.3.1.

ASC 815-40-15-5C does not explicitly address convertible debt issued by a subsidiary that is convertible into the shares of its parent. We generally believe that for purposes of the parent's consolidated financial statements that instrument could meet the indexation guidance, in part based on concepts formerly in EITF 98-2, "Accounting by a Subsidiary or Joint Venture for an Investment in the Stock of Its Parent Company or Joint Venture Partner," which wasn't finalized by the EITF and wasn't codified. That tentative consensus stated that in certain circumstances a subsidiary's investment in the shares of its parent would be treated as treasury stock in the financial statements of the subsidiary or joint venture. If such a share could be considered treasury stock by the subsidiary, then by analogy it could be considered a share of the subsidiary.

The following chart summarizes whether the embedded conversion option in the following instruments may be considered indexed to the reporting entity's stock pursuant to ASC 815-40-15-5C.

	Embedded conversion feature indexed to reporting entity's stock?
Debt issued by consolidated subsidiary convertible into subsidiary's stock	Yes, in consolidated financial statements and the subsidiary's standalone financial statements.
Debt issued by parent convertible into a substantive consolidated subsidiary's stock	Yes, in consolidated financial statements.
Debt issued by subsidiary convertible into parent's stock	Yes, in consolidated financial statements. No, in subsidiary's standalone financial statements because the holder's conversion right is for stock of an entity (parent) that is not the reporting entity (subsidiary).

Accounting for debt issued by a subsidiary that is convertible into either the parent's or consolidated subsidiary's stock at the election of the holder should be carefully determined based on the individual facts and circumstances.

2.2.4.9 Convertible bonds that are puttable at a premium

Convertible bonds may be issued at par with a premium put that permits the investor to redeem the bonds for cash at a multiple of the bond's par value at a date or dates prior to maturity. If the investor does not exercise the premium put, it expires. At the issue date, the carrying amount of the bonds is in excess of the fair value of the common stock that would be issued under the conversion terms.

EITF 85-29² (which was not included in Codification), addressed certain bonds that have an embedded feature that permits investors to elect either (1) to convert the debt to equity of the issuer or (2) to obtain a cash-out at a multiple of the bond par value at one or more dates prior to maturity. When updating the EITF issue for the issuance of Statement 133,³ the FASB staff noted that the embedded feature with the combination of mutually exclusive choices should be analyzed as a unit in applying derivative accounting.

² EITF Issue No. 85-29, "Convertible Bonds with a "Premium Put"" (EITF 85-29)

³ FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities (Statement 133)

From the issuer's standpoint, the FASB staff noted that the embedded feature with the combination of mutually exclusive choices would not qualify for the scope exception in paragraph 11(a) (now ASC 815-10-15-74(a)), which excludes contracts that are indexed only to the entity's own stock and classified in stockholders' equity in the entity's statement of financial position. However, Statement 133 Implementation Issue B15 (now ASC 815-15-25-7) was also referenced in EITF 85-29. Implementation Issue B15 suggested that multiple embedded features are analyzed as separate units and, to the extent they individually warrant separate accounting as a derivative, should be bifurcated as a single compound derivative. This concept seemed to contradict the guidance on combining the mutually exclusive settlements for analysis pursuant to EITF 85-29.

We generally believe that the guidance that was previously in EITF 85-29 applies only to the limited fact pattern that was described in that pre-Codification guidance. As discussed in section 2.2.3.1, in other cases, we generally believe embedded features are not necessarily required to be analyzed for bifurcation as a single unit.

2.2.4.10

Conventional convertible debt

As discussed in ASC 815-40-25-39 through 25-42, conventional convertible debt is a specific type of convertible debt instrument that permits the holder to convert into a fixed number of shares (or equivalent amount of cash at the discretion of the issuer) and for which the ability to exercise the conversion option is based on the passage of time or a contingent event.

The analysis for determining whether an embedded conversion feature in conventional convertible debt receives an exception from derivative accounting pursuant to ASC 815-10-15-74(a) is simplified relative to unconventional convertible debt. While the requirements in the indexation guidance should continue to be met, in evaluating whether the embedded conversion feature would be classified in stockholders' equity if freestanding, the additional criteria described in ASC 815-40-25-7 through 25-35, including the related implementation guidance in ASC 815-40-55-2 through 55-6, are not applicable. Instead, the only consideration under the equity classification guidance is whether the contract requires or permits the issuer to settle in shares under the general equity classification guidance in ASC 815-40-25-1 through 25-4. Refer to section 2.2.4.3.2 for further guidance on those requirements.

In practice, convertible debt instruments infrequently meet the requirements to be considered conventional convertible debt because they generally include at least one provision that violates the criteria for conventional convertible debt, such as:

- ▶ Any conversion feature that permits the settlement of the conversion obligation in a variable number of shares (e.g., instruments allowing conversions to be settled in cash for the principal amount and shares for any conversion spread, or in any mix of cash or shares, because the number of shares or equivalent amount of cash to be delivered upon conversion is not fixed (e.g., Instruments C and X))
- ▶ The existence of a make-whole provision, which may result in a variable number of shares upon conversion
- ▶ The inclusion of anything other than standard antidilution provisions

Standard antidilution provisions as defined in Codification are designed to maintain the value of the conversion option in the event of an equity restructuring. "Equity restructuring" is defined in Codification as a nonreciprocal transaction between an entity and its shareholders that causes the per-share fair value of the shares underlying an option or similar award to change, such as a stock dividend, stock split, spin-off, rights offering or recapitalization through a large, nonrecurring cash dividend.

Standard antidilution adjustments require an adjustment to the conversion option when the following events occur:

- ▶ Issuance of the underlying security as a dividend or distribution on the underlying security or a split or combination of the underlying security
- ▶ Issuance to holders of the underlying security any rights or warrants entitling them to the underlying security at a discount
- ▶ Distributions of capital stock, other assets or property to holders of the underlying security
- ▶ Large and nonrecurring cash dividend or distribution

Typical antidilution provisions included in recent convertible debt instruments that are not considered standard antidilution provisions include adjustments for:

- ▶ Cash dividends – To be considered an equity restructuring, a cash dividend must be both large and nonrecurring. Therefore, adjustments due to regular cash dividends, or even an initial cash dividend that is not large, are not considered standard, as they are usually neither large nor nonrecurring.
- ▶ Payment in respect of a tender offer – Such offers are generally made by the issuer or a subsidiary, but in some cases triggered by a third-party tender offer. These also include exchange offers for the underlying security in which the tender price is higher than the last reported sale of the underlying security. This adjustment is not considered standard as it is a reciprocal transaction with shareholders (exchange of cash for purchase of shares).

2.2.4.11

Conversion options with a strike price denominated in a currency other than the issuer's functional currency

Pursuant to ASC 815-40-15-7I, a conversion option embedded in debt that is denominated in a currency other than the issuer's functional currency is not considered indexed to the issuers' own stock because the issuer is exposed to the changes in the currency's exchange rate, and thus there is not a fixed amount of value (in the issuer's functional currency) being exchanged.

The determination of whether an equity-linked financial instrument is indexed to an entity's own stock is not affected by the currency (or currencies) in which the underlying shares trade.

2.2.5

Box D(B) and Boxes D1, D2 and D3 – Evaluating embedded redemption (put and/or call) features

Like embedded conversion options, redemption features are also evaluated for bifurcation pursuant to ASC 815-15-25-1. Redemption is the repayment of the principal amount at or before maturity, but is most frequently used to describe repayment before maturity through exercise of a call or put option embedded in the debt instrument.

An embedded call option gives the issuer the right to fully or partially retire the debt before the scheduled maturity date, usually at par or at a premium (e.g., 101% of par). A call feature enables the issuer to refinance the debt at a lower borrowing rate if rates have declined since issuance.

An embedded put option is an option granted to the creditor by the issuer giving the debt holder the right to fully or partially sell the debt back to the issuer before the scheduled maturity date, usually at par or at a premium (e.g. 101% of par). The put option permits the creditor to force the issuer to redeem the debt when interest rates rise after the debt's issuance, enabling the creditor to reinvest the proceeds at higher market rates.

Frequently, debt agreements contain a put option that enables the investor to put the debt to the issuer upon the occurrence of a fundamental change (certain change in control transactions as defined in the agreement). This redemption feature is commonly referred to as a “change of control put.” Although specific to each arrangement, the following are common examples of fundamental change events:

- ▶ A person or group becoming the direct or indirect ultimate beneficial owner of more than 50% of the voting power of the issuer’s common equity
- ▶ Sale of all or substantially all of the issuer’s net assets
- ▶ Consummation of any share exchange, consolidation or merger of the issuer into another entity
- ▶ Specified changes in the board of directors
- ▶ Shareholders approving any plan or proposal for the liquidation or dissolution of the issuing entity
- ▶ The issuer’s common stock ceasing to be quoted or listed

Depending on the specific terms of the debt, embedded put or call options may be exercisable at any time after issuance, after the passage of time (e.g., on or after the fifth anniversary) or upon the occurrence of specified contingent events, and may coincide with each other.

2.2.5.1 Determining whether put and call features are considered clearly and closely related to the debt host instrument

As discussed in section 2.2.3, if the economic characteristics and risks of an embedded redemption feature are considered clearly and closely related to the economic characteristics and risks of the host contract or the redemption feature does not meet the definition of a derivative, the embedded feature should not be bifurcated pursuant to ASC 815.

ASC 815-15-25-40 and 25-41, as well as 25-26 through 25-29, provide guidance in determining whether the characteristics and risks of embedded puts and calls are clearly and closely related to the economic characteristics and risks of a debt host contract. Those paragraphs are supplemented by ASC 815-15-25-42, 25-43 and 55-13 and ASC 815-15-25-37 through 25-39.

To determine whether a put or call is considered clearly and closely related to the host debt instrument, the put and call guidance in ASC 815-15-25-40 and 25-41, as clarified by the four-step evaluation described in ASC 815-15-25-42 and 25-43, is applied. Those steps are (steps 2, 3 and 4 are further discussed below):

- Step 1: Is the amount paid upon settlement (also referred herein as the “payoff”) adjusted based on changes in an index (rather than simply being the repayment of principal at par, together with any unpaid accrued interest)? If yes, continue to Step 2. If no, continue to Step 3.
- Step 2: Is the payoff indexed to an underlying other than interest rates or credit risk? If yes, then that embedded feature is not clearly and closely related to the debt host contract and further analysis under Steps 3 and 4 is not required. If no, that embedded feature should be analyzed under Steps 3 and 4 as well as the provisions of ASC 815-15-25-1 and 815-15-25-26.
- Step 3: Does the debt involve a substantial premium or discount (refer to section 2.2.5.2)? If yes, continue to Step 4. If no, in accordance with ASC 815-15-25-40 through 25-41, further analysis of the contract under ASC 815-15-25-26 is required to determine whether the call or put is clearly and closely related to the debt host contract if ASC 815-15-25-26 is applicable.

Step 4: Does a contingently exercisable call or put accelerate the repayment of the contractual principal amount? If yes, the call or put is not clearly and closely related to the debt instrument. If not contingently exercisable, in accordance with ASC 815-15-25-40 through 25-41, further analysis of the contract under ASC 815-15-25-26 is required to determine whether the call or put is clearly and closely related to the debt host contract.

The concepts in ASC 815-15-25-42 and 25-43 are illustrated with several examples in ASC 815-15-55-13.

2.2.5.1.1

Application of ASC 815-15-25-26 and the double-double test

Steps 2, 3 and 4 may require calls and puts to be considered pursuant to ASC 815-15-25-26, as applicable.

ASC 815-15-25-26, as further interpreted in paragraphs ASC 815-15-25-27 through 25-29, is applicable only for embedded features in which the only underlying is an interest rate (including the debtor's market rate of interest) or an interest rate index.

Therefore, ASC 815-15-25-26 is not applicable to a put or call exercisable upon a contingency (e.g., put option exercisable upon a change in control), because that feature has an underlying other than an interest rate or interest rate index (i.e., the occurrence or nonoccurrence of the contingent event).

Puts and calls that are exercisable at any time or only after a certain time period (e.g., upon the fifth anniversary of the debt's issuance) are in the scope of ASC 815-15-25-26, because the passage of time is not a contingency or an underlying. If such a put or call's settlement is adjusted based on an underlying other than interest rates or credit, that feature would not be in the scope of ASC 815-15-25-26. However, ASC 815-15-25-42 and 25-43 should be considered to determine whether that feature is considered clearly and closely related.

ASC 815-15-25-26 through 25-29 indicate that if the embedded feature's only underlying is interest-rate related, and it alters net interest payments that otherwise would be paid or received on an interest-bearing host contract, the embedded feature meets the clearly and closely related criteria unless one of the following conditions is present:

- (1) The hybrid instrument could be contractually settled in such a way that the investor would not recover substantially all of its initial recorded investment.
- (2) The embedded derivative meets both of the following conditions:
 - (a) There is a possible future interest rate scenario (even though it may be remote) under which the embedded derivative would at least double the investor's initial rate of return on the host contract.
 - (b) For any of the possible interest rate scenarios under which the investor's initial rate of return on the host contract would be doubled (as discussed in (1) above), the embedded derivative would at the same time result in a rate of return that is at least twice what otherwise would be the then-current market return (under the relevant future interest rate scenario) for a contract that has the same terms as the host contract and that involves a debtor with a credit quality similar to the issuer's credit quality at inception.

Pursuant to ASC 815-15-25-29, the test under criterion (a) applies only where the investor (creditor) could be forced by the contractual terms of the hybrid instrument (i.e., by the issuer) to accept settlement at an amount that causes the investor not to recover substantially all of its initial recorded investment. However, if the investor has the option to settle before maturity in a manner in which it would not recover substantially all of its investment (e.g., because of market interest rate fluctuations), the clearly and closely related presumption would not be invalidated.

The test under criterion (b) is sometimes referred to as the “double-double test” because it focuses on doubling both the initial rate of the return and a then-current rate of return. ASC 815-15-25-37 through 25-39 provides that the double-double test does not apply to a non-contingent embedded call option in a debt host contract if the right to accelerate the settlement of the debt can be exercised only by the debtor.

If the double-double test is applicable, a debt instrument issued at par and redeemable at par will generally pass. However, for debt that can be redeemed at a premium such as 101% of par, the double-double test should be carefully considered. The issuer should assume the option will be exercised as soon as contractually possible. If the 101% of par redemption feature is assumed to be exercisable immediately, the feature will likely require bifurcation because the one-day rate of return for the investor is 1% if the put is exercised on the very next day. Assuming no compounding, a one-day rate of return of 1% on an instrument issued at par is the equivalent of a 365% per annum return, which should clearly double the investor’s initial rate of return, and any then-current rate of return, in any interest rate environment. Many redemption features are exercisable only on specific dates established to pass the double-double test.

Refer to Chapter 3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No BB0977), for further discussion of the concept of clearly and closely related.

2.2.5.2

Meaning of “involve a substantial premium or discount”

In connection with the evaluation under step 3 in ASC 815-15-25-42 (as discussed in section 2.2.5.1), the issuer should determine whether the debt involves a significant premium or discount. For example, a premium or discount could exist in a debt instrument that (1) was issued with a premium or discount (like zero-coupon debt), (2) was issued in a basket transaction that required an allocation of proceeds to the debt instrument and other freestanding instruments or (3) was assumed in a business combination. We do not believe that issuance costs paid to third parties should be considered a discount for the analysis. Importantly, however, a premium or discount may also exist if the debt instrument contains either other bifurcated derivatives or equity-classified components that are accounted for separately.

There is no authoritative guidance on what constitutes a substantial premium or discount. However, ASC 470-50-40-10 describes debt that is substantially different based on at least a 10% difference in cash flows on a present value basis. By analogy to the term “substantially different” in that guidance, some have argued that if a premium or discount (as discussed above) is approximately 10% or more of the principal amount of the note, it is substantial. This determination should be based on the specific facts and circumstances and requires professional judgment.

We generally believe a discount or premium resulting from the bifurcation of an embedded derivative that could be separately settled prior to or on redemption (e.g., those features are settled for consideration that is incremental to settlement of the contractual redemption feature) should be considered in analyzing a redemption feature. For example, a \$1,000 debt instrument may be carried at \$950 due to a bifurcated contingent interest feature of \$50 that could be triggered and settled prior to the exercise of the redemption feature. This discount would be considered because the holder could receive both the \$50 contingent interest feature prior to redemption and then the \$1,000 on redemption.

However, a discount or premium from a bifurcated embedded derivative (or an equity component that is separately accounted for in cash-convertible debt or beneficially convertible debt) that could not separately settle on or before the redemption should not be considered in the redemption feature analysis. For example, assume a convertible bond was issued for \$1,000 with an embedded conversion option that requires bifurcation at its fair value of \$200. If that debt instrument were also puttable at par, one might first think there was a substantial discount (debt instrument of \$800 puttable at \$1,000, or a 20% discount). However, on redemption, the investor would not receive both \$1,000 and the value of the conversion option. Instead, the investor would receive only the \$1,000 initially invested in the single instrument purchased. Thus, the discount from the conversion option bifurcation should not be considered in evaluating the return provided from the redemption feature.

Another issue is how to determine whether the debt involves a substantial premium or discount. We generally believe it is important that the guidance uses the term “involves” and not “issued at.” If the debt is callable at a premium or a discount, we generally believe that premium or discount should be considered in relation to the initial offering proceeds, when determining whether the debt involves a substantial premium or discount under step 3 in ASC 815-15-25-42.

For example, if debt were issued at par with a redemption price of 110, we generally believe the debt redemption involves a premium even though the debt was issued at par. As another example, if debt were issued at 93, and were redeemable at 104, the premium involved on redemption is 11 (the difference between issuance proceeds and redemption price) rather than 4 (the difference between par and the redemption price) or 7 (the difference between the initial proceeds and par).

2.2.5.3

Determining whether put and call features meet the definition of a derivative subject to derivative accounting

If the redemption feature is not considered clearly and closely related to the debt host, it should be evaluated to determine whether the feature would meet the definition of a derivative if it were freestanding. An embedded feature would be considered a derivative pursuant to ASC 815 only if all four characteristics of a derivative (discussed in section 2.2.3.4) were met. Typically, a redemption feature would meet all four criteria as outlined below:

- ▶ Underlying – The underlying is the fair value of the underlying debt instrument, which is a function of interest rates and credit risk.
- ▶ Notional amount – The principal amount of the debt instrument is the notional amount.
- ▶ No initial net investment – The fair value of the embedded redemption feature at inception is considered its initial investment (not the initial investment in the convertible debt instrument). That amount is generally less than the fair value of the underlying notes.
- ▶ Net settlement – Redemption features are generally physically settled and the underlying notes may or may not be publicly traded. ASC 815-10-15-107 through 15-109 concludes that the potential settlement of the debtor’s obligation to the creditor that would occur upon exercise of the put option or call option meets the net settlement criterion because (1) the debtor does not receive an asset when it settles the debt obligation in conjunction with exercise of the put option or call option and (2) the creditor does not receive an asset associated with the underlying, so that “neither party is required to deliver an asset that is associated with the underlying...”

In general, redemption features will not qualify for any of the exceptions from derivative accounting in ASC 815. We generally believe this includes scenarios where the call or put premium is received in shares, even if the shares are not readily convertible to cash (since there is a net settlement of the redemption feature on its own). Therefore, if a redemption feature is not considered clearly or closely related to the debt host, the redemption feature will likely require bifurcation from the host debt instrument and will be accounted for in the same manner as a freestanding derivative pursuant to ASC 815, with subsequent changes in fair value recorded in earnings each period.

2.2.6

Box D(C) and Boxes D1, D2 and D3 – Evaluating other potential embedded features

A debt instrument may have a variety of features that can affect the timing and amount of future cash flows in a way similar to a derivative. Those features should be evaluated pursuant to the criteria in ASC 815 (discussed above in section 2.2.3) to determine if they require bifurcation. A careful analysis of the underlying agreements is necessary to identify all potential features to be evaluated.

While not all instruments have potential embedded derivatives, some of the more common ones observed in practice are contingent interest features, interest make-whole features (which appear more often in convertible debt) and term-extending options.

2.2.6.1

Contingent interest features

Some debt instruments contain features that require additional interest to be paid to the holder if certain events occur (e.g., the issuer fails to file SEC reports or fails to meet certain financial covenants or the price of its common stock exceeds a certain target).

Generally, contingent interest features require bifurcation from a host nonderivative debt contract because the contingent interest features meet the definition of a derivative and the economic characteristics of the embedded feature are not clearly and closely related to those of the host debt instrument. For example, a contingent interest feature that increases the interest rate on the instrument if the market price of the issuer's common stock falls (or rises) to a specified level should be bifurcated and separately accounted for pursuant ASC 815 as the underlying (i.e., the issuer's common stock price) is not clearly and closely related to the debt host in a convertible debt instrument.

Another common example of a contingent interest feature is one requiring additional interest on a failure to comply with a debt covenant or in the event of a default, as defined in the debt agreement. Generally, an interest rate that adjusts on the creditworthiness of the issuer is clearly and closely related to a debt host instrument as discussed in ASC 815-15-25-46, which states:

The creditworthiness of the debtor and the interest rate on a debt instrument shall be considered to be clearly and closely related. Thus, for debt instruments that have the interest rate reset in the event of any of the following conditions, the related embedded derivative shall not be separated from the host contract:

- a. Default (such as violation of a credit-risk-related covenant)
- b. A change in the debtor's published credit rating
- c. A change in the debtor's creditworthiness indicated by a change in its spread over US Treasury bonds

However, some default interest provisions are still required to be bifurcated. The guidance stresses that the default should be a violation of a credit-risk-related covenant and not simply labeled a "default" provision. Many covenants are not directly credit risk related. Therefore, the nature of the underlying trigger for the contingent interest should be carefully evaluated.

In some convertible debt instruments, the trigger for the contingent interest is expressed in terms of the market price of the entire hybrid instrument (such as \$120 market price on a \$100 par convertible bond). In these instances, although the market price is affected by both the interest rate and credit risk of the issuer and the equity share price, the predominant underlying is the issuer's common stock price because it is unlikely that changes in interest rates or the issuer's credit rating would explain such a difference between the par value and fair value of the instrument. In other cases, it may be even more clear that the feature is not clearly and closely related to the debt host, because the contingent interest may be triggered based solely on the issuer's share price (e.g., whenever the share price exceeds 125% of the conversion price).

A contingently convertible instrument that provides holders with additional interest equal to the fair value of any dividends received by the holders of the stock into which the instrument may be converted should also be bifurcated and separately accounted for under ASC 815, as the underlying (i.e., dividend payments) is not clearly and closely related to the debt host instrument. This contingently convertible instrument should be evaluated as a potential participating security for EPS purposes pursuant to ASC 260, *Earnings per share*.

While less frequent, some contingent interest features may qualify for an exception to derivative accounting. For example, if a debt instrument required additional interest only if the issuer's sales volume failed to reach a specified threshold, that feature may meet the scope exception in ASC 815-10-15-59. If a contingent interest feature is not required to be bifurcated pursuant to ASC 815, interest expense related to the contingent feature generally should be recognized pursuant to the provisions in ASC 470-10-25-3 through 25-4 and 35-4 or ASC 450, *Contingencies*, depending on the facts and circumstances. Judgment is required when determining whether the trigger is an index or a contingency.

Refer to Chapter 3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further discussion on embedded derivatives. Also refer to the discussion of contingent interest payments in connection with registration rights agreements in section 5.11 in Chapter 5.

The following example illustrates the accounting for a contingent interest feature:

Illustration 2-1

On 1 January 20X4, Company A issues at par a series of convertible bonds with a face amount of \$1,000 that mature 31 December 20Y4. The bonds have a yield to maturity of 2% per annum, computed semiannually.

Each \$1,000 par value bond is convertible into 10 shares of the issuer's common stock for a conversion price of \$100 (assume the conversion option is not bifurcable, not cash convertible and not beneficial). Holders may convert the bonds into shares of common stock in any calendar quarter commencing after 31 March 20X4 if, as of the last day of the preceding calendar quarter, the closing price of the Company's common stock for at least 20 trading days in a period of 30 consecutive trading days ending on the last trading day of the preceding calendar quarter is 125% of the conversion price.

Beginning 31 March 20X4, if the average market price of Company A's common stock is equal to or greater than 125% of the conversion price of the bonds (i.e., share price is \$125) for any 20 out of the last 30 trading days before such date or any 1 January or 1 July thereafter, the coupon rate will be increased to 2.5%.

The contingent interest feature in this example meets the definition of a derivative and is indexed to the value of the common stock, which is not related to the economic characteristics of the debt host. Additionally, this feature is not eligible for the exception in (ASC 815-10-15-74(a)) used for a conversion option because the contingent interest feature, if freestanding, would not be classified in stockholders' equity as it is settled in cash. Accordingly, the contingent interest feature is considered an embedded derivative that should be bifurcated from the host instrument.

The contingent interest feature should be bifurcated individually at fair value (or as a component of a single compound derivative if other embedded features require bifurcation). That fair value measurement should consider the volatility of the issuer's stock and likelihood the share price would exceed the \$125 trigger as required under the instrument. It is measured in subsequent periods at fair value with changes in fair value recognized in earnings.

If the contingency is resolved and the issuer is required to make additional interest payments to the holder, the cash settlements of this derivative should be accounted for as a credit to cash and debit to the liability for the bifurcated embedded derivative.

2.2.6.2 Interest make-whole features

Debt instruments may include some form of an interest make-whole provision, which provides that, in certain circumstances (e.g., early conversion or redemption), an amount is due to the creditor equal to the present value of the debt's remaining contractual interest cash flows, generally discounted at a specified small spread over the then-current US Treasury rate. This make-whole amount compensates the investor forgoing future interest payments on the debt after conversion or redemption.

The triggers for those make-whole provisions can vary, but frequently occur at a conversion or redemption either by the passage of time or upon a change in control event. The consideration paid may be paid in cash or in a variable number of shares equal to the interest make-whole amount, usually at the issuer's option. For example, assume that a 5-year 10% convertible bond contains a conversion option that permits the holder to convert the note into common stock of the issuer at any time after issuance. The bond is callable at any time by the issuer after year 2 at par plus an amount equal to the then-present value of all the future contractual interest cash flows discounted at the current US Treasury rate plus 50 basis points. The indenture also provides that upon conversion, in addition to the common shares that the holder receives for each \$1,000 principal amount of the notes, it will also receive a similarly calculated amount for future interest. The issuer has the option to settle this interest make-whole amount in either cash or shares.

An interest make-whole feature could be constructed in a table that, on the surface looks like a time value make-whole (discussed in section 2.2.4.5). However, a tabular interest make-whole feature would result in, for a given date, the same amount to be paid regardless of the stock price.

The bifurcation analysis of an interest make-whole feature can be complex and will depend on the terms of the transaction. Following are some considerations:

- ▶ When evaluating the interest make-whole in conjunction with a redemption event, the amount may be viewed as a premium in connection with the redemption feature and therefore should be analyzed as discussed above in section 2.2.5.
- ▶ When evaluating the interest-make whole in conjunction with a conversion event, the feature may be viewed as a separate feature from the conversion option. The economic characteristics of this interest make-whole feature are based on an occurrence or nonoccurrence of a conversion event that is not interest or credit related. Therefore, the feature is not clearly and closely related to the economic characteristics and risks of the debt host. This feature generally does not qualify for the scope exception from derivative accounting described in ASC 815-10-15-74(a) because the settlement amount of the interest make-whole is not indexed to the issuer's equity (rather, it is based on stated interest cash flows that are present-valued by using a current US Treasury rate). Accordingly, the interest make-whole feature under this approach is an embedded derivative that should be bifurcated from the host instrument and accounted for separately.

If the feature were viewed together with the conversion option as one unit of analysis, the entire conversion option would be bifurcated as the conversion (including the interest make-whole feature) is not considered indexed to the issuer's stock because part of the settlement amount, the interest make-whole amount, is not indexed to the issuer's stock.

2.2.6.3 Term-extension features

Section 2.1.2.3 describes debt with term-extending features. An embedded term extension feature is an embedded feature that unilaterally enables one party to extend significantly the remaining term to maturity or automatically extends the maturity when triggered by a specific event or condition.

Term-extending provisions should be analyzed to determine whether they constitute an embedded derivative. ASC 815-15-25-44 provides that if the instrument's interest rate is not reset to the approximate current market rate for the extended term and the debt instrument initially involved no significant discounts, the feature is not clearly and closely related to the debt host. The other criteria for bifurcation, including the definition of a derivative, should also be evaluated.

Some believe that term-extending options should be viewed similarly to term-shortening options such as calls and puts. For example, some believe there is no difference between ten-year debt that is callable in year five and five-year debt that is extendable for another five years at the same rate. However, the derivatives guidance is clear that the form of the instrument and the term are important in the analysis. ASC 815-15-25-44 addresses only debt hosts, not other hosts such as leases, in which term-extending options are frequently embedded.

2.2.6.4 Debt indexed to inflation and other variables (indexed debt)

Indexed debt is described in section 2.1.2.5. Those debt instruments are typically issued with both fixed and contingent payments. The contingent payments may be indexed to practically any available statistic, but are typically indexed to quoted market measures or broad economic statistics, such as commodity prices (e.g., oil, gold) or indices (e.g., the S&P 500 index). The indexing feature may be a separate freestanding financial instrument.

For indexing features that are not separable from the debt instrument, the feature should be first analyzed to determine whether it requires bifurcation as an embedded derivative pursuant to ASC 815 (as discussed in section 2.2.3). The guidance in ASC 815-15-25-48 and 25-49 generally provide that changes in the fair value of a commodity or an equity security (which affect the amount of interest and/or principal payments) are not clearly and closely related to a debt instrument. Because those features typically meet the definition of a derivative and generally do not qualify for any exceptions, they are often bifurcated.

Pursuant to ASC 815-15-25-50, inflation-indexed interest payments that are based on the rate of inflation in the economic environment for the currency in which the debt instrument is denominated should be considered clearly and closely related if they are not leveraged (e.g., four times the change in an inflation index times the notional amount). Inflation indices that are not consistent with the currency in which the debt is denominated may represent an embedded derivative requiring bifurcation (e.g., USD-denominated debt that is indexed to the inflation rate in Japan).

If the indexing feature is not required to be bifurcated as an embedded derivative pursuant to ASC 815 (e.g., because the debt was grandfathered from application of ASC 815's provisions or requires the delivery of a commodity that is not readily convertible to cash), the entire instrument should be accounted for pursuant to ASC 470-10-25-3 through 25-4 and 35-4.

If the indexing feature is a separate freestanding financial instrument and not subject to the derivative accounting pursuant to ASC 815, it should also be accounted for pursuant to ASC 470-10-25-3 through 25-4 and 35-4.

That guidance generally provides that:

- ▶ If the indexing feature is a separate freestanding financial instrument, the proceeds should be allocated between the debt and the indexing feature. The resulting premium or discount should be amortized over the life of the debt using the effective interest method.
- ▶ If the applicable index value increases and the issuer would be required to pay the investor a contingent payment at maturity, the issuer should recognize a liability for the amount that the contingent payment exceeds the amount, if any, originally attributed to the contingent payment feature (when the indexing feature is separable from the debt).

- ▶ If the indexing feature is embedded in the debt but bifurcation is not required, the additional liability resulting from the fluctuating index value should be accounted for as an adjustment of the carrying amount of the debt instrument.

The liability for the indexing feature should be based on the applicable index value at the balance sheet date and should not anticipate any future changes in the index value. The guidance does not explicitly address how changes in the indexed debt's settlement value should be recorded, we generally believe an increase in the carrying amount of the debt should be recorded in earnings, but not adjusted below its amortized cost basis.⁴

Before Statement 133 was issued, the SEC staff did not object to the recognition of the change in an indexed debt obligation in a separate component of stockholders' equity if the feature was akin to a forward purchase contract and indexed to the price of an equity security that the issuer classifies as available-for-sale pursuant to ASC 320, *Investments – Debt and Equity Securities*. However, we do not believe that pre-Statement 133 view by the SEC staff would generally be supportable today.

Refer to section 5.1 in Chapter 5 for further discussion of debt exchangeable into the common stock of another entity.

2.2.6.5

Participating mortgages

A participating mortgage entitles the lender to participate in (1) the appreciation in the market value of a mortgaged real estate project and/or (2) the results of operations of the mortgaged real estate project. While the instrument has a provision that entitles the investor to participate in the appreciation of the real estate, bifurcation of this feature is not required because a separate contract with the same terms would be excluded from the scope of ASC 815 based on the exception in ASC 815-10-15-59, given that settlement is based on the value of a nonfinancial asset of one of the parties that is not readily convertible to cash.

Pursuant to ASC 470-30, *Debt – Participating Mortgages*, the fair value of the participation feature at loan inception is recognized as a participation liability, with a corresponding debit to debt discount. The debt discount is then amortized using the interest method. Interest expense consists of all of the following:

- ▶ Amounts designated in the mortgage agreement as interest
- ▶ Amounts related to the lender's participation in the results of operations of the mortgaged real estate project (the participation liability should be correspondingly credited)
- ▶ Amortization of debt discount related to the lender's participation in the fair value appreciation of the mortgaged real estate project

At the end of each subsequent reporting period, the balance of the participation liability should be adjusted to equal the current fair value of the participation feature. The corresponding debit or credit should be to the related debt discount account and should be amortized prospectively, using the interest method (i.e., the entire amount of the change in the fair value of the participation feature should not be recognized in the current period income statement).

Each component of interest expense is eligible for capitalization pursuant to ASC 835-20, *Interest – Capitalization of Interest*. Once these expenses are capitalized, ASC 470-30-35-3 states that the amounts should not be adjusted for the effects of reversals of appreciation.

⁴ The SEC staff (Mallett, 1996) indicated that if the debt's terms did not provide for settlement below the original principal amount, the change should generally be recorded in the income statement as the substance of the accounting is that of a written option.

2.2.6.6 Step-up bonds or increasing-rate debt

Step-up bonds are described in section 2.1.2.9. At initial issuance, provided the interest step up is triggered automatically with the passage of time and is not considered a contingent interest feature (i.e., triggered by the occurrence or nonoccurrence of an event), there is no initial accounting provided for the step-up feature. The subsequent accounting will incorporate the automatic step-ups into a constant effective interest rate to be used over the life of the debt. Contingent changes in interest rates should be considered under the contingent interest features in section 2.2.6.1. Refer to section 2.4.3.3 for further discussion.

2.2.6.7 Debt denominated in a currency other than the issuing entity's functional currency

Debt payable in a foreign currency is initially measured and recorded in the functional currency using the exchange rate at the balance sheet date (i.e., the spot rate). There is no embedded derivative related to the foreign currency denomination pursuant to the exception to derivative accounting in ASC 815-15-15-5. However, if the debt is convertible the conversion option will require bifurcation as discussed in section 2.2.4.11.

2.2.7 Box E – Bifurcation of a single embedded derivative

ASC 815-15-25-7 through 25-10 does not permit an entity to account separately for more than one derivative feature embedded in a single hybrid instrument. As a result, after identifying, evaluating and concluding on which features of a debt instrument (e.g., conversion option, redemption features, other embedded features) require bifurcation, a single derivative comprising all the bifurcable features should be separated from the debt host instrument. This unit of account for bifurcation may be different than the unit of analysis for bifurcation that is discussed in section 2.2.3.1.

ASC 815-15-30-2 requires the embedded derivative (whether a single feature derivative or a compound derivative) to be recorded at fair value. The difference between the proceeds allocated to the hybrid debt instrument (refer to section 1.2.3.3 in Chapter 1) and the fair value of the bifurcated derivative is assigned to the host debt instrument.

Refer to Chapter 3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further guidance on embedded and compound derivatives, including those described in this section.

2.2.7.1 Option-based embedded derivatives

ASC 815-15-30-6 states that the terms of an option-based embedded derivative should not be adjusted to result in the embedded derivative being at the money at the inception of the hybrid instrument. Rather, the option-based embedded derivative should be bifurcated based on the stated terms documented in the hybrid instrument whether the option is in the money, at the money, or out of the money at inception.

2.2.7.2 Forward-based embedded derivatives

ASC 815-15-30-4 states that in separating a non-option (forward-based) embedded derivative from the host contract, the terms of that non-option embedded derivative should be determined in a manner that results in its fair value generally being equal to zero at the inception of the hybrid instrument.

For example, a loan and an embedded derivative can be bundled in a structured note that could have almost an infinite variety of stated terms all possessing the same economics. Therefore, it would be inappropriate to necessarily attribute significance to every one of the note's stated terms in determining the terms of the non-option embedded derivative. If a non-option embedded derivative has stated terms that are off-market at inception, that amount is quantified and allocated to the host contract because it effectively represents a borrowing. This concept is illustrated at ASC 815-15-55-160.

2.2.7.3 Financial statement classification

While ASC 815 does not specifically address the classification of embedded derivatives (i.e., on the balance sheet and classification in the statement of operations), the SEC staff ⁵ shared the following example in comments made at the 2000 AICPA National Conference on Current SEC Developments:

An entity issued a debt obligation with an interest rate that was indexed to the Standard & Poor's 500. Since this embedded equity derivative was not considered clearly and closely related to the debt host, the equity derivative was measured at fair value separate from the debt obligation. The host debt contract was accounted for in accordance with generally accepted accounting principles applicable to debt instruments. While measured separately, the embedded derivative and the host contract together will result in principal and interest payments to the debt holder. The company asked if the embedded derivative could be netted with the host contract for financial statement presentation purposes. In this case, the staff believes presenting the embedded derivative and the host contract on a combined basis is an appropriate presentation of the company's overall future cash outflows for that debt instrument as the requirements in US GAAP for legal right of offset would be met. The staff believes Statement 133's bifurcation requirements for embedded derivatives do not extend beyond measurement to presentation in the financial statements.

As a result of the SEC staff comments, practice has generally combined the presentation of a bifurcated embedded derivative with the host contract, but the individual facts and circumstances should be considered. The disclosures in ASC 815 are required for bifurcated embedded derivatives.

2.2.8 Box F – Nonbifurcated features and conversion options

An individual feature that does not require bifurcation remains embedded in the debt instrument. However, if that embedded feature were a conversion option, separate accounting as an equity component may be required if (1) the debt instrument may be settled in cash or partially in cash on conversion as described in the "Cash Conversion" subsections of ASC 470-20, (2) the conversion feature is a beneficial conversion feature, as discussed throughout various sections of the "General" subsections of ASC 470-20 or (3) the debt was issued at a substantial premium.

2.2.9 Boxes G, H and I – Cash conversion options

Convertible debt instruments that may be settled in cash (or other assets)⁶ on conversion follow the "Cash Conversion" sections of ASC 470-20. Examples include Instruments B, C and X that are discussed in section 2.1.2.1. The cash conversion guidance requires the issuer to separately account for the liability (debt) and equity (conversion option) components of the instrument in a manner that reflects the issuer's nonconvertible debt borrowing rate.

The cash conversion guidance is presented as a four step process in ASC 815-15-55-76A. The first two steps require identifying any embedded features, other than the conversion element, in the hybrid instrument and then determining which, if any, of those embedded features may require bifurcation as a separate derivative. The FASB determined that the first two steps should occur before proceeds are allocated to the liability and equity components, because the conclusion to bifurcate certain embedded features can depend on whether the hybrid instrument is issued at a discount.⁷ Importantly, nothing should be bifurcated yet at this point. So far, the issuer has concluded only on what requires bifurcation.

⁵ Pierce, 2000 – Refer to the SEC website at <http://www.sec.gov>.

⁶ The scope of the cash conversion guidance includes instruments that may be settled in cash (or other assets) upon conversion. For simplicity, Chapter 2 simply refers to settlement for cash.

⁷ For example, when evaluating embedded prepayment features under the guidance in ASC 815-15-25-42, 25-43 and 55-13, the discount that is created under the cash conversion guidance does not create a discount to be considered in the application of step three of that four-step bifurcation decision sequence. Refer to sections 2.2.5.1 and 2.2.5.1.1 for further discussion.

The third step of the cash conversion guidance requires the liability component to be measured at the estimated fair value, as of the date of issuance, of a similar debt without the conversion option (i.e., nonconvertible debt). This similar nonconvertible debt also includes any other embedded features and covenants (e.g., prepayment features such as puts and calls) present in the actual debt instrument. Thus, the liability component comprises, and will be allocated value based on, all of the features of the instrument except the conversion option.

In the fourth step, after the proceeds have been allocated to the liability component, any embedded derivative requiring bifurcation will be split from the liability component as a single derivative (or single compound derivative if multiple features require bifurcation) that is measured at fair value.

The difference between the initial proceeds of the convertible debt and the value allocated to the liability component is recognized in additional paid-in capital as the carrying amount of the equity component (i.e., the conversion option).

Refer to Appendix C for a detailed discussion of the cash conversion guidance.

2.2.10

Boxes J, K and L – Beneficial conversion features and contingent beneficial conversion features

A conversion option that is not bifurcated as a derivative pursuant to ASC 815 (Box I) should be evaluated to determine whether it is considered a beneficial conversion option at inception or may become beneficial in the future due to potential adjustments (often referred to as a contingent beneficial conversion option). The guidance on beneficial conversion features is provided in ASC 470-20.

The Master Glossary to ASC 470-20 defines a beneficial conversion feature as “a nondetachable conversion feature that is in the money at the commitment date.” An option is in the money if its exercise price (conversion price for convertible stock) is less than the current fair value of the share.

For example, debt issued at \$100 that is convertible into 10 shares has a stated conversion price of \$10 per share. That conversion option would be in the money if the current share price at the commitment date (usually the issuance date) were more than \$10, making immediate conversion beneficial to the investor. If the share price were \$12 per share at the commitment date, the investor could convert the debt into 10 shares worth \$120 (10 shares times \$12), which is more than the initial investment of \$100. It is this immediate \$20 benefit that the beneficial conversion feature guidance attempts to measure.

The beneficial conversion feature guidance generally requires embedded beneficial conversion features present in convertible securities to be valued separately (at intrinsic value rather than fair value) and allocated to additional paid-in capital. The beneficial conversion feature guidance states that the effective conversion price is used to determine the existence of a beneficial conversion feature that may be different than its contractual conversion price. The effective conversion price is based on the proceeds received or allocated to the convertible debt instrument (including embedded derivatives), and the amount is measured as of the commitment date.

For example, despite having a contractual conversion price of \$10 per share, the convertible debt in the example above would have an effective conversion price of \$9 per share if the \$100 par amount debt had been issued at \$90 (\$90 proceeds received divided by the 10 shares into which it could be converted). That initial \$10 discount could result from simply issuing the convertible debt at a discount, or more likely from allocating part of the proceeds of issuance to other instruments in a basket transaction.

The beneficial conversion feature guidance establishes that costs of issuing convertible instruments paid to third parties do not affect the effective conversion price and calculation of the intrinsic value of an embedded conversion option. Any amounts paid to the investor as issuance costs represent a reduction in the proceeds received by the issuer and should affect the calculation of the intrinsic value of an embedded option.

If an embedded derivative requires bifurcation from the debt (e.g., a contingent interest feature or a put or call option), we do not generally believe it affects the proceeds considered in determining the effective conversion price unless that feature could be separately settled prior to or contemporaneous with the conversion of the instrument.

Because beneficial conversion features are measured on the commitment date, that date should be carefully evaluated. Purchase agreements that may permit either party to rescind its commitment to consummate the transaction (e.g., due to material adverse change in the issuer's operations or financial condition, customary due diligence, shareholder approval) generally do not establish a commitment date.

Convertible debt may contain conversion terms (i.e., the conversion ratio or conversion price) that change upon the occurrence of a possible future event. Those changes may give rise to contingent beneficial conversion features that are generally measured at the commitment date at intrinsic value and recognized upon the occurrence of the contingent event.

After allocating the intrinsic value of the beneficial conversion feature to APIC, the remaining proceeds are allocated to the debt host. It is from those proceeds that any embedded derivative is bifurcated.

Refer to Appendix D for a comprehensive discussion of the accounting for beneficial conversion features.

2.2.11

Boxes M and N – Debt issued at a substantial premium where the conversion option is not accounted for separately

If the conversion feature (1) does not require bifurcation as an embedded derivative (Box D) and (2) is not subject to separate accounting under the cash conversion guidance (Box G) or the beneficial conversion feature guidance (Box J), the convertible debt should be classified and measured pursuant to the guidance for convertible debt in ASC 470-20.

Convertible debt may be issued at a premium because the proceeds received upon issuance exceed the principal amount that will be paid at maturity. In a business combination the fair value of the acquiree's convertible debt may exceed the par amount if the conversion option is in the money at the acquisition date. ASC 470-20-25-13 states that when convertible debt is issued at a substantial premium, there is a presumption that the premium represents paid-in capital. Paid-in capital is increased by reclassifying part of the debt proceeds to additional paid-in capital.

The authoritative guidance does not define the term "substantial premium." In accounting for debt modifications, ASC 470-50-40-10 states that debt is substantially different when there is at least a 10% difference in the present value of cash flows. Analogizing to that guidance, a premium (based on the net proceeds allocated to the debt instrument and after the bifurcation of any embedded features) that is approximately 10% or more of the principal amount of the note, might be considered substantial. However, in some cases a premium of less than 10% might still be considered substantial, such as when there would be negative interest expense (i.e., the amortization of the premium more than offset the coupon rate). Determining the accounting for debt issued at a substantial premium should be based on the specific facts and circumstances.

Other embedded features could affect the determination of whether convertible debt is issued at a substantial premium. We generally believe that if an embedded feature required bifurcation and could be separately settled before or on conversion (i.e., settled for consideration that is incremental to settlement of the conversion option), the proceeds initially allocated to the convertible debt should be reduced by the fair value of the bifurcated embedded derivative, to determine whether a substantial premium exists.

For example, assume a 5-year convertible bond that is issued at 110% of par contains an interest make-whole in the event of conversion. The interest make-whole, which has a fair value of 7% of par, is concluded to be an embedded derivative that should be bifurcated. After bifurcating the interest make-whole feature, the bond would be valued at 103% of its par value, and the issuer would likely conclude that the convertible debt is not issued at a substantial premium.

When considered substantial, the entire premium is typically allocated to paid-in capital, based on ASC 470-20-25-13, which states that “such premium represents paid-in capital.” There is no specific guidance on how to overcome the presumption in ASC 470-20-25-13 that the premium associated with debt issued at a substantial premium should be allocated to paid-in capital. That determination should be based on the specific facts and circumstances (e.g., stated interest rate was higher than the market rate despite a conversion option or another embedded feature significantly increased the fair value of the debt).

2.2.12 **Box O – No accounting is required for the conversion option**

If the conversion feature does not require bifurcation as an embedded derivative (Box E), is not subject to separate accounting pursuant to either the cash conversion guidance (Box G) or the beneficial conversion feature guidance (Box J) and the convertible debt was not issued at a substantial premium (Box M), the general conversion guidance in ASC 470-20 states that all of the proceeds received from the issuance of convertible debt generally should be recorded as a liability on the balance sheet. That is, no portion of the proceeds from issuing convertible debt instruments should be attributed to the conversion feature at inception.

The general conversion guidance describes this type of convertible debt in ASC 470-20-25-10 and 25-11 as debt that is convertible into common stock of the issuer or an affiliated entity at a specified price at the option of the holder and that is sold at a price or has a value at issuance not significantly in excess of the face amount.

2.2.13 **Box P – Temporary equity classification of the equity component separated from convertible debt**

If a convertible debt instrument has a portion of its proceeds allocated to an equity component (e.g., either pursuant to the cash conversion guidance or the beneficial conversion feature guidance), paragraphs 3(e), 12(d), 16(d) and 23 of ASC 480-10-S99-3A should be considered to determine whether a portion of the equity component should be classified in temporary equity.

Refer to sections E3.1 and E7 in Appendix E for further discussion of these concepts.

2.3 **Debt issuance costs**

Direct and incremental costs related to the issuance of debt such as legal fees, printing costs and bankers' or underwriters' fees, among others, should be capitalized and reported as deferred financing costs pursuant to ASC 835-30-45-3. Internal costs that meet the incremental and direct criteria (e.g., travel costs directly related to financing) may also be deferred, but costs such as salaries, rent and other period costs cannot be capitalized as issuance costs.

We generally believe that costs incurred to secure lines of credit or revolving credit arrangements should be deferred and amortized over the life of the line of credit or revolving line using an appropriate interest method based, in part, based on the provisions in ASC 470-50-40-21. Pursuant to ASC 340-10-S99-2, fees paid to an investment banker in connection with a transaction to be accounted for as a business combination for providing interim financing (i.e., bridge financing) or underwriting services should be allocated between direct costs of the acquisition and debt issuance costs on a relative fair value basis. That guidance provides that the debt issuance costs should be amortized over the expected life of the bridge financing without considering the expected life of the permanent financing. When the bridge financing is repaid, any unamortized issuance costs should be expensed.

Amounts paid to the purchaser of the debt or equity instrument when the transaction is consummated are a reduction in the proceeds received by the issuer and are considered a component of the premium or discount on the issuance and not an issuance cost.

Direct and incremental issuance costs that relate to convertible debt are also deferred. However, for convertible debt within the scope of the cash conversion subtopics in ASC 470-20, issuance costs are allocated between the liability and equity components in proportion to the allocation of the proceeds. Also, when analyzing convertible debt for a beneficial conversion feature, debt issuance costs paid to parties other than the investor are not considered in calculating any intrinsic value in the embedded conversion option, as stated in ASC 470-20-30-13.

Debt issuance costs incurred in connection with debt that is measured at fair value pursuant to the election of a fair value option should be expensed.

ASC 835-30-45-3 states that debt issuance costs are presented as deferred charges (assets) on the balance sheet. We generally believe that debt issuance costs should be classified (short-term or long-term) in a manner consistent with the related debt when a classified balance sheet is presented because debt issuance costs are considered part of the “net carrying amount” of the debt as that term is defined in the ASC Master Glossary.

Cash payments for debt issuance costs should be classified in the statement of cash flows as a financing activity pursuant to ASC 230-10-45-15.

Deferred debt issuance costs should generally be recognized as additional interest expense over the life of a debt instrument under the effective interest method pursuant to ASC 835-30-35-2, including debt instruments that are convertible or callable. Refer to section 2.4.3.1 for a general discussion of amortization of deferred debt issuance costs, including estimating the life of a debt instrument (when appropriate). Section 2.4.3.1 also discusses the amortization of issuance costs for instruments in the scope of the cash conversion guidance.

If the terms of a debt instrument are modified, the accounting for debt issuance costs varies based on whether the change modification is considered a modification or extinguishment pursuant to ASC 470-50.

We do not believe that previously capitalized debt issuance costs should be written off immediately if long-term debt becomes due on demand.

2.4 Subsequent accounting and measurement

2.4.1 General

This section includes guidance for subsequent accounting and measurement of debt instruments for which the fair value option is elected as well as subsequent accounting for premium, discounts, debt issuance costs and embedded features.

2.4.2 Debt instruments for which a fair value option is elected

As discussed in section 2.2.1, entities may elect to measure debt at fair value (the fair value option) in certain situations. Fair value should be determined pursuant to ASC 820, *Fair Value Measurement*, and all subsequent changes in fair value for that instrument are reported in earnings (or another performance indicator for entities such as not-for-profit organizations that do not report earnings). Refer to our Financial Reporting Developments publication, *Fair value measurement* (SCORE No. BB1462), for further guidance.

2.4.2.1 **Debt with an inseparable third-party credit enhancement that is measured at fair value for accounting or disclosure purposes**

Liabilities are often issued with credit enhancements obtained from a third party. In many circumstances, the issuer purchases a guarantee from a third party that requires the third party to make payments on the issuer's behalf in the event the issuer fails to meet its payment obligations. If the guarantor is required to make payments, the issuer becomes obligated to the guarantor for such payments.

When permitted under other US GAAP, issuers of debt with an inseparable third-party credit enhancement may elect to subsequently measure the debt at fair value. For those issuers, the "Liabilities Issued with an Inseparable Third-Party Credit Enhancement" guidance under the subtopics in ASC 820 requires that those liabilities be measured at fair value on a recurring basis excluding the effect of the credit enhancement. This guidance also applies for the disclosures (pursuant to ASC 825-10-25) for those issuers who did not elect the fair value option.

Refer to section 5.15 in Chapter 5 for further discussion of these instruments.

2.4.3 **Debt instruments for which a fair value option is not elected**

If the debt is not subsequently measured at fair value because it was not required or elected, the value allocated to the debt instrument (including the debt host instrument or liability component if there are features to be separately accounted for) is classified as a liability and generally accreted or amortized to par. The subsequent accounting for indexed debt is different, as discussed in section 2.2.6.4.

Subsequent changes in market interest rates or the issuer's credit rating are generally not considered, but the carrying amount of debt may be adjusted for hedge accounting pursuant to ASC 815 or foreign currency transaction gains or losses pursuant to ASC 830.

Other features of an instrument or units of account that should be considered include:

- ▶ Premiums and discounts and deferred debt issuance costs (section 2.4.3.1)
- ▶ Paid-in-kind (PIK) interest (section 2.4.3.2)
- ▶ Embedded features not bifurcated from the host debt instrument (section 2.4.3.3)
- ▶ Embedded features bifurcated from the host debt instrument as a derivative and classified as an asset or liability (e.g., conversion options, certain term-extending options and certain contingent interest features) (section 2.4.3.4)
- ▶ Embedded conversion features separated from the host debt instrument and classified as a component of equity (section 2.4.3.5)
- ▶ Contingent beneficial conversion features (refer to Appendix D)
- ▶ Debt payable in a currency other than the issuing entity's functional currency (refer to section 1.1.2 of our Financial Reporting Developments publication, *Foreign currency matters* (SCORE BB2103), for further guidance)

2.4.3.1 **Premiums, discounts and debt issuance costs**

Debt may be issued either at par, a discount or a premium. Debt premiums or discounts may arise for several reasons, including the following:

- ▶ A difference between the market rate of interest upon issuance and the contractual rate of interest specified in the instrument (e.g., issuing debt with a stated coupon of 6% when the market yield for a debt instrument with similar terms and similar risks is 8%, resulting in initial proceeds of less than par to compensate investors for the lower coupon return)

- ▶ Allocating proceeds to multiple instruments upon issuance (e.g., when debt is issued with detachable warrants and the proceeds are allocated between the two elements)
- ▶ Bifurcating embedded derivatives in accordance with ASC 815 (e.g., certain put/call features or contingent interest)
- ▶ Separating a conversion feature under the cash conversion guidance
- ▶ Separating a beneficial conversion feature under the beneficial conversion feature guidance

If debt is issued between coupon payment dates, as a matter of convenience the investor may pay an amount equal to the interest accrued to the issuance date to facilitate the issuer simply making a full coupon payment at the next interest payment date. This amount does not represent a premium.

A discount or premium is not an asset or liability separable from the associated debt instrument. Rather, the premium or discount is reported in the balance sheet as an adjustment to the carrying amount of the debt liability and not presented as a deferred charge or deferred credit, pursuant to ASC 835-30-45-1A. Debt discounts or premiums and debt issuance costs are amortized into interest expense using the effective interest method pursuant to ASC 835-30-35-2 through 35-3.

Prepayment and other features (e.g., put option held by the creditor) may result in the amortization period being shorter than the instrument's stated contractual life. For convertible debt instruments that are subject to the cash conversion guidance or contain beneficial conversion features, there is specific guidance on the amortization of premiums, discounts and deferred debt issuance costs. Costs incurred to secure lines of credit or revolving credit arrangements, generally are deferred and amortized over the life of the line of credit or revolving line using an appropriate interest method based, in part, on the provisions in ASC 470-50-40-21.

2.4.3.1.1

Effective interest method

Application of the effective interest method results in the recognition of interest expense equal to a constant rate of interest that is applied to the carrying amount of the debt at the beginning of each period (i.e., the outstanding face amount less any unamortized discount plus any unamortized premium less deferred issuance costs).

Other methods of amortization may be used if the results obtained are not materially different from the results under the effective interest method, as stated in ASC 835-30-35-4.

ASC 835-30-35-5 states that the amounts chargeable to interest expense under the guidance in ASC 835-30, which includes the amortization of any premiums or discounts, is eligible to be capitalized pursuant to ASC 835-20.

2.4.3.1.2

Determining the expected life of a debt instrument

Initial issuance premiums or discounts and issuance costs are generally amortized over the contractual life of a debt contract. For perpetual debt, which is described in section 2.1.2.8, interest expense is typically recognized based on an assumption of the life of the instrument.

Judgment is required in determining the amortization period when considering the potential effects of substantive embedded features, such as investor put options. We generally believe that amortization to the first put date is preferable. While the individual facts and circumstances should be carefully evaluated, the amortization period should generally not be to the first call date. The basis for conclusions in FSP APB 14-1 (which was not codified) acknowledged diversity in practice in this area.

For convertible debt instruments within the scope of either the cash conversion guidance or beneficial conversion feature guidance, specific guidance is provided in ASC 470-20 for the amortization of discounts, premiums and deferred issuance costs.

2.4.3.1.3 ***Amortization for cash convertible instruments***

For convertible instruments within the scope of the cash conversion guidance, ASC 470-20-35-12 through 35-16 requires the discount in the liability component created by the allocation of proceeds and any bifurcation of embedded derivatives to be amortized over the period of the expected cash flows inherent in the recorded liability (i.e., the expected life from the valuation of the liability component). This period may not be the full contractual term of the instrument if it contains put or call rights. Once the amortization period is determined, it is not reassessed unless the instrument is modified.

Refer to section C3.4 in Appendix C for a discussion of the subsequent measurement for those instruments.

2.4.3.1.4 ***Amortization of instruments with beneficial conversion features***

For convertible instruments within the scope of the beneficial conversion feature guidance, ASC 470-20-35-7 states that the amortization period should be from the date of issuance to the stated redemption date of the convertible instrument. While that redemption date would be the maturity date based on a literal application, we believe it could also be reasonably interpreted to be the first date at which the holder could put the instrument. We generally believe the first conversion date should generally not be considered unless an instrument has no stated redemption date (perpetual debt).

For further guidance, refer to the discussion in section D4.1 in Appendix D.

2.4.3.2 ***Paid-in-kind interest***

Some debt instruments may require or permit the issuer to make coupon payments in the form of additional underlying debt instruments. This type of interest is often referred to as paid-in-kind (or PIK) interest.

While the accounting for PIK interest is not clearly defined in the accounting guidance, the following methods may be appropriate, based on the facts and circumstances:

- ▶ **Required PIK interest** – An instrument that requires interest to be paid in kind functions much the same as a zero-coupon bond, as no cash interest payments are required until maturity or upon redemption of the debt. In that regard, interest should be accrued at its stated rate assuming that the interest compounds.

For example, 10% interest PIK on three-year debt with a principal amount of \$100 would accrue (assuming annual compounding for simplicity) interest expense of \$10 (10% X \$100) in the first year (paid with additional debt), \$11 (10% X \$110) in the second year (paid with additional debt) and \$12.10 (10% X \$121.00) in the third year (paid as additional debt), with the entire \$133.10 settled at maturity. The same result would have been achieved by issuing a zero-coupon instrument for \$100 that matures in three years for \$133.10. However, if the instrument accrued simple interest of 10% each year on the initial principal (i.e., no compounding), only \$130 would be due at maturity. We generally believe this also represents PIK interest, and the issuer should derive an effective interest rate that, when applied to \$100 at issuance, would result in \$130 at maturity.

- ▶ **Discretionary PIK interest** – If an instrument permits the issuer to elect to pay the interest in kind or in cash, we generally believe that interest should be accrued at the contractual rate for cash interest. If the interest is paid in kind, we generally believe the issuer may either (1) adjust the interest expense to the fair value of the incremental instruments issued or (2) not adjust the interest accrued at the contractual rate and assume that the value of the payment in kind is equal to the amount accrued, based on the individual facts and circumstances. The approach followed should be consistently applied. If the contractual rate for PIK interest is higher than the interest rate for cash payments, the issuer should accrue interest based on the expected method of payment and adjust the accrual at the payment date if settled differently.

If convertible debt requires or permits PIK interest, ASC 470-20-30-16 through 30-18 describes how to evaluate the interest accrual for a potential beneficial conversion option. Refer to section D3.3.1 in Appendix D for further discussion of beneficial conversion features.

2.4.3.3

Embedded features not bifurcated from the host debt instrument

The accounting for embedded features that are not bifurcated from debt hosts is generally based on the nature of the feature. Following are common examples:

- ▶ Contingent interest – A nonbifurcated contingent interest feature in a debt instrument is accounted for pursuant to the provisions of ASC 450, or the provisions of ASC 470-10-25-3 through 25-4 and 35-4, depending on the facts and circumstances.
- ▶ Call option – A nonbifurcated call feature in debt that is callable (prepayable) by the issuer generally is not accounted for until the debt is called, at which time extinguishment accounting is applied.
- ▶ Put option – A nonbifurcated put feature in debt that is puttable (redeemable) at par by the investor generally is not accounted for until the debt is redeemed, at which time extinguishment accounting is applied. However, the put feature should generally be considered in determining the amortization period for premiums, discounts or deferred debt issuance costs, as discussed in section 2.4.3.1.
- ▶ Conversion option – A nonbifurcated or nonseparated conversion feature in a debt instrument is not accounted for until conversion occurs. At that time, conversion accounting is applied, as discussed in section 2.5.2.
- ▶ Increasing-rate (or a step-up) feature – A nonbifurcated interest feature that steps up over time is addressed in ASC 470-10-35-1 and 35-2. That guidance states that the periodic interest cost is determined using the interest method based on the estimated outstanding term of the debt. In estimating the term of the debt, the borrower considers its plans, ability and intent to service the debt. Debt issuance costs are also amortized over the same period used in the interest cost determination.

2.4.3.3.1

Embedded derivative reassessment

Embedded features that were not bifurcated from the host debt instrument upon issuance either because the embedded feature (1) did not meet the definition of a derivative under ASC 815 or (2) met that definition but also qualified for an exception from derivative accounting (refer to section 2.2.4.3 for further discussion) should be reassessed at each reporting date. This would include conversion options, even if they were separately accounted for under the cash conversion or beneficial conversion feature guidance.

In reassessing embedded features for bifurcation, the initial conclusion of whether that feature was clearly and closely related to the host debt instrument pursuant to ASC 815-15-25-1(a) is not reevaluated (by reference to ASC 815-15-25-27). Accordingly, if initially deemed clearly and closely related (and therefore not bifurcated), that feature would not be bifurcated in the future. While this is not clear in the guidance, we generally believe that a modification of a debt instrument that was not accounted for as an extinguishment pursuant to ASC 470-50-40 may require the embedded features to be reevaluated given that the modification results in a different legal arrangement. This determination should be made based on the individual facts and circumstances.

In reassessing the definition of a derivative, the characteristics of having an underlying or an initial net investment generally will not change with time. However, the application of the net settlement criteria may change. ASC 815 requires the reconsideration of market mechanism and readily convertible cash criteria pursuant to ASC 815-10-15-118 and 15-139, respectively. A contract that was (or was not) net settleable by its contractual terms will likely remain as such through its life. However, a market mechanism to facilitate net settlement may emerge over time or an asset to be delivered in a physical settlement may become readily convertible to cash. ASC 815 requires the reconsideration of those elements (refer to ASC 815-10-15-118 and 15-139, respectively).

For example, a typical equity-linked embedded feature (e.g., conversion option), may not have met the definition of a derivative if gross settlement were required and the issuer was not a public company (i.e., the underlying shares were not readily convertible to cash). That condition could change if the company underwent an IPO and its shares now were readily convertible to cash. In that case, the embedded feature would meet the definition of a derivative for the first time and should be further evaluated for bifurcation (i.e., evaluated for an exception from bifurcation). That initial analysis would occur on the date the feature met the definition of a derivative (i.e., on the IPO date).

As another example, a public issuer with limited transaction volume for its shares compared with the conversion shares may develop additional volume such that the conversion shares are now considered readily convertible to cash (refer to ASC 815-10-55-101 to 55-108).

With respect to the reassessment of any scope exceptions, the most common exception from bifurcation for equity-linked embedded features is under ASC 815-10-15-74(a), which requires evaluation of whether the feature is indexed to the issuer's own stock and would be classified in stockholders' equity. This reassessment should be performed at each reporting date for those features that meet the definition of a derivative, as follows:

- ▶ Reassessment of the indexation guidance – The conclusion under the indexation guidance generally would not be expected to change unless the contractual terms have changed.

For an embedded equity-linked feature (e.g., redemption feature) that meets the definition of a derivative for the first time (e.g., underlying stock becomes actively traded making it readily convertible to cash), the embedded feature should be assessed at that time for the exception pursuant to ASC 815-10-15-74(a). That assessment would be made under the then-current circumstances to determine whether the feature is considered indexed to the issuer's shares.

- ▶ Reassessment of the equity classification guidance – In reassessing the criteria for equity classification related to settlement alternatives, a particular focus should be on the availability of shares to settle the instrument.

2.4.3.3.2

Subsequent bifurcation

While ASC 815 requires the reassessment of certain embedded features (e.g., those linked to an entity's own equity) for potential bifurcation at each reporting date, it does not provide explicit guidance on how to bifurcate an embedded feature after the issuance date. We generally believe the most literal application of ASC 815 would be to bifurcate the embedded derivative as of the date it was required to be bifurcated at its then-current fair value from the carrying amount of the host debt instrument. Other approaches also may exist.

Under this approach, the bifurcated derivative should be recognized as an asset or liability with subsequent changes in fair value recognized in earnings. This accounting is the same as if bifurcation was performed upon the initial issuance of the instrument.

When determining the fair value of the feature to be bifurcated, an option-based feature would use the contractual terms (refer to section 2.2.7.1) and a forward-based feature would use the terms that would have implied a fair value generally being equal to zero at the date the holder entered into the instrument (refer to section 2.2.7.2).

Any incremental discount or premium on the host instrument that results from the bifurcation would be amortized using the effective interest method over the remaining life of the instrument (refer to section 2.4.3.1.1). Because an unusual effective interest rate may result, other methods for accounting for a post-issuance bifurcation may result in a more reasonable effective interest rate.

For a previously nonbifurcated embedded equity-linked feature that was accounted for as a separate component of equity under the beneficial conversion feature guidance, we believe one reasonable approach would be to reclassify an amount equal to the then-current fair value of the derivative from equity to a liability. Because the debt host instrument was initially reflected at a residual value after allocating the intrinsic value to equity, the host instrument would be adjusted to the pro forma carrying amount of the debt (as discussed above in the alternative method). Various methods may be appropriate for determining whether any differences between (1) the amount initially allocated to equity and the amount reclassified to a liability and (2) the then-current carrying amount of the debt host and the pro forma carrying amount should affect earnings.

For a previously nonbifurcated embedded equity-linked feature that was accounted for as a separate component of equity under the cash conversion guidance, ASC 470-20-35-19 requires that the difference in the amount previously recognized in equity and the fair value of the feature at the date of reclassification be accounted for in equity. The guidance further provides that the reclassification would not affect the accounting for the liability component.

2.4.3.4

Embedded features bifurcated from the host debt instrument as a derivative and classified as an asset or liability

Embedded features bifurcated from the host debt instrument upon issuance and classified as an asset or a liability are measured at fair value at each reporting date with changes in the fair value recognized in earnings. Refer to the discussion on embedded derivatives in Chapter 3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further discussion.

Bifurcated derivatives should be reassessed every reporting period to determine if they continue to require bifurcation. That is, they are reassessed to see if they still meet the definition of a derivative and still fail to qualify for any scope exception from derivative accounting. For example, an embedded feature may subsequently qualify for the exception from derivative accounting pursuant to ASC 815-10-15-74(a) for reasons including:

- ▶ The provision that caused the embedded feature not to be considered indexed to the issuer's own stock may no longer apply. For example, assume the strike price of an embedded conversion feature is reduced to equal the selling price of any common shares sold at a price less than the original strike price for the first six months after the convertible notes are issued (refer to ASC 815-40-55-33 and 55-34). Once the initial six month period lapses, the conversion feature could be considered indexed to the issuer's own stock under the indexation guidance.
- ▶ The issuer subsequently increases its number of authorized and unissued shares sufficient to cover the settlement of the embedded feature. This increase could result by obtaining additional share authorization from shareholders or purchasing additional treasury shares in the market.

An issuer may amend the terms of an agreement to qualify for the exception from derivative accounting (e.g., the issuer may add a cap to the number of shares required for settlement if it had previously issued a convertible debt instrument without a cap). In those cases, the issuer should consider the accounting for the modification of the instrument.

ASC 815-15-35-4 requires a previously bifurcated conversion option that no longer requires bifurcation to be reclassified from a liability to equity at its then-current fair value on the date of reclassification. The conversion option is not recombined with the host debt instrument. Gains or losses recognized when the bifurcated conversion option was accounted for at fair value during the period that the conversion option was classified as a liability are not reversed. We generally believe the same accounting would apply to any previously bifurcated equity-linked embedded feature, such as a bifurcated forward contract classified as an asset or liability, that no longer requires bifurcation.

2.4.3.5 Embedded conversion features separated from the host debt instrument and classified as a component of equity

There are three forms of nonbifurcated conversion features that may require separate accounting within equity: (1) a conversion feature in a cash convertible debt instrument, (2) a beneficial conversion feature recognized when the debt is issued and (3) debt issued as a substantial premium.

2.4.3.5.1 Cash conversion features

The equity component of debt under the cash conversion feature guidance is not remeasured, but should be reevaluated to determine whether equity classification under the guidance in ASC 815-40 continues to be appropriate. Refer to section 2.4.3.3.1 for further discussion on the reevaluation of embedded derivatives.

2.4.3.5.2 Beneficial conversion features

Conversion features should be reassessed under the beneficial conversion feature guidance at each balance sheet date. An instrument may become convertible only upon the occurrence of a future event outside the control of the holder or may be convertible from inception but contain conversion terms that change (and either become beneficial or more beneficial through the resolution of a contingency). Such contingent BCFs (or contingent adjustments to BCFs) are measured at the commitment date, but are not recognized until the contingency is resolved. Refer to section D4 in Appendix D for further discussion on the subsequent measurement of beneficial conversion features.

An equity component of debt under the beneficial conversion feature guidance should be reevaluated to determine whether equity classification under the guidance in ASC 815-40 continues to be appropriate. Refer to section 2.4.3.3.1 for further discussion of the reevaluation of embedded derivatives.

2.4.3.5.3 Application of ASC 480-10-S99-3A

The SEC's guidance on temporary equity in ASC 480-10-S99-3A requires that certain redeemable equity instruments be classified as temporary (or mezzanine) equity in order to distinguish them from permanent equity. That guidance also establishes that, for convertible debt instruments with equity-classified components, the equity-classified component of the convertible debt instrument should be considered redeemable if at the balance sheet date the issuer can be required to settle the convertible debt instrument for cash (i.e., the instrument is currently redeemable or convertible for cash).

If the equity-classified component is considered redeemable, the portion of the equity-classified component that is presented in temporary equity (if any) is measured as (1) the amount of cash that would be required to be paid to the holder upon redemption or conversion in excess of (2) the current carrying amount of the liability-classified component of the convertible debt instrument.

Refer to Question 6 in section C5 in Appendix C for a discussion of the application of ASC 480-10-S99-3A to the equity-classified components of debt under the cash conversion guidance or beneficial conversion feature guidance.

2.5 Debt extinguishment and conversions

Except for perpetual debt, debt will either be extinguished (i.e., mature or settle early if put or called) or converted (or exchanged) in a final settlement. This section includes guidance for extinguishments (section 2.5.1) and conversions (section 2.5.2)..

2.5.1 Extinguishment of liabilities

The extinguishment of liabilities is discussed in ASC 405, *Extinguishments of Liabilities*. A liability may be derecognized only when it has been extinguished. ASC 405-20-40-1 provides that a liability has been extinguished if the debtor either:

- Pays the creditor and is relieved of its obligation for the liability
- Is legally released from being the primary obligor under the liability, either judicially or by the creditor

ASC 405-20-55-9 provides guidance in accounting for extinguishments through legal defeasances, while ASC 405-20-55-3 through 55-4 discusses in-substance defeasances. In a legal defeasance, generally the creditor legally releases the debtor from being the primary obligor under the liability. In an in-substance defeasance, the debtor places assets in a trust to repay the debt, but because the debtor is not legally released, the liability should not be extinguished.

Whether the debtor has in fact been released and the condition in ASC 405-20-40-1(b) has been met in a legal defeasance or any other transaction is a matter of law. In some cases a legal opinion may be needed to make that determination.

The intent to extinguish a liability or an accepted irrevocable offer to repurchase debt does not extinguish the debt. Therefore, debt issuance costs should not be written off and no call premium recognized pursuant to ASC 450, *Contingencies*, because ASC 470-50-40-2 provides that these amounts are part of the measurement of the extinguishment gain or loss, which is to be recognized only upon extinguishment.

An entity that buys back its own debt should account for that purchase as a debt extinguishment (even if the debt is not formally retired). The same is true even if the entity intends to hold the debt for a short period until it is reissued.

Debt may also be considered extinguished when it has been modified and the terms of the new debt and old debt are substantially different, as that term is defined in the debt modification guidance in ASC 470-50.

2.5.1.1 Measurement of debt extinguishments

Generally, ASC 470-50-40-2 indicates that for all extinguishments of debt, the difference between the reacquisition price (which includes any premium) and the net carrying amount of the debt being extinguished (which includes any deferred debt issuance costs) should be recognized as a gain or loss when the debt is extinguished.

Adjustments to the debt's carrying amount resulting from fair value hedge accounting pursuant to ASC 815-25-35-1(b) and 35-8 are considered in calculating the debt extinguishment gain or loss. In contrast, for extinguished debt subject to a cash flow hedge, any amounts reclassified from accumulated comprehensive income to earnings should be excluded from the debt extinguishment gain or loss, as described in ASC 815-30-35-44.

The fair value of nonmonetary assets (e.g., land or investments in common stock) transferred to settle debt obligations should be used to measure debt extinguishment gains or losses. As a result, when nonmonetary assets are used in the extinguishment of debt, the total gain or loss usually will be composed of two elements: (1) the gain or loss resulting from the difference between the carrying value and fair value of the assets transferred and (2) the gain or loss from the debt extinguishment. Refer to section 5.1 in Chapter 5 for an example of the settlement of debt exchangeable into common stock of another issuer.

2.5.1.2 Extinguishment of debt with a beneficial conversion feature

If a convertible debt instrument with a beneficial conversion option that was separately accounted for in equity is extinguished prior to its conversion or stated maturity date, the EITF reached a tentative conclusion that a portion of the reacquisition price should be allocated to the repurchase of the beneficial conversion option. The amount of the reacquisition price allocated to the beneficial conversion option should be measured using the intrinsic value of that conversion option at the extinguishment date. The residual amount, if any, is allocated to the convertible debt instrument. The gain or loss on the extinguishment of the convertible debt instrument would be determined based on its carrying amount and allocated reacquisition price. Refer to section D5.2 in Appendix D for further discussion.

2.5.1.3 Extinguishment of cash convertible debt

The derecognition section in the cash conversion guidance is based on the principle that an entity is extinguishing the liability component and reacquiring the equity component that was recognized at issuance. This approach would apply whether the debt was settled in cash, shares, other assets (or any combination) at maturity, on a conversion or an early extinguishment. The settlement consideration is first allocated to the extinguishment of the liability component equal to the fair value of that component immediately prior to extinguishment. Any difference between that allocated amount and the net carrying amount of the liability component and unamortized debt issuance costs should be recognized as a gain or loss on debt extinguishment. Any remaining consideration is allocated to the reacquisition of the equity component and recognized as a reduction of stockholders' equity. Refer to section C3.5 in Appendix C for further discussion.

ASC 470-20-40-26 describes the accounting when the conversion terms are modified to induce conversion in a cash convertible instrument. Section 2.5.2.5 describes the accounting for induced conversions, which generally requires that an amount of the proceeds be allocated to the inducement as a separate charge.

Refer to sections C3.5 and C3.6 in Appendix C for further discussion on the extinguishment of cash convertible instruments.

2.5.1.4 Transition from a primary to a secondary obligor

If an entity is released from being a primary obligor and becomes a secondary obligor, ASC 405-20-40-2 states that the entity should recognize the guarantee as would a guarantor that had never been primarily liable to that creditor. The guarantee obligation should be initially measured at fair value, and that amount reduces the gain or increases the loss recognized on extinguishment.

2.5.1.5 Classification of debt extinguishment gains or losses

ASC 470-50-45-1 states that gains or losses from the extinguishment of debt that meet the criteria in ASC 225-20, *Income Statement – Extraordinary and Unusual Items*, are reported as extraordinary items. We generally believe very few extinguishments would qualify to be reported as extraordinary.

A debt extinguishment may require separate classification as part of the income or loss from continuing operations section of the income statement, as well as disclosure in the footnotes to the financial statements. MD&A disclosure should also be considered pursuant to Regulation S-K (Rule 229.303(a)(3)(i)).

Public companies that trade in securities they issue outside their normal operations should consider the disclosure requirements of ASC 225-20-45-16 or the SEC rule described previously unless the effects of such transactions are insignificant to the company's results of operations. In addition, we generally believe private companies should consider making similar disclosures.

2.5.2 Conversion of convertible debt instruments

The accounting for conversions of convertible debt instruments depends on the nature of the conversion feature and whether the conversion is executed under the original conversion terms. This section outlines the accounting for conversions of convertible debt instruments (1) subject to the general conversion guidance pursuant to the original terms, (2) that contain a beneficial conversion feature or (3) that have been induced as a result of the modification of the original conversion terms. Conversions of cash convertible debt instruments pursuant to their original conversion terms are accounted for similar to extinguishments of those instruments, as discussed in section 2.5.1.3. The induced conversion of cash convertible debt instruments is discussed in section 2.5.2.5.

Refer to section 2.5.2.2 for the accounting for the conversion of a debt instrument with a conversion option that is bifurcated pursuant to ASC 815.

2.5.2.1 Conversion pursuant to the original terms of convertible debt under the general conversion guidance

ASC 470-20-40-4 states that, upon conversion in accordance with its original terms, the carrying amount of the convertible debt without a beneficial conversion feature, including any unamortized premium or discount, is credited to the capital accounts and no gain or loss should be recognized. If the terms of the instrument require that any accrued but unpaid interest be forfeited, the accrued interest, net of any related income tax effects, is also credited to the entity's capital pursuant to ASC 470-20-40-11.

Debt instruments frequently permit the debt to be converted if the issuer exercises a call during a period in which the debt is not otherwise convertible by its terms. ASC 470-20-40-5 through 40-10 provide that if the debt instrument contained a substantive conversion feature at issuance, the settlement of the debt is to be accounted for as a conversion, which is described in the preceding paragraph. If the debt instrument did not contain a substantive conversion feature at issuance, the settlement should be accounted for as a debt extinguishment with the fair value of the shares issued considered part of the reacquisition price of the debt.

ASC 470-20-40-7 through 40-9 provide the following considerations in determining whether the conversion option is substantive:

- ▶ The size of the difference between the conversion price and the fair value of the underlying equity instrument
- ▶ The fair value of the conversion feature compared with the fair value of the debt instrument
- ▶ The effective annual interest rate per the terms of the debt instrument compared with the estimated effective annual rate of a nonconvertible debt instrument with an equivalent expected term and credit risk
- ▶ The fair value of the debt instrument compared with an instrument that is identical except for which the conversion option is not contingent
- ▶ Qualitative evaluation of the conversion provisions such as the nature of the conditions under which the instrument may become convertible

2.5.2.2 Conversion of debt with a bifurcated conversion option

For accounting purposes, two instruments are outstanding when a conversion option has been bifurcated. As a result, we generally believe that the general extinguishment model should be followed. The debt and equity-linked derivative should be removed at their carrying amounts (after a final mark to the embedded derivative's fair value) and the shares issued should be measured at their then-current fair value, with any difference recorded as a gain or loss on extinguishment of the two separate accounting liabilities.

2.5.2.3 Conversion pursuant to the original terms of convertible debt that contain beneficial conversion features

Upon conversion of an instrument with a beneficial conversion option, all unamortized discounts at the conversion date should be recognized immediately as interest expense. The accounting for the conversion then follows the guidance in section 2.5.2.1. Also refer to section D5.1 in Appendix D.

2.5.2.4 Induced conversions of general convertible debt

Induced conversions may involve revised terms that reduce the original conversion price (thereby resulting in the issuance of additional shares of stock), the issuance of warrants or other securities not provided for in the original conversion terms or payment of cash or other consideration (sometimes called a convertible debt sweetener) to those debt holders who convert during a specified time period. The additional consideration is usually offered to induce a prompt conversion of the debt to equity.

ASC 470-20-40-13 through 40-17 addresses the accounting for induced conversions of convertible debt (other than cash convertible debt instruments that are addressed in ASC 470-20-40-26) that both (1) occur pursuant to changed conversion privileges that are exercisable only for a limited period of time and (2) include the issuance of all of the equity securities issuable pursuant to conversion privileges included in the terms of the debt at issuance for each debt instrument that is converted. The form of the transaction is important in applying this guidance. All equity shares issuable under the initial terms – meaning all or more – must be issued.

ASC 470-20-40-14 further explains that an induced conversion includes an exchange of a convertible debt instrument for equity securities or a combination of equity securities and other consideration, regardless of whether the exchange involves the legal exercise of the contractual conversion privileges included in terms of the debt.

The induced conversion guidance applies regardless of the party that initiates the offer or whether the offer relates to all debt holders, as discussed at ASC 470-20-40-13(b). For example, even if a debt holder makes the offer to the issuer and only that holder's debt receives the right to convert at the sweetened conversion price, the accounting requirements of the induced conversion guidance in ASC 470-20 apply.

Induced conversions are not subject to the debt modification guidance in ASC 470-50. Under the induced conversion guidance in ASC 470-20, the fair value of the additional securities or other consideration issued to induce conversion should be recognized as an expense. The consideration issuable under the original terms would be accounted for as outlined in section 2.5.2.1. Refer to ASC 470-20-55-1 through 55-9 for illustrative examples of the application of the induced conversion guidance.

2.5.2.5 Induced conversions of convertible debt under the cash conversion guidance

For instruments subject to the cash conversion guidance, the accounting guidance for induced conversions is outlined in ASC 470-20-40-26. This guidance is more fully discussed in section C3.7 in Appendix C, including determining whether a conversion should be in the scope of the induced conversion guidance.

3 Common and preferred shares

3.1 Overview and general description of types of shares

Common shares represent the basic ownership interest in an entity and is the residual corporate interest that bears the ultimate risk of loss and receives the benefit of success. Common shareholders generally control the management of the entity by voting for a board of directors. Entities may offer different classes of shares, each with different rights or privileges. A liquidation preference is typically viewed as a key distinguishing characteristic between a common share and a preferred share. The terms of shares are commonly established in the corporate governance documents (e.g., articles of incorporation) at issuance and not subject to change without the approval of the shareholders.

Common shares are usually perpetual in nature with voting rights, dividend rights and a residual interest in liquidation. For some forms of organization, the basic ownership or residual interest may not be called a share, but have similar characteristics (e.g., a unit in a limited liability entity).

Preferred shares are usually characterized by (1) the life of the instrument (i.e., perpetual or redeemable) and (2) convertibility (i.e., convertible or nonconvertible).

The terms of preferred shares can vary significantly. Certain preferred shares function much like debt instruments (i.e., they have a stated dividend rate, like interest, and have a stated redemption date, like a maturity date). Other preferred shares are more akin to traditional common stock (i.e., they are perpetual in nature, have no stated dividend and share in the distributed earnings of the entity with the common share).

Although they may have some debt-like characteristics, preferred stock represents, in legal form, an ownership relationship with the issuer (as opposed to a creditor relationship). A preferred shareholder has priority over common shareholders in a bankruptcy proceeding, but would receive consideration only after all creditors had been paid. There may be various series of preferred shares (usually designated by letters, such as Series A, Series B, Series C, etc).

3.1.1 Share terminology

Stock generally is characterized with the following terms:

- ▶ Issue price – The price at which the investor buys a share when it is first issued
- ▶ Par value – A minimum amount that a shareholder may be legally required to pay for a share on issuance (Stock may be issued as “no-par” depending on the laws of the state of incorporation.)
- ▶ Liquidation preference – A fixed or calculable amount that represents the legal amount of capital to which a share (typically a preferred share) has a right upon liquidation of the entity
- ▶ Voting rights – The ability to vote on certain corporate matters
- ▶ Dividends – The primary mechanism by which profits are distributed to shareholders. May be stated as a predefined rate (frequently with preferred shares), and may be cumulative in the circumstance that they are not paid based on a stated schedule (e.g., quarterly). Typically must be declared by the board of directors
- ▶ Authorized shares – The maximum number of shares that an entity can issue, typically outlined in the entity's articles of incorporation.

Depending on the nature of the stock, there may also be terms that address the contractual life of the share and whether it is convertible into another instrument or redeemable by either the issuer or the investor.

3.1.2 Common types of stock instruments

3.1.2.1 Par value stock

The par value of a share of stock is sometimes defined as the legal capital of a corporation. The par value of common stock is usually an insignificant amount that is sometimes required by law. In addition, the original purchaser or the current holder of the shares issued below par may be called on to contribute additional capital in the amount of the difference to prevent creditors from sustaining a loss upon liquidation of the corporation. The par value of a stock has no relationship to its fair value. Preferred stock is typically issued for proceeds equal to its par value (which likely also equals its initial liquidation value), and any dividends are generally calculated as a percentage of par. Refer to section 3.2.5 for further discussion of the recognition of stock issued with and without par value.

3.1.2.2 No par value stock

Many states permit the issuance of capital stock without a par value. No par value shares, like par value shares, are sold for whatever price they will bring, but unlike par value shares, the proceeds are not allocated to a par value. The amount received represents a credit in a single stock account. Some jurisdictions permit the issuance of no par stock and either require or permit that stock to have a stated value (i.e., a minimum value below which it cannot be issued).

3.1.2.3 Treasury stock

Treasury stock is stock that is repurchased by the issuing entity, reducing the amount of outstanding shares in the open market. When shares are repurchased, they may either be cancelled or held for reissue. If not cancelled, such shares are referred to as treasury shares. Treasury shares do not give the entity the right to vote, exercise preemptive rights as a shareholder, receive cash dividends or receive assets upon the liquidation of the entity. Treasury shares are essentially the same as unissued capital and reduce ordinary share capital. State laws may require the shares be retired rather than held in treasury. Refer to section 3.5.1.1 for a discussion of the accounting for treasury stock transactions.

3.1.2.4 Perpetual preferred stock

Perpetual preferred stock has no stated maturity date, but often may be convertible and/or redeemable (callable by the issuer or puttable by the investor) at any time, after a stated period or upon a contingent event.

3.1.2.5 Convertible stock

Convertible stock provides the investor the ability to convert the stock into other equity securities of the issuer (or of a subsidiary of the issuer or the issuer's parent), usually at some predetermined ratio (which may be adjusted in certain circumstances). The stock includes a conversion option (or forward in the case of mandatorily convertible stock), which is an embedded call option (or forward to sell) written on the underlying shares by the issuer to the investor. Convertible stock is considered to be a hybrid instrument that contains a host contract with an embedded feature. Conversion features are more likely to be found in preferred shares than common shares.

Convertible instruments contain the following elements related to the embedded conversion option:

- ▶ Conversion price – The price at which a convertible shares can be converted into the underlying equity security (e.g., par or liquidation preference/conversion rate)
- ▶ Conversion rate (or conversion ratio) – The number of underlying equity securities to be received by investors at the time of conversion for each fixed dollar value of preferred stock (e.g., par or liquidation preference/conversion price)
- ▶ Parity value – The as-converted value of each share, which is equal to the current underlying equity security trading price multiplied by the number of shares into which the preferred is convertible

- Conversion spread – The amount by which the parity value of the convertible share exceeds the accreted value (sometimes also referred to as conversion premium)

There are many variations in the nature and terms of convertible stock instruments. The most common variations are discussed in section 3.2.8.

3.1.2.6 Redeemable stock

Redemption is the repurchase of the stock instrument by the issuer. The ability to force redemption may be held by either the issuer (an embedded purchased call option) or the holder (an embedded written put option). An instrument is conditionally redeemable if it represents a conditional obligation that could require, or permit, the issuer to redeem the instrument at some point in the future or under specified conditions that are not certain to occur. Redemption rights are more frequently found in preferred shares than common shares.

3.1.2.7 Mandatorily redeemable stock

Some redeemable shares are mandatorily redeemable and must be repurchased by the issuer on a specified date or on the occurrence of a specified event that is certain to occur, such as the death of an owner. Shares are considered mandatorily redeemable pursuant to ASC 480-10-25-4 through 25-7 if they are subject to an unconditional obligation to be redeemed by transferring assets (i.e., cash or other assets). That is, redemption is mandatory on both parties (the issuer must redeem and the holder must surrender), as opposed to mandatory on the issuer only if the holder decides to redeem. However, if the instruments are redeemable only upon the liquidation or termination of the reporting entity, those instruments are not considered mandatorily redeemable. Refer to section 3.2.1 for further discussion of those instruments.

3.1.2.8 Increasing-rate preferred stock

Some types of preferred stock initially pay little or no dividends and later pay dividends at an increasing rate (often characterized as “increasing rate preferred stock”). Refer to sections 3.2.14.1 and 3.4.5.9 for further discussion of those instruments.

3.1.2.9 Restricted shares

Restricted shares are shares for which sale is contractually or legally (e.g., governmental regulations) restricted for a given period of time or until certain conditions have been met. A common type of restricted stock is a form of compensation granted by an entity to employees or directors that becomes transferable after a period of time or upon the achievement of defined performance conditions. The accounting for those shares generally falls under the stock compensation literature in ASC 718. Refer to section 2.7 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for a discussion of the treatment of restricted shares granted to employees or directors.

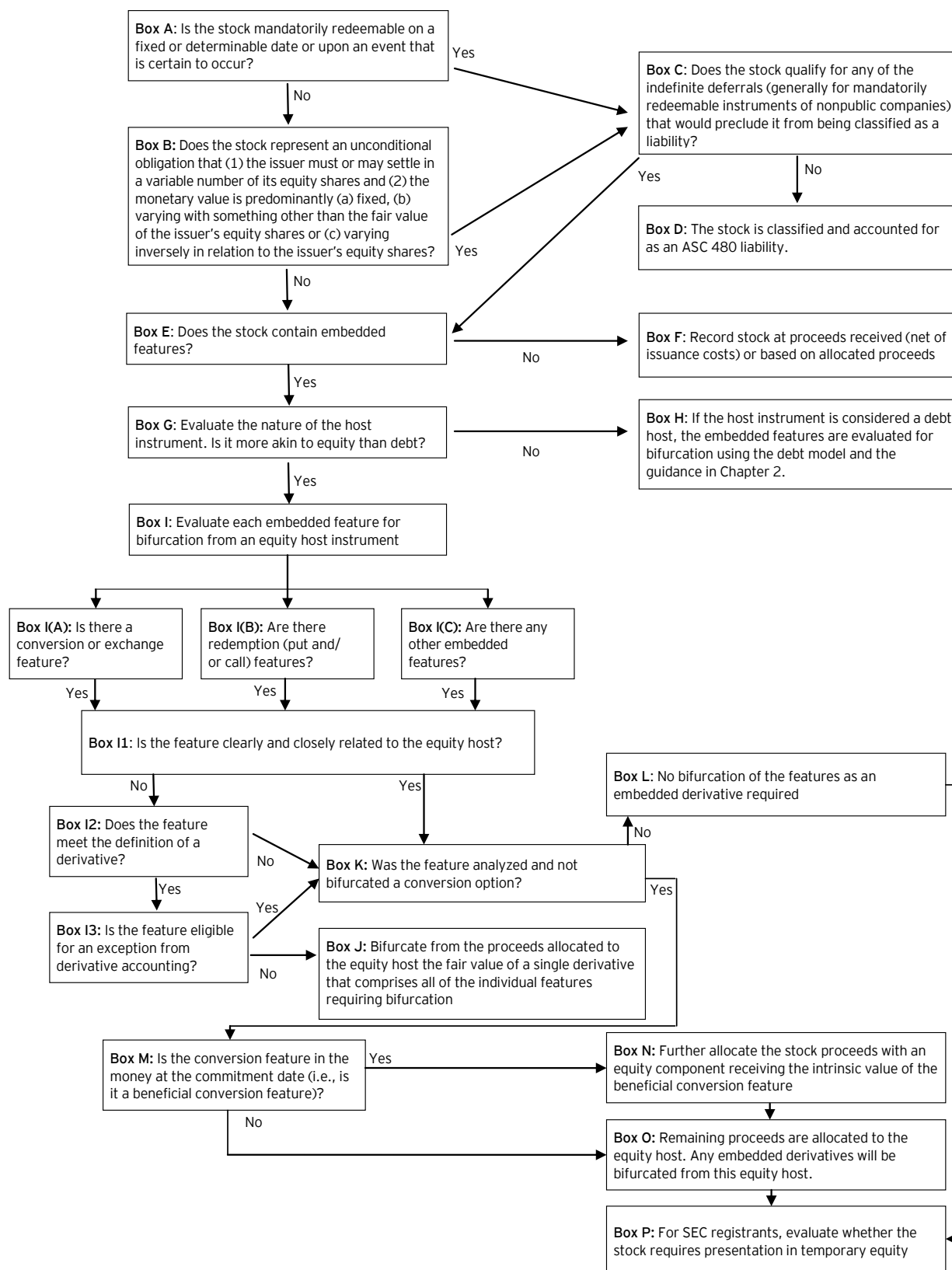
3.1.2.10 Nominal stock issuances

Nominal issuances of stock, sometimes called “cheap stock,” refers to stock issued for nominal consideration (i.e., a price significantly below its fair value or the price at which stock is subsequently sold in a public issuance of shares) to employees or others closely related to the issuer. Those types of transactions may occur prior to an initial public offering and raise a number of accounting issues, including share-based payment considerations. Refer to section 6.4.5 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), and section 6.6 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further discussion.

3.2 Issuer's initial accounting for stock instruments (including flowchart)

This section describes the steps generally necessary to determine the accounting for stock (including convertible stock) at issuance. In particular, this section provides detailed considerations related to the balance sheet classification, embedded conversion options, redemption features and other common embedded features.

The following flowchart summarizes the analysis at a conceptual level and should be used in conjunction with the related guidance throughout the rest of section 3.2.



3.2.1 **Box A – Mandatorily redeemable stock**

ASC 480-10-25-4 through 25-7 and related implementation guidance requires an instrument issued in the form of a share that is mandatorily redeemable to be classified as a liability. Shares are considered mandatorily redeemable if they are subject to an unconditional obligation to be redeemed by transferring assets. That is, redemption must be mandatory on both parties (the issuer must redeem and the holder must surrender), as opposed to mandatory on the issuer only if the holder decides to redeem. However, if the instruments are redeemable only upon the liquidation or termination of the reporting entity, those instruments are not considered mandatorily redeemable. Pursuant to ASC 480-10-65, the requirement to classify certain mandatorily redeemable shares issued by nonpublic entities (as defined in the guidance) as liabilities is deferred indefinitely. Shares that are subject to an unconditional obligation to be settled by issuing other shares are discussed in section 3.2.2.

Examples of mandatorily redeemable shares include stock (more frequently preferred stock) that is redeemable on a specified date or upon an event that is certain to occur (e.g., an instrument that must be redeemed upon the death of the holder). A mandatorily redeemable instrument that contains a provision to defer redemption to a future date, but not indefinitely, may change the timing of redemption but does not remove the obligation to redeem the instrument and, therefore, does not alter the requirement for liability classification.

The existence of a mechanism to fund the redemption of mandatorily redeemable shares does not affect their classification. For example, shares subject to mandatory repurchase upon the death of the holder for which the issuer has acquired insurance on the holder's life in an amount sufficient to fund the redemption are liabilities pursuant to ASC 480, notwithstanding the fact that the issuer is reasonably assured of having the funds necessary to satisfy the redemption obligation.

An instrument's terms should be carefully evaluated in determining whether it is mandatorily redeemable. If an otherwise mandatorily redeemable security is convertible into shares, the security is only contingently redeemable until the conversion feature expires, at which time the security becomes mandatorily redeemable. For example, if an instrument has a stated redemption date, but the instrument may be converted into another equity instrument, that instrument is not mandatorily redeemable until the conversion option expires. As long as the conversion option is considered substantive, the instrument is considered contingently or optionally redeemable as there is the possibility of conversion obviating redemption. However, if conversion requires settlement of the liquidation preference in cash and the remaining conversion spread in shares, then it is known that a settlement of the liquidation preference in cash will occur (either on redemption or on conversion) and that instrument would be classified as a liability and evaluated as a debt instrument.

Refer to section A4 in Appendix A for further discussion of mandatorily redeemable instruments, including a discussion of certain deferred transition provisions for nonpublic companies.

3.2.2 **Box B – Stock settled in a variable number of equity shares**

ASC 480-10-25-14 requires liability accounting for certain financial instruments, including shares that embody an unconditional obligation to transfer a variable number of shares, provided that the monetary value⁸ of the obligation is based solely or predominantly on one of the following three characteristics:

- a. A fixed monetary amount known at inception (e.g., a preferred share that will be settled by issuing a variable number of common shares equal in value at that time to the liquidation preference of the preferred stock)

⁸ ASC 480 defines monetary value as the fair value of the cash, shares or other instruments that a financial instrument obligates the issuer to convey to the holder at the settlement under specified market conditions.

- b. Variations in something other than the fair value of the issuer's equity shares (e.g., a preferred share that will be settled in a variable number of common shares with its monetary value tied to a commodity price)
- c. Variations in the fair value of the issuer's equity shares, but the monetary value to the counterparty moves in the opposite direction as the value of the issuer's shares

Notwithstanding the fact that those instruments can be settled in shares, equity classification is not appropriate because instruments with those characteristics do not expose the counterparty to risks and rewards similar to those of an owner and, therefore, do not create a shareholder relationship.

Shares with the characteristics described in (b) and (c) above are not as common as shares with the characteristics of (a). For example, some preferred shares require an exchange for a variable number of common shares equal to a fixed monetary amount, resulting in a fixed redemption value regardless of the share price. Pursuant to criterion (a), those shares would require liability classification if such an exchange feature is unconditional. Refer to section 3.2.8.3 for further discussion of those types of instruments.

Refer to section A6 in Appendix A for further discussion of stock that may be settled in a variable number of shares.

3.2.3 Boxes C and D – Liability classification for stock

A share that is either (1) mandatorily redeemable (refer to Box A) or (2) unconditionally settled in a variable number of shares based on certain characteristics (refer to Box B) is classified as a liability unless it qualifies for one of the indefinite deferrals pursuant to ASC 480-10-65-1 for mandatorily redeemable shares of nonpublic entities or mandatorily redeemable noncontrolling interests.

When shares are classified as liabilities, the initial and subsequent measurement would be evaluated under the applicable guidance in Appendix A and the debt guidance in Chapter 2.

3.2.3.1 Shares that represent legal form debt

Although uncommon, some shares represent legal form debt. An example is a preferred equity certificate (PEC) and related instruments (e.g., convertible PEC (CPEC)) issued by entities (often financing subsidiaries) domiciled in Luxembourg as part of various tax strategies. Refer to section 5.14 in Chapter 5 for a detailed discussion on those instruments.

3.2.4 Box E – Identifying embedded features

ASC 815-10-20 defines an embedded derivative as an implicit or explicit term that affects some or all of the cash flows or the value of other exchanges required by a contract in a manner similar to a derivative instrument. Those embedded features may or may not meet the definition of a derivative pursuant to ASC 815. Instruments that themselves are not derivatives may contain embedded features, and are referred to as hybrid instruments, which are comprised of a host contract (e.g., an equity host) and one or more embedded features.

ASC 815-15 requires an instrument that is not a derivative itself to be evaluated for embedded features that should be bifurcated and separately accounted for as freestanding derivatives. Bifurcated embedded derivatives are split from the hybrid instrument and recorded in the same manner as a freestanding derivative pursuant to ASC 815 (i.e., recorded at fair value with subsequent changes in fair value recognized in earnings each period).

Preferred stock instruments generally have embedded features more frequently than common shares and should be carefully reviewed to identify any terms that could result in a change (increase or decrease) in either the amount or timing (or both) of any cash or other value flows or settlement. Typical embedded features in preferred stock include conversion options, exchange options, redemption features

(e.g., callable preferred or puttable preferred) and contingent dividends (additional dividends in certain circumstances). Similar features may be found in common shares, but they are atypical.

Refer to section 3.2.7 for evaluating whether an embedded feature meets the definition of a derivative.

3.2.5 **Box F – Recognition at issuance**

When stock with a par or stated value is issued for cash consideration, the proceeds (or amount allocated as discussed in section 1.2.7 in Chapter 1) should be credited to the applicable capital account in the amount of the aggregate par or stated value of the issued shares with any excess credited to additional paid-in capital (APIC). Proceeds from the issuance of stock without a par or stated value should be credited entirely to the applicable capital account.

3.2.5.1 **Stock subscription**

If a public company enters an agreement to sell its stock, which is issued after it receives the proceeds pursuant to scheduled periodic payments (commonly known as a stock subscription agreement), Rule 5-02.29 of SEC Regulation S-X requires the subscription receivable to be reflected as a reduction in stockholders' equity. Similar guidance is provided in ASC 310-10-S99-2 for capital stock that is issued to officers or other employees before cash payment is received.

For nonpublic companies, ASC 505-10-45-2 requires that notes receivable recognized in connection with the issuance of stock be reflected as a reduction of shareholders' equity in most cases (rather than as an asset) until paid. However, ASC 505-10-45-2 provides that, for nonpublic companies, subscription receivables may be recorded as an asset if they are collected in cash prior to the issuance of the financial statements. Additionally, ASC 505-10-45-2 indicates that under very limited circumstances, when there is substantial evidence of ability and intent to pay within a reasonably short period of time, nonpublic companies may record subscriptions receivables as assets. Although not carried forward into Codification, the guidance formerly in EITF 85-1⁹ contained observations from Task Force members that they were aware of only a few cases where notes were reported as assets, and more specifically only when they (1) were secured by irrevocable letters of credit or other liquid collateral or were discountable at a bank and (2) included a stated maturity in a reasonably short period of time. The SEC staff has stated that, for registrants, exceptions to the general rule would be rare.

The treatment of consideration received under a stock subscription prior to the issuance of shares depends on the subscription arrangement. If the entity is obligated to refund consideration received in the event the subscription is cancelled, amounts received should be accounted for as a liability until the underlying shares are issued. If consideration received is nonrefundable, payments received should generally be recorded as an addition to shareholders' equity.

Unlike stock subscriptions where stock is issued once all of the agreed upon consideration is received, when shares are issued prior to the receipt of all of the agreed upon consideration, the shares are frequently described as partially paid. The accounting for partially paid stock should be the same as that for stock subscriptions.

3.2.5.2 **Stock issued to nonemployees for goods or services**

Refer to Chapter 9 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for guidance on the accounting for the issuance of equity instruments to nonemployees in exchange for goods or services.

⁹ EITF Issue No. 85-1, "Classifying Notes Received for Capital Stock (EITF 85-1)"

3.2.6 Boxes G and H – Evaluate the nature of the host contract

A hybrid instrument consists of a host contract and an embedded feature. Pursuant to ASC 815-15-25-1(a), an embedded feature does not require bifurcation if the feature is clearly and closely related to the host contract. Therefore, the nature of the host contract must be determined in order to assess whether any embedded features are considered clearly and closely related.

Unlike the evaluation of most common stock (an equity host) or a debt instrument (a debt host), the nature of a preferred share may not be clear given its contractual terms and economics. When the host contract is a share, it should be evaluated based on its terms to determine whether it is a debt host or an equity host.

If a stock instrument is required to be classified as a liability either because it is mandatorily redeemable or meets one of the above described unconditional obligations settleable in a variable number of shares, we generally believe it would be rare for an entity to conclude that the nature of the host instrument is equity.

While liability classification is indicative that the nature of the host instrument should be debt-like, the fact that the instrument is classified in equity does not indicate the host is equity-like. Rather, a comprehensive analysis of the factors in ASC 815 and ASC 815-10-S99-3A should be performed to reach a conclusion.

3.2.6.1 Defining the host contract

The guidance in ASC 815 indicates that there may be various approaches for defining the host contract to be analyzed pursuant to ASC 815-15-25-1(a).

ASC 815-15-25-1, 25-16 and 55-19 appear to indicate that the host contract does not include the embedded feature being analyzed. However, ASC 815-10-S99-3A, which provides the SEC staff's view on whether a preferred stock is a debt host or an equity host for SEC registrants, states that the determination of the nature of the host contract should be based on a consideration of the economic characteristics and risks of the hybrid instrument, including all of its stated and implied substantive terms and features. That essentially requires the economics of the embedded features to inform partially the conclusion on the nature of the host, which means the issuer may analyze an embedded feature against an instrument that includes the economics of that embedded feature.

ASC 815-10-S99-3A acknowledges there is diversity in practice in how to consider an embedded feature being evaluated for bifurcation when the feature also influences the nature of the host contract, and that the approach followed should be an accounting policy. This suggests that multiple methods may be acceptable for defining the host contract, which we believe would include the following:

- ▶ Whole instrument approach – A contract that includes all embedded features, including the feature being analyzed
- ▶ Chameleon approach – A contract that includes all embedded features except the feature being analyzed, which may result in a host that changes character as the analysis progresses from one embedded feature to the next

We generally believe the approach selected should be consistently applied.

3.2.6.2 Analysis

Regardless of the approach used, the SEC staff observed that judgment is necessary when evaluating all the relevant terms and features and acknowledged the consideration of an individual term or feature may be weighted more heavily than others in the analysis. While no guidance is provided as to which feature (or features) should be weighted more heavily, ASC 815-10-S99-3A states that the existence or omission of any single term or feature is not necessarily determinative of the economic characteristics and risks of the host contract.

ASC 815-15-25-17 indicates that there are two possible types of host contracts for preferred stock: equity or debt. That paragraph also provides the following limited guidance in evaluating the nature of the preferred stock host:

“A typical cumulative fixed-rate preferred stock that has a mandatory redemption feature is more akin to debt, whereas cumulative participating perpetual preferred stock is more akin to an equity instrument.”

Most common shares are perpetual in nature and pay dividends only when, and if, declared by the board of directors, and would thus be considered an equity host. Very few preferred shares match either of the instruments described in the guidance and most fall somewhere in between. The issuer of the preferred stock should exercise judgment in determining the character of the host contract.

The terms or features of preferred stock vary greatly and may include redemption features (e.g., mandatory redemption, contingent and non-contingent puts or calls), dividend features (e.g., cumulative, fixed rate or participating, fixed rate with various caps or floors), voting or other corporate governance rights (e.g., full voting on an as-converted basis, protective voting as relates to the specific instrument or specific issuer actions, no voting, representation on the board of directors) and conversion features (e.g., mandatorily convertible, convertible at the holder's option or in some cases contingently convertible at the holder's or issuer's option).

ASC 815-10-S99-3A does not prescribe how to factor a conversion option into the consideration of the host instrument in convertible preferred stock. In contrast, ASC 815-15-25-17 states in part that “the terms of convertible preferred (other than the conversion option) shall be analyzed to determine whether the preferred stock (and thus the potential host contract) is more akin to an equity instrument or a debt instrument.” It is not clear whether the SEC staff intended to override the guidance in ASC 815-15-25-17, but the SEC staff guidance would seem to require that the existence of a conversion option in the hybrid instrument should be considered in determining the nature of the host instrument.

The table below presents several key features that are common in preferred stock, with one possible view of how they might affect the determination of the host contract. For each feature, one end of the spectrum is deemed to be more equity-like and the other is more debt-like. The bold features are those described in ASC 815-15-25-17.

Feature	Equity host	<-----	----->	Debt host
Redemption	Perpetual	Puttable (at holder's option) on contingent event	Puttable (at holder's option) with passage of time	Mandatorily redeemable
Dividends	Cumulative participating (and presumably non-cumulative participating)	Non-cumulative fixed rate (and presumably indexed variable rate)		Cumulative fixed rate (and presumably cumulative indexed variable rate)
Voting rights	Votes with common on as-converted basis	Votes with common on as-converted basis on specific matters	Votes only on matters related to specific instrument	Non-voting
Covenants	No provisions that are substantively protective covenants		Includes provisions that are substantively protective covenants	
Conversion rights	Mandatorily convertible	Optionally convertible		Not convertible

Given the general principle in the SEC staff's guidance to consider all stated or implied substantive terms, we generally believe that companies should apply judgment in determining the nature of the host contract for stock.

All of the individual facts and circumstances should be considered in defining the host instrument. For example, in some fact patterns, it may be concluded that the existence of a put feature at the option of the holder (whether or not contingent) combined with one other debt-like feature (or one other not completely equity-like feature) is sufficient to conclude the host is debt-like. In other cases, it may be concluded that the existence of an equity-like conversion option offsets a debt-like put option and thus the evaluation of the other factors will be more important.

While the guidance in ASC 815-10-S99-3A is not required for nonpublic entities, we generally believe its application is preferable.

3.2.7 **Box I and Boxes I1, I2 and I3 – Evaluating embedded features for bifurcation**

Embedded features should be evaluated as potential derivatives that should be bifurcated and accounted for separately. Box I(A) and Box I(B) represent two broad categories of features commonly found in stock: conversion options and put/call (i.e., redemption) features. Box I(C) captures any other features that meet the definition of an embedded derivative that could require bifurcation.

Boxes I1, I2 and I3 apply to any contractual feature requiring analysis as a potential embedded derivative. The questions in those boxes align closely with the criteria in ASC 815-15-25-1, which requires an embedded derivative to be bifurcated if all three of the following conditions are met:

- a. The economic characteristics and risks of the embedded derivative are not clearly and closely related to the economic characteristics and risks of the host contract.
- b. The hybrid instrument is not remeasured at fair value under otherwise applicable US GAAP with changes in fair value reported in earnings as they occur.
- c. A separate instrument with the same terms as the embedded derivative would be considered a derivative instrument subject to derivative accounting (the initial net investment for the hybrid instrument should not be considered to be the initial net investment for the embedded derivative).

Under criterion (a), if an embedded feature being analyzed is clearly and closely related to the host, bifurcation is not required. To evaluate this criterion, the host contract should be properly identified. The evaluation of embedded features in this chapter is in the context of only an equity host contract. Preferred stock that is deemed a debt host is treated as a debt instrument in evaluating embedded features. Refer to the discussion in section 2.2.3 in Chapter 2 for evaluating embedded features for bifurcation when the host is determined to be a debt instrument.

Criterion (b) is not addressed because the fair value option cannot be elected for an equity-classified instrument, such as stock. Embedded features in stock classified as liabilities (refer to section 3.2.3) should be evaluated under the debt guidance in Chapter 2.

Criterion (c) considers not only whether the embedded feature meets the definition of a derivative (evaluated as if it were a freestanding instrument with the same terms), but also whether it is eligible for an exception from derivative accounting. If the embedded feature would not be a derivative if freestanding, either because it does not meet the definition of a derivative or because it does meet the definition but receives an exception from derivative accounting pursuant to ASC 815, bifurcation is not required.

3.2.7.1 Unit of analysis

The unit of analysis is important when evaluating potential derivatives because each embedded feature identified in a contract generally is evaluated for bifurcation. There are different approaches in practice in determining whether embedded features require bifurcation. Under one approach, each embedded feature is evaluated individually, while under another approach similar embedded features may be (or in some cases must be) combined. The approach followed for the unit of analysis (i.e., embedded features evaluated individually or in a group) may affect whether some or all of those embedded features should be bifurcated.

For example, consider a typical contingently convertible preferred stock instrument that may be converted in four different situations (e.g., based on the trading price, parity, a notice of redemption or a specified corporate transaction), with each situation representing the resolution of a contingency in the instrument. The contractual conversion features in a contingently convertible preferred share could be analyzed in two ways. Under one approach, the instrument would have a single conversion option with four separate triggers that permit conversion (e.g., based on the trading price of the common stock, parity, a notice of redemption or a specified corporate transaction). Under another approach, the instrument could be viewed to have four conversion options for bifurcation, each of which is exercisable only upon the occurrence of a certain event (e.g., the trading price of the common stock, parity, a notice of redemption or a specified corporate transaction).

If the instrument were viewed to have one option with multiple exercise triggers, the entire conversion option would be bifurcated if any individual trigger or related settlement met the requirements for bifurcation. Under the second approach (four options, each with its own exercise trigger), only each individual trigger or related settlement requiring separate accounting would be bifurcated. The valuation of that bifurcated derivative would be based on the value of a conversion option (or options, if several required bifurcation) that included an input for the probability of the trigger (or triggers) occurring. The remaining conversion options would not be bifurcated.

We generally believe either approach is acceptable in evaluating embedded derivatives. The approach followed should be consistently applied. However, the second approach may not be applied in all circumstances. For example, ASC 815-15-25-7 states that a single freestanding derivative may not be split into multiple derivatives. Therefore, a freestanding warrant that has four exercise contingencies should be viewed as a single equity contract.

Judgment will be required to determine when it is appropriate (or necessary) to combine terms into a single embedded feature to be evaluated for bifurcation. Factors to be considered include the commonality of the underlyings, a detailed analysis of the calculation of related settlement amounts, the situations in which settlements may be required and default provisions related to the terms. Once the appropriate unit of analysis is determined, each unit should be evaluated in accordance with the criteria in ASC 815-15-25-1 described below.

3.2.7.2 Meaning of “clearly and closely related”

The clearly and closely related evaluation generally refers to a comparison of the economic characteristics and risks of the embedded feature to those of the host instrument. The concept is not specifically defined in the guidance, but is illustrated throughout the examples in ASC 815-15-25-23 through 25-51. Generally, the underlying, which causes the value of the embedded feature to fluctuate, must be related to the inherent economic nature of the host instrument to be considered clearly and closely related to the host instrument.

If the economic characteristics and risks of the embedded feature are clearly and closely related to the economic characteristics and risks of the host contract, ASC 815 does not permit bifurcation of the feature.

For a share that has an equity host, the embedded feature's underlying must bear the economics and risks of the issuer's equity interest (i.e., be related to a residual interest) to be considered clearly and closely related. For example, a conversion option in a preferred stock that is deemed an equity host is generally considered clearly and closely related to the host instrument.

3.2.7.3 Definition of a derivative instrument

To be a derivative pursuant to ASC 815, an instrument should have all of the following characteristics:

- ▶ A derivative's cash flows or fair value must fluctuate and vary based on the changes in one or more underlyings.
- ▶ The contract contains one or more notional amounts or payment provisions or both.
- ▶ The contract requires no initial net investment, or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.
- ▶ The contract (a) provides for net settlement, (b) can be settled net through a market mechanism outside the contract or (c) provides for delivery of an asset that, because the delivered asset is readily convertible to cash, puts the recipient in a position not substantially different from net settlement (a gross settlement that is economically equivalent to a net settlement).

Refer to section 1.2.3 in Chapter 1 of this publication and section 2.3 in Chapter 2 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for additional information on the definition of a derivative.

3.2.8 Box I(A) and Boxes I1, I2 and I3 – Evaluating embedded conversion options

The conversion feature in convertible stock should be evaluated for potential bifurcation pursuant to the criteria in ASC 815-15-25-1, which includes the considerations described in section 3.2.7. If the option meets the definition of a derivative, the analysis should also consider whether the conversion feature, if freestanding, would receive an exception from derivative accounting.

The bifurcation analysis in this chapter addresses stock with an equity host. If convertible stock is determined to have a debt host, the evaluation of whether the conversion option requires bifurcation is performed as if the stock is a debt instrument. Refer to section 2.2.4 in Chapter 2 for guidance on evaluating embedded conversion options in debt instruments.

3.2.8.1 Determining whether a conversion option is clearly and closely related to an equity host instrument

Most commonly, the economic characteristics and risks of a conversion option embedded in a stock instrument are considered clearly and closely related to an equity host as its value is influenced principally by the underlying equity security's fair value. Therefore, bifurcation would not be required.

However, if the host instrument and the embedded conversion feature are not clearly and closely related (e.g., the host is equity-like and it converts into debt or a debt-like security), an analysis pursuant to Box I2 is necessary to determine whether bifurcation of the embedded conversion feature is required.

When evaluating preferred stock with a conversion option as discussed in sections 3.2.6.1 and 3.2.6.2, it is important to consider whether the nature of the host instrument changes when evaluating the conversion option itself for bifurcation if the chameleon approach is being used by the issuer.

3.2.8.2 Contingently convertible stock

In a traditional convertible stock instrument, the holder may exercise its option to convert the stock into a number of underlying securities at any time. In contrast, a contingently convertible instrument entitles the holder to convert only after certain contingencies have been satisfied. The evaluation of a conversion feature in any stock hybrid instrument will depend on whether the host instrument is considered an equity host or a debt host (refer to section 3.2.6 for additional information regarding identifying the nature of the host). In an equity host, the conversion feature will usually be considered to be clearly and closely related to the equity host, even if it is contingently exercisable, and thus bifurcation would not be required.

3.2.8.3 Share-settled stock

Convertible stock typically provides the investor the ability to convert the stock into a fixed number (only to be adjusted under certain events) of different shares of the issuer. As a result, the value the holder receives upon conversion is based entirely on the price of the other shares. However, some stock instruments may settle by providing the holder with a variable number of different shares with an aggregate fair value that equals the stock instrument's liquidation preference. In some cases, a slight fixed discount to the fair value of the other share price may be used to determine the number of other shares to be delivered, resulting in settlement in shares at a fixed premium.

Because the value that the holder receives at settlement does not vary with the value of the other shares, that settlement provision is not considered a conversion option and the stock instrument would not be considered convertible stock unless it also contained a conversion option (as discussed in section 3.1.2.5). Instead, this provision should first be evaluated pursuant to ASC 480-10-25-14 (refer to section A6 of Appendix A for a discussion of the application of this guidance). If not subject to that guidance, the provision should be evaluated as a redemption feature as described in section 3.2.9. A settlement provision that is not a conversion option should be not considered under the beneficial conversion feature guidance (refer to section 3.2.13).

3.2.9 Box I(B) and Boxes I1, I2 and I3 – Evaluating embedded redemption (put and/or call) features

A call option gives the issuer the right to repurchase the stock instrument, usually at par plus any cumulative dividends or stated increases in liquidation preference. A call feature is usually intended to enable the issuer to refinance an existing stock issuance with a lower cost alternative.

A put option gives the investor the right to sell the stock back to the issuer at an agreed upon or determinable amount. This enables the investor to obtain liquidity if the stock is not regularly traded as well as to exit an investment that is paying a below-market dividend rate.

Frequently, preferred stock instruments contain a put option that enables the investor to put the stock to the issuer upon the occurrence of a deemed liquidation event (as defined in the agreement). Although specific to each arrangement, common examples of deemed liquidation events include the following:

- ▶ A person or group becoming the direct or indirect ultimate beneficial owner of the issuer's common equity representing more than 50% of the voting power of the common equity
- ▶ Sale of all or substantially all of the issuer's net assets
- ▶ Consummation of any share exchange, consolidation or merger of the issuer into another entity
- ▶ Continuing directors cease to constitute at least a majority of board of directors
- ▶ Shareholders approve any plan or proposal for the liquidation or dissolution of the issuing entity
- ▶ The issuer's common stock ceases to be quoted or listed

If the redemption feature is triggered based on some kind of change in control, it is usually referred to as a change of control put.

Depending on the specific terms of the instrument, embedded put or call options may be exercisable at any time after issuance, after the passage of time (e.g., on or after the fifth anniversary) or upon the occurrence of specified contingent events. Puts and calls may be structured to coincide with each other.

Similar to the evaluation of the embedded conversion option, redemption features are also assessed in accordance with guidance provided in ASC 815-15-25-1.

The analysis of whether bifurcation is required changes based on whether the nature of the host stock instrument is equity-like or debt-like. If stock is determined to have an equity host as discussed at ASC 815-15-25-20, a redemption option is often not considered clearly and closely related to the equity host, and the redemption feature should be evaluated to determine whether it meets the definition of a derivative. If the redemption provision meets the definition of a derivative, the analysis then considers whether the redemption feature, if freestanding, would receive an exception from derivative accounting.

The bifurcation analysis in this chapter addresses only stock with an equity host. Refer to section 2.2.5 in Chapter 2 for guidance on evaluating embedded redemption (put and call) features in hosts determined to be debt instruments.

3.2.9.1 Determining whether put and call features are considered clearly and closely related to an equity host instrument

ASC 815-15-25-20 states that a put option that enables the holder to require the issuer of an equity instrument to reacquire that equity instrument for cash or other assets is not clearly and closely related to that equity instrument, and likewise a purchased call option by the issuer is not clearly and closely related. Puts and calls embedded in equity hosts are also not clearly and closely related as their economic characteristics and risks are unrelated to an equity interest, which is generally a residual interest that would reside with an investor until the issuing entity ceased to exist. The ability for the holder to redeem, or for the entity to force the holder to redeem, would not appear to be clearly and closely related to holding that residual interest.

Because the economic characteristics and risks of a holder's put and issuer's call option are generally not clearly and closely related to an equity host, any embedded put or call should be evaluated as to whether it (a) meets the definition of a derivative if it were freestanding (Box I2) and (b) if so, whether there is an exception from derivative accounting (Box I3).

3.2.9.2 Determining whether put and call features meet the definition of a derivative subject to derivative accounting

An embedded feature is a derivative pursuant to ASC 815 only if it meets the four characteristics of a derivative. A redemption feature would likely have the first three characteristics of a derivative in ASC 815-10-15-83, but may not have the fourth, based on the following:

- ▶ Underlying – The market price of the stock is the underlying in an equity-linked instrument.
- ▶ Notional amount – The number of shares of common or an amount of liquidation preference of preferred is the notional amount.
- ▶ No initial net investment – The fair value of the embedded redemption feature at inception (not the initial investment in the stock instrument) is generally substantially less than the fair value of the underlying stock.

- ▶ Net settlement – Redemption features generally require settlement via gross physical delivery (i.e., delivery of the stock to the issuer in exchange for delivery of cash to the investor). Gross settlement would not meet the net settlement requirement unless the stock is readily convertible to cash, as that phrase is interpreted in ASC 815, in which case the gross physical settlement qualifies as net settlement because it puts the recipient in a position not substantially different from net settlement.

For example, a share of a publicly traded company is generally considered readily convertible to cash unless the market for the shares is not active and the number of shares to be exchanged (given the smallest increment available for conversion) is large relative to the daily trading volume of the underlying shares. However, if the underlying share is equity of a private company, the redemption feature would generally not meet the net settlement criteria in a physical settlement. However, active trading by a large enough group of the equity owners could result in a conclusion that a common share is readily convertible to cash and therefore a gross physical settlement meets the net settlement criterion.

Refer to section 2.3.4 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further guidance on net settlement.

If the redemption feature does not meet all of the characteristics of a derivative pursuant to ASC 815-10-15-83, it should not be bifurcated from its equity host. If the redemption feature does meet all of the characteristics of a derivative pursuant to ASC 815-10-15-83, it should be analyzed to determine whether it is eligible for an exception from derivative accounting pursuant to ASC 815-10-15-13.

3.2.9.3 Exceptions from derivative accounting

Notwithstanding that an embedded feature, if freestanding, may meet all the characteristics of a derivative, an embedded feature should not be bifurcated if the feature is eligible for any of the scope exceptions provided by ASC 815. The most common exception for an equity redemption feature is provided by ASC 815-10-15-74(a), which states that contracts issued or held by that reporting entity that are both (1) indexed to its own stock and (2) classified in stockholders' equity in its statement of financial position are not considered derivative instruments in the scope of ASC 815. That analysis draws on the indexation and classification guidance in ASC 815-40 related to contracts in an entity's own stock.

Appendix B includes a comprehensive discussion of those concepts.

3.2.9.3.1 Meaning of "indexed to issuer's own stock"

To determine whether an equity redemption feature is indexed to its own stock, it should be analyzed pursuant to ASC 815-40-15-5 through 15-8, including the related implementation guidance. The examples in ASC 815-40-55-26 through 55-48 should, in particular, be considered.

This guidance, which is referred to throughout this publication as "the indexation guidance," has two steps in evaluating an instrument or feature. The first step evaluates any contingent exercise provisions and the second step requires an analysis of features that could change the instrument's settlement amount.

In the first step, an exercise contingency (as defined in the indexation guidance) does not preclude an instrument (or embedded feature) from being considered indexed to an entity's own stock provided that it is not based on either of the following:

- An observable market, other than the market for the issuer's stock (if applicable)
- An observable index, other than an index calculated or measured solely by reference to the issuer's own operations (e.g., sales revenue of the issuer, earnings before interest, taxes, depreciation and amortization of the issuer, net income of the issuer or total equity of the issuer)

In the second step, an instrument (or embedded feature) is considered indexed to an entity's own stock if its settlement amount equals the difference between (1) the fair value of a fixed number of the entity's equity shares and (2) a fixed monetary amount or a fixed amount of a debt instrument issued by the entity. While the second step appears to be a very strict fixed-for-fixed concept, an exception is provided such that if the instrument's strike price or the number of shares used to calculate the settlement amount is not fixed, the instrument (or embedded feature) could still be considered indexed to an entity's own stock if the only variables that could affect the settlement amount would be inputs to a fair value valuation model for a fixed-for-fixed forward or option on equity shares. Accordingly, any feature that adjusts the embedded redemption feature should be carefully analyzed.

Many redemption features (1) have either no contingencies or contingencies that are solely related to the issuer and (2) settle by delivering the shares (a fixed number of shares) to the issuer in exchange for a fixed amount of cash (the redemption price), and thus are considered indexed to the issuer's stock.

An equity redemption feature that is not considered indexed to the issuer's own stock would not qualify for the scope exception in ASC 815-10-15-74(a) and should be bifurcated.

3.2.9.3.2

Meaning of "classified in stockholders' equity"

To determine whether an equity redemption feature would be classified in stockholders' equity if considered freestanding, ASC 815-40-25-1 through 25-43 should be considered, including the related implementation guidance (primarily codified in ASC 815-40-55-1 through 55-18). This guidance is referred to throughout this publication as "the equity classification guidance."

The equity classification guidance generally indicates that an equity redemption feature on a company's own stock, if freestanding, would be considered to be classified in equity under either of the following types of settlement:

- ▶ Required physical settlement or net share settlement
- ▶ Issuer has choice of net cash settlement or settlement in its own shares (physical settlement or net share settlement), regardless of the intent of the issuer

In contrast, an equity redemption feature would not be considered to be classified in equity if either of the following provisions is present:

- ▶ Required net cash settlement (including a requirement to net cash settle if an event occurs that is outside the control of the issuer)
- ▶ Holder has choice of net cash settlement or settlement in shares (physical settlement or net share settlement)

ASC 815-40-25-7 through 25-38 include additional conditions that must be met for equity classification. If any condition (as summarized below) is not met for a stock instrument, the equity redemption feature would not be considered to be classified in stockholders' equity and should be bifurcated:

- ▶ Settlement is permitted in unregistered shares
- ▶ Entity has sufficient authorized and unissued shares
- ▶ Contract contains an explicit share limit
- ▶ No required cash payments if entity fails to timely file
- ▶ No cash settled top-off or make-whole provisions
- ▶ No counterparty rights rank higher than shareholder rights
- ▶ No collateral requirements

An equity redemption feature typically requires the investor to deliver the underlying share in return for the consideration in a gross physical settlement. As the issuer does not typically deliver shares in settlement, and gross physical settlement meets the criteria to be classified in equity (even though the issuer must deliver cash), bifurcation is generally not required.

3.2.9.4 Stock of a consolidated subsidiary that includes redemption rights

Refer to section 5.10.2.3 in Chapter 5 for guidance on redeemable noncontrolling interest.

3.2.10 Box I(C) and Boxes I1, I2 and I3 – Evaluating other potential embedded features

A stock instrument may have a variety of features that can affect the timing and amount of future cash flows in a way similar to a derivative. Those features should be evaluated pursuant to the criteria in ASC 815 (discussed above in section 3.2.7) to determine if they require bifurcation. A careful analysis of the underlying agreements is necessary to identify all potential features to be evaluated.

While not all instruments have potential embedded derivatives, some of the more commonly observed features in practice are exchange features, rights offering features, indexed dividends and poison pill features.

3.2.10.1 Exchange features

Exchangeable preferred stock or convertible exchangeable preferred stock is typically issued in a form that is identical to preferred stock or convertible preferred stock, except that it contains a provision that permits the issuer to call (or the investor to put) the preferred stock from the investor and, in consideration, the issuer issues debt to the investor with the same economics as the redeemed preferred stock.

As discussed in section 3.2.7, the exchange feature should be evaluated as to whether it is clearly and closely related to the host instrument and, if not, whether it meets the definition of a derivative pursuant to ASC 815. If the exchange option meets the definition of a derivative, it is unlikely that such a feature would qualify for any scope exceptions in ASC 815. In particular, the scope exception ASC 815-10-15-74(a) that is often available to conversion features generally should not be applied as those exchange features are not indexed to, and would not be classified in, the issuer's equity.

The exchange feature should also be considered in evaluating the preferred stock for temporary or permanent equity classification. If the exchange feature can be exercised only by the issuer at the issuer's option, permanent equity classification would be appropriate assuming no other features required temporary equity classification. However, if the exchange feature is exercisable by the investor or upon an event that is outside the control of the issuer, the exchange feature would require the preferred stock to be classified in temporary equity as the instrument would ultimately be settled in cash (with the maturity of the subsequent debt). Refer to section 3.2.14 and Appendix E for further guidance on temporary and permanent equity classification.

Another form of an exchangeable preferred share is a preferred share that may be, or is required to be, exchanged for common shares of another issuer (e.g., a PRIDE (preferred redeemable increased dividend equity security)). If the exchangeable preferred share is not required to be classified as a liability pursuant to ASC 480, the embedded exchange feature should be evaluated for bifurcation. If the exchange feature meets the net settlement requirements pursuant to ASC 815 (refer to section 3.2.7.3), the feature will likely require bifurcation. This bifurcation analysis is similar to that of debt exchangeable into the common stock of another issuer, which is discussed in section 5.1 in Chapter 5.

3.2.10.2 Rights offering features

Rights offering features generally provide investors with the right to purchase additional shares of the issuer and may be freestanding instruments or embedded in shares. Embedded preemptive rights or privileges issued or granted to shareholders to purchase shares should be carefully evaluated as to whether they are clearly and closely related to an equity host, and if not, further analyzed pursuant to ASC 815-15-25-1, as discussed in section 3.2.7. In general, rights offering features that are embedded in a share are clearly and closely related to an equity host contract.

Rights offerings that are freestanding financial instruments should be evaluated pursuant to ASC 480 and 815. Refer to section 4.2 in Chapter 4 for guidance on freestanding equity contracts.

3.2.10.3 Indexed dividends

Some preferred shares may have a variable dividend rate that is tied to an external index, such as LIBOR or US Treasury rates or a commodity price. External references for dividends, particularly such as a quoted interest rate or index, should be considered for bifurcation from an equity host contract.

One view is that an issuer can always choose how to calculate the amount of dividends distributed for instruments without a stated dividend, so selecting a method in advance (i.e., stating the use of an index) should not preclude the dividends from being considered clearly and closely related to its equity host, particularly for dividends that are a liability only when, if and as declared.

Under another view, the movement of an external index may be deemed unrelated to the equity host and, therefore, a dividend linked to such an index would not be considered clearly and closely related. The use of an index that bears some relation to the issuer, its operations or general financial concepts is more likely to be found clearly and closely related to an issuer's ability to generally set its dividend policy in an economically rational manner.

We generally believe judgment should be applied based on the individual facts and circumstances when determining whether indexed dividends are clearly and closely related to the equity host.

3.2.10.4 Shareholders' rights plans (Poison pills)

Shareholders' rights plans are arrangements, often in the form of a contingent rights offering, with current shareholders that permit companies to potentially defend against hostile takeovers by making such actions overly expensive through the immediate dilution of the acquirer's accumulated position. Those plans encourage direct negotiations with the target's board of directors and are typically activated by an acquisition of a large block of the target entity's shares. Those strategies are also known as poison pills. Those arrangements can take various forms and may include a combination of rights, the most common of which include:

- ▶ Flip-over or shareholders' rights plan – The most common type of arrangement. Under this plan, the holders of common stock of an entity receive certain rights for each share held, which allow them an option to buy or receive more shares in the entity, generally at a deeply discounted price, if anyone acquires more than a prescribed percentage of the entity's stock.
- ▶ Flip-in plan – A variation of the flip over is the flip-in plan. This plan allows the rights holder to purchase shares in the target entity at a discount in the event an acquiring entity were to merge or otherwise combine with the target entity.
- ▶ Voting poison pill plan – Under this plan, the target entity issues a dividend of securities, conferring special voting privileges to its stockholders. For example, the target entity might issue shares that do not have special voting privileges at the outset. When a potential hostile bid occurs, the stockholders, other than the acquiring party, receive super voting privileges.

While the specific facts and circumstances for each arrangement should be carefully evaluated, those protective plans are typically initiated by issuing certain rights to existing shareholders in the form of a dividend. Generally, those rights are not transferable separately from the underlying common stock and all further issuances of common stock (including stock issued in connection with the exercise of outstanding options) include those rights. Additionally, those rights are frequently cancelable or redeemable at the option of the issuing entity (e.g., on a vote of the board of directors) for a de minimis amount.

The original dividend of those rights to existing shareholders should be recorded at fair value, which may not be significant given the contingent nature of the rights as well as the de minimis call feature. Because those rights are typically considered embedded in the underlying shares after issuance, they should be evaluated pursuant to ASC 815. Many of those embedded rights will be considered clearly and closely related to the underlying equity host and, therefore, do not require separate accounting. If the plan is activated and the rights can transfer or trade separate from the share, then their classification should be reevaluated.

Careful consideration of the specific rights, including the terms of the instruments for which those rights may be exercisable into, is required to determine the appropriate accounting.

3.2.11 **Box J – Bifurcation of a single embedded derivative**

ASC 815-15-25-7 through 25-10 indicates that an entity should not account separately for more than one derivative feature embedded in a single hybrid instrument. As a result, after identifying, evaluating and concluding on which features of a share require bifurcation, a single derivative comprising all the bifurcable features should be separated from the debt host instrument. This unit of account for bifurcation may be different than the unit of analysis for bifurcation as discussed in section 3.2.7.1.

ASC 815-15-30-2 requires the embedded derivative (whether a single feature derivative or a compound derivative) to be recorded at fair value. The difference, if any, between the proceeds allocated to the hybrid stock instrument (refer to section 1.2.3.3 in Chapter 1) and the fair value of the bifurcated derivative is assigned to the host stock instrument.

Refer to our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further guidance on embedded and compound derivatives, including defining option-based and forward-based embedded derivatives.

3.2.11.1 **Option-based embedded derivatives**

ASC 815-15-30-6 states that the terms of an option-based embedded derivative should not be adjusted to result in the embedded derivative being at the money at the inception of the hybrid instrument. Rather, the option-based embedded derivative should be bifurcated based on the stated terms documented in the hybrid instrument whether the option is in the money, at the money or out of the money at inception.

3.2.11.2 **Forward-based embedded derivatives**

ASC 815-15-30-4 states that in separating a non-option (forward-based) embedded derivative from the host contract, the terms of that non-option embedded derivative should be determined in a manner that results in its fair value generally being equal to zero at the inception of the hybrid instrument. This concept is illustrated at ASC 815-15-55-160.

3.2.11.3 **Financial statement classification**

Bifurcated derivatives are presented as assets or liabilities. The individual facts and circumstances should be considered in classifying such an asset or liability as current or noncurrent in the balance sheet.

ASC 815 does not specifically address the classification of changes in the fair value of derivatives (including bifurcated derivatives) but requires disclosure as to where the changes are reported in the statement of financial performance. The disclosures in ASC 815 are required for bifurcated embedded derivatives. Refer to Chapter 8 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further discussion of derivatives disclosures and financial statement presentation considerations.

3.2.12

Boxes K and L – Nonbifurcated features including conversion options and redemption features

An embedded conversion option that has not been bifurcated should be evaluated pursuant to the guidance in Box N for conversion options that have a positive intrinsic value (i.e., conversion price is less than the fair value of the share) at issuance. Those beneficial conversion features are further evaluated in section 3.2.13.

If a feature is not bifurcated, and does not require further accounting under other guidance, it remains with the host instrument and no proceeds should be allocated to the embedded feature. However, there may be accounting consequences for subsequent measurement and presentation as discussed in section 3.4.3.2.

An embedded redemption feature that has not been bifurcated should be evaluated in Box P pursuant to the SEC's guidance on equity-classified instruments that may be redeemable outside the control of the issuer. This guidance may require temporary (mezzanine equity) classification for the entire share or a portion of the share. Refer to section 3.2.14 and Appendix E for further guidance.

3.2.13

Boxes M, N and O – Beneficial conversion features and contingent beneficial conversion features

A conversion option that is not bifurcated as a derivative pursuant to ASC 815 (Box I) should be evaluated to determine whether it is considered a beneficial conversion option at inception or may become beneficial in the future due to potential adjustments (often referred to as a contingent beneficial conversion option). The guidance on beneficial conversion features is in ASC 470-20.

The Master Glossary to ASC 470-20 defines a beneficial conversion feature as "a nondetachable conversion feature that is in the money at the commitment date." An option is in the money if its exercise price (conversion price for convertible stock) is less than the current fair value of the share.

For example, preferred stock issued at \$100 that is convertible into 10 shares has a stated conversion price of \$10 per share. That conversion option would be in the money if the current share price at the commitment date (usually the issuance date) was more than \$10, making immediate conversion beneficial to the investor. If the share price were \$12 per share at the commitment date, the investor could convert the preferred stock into 10 shares worth \$120 (10 shares times \$12), which is more than the initial investment of \$100. It is this immediate \$20 benefit that the beneficial conversion feature guidance attempts to measure.

The beneficial conversion feature guidance generally requires embedded beneficial conversion features present in convertible securities to be valued separately (at intrinsic value rather than fair value) and allocated to APIC. The beneficial conversion feature guidance states that the effective conversion price is used to determine the existence of a beneficial conversion feature that may be different than its contractual conversion price. The effective conversion price is based on the proceeds received or allocated to the convertible stock instrument (including embedded features), and the amount is measured as of the commitment date.

For example, despite having a contractual conversion price of \$10 per share, the convertible preferred stock in the example above would have an effective conversion price of \$9 per share if the \$100 par amount preferred stock had been issued at \$90 (\$90 proceeds received divided by the 10 shares into which it could be converted). That initial \$10 discount could result from simply issuing the convertible preferred stock at a discount, or more likely from allocating part of the proceeds of issuance to other instruments in a basket transaction.

The beneficial conversion feature guidance states that costs of issuing convertible instruments paid to third parties do not affect the effective conversion price and calculation of the intrinsic value of an embedded conversion option. Any amounts paid to the investor as issuance costs represent a reduction in the proceeds received by the issuer and should affect the calculation of the intrinsic value of an embedded option.

If an embedded derivative requires bifurcation from the stock (e.g., a put or call option), we do not generally believe it affects the proceeds considered in determining the effective conversion price unless that feature could be separately settled prior to or contemporaneous with the conversion of the instrument.

Because beneficial conversion features are measured on the commitment date, that date should be carefully evaluated. Purchase agreements that may permit either party to rescind its commitment to consummate the transaction (e.g., due to material adverse change in the issuer's operations or financial condition, customary due diligence, shareholder approval) generally do not establish a commitment date.

A convertible stock instrument may contain conversion terms (i.e., the conversion ratio or conversion price) that change upon the occurrence of a possible future event. Those changes may give rise to contingent beneficial conversion features that are generally measured at the commitment date at intrinsic value and recognized upon the occurrence of the contingent event.

After allocating the intrinsic value of the beneficial conversion feature to APIC, the remaining proceeds are allocated to the equity host. It is from those proceeds that any embedded derivative is bifurcated.

Refer to Appendix D for a comprehensive discussion of the accounting for beneficial conversion features.

3.2.14

Box P – Temporary equity classification

ASC 480-10-S99-3A provides guidance on the classification and measurement of redeemable securities. That guidance, issued by the SEC staff, requires classification in temporary equity of securities redeemable for cash or other assets if they are redeemable under any of the following conditions:

- ▶ At a fixed or determinable price on a fixed or determinable date
- ▶ At the option of the holder
- ▶ Upon the occurrence of an event that is not solely within the control of the issuer

A feature, whether or not bifurcated, that permits or requires the holder to exchange stock for cash or other assets (e.g., put option in stock) will likely cause the stock to be considered redeemable. Public entities should consider the redeemable equity guidance when classifying the stock. An item classified in temporary equity is classified after liabilities but before equity in the statement of financial position and cannot be included in any subtotal for equity, if one is presented.

Determining whether the redemption of an equity security is within the control of the issuer can be complex and all of the individual facts and circumstances should be considered. For instruments potentially settled in the issuer's shares (such that cash or assets may not be necessary), this includes evaluating whether there is any scenario in which the issuer may not be able to settle the redemption feature with its own stock pursuant to the equity classification guidance in ASC 815-40-25. In the absence of assurance that settlement in shares is within the control of the issuer, classification outside of permanent equity is required.

ASC 480-10-S99-3A states that stock classified in temporary equity should be initially measured at its fair value on the date of issuance. Such instruments will have ongoing measurement, disclosure and EPS considerations resulting from the conclusion that they are redeemable outside the control of the issuer.

Refer to Appendix E for further guidance on redeemable securities.

3.2.14.1 Increasing rate preferred stock

Increasing rate preferred stock (described in section 3.1.2.8) that is not also contractually mandatorily redeemable is not a liability. However, based on the facts and circumstances and magnitude of the increasing rate, SEC registrants should evaluate whether redemption would essentially be assured as a result of economic compulsion (e.g., through a dividend rate that increases dramatically). In those circumstances, the stock should be evaluated pursuant to ASC 480-10-S99-3A, which might result in the increasing rate preferred stock being reflected in temporary equity. Refer to Appendix E for further guidance on redeemable securities.

3.3 Share issuance costs

Stock issuances may be either classified in equity or as a liability. Issuance costs for stock requiring liability classification pursuant to ASC 480 should follow the accounting for debt issuance costs. Refer to section 2.3 in Chapter 2 for further guidance.

For stock that is classified in equity, direct and incremental costs related to its issuance such as legal fees, printing costs and bankers' or underwriters' fees, among others, should be accounted for as a reduction in the proceeds of the stock, and are considered a component of any premium or discount on preferred stock. Internal costs that meet the incremental and direct criteria (e.g., travel costs directly related to financing) may also be accounted for as a reduction in proceeds, but costs such as salaries, rent and other period costs may not be capitalizable as issuance costs.

For stock classified in equity, stock issuance costs are not amortized or accreted unless the stock is classified in temporary equity and the carrying amount is being accreted to its full redemption amount pursuant to ASC 480-10-S99-3A. Refer to section 3.2.14 for further guidance on temporary equity classification.

ASC 340-10-S99-1 states that, prior to the effective date of an offering of equity securities, specific incremental costs directly attributable to a proposed or actual offering of securities may be deferred and charged against the gross proceeds of the offering. In addition, ASC 340-10-S99-1 states that deferred costs of an aborted offering may not be deferred and charged against proceeds of a subsequent offering. A short postponement (up to 90 days) does not represent an aborted offering.

Cash payments for stock issuance costs should be classified in the statement of cash flows as a financing activity together with the proceeds from the issuance of the stock by analogy to ASC 230-10-45-15.

3.4 Selected guidance on subsequent accounting and measurement

3.4.1 General

Depending on the terms of the stock instrument issued, there may be several subsequent accounting considerations.

3.4.2 Stock that is classified as a liability due to the provisions of ASC 480

Stock that is classified as a liability follows the subsequent measurement guidance specified in ASC 480. In general, a mandatorily redeemable instrument that has (1) a fixed redemption amount and (2) a fixed redemption date should be accreted to the redemption amount using the effective interest method. If the

redemption amount varies (e.g., the redemption amount is based on a formula or is equal to the instrument's fair value) or the redemption date is unknown (e.g., must be redeemed upon the death of the holder), the instrument should be carried at the amount of cash that would be paid under the conditions specified in the contract if the shares were repurchased or redeemed at the reporting date. Refer to section A4 in Appendix A for further guidance on mandatorily redeemable instruments.

A share that is classified as a liability because it represents an unconditional obligation to issue a variable number of shares whose monetary value is predominantly (1) fixed, (2) varies with something other than the fair value of the issuer's equity shares or (3) varies inversely related to changes in the fair value of the issuer's equity shares shall be classified as a liability, is subsequently remeasured pursuant to ASC 480. Refer to section A6 in Appendix A for further guidance on those instruments.

Shares that are classified as liabilities are eligible to be measured at fair value pursuant to the fair value option provided no component of the share is classified in equity. If the fair value option is elected for an instrument at inception, fair value should be measured pursuant to the guidance in ASC 820, *Fair Value Measurement*, and all subsequent changes in fair value for that instrument are reported in earnings. Refer to our Financial Reporting Developments publication, *Fair value measurement* (SCORE No. BB1462), for further guidance on fair value measurement.

3.4.3 Stock that is classified in equity

If stock is not required to be classified as a liability pursuant to ASC 480, it is classified as either permanent or temporary equity. Regardless of the section in equity in which the stock is classified, there may be some features associated with the stock that require separate accounting and measurement, including the following:

- ▶ Premiums, discounts and issuance costs (section 3.4.3.1)
- ▶ Embedded features not bifurcated from an equity host instrument (section 3.4.3.2)
- ▶ Embedded features bifurcated from an equity host instrument as a derivative and classified as an asset or liability (section 3.4.3.3)
- ▶ Beneficial conversion features (section 3.4.3.4 and Appendix D)

3.4.3.1 Premiums, discounts and issuance costs

Preferred stock may be issued either at par, a discount or a premium. Premiums or discounts (generally on preferred shares) may arise for several reasons, including the following:

- ▶ Allocating proceeds to multiple instruments upon issuance (e.g., when stock is issued with detachable warrants and the proceeds are allocated between the two elements)
- ▶ Bifurcating embedded derivatives in accordance with ASC 815 (e.g., certain put/call features or conversion options)
- ▶ Separating a beneficial conversion feature under the beneficial conversion feature guidance
- ▶ Issuing a preferred share with a stated dividend rate that is higher or lower than the market rate

Premiums or discounts on stock classified in permanent equity should generally not be accreted or amortized. However, a discount arising from the recognition of a beneficial conversion feature is amortized and treated as a deemed dividend. Discounts on stock classified in temporary equity may require accretion depending on the application of the SEC's subsequent measurement guidance for redeemable equity.

Costs associated with equity-classified stock are considered an adjustment to the proceeds of the stock, and therefore reduce the carrying amount of the stock. For stock classified in permanent equity, stock issuance costs are not amortized. For stock classified in temporary equity, stock issuance costs may be required to be amortized in certain cases. However, issuance costs are considered part of the carrying amount of the stock in an extinguishment or conversion. Stock issuance costs are discussed in section 3.3.

Refer to sections 3.4.3.5, 3.4.3.6 and 3.4.3.4 for further guidance on permanent equity classification, temporary equity classification and discounts from beneficial conversion features, respectively.

3.4.3.2

Embedded features not bifurcated from an equity host instrument

The subsequent accounting for embedded features not bifurcated from their host instrument is based on the nature of the feature. The following are common examples:

- ▶ Call option – A nonbifurcated call feature in stock that is redeemable by the issuer generally is not accounted for until the stock is called, at which time the appropriate settlement accounting is applied. Refer to section 3.5.1 for further discussion.
- ▶ Put option – A nonbifurcated put feature in stock that is redeemable at par by the investor generally is not accounted for until the stock is redeemed, at which time the appropriate settlement accounting is applied. However, for SEC registrants, the put feature likely requires consideration of the redeemable equity guidance. Refer to section 3.4.3.6 for further discussion.
- ▶ Conversion option – A nonbifurcated or nonseparated conversion feature in convertible stock is not accounted for until conversion. At that time, conversion accounting is applied as discussed in section 3.5.2.
- ▶ Increasing rate dividend – The nonbifurcated increasing rate dividend provision is accounted for in accordance with ASC 505-10-S99-7. Refer to an additional discussion in section 3.4.5.9.

If the embedded feature was not bifurcated from the instrument at issuance, it should be reassessed at each reporting date to determine that continued nonbifurcation is appropriate.

3.4.3.2.1

Embedded features reassessment

Embedded features that are not clearly and closely related to the equity host, yet not bifurcated on issuance either because the embedded feature (1) did not meet the definition of a derivative pursuant to ASC 815 or (2) met that definition but also qualified for an exception from derivative accounting (refer to section 3.2.7 for further discussion) should be reassessed at each reporting date. Such a feature may meet the definition of a derivative at some point in the future or lose its exception from derivative accounting and require bifurcation at that time.

In reassessing embedded features for bifurcation, the initial conclusion of whether that feature was clearly and closely related to the host instrument pursuant to ASC 815-15-25-1(a) is not reevaluated (by analogy to ASC 815-15-25-27). Accordingly, if initially deemed clearly and closely related (and therefore not bifurcated), that feature would not be bifurcated in the future. While not clear in the guidance, we generally believe that modifications of a stock instrument may require the embedded features be reevaluated, given that the modification results in a changed legal arrangement. This determination should be made based on the individual facts and circumstances.

In reassessing the definition of a derivative, the characteristics of having an underlying or an initial net investment generally will not change with time. However, the application of the net settlement criteria may change. A contract that was (or was not) net settleable by its contractual terms will likely remain as such through its life. However, a market mechanism to facilitate net settlement may emerge over time or an asset to be delivered in a physical settlement may become readily convertible to cash. ASC 815 requires the reconsideration of those elements (refer to ASC 815-10-15-118 and 15-139, respectively).

For example, a typical embedded feature (e.g., redemption feature) may not have met the definition of a derivative if gross settlement was required and the stock was not actively traded on an exchange (i.e., the underlying shares were not readily convertible to cash). If the issuer's stock were to actively trade on an exchange, the embedded derivative would meet the net settlement criterion on that date and should be further evaluated for bifurcation (i.e., evaluated for an exception from bifurcation).

As another example, a public issuer with limited transaction volume for its shares relative to the conversion shares may develop additional volume such that the conversion shares are now considered readily convertible to cash. Refer to ASC 815-10-55-101 to 55-108 for further guidance.

With respect to the reassessment of any scope exceptions, the most common exception from bifurcation for equity redemption features is pursuant to ASC 815-10-15-74(a), which requires an evaluation of whether the feature is indexed to the issuer's own stock and would be classified in stockholders' equity as follows.

- ▶ Reassessment of the indexation guidance – The conclusion under the indexation guidance generally would not be expected to change unless the contractual terms have changed.

For an embedded equity-linked feature (e.g., redemption feature) that meets the definition of a derivative for the first time (e.g., preferred stock becomes actively traded making it readily convertible to cash), the embedded feature should be assessed at that time for the exception pursuant to ASC 815-10-15-74(a). That assessment would be made under the then-current circumstances to determine if the feature is considered indexed to the issuer's shares.

- ▶ Reassessment of the equity classification guidance – In reassessing the criteria for equity classification related to settlement alternatives, a particular focus should be on the availability of shares to settle the instrument.

This reassessment should be performed at each reporting date for those features that meet the definition of a derivative.

3.4.3.2.2

Subsequent bifurcation

While ASC 815 requires the reassessment of embedded features for potential bifurcation at each reporting date, it does not provide explicit guidance on how to bifurcate an embedded feature after the issuance date. One approach, which is based on the literal application of ASC 815, would be to bifurcate the embedded derivative as of the date it was required to be bifurcated at its then-current fair value from the carrying amount of the host instrument and recognize it as an asset or liability. This accounting is the same as the initial issuance of the instrument. There may be other reasonably supportable methods of bifurcation. Subsequent changes in fair value should be recognized in earnings.

When determining the fair value of the feature to be bifurcated, an option-based feature would use the contractual terms (refer to section 3.2.11.1) and a forward-based feature would use the terms that would have implied a fair value equal to zero at the initial issuance of the instrument (refer to section 3.2.11.2).

3.4.3.3

Embedded features bifurcated from an equity host instrument as a derivative and classified as an asset or liability

Embedded features that were bifurcated from the equity host instrument upon issuance and are classified as an asset or a liability are measured at fair value at each reporting date with changes in fair value recognized in earnings. Refer to the embedded derivatives section in Chapter 3 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further discussion.

Bifurcated derivatives should be reassessed every reporting period to determine if they continue to require bifurcation. That is, they are reassessed to see if they still meet the definition of a derivative and still fail to qualify for any scope exception from derivative accounting. For example, an embedded feature may subsequently qualify for the exception from derivative accounting pursuant to ASC 815-10-15-74(a). This could result from the lapse of noncompliant contractual term, or the authorization of additional shares (if there had been an insufficient number of shares to settle the feature).

An issuer may amend the terms of an agreement to qualify for the exception from derivative accounting. In those cases, the issuer should consider the accounting for the modification of the instrument.

If a bifurcated feature no longer requires bifurcation, it should be reclassified to equity at its then fair value. Gains and losses recognized to account for the feature at fair value during the period of bifurcation should not be reversed.

3.4.3.4 Beneficial conversion features

Conversion features should be reassessed under the beneficial conversion feature guidance at each balance sheet date. An instrument may become convertible only upon the occurrence of a future event outside the control of the holder or may be convertible from inception but contain conversion terms that change (and either become beneficial or more beneficial through the resolution of a contingency). Such contingent BCFs (or contingent adjustments to BCFs) are measured at the commitment date, but are not recognized, until the contingency is resolved.

Convertible instruments within the scope of the beneficial conversion guidance should follow the guidance on amortization of discounts arising from the recognition of a beneficial conversion feature pursuant to ASC 470-20-35-7. Pursuant to that guidance, the discount resulting from the separation of the beneficial conversion feature from the share should be amortized as a deemed dividend.

For stock with no stated redemption date, that guidance requires amortization of a BCF discount over a minimum period from the date of issuance to the earliest conversion date. Stock with no stated redemption date that is convertible at issuance would require full amortization of the discount at issuance.

BCF discounts on convertible instruments with a stated redemption date should be amortized over the period from the date of issuance to the stated redemption date using the effective yield method. While that redemption date would be the maturity date, we also believe the redemption date could be reasonably interpreted to be the first date at which the holder could put the instrument. We generally believe the first conversion date should not be considered unless an instrument has no stated redemption date. We generally believe, based on pre-Codification guidance, that discounts retain their character when evaluating amortization periods. For example, a discount on a preferred stock from the allocation of proceeds to a warrant issued at the same time would be evaluated for amortization separately from a discount created by recognizing a beneficial conversion feature. For SEC registrants, other discounts on perpetual preferred stock that has no stated redemption date but that is required to be redeemed if a future event that is outside the control of the issuer occurs (such as a change in control) is accounted for pursuant to ASC 480-10-S99-3A.

Refer to section D4 in Appendix D for further discussion of the subsequent measurement of beneficial conversion features.

3.4.3.5 Stock that is classified in permanent equity

Stock that is classified in permanent equity is not subsequently remeasured. Equity issuance costs, premiums and discounts recognized for stock classified in permanent equity are generally not accreted or amortized except for discounts arising from the recognition of a beneficial conversion feature. Refer to section 3.4.3.4 for further discussion.

ASC 480-10-S99-3A requires equity instruments to be evaluated on an ongoing basis for temporary equity classification. For example, a company with redeemable preferred securities settleable in the company's own stock that were initially classified in permanent equity may issue convertible debt resulting in the number of shares issuable under all outstanding instruments exceeding the number of authorized but unissued shares available for the preferred securities. As the settlement of the redeemable preferred stock in shares no longer would be within control of the company, temporary equity classification would be required.

ASC 480-10-S99-3A does not provide specific guidance on reclassifications of instruments from permanent into temporary classification. We believe one reasonable approach would be to reclassify the security at its fair value as of the date of the event that caused reclassification. By analogy to the guidance in ASC 815-40-35-9 on reclassifying contracts from permanent equity to assets or liabilities, any difference between the fair value of the security to be recorded in temporary equity and the previous carrying value of the security recorded in permanent equity would be accounted for as an adjustment to shareholder's equity (i.e., APIC). There may be other acceptable methods.

Refer to Appendix E for further guidance on these instruments.

3.4.3.6 Stock that is classified in temporary equity

ASC 480-10-S99-3A provides subsequent measurement guidance for situations where (1) the stock is currently redeemable, (2) the stock is not currently redeemable but probable of becoming redeemable and (3) the stock is not currently redeemable and not probable of becoming redeemable. ASC 480-10-S99-3A also provides guidance on reclassifications of instruments into permanent equity.

Refer to Appendix E for further guidance on those instruments.

3.4.3.7 Stock classified in equity (temporary or permanent) that becomes mandatorily redeemable subsequent to issuance

While an instrument that must be redeemed upon or after the occurrence of an event that is not certain of occurrence is not required to be accounted for as a liability pursuant to ASC 480, once the event becomes certain of occurrence, that instrument should be reclassified to a liability. The term "certain of occurrence" should not be confused with "probable" or even "highly probable." Often, an event will not be certain of occurrence until it actually occurs. The assessment of whether a contingently or optionally redeemable instrument has become mandatorily redeemable pursuant to ASC 480 should be made throughout the life of the instrument.

For example, a common type of contingently redeemable shares is preferred stock the holder can put to the issuer for redemption at any time. This type of preferred stock becomes mandatorily redeemable when the holder notifies the issuer that it is exercising its put option. In some cases, the issuer is allowed a specified time period (e.g., 30 days) to satisfy the put. However, once the holder has notified the issuer of the exercise of the put option, the instrument becomes mandatorily redeemable and should be reclassified to a liability.

Preferred stock that becomes mandatorily redeemable pursuant to ASC 480 should be reclassified to a liability at fair value. For SEC registrants, that reclassification is considered the settlement of the equity instrument in consideration for the issuance of a liability pursuant to ASC 260-10-S99-2. The difference between the fair value and the carrying amount (whether classified as permanent or temporary equity) should be recognized in retained earnings as a deemed dividend. Refer to section 3.5.1.2 for further guidance on the extinguishment of preferred shares.

3.4.4 Capital restructuring

ASC 505-20-20 defines a stock split as follows:

“an issuance by a corporation of its own common shares to its common shareholders without consideration and under conditions indicating that such action is prompted mainly by a desire to increase the number of outstanding shares for the purpose of effecting a reduction in their unit market price and, thereby, of obtaining wider distribution and improved marketability of the shares. Sometimes called a stock split-up”

The accounting for stock splits is primarily governed by ASC 505-20. Unless required under corporate law, no accounting is required for stock splits other than potentially recording the incremental par value of the newly issued shares. To the extent an incremental par value is required to be recorded, the amount should be offset against APIC.

Reverse stock splits are the cancelation of issued and outstanding shares on a pro-rata basis and are generally intended to decrease the number of outstanding shares and thus increase their unit market price. Similar to traditional stock splits, unless required under corporate law, no accounting is required for reverse stock splits other than potentially recording the decrease in par value for the canceled shares. To the extent a decrease in par value is required, the amount should be offset against APIC.

ASC 505-10-S99-4 indicates that for public companies, changes in the capital structure of a reporting entity due to a stock dividend, stock split or reverse split occurring after the date of the latest reported balance sheet but before the release of the financial statements (or the effective date of the registration statement, whichever is later) should be given retroactive effect in the balance sheet. In such cases, appropriate disclosure should be made of the retrospective treatment and the date the change became effective.

3.4.5 Accounting for dividends

Dividends are a distribution of an entity's retained earnings (or return of capital in the case of a liquidating dividend) to its owners. Dividends generally must be declared by the board and sometimes are subject to restrictions under state law based on historical earnings. Preferred shares often include a preference such that dividends are paid to preferred holders before common stockholders.

Dividends on preferred stock instruments are often cumulative, in which case the cumulative amount of any unpaid dividends on the preferred stock must be paid prior to the payment of any common stock dividends. For example, assume that a preferred stock is issued 1 January 20X1, and has a stated cumulative annual dividend of \$5 that is payable on 31 December. If the entity elects not to distribute the dividend at the end of 20X1, the unpaid amount is added to the liquidation preference. Such amounts are usually required to be paid by the earlier of either (1) maturity, redemption, liquidation, or conversion of the preferred stock or (2) the payment of any dividends on common stock. Preferred stock with cumulative dividends typically have a stated, non-participating dividend rate.

Dividend distributions typically involve the following key dates:

- ▶ Date of declaration – The date the board of directors declares the dividend to shareholders and it becomes a liability
- ▶ Date of record – The date the board of directors specifies that shareholders of record on that date are entitled to the dividend payment
- ▶ Date of payment – The date the dividend is actually paid by the entity

Dividends should generally not be recognized as a liability (with an offset to retained earnings) until declared, even if the dividends are cumulative. As most dividends are paid within one year of the declaration date, dividends payable are typically current liabilities. ASC 505-10-50-5 requires entities to disclose either on the face of the statement of financial position or in the notes thereto the aggregate and per-share amounts of arrearages in cumulative preferred dividends.

With respect to EPS, ASC 260-10-45-11 states that income available to common shareholders should be reduced by (1) the dividends declared in the period on preferred stock (whether or not paid) and the dividends accumulated for the period on cumulative preferred stock (whether or not earned). If there is a loss from continuing operations or a net loss, the amount of the loss should be increased by those preferred dividends.

In addition, the Technical Question and Answers section of the AICPA's nonauthoritative Technical Practice Aids (TIS Section 4210.04, *Accrual of Preferred Dividends*) states that if preferred dividends are cumulative only if earned, they should be deducted from income available to common shareholders only to the extent that they are earned. That guidance also states that in all cases, the effect that has been given to preferred dividends in arriving at income available to common stockholders in computing basic EPS should be disclosed for every period for which an income statement is presented. The guidance also emphasizes that cumulative dividends are not accrued until they become a corporate liability when declared.

The following types of dividends are addressed in this chapter:

- ▶ Cash dividends
- ▶ Non-cash dividends
- ▶ Liquidating dividends
- ▶ Stock dividends
- ▶ Dividends on liability-classified stock instruments
- ▶ Dividends on temporary-equity classified stock
- ▶ Fixed-rate dividends
- ▶ Variable-rate dividends
- ▶ Increasing or decreasing-rate dividends
- ▶ Paid-in-kind dividends
- ▶ Participating dividends

3.4.5.1

Cash dividends

A cash dividend becomes a liability once it is declared. Since payment is generally required within a short period of time, the dividend payable is usually classified as a current liability.

In some cases, the issuer or the shareholder has the ability to elect to receive the dividends in cash or shares of equivalent value. The accounting is essentially the same as for cash dividends but there may be EPS implications based on the guidance in ASC 505-20-15-3A.

3.4.5.2 Noncash dividends

Noncash dividends are payable in assets of a corporation other than cash and may include merchandise, real estate, investments or other assets, as designated by the board of directors. Pursuant to ASC 845-10-30-1 through 30-3, noncash dividends should generally be recorded at fair value of the property to be distributed provided fair value is objectively measurable; otherwise, carrying values should be used in recording the dividend. Pursuant to ASC 845-10-30, differences between the fair value and carrying value of noncash assets distributed should be measured and recorded as a gain or loss on the date the noncash dividend is declared.

When a subsidiary pays dividends in noncash assets, a gain or loss should be recognized only to the extent of dividends paid to noncontrolling interests, if any, and any gain or loss recognized should be allocated entirely to noncontrolling interests in the parent's consolidated income statement. Noncash dividends received by a parent or other companies under common control should be recorded at the subsidiary's carrying value pursuant to ASC 845-10-30-10.

3.4.5.3 Liquidating dividends

Liquidating dividends are dividends based on something other than retained earnings, such as paid-in capital. Therefore, they are a return of the stockholders' investment rather than of profits and should not decrease retained earnings. AICPA TIS Section 4210.01, "Dividends" states the following:

"...when liquidating dividends are declared, the charge is made to accounts such as "capital repayment," "capital returned," or "liquidating dividends" which appear on the balance sheet as offsets to paid-in capital..."

3.4.5.4 Stock dividends

ASC 505-20-20 defines a stock dividend as follows:

"an issuance by a corporation of its own common shares to its common shareholders without consideration and under conditions indicating that such action is prompted mainly by a desire to give the recipient shareholders some ostensibly separate evidence of a part of their respective interests in accumulated corporate earnings without distribution of cash or other property that the board of directors deems necessary or desirable to retain in the business"

A stock dividend results in each stockholder having the same proportionate interest in the corporation and same total book value as before the dividend. The purpose of a stock dividend is to capitalize part of the earnings (i.e. reclassify amounts from retained earnings to contributed capital) and therefore retain the earnings on a permanent basis.

When the relative size of the stock dividend is so small that the issuance does not have any apparent effect on the share's market price, ASC 505-20-30 requires the fair value of the stock issued to be transferred from retained earnings. This is commonly referred to as a small or ordinary stock dividend. Although the point at which the relative size of the stock dividend becomes large enough to materially influence the unit market price of the stock will vary with individual companies and market conditions, ASC 505-20-25-4 through 25-6 indicates that stock dividends amounting to less than 20-25% of the common shares outstanding at the time of the dividend declaration are generally considered to be small or ordinary, requiring a transfer from retained earnings to capital surplus (APIC) based on the fair value of the stock issued. However, in closely held entities it is presumed that shareholders have significant knowledge of the corporation's affairs and there is no need to capitalize retained earnings other than to meet legal requirements.

When shareholders may elect to receive cash in lieu of a stock dividend or when stock of another class is distributed, the cash consideration or fair value of the shares issued should be used to determine the amount of capitalized retained earnings.

Pursuant to ASC 505-20-25-4 through 25-6, a stock dividend of more than 20-25% of the number of shares previously outstanding is generally considered a large stock dividend and should be treated similar to a stock split. The SEC staff has stated that distributions of 25% or more should be treated similar to a stock split. Stock splits generally do not result in the capitalization of earned surplus (retained earnings).

Occasionally, subsidiary enterprises capitalize retained earnings arising since acquisition/inception by means of a stock dividend or otherwise. ASC 810-10-45-9 states that this event does not require a transfer to retained earnings in consolidation, inasmuch as the retained earnings in the consolidated financial statements should reflect the accumulated earnings of the consolidated group not distributed to the shareholders of, or capitalized by, the parent entity.

3.4.5.5 Dividends on stock instruments classified as a liability

For stock instruments classified as liabilities pursuant to ASC 480 (refer to sections 3.2.1 and 3.2.2), any dividends are accounted for and presented as interest expense pursuant to that guidance.

3.4.5.6 Dividends on stock classified in temporary equity

Pursuant to the SEC's guidance in ASC 480-10-S99-2, the carrying amount of stock classified in temporary equity should be increased by dividends not currently declared or paid, but that may be payable upon a redemption that is probable. This accounting would apply irrespective of whether the stock may be voluntarily redeemed by the issuer or converted into another class of securities by the holder before the redemption date that is out of the registrant's control. The increase in the carrying amount of the stock would result in a charge against retained earnings or, in the absence of retained earnings, to APIC.

3.4.5.7 Fixed-rate dividends

Fixed-rate dividends are calculated as a fixed percentage of the stock's par amount and generally become payable only when, and if, declared by the board of directors. A liability should be recognized once dividends are declared.

3.4.5.8 Variable-rate dividends

Variable-rate dividends are typically calculated based on an index such as an interest rate index (e.g., LIBOR) or based on a specified formula. Other variable rate dividends are based on the issuer's financial performance. Particular consideration should be given to variable-rate dividends as to whether they represent an embedded derivative requiring bifurcation pursuant to ASC 815 (refer to section 3.2.10.3 for a discussion of indexed dividends). If bifurcation is not required, a liability should be recognized for the variable-rate dividends when they become payable, generally upon declaration by the board of directors.

3.4.5.9 Increasing or decreasing rate preferred stock

ASC 505-10-S99-7 provides the SEC staff's view on preferred stock with increasing rate features that pay little or no dividends in the early years but then increase and usually level off to a fixed dividend rate which is referred to as the "perpetual dividend amount." ASC 505-10-S99-7 indicates that such instruments are typically issued at a discount to compensate the holder for the lower amount of dividends in the early years of the instrument's life, and that this discount represents a prepaid unstated dividend that should be amortized to retained earnings using a discount rate equal to the market rate for comparable preferred stock without consideration of dividends. The discount should be amortized over the period preceding commencement of the perpetual dividend and is calculated as follows:

"the present value of the difference between (1) dividends that will be payable, if any, in the period(s) preceding commencement of the perpetual dividend; and (2) the perpetual dividend amount for a corresponding number of periods: discounted at a market rate for dividend yield on preferred stocks that are comparable (other than with respect to dividend payment schedules) from an investment standpoint"

For example, assume a registrant issues preferred stock that pays dividends of \$2, \$4 and \$6 per share for the first three years, respectively, and pays dividends of \$8 per share every year thereafter. The amount to be discounted for each year is the difference between (1) and (2) above – that is, \$6 (\$8-\$2), \$4 (\$8-\$4), \$2 (\$8-\$6) for Year 1, Year 2 and Year 3, respectively.

The subsequent accounting for the dividends paid for increasing rate preferred stock is consistent with the accounting for dividends paid on preferred stock without the increasing rate feature.

The examples in the SEC staff's guidance result in amortization that, when added to the stated dividend for the period, results in a constant effective rate for the period preceding commencement of the perpetual dividend equaling the perpetual dividend. If an instrument is not consistent with the SEC staff's examples, a reasonable assumption of the expected life for the preferred stock instrument should be developed and the discount accrued over that period.

For example, a dramatic increase in a dividend rate could suggest that the preferred stock is expected to be redeemed at or prior to the dividend step-up date. This is especially true if (1) the preferred shares were issued at par (i.e., with no discount to indicate an investor being made whole for a low initial dividend) and (2) the higher dividend rate is significantly higher (i.e., it was intended as more of a penalty rate if the preferred stock was not redeemed timely).

In limited circumstances, if the issuer can support that the preferred stock was expected to be redeemed and that the significant increase in rate is a penalty that will be avoided by redeeming the preferred share, the SEC staff's model may not be applied. This determination should be made based on the facts and circumstances. However, the assertion of a penalty rate and compulsion to redeem the instrument early would likely invoke the application of the SEC staff's guidance on temporary equity classification for the preferred shares.

3.4.5.10

Paid-in-kind (PIK) dividends

Some preferred shares have dividends that are paid-in-kind (PIK) (i.e., paid in the form of additional shares of preferred stock) or permit the issuer to pay dividends in kind or in cash. If paid in kind, the issuer would issue stock with a liquidation preference amount equal to the dividends payable at the contractual rate. For example, an entity issues preferred stock that pays dividends quarterly at 2% of the liquidation preference (\$1,000,000), when, if and as declared by the board of directors. To the extent dividends are declared, the issuer can pay the \$20,000 quarterly dividends either in cash or by issuing 20 shares of preferred stock (20 times \$1,000 par amount).

When accruing the dividend payable upon declaration, we generally believe the issuer may either (1) record the dividend payable based on the fair value of the instruments issued (the fair value of the \$20,000 par amount of preferred stock in the example) or (2) record the contractual rate (\$20,000 in the example). The approach followed should be consistently applied.

Other PIK dividends may be for a fixed (or predominantly fixed) monetary value, so the number of preferred shares distributed will vary between the declaration date and the payment date based on changes in the fair value of the underlying preferred shares, in which case the declared dividend represents a liability pursuant to ASC 480-10-25-14.

Convertible preferred stock may also have PIK dividends, which should be evaluated to determine if there are beneficial conversion features in the preferred shares issued as dividends and how they would be measured. Refer to the discussion in section D3.3.1 of Appendix D.

3.4.5.11 Participating dividends

Participating stock shares in dividends with common stock according to a predetermined formula (e.g., dollar for dollar, two for one) with, at times, an upper limit on the extent of participation (e.g., up to, but not beyond, a specified amount per share).

Participating preferred shares should be evaluated to determine if they are a participating security pursuant to ASC 260-10-45-59A through 59-70. That guidance requires the use of the two-class method for calculating the preferred stock's impact on EPS. Refer to Chapter 5 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance on participating securities and the two-class method.

3.5 Share repurchase and conversions

Stock may be repurchased (i.e., redeemed if put or called or repurchased directly from the market) or converted (or exchanged). This section includes guidance for repurchases (section 3.5.1) and conversions (section 3.5.2) for stock that is classified in equity. Stock classified as a liability is accounted for as a debt instrument and would follow the appropriate debt guidance. Refer to section 2.5 in Chapter 2 for guidance on redemption and conversions of debt instruments. Stock terms also may be amended prior to redemption, retirement or conversion, and with that amendment, accounted for as either an extinguishment or a modification.

3.5.1 Repurchase of stock

The repurchase of common stock is generally referred to as the acquisition of treasury shares or as a retirement (or constructive retirement). Guidance on the accounting for repurchases of common stock is provided in ASC 505-30.

Repurchase of preferred stock upon the exercise of a call or put option is generally referred to as a redemption. Guidance on the redemption or repurchase of preferred stock for public companies is provided in ASC 260-10-S99-2. Although the scope of ASC 260-10-S99-2 addresses public entities, we generally believe that guidance is preferable for nonpublic entities.

3.5.1.1 Treasury shares

It is not unusual for companies to buy back their own common shares. For example, corporations purchase their outstanding stock:

- ▶ To provide tax efficient distributions of excess cash to shareholders
- ▶ To increase future EPS and return on equity
- ▶ To provide stock for employee stock compensation contracts or to meet potential merger needs
- ▶ To discourage takeover attempts or to reduce the number of stockholders
- ▶ To make a market in the stock

Once shares are reacquired, they may either be retired or held in the treasury for reissue. If not retired, such shares are referred to as treasury shares or treasury stock. The laws in the state of incorporation should be considered as they may require a particular accounting treatment for the reacquired shares.

If an enterprise acquires shares of its own capital stock, the cost of the acquired shares should generally be shown as a deduction from stockholders' equity. Dividends on such shares held in the entity's treasury should not be reflected as income and not shown as a reduction in equity. Gains and losses on sales of treasury stock should be accounted for as adjustments to stockholders' equity and not as part of income. Stock of a corporation held in its own treasury stock should not be presented as an asset. ASC 505-30-30-8 provides two methods of accounting for treasury shares depending on whether the stock is acquired for constructive retirement.

When stock is retired or purchased for constructive retirement, any excess purchase price over par value may be allocated between APIC and retained earnings or may be charged directly to retained earnings. Any excess par value over the purchase price should be credited to capital surplus. When allocating any excess purchase price over par value between capital surplus and retained earnings, the portion of the excess allocated to capital surplus should be limited to the sum of both of the following:

- (a) All capital surplus arising from previous retirements and net gains on sales of treasury stock of the same issue
- (b) The prorata portion of capital surplus paid in, voluntary transfers of retained earnings, capitalization of stock dividends, etc., on the same issue. For this purpose, any remaining capital surplus applicable to issues fully retired (formal or constructive) is deemed to be applicable prorata to shares of common stock

When stock is acquired for purposes other than formal or constructive retirement or when ultimate disposition has not yet been decided, the accounting for constructive retirement may be followed. Another acceptable approach is to present the cost of the acquired stock separately as a deduction from the total of capital stock, capital surplus and retained earnings.

Gains on sales of treasury stock not previously accounted for as constructively retired should be credited to capital surplus; losses may be charged to capital surplus to the extent that previous net gains from sales or retirements of the same class of stock are included therein, otherwise to retained earnings.

Adequate recordkeeping of historical treasury transactions is required to properly apply the above mentioned accounting. Additionally, an acceptable inventory method, such as FIFO or average cost basis, should be used to track treasury transactions and determine the appropriate amount of gain or loss to be recorded upon the sale of treasury stock not previously accounted for as constructively retired.

Several states have enacted corporation laws that generally affect the legal status of dividends, redemptions, stock purchases and partial liquidations. An important feature of those laws provide that purchases of an entity's own stock immediately return the stock to the status of authorized and unissued, regardless of an entity's future intent to reissue the acquired stock. Companies incorporated in states with those laws would not report treasury stock as a separate line item within shareholders' equity in the financial statements.

Refer to section 2.8.1 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for a discussion on the accounting for shares of a company's own stock held in a rabbi trust.

3.5.1.1.2

Common stock purchased above fair value

ASC 505-30-50-3 states that a repurchase of shares at a price significantly in excess of the current market price creates a presumption that the repurchase price includes amounts attributable to items other than the shares repurchased. For example, a selling shareholder may agree to abandon certain acquisition plans, forego other planned transactions, settle litigation, settle employment contracts or voluntarily restrict its purchase of shares of the entity or the entity's affiliates within a stated time period.

The SEC staff indicated that in applying ASC 505-30-30-2 through 30-4 (typically referred to as a “greenmail transaction”), the quoted market price of the common stock generally should be used for purposes of determining the fair value of the treasury shares purchased. The SEC staff generally has objected to the use of valuations that differ from prices existing in public markets.

If the purchase of treasury shares includes the receipt of stated or unstated rights, privileges or agreements in addition to the capital stock, only the amount representing the fair value of the treasury shares at the date the major terms of the agreement to purchase the shares are reached should be accounted for as the cost of the shares acquired. The price paid in excess of the amount accounted for as the cost of treasury shares should be attributed to the other elements of the transaction and accounted for according to their substance (i.e. under other applicable US GAAP). If the fair value of those other elements of the transaction is more clearly evident, for example, because an entity's shares are not publicly traded, that amount should be assigned to those elements and the difference recorded as the cost of treasury shares. If no stated or unstated consideration in addition to the capital stock can be identified, the entire purchase price should be accounted for as the cost of treasury shares.

We generally believe circumstances that may provide a reasonable basis to recognize an amount paid in excess of fair value as the cost of treasury shares would be based on the facts and circumstances, but generally are limited to premiums paid in purchases to obtain:

- (a) The desired number of shares in a tender offer to all or most shareholders
- (b) A block of shares representing a controlling interest (i.e., a control premium)

3.5.1.1.3 *Shares escrowed in connection with an IPO*

In order to facilitate an IPO, underwriters may request that some or all shareholders (some or all of whom may be employees) of a privately held entity place a portion of their shares in an escrow account. The escrowed shares generally are legally outstanding and may continue to have voting and dividend rights. The shares are released from escrow based on the attainment of certain performance measures by the entity in subsequent periods, such as specified earnings or market price levels. If the levels are not achieved the escrowed shares are returned to the entity and canceled, which would require a reclassification of the amount recorded for the par value of the shares to APIC. Escrow share arrangements in an IPO are often tied solely to employee service, rather than performance conditions. Those arrangements may be compensatory, as discussed in section 2.7 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172).

3.5.1.2 *Redemption of preferred stock*

A redemption of preferred stock according to its original terms may be paid using cash, other instruments issued by the issuer or other assets (individually and collectively, the consideration) and may include a premium or discount. ASC 260-10-S99-2 provides the SEC staff's view that a premium paid on redemption represents a return similar to a dividend to the preferred stockholder. Accordingly, the SEC staff requires that the difference between the fair value of the consideration paid upon redemption and the carrying value of the preferred stock be deducted from (if a premium) or added to (if a discount) net income to arrive at income available to common stockholders in the calculation of EPS. Additionally, this guidance requires that unamortized issuance costs be included in the carrying amount of the preferred stock when calculating the premium or discount upon redemption.

If the instrument being redeemed has embedded features that have been bifurcated and accounted for separately as a derivative, judgment is necessary to determine if there is any gain or loss to be recognized in earnings on the settlement. We generally believe one reasonable approach is to include the then-current fair value of the bifurcated derivative in the carrying value of the preferred stock in the calculation described above, as the bifurcated derivative is inherently being redeemed as part of the transaction.

Sometimes a company will make an offer to the preferred shareholders to repurchase or redeem an equity-classified preferred stock instrument (1) prior to the stated call date, (2) at an amount other than that prescribed in the instrument or (3) when there are no redemption features embedded in the instrument. In those instances, the accounting is the same as if the preferred stock were being redeemed according to a contractual feature of the contract.

If a preferred share becomes mandatorily redeemable pursuant to ASC 480, it is reclassified at fair value from equity to a liability. For SEC registrants, the difference between the carrying amount and fair value is treated as a deemed dividend and charged to income available to common stockholders under the SEC staff's belief that a liability instrument has been issued to extinguish an equity instrument.

3.5.1.2.1

Extinguishment of preferred stock with a beneficial conversion feature

If a convertible preferred stock with a beneficial conversion option that was separately accounted for in equity is extinguished prior to its conversion or stated maturity date, the EITF reached a tentative conclusion that a portion of the reacquisition price is allocated to the repurchase of the beneficial conversion option. The amount of the reacquisition price allocated to the beneficial conversion option should be measured using the intrinsic value of that conversion option at the extinguishment date. The residual amount, if any, is allocated to the preferred stock.

The excess of (1) the fair value of the consideration transferred to the holders of the preferred stock over the sum of (2) the carrying amount of the preferred stock plus and (3) the amount previously recognized for the beneficial conversion option should be subtracted from net income to arrive at net income available to common shareholders in the calculation of EPS. Refer to section D5.2.2 in Appendix D for further guidance.

3.5.1.3

Repurchase of redeemable shares issued by a wholly owned subsidiary

Accounting for certain transactions for preferred shares issued by wholly owned subsidiaries in consolidation is specified in ASC 810-10-40-1 through 40-2A.

Consistent with the accounting for purchases of additional ownership interests of a subsidiary pursuant to ASC 810-10-45-21A through 45-24, if a subsidiary's redeemable preferred stock is not accounted for as a liability, the parent's acquisition of a subsidiary's redeemable preferred stock (i.e., purchase the subsidiary's preferred stock from a current third-party preferred shareholder) is accounted for as a capital stock transaction pursuant to ASC 810-10-40-2. Accordingly, the consolidated entity would not recognize in its income statement any gain or loss from the acquisition of the subsidiary's preferred stock.

If redeemable preferred stock is accounted for as a liability, any amounts paid or to be paid to holders of those contracts in excess of the initial measurement amount are reflected as interest cost and not as noncontrolling interest charge. ASC 860 specifies whether a liability has been extinguished and ASC 470-50 requires that the parent recognize a gain or loss upon extinguishment of the subsidiary's liability for redeemable preferred shares for any difference between the carrying amount and the redemption amount.

3.5.1.4

Purchases of parent's stock by a subsidiary

Accounting for shares of a parent entity purchased by a subsidiary in the consolidated financial statements is addressed in ASC 810-10-45-5. That paragraph states that shares of the parent held by a subsidiary should not be reflected as outstanding shares in the consolidated financial statements of the parent. Such outstanding shares should be reflected as treasury shares in the consolidated financial statements.

3.5.2

Conversion of convertible stock instruments

The accounting for conversions of convertible stock instruments classified in equity depends on the nature of the conversion feature and whether the conversion is executed pursuant to the original conversion terms.

3.5.2.1 **Conversion pursuant to the original terms without a beneficial conversion feature**

The conversion of equity-classified stock generally does not result in a deemed dividend or a gain/loss upon conversion if the conversion is pursuant to the original terms of the agreement. Upon conversion, the issuer derecognizes the stock based on their current carrying values (including any discount or premium), and allocates that amount to common stock (including both par value and APIC, as appropriate).

3.5.2.2 **Conversion pursuant to the original terms with a beneficial conversion features**

Upon conversion of an instrument with a beneficial conversion option, all unamortized discounts, including any original issue discounts and discounts from allocation of proceeds, at the conversion date should be recognized immediately as a deemed dividend and deducted from income available to common stockholders. The accounting for the conversion then follows the guidance in section 3.5.2.1. Refer to section D5.1 in Appendix D for further guidance.

3.5.2.3 **Induced conversions of convertible stock**

ASC 260-10-S99 provides the SEC staff's view on the accounting for induced conversions of convertible preferred stock and states that issuers should consider the guidance in ASC 470-20-40-13 through 40-17 to determine whether a conversion of preferred stock is pursuant to an inducement offer.

ASC 470-20-40-13 through 40-17 addresses the accounting for induced conversions of convertible debt (other than cash convertible debt instruments) that (1) occur pursuant to changed conversion privileges that are exercisable only for a limited period of time, (2) include the issuance of all of the equity securities issuable pursuant to conversion privileges included in the terms of the debt at issuance for each debt instrument that is converted and (3) involve any of the following:

- ▶ Reduction of the original conversion price (thereby resulting in the issuance of additional shares of stock)
- ▶ Issuance of warrants or other securities not provided for in the original conversion terms
- ▶ Payment of cash or other consideration (sometimes called a convertible stock sweetener) to those shareholders who convert during the specified time period. The additional consideration is usually offered to induce prompt conversion of the stock to another class of equity.

As the form is important to the application of this guidance, all equity shares issuable under the initial terms – meaning all or more – must be issued.

ASC 470-20-40-14 further explains that an induced conversion includes an exchange of a convertible debt instrument for equity securities or a combination of equity securities and other consideration, whether or not the exchange involves legal exercise of the contractual conversion privileges included in the terms of the debt.

The induced conversion guidance in ASC 470 applies regardless of the party that initiates the offer or whether the offer relates to all debt holders, as discussed at ASC 470-20-40-13(b). For example, even if a stockholder makes the offer to the issuer and only that holder's stock receives the right to convert at the sweetened conversion price, the accounting requirements of the induced conversion guidance in ASC 470-20 apply.

If a conversion of preferred stock is an inducement offer pursuant to ASC 470, the fair value of the additional securities or other consideration issued to induce conversion should be subtracted from net income to arrive at income available to common stockholders in the calculation of EPS pursuant to ASC 260-10-S99-2. Refer to ASC 470-20-55-2 through 55-9 for illustrative examples of the application of this induced conversion guidance.

3.6 Modifications or exchanges of stock instruments

Significant modifications or exchanges of common stock instruments are infrequent. As the accounting for such transactions is not directly addressed in the accounting literature, the accounting considerations are heavily based on the individual facts and circumstances.

The accounting literature does, however, specifically addresses the extinguishment of equity-classified preferred shares, but does not address determining whether an amendment to an equity-classified preferred share is an extinguishment or a modification. Nor does it address the subsequent accounting for modifications. Common amendments include changes to, additions of, or deletions of redemption features, conversion rights, preference or seniority, voting, or dividend rights. These changes may be executed through an exchange of preferred shares or by amending terms of existing preferred shares.

3.6.1 Modifications or exchanges of common stock instruments

In most instances common stock is modified or exchanged in connection with a capital restructuring, whereby by all common shareholders are receiving or giving up specified rights. Although all facts and circumstances should be considered, often no accounting is required, except where value is transferred from the common holders to the preferred holders, and that value represents a dividend to the preferred holders.

In instances where only a subset of common stock is being modified or exchanged, consideration should be given as to whether that class of common stock is required to follow the two-class method of calculating EPS. Refer to section 5 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance on the two-class method.

3.6.2 Modifications or exchanges of preferred stock instruments

Equity-classified preferred shares include those classified within equity and those within the “mezzanine” (i.e., both “permanent equity” and “temporary equity”). For SEC registrants, the accounting for the extinguishment of equity-classified preferred stock is addressed by SEC staff guidance at ASC 260-10-S99-2. Under that guidance, when equity-classified preferred shares are extinguished, the difference between (1) the fair value of the consideration transferred to the holders of the preferred shares (i.e., the cash or the fair value of new instruments issued) and (2) the carrying amount of the preferred shares (net of issuance costs) are subtracted from (or added to) net income to arrive at income available to common stockholders in the calculation of EPS. In addition to the effect on EPS, extinguishment accounting will result in adjustments within equity but will not result in recognition of any amounts in net income. The accounting guidance in ASC 260 does not, however, define an extinguishment, particularly in the context of whether amendments to an existing equity-classified preferred share constitute an extinguishment.

3.6.2.1 Determining whether an amendment of an equity-classified preferred share is an extinguishment or modification

ASC 470-50 addresses whether a debt instrument has been significantly modified such that extinguishment accounting is required. If extinguishment accounting is required for debt, the “old debt” is removed from the balance sheet, the “new” debt is recognized at its current fair value and the difference is recorded as a gain or loss on extinguishment. ASC 470-50 also applies to preferred shares that are classified as liabilities. However, comparable guidance for evaluating amendments to equity-classified preferred shares does not exist. The accounting literature does not address how to evaluate whether an amendment to an equity-classified preferred share should be accounted for as an extinguishment (with a corresponding effect on EPS and equity). Therefore, there may be certain reasonable accounting policies to apply in making this evaluation. The SEC staff updated the guidance in ASC 260-10-S99-2 in September 2009 through technical corrections in ASU 2009-08 and added a

scope paragraph explicitly stating that a modification of preferred shares accounted for as an extinguishment is within its scope. We believe that implicitly acknowledged that there may be some modifications of preferred shares that do not require extinguishment accounting.

The following are examples of accounting policies that may be considered:

- ▶ Simplified policy – Any amendment of an equity-classified preferred share is an extinguishment with the exception of ministerial (e.g., name of holder following a merger) changes.
- ▶ Policy based on an evaluation of the changes in projected cash flows – For equity-classified preferred shares that have well-defined periodic contractual cash flows (especially those determined to have a debt-like host instrument), an amendment that results in a greater than 10 percent change in cash flows based on an analysis similar to ASC 470-50 is an extinguishment. An amendment that does not meet this criterion is a modification.
- ▶ Policy based on change in fair value – If the fair value of the equity-classified preferred share immediately after the amendment is significantly different (e.g., by more than 10 percent) than the fair value of the instrument immediately before the amendment, the amendment is considered an extinguishment. An amendment that does not meet this criterion is a modification.
- ▶ Policy based on qualitative considerations – An amendment that adds, deletes or significantly changes a substantive contractual term (e.g., one that is at least reasonably possible of being exercised), or fundamentally changes the nature of the preferred shares is considered an extinguishment. That evaluation could include the consideration of both the expected economics as well as the business purpose for the amendment. An amendment that does not meet these criteria is a modification.

Other observations related to amendments to preferred shares include:

- ▶ Changes to the classification of the preferred shares between temporary (“mezzanine”) or permanent equity under the guidance in ASC 480-10-S99-3A may be considered an extinguishment under certain accounting policies whereas the accounting guidance specifically notes that an amendment resulting in reclassification of an equity instrument (permanent or temporary) to a liability is an extinguishment.
- ▶ A small incremental amendment to an equity-classified preferred share may not be an extinguishment (e.g., an amendment to preclude the issuance of senior equity without permission of preferred stock holders), yet cumulatively a series of small incremental amendments could result in an instrument that is very different than the original. Therefore, the issuer may need to consider the cumulative effect of any amendments over time. This would be similar to the guidance in ASC 470-50-40-12(f) which requires consideration of changes made within one year.
- ▶ In assessing whether an extinguishment has occurred, we would not consider differences between the current fair value of equity-classified preferred shares and their current carrying amount.

If equity-classified preferred shares are amended and the amendment is viewed as an “extinguishment” based on the company’s accounting policy and related analysis, the derecognition accounting model in ASC 260-10-S99-2 discussed above applies.

3.6.2.2 **Accounting for modifications of equity-classified preferred shares that are not extinguishments**

When an equity-classified preferred share has been modified and extinguishment accounting is not considered appropriate, the issuer must evaluate the proper accounting for the modification. An issuer's policy for recognizing the effects of a modification should apply an appropriate methodology based on a careful consideration of the specific facts and circumstances.

There are two accounting models that may be useful when determining the accounting for modifications of an equity-classified preferred share and the corresponding EPS and equity effects, although the models focus on the income statement effects of a modification.

- ▶ The model for modified debt instruments that are not considered extinguished is discussed in ASC 470-50. It generally provides for prospective treatment of the modification of the contractual cash flows by establishing a new effective interest rate to equate the future contractual cash flows to the carrying amount of the debt. The debt model also specifies the accounting for a modification which increases the value of an embedded conversion feature.
- ▶ The model for a modified share-based payment award that is classified as equity and remains classified in equity after the modification is addressed in ASC 718-20-35. Under that model, the incremental fair value from the modification (the difference in the fair value of the instrument the moment before and the moment after the modification) is recognized as an expense in the income statement to the extent the modified instrument has a higher fair value. Modifications that result in a decrease in the fair value of an equity-classified share-based payment award are not recognized.

The modified debt model in ASC 470-50 may be more appropriate when an issuer uses a discounted cash flow analysis when concluding that an amendment is a modification and not an extinguishment. That model results in accounting for the change in the equity-classified preferred share generally on a prospective basis (e.g., changing the amortization period and accretion or the dividend rate on a prospective basis). Accretion and dividends on equity-classified preferred shares are deducted from net income to arrive at net income available to common shareholders when calculating EPS.

For other modifications, the share-based payment model may be more appropriate, especially when there is a transfer of value from the common shareholders to the preferred shareholders. This may be the case in a "refinancing" with existing investors, or when preferred shareholders are demanding some form of compensation or fee for their consent to a company action. Under this model the value transferred from the common to preferred shareholders is reflected as a deemed dividend reconciling net income to net income available for common shareholders. If the carrying amount of the preferred share was also adjusted by the deemed dividend, rather than simply reflecting it as a reconciling item between net income and net income available for common shareholders (e.g., as is done with cumulative dividends that are not declared during a period), then the issuer would need to appropriately consider the change in the preferred share's carrying value on the subsequent measurement of the preferred share, for example under ASC 480-10-S99-3A. As noted previously, when analogizing to the share-based payment model, modifications that result in a decrease in the fair value of an equity-classified preferred share would not be recognized.

3.6.2.3 **Liability-classified preferred stock terms are modified**

For preferred stock instruments classified as liabilities under ASC 480 (see sections 3.2.1 and 3.2.2), the issuer should follow the accounting models for the modification or extinguishment of debt. Refer to section 2.6 Chapter 2 for further details and discussion.

3.7 Financial presentation and disclosure

ASC 505-10-50 outlines the general disclosures required for capital stock, which require that an entity explain the pertinent rights and privileges of the various securities outstanding, including the following:

- ▶ Dividend and liquidation preferences
- ▶ Participations rights
- ▶ Call prices and dates
- ▶ Conversion or exercise prices or rates and pertinent dates
- ▶ Sinking-fund requirements
- ▶ Unusual voting rights
- ▶ Significant terms of agreements to issue additional shares

For equity-classified stock, ASC 505-10-50 requires presentation on the face of the balance sheet (or disclosure in the notes if more than one issue is outstanding) of the following:

- ▶ Title of each issue
- ▶ Dollar amount of each issue
- ▶ Dollar amount of any shares subscribed but unissued
- ▶ Deduction of subscriptions receivable
- ▶ Number of shares authorized
- ▶ Number of shares issued or outstanding
- ▶ Changes in each class of preferred shares for each income statement period presented

ASC 505-10-50 also provides that companies that issue preferred stock (or other senior stock) that have a preference in involuntary liquidation considerably in excess of the par or stated value of the shares are required to disclose the liquidation preference of the stock in the equity section of the statement of financial position in the aggregate, either parenthetically or “in short,” rather than on a per-share basis or through disclosure in the notes. In addition, companies are required to disclose within its financial statements, either on the face of the statement of financial position or in the notes thereto, the aggregate or per-share amounts at which preferred stock may be called or is subject to redemption through sinking-fund operations or otherwise, and the aggregate and per-share amounts of cumulative preferred dividends in arrears.

Stock may qualify as a liability (debt) in which case disclosure requirements applicable to debt instruments would apply to the stock. In addition to those general requirements, various pieces of authoritative literature provide disclosure requirements that may be applicable to stock transactions, based on the facts and circumstances.

4 Equity contracts

4.1 Overview and general description of equity contracts

An entity may issue a freestanding financial instrument (other than an outstanding equity share) whose value fluctuates with changes in an underlying based on the fair value of the company's own equity shares. Those underlying equity shares can include all forms of ownership interests, such as common and preferred shares, as well as partnership interests, and equity shares of a member of a consolidated group. This chapter refers to those freestanding financial instruments as equity contracts. Some equity contracts may also meet the definition of a derivative pursuant to ASC 815, *Derivatives and Hedging*, and not receive an exception from derivative accounting. Those equity contracts are referred to as "equity derivatives" in this chapter.

Equity contracts are classified as either liabilities (or assets in some cases) or in equity. Contracts that do not involve the issuer's equity shares are subject to other guidance (e.g., ASC 815) and are outside the scope of this chapter.

Upon exercise, an equity contract may be settled in net shares or net cash or require physical settlement. The settlement method may significantly influence the classification of the equity contract. Those settlement methods are generally described as follows:

- ▶ Physical settlement – The party designated in the contract as the buyer delivers the full stated amount of cash to the seller, and the seller delivers the full stated number of shares to the buyer.
- ▶ Net share settlement – The party with a loss delivers to the party with a gain shares with a current fair value equal to the gain.
- ▶ Net cash settlement – The party with a loss delivers to the party with a gain a cash payment equal to the gain, and no shares are exchanged.

The most basic types of equity contracts are options and forwards. More complex equity contracts can be created from these basic contracts (e.g., by combining features or instruments)

4.1.1 Common types of equity contracts

There are many varieties of equity contracts. Basic equity options and basic forward contracts are described first, followed by a description of more complex structures that are constructed from the basic contracts.

4.1.1.1 Equity option

An option is a contract between two parties that gives one party (the buyer, holder or purchaser of the option) the right, but not the obligation, to buy or sell an equity security at a reference price, while the other party (the seller or writer of the option) has the obligation to fulfill the transaction if requested by the buyer.

The most basic types of equity options are call and put options.

- ▶ Call options give the holder the right to buy the underlying equity securities on a certain date (or during a certain period of time) at a fixed or determinable price.
- ▶ Put options give the holder the right to sell the underlying equity securities on a certain date (or during a certain period of time) at a fixed or determinable price.

Options are also referred to as purchased options from the perspective of the option holder and written options from the perspective of the option seller. A single option contract is a purchased option to one party and a written option to the other party. For example, a purchased put option that entitles the holder to sell shares to the option seller is a written put option from the perspective of the option seller.

Equity options generally are characterized with the following terms:

- ▶ **Strike price or exercise price** – The price (e.g., fixed or formula-determined) at which the option buyer can buy (call) or sell (put) the underlying equity security
- ▶ **Exercise date** – The date on which an option holder exercises the right to buy or sell the underlying equity security
- ▶ **Expiration date** – The date after which an option is no longer valid and can no longer be exercised
- ▶ **Notional** – The number of underlying equity securities to be purchased or sold, which can be fixed or variable
- ▶ **Premium** – The cost that an option buyer pays to acquire the option. Generally, the premium at inception of an option contains only the time value of the option but can also include intrinsic value
- ▶ **In-the-money option** – A call option where the strike price is less than the then-current fair value of the underlying equity security or a put option in which the then-current equity security fair value is lower than the strike price (e.g., If the strike price of a call option is \$10 and the current fair value of the share is \$13, that call option is \$3 in the money; or if the strike price of a put option is \$15 and the current fair value of the share is \$11, that put option is \$4 in the money)
- ▶ **At-the-money option** – An option where the contractual strike price equals the then-current fair value of the underlying equity security
- ▶ **Out-of-the-money option** – A call option where the strike price is greater than the then-current fair value of the underlying equity security or a put option where the strike price is less than the then-current equity security's fair value
- ▶ **Intrinsic value** – The in-the-money portion of the option's current fair value (For call options, the intrinsic value is the excess of the underlying equity security's fair value over the strike price; for put options, it is the excess of the strike price over the underlying equity security's fair value.)
- ▶ **Time value** – The difference between the option's fair value and its intrinsic value (The time value generally represents the value of the instrument attributed to the volatility of the underlying share (i.e., the chance an option could go in the money or further in the money) and the length of time to exercise.)
- ▶ **American option** – An option that can be exercised at any time up to the expiration date
- ▶ **European option** – An option that can be exercised only on the expiration date itself
- ▶ **Bermuda option** – An option that can be exercised only on predetermined dates

Warrants are call options written by the issuer that permit the holder to purchase the issuer's equity shares at a specified price on a certain date or during a certain period of time. Similarly, rights offerings are also written call options by the issuer to provide investors the right to receive additional shares of the issuer.

In some cases, the exercise price of a warrant is set at a penny (often referred to as a penny warrant). While the payoff of a penny warrant is essentially the same as actually holding the underlying shares, it is viewed as an equity contract because the warrant contains all of the characteristics of an equity option as described above and usually lacks the other legal characteristics of a share (such as the ability to vote).

4.1.1.2 **Equity forward**

An equity forward is a contract between two parties under which one party must deliver (sell), at a future date (maturity or settlement date), an equity security in exchange for an agreed-upon price that the other party must pay. Unlike an option, both parties to a forward contract are required to perform in accordance with the agreed-upon terms. A contingent forward requires the parties to perform upon the occurrence of an event that is not certain to occur.

An equity forward differs from a spot purchase, in which the purchase or delivery of the equity security occurs on the transaction date at the current market price. Some forward contracts may have the forward price paid at inception and the shares delivered at a future date (prepaid forward).

The basic equity forwards on an issuer's own equity securities are:

- ▶ Forward purchase – A contract requiring the issuer to buy its own shares from the seller at a pre-determined price at a future date.
- ▶ Forward sale – A contract requiring the issuer to sell its own shares to the buyer at a pre-determined price at a future date.

Equity forwards generally are characterized with the following terms:

- ▶ Forward buyer – The party that agrees to buy the underlying equity security (also referred to as a long position).
- ▶ Forward seller – The party that agrees to sell the underlying equity security (also referred to as a short position).
- ▶ Notional – The number of underlying equity securities to be delivered, which can be fixed or variable.
- ▶ Forward price – The price (e.g., fixed or formula-determined) the buyer will pay upon maturity or settlement date to acquire the underlying equity security. Sometimes also referred to as the contract price.

The agreed-upon forward price is usually set at market, such that the fair value of the contract is zero at inception. The payoff of a forward at maturity depends on the relationship between the forward price and the underlying share price at that time. The contract results in a gain to one party and a loss to the other party as the underlying share price fluctuates.

4.1.1.3 **Variable share forward**

A variable share forward is a forward contract that has a fixed forward price but the number of shares underlying the forward (i.e., the number of shares to be delivered in a physical settlement) varies. The number of shares is determined by dividing the contract price by some measure of share price (e.g. share price at period end, an average share price for some period, etc.). For example, if the forward price is \$100,000 and the average share price is \$10, the number of shares that the issuer repurchases would be 10,000; if the average share price is \$15, the number of shares would be 6,667.

A range forward is a common variation of the basic variable share forward. The number of shares underlying a range forward varies based on the then-current fair value of the shares relative to preset price levels. If the share price is above an upper threshold, the seller delivers a fixed number of shares

equal to the contract price divided by that upper threshold. If the share price is below a lower threshold, the seller delivers a fixed number of shares equal to the contract price divided by that lower threshold. If the share price is between the two thresholds, the seller delivers a variable number of shares equal to the contract price divided by the then current share price.

4.1.1.4 Prepaid forward purchase

A prepaid forward purchase contract requires the issuer (the forward purchaser) to prepay the counterparty a fixed amount upfront in exchange for the delivery of shares at a future date (the maturity date). That number of shares to be received can be either fixed or variable, such as the variable share forwards discussed in section 4.1.1.3.

4.1.1.5 Accelerated share repurchase

An accelerated share repurchase (ASR) is an arrangement executed by a company with an investment bank to repurchase shares that generally results in an immediate effect to EPS but settles the economics of the share repurchase at a future date based on the subsequent stock price.

In a traditional ASR, the issuer makes an upfront payment and receives a specific number of shares from the bank in a contract typically documented as a forward purchase contract. Upon maturity (typically three to six months later), the ASR is settled based on the volume weighted average price (VWAP) of the issuer's shares during the contract period. Through this settlement, changes in the stock price subsequent to the initial share purchase serve to increase or decrease the overall cost of the share repurchase by the issuer under the ASR.

There are many different ASR structures. The accounting depends on the specific terms of the arrangement. Refer to section 5.9 in Chapter 5 for a detailed discussion of certain ASR transactions.

4.1.1.6 Equity collar

An equity collar is a combination of a purchased option and a written option on the issuer's own shares. It can be structured to consist of a purchased put option with a strike price at or below the current share price (lower strike) and a written call option with a strike price above the current market price (higher strike). The put option provides the issuer with the right to sell its own stock while the call option permits the counterparty to buy the issuer's stock at a specific price on or before a specific date. An equity collar may also be a combination of a lower strike written put option and higher strike purchased call option. When the premium received from sale of the written option completely offsets premium paid for the purchased option within the collar, the arrangement is referred to as a zero cost collar.

The accounting for an equity collar depends on whether it is issued as a single instrument with two features or as separate financial instruments. Refer to section 4.2.1.1 for a discussion on analyzing an instrument with more than one component.

Frequently, issuers use a collar strategy to limit their exposure to changes in the share price that arises from other outstanding equity contracts on their stock. For instance, a traditional ASR exposes the issuer to a potentially unlimited payment if the stock price rises during the forward period. To mitigate the potential payment, the issuer may incorporate a collar arrangement (which consists of a high strike purchased call option and a low strike written put option) in the ASR to limit the range of the settlement price.

Refer to section 5.9.3 in Chapter 5 for further discussion of collared ASR structures.

4.1.1.7 **Call spread transaction**

One form of equity collar is a call spread. A call spread is a combination of a purchased call option at a specific strike price (referred to as the low strike call option) and a written call option at a higher strike price (referred to as the high strike call option). For example, a call spread permits the issuer to buy shares from the counterparty if the price is above \$10 (a purchased call option) and permits the counterparty to purchase shares from the issuer if the strike price is above \$14 (a written call option). The transaction can be documented as either a single combined option contract (a capped call option) or as two separate option contracts.

Call spreads are often entered into in conjunction with convertible debt issuances. In those transactions, the purchased call option (referred to in those cases as the “bond hedge”) usually has a strike price equal to the conversion price of the convertible debt and economically offsets the payoff of the conversion option. The written call option partially finances the purchased call option. The combined economics of the convertible debt and the call spread is a synthetic increase of the strike price of the convertible debt.

Refer to section 5.16 in Chapter 5 for further discussion of convertible debt with a call spread structure.

4.1.1.8 **Prepaid written put option**

A prepaid written put option is a written put option on the issuer’s own shares in which the issuer has prepaid the strike price of the option at inception of the transaction. Some refer to this instrument by its original commercial product name of a “dragon” (due to the shape of the payoff diagram) or CAESAR (cash enhanced share repurchase).

In a typical prepaid written put transaction, often executed in a form of a European option, the issuer (the option writer) makes an upfront payment to the counterparty (the option purchaser) in an amount equal the strike price of the put option (normally the spot price at inception) less the option premium the issuer is entitled to receive from the option purchaser for providing the put option.

At maturity, the written put option will be settled in one of two ways:

- ▶ If the stock price on the settlement date is below the strike price, the counterparty will deliver to the issuer the specified number of shares underlying the option. No cash is paid by the issuer as the strike was prepaid at inception.
- ▶ If the stock price on the settlement date is above the strike price, the issuer will receive from the counterparty a payment equal to the option strike price (i.e., a return of the prepaid strike price). The payment may also be in a form of variable number of the issuer’s shares equal to the amount due, at the issuer’s choice.

Companies often use a prepaid written put option to lower the overall cost of their share repurchase programs. Refer to section 5.17 in Chapter 5 for further discussion on prepaid written put options.

4.1.1.9 Puttable warrant

A puttable warrant (sometimes called a put warrant) is a warrant with an embedded put option. The warrant will have terms that either permit the holder to require the issuer to pay cash to (1) repurchase the warrant itself or (2) purchase the shares obtained upon the holder's exercise of the warrant (i.e., put the shares) at a specified date for a fixed monetary amount.

A puttable warrant can be distinguished from a warrant where the underlying shares have a term that makes them redeemable. However, the accounting for a warrant for redeemable shares is similar to the accounting for a puttable warrant. Refer to section 5.7 in Chapter 5 for additional discussion of warrants for redeemable shares.

4.1.1.10 Tranched preferred share financing

A tranched preferred share issuance, also referred to as a delayed issuance of preferred shares or a contingent issuance of preferred shares, consists of an initial issuance of preferred shares and a later or second tranche or delayed issuance. This later tranche (or in some cases tranches), while contractually agreed to at the initial closing date, results in preferred shares being issued at a specific future date or on the occurrence of a future event or milestone. The future issuance may be automatic, optional in the control of the issuer, optional in the control of the investor or entirely contingent on external factors.

Tranched preferred share transactions are commonly used by emerging biotech and technology entities to fund research and development and general operations. The later tranche(s) are often timed to coincide with a future expected need for capital to continue the entity's product development. Refer to section 5.8 in Chapter 5 for further discussion.

4.1.1.11 Contracts settled in the stock of a consolidated subsidiary

A parent company may enter into freestanding equity contracts that are indexed to, and potentially settled in, the stock of a consolidated subsidiary. Those equity contracts can take the form of options or forwards. Refer to section 5.10 in Chapter 5 for a discussion of equity contracts on noncontrolling interests.

4.1.1.12 Share lending arrangement

An entity may enter into a share lending arrangement that is executed separately from, but in contemplation of, a convertible debt offering (or some other convertible financing transaction). Although the convertible debt instrument is ultimately sold to investors, the share lending arrangement is an agreement between the convertible debt issuer (share lender) and the investment bank (share borrower) and is intended to increase the availability of the issuer's shares in order to facilitate the ability of the investors to hedge the conversion option in the issuer's convertible debt. Companies often execute share lending arrangements to facilitate a convertible instrument offering or increase the attractiveness of an offering. Refer to section 5.5 in Chapter 5 for further discussion.

4.1.1.13

Unit structures

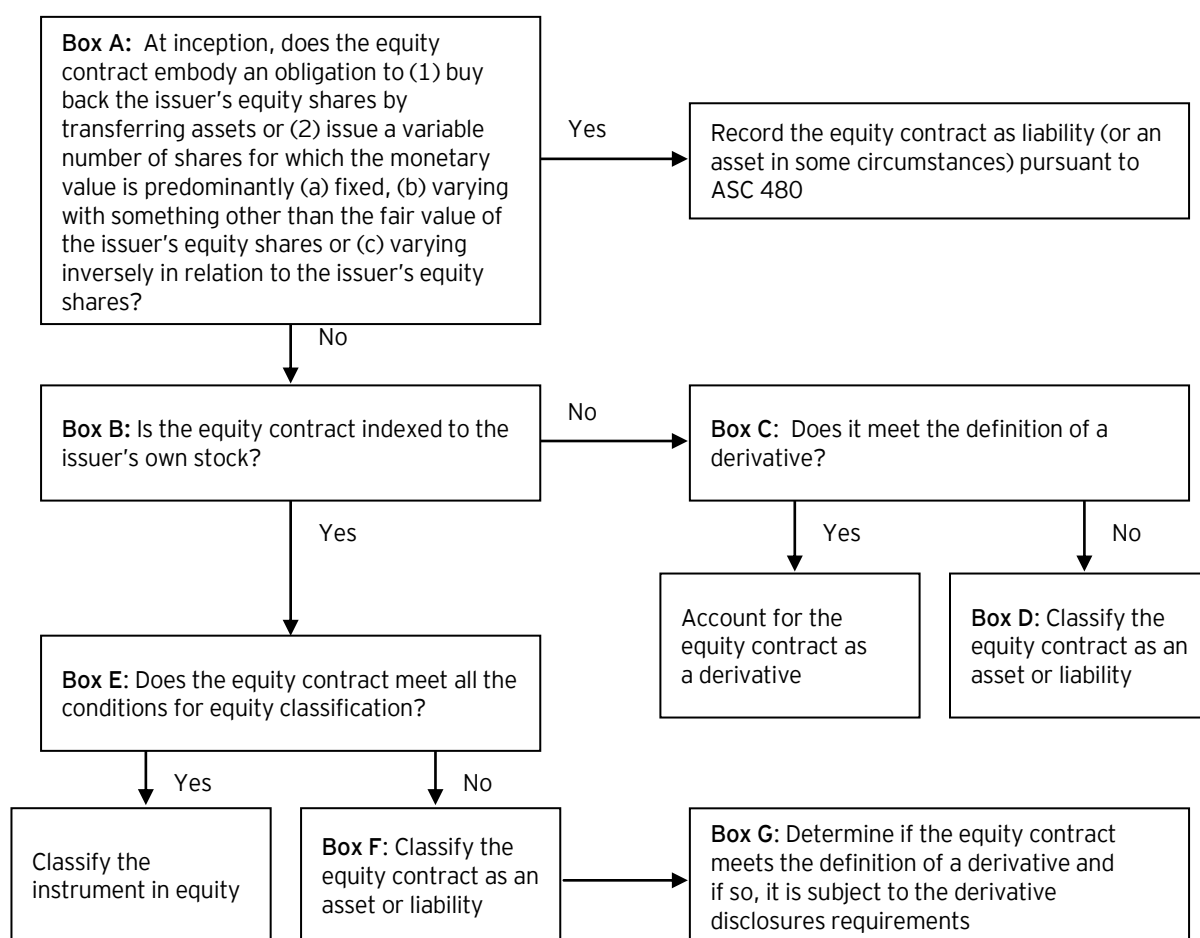
Unit structures are a combination of (1) a debt or trust preferred security and (2) a warrant or a forward contract to purchase the issuer's common stock. The debt (or sometimes preferred stock) and equity contracts in a typical unit generally are deemed to be separate instruments as the holder may transfer or settle the equity contract separately from the debt instrument. The debt and equity contracts are detachable and, therefore, analyzed and accounted for separately. Refer to section 5.2 in Chapter 5 for further discussion.

4.2

Issuer's initial accounting for equity contracts (including flowchart)

This section describes the steps generally necessary to determine the accounting for equity contracts at issuance.

The following flowchart summarizes the analysis at a conceptual level and should be used in conjunction with the related guidance that begins after the flowchart.



4.2.1

Box A – Equity contracts within the scope of ASC 480

ASC 480 applies only to freestanding financial instruments that embody an obligation of the issuer. The guidance defines a freestanding financial instrument as a financial instrument that is entered into (1) separately and apart from any of the entity's other financial instruments or equity transactions or (2) in conjunction with some other transaction and is legally detachable and separately exercisable. Refer to section A3.2.2 in Appendix A for further discussion on determining whether an instrument is freestanding.

The term “obligation” refers to either a conditional or unconditional obligation on the part of the issuer to transfer assets or issue equity shares. Equity contracts that do not embody any obligation to the issuer are not liabilities pursuant to ASC 480.

For example, options purchased by the issuer do not embody obligations of the issuer because they permit, but do not require, the issuer to buy or sell shares (whether on a gross or net basis). Therefore, purchased options are not subject to ASC 480. On the other hand, contracts that require or could require the issuer to purchase or issue its shares (e.g., forward purchase contracts, written put options, written call options on redeemable shares) are obligations and thus, could be subject to ASC 480.

A prepaid forward purchase contract whereby the issuer prepays the forward price at inception (refer to section 4.1.1.4) is not an obligation if the issuer prepays the forward price at inception and has no further obligation to either transfer an asset or issue equity shares to the counterparty. Accordingly, such a prepaid forward is not a liability pursuant to ASC 480.

In addition to mandatorily redeemable shares, ASC 480 generally requires liability classification for the following broad classes of freestanding equity contracts:

- ▶ Instruments (other than an outstanding equity share) that, at inception, embody, or are indexed to, an obligation to buy back the issuer’s equity shares that requires or could require transfer of assets, (ASC 480-10-25-4 through 25-13). Examples are:
 - ▶ Forward contracts that require the issuer to purchase its own shares
 - ▶ Written options that permit the counterparty to require the issuer to buy back its own shares.

Equity contracts in this category are not classified in equity because they usually represent an obligation in that the issuer knows it will, or can be forced to, settle an obligation or distribute assets, which is more akin to a liability.

- ▶ Instruments (other than an outstanding share) that embody an obligation, that the issuer must or may settle by issuing a variable number of its equity shares if, at inception, the monetary value of the obligation is based solely or predominantly on any one of the following conditions (ASC 480-10-25-14):
 - ▶ Has a fixed value known at inception (e.g., an obligation to deliver shares with a fair value at settlement equal to \$1,000) (ASC 480-10-25-14(a))
 - ▶ Derives its value from an underlying other than the issuer’s equity shares (e.g., an obligation to deliver shares with a fair value at settlement equal to the value of one ounce of gold) (ASC 480-10-25-14(b))
 - ▶ Has a value to the counterparty that moves in the opposite direction to changes in fair value of the issuer’s shares (e.g., net share settled written put options) (ASC 480-10-25-14(c))

ASC 480 defines “monetary value” as the fair value of the cash, shares or other instruments that a financial instrument obligates the issuer to convey to the holder at the settlement under specified market conditions.

Equity contracts in this category are classified as liability (or an asset) because they do not expose the counterparty to risks and rewards similar to those of an owner and therefore, do not create a shareholder relationship.

The following table lists certain common equity contracts and whether they are in the scope of ASC 480.

Equity contract (single contract)	In scope of ASC 480	Outside scope of ASC 480
Forward purchase contract (contract to purchase issuer's own shares)	X	
Forward sale contract (contract to sell issuer's own shares)		X ¹⁰
Equity collar with lower strike purchased put option and higher strike written call option (issuer holds the collar) ¹¹		X ¹⁰
Equity collar with lower strike written put option and higher strike purchased call option (issuer provides the collar) ¹²	X	
Purchased call option		X
Purchased put option		X
Written call option		X ¹⁰
Written put option	X	
Warrant on puttable shares or puttable warrants	X	

An equity contract determined to be a liability (or an asset in some circumstances) pursuant to ASC 480 should follow the initial and subsequent measurement and disclosure requirements of that guidance. In addition, if the instrument also meets the definition of a derivative under ASC 815 (including consideration of all scope exceptions), the disclosures in that guidance are also required.

Refer to section A3 in Appendix A for further discussion of financial instruments in the scope of ASC 480.

4.2.1.1

Equity contracts with more than one component

ASC 480 also provides specific guidance on freestanding financial instruments that are composed of more than one option or forward contract embodying obligations that may require settlement by transfer of assets or delivery of a variable number of shares. Various scenarios are described in ASC 480-10-55-29 through 55-52.

Examples of those instruments include puttable warrants (or forwards) and equity collars. A puttable warrant has a written call option that entitles the holder to buy the issuer's shares and a written put option that entitles the holder to put the warrants back to the issuer at a specified price. Similarly, a forward sale contract on puttable shares obligates the holder to buy and the issuer to sell a number of shares at a specified price and contains a written put option that entitles the holder to put the shares obtained upon the settlement of the forward back to the issuer at a specified price. An equity collar is a combination of a purchased option and a written option. Although containing two options, an equity collar is legally one freestanding instrument because the two option components are not legally detachable and separately exercisable.

¹⁰ Provided the underlying shares are not puttable.

¹¹ The contract also does not embody, nor is it indexed to, an obligation to repurchase the issuer's equity shares that could require settlement by transferring assets. Also, while this equity collar embodies an obligation that may require the issuer to issue a variable number of its equity shares, the obligation is not based on any of the three types under ASC 480-10-25-14.

¹² This freestanding equity collar is subject to the provisions of ASC 480 due to the written put component. If required to be physically settled or net cash settled, the contract is a liability pursuant to ASC 480-10-25-8 through 25-13 because it embodies an obligation that may require repurchase of the issuer's equity shares and settlement by a transfer of assets. If net share settlement is required, the equity collar is also a liability pursuant to ASC 480-10-25-14(c), because the monetary value of the obligation varies inversely in relation to changes in the fair value of the issuer's equity shares (refer to section 4.2.1.1.2 for further discussion).

4.2.1.1.1 *Component requires or may require transfer of assets (ASC 480-10-25-8 through 25-13)*

Generally, if a financial instrument is composed of more than one component and any component obligates the issuer to repurchase shares (or is indexed to such an obligation) and may require a transfer of assets, the presence of this obligation would require the entire financial instrument be classified as a liability (or an asset in some circumstances). For example, a puttable warrant is a liability pursuant to ASC 480-10-25-8 through 25-13 because the put option component embodies an obligation that is indexed to repurchasing the issuer's shares and may require a transfer of assets. The same is true for a warrant for shares that are puttable for cash. Both instruments embody an obligation that may require a transfer of assets.

4.2.1.1.2 *Component requires delivery of a variable number of shares (ASC 480-10-25-14)*

ASC 480-10-55-43 summarizes a two-step approach to evaluating instruments where one component requires or may require the delivery of a variable number of shares. The approach is different than that for the contract that requires or may require a transfer of assets.

An issuer should first identify all component obligations. Each component obligation should be evaluated to determine whether that component potentially requires the delivery of a variable number of shares and, if freestanding, would be a liability pursuant to the three conditions outlined in ASC 480-10-25-14, as discussed in section 4.2.1.

If any component(s) potentially requiring delivery of a variable number of shares meets one of the conditions in ASC 480-10-25-14, the issuer should next determine whether the monetary value of that component obligation(s), is (collectively) predominant over the collective monetary value of all other component obligation(s) identified. If so, the entire instrument would be classified as a liability (or an asset in some circumstances). Otherwise, the equity contract is not in the scope of ASC 480 and other guidance should be considered.

While not defined in ASC 480, the concept of predominance is discussed briefly in ASC 480-10-55-44 and is illustrated in several examples in ASC 480. We generally believe the determination of whether a component(s) is predominant is based on the likelihood the equity contract will settle in accordance with that particular component(s), compared to the likelihood of settling under the other component obligation(s). The issuer should analyze an equity contract at inception and consider all possible outcomes to evaluate which component obligation(s) is predominant. The information to be considered includes the issuer's current stock price and volatility, the strike price of the instrument and other factors.

Consider a collar arrangement that is comprised of a higher strike purchased call option and a lower strike written put option that requires net share settlement. The written put option component, if freestanding, would be within the scope of ASC 480 because its value moves in the opposite direction as the fair value of the issuer's shares, pursuant to ASC 480-10-25-14(c). Once identified, the monetary value of this component obligation is assessed to determine whether it is predominant over the monetary value of the other component obligation. In this case, because the collar does not contain any other obligations (the purchased call option does not embody any obligation and therefore does not affect the classification of the entire instrument), the net settled written put component obligation governs the classification of the instrument (i.e., it is predominant). As such, the collar in its entirety should be classified as a liability (or asset) and recognized at fair value with changes in fair value recognized in earnings.

Even though the value of the purchased call option may exceed the value of the written put option at inception (i.e., a net purchased option), the instrument is within the scope of ASC 480 because the written put option component, if freestanding, would be a liability pursuant to ASC 480-10-25-14(c) as the monetary value of the issuer's obligation to deliver a variable number of shares under the written put option varies inversely in relation to changes in the fair value of the issuer's share price. The fair value would represent an asset if the fair value of the purchased option component exceeds the fair value of the written option component, and would represent a liability if the opposite were true.

Refer to sections A5.1.1 and A6.1.4 in Appendix A for further discussion of compound financial instruments.

4.2.1.2 Puttable warrants and warrants on redeemable shares

Puttable warrants (refer to section 4.1.1.9) and warrants on redeemable shares are generally required to be classified as a liability pursuant to ASC 480 because they embody an obligation or are indexed to such an obligation to repurchase the issuer's shares and may require a transfer of assets by the issuer to settle the obligation.

Refer to section 5.7 in Chapter 5 for additional discussion of warrants on redeemable shares.

4.2.1.3 Forward purchase contract

A freestanding forward contract for the issuer to purchase its equity shares that requires physical or net cash settlement is generally classified as a liability (or asset) because that instrument embodies an obligation that requires settlement by the issuer transferring assets (ASC 480-10-25-8 through 25-13).

If net share settlement is required, the forward purchase contract is classified as a liability pursuant to ASC 480-10-25-14(c) because that instrument embodies an obligation by the issuer to deliver a variable number of shares and the monetary value of that obligation to the holder moves inversely in relation to changes in the fair value of the issuer's equity shares. ASC 480-10-25-14(c) requires instruments with such characteristics to be classified as liabilities because they do not establish a shareholder relationship with the counterparty, as the payoff to the counterparty has an inverse relationship to changes in the fair value of the underlying equity shares.

As a result, regardless of the form of settlement, all forward purchase contracts are liabilities pursuant to ASC 480. However, the measurement attributes may be different based on the form of settlement.

Refer to sections A5.1.1 and A6.1.3 in Appendix A for additional discussion.

4.2.1.4 Variable share forward

A variable share forward contract (refer to section 4.1.1.3) is an equity contract that requires the issuer to settle the contract by issuing a variable number of its equity shares (this can be in the form of a forward to sell or a net share settled forward to purchase). Because it embodies an obligation of the issuer to deliver a variable number of shares, the instrument should be evaluated pursuant to ASC 480-10-25-14. That paragraph states that financial instruments, other than an outstanding share, that embody obligations that can be settled by issuing a variable number of shares are classified as a liability (or an asset in some circumstances) if, at inception, the monetary value of the obligation is based solely or predominantly on one of several conditions, one of which is that the settlement amount has a fixed value (ASC 480-10-25-14(a)).

In a variable share forward contract, the number of shares deliverable upon settlement is determined based on the market price of the shares at the settlement date. That is, the number of shares delivered is obtained by dividing the contract price (agreed to at inception) by the fair value of the shares at settlement. In some cases, an average market price over a period of time (e.g. the last 30 days) may be used in the calculation.

Although the number of shares will be variable (based on the fair value of the issuer's shares), the holder will receive a fixed monetary value equal to the fixed contract price. In a situation where the variable number of shares to be issued is based on an average market price (e.g. an average market price for the shares over the last 30 days) instead of the share price on the date of settlement, ASC 480-10-55-22 indicates that while the monetary value of the obligation is not entirely fixed at inception and is based, in small part, on variations in the fair value of the issuer's equity instruments, the monetary value of the obligation is predominantly based on a fixed monetary amount known at inception.

Overall, the forward contract embodies an obligation for which the issuer must issue a variable number of its equity shares upon settlement. Because at inception the final settlement amount that the issuer is obligated to deliver represents a fixed monetary amount (regardless of the share price at delivery), the variable share forward should be classified as a liability pursuant to ASC 480-10-25-14(a).

Refer to section A6.1.1 in Appendix A for further discussion of this concept.

4.2.1.5

Range forward

The settlement of a range forward sale contract (refer to section 4.1.1.3) depends on where the share price on the settlement date falls within the ranges defined in the agreement. Because the forward seller (i.e., the issuer) may be required to deliver a variable number of its own shares, consideration of ASC 480-10-25-14 is required.

Consider the following example:

Illustration 4-1

A range forward sale contract provides that, at the end of one year, the counterparty will purchase and the issuer will sell for \$25 a variable number of shares of the issuer's common stock based on the average price for a period of 30 days ending on the settlement date as follows:

- ▶ If the common stock price at the settlement date is at or above \$30, the counterparty will receive 0.83 shares of stock upon settlement of the contract.
- ▶ If the price of a share of the issuer's common stock at the settlement date is at or below \$25, the counterparty will receive one share of stock upon settlement of the contract.
- ▶ If the price of a share of the issuer's common stock at the settlement date is between \$25 and \$30, the counterparty will receive a variable number of shares of the issuer's stock equal to \$25 in value. For example, if the stock price is \$26, the counterparty will receive approximately 0.962 ($\$25/\26) shares of stock upon settlement of the contract. If the stock price is \$29, the counterparty will receive approximately 0.862 ($\$25/\29) shares on settlement.

ASC 480-10-25-14 requires liability accounting for equity contracts that embody an obligation to transfer a variable number of shares provided that the monetary value of the obligation is based solely or predominantly on: (1) a fixed monetary amount, (2) variations in something other than the fair value of the issuer's shares or (3) variations inversely related to changes in the fair value of the issuer's equity shares.

The analysis of the range forward sale contract pursuant to the three conditions in ASC 480-10-25-14 follows:

- ▶ A fixed monetary amount – The issuer is required to deliver a variable number of shares with a fixed value (\$25) when the price of the issuer's stock is between \$25 and \$30. However, if the stock price is outside of that range, the issuer will deliver a fixed number of shares. Because the forward includes a range in which the number of shares to be delivered is variable, but the monetary value of the shares to be delivered is fixed, the instrument should be evaluated pursuant to ASC 480-10-25-14(a) to determine whether liability classification is required. Specifically, the issuer should determine whether such a fixed monetary amount is predominant with respect to the entire settlement obligation that also includes obligations to issue (1) a fixed number of shares associated with the downside range (price less than \$25) and (2) a fixed number of shares associated with the upside range (price greater than \$30).

Because the counterparty bears much of the potential the risks of a decreasing price for a share (if the stock declines below \$25) and much of the potential benefits from an increasing price for a share (if the stock appreciates above \$30), the probability of the share price at settlement being outside the range, where a fixed number of shares with a variable settlement amount is delivered, may be sufficient enough that such settlement obligation would not be considered predominant. The determination of whether the fixed monetary amount settlement is predominant should consider standard valuation theory, volatility and length to expiration, etc. Generally, the narrower the price range requiring delivery of a variable number of shares equal to a fixed monetary amount, the less likely this type of forward would be a liability pursuant to ASC 480-10-25-14(a).

- ▶ Variations in something other than the fair value of the issuer's shares – The monetary value of the obligation is based solely on the number of shares to be delivered and the share price of the issuer's common stock at settlement. Therefore, this instrument would not be classified as a liability pursuant to ASC 480-10-25-14(b).
- ▶ Variations inversely related to changes in the fair value of the issuer's equity shares – The payoff to the counterparty of the forward sale contract fluctuates positively in relation to changes in the fair value of the issuer's common stock. Although there is a range within which the monetary value does not change, outside that range they do move in a direction consistent with changes in share price. Therefore, this instrument would not be a liability pursuant to ASC 480-10-25-14(c).

Based on the analysis above, if the range equity forward would not be a liability under ASC 480, further analysis under the equity contract roadmap using the guidance in ASC 815-40 is necessary to determine the instrument's classification and measurement.

4.2.2

Box B – Equity contracts indexed to the issuer's own stock

A contract that is not in the scope of ASC 480 is evaluated under the guidance in ASC 815-40. ASC 815-40 applies to both (1) instruments that meet the definition of a derivative and are evaluated for the exception from derivative accounting pursuant to ASC 815-10-15-74(a) and (2) instruments that do not meet the definition of a derivative and are evaluated for the appropriate classification. The guidance in ASC 815-40 states that contracts should be classified as equity instruments (and not as an asset or liability) if they are both (1) indexed to the issuer's own stock and (2) classified in stockholders' equity in the issuer's statement of financial position.

To determine whether an equity contract is indexed to the issuer's own stock, it should be analyzed pursuant to the indexation guidance in ASC 815-40-15-5 through 15-8, including the related implementation guidance. There are two steps in evaluating an instrument. The first step evaluates any contingent exercise provisions and the second step requires an analysis of provisions that could change the instrument's settlement amount.

In the first step, an exercise contingency (as defined in the indexation guidance) does not preclude an instrument from being considered indexed to an entity's own stock provided that it is not based on either of the following:

- a. An observable market, other than the market for the issuer's stock (if applicable)
- b. An observable index, other than an index calculated or measured solely by reference to the issuer's own operations (e.g., sales revenue of the issuer, earnings before interest, taxes, depreciation and amortization of the issuer, net income of the issuer, or total equity of the issuer)

In the second step, an instrument is considered indexed to an entity's own stock if its settlement amount equals the difference between (1) the fair value of a fixed number of the entity's equity shares and (2) a fixed monetary amount or a fixed amount of a debt instrument issued by the entity. While the second step appears to be a strict fixed-for-fixed concept, an exception is provided such that if the instrument's strike price or the number of shares used to calculate the settlement amount is not fixed, the instrument could still be considered indexed to an entity's own stock if the only variables that could affect the settlement amount would be inputs to a fair value valuation model for a fixed-for-fixed forward or option on equity shares. Accordingly, any feature that adjusts the settlement amount of an equity contract should be carefully analyzed.

If based on the indexation guidance the equity contract is not considered indexed to the issuer's own stock, it would be precluded from equity classification (i.e., asset or liability classification is required).

Refer to section B3 in Appendix B for further discussion of the indexation guidance.

4.2.2.1

Adjustments affecting an equity contract's settlement amount, including antidilution and down-round provisions

Equity contracts frequently contain provisions that adjust the instrument's terms to protect the investor (and sometimes the issuer) from a loss of value due to events that were not expected to occur or events in the control of the issuer that could be detrimental to the holder, such as merger, tender offer, nationalization, insolvency or delisting. In addition, certain other events such as a hedging disruption, increased cost of hedging, inability to borrow stock and increased cost of stock borrowing could also trigger adjustments. The basic equity instrument pricing models do not incorporate an expectation of these events, and thus the possibility of these events occurring is usually excluded from the pricing. To protect the parties from the impact of these events, the contractual agreement frequently provides that if those identified events occur, the contract terms will be adjusted. If such a provision is triggered, usually the strike price or the number of shares covered by the contract is adjusted such that the settlement amount would change to protect one party to the contract.

ASC 815-40-15-7G clarifies that certain adjustments to the fixed-for-fixed notion that were designed to compensate one of the parties to the instrument for changes in value that could not be incorporated into a pricing model should not preclude a conclusion that an instrument is indexed to the issuer's stock. It states that:

Standard pricing models for equity-linked financial instruments contain certain implicit assumptions. One such assumption is that the stock price exposure inherent in those instruments can be hedged by entering into an offsetting position in the underlying equity shares. For example, the Black-Scholes-Merton option-pricing model assumes that the underlying shares can be sold short without transaction costs and that stock price changes will be continuous. Accordingly, for purposes of applying Step 2, fair value inputs include adjustments to neutralize the effects of events that can cause stock price discontinuities. For example, a merger announcement may cause an immediate jump (up or down) in the price of shares underlying an equity-linked option contract. A holder of that instrument would not be able to continuously adjust its hedge position in the underlying shares due to the discontinuous stock price change. As a result, changes in the fair value of an equity-linked instrument and changes in the fair value of an offsetting hedge position in the underlying shares will differ, creating a gain or loss for the instrument holder as a result of the merger announcement. Therefore, inclusion of provisions that adjust the terms of the instrument to offset the net gain or loss resulting from a merger announcement or similar event do not preclude an equity-linked instrument (or embedded feature) from being considered indexed to an entity's own stock.

Example 17 in ASC 815-40-55-42 and 55-43 illustrates that adjustments to the terms of an instrument to offset the dilution caused by certain events would not preclude the contract from being considered indexed to the issuer's own equity. The variables (i.e., triggers) that affect the settlement amount in that example are inputs (or underlying assumptions) to the fair value of a fixed-for-fixed option on equity shares. It points out that an implicit assumption in standard pricing models for equity-linked financial instruments is that such events that could dilute the counterparty will not occur or that the strike price of the instrument will be adjusted to offset the dilution caused by such events.

For example, if the issuer were to issue shares for less than their then-current fair value, the current investors are economically diluted (because the proceeds of the sale are less than the fair value of the shares issued, the fair value per share outstanding after the issuance is reduced). Likewise, if the entity purchased shares for more than their then-current fair value, existing shareholders are diluted (the entity gives up assets with a fair value in excess of the shares repurchased, thereby reducing the fair value per remaining share).

These permissible adjustment provisions can be contrasted to a down-round feature in an equity contract. A down-round feature adjusts the settlement amount of the instrument if the issuer subsequently sells equity at a price lower than the strike price of the equity contract. Importantly, this adjustment provides protection to a particular investor in promising to give the investor the lowest pricing available to any other investors, rather than protecting against true economic dilution. The provision has been relatively common in transactions between hedge funds, private equity funds, and venture capitalists and their investees, as well as in many privately negotiated transactions by public companies (such as transactions involving privately issued convertible debt and warrants).

Instruments with down-round protection provisions are not considered indexed to a company's own stock because neither the occurrence of a sale of equity securities by the issuer at market nor the issuance of another equity contract with a lower strike price is an input to the fair value of a fixed-for-fixed option or forward on equity shares. Example 9 in ASC 815-40-55-33 and 55-34 illustrates this concept.

Refer to sections B3.3.2, B3.4.1 and related FAQs in Appendix B for additional discussion of adjustments to a fixed-for-fixed contract.

4.2.2.2 Equity contracts executed in ISDA forms

Equity contracts that are executed using standard ISDA documentation should be carefully reviewed because they frequently contain provisions that adjust the instrument's terms, including the strike price or the number of shares upon specified events such that the settlement amount would change. Those adjustments are typically triggered upon the occurrence of antidilution or extraordinary events (e.g. merger, tender offer, nationalization, insolvency, delisting). In addition, certain other events such as hedging disruption, increased cost of hedging, loss of stock borrowing and increased cost of borrowing could also trigger adjustments, depending on what the ISDA contract defines as the adjustment events. By adjusting the terms (and thus the settlement amount) of the equity contract (or perhaps terminate the instrument in some cases), the counterparty's exposure to the risks embodied in those events is mitigated.

The second step of the indexation guidance, and the related examples, was in large part created to address certain adjustment and termination provisions found in the standard ISDA forms. Upon triggering events, the indexation guidance requires the calculation of the resulting adjustment to be commercially reasonable. The ISDA agreements stipulate that the calculation agent (as named in the ISDA confirmation) is responsible for making certain determinations, adjustments and calculations when required. The calculation agent pursuant to the ISDA Equity Definitions must act or exercise judgment in good faith and in a commercially reasonable manner. Additionally, the ISDA confirmation frequently explicitly states that whenever an adjustment or determination is made, it should be made in a commercially reasonable manner. Generally, these provisions comply with the indexation guidance but should be carefully analyzed.

Refer to section B3.3.2 and related FAQs in Appendix B for additional discussion of adjustments to a fixed-for-fixed contract.

4.2.3

Box C – Equity contracts and the definition of a derivative

An equity contract that is not indexed to the issuer's own stock should be classified as an asset or liability. However, the subsequent measurement basis depends on whether the instrument meets the definition of a derivative. If such an equity contract meets all of the characteristics of a derivative and does not meet any other scope exceptions, ASC 815 requires the instrument to be measured at fair value with changes recorded in earnings.

If the equity contract does not meet the definition of a derivative, subsequent measurement is not directly addressed in the authoritative guidance. While it requires asset or liability classification for such an instrument, the indexation guidance does not provide information on subsequent measurement. Other guidance (e.g., the SEC staff's view on written options for SEC registrants) should be considered to determine the appropriate measurement basis.

To be a derivative pursuant to ASC 815, an equity contract should have all of the following characteristics:

- ▶ A derivative's cash flows or fair value must fluctuate and vary based on the changes in one or more underlyings.
- ▶ The contract contains one or more notional amounts or payment provisions or both.
- ▶ The contract requires no initial net investment, or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.
- ▶ The contract (1) provides for net settlement, (2) can be settled net through a market mechanism outside the contract or (c) provides for delivery of an asset that, because the delivered asset is readily convertible to cash, puts the recipient in a position not substantially different from net settlement (a gross settlement that is economically equivalent to a net settlement).

Refer to section 1.2.3 in Chapter 1 and section 2.3 in Chapter 2 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for additional guidance on the definition of a derivative.

4.2.4

Box D – Equity contracts not indexed to the issuer's own stock and not meeting the definition of a derivative

In some cases, an equity contract is not any of the following:

- (a) A liability pursuant to ASC 480
- (b) Indexed to the issuer's own equity pursuant to the indexation guidance
- (c) A derivative pursuant to ASC 815

As an example, private companies often issue equity contracts (especially warrants and forward sale contracts) that require gross physical settlement where the shares transferred for cash are not publicly traded. In that case the instruments are not within the scope of ASC 815 as there is no net settlement (gross settlement for shares that are not readily convertible to cash). However, in many cases such warrants or forward contracts for private companies will have favorable adjustment provisions to the investors that are not compliant with the indexation guidance (e.g. the down-round feature as discussed

in Example 9 at ASC 815-40-55-33 through 55-34). In those cases, the indexation guidance requires the instrument to be classified as an asset or liability (although it does not specify the subsequent measurement). Generally, equity contracts are initially measured at fair value (or allocated value). Refer to section 4.4.4 for subsequent measurement guidance. Importantly, for SEC registrants, ASC 815-10-S99-4 outlines the SEC staff's belief that written options not classified in equity should be subsequently measured at fair value through earnings.

4.2.5 **Box E – Equity contracts classified in equity**

If an equity contract is considered indexed to the issuer's own stock, it is next evaluated under the equity classification guidance. To determine whether a freestanding equity contract would be classified in stockholders' equity, the equity classification guidance in ASC 815-40-25-1 through 25-43 should be considered, including the related implementation guidance (primarily codified in ASC 815-40-55-1 through 55-18).

The equity classification guidance contains detailed criteria for an equity contract to be classified in equity. That determination is heavily dependent on how the instrument settles and whether an acceptable form of settlement is entirely within the control of the issuer.

The equity classification guidance generally indicates that an equity contract on a company's own stock would be considered to be classified in equity under either of the following types of settlement:

- ▶ Required physical settlement or net share settlement
- ▶ Issuer has a choice of net cash settlement or settlement in its own shares (physical settlement or net share settlement), regardless of the intent of the issuer

However, an equity contract would not be considered classified in equity if either of the following provisions is present:

- ▶ Required net cash settlement (including a requirement to net cash settle if an event occurs that is outside the control of the issuer)
- ▶ Holder has choice of net cash settlement or settlement in shares (physical settlement or net share settlement)

ASC 815-40-25-7 through 25-38 include additional conditions that should be met for equity classification. These conditions are considered to test whether the issuer will have the ability, in all cases, to effect the settlement in shares. Otherwise, net cash settlement is presumed (even if not contractually stated) and equity classification is not appropriate. Each criterion (as summarized below) should be met; the failure of a single condition results in asset or liability classification:

- ▶ Settlement is permitted in unregistered shares
- ▶ Entity has sufficient authorized and unissued shares
- ▶ Contract contains an explicit share limit
- ▶ No required cash payments if entity fails to timely file
- ▶ No cash-settled top-off or make-whole provisions
- ▶ No counterparty rights rank higher than shareholder rights
- ▶ No collateral requirements

These criteria should be applied based on a theoretically possible standard (i.e., if it is theoretically possible that the criteria could not be met outside of the issuer's control, net cash settlement is presumed). Issuers should also evaluate the implementation guidance in ASC 815-40-55-2 through 55-6 that discusses circumstances where equity classification is appropriate despite the possibility of a cash settlement if holders of the same class of underlying shares also would receive cash in exchange for their shares.

Equity-classified contracts are initially measured at fair value (or allocated value). Subsequent changes in fair value are not recognized as long as the contracts continue to be classified in equity. In contrast, if an equity contract that was indexed to the issuer's own stock fails the requirements for equity classification, it should be classified as an asset or liability at fair value with subsequent changes in fair value recorded in earnings.

Refer to section B4 of Appendix B for a comprehensive discussion of the equity classification guidance.

4.2.5.1 Equity contracts executed in ISDA forms

Equity contracts executed using ISDA documentation usually contain provisions that could trigger an early termination of the instrument. For example, in an event of default, extraordinary event (e.g. merger or tender offer, etc.) or other market disruption events, one of the parties could terminate and request a settlement of the contract. In those circumstances the standard ISDA terms often specify the default settlement method.

When evaluating settlement provisions under early termination, the issuer should consider whether it has the choice to select an equity-qualified settlement method in all situations, regardless of probability of the situation occurring. Some of the standard provisions in the ISDA contract (either the Master Agreement or the Equity Definitions) invoke a net cash settlement when early termination events have occurred.

For example, the contract may stipulate cancellation and payment as the settlement method upon a tender offer. In practice, issuers may address this automatic trigger of net cash settlement by including in the ISDA confirmation language that states, notwithstanding any other terms or settlement provisions in the associated ISDA Master Agreement or Equity Definitions, that in all cases the issuer can override those provisions and choose the form of settlement. The effect of these provisions should be carefully considered in determining if conditions for equity classification are met.

Other provisions in ISDA agreements may also affect the determination of the instrument's classification and should be carefully evaluated. The following is a list of some common provisions and where they are discussed in Appendix B:

- ▶ Settlement as a part of counterparty bankruptcy (section B4.4.6)
- ▶ Netting or set-off of contracts (section B4.4.6)
- ▶ Posting of collateral (section B4.4.7)

4.2.5.2 Equity contracts issued in registered form

Companies may issue equity contracts using a registration statement. The most common type of equity contract offered through a registration statement is a registered warrant.

Under existing securities law, the issuance of a warrant is an offer to sell the underlying share, and the exercise and settlement of the warrant is the completion of the sale of the share. This construct for registered warrants in the securities law has a significant effect on how they are analyzed under the accounting guidance because, as a general rule under the securities law, a sale that "starts public" and requires current financial information with its offer must "stay public" with similar current financial information available at its completion. In other words, if a warrant is offered in a registered form (starts public), settlement in registered shares is likely required under the securities laws (stays public).

In contrast, for a registered forward contract, the concept is slightly different. Because both parties agree to buy and sell the shares at inception and are not required to make any subsequent decision regarding the sale, the settlement of the forward is viewed as a delayed delivery of what was already agreed to at inception rather than the completion of the sale. No additional funds are being placed at risk and therefore current information in the form of timely filings is usually not necessary.

4.2.5.2.1

Meeting the settlement in unregistered shares criterion for registered warrants

To satisfy the equity classification guidance, particularly the condition in ASC 815-40-25-11 through 25-18, the issuer of an equity contract should have the ability to settle the contract with unregistered shares. That analysis involves consideration of both the terms of the instrument (especially the settlement methods) and securities law when evaluating a registered warrant.

Securities counsel may need to be consulted to confirm the proper application of the securities laws to the specific facts and circumstances. The following is a general discussion of the issues:

- ▶ If a registered warrant requires gross physical settlement, delivery of registered shares will likely be required under the securities law, as additional consideration is transferred (put at risk) by the holder in the completion of the sale. In this case, equity classification may still be appropriate if those shares are registered at the inception of the transaction and there are no further timely filings or registration requirements (ASC 815-40-25-16).¹³

Generally, the issuer registers the shares into which the registered warrant would be exercised under the same registration statement at inception of the transaction. Whether there are further timely filing requirements under the securities laws depends on the terms of the warrant. If the expiration date of the warrant runs past the due date for the next periodic filing (Form 10-Q or 10-K) for the issuer, the issuer is required to meet the ongoing filing requirements to maintain an effective registration statement covering the warrant and underlying shares. Generally, maintaining an effective registration statement is not considered within the control of the issuer because the issuer does not control all the factors necessary to ensure timely filings (e.g., the issuer is not assured of obtaining an independent auditor's review report). Even if the registered warrant explicitly states unregistered shares could be issued, that contractual provision would likely be deemed non-operational under the securities law. In this case, delivery of shares is not deemed within the issuer's control and the criteria under the equity classification guidance cannot be met.

In practice, to address the securities law requirement to settle registered warrants by delivering registered shares, issuers insert language in the warrant agreement that states (1) the warrant cannot be exercised except during periods where an effective registration statement is available or (2) the issuer is not required to pay cash if it cannot deliver registered shares upon settlement. These overriding clauses explicitly rebut the presumption of settlement in cash when the issuer is required to deliver registered shares but maybe unable to do so.

- ▶ In contrast, if the registered warrant permits net share settlement (also called cashless exercise), it is likely that registered shares can be issued under a specific exemption in the securities law for certain exchanges of securities because no additional consideration is put at risk at settlement. Therefore, settlement in registered shares is usually deemed to be within the control of the issuer in the case of net share settlement, provided the issuer controls the choice of settlement form.
- ▶ If a registered warrant permits either gross physical settlement or net share settlement, one should consider which entity (the issuer or the holder) controls the decision over the settlement form. If the

¹³ There are differences of opinion as to when future timely filings are necessary to maintain the effectiveness of or issue shares from an existing registration statement. Refer to section B4.4.1 of Appendix B for further discussion.

holder can select the settlement method, then physical settlement is assumed and the related securities law considerations should be incorporated into the analysis as discussed above. This is because the holder theoretically would have the ability to demand gross physical settlement and, even though an economically equivalent net share settlement is permitted in the contract, would not have to accept net share settlement if registered shares were not available for physical settlement of the warrant at the time of exercise. Therefore, it is theoretically possible (regardless of how remote) that the issuer may be required to deliver registered shares, thus failing to meet the “settlement in unregistered shares” criterion.

The following table summarizes the effect that various settlement provisions have on private issuances and public issuances for comparison (assuming all other criteria for equity classification are met):

Form	Physical settlement	Net share settlement	Net cash settlement
Private issuance	Generally equity classification	Generally equity classification	Generally liability classification if holder can elect this, or if this is the issuer's only choice
Public issuance	Generally liability classification as shares issued must be covered by an effective registration statement, maintenance of which is outside issuer's control	Generally equity classification as shares issued are covered by an exemption in securities law and may be considered “registered”	Generally liability classification if holder can elect this form, or if this is the only choice available to the issuer

For the equity contract to be eligible for equity classification either (a) all the contractual settlement methods must result in equity classification or (b) the issuer must have the choice of settlement methods and at least one qualifies for equity classification.

Refer to section B4.4.1 in Appendix B for additional discussion on the evaluation of the ability to settle in unregistered shares.

4.2.5.3 Warrants issued in a PIPE transaction

A PIPE transaction (private issuance of public equity) is a form of equity offering under an exemption in the securities law for qualifying private placements by issuers of publicly traded equity securities. These issuances often include both common shares and warrants issued as a separable unit, and neither instrument is registered when issued.

The warrant in a PIPE transaction is subject to all of the relevant guidance for equity contracts. As these are private placements, unlike registered warrant offerings, the securities law does not require settlement in registered shares (the general concept of “private stays private,” although discussion with securities counsel is strongly encouraged). Provided the contract does not specify settlement in registered shares, the criteria in ASC 815-40-25-11 through 25-18 will likely be met.

Because the investor knows it will be receiving unregistered shares on settlement, in many cases a PIPE transaction will include a registration rights agreement that requires the issuer to file a registration statement covering the resale of the shares initially issued and the shares to be issued under the warrant (and perhaps even the warrant itself). The purpose of a registration rights agreement is to provide the investor with liquidity for its investment.

This subsequent registration process should not be confused with a transaction where the securities are offered initially pursuant to an effective registration statement. In the case of registration at inception, the issuance takes on a public characteristic and will have to be settled publicly. In the case of the filing of a registration subsequent to initial issuance (e.g. to comply with a registration rights agreement), it is the

future resale transaction of the underlying shares, rather than the existing securities being offered, that is registered. Therefore, a subsequent registration that is executed as required under a registration rights agreement generally does not flip the initial private transaction to a public transaction. Securities counsel may be needed to interpret the securities laws.

A registration rights agreement frequently includes a penalty provision if the registration is not achieved on a timely basis. That penalty provision is not relevant in assessing whether there are cash payments required if an entity fails to timely file, provided the registration rights agreement meets all the criteria in ASC 825-20, *Financial Instruments – Registration Payment Arrangements*. Refer to section 5.11 in Chapter 5 for a discussion of registration rights agreements.

4.2.6 **Boxes F and G – Equity contracts not meeting equity classification guidance**

An equity contract that is either (a) an ASC 815 derivative but does not receive an exception from derivative accounting pursuant to ASC 815-10-15-74(a) or (b) a non-derivative equity contract that does not meet the criteria for equity classification, is classified as an asset or liability and measured at fair value with subsequent changes in fair value recorded in earnings.

An equity contract that does not qualify for equity classification pursuant to the equity classification guidance but meets the definition of a derivative and does not meet any other scope exceptions pursuant to ASC 815 is subject to the provisions of that guidance as a derivative, including its disclosure requirements.

4.3 **Issuance costs**

Companies often incur costs in connection with the issuance of equity contracts (e.g. underwriting fees, legal costs, etc.). ASC 340-10-S99-1 states that specific incremental costs directly attributable to a proposed or actual offering of equity securities may properly be deferred and charged against the gross proceeds of the offering.

Analogizing to that guidance, specific incremental costs directly attributable to the issuance of an equity contract to be classified in equity should generally be recorded as a reduction in equity. However, issuance costs for equity contracts that are classified as assets and liabilities should be expensed immediately.

4.4 **Subsequent accounting and measurement**

The subsequent accounting and measurement of an equity contract depends on the instrument's classification. An equity contract is classified in one of the following ways:

- ▶ As an ASC 480 liability (or an asset in certain circumstances) if the contract met the conditions pursuant to ASC 480-10-25-8 through 25-13 or ASC 480-10-25-14 (refer to section 4.4.1)
- ▶ As an equity instrument if the contract (regardless of whether it met the definition of a derivative pursuant to ASC 815 or not) met the requirements of the indexation and equity classification guidance in ASC 815-40 (refer to section 4.4.2)
- ▶ As an asset or liability under one of the following scenarios:
 - (a) The contract meets the definition of a derivative and does not qualify for an exception from derivative accounting pursuant to ASC 815-10-15-74(a) as it fails either the indexation or the equity classification guidance in ASC 815-40 (refer to section 4.4.3).
 - (b) The contract does not meet the definition of a derivative and is considered indexed to the issuer's own equity pursuant to the indexation guidance but fails to meet all the criteria of the equity classification guidance in ASC 815-40 (refer to section 4.4.3).

- (c) The contract does not meet the definition of a derivative and is not considered indexed to the issuer's own equity pursuant to the indexation guidance in ASC 815-40 (refer to section 4.4.4).

Equity contracts may require reclassification between equity and an asset or liability subsequent to issuance. Additionally, from time to time equity contracts may be modified or settled prior to maturity.

4.4.1 Equity contracts subject to ASC 480 liability classification

ASC 480 provides specific subsequent measurement guidance for forward contracts that require physical settlement by repurchase of a fixed number of the issuer's equity shares in exchange for cash. All other equity contracts within the scope of ASC 480 are measured subsequently at fair value with changes in fair value recognized in earnings, unless other accounting guidance specifies another measurement attribute.

4.4.1.1 Measurement of a physically settled forward contract

A physically settled forward contract to purchase a fixed number of the issuer's shares for cash should be measured initially at the fair value of the shares at inception, adjusted for any consideration or unstated rights or privileges, with an offset to shareholder's equity. This amount would generally be expected to equal the present value of the amount to be paid at settlement.

If the settlement date and amount are both fixed, the forward should be measured subsequently at the present value of the settlement amount (i.e., forward price), accruing interest cost using the implicit rate in the forward contract. Accretion on the liability is treated as interest expense. We generally believe any dividend paid on the underlying shares prior to actual settlement should also be expensed consistent with its classification as a liability.

If a physically settled forward contract is subject to a variable redemption amount or the settlement date varies, the contract subsequently should be recognized at the amount of cash that would be paid under the specified conditions if the exchange occurred at the reporting date. The change in that amount from the previous reporting date should be recognized as interest expense.

Refer to section A5.2 in Appendix A for further discussion on the measurement of contracts within the scope of ASC 480.

4.4.2 Equity contracts classified as equity pursuant to ASC 815-40

For equity contracts classified in equity, the instrument is not subsequently remeasured, unless it requires reclassification from equity to an asset or liability (refer to section 4.4.5).

4.4.3 Equity contracts that meet the definition of a derivative and do not receive an exception from derivative accounting and equity contracts indexed to the issuer's shares but failing the equity classification guidance

Equity contracts that meet the definition of a derivative and do not receive an exception from the derivative accounting pursuant to ASC 815 are assets or liabilities and measured at fair value with changes in fair value recorded in earnings.

Similarly, equity contracts (whether or not they meet the definition of a derivative) that are indexed to the issuer's shares but do not meet the equity classification guidance are classified as assets or liabilities and measured at fair value with changes in fair value recorded in earnings.

4.4.4 Equity contracts that are not derivatives and also not indexed to the entity's own shares

The indexation guidance states that equity contracts not indexed to the issuer's own shares should be classified as an asset or liability, but does not provide subsequent measurement guidance.

In these circumstances, if the issuer is an SEC registrant, the SEC staff requires written options to be measured at fair value with changes recognized in earnings. Otherwise, those instruments do not have a defined measurement basis. An issuer may look to other guidance to determine the subsequent measurement, including the non-authoritative AICPA Issues Paper, *Accounting for Options*. This paper includes several alternatives for accounting for options: fair value, lower of cost or market for an asset (higher of proceeds or market for a liability), cost (proceeds) and cost (proceeds) less amortization of time value portion of the premium. Generally, we believe fair value is an acceptable method, but that there may be other acceptable methods. Impairment should be considered if fair value is not the subsequent measurement basis.

4.4.5 Reclassification of equity contracts

ASC 815-40-35-8 requires an issuer to reassess the classification of an equity contract at each balance sheet date. If the classification changes because of events occurring during the reporting period, the instrument is reclassified as of the date of the event that caused the reclassification.

The classification conclusion could change primarily due to changes in the issuer's capital structure or other transactions (e.g., issuance of new equity contracts, issuance of shares in another transaction) that would affect whether there are a sufficient number of authorized and unissued shares for settlement of the instrument. In addition, equity contracts that do not initially meet the definition of a derivative pursuant to ASC 815 may subsequently satisfy all the characteristics of a derivative and thus, should be evaluated pursuant to ASC 815-40. For example, an equity contract may not have met the definition of a derivative if gross settlement were required and the issuer was not a public company (i.e., the underlying shares were not readily convertible to cash). That condition could change if the issuer underwent an IPO and its shares now were readily convertible to cash. In that case, the equity contract would now meet the definition of a derivative.

If reclassification from equity to an asset or liability is required, the contract is reclassified at its then-current fair value. Any changes in fair value occurring while the instrument was classified in equity are not recognized. If a contract is reclassified from an asset or a liability to equity, it is measured at fair value one last time through earnings and any previous gains or losses recognized during the period that the contract was classified as an asset or a liability are not reversed.

In some cases, partial reclassification may be required for an equity contract. Refer to section B6 in Appendix B for further discussion about reclassification.

4.4.6 Modification of equity contracts

An issuing entity may modify the terms of an equity contract from time to time. Among other potential changes, modifications may involve an increase in the number of underlying shares or a reduction in the exercise price of the equity contract (e.g. a warrant's exercise price) to induce exercise and thus raise new capital. Others may be made in connection with modifications to the issuer's other capital transactions (e.g. preferred stock).

The accounting for a modification to an equity contract depends primarily on whether the contract is classified in equity or as an asset or liability.

4.4.6.1 **Modification of equity-classified contracts**

There is no specific guidance that addresses a modification of an equity-classified contract. We generally believe the accounting for such a modification depends on the nature of, and reason for, the modification, with measurement for the modification based on analogy to the share-based compensation guidance.

The model for a modified share-based payment award that is classified as equity and remains classified in equity after the modification is addressed in ASC 718-20-35-3. Pursuant to that guidance, the incremental fair value from the modification (the change in the fair value of the instrument before and after the modification) is recognized as an expense in the income statement to the extent the modified instrument has a higher fair value. Modifications that result in a decrease in the fair value of an equity-classified share-based payment award are not recognized.

A similar model may be appropriate for measuring the effects of a modification to equity-classified contracts. However, the charge may not always be recorded in the income statement. In some cases, it may be more appropriate to record the charge in retained earnings (e.g., dividends to a particular class of equity holders). In some limited cases, the effect of the modification could be capitalized, such as when a company modifies a warrant with a third-party holder because that holder's permission is needed in order for the company to issue debt.

The accounting for modifications of equity-classified contracts requires professional judgment and should be based on the individual facts and circumstances.

4.4.6.2 **Modification of equity contracts classified as assets or liabilities**

When an equity contract that is classified as an asset or liability and measured at fair value is subsequently modified, the effect of the changed terms will be reflected in the subsequent measurement and thus will generally be recognized in earnings. Similar to the discussion in section 4.4.6.1, depending on the facts and circumstances, the change in fair value due to the modification may be classified differently from the rest of the change in the fair value, and the classification may vary based on the nature of, and reason for, the modification.

4.4.6.3 **Modification of equity contracts resulting in a reclassification**

Judgment should be applied in determining the appropriate accounting for a modification to an equity contract that results in its reclassification between equity and assets or liabilities. Generally, if a contract is modified such that it is reclassified to equity, an analogy to the guidance for reclassifications in ASC 815-40 would suggest that the contract be measured at fair value one last time and then reclassified.

However, if an equity-classified contract was modified to result in classification as an asset or liability, analogy to the reclassification guidance in ASC 815-40 may not be appropriate. Rather, other guidance (ASC 718-20-35-3 or ASC 260-10-S99-2) might suggest recognition of some amount (for example, the difference between the fair value before and after the modification) as an expense or deemed dividend.

4.5 **Settlement/termination**

Upon settlement or termination, if an equity contract is classified as an asset or liability at fair value, the instrument is marked to its fair value at the settlement date and then the asset is realized or liability settled.

- ▶ If cash is received or paid in the settlement, it is recorded as a debit or credit for the amounts transferred.
- ▶ Any shares received or delivered are recorded at that balance in equity as treasury stock (if shares are received) or as shares issued (if shares are delivered) with appropriate allocation to common stock at par and the remainder to additional paid-in capital related to common shares. If the treasury shares are considered retired, separate accounting is performed.

For certain contracts accounted for at an accreted value or settlement value (e.g. forward purchase contracts pursuant to ASC 480), a debt extinguishment model is followed, with the consideration transferred recognized at fair value, the liability relieved and any resulting difference resulting in a gain or loss.

If the instrument is classified as equity, any cash received or paid in the settlement is recorded as a debit or credit for the amounts transferred with offset to APIC. If any shares are received or delivered they are generally recorded in equity as treasury stock (if shares are received) or as shares issued (if shares are delivered) with appropriate allocation to common stock at par and APIC. If the treasury shares are considered retired, separate accounting is performed.

If an equity contract that is classified as equity is settled at an amount that is different from the contractual settlement value, the issuer should consider whether there are stated or unstated rights or privileges that should be given separate accounting consideration (similar to the treasury stock transactions described in ASC 505-30).

5 Selected transactions

5.1 Debt (or preferred share) exchangeable into common stock of another issuer

5.1.1 Overview and background

Debt (or preferred shares) that is exchangeable into common stock (exchangeable debt or exchangeable preferred shares) of another issuer is a security that is structured to lock in the appreciation in the fair value of the issuer's investment in another entity's common stock. These instruments have a variety of trademarked names such as DECS (debt exchangeable into common stock) and PRIDES (preferred redeemable increased dividend equity security). These instruments exclude debt (or preferred shares) exchangeable into the common stock of a consolidated subsidiary that is a substantive entity, which should be analyzed similar to convertible debt (or preferred shares). This section focuses on accounting considerations for exchangeable debt. The accounting is similar for an exchangeable preferred share.

Exchangeable debt is in many ways similar to traditional debt (e.g., a stated interest rate, par value, maturity date), except that at maturity the holders will receive either the common stock of another entity (the referenced shares) based on a formula (driven by the fair value of the referenced shares) or a cash payment in an amount equal to the fair value of the referenced shares. Therefore, the settlement amount of the debt is generally different from the par or carrying amount of the exchangeable debt.

Typically, the issuer owns the referenced shares (which generally are publicly traded) and accounts for them as available-for-sale securities. The proceeds from the issuance often approximate the fair value of the referenced shares at issuance. The exchangeable debt permits the issuer to substantially reduce the risk of a decline in the value of its investments in the referenced shares, while retaining some of the potential appreciation through the settlement of the debt.

The following example summarizes the terms of a typical exchangeable debt transaction:

Illustration 5-1

Assumptions:

- ▶ Company XYZ owns MNO stock, which are equity securities classified as available-for-sale in accordance with ASC 320, *Investments – Debt and Equity Securities*. At the time of acquisition, Company XYZ paid \$5 for each share of MNO stock. At the date the exchangeable debt was issued, the fair value of MNO stock was \$20. As a result, the stock is carried at \$20 per share and other comprehensive income is credited \$15 per share (ignoring tax effects).
- ▶ Company XYZ issues exchangeable debt with a \$20 principal amount (per bond), which matures in three years and bears interest at 6%. The interest is payable on a quarterly basis.
- ▶ At maturity, Company XYZ will settle the debt at its option either by (1) delivering a number of shares of MNO stock based on the following formula or (2) paying cash equal to the fair value of the shares:
 - (a) If the market price of MNO stock is less than \$20, Company XYZ will deliver one share of MNO stock. Overall, Company XYZ does not bear any risk of loss in the event of a decline in MNO stock below \$20 because the loss in the investment in MNO stock is offset by the decrease in the settlement obligation in the debt. This provision represents an embedded purchased put option on MNO stock at \$20 per share.

- (b) If the market price of MNO stock is between \$20 and \$25, Company XYZ will deliver a fractional share of MNO stock equal to \$20 in value. For example, if Company MNO stock is trading at \$22 a share, the exchangeable debt holder would receive 0.91 shares, worth \$20 (\$22 x 0.91 shares). In this case, Company XYZ retains all appreciation between \$20 and \$25 of its investment in MNO stock.
- (c) If the market price of MNO stock is greater than \$25, Company XYZ will deliver 0.8 shares of MNO stock. For example, if MNO stock is \$30, the exchangeable debt holder would receive stock worth \$24 in settlement of the debt. On a net basis, the company would retain 0.2 shares of MNO stock worth \$6 (\$30 x 0.2 shares). Thus, Company XYZ retains 20% of the MNO appreciation of MNO stock over \$25. This provision is considered to be an embedded written call option on 0.8 shares of MNO stock at a strike price of \$25 per share.
- ▶ In essence, the exchangeable debt holders incur the risk of loss when the market price of MNO stock falls below \$20 and receive 80% of any appreciation in the stock above \$25 per share.
 - ▶ The exchange feature is comprised of two derivatives: a purchased put option (i.e., Company XYZ sells the MNO stock to the exchangeable debt holders at \$20 per share if the share price is below \$20) and a written call option (i.e., Company XYZ sells the MNO stock to the exchangeable debt holders at 80% of the then current fair value if the share price is above \$25).
 - ▶ The fair value of the embedded derivatives is determined to be \$5 for the purchased put option (an asset) and \$5 for the written call option (a liability) at issuance. As the combined option has a net zero cost and meets the other criteria of ASC 815-20-25-89 and 25-90, it can be used as a hedging instrument in a fair value hedge of the investment in MNO stock once bifurcated and appropriately designated as a hedge. If the fair value of XYZ's written call option were to exceed the fair value of its purchased put option, the combined instrument would be considered a net written option and not eligible as a hedging instrument.

The accounting discussion below uses the assumptions from the above example.¹⁴ The journal entries do not reflect the effects of any hedging activity. Refer to Chapter 5 of our Financial Reporting Developments publication, *Derivative instruments and hedging* activities (SCORE No. BB0977), for further discussion of fair value hedges and the criteria that should be met to qualify as a hedge.

5.1.2

Analysis

5.1.2.1

At issuance

The exchange feature (viewed as two embedded options) is an equity-linked derivative embedded in a debt instrument. It is not clearly and closely related to the host debt instrument because it is indexed to another entity's stock (and thus does not qualify for the scope exception in ASC 815-10-15-74(a)). The issuer should bifurcate the exchange feature, unless the issuer elects the fair value option for the exchangeable debt pursuant to the guidance in ASC 815-15-25-4, which would require the hybrid instrument to be measured at fair value with any changes in fair value recognized in earnings.

¹⁴ The transaction could potentially be decomposed differently. For example, the same economics could be expressed as the combination of (1) a prepaid physically settled forward sale contract on one share of MNO for \$20 plus (2) a net share settled purchased call option with a \$20 strike on one share of MNO plus (3) a net share settled written call option with a \$25 strike price on 0.8 shares of MNO. The prepaid physically settled forward would consist of a debt host contract and an embedded forward contract. Thus, in this decomposition, there would be a debt host and a compound embedded derivative consisting of three components (two call options and the forward).

ASC 815-15-25-7 through 25-10 requires separate embedded derivatives to be bundled together as a single, compound derivative instrument that would be bifurcated from the host contract. For illustration purposes, the journal entries below separately present the components of the embedded derivatives (the purchased put option and the written call option) and changes in their fair value.

Pursuant to ASC 815-15, the derivative should be bifurcated at its fair value, with the residual recorded as the carrying amount of the exchangeable debt instrument.

Illustration 5-2

The issuer would record the exchangeable debt instrument at the proceeds from issuance (\$20). Pursuant to ASC 815, the embedded derivative would be bifurcated from the host instrument and accounted for separately at fair value.¹⁵

Cash	\$ 20	
Purchased put option	5	
Debt		\$ 20
Written call option		5

5.1.2.2 Subsequent accounting

Assume that as of the next balance sheet date, the fair value of MNO stock has increased to \$30.

5.1.2.2.1 Exchangeable debt

Interest expense (including amortization of any issuance costs, premiums or discounts, etc.) would be recognized using the effective interest method pursuant to ASC 835-30-35-2 through 32-5.

5.1.2.2.2 Bifurcated derivative

As the fair value of the MNO stock increases above \$25, the liability for the written call option increases in value while the asset for the purchased put option decreases in value.

Illustration 5-3

Assume the fair value of the purchased put option decreased by \$2 for time value decay (with no change in intrinsic value) and the fair value of the written call option liability increased by \$3, consisting of a \$1 decrease in time value and a \$4 increase in intrinsic value (as the shares increased to \$30, the increase in the intrinsic value of the written call option is calculated as 80% of the \$5 gain in excess of \$25).¹⁵

Expense ¹⁶	\$ 5	
Purchased put option		\$ 2
Written call option		3

5.1.2.2.3 Investment in MNO

Consistent with ASC 320, the MNO shares would continue to be carried at fair value in the available-for-sale portfolio, with adjustments to fair value reflected in other comprehensive income, net of any related income tax effect.

¹⁵ Only for illustration purposes, the journal entry separately presents the components of the embedded derivatives (the purchased put option and the written call option) and changes in their fair value. Under US GAAP, they should be bifurcated and separately accounted for from the host debt instrument as one compound derivative.

¹⁶ ASC 815 does not specify the classification of changes in the fair value of derivatives, but requires disclosure of where the changes are reported in the statement of financial performance.

Illustration 5-4

Company XYZ would mark its investment in MNO stock to \$30 per share and the incremental unrealized gain of \$10 (\$30 current market price less the \$20 market price at issuance of the exchangeable debt) would be reflected in other comprehensive income.

Investment in MNO – fair value adjustment	\$ 10	
Other comprehensive income		\$ 10

The net effect for the period, absent the interest expense recognized on the debt and the result from the application of any hedge accounting, is a \$5 charge to earnings from the change in fair value of the derivatives. The increase in fair value of the MNO stock is reflected in other comprehensive income.

5.1.2.3**At maturity**

At maturity, the exchangeable debt obligation would be extinguished. The time value of the options would have declined to zero. The exchange feature would be settled. Any delivery of shares of MNO stock in satisfaction of the obligation would be recognized as a sale with the applicable unrealized gain or loss in other comprehensive income recognized as a realized gain or loss on the sale of the MNO stock.

Illustration 5-5

Continuing with the example, assume the value of MNO stock remained at \$30 per share.

As the remaining time value in the purchased put option decreased \$3 to zero and the remaining time value in the written call option liability decreased \$4 to zero, with no further change in intrinsic value as the fair value of MNO stock remained at \$30, the embedded features would be adjusted through income as follows:¹⁷

Written call option	\$ 4	
Purchased put option		\$ 3
Income		1

The ending balance of the written call option is a \$4 liability before settlement.

The settlement of the debt, exchangeable feature and the sale of investment in MNO stock would be recorded as follows:

Debt	\$ 20	
Other comprehensive income (80% x \$25)	20	
Written call option	4	
Investment in MNO (80% x \$30)		\$ 24
Gain on sale of investment		20

5.1.3**Exchangeable preferred shares**

Typically, an exchangeable preferred share would likely be classified as a liability pursuant to ASC 480-10-25-4 because the share is mandatorily convertible into another entity's shares or settled in cash, and therefore embodies an unconditional obligation to settle the preferred stock by transferring assets (i.e., either the issuer's investments in another entity's stock or cash) at maturity. An exchangeable preferred share should generally be analyzed similar to exchangeable debt.

¹⁷ Only for illustration purposes, the journal entry separately presents the components of the embedded derivatives (the purchased put option and the written call option) and changes in their fair value. Under US GAAP, they should be bifurcated and separately accounted for from the host debt instrument as one compound derivative.

5.2 Unit structures

5.2.1 Overview and background

Unit structures are a combination of (1) debt or a trust preferred security and (2) a warrant or a forward contract to purchase the issuer's common stock. These structures are frequently referred to as FELINE PRIDES (flexible equity-linked exchangeable security preferred redeemable increased dividend equity securities) or PEPS (premium equity participating security). When viewed on a combined basis, the instruments provide the holder with the economics of a convertible instrument.

The following summarizes the more significant terms of a typical unit structure.

Illustration 5-6

Company A (the issuer) issues \$125 million of unit structure securities to investors in a public offering. Each security contains five units and each unit comprises (1) a three-year variable-share forward purchase contract (the forward contract) and (2) a five-year senior unsecured note with a principal amount of \$25. Key terms of the Securities are as follows:

- ▶ The note will pay interest at a fixed rate of 5.5% and mature in five years. At the end of three years, the note will be remarketed. Upon the remarketing, the interest rate of the note will be reset such that the notes will have a fair value equal to 100.25% of their face value at the remarketing date.
- ▶ The forward contract provides that, at the end of three years (the stock purchase date), investors will purchase and the issuer will sell, for \$25, a number of shares of the issuer's common stock as follows:
 - (a) If the common stock price at the settlement date (generally a weighted average share price for a period immediately preceding the stock purchase date) is at or above \$30, the investors will receive 0.83 shares of the issuer's stock upon settlement of the forward contract.
 - (b) If the common stock price at the settlement date is at or below \$25, the investors will receive one share of stock upon settlement of the forward contract.
 - (c) If the common stock price at the settlement date is between \$25 and \$30, the investors will receive a variable number of shares of the issuer's stock equal to \$25 in value. For example, if the stock price is \$28, the investors will receive approximately 0.89 ($\$25/\28) shares of stock upon settlement of the forward contract.
- ▶ The forward contract requires the issuer to make quarterly payments to the investors at an annual rate of 0.75% of \$25 during the term of the forward contract (the contract adjustment payments). The issuer has the right to defer all or part of these payments until the stock purchase date. Any deferred contract adjustment payments would accrue amounts at the rate of total distributions on the securities until paid, compounded quarterly, to but excluding the stock purchase date. Upon early settlement of the forward contract, the right to receive future contract adjustment payments, including contract adjustment payments that are deferred at the time of settlement or termination, will also terminate.
- ▶ The interest rate of 5.5% is the market rate for the issuer based on its credit rating and the terms of the notes at issuance. Therefore, the fair value and par value of each note equals \$25 (i.e., there is no premium or discount). The forward contract has an assumed fair value of \$2 per unit, which equals the present value of the contract adjustment payments.

5.2.2 Analysis

The debt (or trust preferred security) and equity-linked instrument in a typical unit structure generally are considered separate instruments as the holder may transfer or settle the equity-linked instrument separately from the debt. Therefore, they are generally accounted for separately even though (1) the unit holder may in certain circumstances use the proceeds received from the repayment of the debt or trust preferred security to satisfy the exercise price of the warrant or the forward contract and (2) the unit holder typically will be required to post collateral to secure its obligation under the forward purchase contract if the unit is separated and the debt transferred.

Because there are two freestanding financial instruments issued in the transaction, the proceeds should be allocated between the instruments. The allocation method should be determined after considering the instruments' classification and measurement basis. In a unit structure, the relative fair value method is normally applied to allocate proceeds because the equity-linked instrument is generally classified in equity and the note is carried at amortized cost.

The forward contract is analyzed as a freestanding equity-linked instrument. The guidance in ASC 480 related to determining whether certain contracts settled in shares are classified as a liability should be evaluated.

In this example, the issuer is required to deliver a variable number of shares with a fixed value of \$25 when the price of the company's stock is between \$25 and \$30. However, if the stock price is outside of that range, the issuer will deliver a fixed number of shares. Because the forward includes a range in which the number of shares to be delivered is variable, but the monetary amount of the shares to be delivered is fixed, the instrument should be evaluated pursuant to ASC 480-10-25-14 to determine whether liability classification is required. Specifically, the issuer should determine whether the fixed monetary amount is predominant with respect to the entire settlement obligation that also includes obligations associated with the downside (price less than \$25) and upside (price greater than \$30) ranges.

Because the unit holder bears the risks of owning a share of stock (if the stock declines below \$25) and much of the potential rewards of owning the stock if the stock appreciates above \$30, the probability of the share price at settlement being in the outer ranges may be sufficient such that the settlement obligation would not be considered predominant based on a fixed monetary amount known at inception. The determination of whether the stock price falling in the fixed monetary amount settlement range is predominant should consider standard valuation theory, volatility and statistics, etc. Generally, given the narrow range of the fixed monetary amount, that settlement would not be considered predominant, and the forward would not be a liability pursuant to ASC 480.

The forward contract should be further analyzed pursuant to ASC 815-40 to determine its appropriate classification and measurement. Generally, the forward contract can be structured to meet the criteria for equity classification and would not require subsequent remeasurement at fair value as an asset or liability.

The contract adjustment payments should be accounted for as a liability as it embodies an obligation to the issuer to make payments during the three-year contract period. As the present value of the contractual adjustment payments essentially represents a financing of the premium that Issuer was required to pay to enter into the forward contract, it typically approximates the initial fair value of the forward contract. The accounting for the contract adjustment payments is based on ASC 835-30, *Interest – Imputation of Interest*. Accordingly, the present value of the contract adjustment payments is recorded as a liability (with an offset in equity as it is a premium paid for the forward contract) and subsequently accrues and settles periodically over the term of the forward contract with the resulting expense recognized as interest cost.

Under the relative fair value allocation method, the initial entry to record the issuance of the Securities (assuming (1) the proceeds equal the fair value of the note, (2) the forward contract qualifies for equity classification, and (3) the present value of the contract adjustment payments equals the fair value of the forward contract) would be as follows for:

Cash	\$ 125	
APIC (to recognize the forward contract)	10	
Note		\$ 125
Contract adjustment payment		10

The issuance costs incurred should also be allocated to the debt (or trust preferred security) and equity-linked instruments. In this example, the portion of issuance costs allocated to the note should be classified as an asset and amortized as interest expense using the interest method as described in ASC 835-30. The portion of issuance costs allocated to the forward contract should be recognized as a reduction in equity.

Refer to section 6.5 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for a discussion of related EPS issues.

5.3 Auction rate securities (including failed reset auctions)

5.3.1 Overview and background

Traditional auction rate securities (ARSs) are typically issued by corporate entities as well as not-for-profit entities, such as hospitals, municipalities or related governmental entities (e.g., cities, counties, school districts, publicly owned airports and seaports) and educational institutions. Fund proceeds are used for projects such as new facilities, housing for municipalities and student loan programs for various educational institutions. ARSs are often regarded as attractive investments because they offer yields higher than other liquid investments, particularly when investors benefit from the tax-exempt status of the issuer.

ARSs are long-term (typically 20 years or longer) variable-rate securities with interest rates (or dividend rates if issued in a form of preferred securities) that reset at short-term intervals, usually 7, 14, 28 or 35 days through a “Dutch Auction” process. A Dutch Auction is a competitive bidding process used to determine rates for ARSs on each auction date. Typically, bids are submitted to the auction agent. Each bid and order size is ranked from lowest to highest minimum bid rate. The lowest bid rate at which all the securities can be sold at par establishes the interest rate, otherwise known as the “clearing rate.” New buyers wishing to purchase ARSs may submit a bid on the day of the auction. Investors that desire to continue holding their ARSs are notified of the new market rate determined in the auction process. Because the securities are frequently repriced through the auction process, they trade in the market like short-term investments.

The issuer’s accounting for an auction rate security is similar to the accounting for variable-rate debt, with the interest accrued based on the rate set at the most recent auction. However, if an auction fails (i.e., not enough bids, therefore no auction clearing rate is available), the ARS often has a mechanism by which the pre-auction holders continue to hold the instrument and the interest rate on the security defaults to a formulaic rate (penalty interest).

Due to disruptions in the credit markets in late 2007 and early 2008, many auctions failed. Such events raise several financial reporting issues for issuers, including balance sheet classification, accounting for penalty interest expense, implications for continued use of hedge accounting and consideration of the failed auction as an event of default or cross-default of other debt arrangements. In addition, issuers may modify ARS indentures, raising issues related to extinguishment or modification accounting, debt issuance costs and balance sheet classification.

5.3.2 Analysis

5.3.2.1 Entities sponsoring trusts or SPEs issuing ARSs

The market for traditional ARSs has evolved and ARSs have also been issued by trusts and other special-purpose entities (SPEs) in various forms, including collateralized debt obligation (CDO) arrangements. In these situations, various tranches of securities are issued with different levels of seniority, subordination and risk. The most senior tranche issued typically represents an ARS while subordinate tranches are lower rated non-ARS securities either retained by an entity sponsoring the trust or SPE or sold to third party investors. Sponsoring entities of trusts or SPEs issuing ARSs may provide financial support to prevent an auction from failing by participating in auctions of those ARSs. Without this support, an auction may fail due to insufficient demand. In those cases, sponsoring entities should evaluate whether such support constitutes a variable interest that could require consolidation pursuant to ASC 810, *Consolidation*.

5.3.2.2 Considerations when auction fails

5.3.2.2.1 Penalty interest

The terms of many ARSs provide for an increased interest rate in the event of a failed auction. In many cases, that rate is a multiple of the typical auction reset rate. The higher rate is in effect until the next auction. The issuer would account for this increased interest expense as incurred.

5.3.2.2.2 Hedging of ARSs

An ARS issuer may hedge the variability in the future interest payments using an appropriately designated cash flow hedge. ASC 815-20-55-42 and 55-43 states that auction rate notes are not eligible for a benchmark interest rate risk hedge and therefore issuers must hedge the entire change in the variable rate cash flows and not just the benchmark component. These hedges routinely experience hedge ineffectiveness, even without an auction failure, because no derivative can perfectly hedge the entire variability in the future cash flows of an ARS.

If an ARS being hedged were modified (either by the action of the issuer or any automatic terms in the ARSs (e.g., an interest reset feature)) and the interest terms change, the ongoing accounting for the hedge may be affected. For example, a failed auction that triggers penalty interest modifies the hedged cash flows (i.e., higher interest rates) that were not likely anticipated or replicated in the hedging instrument. When that occurs, the issuer should consider whether the hedge is still expected to be highly effective. There might also be additional ineffectiveness to be recognized.

Refer to “Cash flow hedges of existing or forecasted variable-rate financial assets and liabilities” in Chapter 6 of our Financial Reporting Developments publication, *Derivative instruments and hedging activities* (SCORE No. BB0977), for further discussion.

5.3.2.2.3 *Extinguishing or modifying ARSs*

ARSs may be issued in the form of debt or preferred stock. The form of the instrument may determine the accounting for any extinguishment or modification of the instrument.

If an issuer extinguishes ARSs issued in the form of debt, it should account for the extinguishment pursuant to ASC 470-50-40-2. If an issuer modifies the terms of the ARS (e.g., by negotiating a change to the failed auction default interest formula or even a different interest index entirely), the issuer should determine whether the modification should be accounted for as a troubled debt restructuring pursuant to ASC 470-60. If not a troubled debt restructuring, the guidance in ASC 470-50 requires a substantial modification of the ARS terms for the modification to be accounted for as an extinguishment. This guidance also addresses the accounting for fees exchanged between the issuer and investor, third-party costs incurred as part of a debt restructuring, as well as whether an investment bank involved in a debt restructuring is acting as an agent or a principal.

If an issuer decides to extinguish ARSs issued in the form of a preferred security, provided that the preferred security is classified in equity, extinguishment accounting pursuant to ASC 260-10-S99-2 should be applied. However, any modification to the terms of preferred stock should be carefully evaluated to determine if extinguishment accounting is appropriate.

Some ARSs may have existing contractual terms that can be invoked by the issuer under certain circumstances, giving the issuer the ability to reset the interest rate mechanism of the instrument to a market-based variable index or perhaps even a fixed rate. This is sometimes referred to as an “interest mode change.” While this change is likely not a modification of the instrument, as the issuer is exercising a contractual term (rather than amending the ARS), the specific facts and circumstances and contractual terms of the ARS should be considered. If a provision is not present in the ARS security, yet the issuer negotiates a modification to the contractual terms (either on its own initiative or after being contacted by investors or an investment bank) or the ability to effectuate the mode change is not entirely within the control of the issuer, the guidance on modification accounting should be considered.

If the ARS is being hedged under a cash flow hedge and the interest mode changes, the issuer should consider the effect of adjusting the interest mode on the continuing hedge accounting assessment of effectiveness and measurement of ineffectiveness.

5.3.2.2.4 *Balance sheet classification*

ARSs issued in the form of debt generally have legal maturities of at least 20 years and thus are generally classified as long-term debt. ARS indentures and related documents should be reviewed to determine if a failed ARS auction may trigger current classification (e.g., is deemed an event of default permitting the investor to put the instrument to the issuer) or cross-defaults in other arrangements.

If financial statements have not been issued, an issuer’s actions subsequent to that balance sheet date may affect whether the ARS should be classified as current or noncurrent as of that balance sheet date. For example, subsequent to the balance sheet date but prior to the issuance of the financial statements, assume an issuer extinguishes the outstanding ARS by either the use of current assets or funding with short-term liabilities (e.g., the issuance of commercial paper) or tries to support the intent to refinance with a financial arrangement that does not meet the criteria in ASC 470-10-45-14. In that case, the ARS may require current classification as of the balance sheet date.

However, if the issuer modifies the ARS such that an extinguishment is deemed to occur, and the new debt instrument would qualify as long-term, the modified ARS outstanding at that balance sheet date would retain noncurrent classification. Issuers engaged in extinguishment or modification transactions should provide appropriate disclosure of the subsequent events.

5.3.2.2.5 *Bidding on borrower's own ARSs*

In a letter dated 14 March 2008,¹⁸ the SEC staff clarified that issuers could participate in bidding activities without being considered market making for their own securities. To prevent failing auctions that may trigger a frequently higher failed auction formula rate, issuers of ARSs began to participate (i.e., bid) in the auction of their own ARSs.

Issuers should consult with their legal counsel in connection with any decision to participate in auctions of their own securities, as well as on any related disclosures. If an issuer participates and wins the bid of an auction for its ARSs, those acquired ARSs should be extinguished pursuant to ASC 405-20-40-1. As a result of the issuer acquiring its own debt, the issuer is considered to have extinguished that portion of the ARS liability. Any related issuance costs associated with the portion of ARSs that have extinguished should be written off pursuant to ASC 470-50-40-2.

Before concluding on extinguishment accounting, however, an entity should consider whether it has bid on and acquired debt that it actually issued. If the entity is the named issuer of the acquired debt (e.g., it has acquired the specific instrument that is classified as debt in its own balance sheet) that instrument has been extinguished. In contrast, many ARSs are issued through trust or SPE structures, and the sponsoring entity is not the issuing entity of the ARSs. Rather, the sponsoring entity issues notes to the trust or SPE in exchange for the proceeds the trust or SPE received from issuance of the ARSs to external investors.

If the sponsoring entity does not consolidate the issuing trust or SPE and thus does not recognize the ARSs on its books, the acquisition of these ARSs by the sponsoring entity may not constitute an extinguishment of its liability. Judgment should be applied in these situations in determining whether the issuer's obligation has been extinguished.

5.4 Remarketable put bonds

5.4.1 Overview and background

A remarketable put bond is a security that typically has a long-term maturity (e.g., ten years), but contains put and call features that are exercisable prior to maturity (e.g., two years). A typical remarketable put bond has put and call features with the same strike prices and exercise dates, but different counterparties (with the issuer writing a put to the investor and the investment bank purchasing a call from the investor). There is also an interest rate reset provision at the put/call date. These terms are described below:

- ▶ The put feature is an option written by the issuer to the investor and embedded in the bond. If interest rates have increased at the put date, the investor will put the debt back to the issuer, generally at par.
- ▶ The call feature is purchased by the investment bank from the investor. It is bundled with the debt issued to the investor but not embedded by the issuer, so it is not evaluated for the issuer's accounting. If interest rates decrease, an investment banker has the right to call the bonds from the current investors, generally at par. In return for providing this right, the investment bank reduces the issuance price of the combined debt instrument.
- ▶ The embedded interest rate reset feature automatically resets the bond's interest rate if it is outstanding (i.e., is not put) at the end of two years. This reset is typically based on (1) the yield, at the issuance date of the puttable bond, of US Treasury bonds of the same maturity as the bond and (2) the debtor's credit spread at the put/call date.

¹⁸ <http://www.sec.gov/divisions/corpfin/cf-noaction/2008/mars031408.pdf>

At the end of the two-year term, the security is either put or called, regardless of changes in interest rates. If put (by the investor), the bond will be settled; if called (by the investment bank), the bond's interest rate will reset and the investment bank will remarket the bond as a new debt with the same remaining maturity as the bond (i.e., eight years).

Economically, the bond in its initial form is priced as a bullet obligation with a maturity at the put/call date. For example, a remarketable put bond that has a ten-year maturity with put and call features exercisable in two years, is priced based on a two-year interest rate at inception. The issuer is able to lower its funding cost (in a form of reduced initial interest rate or receipt of premium) prior to the put and call date by providing the investor with the interest reset feature and put feature.

If interest rates increase, the investor will likely exercise the put feature and the debt will be extinguished. The issuer keeps the premium (or has enjoyed the lower interest rate), which reduces its overall borrowing cost. If interest rates decrease, the investment bank will likely exercise the call, which will cause the interest to reset and the bond to be remarketed. If remarketed successfully, the bond will continue to be outstanding for the remaining life (eight years in the example above), but bear a rate higher than market based on the reset mechanism.

The new rate on the bond is higher than the market rate at the time of remarketing due to the reset formula starting with the US Treasury rates from the initial issuance. Thus, the bonds are reissued at a premium and these additional proceeds allow the investment bank to monetize the value of the call option it had exercised to purchase the bonds. However, since the bonds are issued at a premium, and a holder has no rights in bankruptcy associated with the premium, the reset formula will provide an even higher interest rate at reissuance for this added risk. Issuers may want to avoid this increased rate. Therefore, the issuer may work with another investment bank (or perhaps the same investment bank that holds the call option) to purchase the existing bonds and exchange them for new bonds that bear interest at a current market rate but with a higher face amount. In this case, the investment bank captures the call option's intrinsic value through a higher face value in the new bonds.

5.4.2 Analysis

Remarketable put bonds are structured in a wide variety of forms and may contain different features. Any puts or calls that are associated with the instruments should be closely evaluated to determine (1) if the issuer of the debt is also a counterparty to that put or call and (2) if the put or call is embedded in the debt or freestanding. Based on those conclusions, the embedded feature or freestanding instrument would be evaluated pursuant to the derivatives guidance. ASC 815-15-55-26 through 55-53 provides several examples of alternative remarketable put bond structures and describes at a high level the accounting analysis of the embedded and freestanding features (refer to section 2.2.5 in Chapter 2 for guidance on evaluating embedded put and call features). The interest rate reset feature is also an embedded feature that should be evaluated for bifurcation pursuant to ASC 815-15.

If the existing bond is exchanged with an investment bank for a new bond (as discussed above), a determination should be made as to whether the investment bank is acting as (1) the borrower's agent or (2) a principal. If the investment bank is concluded to be an agent, the remarketing should be accounted for as an extinguishment of the existing debt and the issuance of new debt because there has been a change in creditors. If the investment bank acts as a principal, the debt modification guidance in ASC 470-50's provisions should be applied to determine whether to account for the exchange as a modification or as an extinguishment. To determine whether the investment bank is acting as a principal or agent in the exchange transaction, the four indicators described in ASC 470-50-55-7 should be considered. We generally believe that the investment bank must commit its own funds and those funds should be at risk for a sufficient period in order to be acting as a principal. Issuers may consider the following questions in determining whether the investment bank's funds are at risk:

- ▶ Has the investment bank obtained “soft bids” for the replacement bond prior to or concurrent with its decision to exercise the call option on the old bond? “Soft bids” reduce the investment bank’s exposure to market risk and may indicate the investment bank’s role is that of an agent.
- ▶ What period of time will the investment bank hold the new bonds before reselling them? We do not believe that there is a bright line for the number of days the investment bank must hold the new bonds in order to indicate it is acting as a principal. However, the period should generally be long enough for the holder to be at risk for the type of instrument held.
- ▶ Has the investment bank been compensated for any costs associated with hedging its exposure to market risk on the new bonds? Are all fees paid to the investment bank at market as underwriter? Payments to the investment bank through fees or other means to reduce its market risk may indicate the investment bank’s role is that of an agent.
- ▶ How volatile is the price market of the bond? The combination of the bond’s underlying price volatility and the length of time the investment bank will hold the bonds before reselling them may provide an indicator as to whether the investment bank has substantive market risk.

In addition, more recent remarketable put bonds may permit the issuer to select reset rates or terms upon remarketing and allow the issuer some discretion on the terms of the new bonds. Careful evaluation of those terms is necessary in determining whether a modification of the existing bond has occurred and thus modification vs. extinguishment accounting pursuant to ASC 470-50 should be considered.

5.5 Share lending arrangements

5.5.1 Overview and background

An entity may enter into a share lending arrangement that is executed separately from, but in contemplation of, a convertible debt offering (or some other convertible financing transaction). Although the convertible debt instrument is ultimately sold to investors, the share lending arrangement is an agreement between the convertible debt issuer (share lender) and the investment bank (share borrower) and is intended to increase the availability of the issuer’s shares and facilitate the ability of the investors to hedge the conversion option in the issuer’s convertible debt.

Investors in convertible debt (e.g., private equity or venture capital funds or other institutional investors) will frequently seek to hedge the equity exposure in the convertible debt investment. An investment bank is usually the counterparty to the investor’s hedge, and in turn desires to hedge its own risk. The ability of the investment bank to hedge its own risk (generally by borrowing shares and selling them short) depends on its ability to economically obtain shares in the stock lending market. For entities with shares that are costly to borrow from the market (e.g., due to a lack of liquidity or extensive existing open short positions in the shares), the pricing of a convertible debt offering (or even the ability to successfully complete an offering at all), may depend on increasing the availability of shares in the market.

5.5.2 Analysis

The Own-Share Lending Arrangements Issued in Contemplation of Convertible Debt Issuance subsections of ASC 470-20 addresses the accounting for an entity’s own-share lending arrangement initiated in conjunction with a convertible debt or other financing offering and its effect on EPS. Additionally, the share lending guidance addresses the accounting and EPS implications for defaults by the share borrower when a default becomes probable of occurring and when a default actually occurs.

5.5.2.1 Scope

The share lending guidance in ASC 470-20 applies to equity-classified share lending arrangements. A share lending arrangement is first evaluated pursuant to other guidance (e.g., ASC 480 for certain liability-classified contracts and ASC 815-40 for contracts in an entity's own equity) to determine its balance sheet classification. Generally, share lending arrangements are structured to obtain equity classification by the share lender.

5.5.2.2 Classification of share lending arrangements as equity

In determining the classification of a share lending arrangement in conjunction with ASC 480, the issuer should consider whether the share lending arrangement embodies any obligation on the part of the issuer to either transfer assets or deliver equity shares after inception. In a typical share lending arrangement, the contract requires the counterparty (usually an investment bank) only to return the initial equity shares the issuer has loaned to the bank over the contract period. The issuer bears no further obligation after inception to transfer assets or issue a variable number of its own equity shares. Therefore, a share lending arrangement is generally not a liability within the scope of ASC 480.

The issuer should evaluate the share lending arrangement pursuant to ASC 815-40 to determine whether equity classification is appropriate. Generally, a share lending arrangement is considered indexed to the issuer's own stock pursuant to the guidance in ASC 815-40-15. The terms of the arrangement require the issuer to issue shares to the bank in exchange for a nominal loan processing fee at inception. On the final settlement of the contract, generally upon maturity or conversion of the convertible debt, the bank is required to return the loaned shares to the issuer for no additional consideration. That is, the share lending arrangement requires physical settlement in a fixed number of shares. The contract generally does not contain any adjustment provisions that would change the number of shares to be delivered by the bank.

The evaluation of the share lending arrangement pursuant to the equity classification guidance in ASC 815-40-25 focuses on any settlement alternatives provided in the contract. Share lending arrangements generally stipulate that, in the event the bank defaults in returning the loaned shares, the issuer is entitled to a cash payment equal to the fair value of the loaned shares.

We generally believe that this isolated scenario that results in a cash settlement by the bank does not preclude the entire contract from equity classification, as the events that require cash settlement are typically outside of either party's control (usually as a result of legal obstacles or regulations such that the bank is not permitted or unable to deliver shares).

However, this isolated cash settlement scenario could also be viewed as an embedded derivative within a host equity contract (the receivable leg of the share lending arrangement) that is to be bifurcated. During the deliberation of this guidance (pre-Codification EITF 09-1),¹⁹ the EITF acknowledged that in a typical share lending arrangement, the terms of the contract may require cash settlement by the bank instead of delivery of the loaned shares in the event the bank is unable to deliver shares. The guidance addresses this provision and states that if it becomes probable that the counterparty will default (i.e., not return the borrowed shares or consideration equal to the then-current fair value of the borrowed shares at the maturity of the arrangement), the issuer should recognize an expense (with an offset to additional paid-in capital) equal to the expected loss due to default. The EITF did not indicate that this provision would preclude the entire contract from being classified as equity.

¹⁹ EITF Issue No. 09-1, "Accounting for own-share lending arrangements in contemplation of convertible debt issuance or other financing" (EITF 09-1).

5.5.2.3 Initial measurement

The share lending guidance states that at the date of issuance, the share lending arrangement should be measured at fair value and recognized as an issuance cost with an offset to equity (additional paid-in capital). Issuance costs should be accounted for consistent with other applicable guidance (e.g., allocating the issuance costs between the debt and equity components if the associated convertible debt were within the scope of the cash conversion guidance). Any issuance cost considered debt issuance costs are amortized as interest expense generally over a period consistent with that of the associated convertible financing.

5.5.2.4 Accounting for counterparty default

The share lending guidance states that if it becomes probable that the counterparty will default (i.e., probable of not returning the borrowed shares or consideration equal to the then-current fair value of the borrowed shares at the maturity of the arrangement), the issuer should recognize an expense (with an offset to additional paid-in capital) equal to the expected loss due to default. While some believe that any loss on an equity contract should be recognized in equity (and should not affect earnings), the EITF noted that the loss is not a result of changes in equity values, but in a failure of the counterparty to perform under the contract. As the entity essentially gave away its shares for no (or insufficient) consideration and that transaction should result in the recognition of a loss.

The expected loss is measured as the difference between the fair value of unreturned shares as of the reporting date and the fair value of probable recoveries, if any. The issuer should remeasure the expected loss at each reporting date until an actual default occurs and the settlement amount has become fixed. Subsequent remeasurement would reflect both increases and decreases in the expected loss in earnings, potentially including the complete reversal of the expected loss if it were no longer probable that the share borrower would default at settlement.

5.5.2.5 Earnings per share

The share lending guidance states that loaned shares under share lending arrangements should be excluded from the computation of basic and diluted EPS (because absent a default, the shares will be returned), unless an actual default by the share borrower has occurred. Thus, there appears to be an inconsistency within the share lending guidance whereby the loss on default is recognized when probable, but the shares are included in EPS only upon actual default. However, the Task Force's decision on the recognition of a loss is consistent with the requirements of ASC 450, *Contingencies*, while the EPS conclusion is consistent with the treatment of contingently issuable shares pursuant to ASC 260, *Earnings per Share*.

If dividends on the loaned shares are not reimbursed to the entity (reimbursement typically is required in those arrangements), any amounts, including contractual (accumulated) dividends and participation rights in undistributed earnings, attributable to the loaned shares should be deducted in computing income available to common shareholders, consistent with the two-class method set forth in ASC 260-10-45-60B. Upon default by the share borrower, the shares are included in the denominator of both basic and diluted EPS.

5.5.2.6 Disclosures

The share lending guidance states the disclosures in ASC 505-10-50, *Equity – Overall*, are required for share lending arrangements within the scope of the share lending guidance. It also requires specific disclosures, as described in detail in ASC 470-20-50-2A through 50-2C. Those disclosures are specific to the share lending arrangement in both annual and interim periods in which a share lending arrangement is outstanding. In periods in which a share borrower default becomes probable, incremental disclosures related to both the loss and the potential effect on EPS are also required.

5.6 Trust preferred securities

5.6.1 Overview and background

Trust preferred securities are a form of financing issued by a subsidiary (or trust) that is often treated as debt for federal income tax purposes, but not for financial reporting or credit rating purposes. These types of securities have different trademarked names, including MIPS (monthly income preferred securities), QUIPS (quarterly income preferred securities) and TOPrS (trust originated preferred securities).

In a typical structure, a company establishes a newly formed subsidiary, which issues preferred securities to investors (trust interests). The company purchases all of the trust's common securities, and may guarantee the obligations of the trust if in the future the trust cannot make payments. The trust uses the proceeds from the issuance of the preferred securities and the amount it received for issuing common securities to make a deeply subordinated loan to the company, with terms identical to those of the trust preferred securities.

A trust preferred security is generally long term (30 years or more). It generally has periodic fixed or variable interest payments and permits early redemption by the issuer. In addition, trust preferred securities usually permit the deferral of interest payments for up to five years.

5.6.2 Analysis

Application of ASC 810-10's variable interest model generally would not result in the sponsoring entity consolidating the trust that issues the preferred securities (refer to section 5.1 of our Financial Reporting Developments publication, *Consolidation of variable interest entities* (SCORE NO.BB1905), for further discussion). However, if the trust were consolidated by the sponsoring entity and the preferred securities are outside the scope of ASC 480 (due to deferrals of the effective date for certain instruments), the preferred securities will be classified as either (1) redeemable noncontrolling interest in temporary equity or (2) as debt if certain elections had been made historically (see below).

Because a trust preferred security may require redemption in the future, in circumstances where the sponsoring entity consolidates the trust, the guidance in ASC 480-10-S99-3A should be considered to determine whether temporary equity classification is required for the preferred securities. If classified as noncontrolling interest in temporary equity, the SEC staff has insisted on specific descriptive language, such as "Guaranteed Preferred Beneficial Interest in Company's Subordinated Debenture," and dividends should be reported as an allocation of income to the noncontrolling interest holders in the income statement.

Alternatively, the SEC staff historically permitted these instruments to be presented within the debt caption in the balance sheet with an appropriate description in the footnotes. Under this presentation, dividends would be recognized as interest expense. The SEC staff preferred, but did not require, that the same caption as required for temporary equity classification be used even if the security were classified as debt. However, in June 2007, through an amendment to EITF D-98,²⁰ the SEC staff indicated they would no longer accept the presentation as debt. That SEC staff position was applied prospectively to all affected financial instruments (or host contracts) that were entered into, modified or otherwise subject to a remeasurement (new basis) event after a short transition period. It is possible, for longer dated structures, that some grandfathered trust preferred securities may still be classified as debt.

²⁰ EITF Topic No. D-98, "Classification and Measurement of Redeemable Securities" (EITF D-98)

5.7 Warrants for redeemable shares

5.7.1 Overview and background

Warrants may be issued on shares that, by the terms of the shares themselves, are redeemable at the option of the shareholder. The redemption feature is embedded in the underlying shares, not a term in the warrant, and may require shares to be mandatorily redeemed or redeemed at the option of the holder at any time or only upon occurrence of certain designated events (e.g., change of control, delisting). The accounting for a warrant for redeemable shares is similar to the accounting for a puttable warrant. Refer to section 4.1.1.9 in Chapter 4 for a description of puttable warrants.

5.7.2 Analysis

A warrant for a redeemable preferred share (a share with an embedded redemption feature) may be required to be classified as a liability when the redemption feature of the underlying preferred share potentially requires the issuer to repurchase its share by transferring assets. That warrant may require liability classification even though the underlying preferred share itself is likely classified as equity (or temporary equity) in the issuer's financial statements.

This inconsistency is a direct result of the FASB's explicit decision to require different classification for a redeemable share and a warrant exercisable into that very same redeemable share. This accounting is also followed for warrants on redeemable common shares.

5.7.2.1 Applicable guidance

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance and Illustrations

480-10-55-33

A warrant for puttable shares conditionally obligates the issuer to ultimately transfer assets—the obligation is conditioned on the warrant's being exercised and the shares obtained by the warrant being put back to the issuer for cash or other assets. Similarly, a warrant for mandatorily redeemable shares also conditionally obligates the issuer to ultimately transfer assets—the obligation is conditioned only on the warrant's being exercised because the shares will be redeemed. Thus, warrants for both puttable and mandatorily redeemable shares are analyzed the same way and are liabilities under paragraphs 480-10-25-8 through 25-12, even though the number of conditions leading up to the possible transfer of assets differs for those warrants. The warrants are liabilities even if the share repurchase feature is conditional on a defined contingency.

The accounting for warrants on redeemable shares follows the guidance in ASC 480-10-25-8 through 25-13. Those paragraphs address the classification of instruments, other than an outstanding share, that have both of the following characteristics:

- ▶ The instrument embodies an obligation to repurchase the issuer's equity shares, or is indexed to such an obligation.
- ▶ The instrument requires or may require the issuer to settle the obligation by transferring assets.

In ASC 480, the term "obligation" refers to either a conditional or unconditional obligation to transfer assets or issue equity shares. In addition, ASC 480 uses the term "indexed to" interchangeably with the phrase "based on variations in the fair value of." Based on those two provisions, a warrant that permits the holder to purchase redeemable shares (refer to discussion below on what makes a share redeemable)

is a liability pursuant to ASC 480 because (1) the warrant itself is indexed to an underlying share (i.e., the option's value varies with the fair value of the share) that embodies the issuer's obligation to repurchase the share and (2) the issuer has a conditional obligation to transfer assets if the shares are put back. Those concepts also apply to a forward contract requiring the company to issue redeemable shares.

The following example is provided in ASC 480-10-55-32, which states:

Entity B issues a warrant for shares that can be put back by Holder immediately after exercise of the warrant. The warrant feature allows Holder to purchase 1 equity share at a strike price of \$10 on a specified date. The put feature allows Holder to put the shares obtained by exercising the warrant back to Entity B on that date for \$12, and to require physical settlement in cash. If the share price on the settlement date is greater than \$12, Holder would be expected to exercise the warrant obligating Entity B to issue a fixed number of shares in exchange for a fixed amount of cash, and retain the shares. That feature alone does not result in a liability under paragraphs 480-10-25-8 through 25-12. However, if the share price is equal to or less than \$12, Holder would be expected to put the shares back to Entity B and could choose to obligate Entity B to pay \$12 in cash. That feature does result in a liability, because the financial instrument embodies an obligation to repurchase the issuer's shares and may require a transfer of assets. Therefore, those paragraphs require Entity B to classify the warrant as a liability. A warrant to issue shares that will be mandatorily redeemable is also classified as a liability, and should be analyzed under Topic 815.

This example is on "shares that can be put back to the Holder immediately after exercise" and that are then puttable for a fixed price (\$12 settled in cash). To address how to analyze a warrant for shares that (1) could be put back at other times, (2) were contingently puttable or (3) could be put for a price other than a fixed price, prior to Codification, the FASB issued FASB Staff Position FAS 150-5, *Issuer's Accounting under FASB Statement No. 150 for Freestanding Warrants and Other Similar Instruments on Shares That Are Redeemable*. This guidance indicated that a warrant for a redeemable share is a liability, despite the share itself not being a liability. Not all of the FSP was codified, and certain omitted portions are instructive.

FSP FAS 150-5 stated in part (selected footnote references retained and all others omitted):

5. Paragraph 11 of Statement 150 applies to freestanding warrants and other similar instruments on shares¹ that are either puttable or mandatorily redeemable regardless of the timing of the redemption feature or the redemption price because those instruments embody obligations to transfer assets. Therefore, paragraph 11 applies to warrants on shares that are redeemable immediately after exercise of the warrants and also to those that are redeemable at some date in the future.
6. The phrase *requires or may require* in paragraph 11 encompasses instruments that either conditionally or unconditionally obligate the issuer to transfer assets. If the obligation is conditional, the number of conditions leading up to the transfer of assets is irrelevant.

Footnote 1 in paragraph 5 of FSP FAS 150-5 (indicated above) observed, in part, "Paragraph 11 of Statement 150 requires warrants or similar instruments to acquire redeemable shares to be classified as liabilities even though the underlying shares may be classified as equity under other accounting guidance." (Paragraph 11 of Statement 150²¹ was codified as ASC 480-10-25-8, discussed above.)

While paragraph 5 of FSP FAS 150-5 and its footnote were not included in the Codification, the guidance in paragraph 6 of the FSP was included in ASC 480-10-25-9. Additionally, an example from paragraph 7 in the FSP, which illustrated the concepts in paragraph 5, was included in ASC 480-10-55-33.

²¹ Statement No. 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*

This guidance clarified that a warrant for a redeemable share is a liability, despite the share itself not being a liability.

5.7.2.2 What makes a share “redeemable”

Warrants most frequently in the scope of ASC 480 are for preferred shares with triggers that permit or may permit the investor to realize the liquidation preference prior to the liquidation of the issuer. The same accounting analysis applies to warrants for redeemable common shares.

A preferred share is redeemable if there is any feature in the preferred share that will either (1) automatically (unconditionally or mandatorily) or contingently (conditionally) require the issuer to redeem the share or (2) permit the holder to compel the issuer to redeem (i.e., put) the share at any time or on the occurrence of a contingent event. The balance sheet classification of the preferred share (i.e., equity, temporary equity or a liability) is not considered. A warrant on a redeemable preferred share that may require the issuer to transfer assets is a liability unless the issuer can avoid triggering redemption by controlling the exercise contingency (refer to section 5.7.2.2.2).

5.7.2.2.1 Mandatorily redeemable securities

ASC 480 defines a mandatorily redeemable financial instrument as “any of various financial instruments issued in the form of shares that embody an unconditional obligation requiring the issuer to redeem the instrument by transferring its assets at a specified or determinable date (or dates) or upon an event that is certain to occur.” (Refer to section A4 in Appendix A for further guidance on identifying mandatorily redeemable securities.) A preferred share that is mandatorily redeemable is classified as a liability under ASC 480-10-25-4. A warrant for a mandatorily redeemable preferred share is also a liability.

Importantly, a share may not be considered mandatorily redeemable because its terms specify that the occurrence of an event – regardless of probability – could prevent the share from being redeemed. However, a warrant on that share is still a liability pursuant to ASC 480 because the share embodies a redemption obligation (even though it is conditional).

For example, if preferred shares require redemption on a date certain, but are also convertible into common stock prior to that redemption date, the preferred shares are not considered mandatorily redeemable, as redemption is conditioned on the shares not being converted prior to that date (refer to the example in ASC 480-10-55-11). As a result, the preferred shares are not classified as a liability pursuant to ASC 480 (but may be classified as temporary equity for SEC registrants). However, a warrant for this share is classified as a liability because the shares are redeemable if the warrant is exercised and the embedded conversion option is not exercised. As noted in ASC 480-10-25-9, the number of conditions leading up to the transfer of assets is irrelevant.

5.7.2.2.2 Contingently redeemable securities

A preferred share that is not mandatorily redeemable may be either (1) automatically redeemed upon the occurrence of a contingent event and/or (2) puttable at the option of the holder either currently, with the passage of time or on the occurrence of a contingent event.²² While the preferred share is not classified as a liability pursuant to ASC 480, further evaluation of the redemption feature is necessary to determine the accounting for the related warrant. If a preferred share is redeemable, a warrant to acquire that share may embody an obligation and thus require liability classification pursuant to ASC 480.

²² Shares that become redeemable or puttable are referred to as “contingently redeemable” in this section.

Understanding the nature of the contingent event that requires or permits the redemption of an underlying preferred share is important. If the future event that triggers the redemption (or possible redemption) of the preferred shares is completely within the issuer's control, an obligation does not exist and will not exist until the issuer takes (or fails to take) action. Accordingly, the share is not considered redeemable. All facts and circumstances should be considered to determine whether the issuer has complete control over the event leading to redemption, regardless of probability.

In contrast, a preferred share that is not redeemable currently but may become redeemable with the passage of time or on a contingent event that is not completely within the control of the issuer is considered contingently redeemable. In that case, the issuer is obligated to redeem when or if called upon.

For example, consider a preferred share that is redeemable upon the completion of an initial public offering. A warrant for that preferred share is not a liability, provided the issuer is considered to control (i.e., avoid) triggering the redemption right in the preferred share by not initiating a public offering. However, a preferred share that is contingently redeemable if an initial public offering has not been completed by a specific date is considered redeemable (and the warrant for that preferred share is a liability) because, while it is within the issuer's control to start the offering process, it is not within the issuer's control to complete an offering by a specific date.

The redeemable equity guidance in ASC 480-10-S99-3A (refer to Appendix E for further discussion) may be helpful in determining whether a triggering event is within the control of the issuer and therefore, whether a warrant on such a share (i.e., contingently puttable share) may embody an obligation to transfer assets. While ASC 480-10-S99-3A may be helpful in making that determination, we generally believe that guidance is not necessarily determinative that instruments in its scope embody obligations of the issuer (e.g., callable shares). The individual facts and circumstances should be considered in making this determination.

For example, a feature in a preferred share may provide for the redemption of the security upon any transaction in which the outstanding shares of common stock are exchanged for consideration and the stockholders of the corporation immediately prior to such an event hold less than 50% of the voting securities of the corporation (or surviving entity) immediately after such event.

If the issuer cannot control (i.e., cannot prevent) the occurrence of a transaction resulting in a change in the shareholders as described above (e.g., by using corporate governance provisions under its articles of incorporation or invoking state or federal securities law), the preferred share would be considered redeemable. A warrant for that preferred share should be classified as a liability.

5.8 Tranched preferred share issuances

5.8.1 Overview and background

A tranched preferred share issuance, also referred to as a "delayed issuance of preferred shares" or a "contingent issuance of preferred shares," consists of multiple components, the first of which is an initial issuance of preferred shares. The second component which is contractually committed to at the initial closing date, is referred to as the "second" or "later" tranche or a "delayed issuance," and results in preferred shares issued at a specific future date or upon the occurrence of a future event or milestone.

Tranched preferred share transactions are commonly entered into by emerging entities (e.g., biotech and technology) as a source of capital to fund research and development and general operations. The later tranche(s) often are timed to coincide with a future expected need for capital to continue the entity's product development. For example, a later tranche may be contingent upon a biotech company commencing a certain phase of clinical trials.

5.8.2 Analysis

The future right or obligation to issue preferred shares in a later tranche (referred to as the “future tranche right or obligation”) should be evaluated as either (1) a freestanding financial instrument requiring its own accounting or (2) a contractual feature that is embedded in the preferred shares issued at closing.

Once that determination is made, the accounting for the freestanding instrument or embedded feature should be based on the contractual terms of the preferred share and the future right or obligation and should consider the bifurcation guidance in ASC 815-15. For example, the preferred share may have various dividend features and be (1) perpetual, (2) contingently redeemable or mandatorily redeemable or (3) convertible. In addition, the future tranche right or obligation may (1) mandate the subsequent round of investment, (2) permit the issuer the unilateral right to force the investment or (3) permit the investor the unilateral right to invest. Each of those features and terms has a direct effect on the accounting.

5.8.2.1 Freestanding or embedded

A tranced preferred share issuance may take the form of either a single instrument (e.g., the initial issuance of preferred shares with an embedded feature providing for the future tranche right or obligation) or multiple instruments (e.g., the initial issuance of preferred shares with a separate freestanding instrument for the future tranche right or obligation).

ASC 480 defines a freestanding financial instrument as a financial instrument that meets either of the following conditions: (1) it is entered into separately and apart from any of the entity’s other financial instruments or equity transactions or (2) it is entered into in conjunction with some other transaction and is legally detachable and separately exercisable. An instrument or feature not meeting these conditions is generally considered a feature embedded in another contract or transaction.

Because both the initial issuance of preferred shares and the future tranche right or obligation are entered into at the same time (as part of one agreement or multiple contractual agreements executed at the same time) between the same counterparties, condition (b) above should be analyzed.

- ▶ Legally detachable – Generally, whether two instruments can be legally separated and transferred such that the two components may be held by different parties. For example, if the initial investor can sell its preferred shares and retain the future tranche right or obligation, the instruments are legally detachable. In assessing this criterion, it is not relevant which component the initial investor can transfer. For example, if the initial investor can transfer the preferred share but contractually cannot transfer the future tranche right or obligation, the two instruments are still legally detachable. The same would be true if the initial investor had to retain the preferred shares but could transfer the future tranche right or obligation. If the investor is able to separate the two components, they are generally considered legally detachable.
- ▶ Separately exercisable – Generally, whether one instrument can be exercised without terminating the other instrument (e.g., through redemption, simultaneous exercise, or expiration). For example, if the future tranche right or obligation can be exercised while the initial preferred shares continue to be outstanding (which generally is the case with a tranced preferred share issuance), the instruments are separately exercisable.

To conclude under condition (b) above that instruments are freestanding, they should be both legally detachable and separately exercisable. For example, if either the initial preferred shares or the future tranche right or obligation can be transferred to another party (separate from the other instrument), and the initial preferred shares remain outstanding upon the exercise or fulfillment of the future tranche right or obligation (i.e., upon the issuance of the later tranche of preferred shares), the instruments would be

freestanding. However, if the future tranche right or obligation cannot be transferred without the initial preferred shares (or the initial preferred shares cannot be transferred without the future tranche right or obligation), yet the initial preferred shares still remain outstanding upon the exercise or fulfillment of the future tranche rights/obligations, the instruments would not be freestanding. That is, the future tranche right or obligation would be an embedded feature (i.e., embedded in the initial preferred shares).

If there are multiple future issuances or tranches of preferred shares in a tranching preferred share transaction, the issuer should also consider whether each subsequent issuance is an individual contract or, instead, a portion of a single contract. For example, if a tranching preferred share issuance has a potential second, third and fourth tranche, the issuer should determine whether those are additional embedded features or freestanding financial instruments and, if freestanding, whether they are freestanding individually or as one combined instrument. That determination should also be made based on the legally detachable and separately exercisable criteria.

Determining whether a future tranche right or obligation is an embedded feature or a freestanding instrument requires an understanding of the contractual terms of the arrangement. The parties to the arrangement may have intended or expected that the future tranche right or obligation would remain with the initial investor that purchased the preferred shares. However, the legal documents (e.g., securities purchase agreement and investor rights agreement, etc.) may not require such coupling. That is, there may be no contractual provisions in the transaction documents that prevent the initial investor from transferring one component (either the initial preferred stock or the future tranche right or obligation) and retaining the other component. The absence of such a contractual restriction often results in a conclusion that the future tranche right or obligation is a freestanding financial instrument for financial reporting purposes.

5.8.2.2 **Accounting for a freestanding future tranche right or obligation**

If the future tranche right or obligation is determined to be a freestanding instrument, there are two instruments requiring separate accounting (i.e., the preferred shares issued and the separate future tranche right or obligation). The first step is to determine the proper classification of the freestanding future tranche right or obligation instrument (as an asset or liability or in equity). This classification is important because it determines the method for allocating the arrangement proceeds between the freestanding future tranche right or obligation instrument and the preferred shares issued.

The freestanding future tranche component, which is an equity contract on the issuer's own stock, should be evaluated based on its contractual terms to determine if it is a forward contract (the issuer must issue and the investor must purchase shares in the future, either on fixed or determinable dates or potentially upon the resolution of future contingencies), a purchased put (issuer has the right but not the obligation to issue additional shares) or a written call (investor has the right but not the obligation to purchase additional shares) on the preferred shares.

The classification of the freestanding instrument is first analyzed under ASC 480 to determine if it is classified as a liability. If the freestanding instrument imposes on the issuer a conditional (outside the issuer's control) or unconditional obligation to issue shares that are potentially redeemable, the freestanding instrument is classified as a liability pursuant to ASC 480. This is an important evaluation because frequently the underlying preferred shares to the future tranche right or obligation are redeemable, either at the option of the holder or upon the occurrence of a contingent event outside the issuer's control, thus requiring liability classification for the freestanding future tranche component. Refer to section 5.7 for a discussion on warrants with underlying shares that are redeemable.

If ASC 480 does not require liability classification for the freestanding future tranche component, it is next analyzed under ASC 815-10 to determine if it meets the definition of a derivative, and if so, whether it qualifies for an exception from derivative accounting. The most common exception from derivative

accounting for equity-linked instruments is in ASC 815-10-15-74(a) for instruments that are (1) indexed to the company's own stock and (2) would be classified in equity. The evaluation of those two criteria is addressed in ASC 815-40. If the component does not meet the definition of a derivative, it is still evaluated under the guidance in ASC 815-40, only this time for classification in its own right. Regardless, the guidance in ASC 815-40 will help determine the classification of a freestanding future tranche right or obligation that is not addressed by ASC 480. The classification should be reassessed at each reporting date. Chapter 4 provides detailed guidance on evaluating the classification of a freestanding equity contract, and is supplemented by the discussion in Appendix B.

If the freestanding instrument is a liability under ASC 480, a derivative under ASC 815 (i.e., it meets the definition of a derivative and does not qualify for the exception from derivative accounting) or an asset or liability under ASC 815-40, and is subsequently marked to fair value through earnings at each reporting date, the freestanding instrument is recognized at fair value from the proceeds received at issuance (i.e., the proceeds received from the issuance of the initial preferred shares). This allocation method (as opposed to a relative fair value method) is generally applied in practice when the instrument is subject to ongoing fair value measurements to avoid a day-one loss on adjusting a liability from its allocated value to its full fair value through earnings. If the freestanding instrument is classified in equity, it is allocated its relative fair value from the proceeds and is not subsequently remeasured as long as it continues to be classified in equity. The remaining proceeds are allocated to the preferred shares.

The preferred shares require their own evaluation to determine their (1) classification as debt or equity (including temporary equity), (2) the nature of the host contract and (3) potential bifurcation of any embedded features and potential beneficial conversion features. If the preferred shares are issued at a discount due to the allocation of proceeds to the freestanding instrument (i.e., the future tranche component), the discount can affect the accounting for any embedded redemption features (put or call options). The discount might also result in a beneficial conversion feature (a conversion option that is determined to be in the money at inception and requires separate accounting at intrinsic value in equity) if the preferred shares are convertible. Refer to Chapter 3 for discussion of the accounting for features in preferred shares and Appendix D for discussion of the beneficial conversion feature literature.

5.8.2.3

Accounting for an embedded future tranche right or obligation

If it is determined that a future tranche right or obligation is a feature embedded in the issued preferred share, the guidance in ASC 815-15 should be applied to determine whether the embedded feature should be bifurcated. That application of ASC 815, as above with a freestanding instrument, evaluates whether the embedded feature meets the definition of a derivative, and if so, whether it qualifies for an exception from derivative accounting.

Pursuant to ASC 815, embedded features are separated from their host non-derivative contracts and accounted for as derivative instruments if, and only if, all of the following criteria are met:

- ▶ The economic characteristics and risks of the embedded derivative are not “clearly and closely related” to the economic characteristics and risks of the host contract.
- ▶ The contract that embodies both the embedded derivative and the host contract is not remeasured at fair value under otherwise applicable US GAAP with changes in fair value reported in earnings as they occur.
- ▶ A separate, freestanding instrument with the same terms as the embedded derivative would be a derivative instrument subject to the requirements of ASC 815.

When applying the bifurcation criteria to a tranching preferred share issuance, the last criterion is particularly important. That criterion requires that the embedded future tranche right or obligation feature meet the definition of a derivative pursuant to ASC 815 as if it were a freestanding instrument. Because companies

issuing tranching preferred shares are typically not publicly traded, the future tranche right or obligation feature often does not meet the definition of a derivative in ASC 815 (i.e., it is not net settleable because the underlying shares are not readily convertible to cash). In such situations, the embedded future tranche right or obligation would not be bifurcated and would not receive separate accounting.

Any embedded future tranche right or obligation meeting the definition of a derivative would be evaluated for the exception from derivative accounting ASC 815-10-15-74(a). The conclusion to bifurcate (or not) should be reevaluated at subsequent reporting dates. Refer to Chapter 3 for a discussion of accounting for features in preferred shares.

5.9

Accelerated share repurchase transactions

5.9.1

Overview and background

An accelerated share repurchase (ASR) is an arrangement executed by a company with an investment bank to repurchase shares that generally results in an immediate effect to EPS but settles the economics of the share repurchase at a future date based on the subsequent stock price.

In a traditional ASR, the issuer makes an upfront payment and receives a specific number of shares from the bank in a contract typically documented as a forward purchase contract. This permits the issuer to reflect the shares repurchased immediately in EPS. Upon maturity (typically three to six months later), the ASR is settled based on the volume weighted average price (VWAP) of the issuer's shares during the contract period. The issuer may receive consideration from (if the VWAP has decreased over time) or owe consideration to (if the VWAP has increased over time) the bank. The issuer can often choose to receive or pay this consideration in cash or shares. Through this settlement, changes in the stock price subsequent to the initial share purchase serve to decrease or increase the overall cost of the share repurchase by the issuer under the ASR.

The following example summarizes the terms of a traditional ASR transaction:

Illustration 5-7

Company A enters into an ASR with Bank B on 30 June 200X, and agrees to purchase 2 million of Company A's outstanding shares from Bank B for \$80 million. On the trade date, Company A pays \$80 million in cash to Bank B and receives 2 million of Company A's shares from Bank B.

The ASR matures on 31 December 200X, at which date the settlement amount of the ASR is determined based upon the VWAP of Company A's stock during the six month contract period. Company A will pay an amount equal to the excess of VWAP over the \$40 initial purchase price (or receive an amount equal to the excess of the \$40 initial purchase price over VWAP) times the 2 million shares. Company A can elect to settle any amounts owed in either cash or shares.

Assume that the VWAP for Company A's shares over the contract period is \$55 and the stock price on the settlement date is \$70. As a result, Company A owes Bank B \$30 million $((\$55 - \$40) \times 2 \text{ million shares})$.

- ▶ If the \$30 million is settled in cash, in total Company A paid \$110 million for 2 million shares, effectively repurchasing its shares at an average price of \$55 per share.
- ▶ If the \$30 million is settled in shares, Company A would deliver 428,571 shares $(\$30 \text{ million} / \$70)$ upon settlement. Effectively, Company A repurchased 1.57 million shares, rather than the 2 million shares at inception at an average price of approximately \$51 per share.

Although documented as a single transaction, an ASR can be viewed as the initial purchase and receipt of shares and a forward sale contract with a strike price equal to the shares' initial purchase price.

Because there are many variations of ASRs, their terms should be carefully evaluated in determining the accounting.

5.9.2 Analysis

5.9.2.1 Accounting for traditional ASR structure

The accounting for traditional ASRs is discussed in ASC 505-30-25-5 and 25-6 (and implementation guidance in ASC 505-30-55-1 through 55-7 and 60-2). This guidance states that an issuer should account for an ASR as two separate transactions:

- ▶ Common stock acquired in a treasury stock transaction
- ▶ A forward contract indexed to its own stock

The first transaction results in a reduction in equity and to the number of the shares in the denominator for EPS on the trade date. The second transaction is a contract (i.e., a forward sale) indexed to the issuer's equity shares and is evaluated under the equity contract roadmap (refer to Chapter 4) to determine its classification and measurement.

5.9.2.1.1 ASC 480 considerations

The forward contract generally does not fall under the scope of ASC 480 because:

- ▶ ASC 480-10-25-8 through 25-13 requires liability classification for freestanding financial instruments that represent, or are indexed to, an obligation to buy back the issuer's shares. A forward contract to sell shares does not embody any obligation to the issuer to buy back shares. However, if the ASR involves shares that are themselves redeemable, the forward sale does embody an obligation to the issuer to buy back its own shares by virtue of the redemption feature in the shares.
- ▶ ASC 480-10-25-14 states that a financial instrument that embodies an unconditional obligation, or a financial instrument other than an outstanding share that embodies a conditional obligation, that the issuer must or may settle by issuing a variable number of its equity shares, should be classified as a liability if, at inception, the monetary value of the obligation is based solely or predominantly on one of three conditions.

The monetary value of the issuer's settlement obligation under the forward contract does not meet any of those conditions. The monetary value of any obligation embodied in the forward sales is not predominantly fixed at inception since the settlement amount the issuer may be obligated to pay to the counterparty fluctuates based on the market price of the issuer's equity shares. Variations in the settlement amount are indexed solely to the fair value of the issuer's own stock. Lastly, variations in the obligation are not inversely related to changes in the fair value of the issuer's own stock, as the bank gains when the issuer's share price goes up and loses when the issuer's share price falls.

5.9.2.1.2 Contracts in an entity's own equity (ASC 815-40)

A key consideration in determining the accounting for the forward contract pursuant to ASC 815-40 is whether the issuer has the ability to choose settlement in either cash or shares. All of the criteria pursuant to the indexation guidance and equity classification guidance should be evaluated.

When ASRs are executed in a standard ISDA form, applicable termination, adjustment and settlement provisions within the ISDA agreements should be carefully reviewed and considered to determine whether the criteria for equity classification are met. For example, adjustment provisions upon the occurrence of an extraordinary event (e.g., merger, tender offer, delisting) modify the settlement amount of the ASR and should be analyzed to determine whether the forward is considered indexed to the issuer's own stock.

Modification to standard ISDA provisions may be necessary to meet the requirements for equity classification. For example, certain standard provisions in the ISDA Master Agreement invoke a net cash settlement (i.e., “cancellation and payment”) when early termination events have occurred. In practice, issuers may address this automatic trigger of net cash settlement by including in the ISDA confirmation language that states, notwithstanding any other terms or settlement provisions in the associated ISDA Master Agreement or Equity Definitions, in all cases the issuer can override those provisions and choose the form (cash or shares) of any settlement paid or received.

5.9.3 Collared ASR structure

In a traditional ASR, the potential liability to the issuer is essentially unlimited if the stock price rises during the contract period. Therefore, some issuers may choose a collared ASR arrangement to limit their exposures by establishing cap and floor prices for the VWAP used to determine settlement of the forward. The cap mitigates risk to the issuer, and the floor mitigates risk to the bank.

The cap and floor prices are typically fixed at inception of the contract. In some cases, the cap and floor prices are not set until the end of a “hedging period” (typically within two to three weeks) following the trade date, during which the bank establishes its hedge position. In those cases, the cap and floor prices are derived based on a percentage of the VWAP of the issuer’s shares over the hedging period (e.g., 108% of the VWAP over the hedging period as the cap price and 92% of the VWAP as the floor price).

Illustration 5-8

Assume the same facts as the traditional ASR example, except that the ASR also defines a floor price of \$25 and cap price of \$50 for the VWAP on which the settlement of the forward should be calculated.

If the VWAP is greater than \$40 (the initial purchase price), Company A will have an obligation to Bank B (subject to a cap of \$50) and if the VWAP is less than \$40, Company A will receive an amount from Bank B (subject to a floor of \$25).

Scenario 1 – VWAP is \$55 for the contract period and the stock price on the settlement date is \$70

Upon settlement, Company A would owe Bank B \$20 million $((\$50 - \$40) \times 2 \text{ million shares})$, payable in cash or shares, at Company A’s option. The VWAP of \$55 for the period is capped at \$50 in the settlement calculation.

- ▶ If the \$20 million is settled in cash, in total Company A paid \$100 million for 2 million shares, effectively repurchasing its shares at an average price of \$50 per share.
- ▶ If the \$20 million is settled in shares, Company A would deliver 285,724 shares $(\$20 \text{ million} / \$70)$ to Bank B, effectively repurchasing 1.7 million of its shares, rather than the 2 million shares initially received at an average price of approximately \$47 per share.

Scenario 2 – VWAP is \$20 for the contract period and the stock price on the settlement date is \$30

Upon settlement, Bank B would owe Company A \$30 million $((\$40 - \$25) \times 2 \text{ million shares})$, payable in cash or shares, at Company A’s option. The VWAP of \$20 for the period is floored at \$25 in the settlement calculation.

- ▶ If the \$30 million is settled in cash, in total Company A paid \$50 million for 2 million shares, effectively repurchasing shares at an average price of \$25 per share.
- ▶ If the \$30 million is settled in shares, Bank B would deliver 1 million shares $(\$30 \text{ million} / \$30)$ to Company A. Effectively, Company A repurchased 3 million shares, rather than the 2 million shares initially received at an average price of approximately \$27 per share.

In a collared ASR, the issuer may choose to receive only a portion of the number of shares to be initially delivered by the bank. This is to ensure the issuer will not have any delivery obligation to the bank upon settlement at maturity. In this case, the issuer will receive additional shares from the bank depending on the VWAP of the shares during the contract period. The partial share delivery feature may affect whether the forward sale contract should be viewed as a freestanding equity contract or a hybrid instrument with an embedded forward contract (prepaid forward). Under either case, derivative accounting would generally not be required if the requirements of ASC 815-40 are met.

5.9.3.1 Accounting for collared ASR structure

The accounting considerations discussed in section 5.9.2.1 for traditional ASRs are also applicable to collared ASR described above. However, further consideration of the guidance in ASC 480-10-25-14(a) would be required for those ASRs where the settlement amount is determined based on the price difference between the VWAP during the contract period and the initial purchase price multiplied by the number of shares initially purchased (refer to illustration 5-8).

Due to the collar provision, there are settlement ranges where the issuer's obligation would be fixed. Using the previous example, there are four settlement possibilities based on the VWAP:

- ▶ Scenario A: VWAP is equal to or less than \$25 – Bank B owes Company A a fixed settlement amount of \$30 million (not an obligation)
- ▶ Scenario B: VWAP is greater than \$25 but less than \$40 – Bank B owes Company A a variable settlement amount (not an obligation)
- ▶ Scenario C: VWAP is greater than \$40 but less than \$50 – Company A owes Bank B a variable settlement amount (an obligation)
- ▶ Scenario D: VWAP is equal to or greater than \$50 – Company A owes Bank B a fixed settlement amount of \$20 million (an obligation)

Pursuant to ASC 480-10-25-14(a), a contract should be classified as a liability if it may require the issuer to issue a variable number of shares and the monetary amount of such obligation is predominantly fixed at inception. Therefore, the issuer should evaluate whether the possibility of a settlement under Scenario D, where a fixed monetary amount of the settlement obligation is presented, is predominant over all other possible settlement obligations at inception. In this case, only Scenario C represents another settlement obligation. The possibilities of settlement under Scenarios A and B are not relevant as they are not settlement obligations of Company A.²³

ASC 480 provides limited interpretive guidance on the term “predominantly.” The determination of whether a settlement obligation's monetary value is predominantly fixed will depend on the specific facts and circumstances and requires judgment. In making that determination, the issuer should consider the terms of the forward contract and all applicable information at inception, which include its current stock price and volatility, the strike price of the instrument and other factors.

²³ While not defined in ASC 480, the concept of predominance is discussed briefly in ASC 480-10-55-44 and is illustrated in several examples in ASC 480. We generally believe the determination of whether a component(s) is predominant is based on the likelihood the contract will settle in accordance with that particular component(s), compared to the likelihood of settling under the other component obligation(s).

5.10 Equity contracts on noncontrolling interests

5.10.1 Overview and background

Noncontrolling interest (NCI) is the portion of equity (net assets) in a subsidiary not attributable, directly or indirectly, to the parent. It is sometimes called a minority interest. NCI is created, among other ways, when a parent acquires a controlling interest in a target company and leaves a minority interest with other investors or when a parent decides to sell a portion of its wholly-owned subsidiary but retains a controlling interest.

Like equity contracts on the shares of a parent company, equity contracts may also be written or purchased on shares of a consolidated subsidiary. For example, in acquiring a target company, the former controlling shareholders may want to retain a portion of their shares for a period of time but have the ability to sell their equity interests to the controlling interest holder on certain dates or upon certain trigger events.

It is common for a parent and the NCI holders of a subsidiary to enter into arrangements whereby they may do one or more of the following:

- Grant the NCI holders an option to sell their equity interests in the subsidiary to the parent
- Grant the parent an option to acquire the equity interests in the subsidiary held by the NCI holders
- Obligate the parent to acquire and the NCI holders to sell their equity interests in the subsidiary

Those arrangements can take the form of options (written or purchased, puts or calls), forwards (date-certain or contingent) or even swap-like contracts. In some cases, the arrangements may be papered between the parent and the NCI holders, and in other cases between the subsidiary and the NCI holders.

5.10.2 Analysis

NCI, which is generally in the form of common shares or preferred shares issued by the subsidiary, should be classified as a separate component of consolidated equity pursuant to ASC 810-10-45. To be classified as equity in the consolidated financial statements, the instrument issued by the subsidiary should be classified as equity by the subsidiary based on other authoritative literature. If the instrument is classified as a liability in the subsidiary's financial statements (e.g., under any of the guidance in ASC 480), it cannot be presented as NCI in the consolidated entity's financial statements because that instrument does not represent an ownership interest in the consolidated entity under US GAAP.

For example, mandatorily redeemable preferred shares issued by a subsidiary would be classified as a liability in the subsidiary's financial statements pursuant to ASC 480. The preferred shares would not be classified as NCI in the consolidated financial statements.

The various options and forwards described above are contracts on the shares (common or preferred) of a subsidiary. If the underlying share is classified in equity (as NCI), the equity contracts on the NCI should be separately evaluated to determine their classification.

The accounting in this area can be complex because of the variety of authoritative guidance that should be considered and the terms of the transaction. For example, (1) the equity contract may be entered into contemporaneously with the creation of the NCI or subsequent to its creation, (2) the form of the equity contract (that is, whether it is embedded or freestanding) can be determinative and (3) the strike price of the equity contract may be set at either a fixed or variable (formulaic) price or at fair value. Each of those variations can affect the accounting.

The following summarizes, at a high level, the relevant accounting considerations applicable to equity contracts associated with NCI.

5.10.2.1 Is the equity contract embedded in the NCI or freestanding?

The first step in accounting for an equity contract associated with a NCI is to determine whether the equity contract is an embedded feature in the NCI or a freestanding financial instrument, because the accounting can be significantly different. For example, the accounting for a freestanding written put on a subsidiary's shares is different than that for puttable shares issued by the subsidiary. While ASC 480 provides little interpretive guidance on the definition of a "freestanding" financial instrument, we believe that the substance of a transaction should be considered in making this determination.

The determination of whether an instrument is embedded or freestanding involves understanding both the form and substance of the transaction, and may involve substantial judgment. In this regard, documenting an instrument in a separate contract is not necessarily determinative that it is freestanding, particularly when a contract is entered into in conjunction with another transaction. If the transactions are entered contemporaneously between the same parties and involve the same underlying (in this context, the issuer's shares), it is important to assess whether the instruments are (1) legally detachable and (2) separately exercisable. Those concepts can be further described as follows:

- ▶ Legally detachable – Generally, whether two instruments can be legally separated and transferred such that the two components may be held by different parties.
- ▶ Separately exercisable – Generally, whether one instrument can be exercised without terminating the other instrument (e.g., through redemption, simultaneous exercise, or expiration).

If the exercise of one instrument must result in the termination of the other, the instruments would generally not be considered freestanding pursuant to ASC 480. On the other hand, if one instrument can be exercised while the other instrument continues to be outstanding, the instruments would be considered freestanding under ASC 480.

For example, if a parent enters into a contract with the only minority shareholder of its privately held subsidiary that permits the shareholder to put its shares in the subsidiary to the parent at a fixed price, that put option generally would be considered to be embedded in the related shares. In contrast, if the same parent enters into a put option on publicly traded common stock of a different subsidiary, and that put option permits the counterparty to put any common shares of the subsidiary to the parent at a fixed price (e.g., the counterparty could put shares of the subsidiary already owned or buy shares in the market), that written put option would be considered freestanding, provided that it is also legally detachable from the shares.

5.10.2.1.1 *Equity contracts considered embedded*

If the equity contract is considered a feature embedded in the subsidiary's shares, that embedded feature should be analyzed to determine whether the shares should be a mandatorily redeemable financial instrument subject to ASC 480 or, if the shares are not a liability, whether the feature should be bifurcated.

To determine whether the embedded feature should be bifurcated, the hybrid instrument (the subsidiary's shares and embedded feature) should be evaluated under ASC 815-15. In many cases, unless the subsidiary itself is a publicly traded entity, the feature will not meet the definition of a derivative pursuant to ASC 815-10-15 because those features usually require gross physical settlement or the transfer of the full amount of consideration payable in exchange for the full number of underlying nonpublic subsidiary shares. As the underlying nonpublic shares are not readily convertible to cash, this gross physical settlement does not meet any of the forms of net settlement pursuant to ASC 815-10-15-99. However, if the instrument meets the definition of a derivative, it should be evaluated under ASC 815-10-15-74(a) to determine if an exception from bifurcation is available.²⁴

²⁴ The embedded feature would be considered a derivative if the underlying shares were publicly traded. If the feature meets the net settlement criterion by way of a required or alternative settlement in net cash or net shares, the conclusion that the feature was embedded should be revisited.

The exception in ASC 815-10-15-74(a) is applicable if the feature is considered indexed to the issuer's own stock and would be classified in equity. ASC 815-40 includes guidance that should be considered in making this determination. There are special considerations as to whether the feature is considered indexed to the issuer's own stock when subsidiary shares are involved, as discussed in ASC 815-40-15-5C.

If an equity contract is (1) deemed to be embedded and (2) the entire instrument is not a liability, the redeemable equity guidance, discussed below in section 5.10.2.3 should be considered.

Refer to section 3.2.4 in Chapter 3 for further guidance in evaluating shares with embedded features.

5.10.2.1.2 *Equity contracts considered freestanding*

An equity contract that is considered a freestanding financial instrument should be evaluated pursuant to ASC 480 to determine whether liability classification is required as, for the purposes of ASC 480, an issuer's equity share includes the equity shares of any entity whose financial statements are included in the consolidated financial statements. Instruments that may require the issuer to transfer cash or other assets in exchange for its own shares are among those classified as liabilities pursuant to ASC 480. For example, a physically settled forward contract that requires the parent to pay cash in exchange for the subsidiary's shares is within the scope of ASC 480. Further, a freestanding written put option on the subsidiary's shares is also a liability under ASC 480 regardless of whether it settled gross or net.

If the equity contract is not a liability pursuant to ASC 480, the instrument should be evaluated to determine whether it is a derivative pursuant to ASC 815. Similar to the analysis of an embedded feature in the subsidiary's shares, frequently, it will not meet the definition of a derivative because it lacks net settlement. Even if the contract meets the definition of a derivative, it may still qualify for a scope exception from derivative accounting pursuant to ASC 815-10-15-74(a), which considers the guidance in ASC 815-40. If the equity contract does not meet the definition of a derivative, that same guidance in ASC 815-40 is applied to determine the contract's classification.

Chapter 4 provides detailed guidance on evaluating the classification of a freestanding equity contract.

5.10.2.2 *Equity contracts deemed to be financing arrangements*

In limited situations, a parent may enter into an equity contract to acquire a subsidiary's shares that should be accounted for as a financing of the parent's purchase of the minority interest. In those situations, equity contracts are entered into between the parent and minority interest holder at the inception of NCI that require physical settlement. The contracts may be either (1) a fixed-priced forward to buy the remaining interest in the subsidiary at a stated future date and the forward is considered freestanding or (2) combination of a purchased call option and written put option with same (or not significantly different) fixed strike price and same fixed exercise date that are embedded in the shares.²⁵

Essentially, the parent consolidates 100% of the subsidiary and does not recognize the NCI at the consolidated entity level, but rather a liability for the financing (i.e., the future purchase of the NCI). In those circumstances, the risks and rewards of owning the NCI have been obtained by the parent during

²⁵ ASC 480-10-55-53 through 55-56 describe three different derivative instruments indexed to the stock of a consolidated subsidiary. One instrument includes a written put and purchased call. ASC 480-10-55-55 provides for three different ways to account for the written put and purchased call, based on how the instruments were issued relative to the NCI (i.e., freestanding from or embedded in the NCI). ASC 480-10-55-59 suggests that when the written put and purchased call are freestanding, they should be combined with the NCI and accounted for as a financing. This accounting is not one of the three ways described in ASC 480-10-55-55. We believe the guidance in ASC 480-10-55-59 is inconsistent with the guidance formerly in EITF 00-4, "Majority Owner's Accounting for a Transaction in the Shares of a Consolidated Subsidiary and a Derivative Indexed to the Minority Interest in That Subsidiary." As the Codification was not intended to change GAAP, we believe ASC 480-10-55-55 should be followed unless ASC 815 requires the options to be combined with the NCI, in which case the accounting described in ASC 480-10-55-60 through 55-62 should be followed.

the period of the equity contract, even though the legal ownership of the NCI is still retained by the NCI holders. Essentially, combining the equity contract and the NCI reflects the substance of the transaction; that is, the NCI holder is financing the noncontrolling interest.

ASC 480-10-55-54 states that the forward contract should be recognized as a liability, initially measured at the present value of the fixed forward price. Subsequently, the liability is accreted to the fixed forward price over the term of the forward contract with the resulting expense recognized as interest cost. Similar accounting and measurement would be applied to the combined NCI and embedded options.

The initial measurement guidance in ASC 480-10-55-54 is not consistent with the general initial measurement requirement of ASC 480 for physically settled forward purchase contracts. The general measurement guidance in ASC 480-10-30-3 states that a freestanding physically settled forward contract should be measured initially at the fair value of the underlying shares at inception, adjusted for any consideration or unstated rights or privileges. While the methods are different, we generally believe that they should result in approximately the same initial measurement. Any significant differences would require additional analysis to determine if there are additional rights or privileges in the transaction.

5.10.2.3 **Application of the redeemable equity guidance**

Generally, an embedded feature, whether or not bifurcated, that permits or requires the NCI holder to deliver the subsidiary's interests in exchange for cash or other assets from the controlling entity (or the subsidiary itself) will result in the NCI being considered redeemable equity. Public entities should consider the SEC staff's guidance (included in codification at ASC 480-10-S99-3A) on redeemable equity securities when classifying redeemable NCI. Those interests should first follow the accounting and measurement guidance in ASC 810-10 (including allocation of earnings, adjustments for dividends, etc.). The SEC's guidance should then be considered, which could affect the classification (presented in the mezzanine rather than in equity), and if so, may also adjust the measurement of any NCI and the related EPS calculations.

In certain instances, the issuer may be required, or may have a choice, to exchange the subsidiary's interests by delivery of its own shares, rather than cash or other assets. In those instances, the SEC staff's guidance requires the issuer to consider the guidance in ASC 815-40-25-7 through 25-35 to determine whether it can deliver the shares that could be required under the settlement of the exchange. If the issuer does not completely control settlement by delivery of its own shares (i.e., it cannot satisfy the settlement in shares), cash settlement would be presumed and temporary classification may be required for the NCI.

5.10.2.3.1 ***Measurement and reporting issues related to redeemable equity securities***

Redeemable NCI is required to be initially measured at the initial carrying amount of the NCI pursuant to the guidance in ASC 805-20-30. While that will generally be fair value, the guidance in ASC 805-20-30 should be considered.

For all companies, both public and nonpublic, NCI is first accounted for pursuant to ASC 810. If the NCI is considered redeemable pursuant to ASC 480-10-S99-3A, the redeemable NCI is presented in temporary equity. The measurement guidance is not applied in lieu of the accounting for NCI under ASC 810. Rather, it is an incremental measurement that starts with the carrying amount pursuant to ASC 810 and adjusts for any increase (but not decrease) to the carrying amount of temporary equity.

As a result, a parent should first attribute net income or loss of the subsidiary and related dividends to the NCI pursuant to ASC 810. After that attribution, the issuer should consider the provisions of ASC 480-10-S99-3A to determine whether any further adjustments are necessary to increase the carrying value of redeemable NCI. The amount presented in temporary equity should be the greater of the NCI balance determined pursuant to ASC 810 or the amount determined pursuant to ASC 480-10-S99-3A.

Pursuant to ASC 480-10-S99-3A, a security (including NCI) that is currently redeemable is measured at the current redemption amount. For a security that is not redeemable currently, but probable of becoming redeemable in the future, the SEC guidance permits the following two methods of adjusting the carrying amount of the redeemable security:

- ▶ Method 1 – Adjust the carrying amount of the redeemable security to what would be the redemption amount assuming the security was redeemable at the balance sheet date.
- ▶ Method 2 – Accrete the carrying amount of the redeemable security to the redemption amount over time, to the date it is probable it will become redeemable, using an appropriate method (e.g., the interest method).

The SEC guidance does not specify which method is required. We generally believe issuers should evaluate the specific facts and circumstances of the applicable redemption feature and the level of subjectivity and assumptions necessary and apply the method that best presents the economics of the redeemable NCI. Once the method is selected, it should be consistently applied.

If the NCI is not currently redeemable and also not probable of becoming redeemable (e.g., it is not probable a contingency that triggers redemption will be met), the NCI should be classified in temporary equity, but adjustment to the initial carrying amount is not necessary until it is probable that the NCI will become redeemable.

Paragraph 16e of ASC 480-10-S99-3A states that the amount in temporary equity should not be less than the redeemable instrument's initial amount reported in temporary equity. It further states that reductions in the carrying amount of a temporary equity instrument are appropriate only to the extent of increases in the redeemable instrument's carrying amount from the application of the SEC guidance. We generally believe only the incremental measurement pursuant to the SEC staff's guidance is subject to this requirement. An issuer could potentially adjust a redeemable NCI's balance below its initial carrying amount when applying ASC 810.

Refer to section E4.2 in Appendix E for a discussion of the measurement of redeemable NCI pursuant to the SEC staff's guidance.

5.10.2.4 Earnings per share considerations

As noted in ASC 480-10-S99-3A paragraph 22, adjustments to the carrying amount of redeemable NCI from the application of the SEC guidance do not affect net income or comprehensive income in the consolidated financial statements. However, the adjustments may affect EPS. The effect, if any, will depend on (1) whether the NCI is represented by the subsidiary's common shares or preferred shares and (2) if common shares, whether the redemption amount is at the then-current fair value or some other value (e.g., a formulaic value or fixed amount).

Refer to section 3.2.2 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further discussion of the EPS effects of redeemable equity instruments (including redeemable NCI).

5.10.2.5 Examples of the presentation of NCI with equity contracts issued on those interests

The following table summarizes the accounting for certain common equity contracts used to acquire interests in a subsidiary. This table assumes the equity contracts are issued on all of the outstanding NCI (i.e., for the fixed number of shares not held by the parent) and are entered into by the controlling interest.

This table should be applied only after determining (1) when the equity contract was entered into relative to the creation of the NCI²⁶ (2) whether its price is fixed, variable or at fair value and (3) whether the instrument is embedded or freestanding. It should be used as a starting point in applying the literature. Parenthetical references cite the relevant literature. Application of ASC 480-10-S99-3A is not specifically provided in the table, but references are made where the SEC staff's guidance would be an additional consideration.

This table, necessarily, does not contemplate all possible instruments and assumes subsidiaries represent substantive entities as contemplated in ASC 815-40-15-5C. Careful consideration of the individual facts and circumstances will be necessary to determine the appropriate accounting for any instrument issued on NCI.

Instrument	Entered into	Redemption amount	Accounting
Written put option permitting the NCI holder to put its interest to the controlling interest	Contemporaneous with creation of NCI	Fixed, fair value or variable	<p>If embedded</p> <p>If the embedded written put option does not require bifurcation pursuant to ASC 815-15, the put option is recognized as part of the NCI. Changes in the fair value of the option over its life are not recognized. Earnings are generally attributed to the controlling interest and NCI without considering the put option. If the embedded put option is exercised, the NCI is reduced and APIC is adjusted for any difference between the NCI's carrying value and the consideration paid.²⁷</p> <p>For SEC reporting, additional consideration of ASC 480-10-S99-3A is required for the NCI.</p> <p>If freestanding</p> <p>ASC 480 requires it to be classified as a liability and measured at fair value with the changes in value recognized in earnings.</p> <p>The exercise of the option results in the acquisition of NCI and any difference between the cash paid and the combined value of the freestanding instrument and NCI's carrying value would be recorded to APIC.</p> <p>If embedded and bifurcated</p> <p>The written put option is bifurcated and reported separately at fair value with changes in fair value recorded in earnings. The NCI is recognized and measured pursuant to ASC 810.</p> <p>For SEC reporting, additional consideration of ASC 480-10-S99-3A is required for the host equity contract.</p>
	Subsequent to creation of NCI	Fixed, fair value or variable	The written put option is recognized as a liability that is initially and subsequently measured at fair value pursuant to ASC 480. The NCI is recognized and measured in accordance with ASC 810.

²⁶ This table assumes that equity contracts issued subsequent to the creation of the NCI are freestanding. Depending on individual facts and circumstances, certain equity contracts issued subsequent to the creation of the NCI could be considered embedded. If the instrument is considered to be embedded, the guidance on equity contracts embedded in the NCI should be applied, and the guidance in ASC 480-10-S99-3A should be considered.

²⁷ ASC 810-10 requires transactions between the controlling interest and NCI that do not result in consolidation or deconsolidation to be recognized in equity.

Instrument	Entered into	Redemption amount	Accounting
Purchased call option permitting the controlling interest to acquire the NCI	Contemporaneous with creation of NCI	Fixed, fair value or variable	<p><i>If embedded</i></p> <p>If the embedded purchased call option does not require bifurcation pursuant to ASC 815-15, the call option is recognized as part of the NCI. Changes in the fair value of the option over its life are not recognized. Earnings are generally attributed to the controlling interest and NCI without considering the call option.</p> <p>If the embedded call option is exercised, the NCI is reduced and APIC is adjusted for any difference between the NCI's carrying value and the consideration paid.</p> <p><i>If (1) freestanding and in the scope of ASC 815-10 or (2) bifurcated</i></p> <p>The purchased call option is reported separately and measured at fair value with changes in value recognized in earnings. The NCI is recognized and measured pursuant to ASC 810.</p> <p><i>If freestanding and not in the scope of ASC 815-10</i></p> <p>Follow ASC 815-40 to determine the appropriate classification and subsequent measurement of the instruments as an asset or equity. (ASC 815-40-25-1 through 25-43)</p> <p>The NCI continues to be recognized pursuant to ASC 810.</p> <p>For a freestanding call option classified as equity pursuant to ASC 815-40, if the call option is not exercised and were entered into by the parent, the carrying amount of the instrument should be reclassified from the NCI to the controlling interest. If it is not exercised and were entered into by the subsidiary, there is no reclassification to be made.</p> <p>The 1986 AICPA Options Paper provides potential measurement alternatives to be evaluated if it were determined that neither ASC 815-10 nor ASC 815-40 applied.</p>

Instrument	Entered into	Redemption amount	Accounting
Purchased call option permitting the controlling interest to acquire the NCI (continued)	Subsequent to creation of NCI	Fixed, fair value or variable	<p>If freestanding and in the scope of ASC 815-10 The freestanding purchased call option is reported separately and measured at fair value with changes in value recognized in earnings. The NCI is recognized and measured pursuant to ASC 810.</p> <p>If freestanding and not in the scope of ASC 815-10 Follow ASC 815-40 to determine the appropriate classification and subsequent measurement of the instruments as an asset or equity. (ASC 815-40-25-1 through 25-43) The NCI continues to be recognized pursuant to ASC 810. For a freestanding call option classified as equity pursuant to ASC 815-40, if the call option is not exercised and were entered into by the parent, the carrying amount of the instrument should be reclassified from the NCI to the controlling interest. If it is not exercised and were entered into by the subsidiary, there is no reclassification to be made. The 1986 AICPA Options Paper provides potential measurement alternatives to be evaluated if it were determined that neither ASC 815-10 nor ASC 815-40 applied.</p>
Forward contract to acquire the NCI	Contemporaneous with creation of NCI	Payment amount and settlement date are fixed	<p>If embedded The NCI would be a mandatorily redeemable financial instrument classified as a liability pursuant to ASC 480-10-30-1 and measured initially at fair value.²⁸ NCI is not recognized and no earnings are allocated to the NCI. The parent accounts for this transaction as a financing and recognizes 100% of the subsidiary's assets and liabilities.</p> <p>If freestanding The forward contract is classified as a liability and initially measured at an appropriate value.²⁹ The liability is accreted to the settlement amount over the term of the forward contract with the resulting expense recognized as interest cost. NCI is not recognized and no earnings are allocated to the NCI. The parent accounts for this transaction as a financing and recognizes 100% of the subsidiary's assets and liabilities. (ASC 480-10-30-3 and ASC 480-10-55-53 through 55-54) When the forward contract is settled, the liability is derecognized.</p>

²⁸ Subsequently, whether the measurement requirements of ASC 480-10 or ASC 480-10-S99 would be required depends on the application of the transition guidance in ASC 480-10-65-1(b). If the measurement guidance under ASC 480-10 is applicable, the liability is measured at the present value of the amount to be paid at settlement, accruing interest cost using the rate implicit at inception based on the initial measurement.

²⁹ When addressing the initial measurement of a forward contract on shares of a subsidiary, there are three conflicting measurement models. A freestanding forward contract under ASC 480-10-30-3 is initially measured at the fair value of the shares to be repurchased, adjusted for any consideration or unstated rights or privileges. A freestanding forward contract under ASC 480-10-55-54 is initially measured at the present value of the contract amount, which we believe should be discounted using a market-based rate reflecting the issuer's own credit risk. A mandatorily redeemable NCI is measured at fair value under ASC 480-10-30-1. We generally believe that these methods should result in approximately the same initial measurement. Any significant differences would require additional analysis to determine if there were additional rights or privileges granted in the transaction.

Instrument	Entered into	Redemption amount	Accounting
Forward contract to acquire the NCI (continued)	Contemporaneous with creation of NCI (continued)	Payment amount or settlement date vary based on certain conditions	<p>If embedded</p> <p>The resulting mandatorily redeemable financial instrument is a liability pursuant to ASC 480 and measured initially at fair value.³⁰ NCI is not recognized and no earnings are allocated to the NCI. The parent accounts for this transaction as a financing and recognizes 100% of the subsidiary's assets and liabilities.</p> <p>If freestanding</p> <p>The forward contract is not subject to ASC 480-10-55-54 as the settlement price is not fixed. Pursuant to other sections of ASC 480, a liability should be recognized at the fair value of the shares at inception, adjusted for any consideration or unstated rights or privileges. The liability is subsequently measured at the amount that would be paid on the reporting date with any change in value from the previous reporting date recognized as interest cost. NCI is not recognized and no earnings are allocated to the NCI. The parent accounts for this transaction as a financing and recognizes 100% of the subsidiary's assets and liabilities.</p>
	Subsequent to creation of NCI	Payment amount and settlement date are fixed	Pursuant to ASC 480, the freestanding forward contract is recognized as a liability at the date on which the forward contract was entered into. The liability is initially measured at the fair value of the shares at inception adjusted for any consideration or unstated rights or privileges. Subsequent measurement is at the present value of the amount to be paid at settlement, accruing interest cost using the rate implicit at inception based on the initial measurement. The previously recognized NCI is derecognized and any difference between the amount of the liability and the NCI's carrying amount is recognized in APIC. No further attribution of earnings is necessary because there is no NCI.
		Payment amount or settlement date varies based on certain conditions	Same as the accounting if the settlement date is fixed except that the liability is subsequently measured at the amount that would be paid on the reporting date with any change in value from the previous reporting date recognized as interest cost. No further attribution of earnings is necessary because there is no NCI.

³⁰ Whether the subsequent measurement requirements of ASC 480-10 or ASC 480-10-S99 would be required depends on the application of the transition guidance in ASC 480-10-65-1(b). If the measurement guidance under ASC 480-10 is applicable, the liability is subsequently measured at the settlement amount as if settlement occurred at the reporting date. Facts and circumstances should be considered in determining the measurement amount that best represents economics of the mandatorily redeemable NCI.

Instrument	Entered into	Redemption amount	Accounting
Written put option and purchased call option with same (or not significantly different) strike price and same exercise date	Contemporaneous with creation of NCI	Fixed price	<p><i>If embedded</i>³¹</p> <p>Pursuant to ASC 480-10-55-59 through 55-62, the options are viewed on a combined basis with the NCI. The combined instrument is classified as a liability, initially measured at the present value of the settlement amount.³² Subsequently, the liability is accreted to the strike price with the accretion recognized as interest expense. NCI is not recognized and earnings are not attributed. The parent accounts for this transaction as a financing and consolidates 100% of the subsidiary. (ASC 480-10-55-55, 55-59 and 55-62)</p> <p><i>If embedded and bifurcated</i></p> <p>The combined option is reported separately at fair value with changes in fair value recorded in earnings. The NCI is recognized and measured pursuant to ASC 810.</p> <p>For SEC reporting, additional consideration of ASC 480-10-S99-3A is required for the host equity contract.</p> <p><i>If freestanding</i></p> <p>The written put and purchased call should be evaluated to determine if they are a single instrument or two instruments. If viewed as a single instrument, the combined instrument containing a written put is recognized as a liability (or assets in certain instances) and measured at fair value. If viewed as two freestanding instruments, the written put option is recognized as a liability pursuant to ASC 480 and the purchased call option is evaluated pursuant to ASC 815-10 and ASC 815-40 and may be recognized as an asset or equity (refer to discussion in the table above for separate written puts and purchased calls).</p>

³¹ ASC 480-10-55-55 establishes three scenarios for the written put and purchased call scenario, including one single instrument (combined written put and purchased call), two instruments (written put and purchased call), and embedded (both options embedded in the NCI). However, ASC 480-10-55-59 suggests that the options should be considered embedded. As the Codification was not intended to change current practice, we believe that this contradiction should be resolved in favor of ASC 480-10-55-55 after considering the legacy guidance in paragraphs 16 through 18 of pre-Codification EITF 00-4.

³² This instrument is not considered mandatorily redeemable, as there is the possibility, while highly unlikely, that on the exercise date the NCI has a fair value equal to the strike price in the options and neither party is economically motivated to exercise (as opposed to an embedded forward contract that requires settlement and renders the shares mandatorily redeemable). Therefore, the guidance in ASC 480-10-30-1 is not applicable. However, refer to footnote 29 which discusses why that the various initial measurement methods in ASC 480-10 should be approximately the same.

Instrument	Entered into	Redemption amount	Accounting
Written put option and purchased call option with same (or not significantly different) strike price and same exercise date (continued)	Contemporaneous with creation of NCI (continued)	Other than fixed price	<p>If embedded</p> <p>The NCI with the embedded options is not subject ASC 480-10-55-59 through 55-62. NCI is not mandatorily redeemable and no liability should be recognized at inception. The options are recognized as part of the NCI. Changes in the fair value of options are not recognized. Earnings are generally attributed to the controlling interest and NCI without considering the put option.</p> <p>For SEC reporting, additional consideration of ASC 480-10-S99-3A is required.</p> <p>If embedded and bifurcated</p> <p>The combined option is reported separately at fair value with changes in fair value recorded in earnings. The NCI is recognized and measured pursuant to ASC 810.</p> <p>For SEC reporting, additional consideration of ASC 480-10-S99-3A is required for the host equity contract.</p> <p>If freestanding</p> <p>The written put and purchased call should be evaluated to determine if they are a single instrument or two instruments. If viewed as a single instrument, the combined instrument containing a written put is recognized as a liability (or assets in certain instances) and measured at fair value. If viewed as two freestanding instruments, the written put option is recognized as a liability pursuant to ASC 480 and the purchased call option is evaluated pursuant to ASC 815-10 and ASC 815-40 and may be recognized as an asset or equity (refer to discussion in the table above for separate written puts and purchased calls).</p>
	Issued subsequent to creation of NCI and issued as freestanding instruments	Fixed price or other than fixed price	Refer to freestanding analysis above.

5.10.2.6

Redeemable or convertible equity securities and UPREIT structures

A real estate investment trust (REIT) with an “umbrella partnership REIT” structure (UPREIT) will typically have a consolidated operating partnership (OP) that has issued ownership units to noncontrolling parties. Based on the features typically found in the OP units, a REIT should carefully consider the guidance in ASC 480-10-S99-3A when classifying and measuring noncontrolling OP units in the consolidated financial statements.

When a REIT acquires a property, it may issue redeemable OP units to the seller (OP units generally are used to defer a taxable event for the sellers). Those sellers become noncontrolling investors in the OP. The structure of redemption features as part of the OP units or the unit holder agreement with the investor can vary based on various legal considerations for the parent REIT and the OP, including the state of incorporation or organization for the legal entity, interpretations of tax law or other factors.

For example, arrangements vary as to with which entity the investor can redeem the units (e.g., only with the OP or only with the parent REIT or with the parent REIT deciding which entity will redeem the units). Typically, the redeeming entity (parent REIT or OP) will have the choice of the redemption consideration,

which could be cash or shares of the parent REIT. The amount of the redemption could be based on a fixed amount, a formulaic amount, or most frequently, a fixed exchange ratio of OP units for parent REIT shares (or the then-current value of those public shares in cash).

As the OP units are redeemable (or exchangeable) at the option of the investor, the OP units potentially represent redeemable NCIs in the consolidated financial statements. Pursuant to the redeemable equity guidance in ASC 480-10-S99-3A, if the OP units may be redeemed for cash outside the control of the reporting entity (the consolidated REIT in this case), the NCI should be classified in the mezzanine section and measured in accordance with the SEC's guidance. Therefore, identifying what settlement alternatives exist and whether they are solely within the control of the reporting entity is important.

Based on discussions with the SEC staff, for the consolidated financial statements, we believe that the parent REIT and OP can be considered essentially a single decision maker in evaluating the redemption provisions if both of the following conditions are met:

- ▶ The parent REIT is the general partner in the operating partnership and the entities share the same corporate governance structures.
- ▶ The parent REIT can freely exercise all choices afforded it without conflicting with its fiduciary duties to its shareholders.

This will often result in a conclusion that the parent REIT/OP can elect share settlement upon redemption of the OP units. However, as discussed in ASC 480-10-S99-3A, the guidance in ASC 815-40-25 should be evaluated to determine whether the parent REIT/OP controls the actions or events necessary to issue the maximum number of parent REIT shares that could be required to be delivered under share settlement of the contract. If the parent REIT/OP controls those actions or events, the OP units would not be within the scope of the SEC's guidance. However, if those actions or events are not completely within their control, the presentation and measurement guidance in ASC 480-10-S99-3A would apply.

There may be separate SEC reporting requirements for the OP. For example, if the OP has public debt outstanding, many of the concepts described above would be considered in determining the classification of the OP units in the stand-alone financial statements of the OP. However, it is important to realize that the OP units would be redeemable equity instruments rather than redeemable NCI, and thus there would be different elements of ASC 480-10-S99-3A to be considered.

5.10.2.7

Redeemable NCI denominated in a foreign currency

When a redeemable NCI is denominated in a foreign currency, additional consideration should be given to the interaction of ASC 830 and ASC 480-10-S99-3A's measurement guidance. Because neither ASC 830 nor ASC 480-10-S99-3A provides specific guidance, judgment is required to determine whether and, if so, how to adjust the carrying amount of the redeemable NCI for the effect of currency exchange rate movements while also respecting the redeemable equity measurement guidance. Refer to Question 3.6 of our Financial Reporting Developments publication, *Foreign currency matters* (SCORE NO. BB2103), for additional guidance.

5.11

Registration rights agreements

5.11.1

Overview and background

Concurrent with many financing transactions (e.g., the issuance of equity shares, warrants or debt instruments), issuers may enter into a registration payment arrangement (or registration rights agreement) under which the issuer agrees to one or more of the following:

- ▶ To file a registration statement for the resale of specified financial instruments or for the resale of equity shares that are issuable upon exercise or conversion of those financial instruments

- ▶ For the registration statement to be declared effective by the SEC within a specified grace period
- ▶ To maintain the effectiveness of the registration statement for a specified period of time

Those arrangements frequently specify that the issuer must use its best efforts or apply commercially reasonable efforts to undertake those actions. If the registration statement is not declared effective within the grace period or its effectiveness is not maintained for the specified period, the issuer must transfer consideration to the investors. That consideration may be payable in a lump sum or periodically (i.e., as additional interest). The form of the consideration may vary but is typically in cash (and cannot be in the form of an adjustment to a conversion ratio to be in the scope of ASC 825-20, *Financial Instruments – Registration Payment Arrangements*).

Illustration 5-9

Assume that in connection with an issuance of convertible notes, Company A enters into a registration rights agreement. Under that agreement, for the benefit of the holders of the convertible notes issued, Company A agrees to use its reasonable best efforts to file with the SEC within 90 days after the issuance of the notes, and cause to become effective within 120 days after that filing deadline, a shelf registration statement with respect to the resale of the underlying common stock issuable upon conversion of the notes. The stated interest on the notes may be increased by 0.50% per annum if Company A fails to comply with its obligations under the registration rights agreement. The increased rate continues until Company A complies with its registration obligations. Alternatively, the registration rights agreement may specify a 0.50% “liquidated damages” payment (rather than expressing it as incremental interest on the convertible notes).

5.11.2

Analysis

ASC 825-20 addresses an issuer’s accounting for registration payment arrangements.

Registration payment arrangements, as defined in ASC 825-20, include most registration rights agreements in security issuances and certain contingent interest features in debt instruments. Also included are arrangements that require the issuer to obtain and/or maintain a listing on a stock exchange if the remaining characteristics in the guidance are met. Importantly, the guidance is not applicable by analogy to the accounting for contracts that are not registration payment arrangements based on the criteria (e.g., contingent interest payable if an issuer fails to timely file a Form 10-Q or 10-K, which is not the same as maintaining the effectiveness of a registration statement).

ASC 825-20 specifies that the contingent obligation to make future payments or otherwise transfer consideration under a registration payment arrangement, whether issued as a separate agreement or included as a provision of a financial instrument or other agreement, should be separately recognized and measured in accordance with ASC 450-20, *Contingencies – Loss Contingencies*. Pursuant to ASC 450-20, a liability would be recorded in connection with the registration rights agreement when it becomes probable that a payment under the registration rights agreement would be required and the amount of payment can be reasonably estimated. Further, a registration rights agreement is provided a specific exception from derivative accounting pursuant to ASC 815-10-15-82.

The registration payment arrangement guidance further clarifies that a financial instrument subject to a registration payment arrangement should be accounted for pursuant to other applicable GAAP without regard to the contingent obligation to transfer consideration pursuant to the registration payment arrangement (e.g., convertible debt instruments are evaluated pursuant to the guidance in ASC 470-20).

ASC 825-20 does not apply to arrangements that require registration or listing of convertible debt instruments or convertible preferred stock if the form of consideration that would be transferred to the counterparty is an adjustment to the conversion ratio. The accounting also does not apply to arrangements in which the amount of consideration transferred is determined by reference to (1) an observable market other than the market for the issuer's stock or (2) an observable index.

For example, an arrangement would not be in the scope of ASC 825-20 if the consideration to be transferred is determined by reference to the price of a commodity if the issuer is unable to obtain an effective registration statement. Additionally, ASC 825-20 does not apply to arrangements in which the financial instrument subject to the arrangement is settled at the same time that the consideration is transferred. For example, it would not apply to a warrant that is contingently puttable if an effective registration statement for the resale of the equity shares that are issuable upon exercise of the warrant is not declared effective by the SEC within a specified grace period.

5.12 Overallotment provisions (or “greenshoes”)

5.12.1 Overview and background

Many public debt and equity securities offerings contain features that provide the underwriter with the option to obtain more of the securities being sold (i.e., a written call option). These provisions permit the underwriter to fill orders slightly in excess of the planned amount of an offering to promote market efficiencies. These options are commonly referred to as “overallotment provisions” or “greenshoe provisions,” after the Green Shoe Manufacturing Company, which was the first company to include this type of feature in a public equity offering. Those features may be found in both equity and debt offerings.

Overallotment provisions have historically been used to accommodate potential investor demand in excess of the base offering amount, which may not be known until the issuance date. Therefore, the greenshoe provision permits the issuer to issue more securities without the time and expense of an additional filing. For example, an issuer may hope to issue \$100 million of securities, yet discover at the issuance date that there is additional demand in the marketplace for the instruments. An overallotment provision permits for the sale of additional securities at issuance.

The underwriter or initial investors often are also permitted to purchase additional securities at the offering price for a defined period subsequent to the closing date of the initial offering. The underwriter uses the greenshoe provision as a mechanism to facilitate market stabilization activities. For example, if \$100 million of securities are sold into the market, the underwriter will often reserve the right with the issuer (or in some cases may commit) to enter into market transactions to buy and sell the securities to stabilize the market price for a period of time thereafter (typically 30 days). If the underwriter sells an additional \$10 million of securities (short position) and buys \$7 million (long position) during that period, the underwriter will exercise its overallotment provision at its expiration date to cover its net \$3 million short position in the underlying securities.

Infrequently, companies include greenshoe provisions that permit the issuance manager (in some cases, an investment manager or large initial investor in a private offering) to obtain additional shares for its own purposes at a favorable price if the market price rises subsequent to the initial issuance. This approach has sometimes been referred to as a “manager’s option.” The exercise period for a manager’s option may be longer (45 or more days) than that of a more traditional greenshoe (usually 30 days or less).

The following are examples of the mechanics of the arrangements typically found in the marketplace:

- ▶ Traditional overallotment option – Permits the underwriter to purchase up to a specified amount of the securities issued within a specific timeframe (typically 30 days) after the original offering. The underwriter must short the notional amount of the greenshoe in order for the option to become exercisable later. The notional amount is permanently reduced by any short position that is covered

by the underwriter's purchases in the open market. For example, if the greenshoe notional amount is \$15 million representing 150,000 shares at an offering price of \$100 per share (which is shorted at issuance) and the underwriter subsequently repurchases 70,000 shares in the market during the stabilization period, then the notional amount of the greenshoe is permanently reduced to 80,000 shares.

- ▶ Reload overallotment option – Permits the underwriter to purchase up to a specified amount of the securities issued within a specific timeframe (typically 30 days) after the original offering. The notional amount of the greenshoe must be shorted at issuance in order for the option to become exercisable later. The notional amount is reduced by any short that is covered by open market transactions, but is increased if those securities are resold during that same stabilization period. For example, if the greenshoe notional amount is \$15 million representing 150,000 shares at an offering price of \$100 per share (which is shorted at issuance) and the underwriter repurchases 70,000 shares in the market to cover its short because the market price of the securities has declined, the notional amount is temporarily reduced to 80,000 shares. Subsequently, if the underwriter resells an additional 30,000 shares because the market price of the securities has increased, the greenshoe notional amount is adjusted to 110,000 shares.
- ▶ Manager's option – Permits the underwriter to purchase up to a specified amount of the securities issued within a specific timeframe (typically 30-60 days, but can be longer) after the original offering. The notional amount of the greenshoe is not required to be shorted at issuance in order for the option to become exercisable later. The notional amount is not affected by any short that is covered by open market transactions. A manager's option is not found in registered offerings, as the exercise of the option would violate the securities law. Those instruments are essentially written options for additional securities. The options may be held by the underwriter at issuance, but may also be transferred to the initial investors.

5.12.2

Analysis

5.12.2.1

Freestanding or embedded

Manager's options may be freestanding or embedded in the related securities. The option is freestanding if it can be transferred separately from the related securities. For example, if the underwriter holds the option while the ultimate investors receive the securities, the option would be freestanding. Similarly, if an investor receives both the option and the security yet could sell or transfer the option and the security separately, the option would be considered a freestanding financial instrument. Conversely, if the manager's option and related securities cannot be separated it would be considered an embedded feature in the initial securities issued.

Unlike manager's options, the traditional overallotment and reload overallotment options are considered freestanding as they remain with the underwriter when the securities are sold to the ultimate investor.

If a greenshoe is considered a feature embedded in the securities initially issued, that embedded feature should be analyzed to determine if it should be bifurcated from the host instrument. That determination will involve evaluating the hybrid instrument (the security and embedded greenshoe feature) pursuant to ASC 815-15. Generally, the greenshoe option would not be bifurcated from the host instrument because the economic characteristics and risks of the embedded written call option are considered clearly and closely related to the economic characteristics and risks of the host contract. The underlying to the greenshoe option is the same security as the host instrument. The following discussion focuses on the accounting considerations for a greenshoe option that is determined to be a freestanding financial instrument.

5.12.2.2 Evaluating greenshoes as ASC 480 liabilities

If greenshoes involve equity shares of the issuer, the options should be evaluated pursuant to ASC 480. A greenshoe option is likely an ASC 480 liability if it were part of an issuance of redeemable equity instruments such as mandatorily redeemable preferred shares or preferred shares that are redeemable at the option of the issuer. The evaluation would be similar to that for warrants on redeemable equity shares, which are usually determined to be liabilities pursuant to ASC 480.

If deemed a liability pursuant to ASC 480, the greenshoe should be evaluated based on the facts and circumstances as to whether it should be allocated proceeds from the offering (if it were passed on to the investors) or it should be accounted for as a separate instrument issued for no proceeds (with the offset to expense or deferred equity issuance cost).

5.12.2.3 Evaluating greenshoes as derivatives

If not an ASC 480 liability, a greenshoe should be evaluated as a potential derivative pursuant to ASC 815. If it is a derivative, it should be further evaluated to determine whether it meets any of the exceptions from derivative accounting.

The underlying of a greenshoe is the price of the underlying securities, as with any option. However, some believe the greenshoe does not have a notional amount, which has resulted in diversity in practice.

ASC 815-10-55-6 through 55-7 provides guidance in determining the notional amount of a contract. The guidance states that when the terms of the contract call for a maximum amount, the notional amount cannot be more than that maximum amount. The guidance also specifies that when a minimum greater than zero exists, the contract has a notional amount of at least that minimum amount. The guidance further explains that penalties for nonperformance and other terms should be considered to determine the notional amount. The conclusion that a notional amount exists can be reached only if a reliable means to determine such a quantity exists.

We generally believe the traditional overallotment options and reload overallotment options do not have a notional amount pursuant to ASC 815, because the underwriter can purchase up to a specified amount (a maximum) within a specified period following the offering, but the actual amount that may be permitted is not known because the final amount is based on subsequent issuance and stabilization activities. Therefore, a notional amount is not readily determinable, as the notional amount of greenshoes can be between zero and the maximum. In addition, we understand that securities law prevents the exercise of the option unless it is to cover the short position, so the underwriter is not able to economically exercise the overallotment to its benefit (i.e., the underwriter cannot exercise the option to purchase the underlying securities to benefit its proprietary trading activities).

However, the manager's option would have a notional amount equal to the maximum amount because the notional amount is not affected by the underwriter's subsequent activities in the open market. The manager's option functions like any other option contract where a rational holder would exercise the option to its fullest extent if in the money at the expiration date.

To the extent if a manager's option is deemed to have a notional amount (some believe it is the contractual maximum), the remaining characteristics of a derivative should be evaluated. Typically, greenshoe options have little or no initial net investment, similar to other options. Because the overallotment option is issued together with other securities, its initial investment is considered to be the fair value of the option. The net settlement characteristic may be satisfied because the securities that are delivered upon exercise of the option are themselves readily convertible to cash by virtue of the market in which they are offered (publicly traded or immediately eligible for a Rule 144A transaction). For a private company, consideration of the net settlement characteristic may require additional analysis.

5.12.2.4 Exceptions available for greenshoes meeting the definition of a derivative

There are several potential exceptions from derivative accounting pursuant to ASC 815 that are available if an issuer concludes a greenshoe meets the definition of a derivative.

While some believe a traditional overallotment option for either debt or equity securities that expires on the issuance date may not be subject to derivative accounting because of a specific exemption for regular way security transactions in ASC 815-10-15-15, we do not believe this is a preferable view.

Greenshoes for equity securities deemed to be derivatives may qualify for the scope exception in ASC 815-10-15-74(a) because the options are settled in the underlying equity security. They would be classified as equity if they are both (1) indexed to its own stock and (2) classified in stockholders' equity in its statement of financial position pursuant to ASC 815-40. If the greenshoe qualifies for this scope exception, all the proceeds of the offering are allocated to equity instruments (both the shares issued and the option, which is likely recorded in additional paid-in capital).

For the debt securities of public companies, a greenshoe that is deemed to be a derivative and can be exercised over a period of time does not have any available exceptions.

While a traditional overallotment option that is short-term and has an at-the-money strike price at the issuance date may have minimal value, the volatility of the stock will create time value and the value of the option could change over its life.

5.12.2.5 Accounting for greenshoes determined to be derivatives

Similar to greenshoes that are classified as a liability pursuant to ASC 480, greenshoes determined to be derivatives are accounted for at fair value at issuance and subsequently adjusted to fair value through earnings. Judgment is required in determining whether the issuer should (1) allocate a portion of the gross issuance proceeds to the greenshoe or (2) deem the greenshoe to be issued for no proceeds and record an immediate expense (or perhaps an issuance cost) as the other side of the entry to recognize the instrument. The facts and circumstances should be considered in making this determination.

The allocation of proceeds to the greenshoe would be appropriate when a derivative greenshoe and securities are issued to the same party (e.g., investors) and the greenshoe is freestanding. However, a greenshoe is typically issued as a separate instrument to the underwriter, while the securities are purchased by the investors through the underwriter. In this case, allocating a portion of those proceeds to the greenshoe would not be necessary.

Any portion of the initial proceeds allocated to the derivative would affect the initial carrying amount of the securities, which can have further accounting implications depending on the security issued. For example, if the issued securities are debt securities (or preferred stock) and some of the proceeds are allocated to the greenshoe, the initial carrying amount may include a discount to be reflected as a yield adjustment over the security's life. Further, if the security has conversion features, the initial allocated carrying amount (i.e., proceeds) should be evaluated to determine whether there is a beneficial conversion feature. Beneficial conversion features often arise when proceeds are allocated to multiple instruments.

5.12.2.6 Application of the SEC's longstanding view on written options

While the SEC staff has a longstanding position that written options should be recorded at fair value and marked to fair value through earnings, we are not aware that the SEC staff has applied this position to greenshoes.

5.13 “High equity content” instruments

5.13.1 Overview and background

Companies may issue debt or preferred stock instruments that provide the issuer with both equity credit by rating agencies and the deductibility of interest for tax purposes. These instruments are commonly referred to as “high equity content” instruments.

These instruments, which are marketed under different names, may require the issuer in certain circumstances to sell equity shares in the future to obtain the funds to make payments due under these instruments. For example, a high equity content debt instrument may provide the issuer with the ability to, or if certain events occur, require the issuer to defer interest for a period of time. Once interest has been deferred for a specified time, the debt may require that the issuer sell shares (or use “best efforts” or “commercially reasonable efforts”) to fund the deferred interest payment. In some cases, the issuer may be required to issue equity to fund the redemption of the instrument or replace the instrument with another instrument of equal or lower subordination in the capital structure when the initial instrument matures.

There may be unexpected accounting consequences associated with high equity content instruments. For example, conclusions under the equity classification guidance in ASC 815-40 for other instruments in the capital structure may be affected if circumstances outside the issuer’s control can require the issuer to issue equity shares. The issuance of a high equity content instrument could result in (1) existing derivatives in the entity’s own stock being reclassified to liabilities from equity or (2) the bifurcation of previously non-bifurcated embedded conversion features in convertible instruments.

5.13.2 Analysis

The issuer of a high equity content instrument may have other outstanding instruments that are either freestanding equity instruments or hybrid instruments containing embedded equity-linked features that are subject to the equity classification guidance in ASC 815-40-25. For an equity-linked instrument to be classified in equity or an embedded equity-linked feature to obtain an exception from bifurcation pursuant to ASC 815-10-15-74(a), the equity classification guidance specifies that the issuer must have sufficient authorized and unissued shares of common stock to ensure share settlement (either gross physical settlement or net share settlement). If the issuer does not have sufficient authorized and unissued shares available to settle its obligation under the instrument, cash settlement must be assumed and thus, triggering an asset or liability classification for the instrument or feature.

A high equity content instrument may require the issuer to issue shares upon the occurrence of events that are not within the issuer’s control and the number of shares to be issued may be unlimited (when there is not an explicit cap in the agreement limiting the number of shares to be delivered). The number of shares to be delivered is determined based on the payment amount (e.g., deferred interest payments) divided by the then-market share price. As the share price declines, the number of shares to be delivered will increase, potentially to an unlimited number.

Because of this potentially unlimited share delivery obligation, the issuer cannot meet the requirement in ASC 815-40-25-10(b) to have sufficient authorized and unissued shares to provide share settlement for other instruments. As a result, those other instruments that are subject to the equity classification guidance may require asset or liability classification and fair value measurement, with subsequent changes in fair value recognized in earnings. Similarly, embedded equity-linked features may require bifurcation and separate accounting as they would not qualify for the exception in ASC 815-10-15-74(a). To address this practical issue, a high equity content instrument could be issued with a cap on the ultimate number of shares that the issuer could be required to issue to fund deferred interest.

The terms of high equity content instruments should be carefully evaluated to determine the effect on other instruments issued while the high equity content instrument is outstanding.

5.14 Preferred equity certificates (PECs), convertible PECs (CPECs)

In some jurisdictions, instruments may be issued with characteristics of both debt and equity. If an instrument is legal form equity, it is evaluated pursuant to ASC 480 to determine whether it should be classified as debt for financial reporting purposes. However, US GAAP does not contemplate that legal form debt would be classified in equity. Several concepts in the guidance indicate that legal form debt, and instruments that provide creditor rights, are not considered equity. For example, shares analyzed pursuant to ASC 480 are limited to those that are not liabilities in form under the definition of a “share.” As another example, the equity classification guidance includes as a criterion in ASC 815-40-25-31 that a contract cannot give the counterparty any of the rights of a creditor in the event of the entity’s bankruptcy. Therefore, we believe that legal form debt instruments should be classified as liabilities.

A common example of an instrument with characteristics of both debt and equity is a “preferred equity certificate” (PEC) and related instruments (e.g., convertible PEC (CPEC) and various others) issued by entities (often financing subsidiaries) in Luxembourg. Those instruments are perpetual, usually without any optional or mandatory redemption dates and are nominally titled as equity instruments. However, we understand that these instruments provide creditor rights to the holder in certain events, the dividends are tax deductible as interest expense, and, most importantly, historically the instruments have generally been considered legal form debt in that country. As a result, these instruments would not be deemed legal form equity instrument eligible for equity classification, but rather legal form debt, unless appropriate support was provided that the instruments were equity in legal form in the jurisdiction in which they are issued.

The accounting evaluation for a debt instrument differs from the considerations for an equity instrument. Refer to Chapter 2 and Chapter 3 for detail discussions on each instrument.

5.15 Liabilities with an inseparable third-party credit enhancement

5.15.1 Overview and background

Liabilities are often issued with credit enhancements obtained from a third party. The most common example is credit-enhanced debt. In those issuances, the issuer purchases a guarantee from a third party (usually a monoline insurer or other financial guarantor) that requires the third party to make payments on the issuer’s behalf in the event the issuer fails to meet its payment obligations. To the extent the guarantor is required to make payments, the issuer becomes obligated to the guarantor for the payments (i.e., the guarantor becomes the creditor). As a result, investors typically evaluate the credit risk of the instrument based on the third-party guarantor’s creditworthiness (rather than the issuer’s) assuming that the guarantor’s credit rating exceeds that of the issuer. This credit enhancement usually will enable the issuer to more easily market the debt instrument.

When permitted under other US GAAP, issuers of debt with an inseparable third-party credit enhancement may elect to subsequently measure the debt at fair value. For those issuers, the “Liabilities Issued with an Inseparable Third-Party Credit Enhancement” subsection of ASC 820 (the “credit-enhanced liability guidance”) requires that the measurement of those liabilities at fair value on a recurring basis exclude the effect of the credit enhancement for accounting purposes. This guidance is also applicable for credit-enhanced liabilities that are not subsequently measured at fair value but are disclosed at fair value.

5.15.2 Analysis

5.15.2.1 Scope

The credit-enhanced liability guidance applies to liabilities measured at fair value on a recurring basis, either under a fair value election or some other GAAP such as ASC 815. For example, derivatives accounted for at fair value pursuant to ASC 815 for which the entity obtained a guarantee from a third party for its potential liability to the counterparty under the derivative instruments would be within the scope.

This guidance does not apply to credit enhancements provided by a government or government agency (e.g., those provided by the FDIC) and credit enhancements provided to a parent or a subsidiary or between entities under common control.

This guidance is applicable only to the issuer of a liability with an inseparable third-party credit enhancement. It does not apply to the holder of the issuer's credit-enhanced liability. That is, the investor is not required to account for two components: the liability from the issuer and the guarantee from the third-party guarantor.

5.15.2.2

Measuring liabilities with third-party credit enhancement

Pursuant to ASC 820-10-35-18A, an issuer considers its own credit standing, and not that of the third-party guarantor, in measuring the fair value of a liability with a third-party guarantee, regardless of whether the fair value measurement is used for recognition or solely for disclosure purposes. In other words, the unit of accounting for the liability measured or disclosed at fair value does not include the third-party credit enhancement.

Because the credit enhancement is obtained for the benefit of the holder of the issuer's liability, the guarantee does not represent an asset of the issuer. Any payments made by the guarantor to the creditor or holder of the liability result in a transfer of the issuer's obligation from the creditor to the guarantor. However, the amount of the issuer's obligation is not affected in the event of guarantor's payments. The only change is that the guarantor now stands to collect from the issuer. Therefore, the fair value of that liability should reflect the issuer's creditworthiness.

Proceeds received for the issuance of liabilities with a third-party credit enhancement represent consideration for both the liability issued and the guarantee purchased on the investor's behalf. Because the unit of accounting for the liability does not include the guarantee, the proceeds from the issuance should be allocated between the premium for the guarantee and the liability based on their respective fair values. The following example illustrates this concept, and contrasts the accounting for a credit-enhanced liability under a fair value model with that of a credit-enhanced liability under an amortized cost model.

Illustration 5-10

The assumptions are as follows:

- ▶ Borrow Co., whose credit rating is BB, raised \$1,000 on 1 January 20X0 by issuing notes that included a third-party guarantee issued by Bond Company whose credit rating is AA
- ▶ The notes bear a fixed interest rate of 7% payable annually in arrears on 31 December, with that rate based largely on the higher credit rating of the bond insurer
- ▶ The notes mature on 31 December 20X4 (five years after issuance)

At the issuance date:

- ▶ The market interest rate for similar five-year debt without a third-party guarantee is 9% based on Borrow Co.'s credit standing
- ▶ The premium paid to the guarantor for its guarantee was \$75
- ▶ Other debt issuance costs (e.g., attorney's fees, rating agency fees), excluding the guarantee premium, were \$25

Initial recognition and measurement – amortized cost accounting

Assuming the debt is not accounted for at fair value on a recurring basis (i.e., a fair value election has not been made), Borrow Co. would follow traditional amortized cost accounting, wherein a liability is initially measured based on the proceeds received. The total debt issuance costs incurred (the premium paid and the other debt issuance costs) are deferred and amortized over the term of the debt. Thus, Borrow Co. would record the following journal entries at issuance:

Deferred debt issuance costs (guarantee premium)	\$ 75	
Cash		\$ 75

To record cash paid to bond insurer for guarantee on debt to be issued

Deferred debt issuance costs (attorney's fees and other)	\$ 25	
Cash		\$ 25

To record cash paid for external costs related to the debt

Cash	\$ 1,000	
Debt		\$ 1,000

To record proceeds received upon issuance of debt

Initial recognition and initial measurement – fair value accounting

Now assume Borrow Co. elected, upon issuance of the debt, to apply a fair value option, and accounts for the debt at fair value as determined pursuant to ASC 820 on a recurring basis. Also, assume the fair value of the debt upon issuance was \$925, computed by excluding the effect of the credit enhancement and using Borrow Co.'s own credit standing. Thus, Borrow Co. would record the following journal entries at issuance:

Prepaid asset (guarantee premium)	\$ 75	
Cash		\$ 75

To record cash paid to bond insurer for guarantee asset on debt to be transferred to the investor

Expense (attorney's fees and other)	\$ 25	
Cash		\$ 25

To record cash paid for debt issuance costs, which are charged to expense under the fair value model

Cash	\$ 1,000	
Prepaid asset (guarantee premium)		\$ 75
Debt		925

To record proceeds on issuance of debt, including allocation of proceeds to guarantee asset transferred to investors

The net effect of those entries is to recognize the debt at its fair value of \$925 and recognize as expense debt issuance costs. The guarantee has been transferred to the investor, as Borrow Co. purchased it for the investor's benefit and paid for by the investor with a portion of the issuance proceeds. In this example, the fair value of the guarantee premium exactly equals the difference between the fair value of the debt and the gross proceeds received upon issuance of the debt. In reality, there may be some difference (generally insignificant) between (1) the gross proceeds of issuance of the debt and (2) the sum of the fair value of the debt and the guarantee premium. That difference could result in recognizing a small gain or loss upon the issuance of the debt.

Subsequent measurement – amortized cost accounting

If the debt is not accounted for at fair value on a recurring basis, Borrow Co. would record the following cumulative journal entry for the first year (31 December 20X0) to record interest expense and amortize the debt issuance costs:

Interest expense	\$	90	
Cash			\$ 70
Deferred debt issuance costs			20

To record interest expense on debt (assuming straight-line amortization approximates the effective interest method)

This entry results in an effective interest rate in excess of 9%.

Subsequent measurement – fair value accounting

If the debt is accounted for at fair value on a recurring basis, Borrow Co. would record the following cumulative journal entry for the first year (31 December 20X0) to record interest expense and remeasure the debt at fair value (assumed to be \$875 as Borrow Co.'s creditworthiness has declined):

Interest expense	\$	70	
Debt		50	
Cash			\$ 70
Other income (remeasurement at fair value)			50

To record interest expense on debt and remeasure the debt to fair value under the fair value option

This entry results in the recognition of interest expense equal to the cash interest paid (based on the stated rate in the debt) and the carrying amount of the debt at its current fair value.

Note that if Borrow Co. repays the debt pursuant to its terms, the ultimate expense recognized will be the same under the amortized cost and fair value models. That is, under both methods, the carrying amount at maturity will equal the par amount of the debt (\$1,000 in this example). Under the fair value method, Borrow Co. recognized debt issuance costs of \$25 as an expense immediately. Although the carrying amount of the debt could increase or decrease in any given reporting period, at maturity, the initial \$75 difference between the par and allocated proceeds would ultimately have been recognized in earnings, bringing the cumulative charge in earnings to \$100. Under the amortized-cost method, Borrow Co. would amortize the \$100 of debt issuance costs, including the guarantee premium, over the term of the debt.

Disclosure at year end 20X0

Regardless of whether Borrow Co. subsequently measures the debt at amortized cost or fair value, it would disclose the fair value of the debt in the 31 December 20X0 financial statements as \$875, which incorporates the issuer's creditworthiness. This fair value would likely be different than any quoted fair value of the bond, which would look to the creditworthiness of Bond Company (if it were higher than Borrow Co's).

5.16 Convertible debt with call spread

5.16.1 Overview and background

A popular financing structure in recent years has been convertible debt with a freestanding call spread. In a typical call spread transaction, the issuer purchases a call option (also referred to as the “bond hedge” or “low strike call option”) from the underwriter (an investment bank), with an exercise price and notional number of shares equal to the conversion price and potential conversion shares of its convertible debt. The payoff on the call option economically offsets the conversion option in the debt because it has the same strike price. The issuer also writes a call option to the underwriter, at a higher strike price to partially finance the purchased call option (also referred to as the “high strike call option”). The combined economics of the convertible debt and the call spread is a synthetic increase of the strike price of the financing. In certain cases, the issuer can integrate the proceeds from the issued debt with the cost of the low strike call option for tax purposes, providing an original issue discount on the debt from a tax perspective.

A call spread can either be documented as two separate instruments (the purchased call and the written call) or as a single, integrated call spread (i.e., a capped call option). A capped call is a call option purchased by the issuer with a strike price equal to the conversion price but the settlement price is capped at an amount equal to what would be the strike price of the separate high strike call option. This mirrors the economics of the two separate instruments. The benefit of using a capped call option is that the issuer would not be subject to the dilution effect of the written call option as the purchased option is antidilutive overall and thus not considered for EPS purposes.

5.16.2 Analysis

5.16.2.1 Unit of account

When documented in two separate instruments, the purchased call and written call option are viewed as separate freestanding financial instruments from the convertible debt (not embedded features) because there are separate counterparties to the contracts. The counterparty to the options is the investment bank, which acts as the underwriter or placement agent for the debt but generally does not hold the convertible debt. The counterparties to the debt are the individual convertible debt investors. ASC 815-15-25-2 states that the notion of an embedded derivative in a hybrid instrument refers to provisions incorporated into a single contract, and not to provisions in separate contracts between different counterparties.

In addition, ASC 480 defines a freestanding financial instrument to be a financial instrument that is (1) entered into separately and apart from any of the entity’s other financial instruments or equity transactions or (2) entered into in conjunction with some other transaction and is legally detachable and separately exercisable. Because the exercise of either the purchased call option or the written call option does not automatically result in the redemption of the convertible debt, the two options are considered separately exercisable, which is a factor that points to them being considered freestanding from the debt.

ASC 815-10-15-9 states that two or more freestanding financial instruments should be viewed as a unit (and not accounted for separately) based on certain indicators. Those indicators should be evaluated to determine whether the convertible debt should be considered with the call spread structure as one unit of account. While an analysis should be based on the individual facts and circumstances, following are general considerations:

- ▶ There is a substantive business reason to have the convertible debt and call spread executed separately. Convertible debt investors prefer a lower conversion price while issuers prefer a higher conversion price. The call spread economically transforms a lower conversion price convertible debt to a higher conversion price convertible debt, as the separately purchased call option economically offsets the embedded written conversion option.

- ▶ The convertible debt and call spread do not have the same counterparties. The convertible debt is issued to investors while the underwriters are the counterparties to the call spread.
- ▶ The instruments do not relate to the same risk. Convertible debt contains both interest and equity risks but the call spread has only the equity risk of the issuer. Also, the convertible debt and written call option (as part of the call spread) have different maturities, as their settlement dates are usually intentionally different.

Based on this evaluation, we generally believe the options should not be combined with the convertible debt for accounting purposes.

In addition, the two options should be evaluated for potential combination provided neither is in the scope of ASC 480. The options (documented in different contracts) are generally considered two separate freestanding financial instruments because they intentionally have expiration dates that are sufficiently separated (the purchased call option settles at each conversion of the debt and the written call option settles at some period of time after the maturity of the debt) and are settled separately. However, the options could be combined if the settlement dates are aligned as the factors for combination pursuant to ASC 815-10-15-9 would be present.

When the call spread is executed in a form of capped call option, the analysis is similar. The capped call option is generally not combined with the convertible debt for the reasons discussed above. Because it is documented in a single contract, the capped call is considered a single financial instrument.

5.16.2.2

Classification

The issuer should evaluate and determine whether the conversion option in the convertible debt requires bifurcation as a derivative or whether the convertible debt is subject to the cash conversion guidance or beneficial conversion feature guidance pursuant to ASC 470-20. Refer to Chapter 2 for further discussion.

The two options, which represent separate freestanding financial instruments on the issuer's own shares, should be analyzed individually to determine the accounting (if structured as a single capped call, it would be analyzed as a single instrument under the same literature).

ASC 480 applies only to freestanding financial instruments that embody obligations of the issuer. The purchased call option would not be a liability pursuant to that guidance because it does not embody an obligation of the issuer. It permits, but does not require, the issuer to buy its own shares.

In contrast, the written call option embodies an obligation to the issuer to deliver shares or transfer assets upon the counterparty's exercise. Pursuant to ASC 480-10-25-8 through 25-13, if a financial instrument, other than outstanding shares, embodies an obligation of the issuer to transfer assets, the instrument would be a liability. Typically, the written call option does not embody an obligation by the issuer to repurchase its equity shares, as its terms entitle the counterparty the right to acquire shares from the issuer. However, additional consideration is necessary when the written call option involves shares that are themselves redeemable or the written option embeds a written put feature that permits the underwriter to put the option back to the issuer for cash. In those cases, the written call option would be a liability pursuant to ASC 480. Refer to section 5.7 and section A6.1.4 of Appendix A for further guidance.

ASC 480-10-25-14 should also be considered for the written call option if it involves variable shares. Pursuant to that guidance, liability classification would be required if at inception, the monetary amount of the obligation to deliver variable shares is based solely or predominantly on any one of the following conditions:

- ▶ Has a fixed value
- ▶ Derives its value predominantly from some underlying other than the fair value of the issuer's shares
- ▶ Has a value to the counterparty that moves in the opposite direction as the issuer's shares

Generally, the written call option requires the issuer to deliver a fixed number of shares if the counterparty exercises. However, if the written call option involves a variable number of shares, it generally does not meet any one of the three conditions described in ASC 480-10-25-14.

The options generally meet the definition of a derivative. However, they are often structured to qualify for equity treatment pursuant to the exception in ASC 815-10-15-74(a), which considers the guidance in ASC 815-40. In addition, those instruments are frequently executed in a standard ISDA form. In those circumstances, additional consideration should be given to evaluate early termination, adjustment and settlement provisions in the ISDA agreements and their effects on meeting the requirements of ASC 815-40 to ensure equity classification is appropriate. Refer to Chapter 4 for further guidance.

Additional consideration should be given to call spread transactions in debt issuances that involve a greenshoe (or overallotment provision). In those transactions, the issuer provides the underwriter with the option to obtain more of the convertible debt being sold (refer to section 5.12 for additional discussion). The call spread likely considers any overallotment option on the convertible debt, with an automatic adjustment to the number of shares underlying the call spread if the size of the debt offering increases to maintain the appropriate alignment of debt to call spread. As an example, the written call option frequently includes a provision that states (with a similar provision in the purchased call option):

If the Initial Purchasers exercise their right to receive additional Convertible Notes as set forth in the Purchase Agreement, then on the Additional Premium Payment Date, the Number of Warrants will be automatically increased by additional Warrants in proportion to such Additional Convertible Notes and an additional premium shall be paid by Bank to the issuer on the closing date for the purchase and sale of the Additional Convertible Notes.

Because the number of shares increases upon an event that is not an input to a fixed-for-fixed equity option or forward valuation model (the underwriter exercising its overallotment option), the options would fail the indexation guidance in ASC 815-40-15 and therefore, would not be considered indexed to the issuer's own stock at inception. Equity classification would be precluded for the options at issuance.

However, the adjustment provision expires upon the underwriter's exercise of the overallotment option or upon its expiration, and typically the period is for only up to 30 days. In practice, the underwriter frequently exercises the option within an even shorter timeframe (e.g. one or two weeks after the issuance). Once the adjustment provision is triggered or expired, the number of shares will be adjusted (or cease being adjustable) and become fixed. Subsequently, the call spread would be considered indexed to the issuer's own equity, provided that there are no other adjustment provisions that would violate the indexation guidance.

5.16.2.3 Allocation of proceeds

Allocation of proceeds is usually unnecessary in a convertible debt with call spread structure as each instrument is exchanged for its fair value. If fair value were not exchanged, an allocation method should be considered for the transactions between the same counterparties (i.e., the call spread instruments).

5.17 Prepaid written put option

5.17.1 Overview and background

A prepaid written put option is a written put option on the issuer's own shares in which the issuer has prepaid the strike price of the option at inception of the transaction. Some refer to this instrument by its original commercial product name of "DRAGON" (due to the shape of the payoff diagram) or "CAESAR" (cash enhanced share repurchase).

In a typical transaction, often executed in a form of European option, the issuer (the option writer) makes an upfront payment to the counterparty (an investment bank, also the option purchaser) in an amount equal to the strike price of the option (generally the spot price on trade date) less the option premium the issuer is entitled to receive from the counterparty (the option purchaser). At maturity, the put option will be automatically exercised and settled in one of the following two ways:

- ▶ If the share price on the settlement date is below the strike price, the counterparty will deliver to the issuer the specified number of shares underlying the option. No cash is paid by the issuer as the strike was prepaid at inception.
- ▶ If the share price on the settlement date finishes above the strike price, the issuer will receive from the counterparty a payment equal to the option strike price (i.e., a return of the prepaid strike price). The payment can be settled in the form of cash or a number of the issuer's shares equal to the amount due, at the issuer's option.

Economically, a prepaid written put option is equivalent to a combination of a purchased call option with a \$0 strike price (such that it is always in the money) and written call option with a strike price that is normally the price of the issuer's shares at inception of the contract. Each contract is for the same number of underlying shares. The initial prepayment reflects the premium to be paid for the deep in-the-money purchased call option less the premium to be received for the written call option. Any share price above zero will result in the issuer exercising the purchased call and repurchasing the shares. At any price above the higher strike of the written call option, both parties will exercise their options.

With the written call option, the issuer receives cash equal to that strike price from the counterparty and delivers the shares. Under the purchased call with a \$0 strike, the issuer simply receives its own shares at the same time. The shares to be received and the shares to be delivered are usually netted such that the issuer simply receives cash. The issuer's return in that case is the difference between the cash paid at the inception of the contract for the \$0 strike call and the cash received at exercise for the written call option.

In summary, the issuer will either (1) retire its shares if the stock price goes below the share price at inception or (2) receive a return on its investment if the share price goes up. Companies often use a prepaid put option to lower the overall cost of their repurchase programs. In certain cases, the prepaid put option is structured such that option premium received by the issuer upon settlement is not taxable.

Consider the following example of a prepaid written put option that is documented in the form of a combination of a purchased call and a written call:

Illustration 5-11

Company A enters into an equity-linked contract that is indexed to its own common stock with an investment bank. The contract consists of a purchased call option on 100,000 shares of Company A's common stock with a strike price of \$0 and a written call option on 100,000 shares of Company A with a strike price of \$10 (current share price at inception of the contract). Under the terms of the agreement, Company A pays the investment bank \$800,000 upon execution of the contract, which reflects the fair value of the purchased call option, net of the fair value of the written option. Upon settlement in one year, either of the two scenarios will take place:

- ▶ If Company A's stock price is greater than \$10 per share, Company A will deliver 100,000 shares of its common stock in exchange for \$10 per share pursuant to the written call and the counterparty will deliver 100,000 shares to Company A for \$0 pursuant to the purchased option. As the obligations by the counterparties to deliver shares of common stock are offsetting, the net result of the instrument is that the company will receive \$1 million in cash from the investment bank.

- ▶ If Company A's stock price is less than or equal to \$10 per share, Company A will receive 100,000 shares of its common stock from the investment bank pursuant to the purchased option; the out-of-the-money written option expires without exercise.

In summary, if the stock is greater than \$10 per share, Company A has received a return of \$200,000 on its original \$800,000 investment. If the stock is less than or equal to \$10 per share, Company A has effectively purchased its shares for a per share cost of \$8 ($\$800,000 / 100,000$ shares), which compares favorably with the \$10 per share price at inception of the contract.

The following example, documented as a single prepaid written put option, is frequently executed by issuers:

Illustration 5-12

Company A writes a put option on its own stock to an investment bank. The put option permits the bank to sell 100,000 shares of Company A's common stock to the company at a strike price of \$10, which is the current share price at inception of the contract. Under the terms of the agreement, Company A pays the investment bank \$800,000 upon execution of the contract, which represents the net amount of the strike price ($\$10 \times 100,000$) less the option premium (\$200,000). Upon maturity in six months, the option will be automatically exercised and either of the two scenarios will take place:

- ▶ If Company A's stock price is greater than \$10 per share, the company will receive \$1 million in cash or in shares, at the company's option, from the investment bank.
- ▶ If Company A's stock price is less than or equal to \$10 per share, Company A will receive 100,000 shares of its common stock from the investment bank.

The net effect of this single written put option is the same as the effect of a combined purchased call and written call as illustrated above.

5.17.2

Analysis

Each of the above structures is an equity-linked contract that is indexed to an issuer's own stock. While the individual facts and circumstances should be considered, the combination of call options would generally meet the criteria to be combined as a single contract for accounting purposes. The equity contract guidance discussed in Chapter 4 should be considered. The following analysis highlights considerations specific to prepaid written put options.

5.17.2.1

ASC 480 considerations

ASC 480 applies only to freestanding financial instruments that embody obligations of the issuer. Generally, a written put option is a liability pursuant to ASC 480 because it embodies an obligation by the issuer to purchase its shares by transferring assets. However, in a prepaid written put option, because the issuer prepays the strike price of the option upfront, the contract no longer embodies any obligation on the part of the issuer to transfer assets or to issue shares after the inception of the transaction (the issuer either receives shares or receives cash). Therefore, the prepaid put option is not subject to ASC 480.

5.17.2.2

Definition of a derivative

The prepaid put option is also assessed to determine whether it is a derivative instrument in its entirety, or a hybrid instrument that contains embedded features requiring analysis for bifurcation pursuant to ASC 815. To be a derivative, all of the following criteria should be met:

- ▶ A notional amount and an underlying
- ▶ No or little initial net investment
- ▶ Net settlement

Generally, the prepaid written put option has a notional amount and an underlying (a number of equity shares and the market price of those equity shares). Although it requires physical settlement, the underlying (i.e., the issuer's equity shares) is in many cases considered readily convertible to cash. (There may be cases where the underlying equity shares are not readily convertible to cash because the shares are not publicly traded or there is not an active market that can rapidly absorb the quantity underlying the contract, etc.) Therefore, the net settlement criterion is also met.

However, the issuer's prepayment of the option strike price (or most of it) raises the question of whether the instrument meets the initial net investment criterion and whether that large initial prepayment is less, by more than a nominal amount, than the amount that would be exchanged to acquire the underlying shares at the inception of the contract. If not a derivative, the prepaid written put option would be viewed as a hybrid instrument (e.g., receivable for the prepaid option strike price) containing an embedded equity-linked feature (i.e., written put option) requiring potential bifurcation.

In evaluating the initial net investment criterion, ASC 815-10-15-96 states that:

If the initial net investment in the contract (after adjustment for the time value of money) is less, by more than a nominal amount, than the initial net investment that would be commensurate with the amount that would be exchanged either to acquire the asset related to the underlying or to incur the obligation related to the underlying, the characteristic in paragraph 815-10-15-83(b) is met. The amount of that asset acquired or liability incurred should be comparable to the effective notional amount of the contract. This does not imply that a slightly off-market contract cannot be a derivative instrument in its entirety. That determination is a matter of facts and circumstances and shall be evaluated on a case-by-case basis.

ASC 815-10-15-97 further elaborates this concept by providing:

A contract that requires an initial net investment in the contract that is in excess of the amount determined by applying the effective notional amount to the underlying is not a derivative instrument in its entirety.

Diversity exists in practice as to whether a prepaid written put option in its entirety meets the initial net investment criterion in ASC 815-10-15-83(b). Some believe the contract has little initial net investment because the initial payment (\$800,000) is less, by more than a nominal amount, than the initial net investment that would be commensurate with the amount that would be exchanged to acquire the number of underlying equity shares at inception (\$1 million). Under this view, the contract would be a derivative.

Others believe the prepaid written put option has an initial net investment (and is not a derivative) because the prepayment at inception is equal to the notional amount of the underlying equity shares at the inception adjusted by the time value of money and the premium for the value of the embedded written option. That is, the \$800,000 prepayment represents the \$1 million notional amount adjusted for the time value of money and the premium for the value of the embedded written option. Therefore, under this view, the prepaid written put option does not meet the definition of a derivative in its entirety pursuant to ASC 815. We generally support this view.

If the prepaid written put option is considered to be a derivative because it meets all the characteristics of a derivative, the entire instrument would be assessed to determine whether it qualifies for equity classification pursuant to ASC 815-40. Generally, the instrument is structured to meet the requirements of ASC 815-40 and classified in equity. In the example, if Company A's stock finishes above the strike price of \$10 at maturity, the investment bank would be required to make a payment of \$1 million to the company. Company A can choose to settle the \$1 million in either cash or shares. If cash settlement is the only settlement option, equity classification would be precluded.

Alternatively, if the prepaid written put option does not meet the definition of a derivative, the entire instrument is considered a hybrid instrument that contains an embedded written put option. The hybrid instrument is analyzed pursuant to ASC 815-15-25-1 to determine whether the embedded option requires bifurcation and separate accounting. Generally, the embedded put option meets the requirements to be classified as an equity instrument if it were freestanding. Therefore, separate accounting would not be required. The entire instrument would be accounted for as either an asset or equity on the balance sheet. Any conclusion on the accounting for the instrument should be based on the individual facts and circumstances.

5.17.2.3

Classification of the hybrid instrument

ASC 815-10-55-73 through 55-76 illustrates an example of a prepaid forward contract (albeit to purchase shares of another entity) and concludes that the prepaid forward contract is a hybrid instrument that is composed of a debt instrument as the host contract and an embedded derivative based on equity prices. (The host contract is a debt instrument because the holder has none of the rights of a shareholder, such as the ability to vote the shares and receive distributions to shareholders.)

The concept may equally apply to a prepaid written put option on an issuer's own shares. However, we generally believe that equity classification is appropriate for the hybrid instrument because the contract's economic substance is a capital stock transaction that requires physical settlement in equity shares and generally does not require the counterparty to return any portion of the prepayment to the issuer.

Appendices

A Distinguishing liabilities from equity

A.1 Summary and overview

While ASC 480 does not define an equity instrument or a liability, it does require three types of freestanding instruments to be classified as liabilities (or assets in some cases), including:

- ▶ Shares that are mandatorily redeemable (refer to section A4)
- ▶ Financial instruments other than a share that represent or are indexed to obligations to repurchase the issuer's equity shares by transferring assets (refer to section A5)
- ▶ Certain obligations to issue a variable number of shares (refer to section A6)

ASC 480 addresses only freestanding instruments and is not applied to embedded features in instruments that are not derivatives in their entirety. Embedded features in instruments that are classified as a liability pursuant to ASC 480 should be evaluated for potential embedded derivatives that should be bifurcated pursuant to in ASC 815-15.

Redeemable shares and instruments that are generally related to an issuer's own shares that are not classified as liabilities pursuant to ASC 480 are subject to the following guidance:

- ▶ ASC 815-40-15-5 through 15-8 and 55-26 through 55-48 which is referred to throughout this publication as "the indexation guidance." Refer to section B3 in Appendix B for a discussion of the indexation guidance.
- ▶ ASC 815-40-25-1 through 25-38, 35-1 through 35-13, 40-1 and 40-2, and 55-2 through 55-18, which is referred to throughout this publication as "the equity classification guidance." Refer to section B4 in Appendix B for a discussion of the equity classification guidance.
- ▶ ASC 480-10-S99-1 (the Codification reference for the SEC's Accounting Series Release 268, *Redeemable Preferred Stocks*), and its interpretive guidance in ASC 480-10-S99-3A, which is referred to throughout this publication as "the SEC's redeemable equity guidance." Refer to Appendix E for a discussion of the SEC's guidance on redeemable instruments.

A.2 Background and prior accounting

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Overview and Background

General

480-10-05-1

The Codification contains separate Topics for liabilities and equity, including a separate Topic for debt. The Distinguishing Liabilities from Equity Topic contains only the Overall Subtopic. This Subtopic establishes standards for how an issuer classifies and measures in its statement of financial position certain financial instruments with characteristics of both liabilities and equity. Section 480-10-25 requires that an issuer classify a financial instrument that is within its scope as a liability (or an asset in some circumstances) because that financial instrument embodies an obligation of the issuer.

480-10-05-2

All of the following are examples of an obligation:

- a. An entity incurs a conditional obligation to transfer assets by issuing (writing) a put option that would, if exercised, require the entity to repurchase its equity shares by physical settlement. (Further, an instrument that requires the issuer to settle its obligation by issuing another instrument [for example, a note payable in cash] ultimately requires settlement by a transfer of assets.)
- b. An entity incurs a conditional obligation to transfer assets by issuing a similar contract that requires or could require net cash settlement.
- c. An entity incurs a conditional obligation to issue its equity shares by issuing a similar contract that requires net share settlement.

480-10-05-3

In contrast, by issuing shares of stock, an entity generally does not incur an obligation to redeem the shares, and, therefore, that entity does not incur an obligation to transfer assets or issue additional equity shares. However, some issuances of stock (for example, mandatorily redeemable preferred stock) do impose obligations requiring the issuer to transfer assets or issue its equity shares.

480-10-05-4

For certain financial instruments, Section 480-10-25 requires consideration of whether monetary value would remain fixed or would vary in response to changes in market conditions.

480-10-05-5

How the monetary value of a financial instrument varies in response to changes in market conditions depends on the nature of the arrangement, including, in part, the form of settlement.

480-10-05-6

For purposes of this Subtopic, three related terms – shares, equity shares, and issuer's equity shares – are used in the particular ways defined in the glossary.

Objectives**General****480-10-10-1**

The objective of this Subtopic is to require issuers to classify as liabilities (or assets in some circumstances) three classes of freestanding financial instruments that embody obligations for the issuer.

Prior to the issuance of Statement 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity* (Statement 150, now the guidance in ASC 480), instruments that required the transfer of cash by the issuer upon settlement were to inconsistently classified. For example, instruments that are equity in legal form may require the issuer to redeem the instrument in certain circumstances that are outside of the issuer's control (e.g., a mandatory redemption or a contingent redemption). While public companies had to consider the SEC's redeemable equity guidance, the instruments were not classified as liabilities. Instead, the redemption amount of those instruments was presented outside of permanent equity (i.e., between liabilities and permanent equity, referred to as "temporary equity" or "mezzanine").

As another example, many freestanding equity contracts that are indexed to, and potentially settled in, the issuer's own shares could have received equity classification pursuant to the then-existing EITF guidance (codified in ASC 815-40), even though the instruments could require cash settlement by the issuer (e.g., if physical settlement required the transfer of cash by the issuer).

Statement 150 addressed the classification of certain instruments, including: (1) mandatorily redeemable shares (2) certain equity contracts that represent obligations or potential obligations to repurchase the issuer's shares (e.g., written put options that permit the counterparty to sell shares to the issuer at a specified price) and (3) obligations that could be settled in shares but with a value that was not indexed to the issuer's shares (e.g., an obligation to deliver shares with a fixed value on the settlement date, sometimes referred to as "stock-settled debt").

A.3

Scope of ASC 480

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Scope and Scope Exceptions

480-10-15-1

The Scope Section of the Overall Subtopic establishes the pervasive scope for the Distinguishing Liabilities from Equity Topic.

480-10-15-2

The guidance in the Distinguishing Liabilities from Equity Topic applies to all entities.

480-10-15-3

The guidance in the Distinguishing Liabilities from Equity Topic applies to any freestanding financial instrument, including one that has any of the following attributes:

- a. Comprises more than one option or forward contract
- b. Has characteristics of both a liability and equity and, in some circumstances, also has characteristics of an asset (for example, a forward contract to purchase the issuer's equity shares that is to be net cash settled). Accordingly, this Topic does not address an instrument that has only characteristics of an asset.

480-10-15-4

For example, an instrument that consists of a written put option for an issuer's equity shares and a purchased call option and nothing else is a freestanding financial instrument (paragraphs 480-10-55-18 through 55-20 provide examples of such instruments). That freestanding financial instrument embodies an obligation to repurchase the issuer's equity shares and is subject to the requirements of this Topic.

480-10-15-5

Because paragraph 480-10-15-3 limits the scope of this Topic to freestanding instruments, this Topic does not apply to a feature embedded in a financial instrument that is not a derivative instrument in its entirety.

480-10-15-6

Paragraphs 480-10-55-53 through 55-58 apply to the specific circumstances described by those paragraphs in which a majority owner enters into a transaction in the shares of a consolidated subsidiary and a derivative instrument indexed to the noncontrolling interest in that subsidiary.

480-10-15-7

The guidance in this Topic does not apply to the following instruments:

- a. Registration payment arrangements within the scope of Subtopic 825-20.

Recognition**480-10-25-1**

The guidance in this Section shall be applied to a freestanding financial instrument in its entirety. Any nonsubstantive or minimal features shall be disregarded in applying the classification provisions of this Section. Judgment, based on consideration of all the terms of an instrument and other relevant facts and circumstances, is necessary to distinguish substantive, nonminimal features from nonsubstantive or minimal features.

480-10-25-2

For purposes of applying paragraph 815-10-15-74(a) in analyzing an embedded feature as though it were a separate instrument, paragraphs 480-10-25-4 through 25-14 shall not be applied to the embedded feature. Embedded features shall be analyzed by applying other applicable guidance.

Glossary**480-10-20****Employee Stock Ownership Plan**

An employee stock ownership plan is an employee benefit plan that is described by the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 as a stock bonus plan, or combination stock bonus and money purchase pension plan, designed to invest primarily in employer stock. Also called an employee share ownership plan.

Equity Shares

Equity shares refers only to shares that are accounted for as equity.

Financial Instrument

Cash, evidence of an ownership interest in an entity, or a contract that both:

- a. Imposes on one entity a contractual obligation either:
 1. To deliver cash or another financial instrument to a second entity
 2. To exchange other financial instruments on potentially unfavorable terms with the second entity.
- b. Conveys to that second entity a contractual right either:
 1. To receive cash or another financial instrument from the first entity
 2. To exchange other financial instruments on potentially favorable terms with the first entity.

The use of the term financial instrument in this definition is recursive (because the term financial instrument is included in it), though it is not circular. The definition requires a chain of contractual obligations that ends with the delivery of cash or an ownership interest in an entity. Any number of obligations to deliver financial instruments can be links in a chain that qualifies a particular contract as a financial instrument.

Contractual rights and contractual obligations encompass both those that are conditioned on the occurrence of a specified event and those that are not. All contractual rights (contractual obligations) that are financial instruments meet the definition of asset (liability) set forth in FASB Concepts Statement No. 6, Elements of Financial Statements, although some may not be recognized as assets (liabilities) in financial statements—that is, they may be off-balance-sheet—because they fail to meet some other criterion for recognition.

For some financial instruments, the right is held by or the obligation is due from (or the obligation is owed to or by) a group of entities rather than a single entity.

Freestanding Financial Instrument

A financial instrument that meets either of the following conditions:

- a. It is entered into separately and apart from any of the entity's other financial instruments or equity transactions.
- b. It is entered into in conjunction with some other transaction and is legally detachable and separately exercisable.

Issuer

The entity that issued a financial instrument or may be required under the terms of a financial instrument to issue its equity shares.

Issuer's Equity Shares

The equity shares of any entity whose financial statements are included in the consolidated financial statements.

Obligation

A conditional or unconditional duty or responsibility to transfer assets or to issue equity shares. Because Topic 480 relates only to financial instruments and not to contracts to provide services and other types of contracts, but includes duties or responsibilities to issue equity shares, this definition of obligation differs from the definition found in FASB Concepts Statement No. 6, Elements of Financial Statements, and is applicable only for items in the scope of that Topic.

Shares

Shares includes various forms of ownership that may not take the legal form of securities (for example, partnership interests), as well as other interests, including those that are liabilities in substance but not in form. (Business entities have interest holders that are commonly known by specialized names, such as stockholders, partners, and proprietors, and by more general names, such as investors, but all are encompassed by the descriptive term owners. Equity of business entities is, thus, commonly known by several names, such as owners' equity, stockholders' equity, ownership, equity capital, partners' capital, and proprietorship. Some entities [for example, mutual organizations] do not have stockholders, partners, or proprietors in the usual sense of those terms but do have participants whose interests are essentially ownership interests, residual interests, or both.)

A.3.1**Obligations**

ASC 480 applies only to freestanding financial instruments that embody obligations of the issuer. ASC 480 defines an obligation as "a conditional or unconditional duty or responsibility on the part of the issuer to transfer assets or to issue its equity shares." Accordingly, purchased options do not embody obligations to the purchaser because they permit, but do not require, the purchaser to buy or sell shares (whether on a gross or net basis). As a result, purchased options on their own are not subject to ASC 480.

On the other hand, contracts that require or could require the issuer to purchase or issue its shares (e.g., forward contracts, written options and mandatorily redeemable shares) do represent obligations.

Certain freestanding instruments that include a written option component may also represent obligations. For example, a purchased call option and a written put option on the issuer's shares may be combined in a single instrument. Even though the value of the purchased call option may exceed the value of the written put option at inception (i.e., resulting in a premium being paid for a net purchased option), the written put component of the instrument imposes a conditional obligation on the issuer and is, therefore, within the scope of ASC 480. The investment would be an asset if the fair value of the purchased call option exceeds the fair value of the written put option, and would represent a liability if the opposite were true.

An understanding of the contractual terms is important in determining whether the issuer has an obligation. An obligation does not exist when the obligation is triggered by a future event completely within the issuer's control. The obligation will be evaluated when the issuer takes (or fails to take) action. Determining whether an obligation is triggered by an event within the issuer's control – regardless of probability, is a matter of facts and circumstances.

However, if certain criteria are met (as discussed in section A4), some obligations in the form of redeemable shares may be classified as equity rather than liabilities.

A.3.2 Freestanding financial instruments

ASC 480 applies only to freestanding financial instruments. As a result, ASC 480 does not apply to features embedded in debt or equity instruments. However, this scope restriction does not apply to the extent that the debt or equity host is nonsubstantive or minimal.

Refer to Question 1 in section A9 – How does the scope of ASC 480 interact with other areas of the financial instrument guidance?

A.3.2.1 Identifying “nonsubstantive or minimal” features

While ASC 480 provides little guidance about what constitutes a “nonsubstantive or minimal” host contract, the provision is intended to prevent circumvention of its requirements by embedding what otherwise would be a freestanding instrument into a nominal host. For example, if an entity wanted to write a put option on its own shares but avoid liability accounting for that option, it could embed that option in a share of preferred stock that has minimal value apart from the option. To the extent that the host is relatively inconsequential or has little value when compared to the embedded feature, the host instrument should be ignored and the entire instrument should be accounted for as a liability (a written put option) pursuant to ASC 480.

While the determination of what constitutes a nonsubstantive or minimal feature included in an instrument will require significant judgment, we believe that the reason for embedding the feature in a host contract should be considered. If there is no apparent business purpose for embedding the feature in a minimal host contract, other than to obtain a specific accounting result, the host instrument should likely be ignored. This determination should be made based on the individual facts and circumstances. Additional guidance on evaluating nonsubstantive or minimal features is included in section A4.1.3.

Refer to Question 2 in section A9 – What is an example of an option to redeem shares embedded in a minimal host?

A.3.2.2 Determining whether an instrument is freestanding

ASC 480 provides little interpretive guidance on the definition of a “freestanding” financial instrument. We believe that the substance of a transaction should be considered in making this determination.

In this regard, whether an instrument is documented in a separate contract is not necessarily determinative that it is freestanding, particularly when a contract is entered into in conjunction with another transaction. If the transactions are with the same party and involve the same underlying (in this context, the issuer’s shares), it is important to assess whether the instruments are (1) legally detachable and (2) separately exercisable. If both conditions are met, the instrument is considered freestanding.

- ▶ Legally detachable – Generally, whether two instruments can be legally separated and transferred such that the two components may be held by different parties. As long as an investor is somehow able to separate the components, they are considered legally detachable.
- ▶ Separately exercisable – Generally, whether one instrument can be exercised without terminating the other instrument (e.g., through redemption, simultaneous exercise or expiration).

If the exercise of one instrument must result in the termination of the other, the instruments would typically not be considered freestanding pursuant to ASC 480. In contrast, if one instrument can be exercised while the other instrument continues to be outstanding (e.g., if a forward can be satisfied with any outstanding shares of the issuer or can be net settled), provided the instruments are also legally detachable, the instruments would be considered freestanding.

For example, if a parent company enters into a contract with the only minority shareholder of its privately held subsidiary that allows the shareholder to put its shares to the parent at a fixed price (gross settlement), that put option generally would be considered to be embedded in the related shares. As a result, the redeemable equity securities would not be subject to ASC 480 (although if the parent is a public company, the SEC’s redeemable equity guidance would apply to those redeemable shares). However, if the same parent writes a put option on publicly traded common stock of a different subsidiary, and that put option allows the counterparty to put any common shares of the subsidiary to the parent at a fixed price (e.g., the counterparty could put shares of the subsidiary already owned or buy shares in the public market to exercise the put), that written put option would be considered freestanding and classified as a liability pursuant to ASC 480.

A.3.3 Definition of issuer’s shares (including shares of subsidiaries)

ASC 480 applies to certain financial instruments that are based on variation in the fair value of, or potentially settled in, equity shares (i.e., shares that are accounted for as equity) of the issuer. ASC 480 defines the concept of “issuer’s shares” broadly. All forms of ownership interests, including partnership interests and residual interests in mutual enterprises, are considered issuer’s equity shares pursuant to ASC 480. Further, instruments deriving value from any form of the issuer’s equity shares, regardless of whether those shares take the legal form of securities, are within the scope of this guidance.

ASC 480-10-15 states that instruments issued by members of a consolidated group that are indexed to the equity shares of another member of the consolidated group are within the scope of ASC 480. In other words, for instruments subject to its scope, ASC 480 considers equity shares of any member of a consolidated group to be the issuer’s equity shares.

A.3.4 Prohibition against combining separate contracts

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Recognition

480-10-25-15

A freestanding financial instrument that is within the scope of this Subtopic shall not be combined with another freestanding financial instrument in applying paragraphs 480-10-25-4 through 25-14 unless combination is required under the provisions of Topic 815. For example, a freestanding written put option that is classified as a liability under this Subtopic shall not be combined with an outstanding equity share.

ASC 480 prohibits the combination of any freestanding financial instrument within its scope with any other instrument unless ASC 815 requires the combination of those instruments.

In paragraphs B50 and B51 of the Basis for Conclusions of Statement 150, the FASB indicated it precluded combining separate instruments because of ASC 815's prohibition on combining separate instruments (i.e., synthetic accounting). This prohibition also avoids the inadvertent or planned circumvention of the requirements of ASC 480.

Combining an instrument that is a liability within the scope of ASC 480 with another freestanding instrument might (1) cause a freestanding instrument to be outside the scope of ASC 480, (2) change the reported amount of the liability or (3) change the required measurement. For example, although a freestanding written put option would be a liability on its own pursuant to ASC 480, if combined with an equity share, it would be classified in equity with the share unless the embedded derivative guidance required the put to be bifurcated.

We generally believe the decision to combine two instruments that are issued contemporaneously should be made pursuant to the following framework:

- ▶ Combine the instruments if required pursuant to ASC 815, then evaluate the combined instrument pursuant to ASC 480 and ASC 815.
- ▶ If both (1) ASC 815 does not require the combination of the two instruments and (2) one of the instruments is within the scope of ASC 480, do not combine the two instruments.
- ▶ If both (1) ASC 815 does not require the combination of the two instruments and (2) neither of the instruments is within the scope of ASC 480, combine the instruments under the basic concepts around combination if applicable.

Refer to section 1.2.1.1 for a discussion of the concepts of combining financial instruments.

For example, if an issuer writes a put option on its own shares and simultaneously purchases a separate call option on its own shares with the same counterparty, those separate instruments would first be considered pursuant to the guidance in ASC 815 for combination. If not combined pursuant to that guidance, those instruments would not be combined pursuant to ASC 480 because the written put is classified as a liability pursuant to ASC 480. The purchased call would be classified either as an asset or as equity, depending on the specific terms of the instrument, based on the requirements of ASC 815-40.

Refer to Question 3 in section A9 – What are examples of various combinations of a share, a written put and a purchased call to illustrate the assessment of combinations of instruments?

A.3.5 Contingent consideration in a business combination

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity

Scope and Scope Exceptions

480-10-15-9

Subtopic 805-30 provides guidance on the recognition and initial measurement of consideration issued in a business combination, including contingent consideration.

480-10-15-10

However, when recognized, a financial instrument within the scope of this Topic that is issued as consideration (whether contingent or noncontingent) in a business combination shall be classified pursuant to the requirements of this Topic.

Subsequent Measurement

480-10-35-4A

Contingent consideration issued in a business combination that is classified as a liability in accordance with the requirements of this Topic shall be subsequently measured at fair value in accordance with 805-30-35-1.

The recognition and measurement guidance for contingent consideration in ASC 805, *Business Combinations*, requires an acquirer to recognize contingent consideration at fair value as of the acquisition date as part of the consideration transferred in exchange for the acquired business. ASC 480's provisions should be considered in classifying contingent consideration issued in the form of a financial instrument (and may also indirectly affect its subsequent measurement).

If the contingent consideration arrangement pursuant to ASC 805 requires the transfer of equity instruments of the acquirer, ASC 480 and the indexation and equity classification guidance in ASC 815-40 generally should be considered to determine whether to classify the arrangement in equity or as a liability (or asset). Refer to section 8.3.2.1 of our Financial Reporting Developments publication, *Business combinations* (SCORE No. BB1616), for further discussion of the classification and presentation of contingent consideration.

Pursuant to ASC 805-30-35-1a, if a contingent consideration arrangement meets the criteria to be classified as equity, the carrying amount (i.e., the acquisition date fair value) is not remeasured subsequent to the acquisition date unless measurement period adjustments (e.g., adjustments to the provisional initial fair value of the contingent consideration resulting from discovery of additional facts and circumstances that existed as of the acquisition date) are made to adjust the fair value of the contingent consideration during the measurement period.

If a contingent consideration arrangement is classified as a liability (or an asset), the carrying amount should be remeasured at fair value at each reporting date. Except for qualifying measurement period adjustments, if the arrangement is within the scope of ASC 815, subsequent changes in the fair value of the liability should be recognized in accordance with the provisions of ASC 815, which would depend on whether the instrument was designated in a hedge. If the liability is not within the scope of ASC 815, changes in fair value are recognized in earnings in the statement of operations.

Refer to section 6.4 of our Financial Reporting Developments publication, *Business combinations* (SCORE No. BB1616), for further discussion of the accounting for contingent consideration.

A.3.6 Share-based compensation

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity

Scope and Scope Exceptions

480-10-15-8

The guidance in the Distinguishing Liabilities from Equity Topic does not apply to an obligation under share-based compensation arrangements if that obligation is accounted for under Topic 718 or Subtopic 505-50. For example, employee stock ownership plan shares or freestanding agreements to repurchase those shares are not within the scope of this Topic because those shares are accounted for under Subtopic 718-40 through the point of redemption. However, this Topic does apply to a freestanding financial instrument that was issued under a share-based compensation arrangement but is no longer subject to Topic 718 or Subtopic 505-50. For example, this Topic applies to a mandatorily redeemable share issued upon an employee's exercise of an employee share option. (Topic 718 and Subtopic 505-50 provide accounting guidance for dividends on allocated shares, redemption of shares, recognition of expense, and computing earnings per share [EPS].) However, employee stock ownership plan shares that are mandatorily redeemable or freestanding agreements to repurchase those shares continue to be subject to other applicable guidance related to Subtopic 718-40.

ASC 480 does not apply to obligations incurred pursuant to stock compensation arrangements accounted for pursuant to the share-based payments guidance.³³ However, ASC 480 does apply to a freestanding financial instrument that is issued pursuant to a share-based compensation arrangement that is no longer subject to the share-based payments guidance. For example, ASC 480 applies to mandatorily redeemable shares issued upon an employee's exercise of an employee stock option.

Employee stock ownership plan (ESOP) shares or freestanding agreements to repurchase those shares are also not within the scope of ASC 480 because they are accounted for pursuant to ASC 718-40, *Compensation – Stock Compensation, Employee Stock Ownership Plans*, through the point of redemption.

While certain share-based compensation arrangements are not in the scope of ASC 480, certain paragraphs in ASC 480 are referenced in the share-based payments guidance in classifying those share-based payment arrangements.

Refer to Chapter 5 and Chapter 9 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for further discussion of the accounting for liability instruments granted to employees and the classification of share-based payments to non-employees, respectively.

A.4 Mandatorily redeemable financial instruments – recognition and measurement

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Recognition

480-10-25-4

A mandatorily redeemable financial instrument shall be classified as a liability unless the redemption is required to occur only upon the liquidation or termination of the reporting entity.

³³ ASC 718, *Compensation – Stock Compensation* and ASC 505-50, *Equity – Equity-Based Payments to Non-Employees* are collectively referred to as the share-based payments guidance unless a specific reference is warranted.

480-10-25-5

A financial instrument that embodies a conditional obligation to redeem the instrument by transferring assets upon an event not certain to occur becomes mandatorily redeemable if that event occurs, the condition is resolved, or the event becomes certain to occur.

480-10-25-6

In determining if an instrument is mandatorily redeemable, all terms within a redeemable instrument shall be considered. The following items do not affect the classification of a mandatorily redeemable financial instrument as a liability:

- a. A term extension option
- b. A provision that defers redemption until a specified liquidity level is reached
- c. A similar provision that may delay or accelerate the timing of a mandatory redemption.

480-10-25-7

If a financial instrument will be redeemed only upon the occurrence of a conditional event, redemption of that instrument is conditional and, therefore, the instrument does not meet the definition of mandatorily redeemable financial instrument in this Subtopic. However, that financial instrument would be assessed at each reporting period to determine whether circumstances have changed such that the instrument now meets the definition of a mandatorily redeemable instrument (that is, the event is no longer conditional). If the event has occurred, the condition is resolved, or the event has become certain to occur, the financial instrument is reclassified as a liability.

Initial Measurement**480-10-30-1**

Mandatorily redeemable financial instruments shall be measured initially at fair value.

480-10-30-2

If a conditionally redeemable instrument becomes mandatorily redeemable, upon reclassification the issuer shall measure that liability initially at fair value and reduce equity by the amount of that initial measure, recognizing no gain or loss.

Subsequent Measurement**480-10-35-3**

Forward contracts that require physical settlement by repurchase of a fixed number of the issuer's equity shares in exchange for cash and mandatorily redeemable financial instruments shall be measured subsequently in either of the following ways:

- a. If both the amount to be paid and the settlement date are fixed, those instruments shall be measured subsequently at the present value of the amount to be paid at settlement, accruing interest cost using the rate implicit at inception.
- b. If either the amount to be paid or the settlement date varies based on specified conditions, those instruments shall be measured subsequently at the amount of cash that would be paid under the conditions specified in the contract if settlement occurred at the reporting date, recognizing the resulting change in that amount from the previous reporting date as interest cost.

480-10-35-4

Cash (as that term is used in the preceding paragraph) includes foreign currency, so physically settled forward purchase contracts in exchange for foreign currency shall be measured as provided in the preceding paragraph then remeasured under Topic 830.

Glossary**480-10-20*****Mandatorily Redeemable Financial Instrument***

Any of various financial instruments issued in the form of shares that embody an unconditional obligation requiring the issuer to redeem the instrument by transferring its assets at a specified or determinable date (or dates) or upon an event that is certain to occur.

Noncontrolling Interest

The portion of equity (net assets) in a subsidiary not attributable, directly or indirectly, to a parent. A noncontrolling interest is sometimes called a minority interest.

A.4.1**General applicability**

ASC 480 requires that financial instruments that are issued in the form of shares and are mandatorily redeemable on a specified or determinable date or upon an event certain to occur (e.g., the death of the holder) be classified as liabilities. One exception is if the instrument is required to be redeemed only upon liquidation or termination of the reporting entity. Shares are considered mandatorily redeemable if they are subject to an unconditional obligation to be redeemed by transferring assets (e.g., cash or other assets). That redemption requirement must be applicable to both parties (i.e., the issuer must redeem and the holder must surrender), as opposed to “mandatory to the issuer if the holder decides to redeem.”³⁴ However, if the instruments are redeemable only upon the liquidation or termination of the reporting entity, those instruments are not considered mandatorily redeemable.

The FASB concluded that, regardless of the form of an instrument, an instrument that is mandatorily redeemable requires a nondiscretionary transfer of assets as a result of a past transaction and, therefore, meets the definition of a liability in FASB Concepts Statement No. 6, Elements of Financial Statements.

A mandatorily redeemable instrument that contains a provision to defer redemption to a future date, but not indefinitely, may change the timing of redemption but does not remove the obligation to redeem the instrument and, therefore, does not alter the requirement for liability classification.

ASC 480-10-25-6 describes a circumstance in which mandatory redemption is deferred “until a specified liquidity level is reached.” In this circumstance, the FASB concluded that the instrument is mandatorily redeemable and must be classified as a liability. It is inferred in the guidance that it is inevitable that the issuer will ultimately have sufficient liquidity to be able to meet its obligations (i.e., the issuer is a going concern) and, therefore, the instrument is mandatorily redeemable rather than contingently redeemable and should be classified as a liability. As a result, provisions that defer redemption until a specified level of liquidity is achieved generally should be viewed differently from other contingencies when applying ASC 480.

The existence of any mechanisms to fund the redemption of mandatorily redeemable shares does not affect their classification. For example, as discussed in paragraph 3(g) of ASC 480-10-S99-3A, the SEC staff has not historically required temporary equity classification of shares subject to repurchase upon the death of the holder if the issuer has acquired insurance on the holder’s life sufficient to fund the redemption. However, such mandatorily redeemable shares are liabilities pursuant to ASC 480, notwithstanding the fact that the issuer is reasonably assured of having the funds necessary to satisfy the redemption obligation.

³⁴ In practice, the use of the terms “puttable,” “callable” and “redeemable” is often imprecise and different than how those terms are defined and used in the authoritative accounting guidance. The terminology as defined in the authoritative guidance should be carefully and consistently used to determine an instrument’s accounting.

The terms of convertible instruments should be carefully evaluated in determining whether the instrument is mandatorily redeemable. For example, if an instrument has a stated redemption date, but may be converted into an equity instrument (e.g., common stock) at the option of the holder, that instrument is not mandatorily redeemable until that conversion option expires. Rather, if the conversion option is considered substantive, the instrument is considered contingently or optionally redeemable. The accounting for those instruments is discussed further in section A4.1.1.

Subsequent to the issuance of Statement 150, the FASB deferred the transition requirements for certain mandatorily redeemable instruments issued by certain entities. The length of the deferral depended on the instrument and the entity, with some deferrals of indefinite length pending further standard setting activities. Certain of those deferrals are still effective. Refer to section A8.2 for further discussion of the deferral provisions.

Refer to the following Questions in section A9:

- ▶ Question 4 – What are examples of various combinations of a noncontrolling interest with (1) a forward contract, (2) a combination of put and call options and (3) a total return swap?
- ▶ Question 5 – Does the increasing-rate nature of increasing-rate preferred stock cause it to be considered mandatorily redeemable pursuant to ASC 480?
- ▶ Question 6 – If a noncontrolling interest of a consolidated limited-life subsidiary is mandatorily redeemable, how does that affect the consolidated financial statements? Are such interests affected by the deferral of ASC 480?

A.4.1.1

Contingently or optionally redeemable shares

Many instruments that are in the form of shares are characterized as redeemable equity instruments because redemption can be (1) required automatically upon the occurrence of certain contingent events (e.g., an IPO, change in control or an achievement of a performance condition) or (2) at the option of the holder at any time or on the occurrence of a contingent event. Such shares may also be referred to as “contingently redeemable” or “puttable” because they often have triggers that allow the investor to realize its return (e.g., a liquidation preference on preferred shares) prior to the actual liquidation of the issuer.

However, if redemption of the instrument is not certain to occur, the instrument is not required to be classified as a liability pursuant to ASC 480 (although public companies may be required to classify the redemption amount as temporary equity pursuant to the SEC’s redeemable equity guidance (refer to Appendix E for further discussion). The convertible redeemable preferred share discussed above in section A4.1 is an example of a contingently redeemable share as it is contingent on the holder not converting.

Refer to section A5.1.2 for a discussion of the application of ASC 480 to warrants that are exercisable for contingently redeemable shares.

Refer to the following Questions in section A9:

- ▶ Question 4 – What are examples of various combinations of a noncontrolling interest with (1) a forward contract, (2) a combination of put and call options and (3) a total return swap?
- ▶ Question 7 – What are the accounting considerations for contingently redeemable instruments?

A.4.1.2 Contingently redeemable shares that become mandatorily redeemable

While a share that must be redeemed upon or after an event that is not certain of occurrence is not required to be accounted for as a liability pursuant to ASC 480, once the event becomes certain to occur, that instrument should be reclassified to a liability. The term “certain of occurrence” should not be confused with “probable” or even “highly probable.” “Certain” means certain. Often, an event will not be certain of occurrence until it actually occurs.

The assessment of whether a contingently or optionally redeemable share has become mandatorily redeemable should be made throughout the life of the instrument. The amount to be reclassified on the date that the contingent event becomes certain of occurrence is the fair value of the share as of that date. No gain or loss is recognized upon such a reclassification (i.e., the entire fair value is reclassified from equity to a liability).

However, for SEC registrants, the guidance in ASC 260-10-S99-2 that addresses the SEC staff’s views on redemptions of preferred stock is also applicable to the reclassification of the instrument. That guidance states that if an equity-classified preferred stock is subsequently reclassified as a liability based on other US GAAP, the equity instrument is considered redeemed through the issuance of a debt instrument. As such, the difference between the carrying amount of the preferred share in equity and the fair value of the preferred share (now a debt instrument) is treated as a dividend for EPS purposes. It is important to note that the scope of this SEC guidance is limited to preferred shares.

Contingently redeemable shares become mandatorily redeemable when the holder notifies the issuer that the holder is exercising its put option, even if the issuer is allowed a specified time period (e.g., 30 days) to satisfy the put. Once the holder has notified the issuer of its put, the instrument is no longer contingently redeemable and should be reclassified to a liability. Mandatorily redeemable shares with a substantive embedded conversion option that expires prior to the mandatory redemption date should be classified to a liability once the conversion option expires.

Refer to Question 8 in section A9 – What is an example of a contingently redeemable share that is reclassified when it becomes mandatorily redeemable?

A.4.1.3 Nonsubstantive or minimal features in otherwise mandatorily redeemable instruments

ASC 480 prohibits circumventing its objectives by including nonsubstantive or minimal features in the instrument. For example, if a conversion feature were added to an otherwise mandatorily redeemable share and that feature permitted conversion into a small number of shares or the conversion price was extremely high relative to the then-current share price, rendering the likelihood of conversion extremely remote, the conversion option should be viewed as nonsubstantive and the instrument should be classified as a liability. However, despite being nonsubstantive, the conversion option would be analyzed for bifurcation as an embedded derivative pursuant to ASC 815.

While determining whether a conversion option is substantive is a matter of facts and circumstances, one consideration is estimating the fair value of the conversion option. If, for example, the value of the conversion option is de minimis, it may be indicative that the conversion option is not substantive.

We believe that the assessment of whether a feature is minimal or nonsubstantive should be made at the inception of the instrument. If substantive, it should be considered substantive for the life of the instrument (absent any modifications to the instrument). For example, a redeemable instrument initially may include a substantive conversion option that, because of a subsequent significant decline in the issuer’s stock price, may have little value later in the life of the instrument. We generally do not believe it is appropriate to reconsider whether the conversion feature is substantive and potentially reclassify the instrument after issuance (although, as discussed above, if the conversion option expires before the instrument must be redeemed, it should be reclassified as a liability at its fair value on that date).

A.4.2 Recognition and measurement

Mandatorily redeemable instruments are recognized initially at their fair value. In most cases, the fair value of an instrument at its issuance date will be the gross proceeds received upon issuance. We generally believe that issuance costs should be accounted for as a separate deferred charge (refer to section A4.2.1).

A mandatorily redeemable instrument that has a fixed redemption amount (that exceeds its initial fair value) and a fixed redemption date should be accreted to the redemption amount using the effective interest method, similar to the accounting for debt issued at a discount pursuant to ASC 835-30. If the redemption amount varies (e.g., the redemption amount is based on a formula or is equal to the instrument's fair value) or the redemption date is unknown (e.g., redemption is upon the death of the holder), the instrument should be carried at the amount of cash that would be paid pursuant to the conditions specified in the contract (i.e., the settlement amount) if the shares were repurchased or redeemed at the reporting date.

Some mandatorily redeemable preferred securities include a feature that allows the issuer to call the security at various times (or the holder to redeem) at an amount that may differ from the fixed mandatory redemption amount. Although this feature could be viewed as resulting in a settlement amount that is not fixed, we generally believe the instrument should still be considered to have a fixed settlement amount based on its fixed mandatory redemption amount. This approach is consistent with the accounting for debt. The call (or put) feature would be separately evaluated for potential bifurcation from the debt host contract.

If the redemption amount is denominated in a currency other than the entity's functional currency, mandatorily redeemable shares should be measured as described above and then remeasured pursuant to ASC 830.

Because mandatorily redeemable instruments are classified as liabilities pursuant to ASC 480, any dividends or accretion on instruments that have a legal form of equity should generally be presented as interest expense.

Refer to the following Questions in section A9:

- ▶ Question 10 – How should an entity account for a stock required to be redeemed upon death of a holder?
- ▶ Question 11 – How should an entity measure and present mandatorily redeemable instruments when the entity has no equity-classified instruments?
- ▶ Question 12 – How should an entity measure and present mandatorily redeemable noncontrolling interests classified as liabilities that were issued before 5 November 2003?

A.4.2.1 Accounting for costs to issue mandatorily redeemable shares

ASC 480 does not explicitly address the accounting for costs incurred to issue mandatorily redeemable shares. Because the accounting for those instruments pursuant to ASC 480 generally is the same as for debt instruments, we generally believe that issuance costs should be accounted for in a manner similar to debt issuance costs. That is, if the fair value option is not elected, costs should be deferred and amortized using the interest method, by analogy to ASC 835-30.

A.5 Obligations to repurchase an entity's own shares by transferring assets – recognition and measurement

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Recognition

480-10-25-8

An entity shall classify as a liability (or an asset in some circumstances) any financial instrument, other than an outstanding share, that, at inception, has both of the following characteristics:

- a. It embodies an obligation to repurchase the issuer's equity shares, or is indexed to such an obligation.
- b. It requires or may require the issuer to settle the obligation by transferring assets.

480-10-25-9

In this Subtopic, *indexed to* is used interchangeably with based on variations in the fair value of. The phrase requires or may require encompasses instruments that either conditionally or unconditionally obligate the issuer to transfer assets. If the obligation is conditional, the number of conditions leading up to the transfer of assets is irrelevant.

480-10-25-10

Examples of financial instruments that meet the criteria in paragraph 480-10-25-8 include forward purchase contracts or written put options on the issuer's equity shares that are to be physically settled or net cash settled.

480-10-25-11

All obligations that permit the holder to require the issuer to transfer assets result in liabilities, regardless of whether the settlement alternatives have the potential to differ.

480-10-25-12

Certain financial instruments that embody obligations that are liabilities within the scope of this Subtopic also may contain characteristics of assets but be reported as single items. Some examples include the following:

- a. Net-cash-settled or net-share-settled forward purchase contracts
- b. Certain combined options to repurchase the issuer's shares.

Those instruments are classified as assets or liabilities initially or subsequently depending on the instrument's fair value on the reporting date.

480-10-25-13

An instrument that requires the issuer to settle its obligation by issuing another instrument (for example, a note payable in cash) ultimately requires settlement by a transfer of assets, accordingly:

- a. When applying paragraphs 480-10-25-8 through 25-12, this also would apply for an instrument settled with another instrument that ultimately may require settlement by a transfer of assets (warrants for puttable shares).
- b. It is clear that a warrant for mandatorily redeemable shares would be a liability under this Subtopic.

Initial Measurement

Certain Physically Settled Forward Purchase Contracts

480-10-30-3

Forward contracts that require physical settlement by repurchase of a fixed number of the issuer's equity shares in exchange for cash shall be measured initially at the fair value of the shares at inception, adjusted for any consideration or unstated rights or privileges.

480-10-30-4

Two ways to obtain the adjusted fair value include:

- a. Determining the amount of cash that would be paid under the conditions specified in the contract if the shares were repurchased immediately
- b. Discounting the settlement amount, at the rate implicit at inception after taking into account any consideration or unstated rights or privileges that may have affected the terms of the transaction.

480-10-30-5

Equity shall be reduced by an amount equal to the fair value of the shares at inception.

480-10-30-6

Cash (as that term is used in paragraph 480-10-30-3) includes foreign currency, so physically settled forward purchase contracts in exchange for foreign currency shall be measured as provided in paragraphs 480-10-30-3 through 30-5 and 480-10-35-3, then remeasured under Topic 830.

All Other Financial Instruments

480-10-30-7

All other financial instruments recognized under the guidance in Section 480-10-25 shall be measured initially at fair value.

Subsequent Measurement

Certain Physically Settled Forward Purchase Contracts and Mandatorily Redeemable Financial Instruments

480-10-35-3

Forward contracts that require physical settlement by repurchase of a fixed number of the issuer's equity shares in exchange for cash and mandatorily redeemable financial instruments shall be measured subsequently in either of the following ways:

- a. If both the amount to be paid and the settlement date are fixed, those instruments shall be measured subsequently at the present value of the amount to be paid at settlement, accruing interest cost using the rate implicit at inception.
- b. If either the amount to be paid or the settlement date varies based on specified conditions, those instruments shall be measured subsequently at the amount of cash that would be paid under the conditions specified in the contract if settlement occurred at the reporting date, recognizing the resulting change in that amount from the previous reporting date as interest cost.

480-10-35-4

Cash (as that term is used in the preceding paragraph) includes foreign currency, so physically settled forward purchase contracts in exchange for foreign currency shall be measured as provided in the preceding paragraph then remeasured under Topic 830.

All Other Financial Instruments**480-10-35-5**

All other financial instruments recognized under the guidance in Section 480-10-25 shall be measured subsequently at fair value with changes in fair value recognized in earnings, unless either this Subtopic or another Subtopic specifies another measurement attribute.

Implementation Guidance and Illustrations**Freestanding Warrants and Other Similar Instruments on Shares that Are Redeemable****480-10-55-33**

A warrant for puttable shares conditionally obligates the issuer to ultimately transfer assets—the obligation is conditioned on the warrant's being exercised and the shares obtained by the warrant being put back to the issuer for cash or other assets. Similarly, a warrant for mandatorily redeemable shares also conditionally obligates the issuer to ultimately transfer assets—the obligation is conditioned only on the warrant's being exercised because the shares will be redeemed. Thus, warrants for both puttable and mandatorily redeemable shares are analyzed the same way and are liabilities under paragraphs 480-10-25-8 through 25-12, even though the number of conditions leading up to the possible transfer of assets differs for those warrants. The warrants are liabilities even if the share repurchase feature is conditional on a defined contingency.

Glossary**480-10-20****Net Cash Settlement**

A form of settling a financial instrument under which the entity with a loss delivers to the entity with a gain cash equal to the gain.

Net Share Settlement

A form of settling a financial instrument under which the entity with a loss delivers to the entity with a gain shares of stock with a current fair value equal to the gain.

Physical Settlement

A form of settling a financial instrument under which both of the following conditions are met:

- a. The party designated in the contract as the buyer delivers the full stated amount of cash or other financial instruments to the seller.
- b. The seller delivers the full stated number of shares of stock or other financial instruments or nonfinancial instruments to the buyer.

A.5.1**General applicability**

ASC 480-10-25-8 through 25-10 and 25-12 require liability classification for a financial instrument, other than an outstanding share, that embodies, or is indexed to, a conditional or unconditional obligation to repurchase an issuer's equity shares that requires or could require settlement by the transfer of assets. Related implementation guidance in ASC 480-10-55 requires the issuer look closely at all elements of the instrument, including instruments underlying the instrument (e.g., shares underlying a warrant) to determine whether they embody an obligation.

Examples of instruments addressed by this guidance include:

- ▶ Forward contracts that require the issuer to purchase its shares (forward purchases), written options that obligate the issuer to buy its shares at the election of the counterparty (written puts) and that require physical or net cash settlement
- ▶ Puttable warrants that permit the counterparty to require the issuer to pay cash to settle the warrant or to purchase the shares obtained upon exercise of the warrant, freestanding warrants and other similar instruments on shares that are redeemable

A.5.1.1

Freestanding financial instruments composed of more than one option or forward contract embodying obligations to transfer assets

ASC 480 provides specific guidance on freestanding financial instruments that are composed of more than one option or forward contract embodying obligations that may require settlement by transfer of assets. This guidance is primarily found in ASC 480-10-55-18 through 55-20, ASC 480-10-55-29 through 55-33 and ASC 480-10-55-36 through 55-40.

Examples of those instruments include puttable warrants (or forwards) and equity collars where the obligation requires or may require the transfer of assets:

- ▶ A puttable warrant is a written call option that entitles the holder to buy the issuer's shares and a written put option that entitles the holder to put the warrants (or the underlying shares) back to the issuer at a specified price. Similarly, a forward sale contract on puttable shares obligates the holder to buy and the issuer to sell a number of shares at a specified price and contains a written put option that entitles the holder to put the shares obtained upon the settlement of the forward back to the issuer at a specified price.
- ▶ An equity collar is a combination of a purchased option and a written option. Although containing two options, an equity collar is legally one freestanding instrument because the two option components are not legally detachable and separately exercisable. Generally, if a financial instrument is composed of more than one component and any component obligates the issuer to repurchase shares (or is indexed to such an obligation) and may require a transfer of assets, the presence of this obligation would require the entire financial instrument be classified as a liability (or an asset in some circumstances). For example, a puttable warrant is a liability pursuant to ASC 480-10-25-8 through 25-13 because the put option component embodies an obligation that is indexed to repurchasing the issuer's shares and may require a transfer of assets.

Refer to Question 14 in section A9 – What are examples of instruments composed of more than one option or forward contract?

A.5.1.2

Freestanding warrants and other similar instruments on shares that are redeemable

ASC 480-10-25-9, 25-13 and 55-33 clarify that the "obligation to repurchase" guidance applies to freestanding warrants and other similar instruments on shares that are either puttable or mandatorily redeemable, regardless of the timing of the redemption feature or the redemption price because those instruments embody obligations to transfer assets.

Therefore, the "obligation to repurchase" guidance applies to warrants on shares (including preferred shares) that are redeemable immediately after exercise of the warrants and also to those that are redeemable at some date in the future. The phrase "requires or may require" in ASC 480-10-25-8(b) encompasses instruments that either conditionally or unconditionally obligate the issuer to transfer assets. If the obligation is conditional, the number of conditions leading up to the transfer of assets is irrelevant.

The SEC's redeemable equity guidance in ASC 480-10-S99-3A (refer to Appendix E for further

discussion) may be used to determine whether shares may be redeemable outside the control of the issuer and therefore whether a warrant on such shares may embody an obligation to transfer assets. A warrant for those redeemable shares is generally classified as a liability pursuant to ASC 480. Similarly, warrants issued by a private issuer on redeemable shares should also be classified as liabilities. The individual facts and circumstances should be considered to evaluate whether the warrants embody or indexed to an obligation to repurchase shares.

Refer to section 5.7 in Chapter 5 for additional discussion of warrants for redeemable shares.

A.5.2 Recognition and measurement

ASC 480 provides guidance on initial and subsequent measurement of instruments included within its scope.

A.5.2.1 Physically settled forward contracts to purchase shares

Forward contracts that require physical settlement by repurchasing a fixed number of the issuer's shares for cash are initially measured and recognized at the fair value of the shares at the inception of the contract, adjusted for any consideration or unstated rights or privileges. The offsetting charge is to shareholders' equity (or noncontrolling interest if the shares in question are shares of a consolidated subsidiary).

ASC 480 suggests there are two ways to derive the initial carrying amount:

- ▶ Discount the settlement amount at the rate implicit at inception after taking into account any consideration or unstated rights or privileges that may have affected the terms of the transaction
- ▶ Determine the amount of cash that would be paid under the conditions specified in the contract if the shares were repurchased immediately

In the Basis for Conclusions to Statement 150 the Board noted (in paragraph B61) that these methods were commonly used for initially measuring fixed-rate and floating-rate borrowings, respectively. As a result, it would appear that it is most appropriate to use the first method for forward contracts with a fixed settlement amount and date, and the second method for forward contracts with a variable settlement amount or date.

The requirement described above to "take into account any unstated rights and privileges" is similar to language used in ASC 835-30-25-6 that discusses the need to consider unstated rights and privileges as follows:

A note issued solely for cash equal to its face amount is presumed to earn the stated rate of interest. However, in some cases the parties may also exchange unstated (or stated) rights or privileges, which are given accounting recognition by establishing a note discount or premium account. In such instances, the effective interest rate differs from the stated rate. For example, an entity may lend a supplier cash that is to be repaid five years hence with no stated interest. Such a noninterest bearing loan may be partial consideration under a purchase contract for supplier products at lower than the prevailing market prices. In this circumstance, the difference between the present value of the receivable and the cash loaned to the supplier is appropriately regarded as an addition to the cost of products purchased during the contract term. The note discount is amortized as interest income over the five-year life of the note, as required by ASC 835-30-35.

Notwithstanding the two methods above, if there is not any consideration or unstated rights or privileges, we generally believe the fair value of the underlying shares at the inception of the contract will provide a reasonable measurement basis for the initial recognition of the forward contract.

For subsequent measurement, a forward contract with a fixed settlement amount and date is measured at the present value of the amount to be paid at settlement, accruing interest cost using the rate implicit at inception. However, a forward contract with either a variable settlement date or amount is measured subsequently at the amount of cash that would be paid under the conditions specified in the contract if settlement occurred at the reporting date. In both cases, changes in the carrying amount are reflected as interest cost.

As a result, a physically settled forward contract with a fixed settlement amount and date would follow a measurement model similar to debt instruments.

In contrast, a physically settled forward contract subject to a variable redemption amount or settlement date would initially be recognized at the amount of cash to be paid under the specified conditions if the exchange occurred immediately (which may equal the fair value of the shares at inception depending on the facts and circumstances). Subsequently, the carrying amount would be accrued to equal the settlement amount due on the reporting date. For example, a variable-rate forward contract may specify a settlement price that varies based on a short-term interest rate index (e.g., three-month LIBOR). In that circumstance, the initial carrying amount of the liability would be accrued based on the index rate(s) in effect during the reporting period, with any resulting accretion recognized as interest expense.

Refer to Question 16 in section A9 – What are examples of physically settled forward contracts to purchase shares?

A.5.2.1.1 *Forward contracts on noncontrolling interest*

ASC 480 does not specifically address the accounting for noncontrolling interest. However, a physically settled forward contract that requires the purchase of the shares of the consolidated subsidiary from the noncontrolling interest holders should be considered under this guidance.

Forward contracts related to a noncontrolling interest can be issued in a variety of situations (e.g., either at the time of the transaction creating the noncontrolling interest or subsequent to such a transaction), can be either freestanding or embedded in the shares representing the noncontrolling interest and can include different pricing mechanisms (i.e., at a fixed price, at a formulaic price or at fair value). Each of the variations can affect the accounting for the forward contract. Refer to section 5.10 in Chapter 5 for further discussion of equity contracts on noncontrolling interests.

A.5.2.2 **Other contracts embodying obligations to repurchase an entity's own shares**

Contracts that embody an obligation to repurchase an entity's own shares (other than physically settled forward contracts) are initially and subsequently measured at fair value with changes in fair value recognized in earnings. Some instruments subject to that measurement guidance include:

- ▶ Net cash settled forward contracts to purchase shares
- ▶ Forward contracts to purchase shares that include a physical settlement option in addition to a net cash settlement option, regardless of which party to the contract controls the selection of the settlement option
- ▶ Physically settled or net cash settled written put options
- ▶ Warrants for redeemable shares
- ▶ Warrants that permit or may permit (based on a contingency outside the control of the issuer) the counterparty to require the issuer to purchase the warrant by paying cash (i.e., a puttable warrant)

Forward purchase contracts and written put options that are net share settled will also be classified as liabilities and accounted for at fair value, as further discussed in section A6.1.3.

A.6 Certain share-settled obligations – recognition and measurement

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Recognition

480-10-25-14

A financial instrument that embodies an unconditional obligation, or a financial instrument other than an outstanding share that embodies a conditional obligation, that the issuer must or may settle by issuing a variable number of its equity shares shall be classified as a liability (or an asset in some circumstances) if, at inception, the monetary value of the obligation is based solely or predominantly on any one of the following:

- a. A fixed monetary amount known at inception (for example, a payable settleable with a variable number of the issuer's equity shares)
- b. Variations in something other than the fair value of the issuer's equity shares (for example, a financial instrument indexed to the Standard and Poor's S&P 500 Index and settleable with a variable number of the issuer's equity shares)
- c. Variations inversely related to changes in the fair value of the issuer's equity shares (for example, a written put option that could be net share settled).

See paragraph 480-10-55-21 for related implementation guidance.

Initial Measurement

480-10-30-7

All other financial instruments recognized under the guidance in Section 480-10-25 shall be measured initially at fair value.

Subsequent Measurement

480-10-35-1

Financial instruments within the scope of Topic 815 shall be measured subsequently as required by the provisions of that Topic.

480-10-35-5

All other financial instruments recognized under the guidance in Section 480-10-25 shall be measured subsequently at fair value with changes in fair value recognized in earnings, unless either this Subtopic or another Subtopic specifies another measurement attribute.

Glossary

480-10-20

Monetary Value

What the fair value of the cash, shares, or other instruments that a financial instrument obligates the issuer to convey to the holder would be at the settlement date under specified market conditions.

A.6.1 General applicability

ASC 480-10-25-14 requires liability accounting for (1) any financial instrument that embodies an unconditional obligation to transfer a variable number of shares or (2) a financial instrument other than an outstanding share that embodies a conditional obligation to transfer a variable number of shares, provided that the monetary value of the obligation is based solely or predominantly on any of the following:

1. A fixed monetary amount known at inception (e.g., stock settled debt)
2. Variations in something other than the fair value of the issuer's equity shares (e.g., a preferred share that will be settled in a variable number of common shares with its monetary value tied to a commodity price)
3. Variations in the fair value of the issuer's equity shares, but the monetary value to the counterparty moves inversely to the value of the issuer's shares (e.g., net share settled written put options, net share settled forward purchase contracts)

Notwithstanding the fact that the above instruments can be settled in shares, the FASB concluded that equity classification is not appropriate because instruments with those characteristics do not expose the counterparty to risks and rewards similar to those of an owner and, therefore, do not create a shareholder relationship. The issuer is instead using its shares as the currency to settle its obligations.

Refer to Question 17 in section A9 – What is the monetary value of a contract?

A.6.1.1 Monetary value does not change

The instruments described in (1) above do not create a shareholder relationship because the monetary value does not change. For example, assume an issuer agrees to issue \$1,000,000 of its own stock in one year in exchange for \$950,000 today. The obligation may be legal form debt, mandatorily convertible preferred stock or an equity contract (e.g., a prepaid forward sales contract). The number of shares that will be delivered upon settlement is based on their fair value on the settlement date. Accordingly, if the share price one year from the date of the agreement is \$20, the issuer will issue 50,000 shares. If the share price is \$10, the issuer will issue 100,000 shares. The agreement represents a loan that the issuer will repay with its shares used as the currency.

As indicated above, the monetary value need only be predominantly fixed, not completely fixed. ASC 480-10-55-22 includes an example in which the number of shares to be delivered is based on a fixed dollar amount and a 30-day average trading price rather than the trading price on the settlement date. In that circumstance, even though the fair value of the shares delivered upon settlement is not completely fixed, the FASB concluded that the monetary value is predominantly fixed and therefore the financial instrument should be classified as a liability.

Shares that are optionally convertible into another class of shares with a fixed value are not subject to this accounting. Essentially, those shares are optionally redeemable and, like shares that are redeemable for cash or other assets, are not in the scope of ASC 480, and therefore subject to the redeemable equity guidance.

Refer to Question 18 in section A9 – What are examples of monetary values that do not change and are settled in a variable number of shares that the issuer must or may settle by issuing a variable number of shares?

A.6.1.2 Monetary value is based on something other than the issuer's equity shares

The instruments described in (2) in section A6.1 do not create a shareholder relationship because the counterparty's risks and rewards are not similar to those of a holder of the issuer's own equity shares. For example, in exchange for a premium received at inception, assume that an issuer agreed to issue a variable number of its shares of common stock in the future equal in value to the fair value of 100 ounces of platinum. The monetary value of the obligation to deliver the issuer's shares is not fixed, but rather varies solely based on the price of platinum. Because the contract's monetary value does not vary with changes in value of the issuer's equity shares, it should be classified as a liability.

While it may appear straightforward to determine if the monetary value at settlement varies with something other than the issuer's share price, consider a contingently exercisable instrument and whether its settlement varies with something other than the value of the issuer's shares. For example, assume that an issuer has issued a warrant (a written call option) allowing the holder to purchase 100 shares of its common stock for \$10 per share if the issuer has revenues of \$1 million in the next 12 months. Assume the option requires net share settlement on exercise, such that the holder will receive the intrinsic value of the option in a variable number of shares.

Under one view, the settlement obligation to issue a number of shares has a monetary value (the intrinsic value of the option) that varies directly with the fair value of the issuer's shares. Alternatively, the settlement obligation could be viewed as not solely varying with the issuer's equity shares because the option could be worthless at the end of 12 months if the revenue target is not met. In other words, the settlement amount also varies with a contingency in that either the option will settle for a monetary value equal to the intrinsic value or will settle for zero if the revenue target is not met.

The first view considers the contingency as merely an "on-off switch" that does not affect the settlement amount, where the settlement amount will vary only with changes in the share price when/if exercise occurs. Under that view, the expiration of the contract without meeting the contingency means the contract is not actually settled as contemplated in ASC 480 because no consideration is delivered. Under that first view, the instrument is outside the scope of ASC 480.

The second view considers the relief from the obligation to perform a form of settlement and further acknowledges that zero could be considered a monetary amount. Under that second view, the contract would have to be further evaluated to determine if it is within the scope of ASC 480 (i.e., the contingency were deemed to be the predominant factor in the monetary value).

We generally believe either approach could be acceptable based on the facts and circumstances and generally should be applied as an accounting policy. We understand that the FASB staff believes that either view could be appropriate. We generally believe the indexation guidance in ASC 815-40 should not be used to inform a conclusion on whether the monetary value varies with the fair value of the issuer's stock.³⁵ ASC 815-40 provides guidance on what is deemed to be "indexed to an entity's own stock" by considering (1) the existence of one or more defined exercise contingencies and (2) how the settlement amount of the instrument is determined. However, we generally believe that the concept of being "indexed to" the issuer's stock is different from the concept of "variations in ... the fair value of the issuer's equity shares." In fact, in the pre-Codification illustrative application examples provided pursuant to Exhibit 07-5A of EITF 07-5, "Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock," the introduction paragraph stated, "These examples also do not address whether the instrument is within the scope of other accounting literature such as Statement 150."

³⁵ As a result, an instrument could potentially be deemed to be based "solely or predominantly on ... variations in something other than the fair value of the issuer's equity shares" under ASC 480 yet could be considered to be "indexed to an entity's own stock" under the indexation guidance in ASC 815-40 if that guidance were applicable.

An instrument with a settlement amount that looks to an input that is other than the fair value of the issuer's underlying equity shares would be considered to vary with something other than the fair value of the issuer's equity shares and thus potentially be an instrument in the scope of ASC 480. The determination of whether that instrument would be in the scope of ASC 480-10-25-14(b) would consider whether the monetary value of the obligation was based solely or predominantly on that non-fair value input.

The determination of whether an instrument's monetary value is derived solely or predominantly on something other than the fair value of the issuer's shares pursuant to (b) above will depend on the specific facts and circumstances. Pursuant to ASC 480-10-55-25, a contract that is indexed in part to the issuer's shares and in part (but not predominantly) to something other than the issuer's shares (commonly called a dual-indexed obligation) is not within the scope of the Subtopic. Therefore, an instrument with more than one significant underlying cannot be considered solely or predominately indexed to an underlying other than the fair value of the issuer's shares and thus is not in the scope of ASC 480.

Refer to Question 19 in section A9 – What are examples of what it means to vary with something other than changes in the fair value of the issuer's equity shares?

A.6.1.3 Monetary value moves in the opposite direction as value of the issuer's shares

The instruments addressed in (3) in section A6.1 are economically equivalent to the net cash and physically settled forward purchase contracts and written put options addressed in the "obligations to repurchase" guidance in ASC 480-10-25-8 through 25-10, and 25-12 as discussed in section A5. Even though those instruments do not require a transfer of cash, they are classified as liabilities because they do not establish a shareholder relationship with the counterparty. The monetary value of the obligation to deliver a variable number of shares varies inversely in relation to changes in the fair value of the issuer's equity shares. That is, the monetary value of the issuer's obligation pursuant to those contracts increases when the issuer's share price decreases.

Accordingly, given the combined effect of the "obligations to repurchase" guidance and the "certain share-settled obligations" guidance in ASC 480-10-25-14, all forward purchase contracts and written put options on an entity's own shares are required to be classified outside of equity, regardless of the settlement method. Note, however, that the initial and subsequent measurement of forward purchase contracts will differ depending on which guidance in ASC 480 resulted in their being classified as an asset or liability.

Refer to Question 20 in section A9 – What are examples of what it means to have a monetary value move in the opposite direction as the value of the issuer's equity shares?

A.6.1.4 Freestanding instruments with more than one option or forward contract embodying an obligation

ASC 480 provides specific guidance on freestanding financial instruments that are composed of more than one option or forward contract embodying obligations that may require settlement by a variable number of shares. This guidance is primarily found in ASC 480-10-55-18 through 55-20 and ASC 480-10-55-42 through 55-52.

ASC 480-10-55-43 summarizes a two-step approach to evaluating instruments where one component may require the delivery of a variable number of shares. The approach is different than that for the contract that requires or may require a transfer of assets.

An issuer should first identify all component obligations. Each component obligation should be evaluated to determine whether that component potentially requires the delivery of a variable number of shares and, if freestanding, would be a liability pursuant to the three conditions outlined in ASC 480-10-25-14, as discussed in section A4.2.1.

If any component(s) potentially requiring delivery of a variable number of shares meets one of the conditions in ASC 480-10-25-14, the issuer should next determine whether the monetary value of that component obligation(s), is (collectively) predominant over the collective monetary value of all other component obligation(s) identified. If so, the entire instrument would be classified as a liability (or an asset in some circumstances). Otherwise, the equity contract is not in the scope of ASC 480 and other guidance should be considered.

Refer to Question 14 in section A9 – What are examples of instruments composed of more than one option or forward contract?

A.6.1.5

Determining predominance

While not defined in ASC 480, the concept of predominance is discussed briefly in ASC 480-10-55-44 and is illustrated in following examples:

- ▶ A guarantor's obligation to an investor is measured based on the difference between the fair value of the investment and a guaranteed value "plus .005 times the change in fair value of the guarantor's shares." Given the negligible effect of the indexation to equity shares, it is clear in this example that the monetary value of the instrument is based predominantly on the value of the investment.
- ▶ A share-settled obligation requires that a variable number of shares be issued based on an average market price for the shares over the last 30 days, instead of the fair value of the issuer's equity shares on the date of settlement. ASC 480 indicates that while the monetary value of the obligation is not entirely fixed at inception and is based, in small part, on variations in the fair value of the issuer's equity instruments, the monetary value of the obligation is predominantly based on a fixed monetary amount known at inception.

We generally believe the determination of whether a component(s) is predominant is based on the likelihood the equity contract will settle in accordance with that particular component(s), compared to the likelihood of settling under the other component obligation(s). The issuer should analyze an equity contract at inception and consider all possible outcomes to evaluate which component obligation(s) is predominant. The information to be considered includes the issuer's current stock price and volatility, the strike price of the instrument and other factors.

Consider a collar arrangement that is comprised of a purchased call option and a written put option that requires net share settlement. The written put option component, if freestanding, would be within the scope of ASC 480 because its value moves in the opposite direction as the fair value of the issuer's shares, pursuant to ASC 480-10-25-14(c). Once identified, the monetary value of this component obligation is assessed to determine whether it is predominant over the monetary value of the other component obligation. In this case, because the collar does not contain any other obligations (the purchased call option does not embody any obligation and therefore does not affect the classification of the entire instrument), the net settled written put component obligation governs the classification of the instrument. As such, the collar in its entirety should be classified as a liability (or asset) and recognized at fair value with changes in fair value recognized in earnings.

Even though the value of the purchased call option may exceed the value of the written put option at inception (i.e., a net purchased option), the instrument is within the scope of ASC 480 because the written put option component, if freestanding, would be a liability pursuant to ASC 480-10-25-14(c) as the monetary value of the issuer's obligation to deliver a variable number of shares under the written put option varies inversely in relation to changes in the fair value of the issuer's share price. The fair value would represent an asset if the fair value of the purchased option component exceeds the fair value of the written option component, and would represent a liability if the opposite were true.

A.6.2 Recognition and measurement

ASC 480 provides guidance regarding the initial and subsequent measurement of instruments included within its scope.

Refer to Question 15 in section A9 – How would share-settled obligations not within the scope of ASC 480 be measured?

A.6.2.1 “Share-settled debt”

The general measurement guidance in ASC 480 requires share-settled debt (obligations that can be settled in shares with a fixed monetary value at settlement) to be carried at fair value unless other accounting guidance specifies another measurement attribute. We generally believe that such obligations are, in substance, “traditional” debt arrangements that merely provide for the stock of the issuer to be used as the form of currency for repayment and, therefore, the applicable accounting guidance in ASC 835-30 (i.e., accrue to the redemption amount using the interest method) may be applied unless some other accounting (e.g., electing the fair value option pursuant to ASC 825-10-15) allows or specifies another measurement attribute.

A.6.2.2 Other share-settled obligations

All other share-settled obligations in the scope of ASC 480-10-25-14 should be measured initially at fair value unless other accounting guidance specifies another measurement attribute.

Financial instruments within the scope of ASC 815 subsequently are measured as required by the provisions of that derivatives guidance. All other share-settled obligations are measured subsequently at fair value with changes in fair value recognized in earnings, unless other accounting guidance specifies another measurement attribute.

A.7 Presentation, earnings per share and disclosure

A.7.1 Presentation

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Other Presentation Matters

480-10-45-1

Items within the scope of this Subtopic shall be presented as liabilities (or assets in some circumstances). Those items shall not be presented between the liabilities section and the equity section of the statement of financial position.

480-10-45-2

Entities that have no equity instruments outstanding but have financial instruments issued in the form of shares, all of which are mandatorily redeemable financial instruments required to be classified as liabilities, shall describe those instruments as shares subject to mandatory redemption in statements of financial position to distinguish those instruments from other liabilities. Similarly, payments to holders of such instruments and related accruals shall be presented separately from payments to and interest due to other creditors in statements of cash flows and income.

480-10-45-2A

Some entities have outstanding shares, all of which are subject to mandatory redemption on the occurrence of events that are certain to occur. The redemption price may be a fixed amount or may vary based on specified conditions. If all of an entity's shares are subject to mandatory redemption and the entity is not subject to the deferral in paragraph 480-10-65-1, an excess of the redemption price of the shares over the entity's equity balance shall be reported as an excess of liabilities over assets (a deficit), even though the mandatorily redeemable shares are reported as a liability. If the redemption price of the mandatorily redeemable shares is less than the book value of those shares, the entity should report the excess of that book value over the liability reported for the mandatorily redeemable shares as an excess of assets over liabilities (equity).

480-10-45-2B

Depending on the settlement terms, this Subtopic requires that mandatorily redeemable shares that are not subject to the deferral in paragraph 480-10-65-1 be measured at either the present value of the amount to be paid at settlement or the amount of cash that would be paid under the conditions specified in the contract if settlement occurred at the reporting date, recognizing the resulting change in that amount as interest cost (change in redemption amount).

480-10-45-3

Any amounts paid or to be paid to holders of the contracts discussed in paragraph 480-10-35-3 in excess of the initial measurement amount shall be reflected in interest cost.

For redeemable shares that are not accounted for as liabilities pursuant to ASC 480 (e.g., because they are contingently or optionally redeemable), public companies should consider the SEC's redeemable equity guidance (refer to Appendix E) and likely classify the redemption amount associated with those instruments outside of permanent equity (i.e., in temporary equity).

An issuer may have only one class of common stock, all of which is mandatorily redeemable and classified as a liability.³⁶ For example, a nonpublic issuer may require its shareholders to sell their shares back to the issuer upon their death or upon other circumstances that are certain to occur. In that circumstance, the issuer essentially has no equity, although the mandatorily redeemable common shares represent a residual interest. To accommodate this circumstance, the Board requires that the mandatorily redeemable instruments be described in the statement of financial position as "shares subject to mandatory redemption" apart from other liabilities.

Payments to holders of such instruments and related accruals should also be presented separately from payments to and interest due to other creditors in the statements of cash flows and operations. The nature of the redemption feature and terms of those instruments should be disclosed in the notes to the financial statements. Additionally, the components of the mandatorily redeemable instruments should be disclosed (e.g., par value and paid-in capital of mandatorily redeemable instruments should be disclosed separately from the amount of retained earnings or accumulated deficit). An example of the disclosure is in ASC 480-10-55-64.

Refer to the following Questions in section A9:

- ▶ Question 10 – How should an entity account for a stock required to be redeemed upon death of a holder?

³⁶ ASC 480-10-65-1 defers for an indefinite period the application of the guidance in ASC 480 to certain mandatorily redeemable shares. Refer to section A8.2.

- ▶ Question 11 – How should an entity measure and present mandatorily redeemable instruments when the entity has no equity-classified instruments?
- ▶ Question 12 – How should an entity measure and present mandatorily redeemable noncontrolling interests classified as liabilities that were issued before 5 November 2003?

A.7.2

Earnings per share (for mandatorily redeemable instruments and physically settled forward purchase contracts)

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Other Presentation Matters

480-10-45-4

Entities that have issued mandatorily redeemable shares of common stock or entered into forward contracts that require **physical settlement** by repurchase of a fixed number of the **issuer's equity** shares of common stock in exchange for cash shall exclude the common shares that are to be redeemed or repurchased in calculating basic and diluted earnings per share (EPS). Any amounts, including contractual (accumulated) dividends and participation rights in undistributed earnings, attributable to shares that are to be redeemed or repurchased that have not been recognized as interest costs in accordance with paragraph 480-10-35-3 shall be deducted in computing income available to common shareholders (the numerator of the EPS calculation), consistently with the two-class method set forth in paragraphs 260-10-45-60 through 45-70.

The FASB concluded that in most situations the guidance in ASC 260-10 adequately addresses the calculation of EPS with respect to the instruments subject to liability classification pursuant to ASC 480. However, entities that have issued mandatorily redeemable shares of common stock or have entered into forward contracts that require physical settlement by repurchase of a fixed number of the issuer's equity shares in exchange for cash, are required to exclude the common shares to be redeemed or repurchased in calculating basic and diluted EPS.

With respect to such instruments, the Board's view is that because the issuer has reduced its equity (or noncontrolling interest, if the shares to be purchased are shares of a consolidated subsidiary) while the shares remain legally outstanding, the shares should be accounted for as if effectively retired for the purposes of calculating basic and diluted EPS.

As the shares that will be repurchased typically participate in dividends during the period that the mandatorily redeemable instruments or forward purchase contracts are outstanding, the two-class method³⁷ of computing EPS should be applied (unless the forward contract passes dividends on the underlying shares back to the issuer).

Refer to our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further discussion on participating securities, the two-class method and all other instruments potentially settled in the issuers common shares.

³⁷ Participating securities and the application of the two-class method are discussed in ASC 260-10.

A.7.3

Disclosures

Excerpt from Accounting Standards Codification**Distinguishing Liabilities from Equity – Overall***Disclosure***480-10-50-1**

Entities that issue financial instruments recognized under the guidance in Section 480-10-25 shall disclose both of the following:

- a. The nature and terms of the financial instruments
- b. The rights and obligations embodied in those instruments, including both:
 1. Settlement alternatives, if any, in the contract
 2. The entity that controls the settlement alternatives.

480-10-50-2

Additionally, for all outstanding financial instruments recognized under the guidance in Section 480-10-25 and for each settlement alternative, issuers shall disclose all of the following:

- a. The amount that would be paid, or the number of shares that would be issued and their fair value, determined under the conditions specified in the contract if the settlement were to occur at the reporting date
- b. How changes in the fair value of the issuer's equity shares would affect those settlement amounts (for example, "the issuer is obligated to issue an additional X shares or pay an additional Y dollars in cash for each \$1 decrease in the fair value of one share")
- c. The maximum amount that the issuer could be required to pay to redeem the instrument by physical settlement, if applicable
- d. The maximum number of shares that could be required to be issued, if applicable
- e. That a contract does not limit the amount that the issuer could be required to pay or the number of shares that the issuer could be required to issue, if applicable
- f. For a forward contract or an option indexed to the issuer's equity shares, all of the following:
 1. The forward price or option strike price
 2. The number of issuer's shares to which the contract is indexed
 3. The settlement date or dates of the contract, as applicable.

480-10-50-3

Paragraph 505-10-50-3 requires additional disclosures for actual issuances and settlements that occurred during the accounting period.

480-10-50-4

Some entities have no equity instruments outstanding but have financial instruments in the form of shares, all of which are mandatorily redeemable financial instruments required to be classified as liabilities. Those entities shall disclose the components of the liability that would otherwise be related to shareholders' interest and other comprehensive income (if any) subject to the redemption feature (for example, par value and other paid-in amounts of mandatorily redeemable instruments shall be disclosed separately from the amount of retained earnings or accumulated deficit).

ASC 480 generally does not require substantial additional disclosures in the notes to the financial statements beyond those required by existing accounting standards. If an issuer has issued financial instruments or entered into contracts that are within the scope of ASC 480, disclosure regarding the nature and terms of the financial instruments and the obligations embodied in those instruments is required, similar to that required by ASC 505-10-50.

The disclosure requirements in ASC 480-10-50-2 are required for outstanding financial instruments within the scope of ASC 480 (as applicable) and generally are consistent with the disclosures already required by ASC 815-40. These disclosures are required for mandatorily redeemable noncontrolling interests that are subject to the deferrals described in section A8.2.

A.8**Transition and effective date, including certain deferrals****Excerpt from Accounting Standards Codification****Distinguishing Liabilities from Equity – Overall*****Transition and Open Effective Date Information*****480-10-65-1**

The effective date of the pending content that links to this paragraph is as follows for mandatorily redeemable financial instruments of certain nonpublic entities and for certain mandatorily redeemable noncontrolling interests:

- a. Mandatorily redeemable financial instruments of certain nonpublic entities.
 1. The effective date of this Subtopic is deferred for mandatorily redeemable financial instruments issued by nonpublic entities that are not Securities and Exchange Commission (SEC) registrants, as follows:
 - i. For instruments that are mandatorily redeemable on fixed dates for amounts that either are fixed or are determined by reference to an interest rate index, currency index, or another external index, the classification, measurement, and disclosure provisions of this Subtopic were effective for fiscal periods beginning after December 15, 2004.
 - ii. For all other financial instruments that are mandatorily redeemable, the classification, measurement, and disclosure provisions of this Subtopic are deferred indefinitely pending further Financial Accounting Standards Board (FASB) action. During that indefinite deferral, the FASB plans to reconsider implementation issues and, perhaps, classification or measurement guidance for those instruments in conjunction with the FASB's ongoing project on liabilities and equity.
 2. Mandatorily redeemable financial instruments issued by SEC registrants are not eligible for either of the deferrals in item (a), even if the entity meets the definition of a nonpublic entity in this Subtopic. Those entities shall follow the effective dates required by this Subtopic and related guidance, including the deferral for certain mandatorily redeemable noncontrolling interests that follows, as appropriate.

3. Some entities have issued shares that are required to be redeemed under related agreements. If the shares are issued with the redemption agreement and the required redemption relates to those specific underlying shares, the shares are mandatorily redeemable. If an entity with such shares and redemption agreement is a nonpublic entity that is not an SEC registrant, the effective date for those mandatorily redeemable shares is deferred as stated in paragraph 480-10-65-1(a).
 4. Although the disclosure requirements of this Subtopic do not apply for those mandatorily redeemable instruments of certain nonpublic companies while application of this Subtopic to those instruments is deferred, the requirements of Subtopic 505-10 still apply. In particular, paragraph 505-10-50-3 requires information about the pertinent rights and privileges of the various securities outstanding, which includes mandatory redemption requirements. Paragraph 505-10-50-11 also requires disclosure of the amount of redemption requirements for all issues of stock that are redeemable at fixed or determinable prices on fixed or determinable dates in each of the next five years.
- b. Certain mandatorily redeemable noncontrolling interests.
1. The effective date of this Subtopic is deferred for certain mandatorily redeemable noncontrolling interests (of all entities, public and nonpublic) as follows:
 - i. For mandatorily redeemable noncontrolling interests that would not have to be classified as liabilities by the subsidiary, under the only upon liquidation exception in paragraphs 480-10-25-4 and 480-10-25-6, but would be classified as liabilities by the parent in consolidated financial statements, the classification and measurement provisions of this Subtopic are deferred indefinitely pending further FASB action.
 - ii. For other mandatorily redeemable noncontrolling interests that were issued before November 5, 2003, the measurement provisions of this Subtopic are deferred indefinitely, both for the parent in consolidated financial statements and for the subsidiary that issued the instruments that result in the mandatorily redeemable noncontrolling interest, pending further FASB action. For those instruments, the measurement guidance for redeemable shares and noncontrolling interests in other predecessor literature (for example, in EITF Abstracts Topic No. D-98, "Classification and Measurement of Redeemable Securities") continues to apply during the deferral period. However, the classification provisions of this Subtopic are not deferred.
 2. The FASB plans to reconsider implementation issues and, perhaps, classification or measurement guidance for those noncontrolling interests during the deferral period, in conjunction with the FASB's ongoing projects.
 3. During the deferral period for certain mandatorily redeemable noncontrolling interests, all public entities as well as nonpublic entities that are SEC registrants are required to follow the disclosure requirements in paragraphs 480-10-50-1 through 50-3 as well as disclosures required by other applicable guidance.

480-10-25-4

A mandatorily redeemable financial instrument shall be classified as a liability unless the redemption is required to occur only upon the liquidation or termination of the reporting entity.

A.8.1 Original transition specified in Statement 150

Statement 150 generally was effective for financial instruments created or modified after 31 May 2003, and otherwise effective at the beginning of the first interim period beginning after 15 June 2003 (1 July 2003 for calendar quarter companies). Application of ASC 480 to instruments that existed on the date of adoption was reported through a cumulative effect of a change in an accounting principle by measuring those instruments at fair value or as otherwise required by the Statement. Restatement of financial statements for periods prior to the adoption of Statement 150 was prohibited.

Subsequent to the issuance of Statement 150, certain exceptions to this general transition requirement were provided and remain relevant today due to the indefinite deferral of the transition for certain instruments. It was only those deferred transition dates that were codified in ASC 480 because the original transition date had already passed. Because of this deferral, all paragraphs of ASC 480 are shown as “Pending Content” when viewed in the Codification.

A.8.2 Deferral of ASC 480 for some entities and some instruments pursuant to FSP FAS 150-3

Subsequent to the issuance of Statement 150, the FASB issued FASB Staff Position FAS 150-3, *Effective Date, Disclosures, and Transition for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests under FASB Statement No. 150* (codified in ASC 480-10-65-1), which further deferred the transition requirements for certain instruments for certain entities. The length of the deferral depended on the instrument and the entity, with some deferrals of indefinite length pending further standard setting activities. Adoption of ASC 480 for instruments within the scope of the indefinite deferrals is not permitted during the deferral period.

The deferral provisions apply to:

- ▶ The classification, measurement and disclosure requirements for mandatorily redeemable financial instruments issued by nonpublic entities that are not SEC registrants (as defined in the guidance) (refer to section A8.2.1)
- ▶ The classification and measurement guidance for noncontrolling interests that are classified as equity in the financial statements of a subsidiary but would be classified as a liability in the parent's financial statements (e.g., noncontrolling interests in limited-life subsidiaries) (refer to section A8.2.2)

A.8.2.1 Transition for mandatorily redeemable shares of nonpublic companies

Nonpublic companies originally were not required to apply the provisions of Statement 150 to mandatorily redeemable financial instruments until the first fiscal period for which US GAAP financial statements were prepared beginning after 15 December 2003. However, ASC 480-10-65-1 further deferred the transition requirements for nonpublic companies that also are not SEC registrants as follows:

- a. For instruments that are mandatorily redeemable on fixed dates for amounts that either are fixed or are determined by reference to an interest rate index, currency index or another external index, the classification, measurement and disclosure provisions of ASC 480 were effective for fiscal periods beginning after 15 December 2004.
- b. For all other financial instruments that are mandatorily redeemable (e.g., shares that are redeemable at book value or fair value), the classification, measurement and disclosure provisions of ASC 480 are deferred indefinitely pending further Board action.

For purposes of those deferrals, SEC registrants are defined as entities, or entities that are controlled by entities, that (1) have issued or will issue debt or equity securities that are traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local or regional markets),

(2) are required to file financial statements with the SEC or (3) provide financial statements for the purpose of issuing any class of securities in a public market. The definition of a "nonpublic" entity in the ASC Master Glossary that applies to ASC 480 includes any entity other than one that (1) has equity securities trade in a public market, either on a stock exchange (domestic or foreign) or in the over-the-counter market, including securities quoted only locally or regionally, (2) makes a filing with a regulatory agency in preparation for the sale of any class of equity securities in a public market or (3) is controlled by an entity covered by (1) or (2). As a result, an issuer that is an SEC registrant only by virtue of the fact that it has debt that is registered with the SEC would be considered nonpublic pursuant to ASC 480 but would not be subject to the deferrals described in this section.

Some nonpublic entities have issued shares that are required to be redeemed pursuant to related agreements (e.g., a forward contract). If the shares are issued with the redemption agreement and the required redemption relates to those specific underlying shares, the shares are mandatorily redeemable (i.e., the forward contract is not considered freestanding). If an entity with such shares and redemption agreement is a nonpublic entity that is not an SEC registrant, ASC 480-10-65-1 defers the effective date for those mandatorily redeemable shares.

The FASB noted that although the disclosure requirements of ASC 480 do not apply to mandatorily redeemable instruments of non-SEC registrants during the deferral period, the requirements of ASC 505-10-50-3 and ASC 470-10-50-5 still apply. In particular, ASC 505-10-50-3 requires information about the rights and privileges of the various securities outstanding (including mandatory redemption requirements) and ASC 505-10-50-11 requires disclosure of the amounts payable on stock that is redeemable at fixed or determinable prices on fixed or determinable dates in each of the next five years.

A.8.2.2

Transition for mandatorily redeemable noncontrolling interests

ASC 480-10-65-1 also provides for the following deferrals relating to mandatorily redeemable noncontrolling interests for all entities (public and nonpublic):

- a. The application of the classification and measurement guidance in ASC 480 to noncontrolling interests that are classified as equity in the financial statements of the issuing subsidiary but would be classified as a liability in the parent's financial statements pursuant to ASC 480 (e.g., noncontrolling interests in limited-life subsidiaries) is deferred for an indefinite period pending further Board action. However, the disclosure requirements of ASC 480 continue to apply.
- b. For mandatorily redeemable noncontrolling interests that are classified as liabilities in the financial statements of the subsidiary (i.e., noncontrolling interests that are not subject to the deferral of ASC 480's classification requirements because they must be redeemed prior to the liquidation of the subsidiary) that were issued before 5 November 2003, the measurement provisions of ASC 480 are deferred indefinitely, both for the parent in consolidated financial statements and for the subsidiary that issued the instruments that result in the mandatorily redeemable noncontrolling interest, pending further action by the FASB. However, the classification and disclosure requirements of ASC 480 continue to apply.

Refer to the following Questions in section A9:

- ▶ Question 6 – If a noncontrolling interest of a consolidated limited-life subsidiary is mandatorily redeemable, how does that affect the consolidated financial statements? Are such interests affected by the deferral of ASC 480?
- ▶ Question 9 – How does the deferral of the effective date for ASC 480 affect trust preferred securities?
- ▶ Question 12 – How should an entity measure and present mandatorily redeemable noncontrolling interests classified as liabilities that were issued before 5 November 2003?

A.9 Frequently asked questions

The following Questions are included in this section:

- ▶ Question 1 – How does the scope of the guidance in ASC 480 interact with other areas of the financial instrument guidance?
- ▶ Question 2 – What is an example of an option to redeem shares embedded in a minimal host?
- ▶ Question 3 – What are examples of various combinations of a share, a written put and a purchased call to illustrate the assessment of combinations of instruments?
- ▶ Question 4 – What are examples of various combinations of a noncontrolling interest with (1) a forward contract, (2) a combination of put and call options and (3) a total return swap?
- ▶ Question 5 – Does the increasing-rate nature of increasing-rate preferred stock cause it to be considered mandatorily redeemable pursuant to ASC 480?
- ▶ Question 6 – If a noncontrolling interest of a consolidated limited-life subsidiary is mandatorily redeemable, how does that affect the consolidated financial statements? Are such interests affected by the deferral of ASC 480?
- ▶ Question 7 – What are the accounting considerations for contingently redeemable instruments?
- ▶ Question 8 – What is an example of a contingently redeemable share that is reclassified when it becomes mandatorily redeemable?
- ▶ Question 9 – How does the deferral of the effective date for ASC 480 affect trust preferred securities?
- ▶ Question 10 – How should an entity account for a stock required to be redeemed upon death of a holder?
- ▶ Question 11 – How should an entity measure and present mandatorily redeemable instruments when the entity has no equity-classified instruments?
- ▶ Question 12 – How should an entity measure and present mandatorily redeemable noncontrolling interests classified as liabilities that were issued before 5 November 2003?
- ▶ Question 13 – What is the classification and measurement guidance for a freestanding written put option or a forward purchased contract within the scope of ASC 480?
- ▶ Question 14 – What are examples of instruments composed of more than one option or forward contract?
- ▶ Question 15 – How would share-settled obligations not within the scope of ASC 480 be measured?
- ▶ Question 16 – What are examples of physically settled forward contracts to purchase shares?
- ▶ Question 17 – What is the monetary value of a contract?
- ▶ Question 18 – What are examples of monetary values that do not change and are settled in a variable number of shares that the issuer must or may settle by issuing a variable number of shares?
- ▶ Question 19 – What are examples of what it means to vary with something other than changes in the fair value of the issuer's equity shares?
- ▶ Question 20 – What are examples of what it means to have a monetary value move in the opposite direction as the value of the issuer's equity shares?

Question 1 How does the scope of the guidance in ASC 480 interact with other areas of the financial instrument guidance?

The guidance in ASC 480 and ASC 815-40 addresses many of the same instruments. In practice, an instrument is usually evaluated first to determine whether it is in the scope of ASC 480 for recognition and measurement. If in the scope of ASC 480, the instrument should be further evaluated pursuant to in ASC 815-40 to determine whether it would also be a derivative. If so, that instrument would be subject to any incremental guidance in ASC 815-40, particularly the disclosures required for derivative instruments. If the instrument is not in the scope of ASC 480, the instrument's accounting should be determined pursuant to ASC 815-40.

Question 2 What is an example of an option to redeem shares embedded in a minimal host?

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Option to Redeem Shares Embedded in a Minimal Host

480-10-55-41

An entity issues one share of preferred stock (with a par amount of \$100), paying a small dividend, and embeds in it an option allowing the holder to put the preferred share along with 100,000 shares of the issuer's common stock (currently trading at \$50) for a fixed price of \$45 per share in cash. The preferred stock host is judged at inception to be minimal and would be disregarded under paragraph 480-10-25-1 in applying the classification provisions of this Subtopic. Therefore, under either paragraphs 480-10-25-8 through 25-12 or 480-10-25-14(c) (depending on the form of settlement), that instrument would be analyzed as a written put option in its entirety, classified as a liability, and measured at fair value.

Question 3 What are examples of various combinations of a share, a written put and a purchased call to illustrate the assessment of combinations of instruments?

The following examples from the FASB's implementation guidance in ASC 480 illustrate the differences in the accounting between (1) a single instrument that comprises two components and (2) two instruments that are issued at the same time but are separate, freestanding financial instruments.

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Three Freestanding Instruments

480-10-55-34

An issuer has the following three freestanding instruments with the same counterparty, entered into contemporaneously:

- a. A written put option on its equity shares
- b. A purchased call option on its equity shares
- c. Outstanding shares of stock.

480-10-55-35

Under this Subtopic those three contracts would be separately evaluated. The written put option is reported as a liability under either paragraphs 480-10-25-8 through 25-12 or 480-10-25-14(c) (depending on the form of settlement) and is measured at fair value. The purchased call option does not embody an obligation and, therefore, is not within the scope of this Subtopic. The outstanding shares of stock also are not within the scope of this Subtopic, because the shares do not embody an obligation for the issuer. Under paragraph 480-10-25-15, neither the purchased call option nor the shares of stock are to be combined with the written put option in applying paragraphs 480-10-25-4 through 25-14 unless otherwise required by Topic 815. If that Topic required the freestanding written put option and purchased call option to be combined and viewed as a unit, the unit would be accounted for as a combination of options, following the guidance in paragraphs 480-10-55-18 through 55-20.

Two Freestanding Instruments**480-10-55-36**

An issuer has the following two freestanding instruments with the same counterparty entered into contemporaneously:

- a. A contract that combines a written put option at one strike price and a purchased call option at another strike price on its equity shares
- b. Outstanding shares of stock.

480-10-55-37

As required by paragraph 480-10-25-1, paragraphs 480-10-25-4 through 25-14 are applied to the entire freestanding instrument that comprises both a put option and a call option. Because the put option element of the contract embodies an obligation to repurchase the issuer's equity shares, the freestanding instrument that comprises a put option and a call option is reported as a liability (or asset) under either paragraphs 480-10-25-8 through 25-12 or 480-10-25-14(c) (depending on the form of settlement) and is measured at fair value. Under paragraphs 480-10-15-3 through 15-4 and 480-10-25-1, that freestanding financial instrument is within the scope of this Subtopic regardless of whether at current prices it is a net written, net purchased, or zero-cost collar option and regardless of the form of settlement. The outstanding shares of stock are not within the scope of this Subtopic and, under paragraph 480-10-25-15, are not combined with the freestanding written put and purchased call option. (Some outstanding shares of stock are within the scope of this Subtopic, for example, mandatorily redeemable shares or shares subject to a physically settled forward purchase contract in exchange for cash.)

One Freestanding Instrument that Is an Outstanding Share of Stock Containing Multiple Embedded Features**480-10-55-38**

An entity issues a share of stock that is not mandatorily redeemable. However, under its terms the stock is both of the following:

- a. Puttable by the holder any time after five years or upon a change in control
- b. Callable by the issuer any time after five years.

480-10-55-39

That instrument is outside the scope of this Subtopic. The instrument as a whole is not mandatorily redeemable under paragraphs 480-10-25-4 and 480-10-25-6 because of both of the following conditions:

- a. The redemption is optional (conditional).
- b. A written put option and a purchased call option issued together with the same terms differ from a forward purchase contract under this Subtopic.

480-10-55-40

That combination of embedded features does not render the stock mandatorily redeemable because the options could expire at the money, unexercised, and, thus, the redemption is not unconditional. Because the instrument as a whole is an outstanding share, it is not subject to paragraphs 480-10-25-8 through 25-12, nor, because the embedded obligation is conditional, is it subject to paragraph 480-10-25-14. As a financial instrument that is not a derivative instrument in its entirety, it is subject to analysis under Subtopic 815-15 to determine whether the issuer must account for any embedded feature separately as a derivative instrument. Because of the guidance in paragraph 480-10-25-2, paragraphs 480-10-25-4 through 25-14 shall not be applied to any embedded feature for the purposes of that analysis. In applying paragraph 815-15-25-1, the embedded written put option is evaluated under the guidance in Subtopic 815-40 and would generally be classified in equity. If so, the embedded written put option meets the criterion for exclusion in paragraph 815-10-15-74(a) and, therefore, is not separated from its host contract. If the written put option was not embedded in the share, but was issued as a freestanding instrument, it would be a liability under this Subtopic.

Question 4

What are examples of various combinations of a noncontrolling interest with (1) a forward contract, (2) a combination of put and call options and (3) a total return swap?

Excerpt from Accounting Standards Codification**Distinguishing Liabilities from Equity- Overall****Implementation Guidance*****Majority Owner's Accounting for a Transaction in the Shares of a Consolidated Subsidiary and a Derivative Instrument Indexed to the Noncontrolling Interest in that Subsidiary*****480-10-55-53**

A controlling majority owner (parent) holds 80 percent of a subsidiary's equity shares. The remaining 20 percent (the noncontrolling interest) is owned by an unrelated entity (the noncontrolling interest holder). Simultaneous with the acquisition of the noncontrolling interest, the noncontrolling interest holder and the parent enter into a derivative instrument that is indexed to the subsidiary's equity shares. The terms of the derivative instrument may be any of the following:

- a. The parent has a fixed-price forward contract to buy the other 20 percent at a stated future date. (Derivative 1)
- b. The parent has a call option to buy the other 20 percent at a fixed price at a stated future date, and the noncontrolling interest holder has a put option to sell the other 20 percent to the parent under those same terms, that is, the fixed price of the call is equal to the fixed price of the put option. (Derivative 2)
- c. The parent and the noncontrolling interest holder enter into a total return swap. The parent will pay to the counterparty (initially the noncontrolling interest holder) an amount computed based on the London Interbank Offered Rate (LIBOR), plus an agreed spread, plus, at the termination date, any

net depreciation of the fair value of the 20 percent interest since inception of the swap. The counterparty will pay to the parent an amount equal to dividends paid on the 20 percent interest and, at the termination date, any net appreciation of the fair value of the 20 percent interest since inception of the swap. At the termination date, the net change in the fair value of the 20 percent interest may be determined through an appraisal or the sale of the stock. (Derivative 3)

480-10-55-54

If the terms correspond with Derivative 1, the forward purchase contract that requires physical settlement by repurchase of a fixed number of shares (the noncontrolling interest) in exchange for cash is recognized as a liability, initially measured at the present value of the contract amount; the noncontrolling interest is correspondingly reduced. Subsequently, accrual to the contract amount and any amounts paid or to be paid to holders of those contracts are reflected as interest cost. In effect, the parent accounts for the transaction as a financing of the noncontrolling interest and, consequently, consolidates 100 percent of the subsidiary.

480-10-55-55

Depending on how Derivative 2 was issued, one of three different accounting methods applies. If Derivative 2 was issued as a single freestanding instrument, under this Subtopic it would be accounted for in its entirety as a liability (or an asset in some circumstances), initially and subsequently measured at fair value. If the written put option and the purchased call option in Derivative 2 were issued as freestanding instruments, the written put option would be accounted for under this Subtopic as a liability measured at fair value, and the purchased call option would be accounted for under Subtopic 815-40. Under both of those situations, the noncontrolling interest is accounted for separately from the derivative instrument under applicable guidance. However, if the written put option and purchased call option are embedded in the shares (noncontrolling interest) and the shares are not mandatorily redeemable, the freestanding instrument shall be accounted for as discussed in paragraph 480-10-55-59 with the parent consolidating 100 percent of the subsidiary.

480-10-55-56

If the terms correspond with Derivative 3, the total return swap is indexed to an obligation to repurchase the issuer's shares and may require the issuer to settle the obligation by transferring assets. Therefore it is in the scope of this Subtopic and is required to be accounted for as a liability (or asset in some circumstances), initially, and subsequently measured at fair value. The noncontrolling interest is accounted for separately from the total return swap.

480-10-55-57

In applying paragraphs 480-10-25-4 through 25-14 to determine classification, a freestanding financial instrument within this Subtopic's scope is precluded from being combined with another freestanding financial instrument, unless combination is required under the provisions of Topic 815; therefore, unless under the particular facts and circumstances that Topic provides otherwise, freestanding derivative instruments in the scope of this Subtopic would not be combined with the noncontrolling interest.

480-10-55-58

This guidance is limited to circumstances in which the parent owns a majority of the subsidiary's outstanding common stock and consolidates that subsidiary at inception of the derivative instrument. This guidance is limited to the specific derivative instruments described.

Written Put Option and Purchased Call Option Embedded in Noncontrolling Interest**480-10-55-59**

If the derivative instrument in Derivative 2 is freestanding of the noncontrolling interest, it should be combined with the noncontrolling interest and accounted for as a financing. That is, the combination of option contracts should be viewed on a combined basis with the noncontrolling interest and accounted for as a financing of the parent's purchase of the noncontrolling interest.

480-10-55-60

Under that approach, the parent would consolidate 100 percent of the subsidiary and would attribute the stated yield earned under the combined derivative instrument and noncontrolling interest position to interest expense (that is, the financing would be accreted to the strike price of the forward or option over the period until settlement). No gain or loss would be recognized on the sale of the noncontrolling interest by the parent to the noncontrolling interest holder at the inception of the derivative instrument.

480-10-55-61

The risks and rewards of owning the noncontrolling interest have been retained by the parent during the period of the derivative instrument, notwithstanding the legal ownership of the noncontrolling interest by the counterparty. Combining the two transactions in this circumstance reflects the substance of the transactions; that the counterparty is financing the noncontrolling interest. Upon such combination, the resulting instrument is not a derivative instrument subject to Subtopic 815-10.

480-10-55-62

This accounting applies even if the exercise prices of the put and call options are not equal, as long as those exercise prices are not significantly different.

ASC 480-10-55-53 through 55-56 describe three different derivative instruments indexed to the stock of a consolidated subsidiary. One instrument includes a written put and purchased call. ASC 480-10-55-55 provides for three different ways to account for the written put and purchased call, based on how the instruments were issued relative to the noncontrolling interest (i.e., freestanding from or embedded in the noncontrolling interest).

ASC 480-10-55-59 suggests that when the written put/purchased call are freestanding, they should be combined with the noncontrolling interest and accounted for as a financing. This accounting is not one of the three ways described in ASC 480-10-55-55.

We believe the guidance in ASC 480-10-55-59 is inconsistent with the guidance formerly in EITF 00-4, "Majority Owner's Accounting for a Transaction in the Shares of a Consolidated Subsidiary and a Derivative Indexed to the Minority Interest in That Subsidiary." As the Codification was not intended to change GAAP, we believe ASC 480-10-55-55 should be followed unless ASC 815 requires the options to be combined with the noncontrolling interest, in which case the accounting described in ASC 480-10-55-60 through 55-62 should be followed.

Refer to section 5.10 in Chapter 5 for further discussion of equity contracts on noncontrolling interest.

Question 5**Does the increasing-rate nature of increasing-rate preferred stock cause it to be considered mandatorily redeemable pursuant to ASC 480?**

Some types of preferred stock initially pay little or no dividends and then pay dividends at an increasing rate (often characterized as increasing-rate preferred stock). The dividend rate can rise to a level that may be considered onerous, essentially economically compelling the issuer to redeem the instrument. The FASB explicitly considered economic compulsion and concluded that only if an increasing-rate preferred stock is mandatorily redeemable on (or not later than) a specified date, does it embody an obligation to transfer assets. Economic compulsion is not a concept within the ASC 480 model.

Based on the guidance in ASC 480, increasing rate preferred stock that is not also contractually mandatorily redeemable is not a liability. However, based on the facts and circumstances and magnitude of the increasing rate, we generally believe a registrant should evaluate whether redemption would essentially be assured as a result of economic compulsion (e.g., through a dividend rate that increases dramatically). In that case, the SEC's redeemable equity guidance would result in the preferred stock being classified as temporary, rather than permanent, equity.

Question 6

If a noncontrolling interest of a consolidated limited-life subsidiary is mandatorily redeemable, how does that affect the consolidated financial statements? Are such interests affected by the deferral of ASC 480?

As discussed in section A8.2.2, while ASC 480 considers an instrument issued by a consolidated subsidiary with a limited life that is redeemable upon liquidation or termination of the subsidiary to be mandatorily redeemable in the consolidated financial statements, the application of the classification and measurement guidance of ASC 480 has been deferred indefinitely in this circumstance.

Many partnerships and limited liability corporations (LLCs) have finite lives, as their governing documents establish a date on which the assets and liabilities of the entity will be liquidated and settled. Those limitations may be based on state or federal laws, laws in other countries or tax requirements. A finite-lived entity may need to be consolidated.

If a subsidiary is required by its articles of incorporation or other legal requirements to be liquidated on a specified date, the subsidiary will be required to transfer assets to its shareholders (or other residual interest holders) on that date (regardless of whether it must transfer either its assets and liabilities or the remaining net proceeds from its liquidation).

The equity instruments of the subsidiary are not considered liabilities in the standalone financial statements of that subsidiary because ASC 480-10-25-4 provides an exception to liability classification when redemption is required only upon liquidation of the reporting entity (i.e. the subsidiary). However, this exception would not apply in the consolidated financial statements of the parent because the reporting entity is the parent thus liability classification is required.

However, ASC 480-10-65-1 defers, for an indefinite period, the application of only the classification and measurement guidance in ASC 480 to noncontrolling interests that are classified as equity in the financial statements of the subsidiary but would be classified as a liability in the parent's financial statements pursuant to ASC 480 (e.g., noncontrolling interests in limited-life subsidiaries).

As a result of this deferral, issuers are not required to recognize noncontrolling interests in a limited-life subsidiary as a liability in the consolidated financial statements provided that the reason for liability classification pursuant to ASC 480 is limited to the fact that the subsidiary has a limited life. Importantly, if the ownership interests in the limited-life subsidiary must instead be redeemed upon a specified date or upon an event certain to occur, regardless of if or when the entity is liquidated, those ownership interests are not subject to the deferral and should be classified as liabilities in the financial statements of both the subsidiary and the parent.

All of the relevant disclosure requirements of ASC 480 continue to apply, including the requirement in ASC 480-10-50-2(a) to disclose the "amount to be paid, or the number of shares that would be issued and their value, determined under the conditions specified in the contract if the settlement were to occur at the reporting date."

The deferral does not apply to the requirements to classify obligations to purchase a subsidiary's outstanding shares or certain obligations to issue a variable number of shares of a subsidiary. For example, if an entity enters into a freestanding forward contract to purchase the shares of a consolidated subsidiary or writes a freestanding put contract on the shares of the subsidiary, the forward or put would not be subject to the deferral and should be classified as a liability.

The FASB is expected to address this issue as a part of its joint project with the IASB on Financial Instruments with Characteristics of Equity.

Question 7

What are the accounting considerations for contingently redeemable instruments?

Although not a liability within the scope of ASC 480, a contingently or optionally redeemable instrument in the form of a share may contain an embedded derivative. Any embedded redemption features (e.g., the embedded written put option in puttable common stock or any put features in contingently redeemable preferred stock) should be analyzed pursuant to ASC 815 to determine whether they should be bifurcated. The guidance in ASC 815-15-25-1 is the starting point in determining whether bifurcation is required. Applying this guidance also requires consideration of the nature of the host instrument for redeemable preferred stock pursuant to ASC 815-10-S99-3A.

If the redemption feature (put or call) is not considered clearly and closely related to the host instrument, and it meets the definition of a derivative if freestanding, the feature should be analyzed to determine if it qualifies for the exemption in ASC 815-10-15-74(a) by determining whether it is indexed to the issuer's equity and would be classified as equity if it were freestanding. Because ASC 480 does not affect the accounting for embedded features, the analysis of whether the embedded derivative would be classified as equity if it were freestanding should be made pursuant to the indexation and equity classification guidance in ASC 815-40.

If preferred stock with a mandatory redemption date was not classified as a liability pursuant to ASC 480 due to the existence of an embedded conversion option, that embedded feature should also be evaluated as a potential (1) derivative requiring bifurcation or (2) beneficial conversion feature.

Refer section 3.2.9 in Chapter 3 for further discussion of evaluating redemption features in shares.

Question 8

What is an example of a contingently redeemable share that is reclassified when it becomes mandatorily redeemable?

The following examples are from the FASB's implementation guidance in ASC 480.

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Mandatorily Redeemable Financial Instruments

Reclassification of Stock that Becomes Mandatorily Redeemable

480-10-55-10

The guidance that follows discusses the requirement in paragraph 480-10-25-7 for reclassification of stock that becomes mandatorily redeemable. For example, an entity may issue equity shares on January 2, 2004, that must be redeemed (not at the option of the holder) six months after a change in control. When issued, the shares are conditionally redeemable and, therefore, do not meet the definition of mandatorily redeemable. On December 30, 2008, there is a change in control, requiring the shares to be redeemed on June 30, 2009. On December 31, 2008, the issuer would treat the shares as mandatorily redeemable and reclassify the shares as liabilities, measured initially at fair value. Additionally, the issuer would reduce equity by the amount of that initial measure, recognizing no gain or loss.

480-10-55-11

For another example of a conditionally redeemable instrument, an entity may issue preferred shares with a stated redemption date 30 years hence that also are convertible at the option of the holders into a fixed number of common shares during the first 10 years. Those instruments are not mandatorily redeemable for the first 10 years because the redemption is conditional, contingent upon the holder's not exercising its option to convert into common shares. However, when the conversion option (the condition) expires, the shares would become mandatorily redeemable and would be reclassified as liabilities, measured initially at fair value.

480-10-55-12

If the conversion option were nonsubstantive, for example, because the conversion price is extremely high in relation to the current share price, it would be disregarded as provided in paragraph 480-10-25-1. If that were the case at inception, those preferred shares would be considered mandatorily redeemable and classified as liabilities with no subsequent reassessment of the nonsubstantive feature.

Question 9**How does the deferral of the effective date for ASC 480 affect trust preferred securities?**

Trust preferred securities are sometimes referred to as MIPS (Monthly Income Preferred Stock), QUIPS (Quarterly Income Preferred Stock), QUICS (Quarterly Income Capital Securities), or TOPRS (Trust Originated Preferred Redeemable Stock). In order to issue trust preferred securities, a sponsor typically organizes a new subsidiary that issues preferred securities to investors. The sponsor purchases all of the trust's common securities and may guarantee the obligations of the trust. The proceeds received for issuing common and preferred securities are used to purchase subordinated debentures issued by the sponsor. The terms of the debentures are identical to those of the trust preferred securities, except that the debt has an explicit maturity date. The trust documents require either that the trust be liquidated upon repayment of the debt or that the proceeds be used to redeem the preferred securities.

The FASB discussed trust preferred securities at ASC 480-10-55-3 through 55-9, however, certain aspects of that guidance was deferred.

Because the trust preferred securities generally are required to be repaid only upon liquidation of the trust, they normally would qualify as equity in the trust's financial statements pursuant to ASC 480-10-55-9. While this guidance also indicates that such securities must be classified as liabilities in the financial statements of the parent (if the trust is consolidated pursuant to the relevant guidance) because they must be redeemed before liquidation of the reporting entity, this specific aspect of ASC 480 was deferred in ASC 480-10-65-1. Refer to section A8.2 for further discussion of the deferral.

Question 10**How should an entity account for a stock required to be redeemed upon death of a holder?**

An entity may issue shares that are required to be redeemed upon the death of the holder. Pursuant to ASC 480-10-55-3 through 55-5, a share that is required to be redeemed upon the death of the holder embodies an unconditional obligation of the issuer to redeem the shares at death, which is an event that is certain to occur and would thus require liability classification. Further, an insurance contract that would cover the cost of the redemption does not affect the classification of the stock as a liability.

Pursuant to ASC 480-10-55-64, if the stock represents the only shares of the entity, the entity should report those instruments in the liabilities section of its statement of financial position and describe them as shares subject to mandatory redemption so as to distinguish the instruments from other financial statement liabilities. The issuer should also present interest cost and payments to holders of such instruments separately, apart from interest and payments to other creditors in statements of income and cash flows. The fact that the instruments are mandatorily redeemable upon the death of the holder should be disclosed.

Question 11

How should an entity measure and present mandatorily redeemable instruments when the entity has no equity-classified instruments?

When all of an entity's shares are mandatorily redeemable (which may be the case for certain nonpublic companies) at other than book value, retained earnings and other comprehensive income are included in the carrying amount of the mandatorily redeemable shares.

Any difference between the book value and the settlement value is accumulated in a separate gain or loss account on the balance sheet pursuant to ASC 480-10-45-2A and 45-2B. That is, the redeemable shares are remeasured at settlement value, and any resulting adjustment is recognized as interest income or expense. If the settlement value of the mandatorily redeemable shares is greater than the book value of those shares, the issuer reports the excess of that liability over the book value as an "excess of liabilities over assets (a deficit)." If the settlement value of the mandatorily redeemable shares is less than the book value of those shares, the issuer reports the excess of that book value over the liability reported for the mandatorily redeemable shares as an "excess of assets over liabilities (equity)."

The following illustrations were provided in the original FASB interpretive guidance issued pre-Codification, but not included in the Codification. The illustrations assumed that all shares of the entity were mandatorily redeemable and are, therefore, consistent with required presentation and disclosures in ASC 480-10-45-2 and ASC 480-10-50-4. However, if the entity had other classes of shares outstanding and classified in equity, there were no special presentation and disclosure requirements. Although those illustrations are in the context of the adoption of Statement 150, we generally believe that they may be relevant when all of an entity's shares are mandatorily redeemable at other than book value.

Illustrations of Accounting for Mandatorily Redeemable Shares with a Redemption Value That Differs from the Issuer's Book Value**Illustration A-1**

Assume a company adopts Statement 150 on January 1, 20XX, and that the fair value (which equals the redemption value) of the mandatorily redeemable shares is \$20 million and the book value of those shares is \$15 million, of which \$10 million is paid-in capital. On the date of adoption, the issuer would recognize a liability of \$20 million by transferring \$15 million out of equity and recognizing a cumulative transition adjustment loss of \$5 million. Subsequently, net income attributable to the mandatorily redeemable shares is \$1 million for the year 20XX and the fair value of those shares at the reporting date of December 31, 20XX, is \$21.2 million. Also assume that the company did not pay any cash dividends.

The following illustrates the statement of position at January 1, 20XX, and December 31, 20XX, and the statement of income for the year ended December 31, 20XX (income tax considerations have been disregarded):

Statement of Financial Position:

	<u>January 1, 20XX</u>	<u>December 31, 20XX</u>
Total assets	<u>\$ 25,000,000</u>	<u>\$ 26,000,000</u>
Liabilities other than shares	\$ 10,000,000	\$ 10,000,000
Shares subject to mandatory redemption*	<u>20,000,000</u>	<u>21,200,000</u>
Total liabilities	30,000,000	31,200,000
Excess of liabilities over assets (deficit)	<u>(5,000,000)</u>	<u>(5,200,000)</u>
Total	<u>\$ 25,000,000</u>	<u>\$ 26,000,000</u>

Notes to Financial Statements:

*Shares, all subject to mandatory redemption upon death of the holders, consist of:

	<u>January 1, 20XX</u>	<u>December 31, 20XX</u>
Common stock – \$100 par value, 200,000 shares authorized, 100,000 shares issued and outstanding	\$ 10,000,000	\$ 10,000,000
Retained earnings attributable to those shares	5,000,000	6,000,000
Excess of redemption amount over common stock and retained earnings attributable to those shares	<u>5,000,000</u>	<u>5,200,000</u>
	<u>\$ 20,000,000</u>	<u>\$ 21,200,000</u>

Partial Statement of Income (for the Year Ended December 31, 20XX):

Income before interest on mandatory redeemable shares	\$ 1,000,000
Less: Interest on mandatorily redeemable shares (change in redemption amount)	<u>1,200,000</u>
Income (loss) before cumulative effect of a change in accounting principle	\$ (200,000)
Cumulative effect of change in accounting principle	<u>(5,000,000)</u>
Net loss	<u>\$ (5,200,000)</u>

Illustration A-2

Assume the same facts as in Example 1 except that the shares are to be redeemed at an amount (\$11 million) that is less than their book value. On the date of adoption, January 1, 20XX, the issuer would recognize a liability of \$11 million by transferring \$11 million out of equity.

The following illustrates the statement of position at January 1, 20XX:

Statement of Financial Position (as of January 1, 20XX):

Total assets	<u>\$ 25,000,000</u>
Liabilities other than shares	\$ 10,000,000
Shares subject to mandatory redemption*	<u>11,000,000</u>
Total liabilities	21,000,000
Excess of assets over liabilities (equity)	<u>4,000,000</u>
Total	<u>\$ 25,000,000</u>

Notes to Financial Statements:

*Shares, all subject to mandatory redemption upon death of the holders, consist of:

Common stock – \$100 par value, 200,000 shares authorized, 100,000 shares issued and outstanding	\$ 10,000,000
Retained earnings attributable to those shares	5,000,000
Excess of common stock and retained earnings attributable to those shares over redemption amount	<u>(4,000,000)</u>
	<u>\$ 11,000,000</u>

Question 12 **How should an entity measure and present mandatorily redeemable noncontrolling interests classified as liabilities that were issued before 5 November 2003?**

For mandatorily redeemable noncontrolling interests that are classified as liabilities in the financial statements of the subsidiary (i.e., noncontrolling interests that are not subject to the deferral of ASC 480's classification requirements at the subsidiary level because they must be redeemed prior to the liquidation of the subsidiary) that were issued before 5 November 2003, the measurement provisions of ASC 480 are deferred indefinitely, both for the parent in consolidated financial statements and for the subsidiary that issued the instruments that result in the mandatorily redeemable noncontrolling interest, pending further action by the FASB. Refer to section A8.2 for further discussion of the deferral.

For those instruments, the measurement guidance for redeemable shares and noncontrolling interests in other guidance (e.g., in the SEC's redeemable equity guidance) continues to apply during the deferral period. However, for such instruments neither the classification nor the disclosure provisions were deferred. That is, those mandatorily redeemable noncontrolling interests are classified as liabilities, and the disclosures required by ASC 480, including the disclosure of settlement value required by ASC 480-10-50-2(a), are to be provided, but any changes to the carrying amount continue to be based on the accounting guidance applied before ASC 480 was adopted (e.g., the SEC's redeemable equity guidance). If the mandatorily redeemable noncontrolling interest were issued on or after 5 November 2003, the measurement guidance in ASC 480 is applicable.

Question 13 **What is the classification and measurement guidance for a freestanding written put option or a forward purchased contract within the scope of ASC 480?**

A freestanding written put option or forward purchase contract is classified as a liability pursuant to ASC 480. While the settlement method (in cash or other assets or in a variable number of shares) does not impact the classification, it may impact the subsequent measurement of the instrument. The following table is from the FASB's implementation guidance in ASC 480. It has been slightly reformatted for presentation here.

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

480-10-55-63

The following table addresses classification of freestanding written put options and forward purchase contracts within the scope of this Subtopic.

		Initial and subsequent classification and measurement	
		Equity	Asset/Liability
One settlement method	Physical (a)		X (b)
	Net share		X (c)
	Net cash		X (c)
Entity choice	Net share or physical (a)		X (c)
	Net share or net cash		X (c)
	Net cash or physical (a)		X (c)
Counterparty choice	Net share or physical (a)		X (c)
	Net share or net cash		X (c)
	Net cash or physical (a)		X (c)

- (a) Physical settlement of the contract requires that the entity deliver cash to the holder in exchange for the shares.
- (b) Initial measurement of certain forward purchase contracts is at the present value of the redemption amount, adjusted for any consideration or unstated rights or privileges, with equity reduced by the fair value of the shares. Subsequent measurement of those forward purchase contracts is at the present value of the share redemption amount with the accretion and any amounts paid or to be paid to holders (including dividends) reflected as interest cost. Measurement of a written put option, or of a forward purchase contract that is not for a fixed number of shares in exchange for cash, is at fair value with subsequent changes in fair value recorded in earnings.
- (c) Initial and subsequent measurement is at fair value with subsequent changes in fair value recorded in earnings.

Note: In all cases above, the contracts must be reassessed at each reporting period in order to determine whether or not the contract must be reclassified.

This table is an updated version of a table initially provided in EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock." We believe the footnotes were carried over from that initial guidance without reconsideration. While instruments pursuant to ASC 815-40 are reassessed at each reporting date, such reassessment will have no effect on the classification of instruments pursuant to the scope of ASC 480.

Question 14

What are examples of instruments composed of more than one option or forward contract?

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Obligations to Repurchase an Issuer's Equity Shares that Require a Transfer of Assets

Combination of Written Put Option and Purchased Call Option Issued as a Freestanding Instrument

480-10-55-18

If a freestanding financial instrument consists solely of a written put option to repurchase the issuer's equity shares and another option, that freestanding financial instrument in its entirety is subjected to paragraphs 480-10-25-4 through 25-14 to determine if it meets the requirements to be classified as a liability.

480-10-55-19

For example, an entity may enter into a contract that requires it to purchase 100 shares of its own stock on a specified date for \$20 if the stock price falls below \$20 and entitles the entity to purchase 100 shares on that date for \$21 if the stock price is greater than \$21. That contract shall be analyzed as the combination of a written put option and a purchased call option and not as a forward contract. The written put option on 100 shares has a strike price of \$20, and the purchased call option on 100 shares has a strike price of \$21. If at issuance the fair value of the written put option exceeds the fair value of the purchased call option, the issuer receives cash and the contract is a net written option – a liability. If required to be physically settled, that contract is a liability under the provisions in paragraphs 480-10-25-8 through 25-12 because it embodies an obligation that may require repurchase of the issuer's equity shares and settlement by a transfer of assets. If the issuer must or

can net cash settle the contract, the contract is a liability under the provisions of those paragraphs because it embodies an obligation that is indexed to an obligation to repurchase the issuer's equity shares and may require settlement by a transfer of assets. If the issuer must or can net share settle the contract, that contract is a liability under the provisions in paragraph 480-10-25-14(c), because the monetary value of the obligation varies inversely in relation to changes in the fair value of the issuer's equity shares.

480-10-55-20

If, in this example, the fair value of the purchased call option at issuance exceeds the fair value of the written put option, the issuer pays out cash and the contract is a net purchased option, to be initially classified as an asset under either paragraphs 480-10-25-8 through 25-12 or 480-10-25-14(c). If the fair values of the two options are equal and opposite at issuance, the financial instrument has an initial fair value of zero, and is commonly called a zero-cost collar. Thereafter, if the fair value of the instrument changes, the instrument is classified as an asset or a liability and measured subsequently at fair value.

Financial Instruments Involving Multiple Components

480-10-55-29

The implementation guidance that follows addresses financial instruments involving multiple components that embody (or are indexed to) an obligation to repurchase the issuer's shares and that may require settlement by transferring assets. Some freestanding financial instruments composed of more than one option or forward contract embodying obligations require or may require settlement by transfer of assets. Paragraphs 480-10-15-3 through 15-4 state that the provisions of this Subtopic apply to freestanding financial instruments, including those that comprise more than one option or forward contract, and paragraphs 480-10-25-4 through 25-14 shall be applied to a freestanding financial instrument in its entirety. Under paragraphs 480-10-25-8 through 25-12, if a freestanding instrument is composed of a written call option and a written put option, the existence of the written call option does not affect the classification. Unlike the application of paragraph 480-10-25-14, applying paragraphs 480-10-25-8 through 25-12 does not involve making any judgments about predominance among obligations or contingencies.

480-10-55-30

Consider, for example, a puttable warrant that allows the holder to purchase a fixed number of the issuer's shares at a fixed price that also is puttable by the holder at a specified date for a fixed monetary amount that the holder could require the issuer to pay in cash. The warrant is not an outstanding share and therefore does not meet the exception for outstanding shares in paragraphs 480-10-25-8 through 25-12. As a result, the example puttable warrant is a liability under those paragraphs, because it embodies an obligation indexed to an obligation to repurchase the issuer's shares and may require a transfer of assets. It is a liability even if the repurchase feature is conditional on a defined contingency in addition to the level of the issuer's share price.

Puttable Warrant that May Require Cash Settlement

480-10-55-31

Entity A issues a puttable warrant to Holder. The warrant feature allows Holder to purchase 1 equity share at a strike price of \$10 on a specified date. The put feature allows Holder instead to put the warrant back to Entity A on that date for \$2, and to require settlement in cash. If the share price on the settlement date is greater than \$12, Holder would be expected to exercise the warrant, obligating Entity A to issue a fixed number of shares in exchange for a fixed amount of cash. That feature does not result in a liability under paragraphs 480-10-25-8 through 25-12. However, if the share price is equal to or less than \$12, Holder would be expected to put the warrant back to Entity A and could

choose to obligate Entity A to pay \$2 in cash. That feature does result in a liability, because the financial instrument embodies an obligation that is indexed to an obligation to repurchase the issuer's shares (as the share price decreases toward \$12, the fair value of the issuer's obligation to stand ready to pay \$2 begins to increase) and may require a transfer of assets. Therefore, paragraphs 480-10-25-8 through 25-12 require Entity A to classify the instrument as a liability.

Warrant for Shares that Are Puttable that May Require Cash Settlement

480-10-55-32

Entity B issues a warrant for shares that can be put back by Holder immediately after exercise of the warrant. The warrant feature allows Holder to purchase 1 equity share at a strike price of \$10 on a specified date. The put feature allows Holder to put the shares obtained by exercising the warrant back to Entity B on that date for \$12, and to require physical settlement in cash. If the share price on the settlement date is greater than \$12, Holder would be expected to exercise the warrant obligating Entity B to issue a fixed number of shares in exchange for a fixed amount of cash, and retain the shares. That feature alone does not result in a liability under paragraphs 480-10-25-8 through 25-12. However, if the share price is equal to or less than \$12, Holder would be expected to put the shares back to Entity B and could choose to obligate Entity B to pay \$12 in cash. That feature does result in a liability, because the financial instrument embodies an obligation to repurchase the issuer's shares and may require a transfer of assets. Therefore, those paragraphs require Entity B to classify the warrant as a liability. A warrant to issue shares that will be mandatorily redeemable is also classified as a liability, and should be analyzed under Topic 815.

Certain Financial Instruments Involving Multiple Components that May Be Settled in a Variable Number of Shares

480-10-55-42

A financial instrument composed of more than one option or forward contract embodying obligations to issue shares must be analyzed to determine whether the obligations under any of its components have one of the characteristics in paragraph 480-10-25-14, and if so, whether those obligations are predominant relative to other obligations. For example, a puttable warrant that allows the holder to purchase a fixed number of the issuer's shares at a fixed price that also is puttable by the holder at a specified date for a fixed monetary amount to be paid, at the issuer's discretion, in cash or in a variable number of shares.

480-10-55-43

The analysis can be summarized in two steps:

- a. Identify any component obligations that, if freestanding, would be liabilities under paragraph 480-10-25-14. Also identify the other component obligation(s) of the financial instrument.
- b. Assess whether the monetary value of any obligations embodied in components that, if freestanding, would be liabilities under paragraph 480-10-25-14 is (collectively) predominant over the (collective) monetary value of other component obligation(s). If so, account for the entire instrument under that paragraph. If not, the financial instrument is not in the scope of this Subtopic and other guidance applies.

480-10-55-44

In an instrument that allows the holder either to purchase a fixed number of the issuer's shares at a fixed price or to compel the issuer to reacquire the instrument at a fixed date for shares equal to a fixed monetary amount known at inception, the holder's choice will depend on the issuer's share price at the settlement date. The issuer must analyze the instrument at inception and consider all possible

outcomes to judge which obligation is predominant. To do so, the issuer considers all pertinent information as applicable, which may include its current stock price and volatility, the strike price of the instrument, and any other factors. If the issuer judges the obligation to issue a variable number of shares based on a fixed monetary amount known at inception to be predominant, the instrument is a liability under paragraph 480-10-25-14. Otherwise, the instrument is not a liability under this Subtopic but is subject to other applicable guidance such as Subtopic 815-40.

Warrant with Share-Settleable Puts

480-10-55-45

Entity C issues a puttable warrant to Holder. The warrant feature allows Holder to purchase 1 equity share at a strike price of \$10 on a specified date. The put feature allows Holder instead to put the warrant back to Entity C on that date for \$2, settleable in fractional shares. If the share price on the settlement date is greater than \$12, Holder would be expected to exercise the warrant, obligating Entity C to issue a fixed number of shares in exchange for a fixed amount of cash; the monetary value of the shares varies directly with changes in the share price above \$12. If the share price is equal to or less than \$12, Holder would be expected to put the warrant back to Entity C obligating the entity to issue a variable number of shares with a fixed monetary value, known at inception, of \$2. Thus, at inception, the number of shares that the puttable warrant obligates Entity C to issue can vary, and the financial instrument must be examined under paragraph 480-10-25-14.

480-10-55-46

The facts and circumstances should be considered in judging whether the monetary value of the obligation to issue a number of shares that varies is predominantly based on a fixed monetary amount known at inception; if so, it is a liability under paragraph 480-10-25-14(a). For example, if the following circumstances existed, they would suggest that the monetary value of the obligation to issue shares would be judged to be based predominantly on a fixed monetary amount known at inception (\$2 worth of shares), and the instrument would be classified as a liability:

- a. Entity C's share price is well below the \$10 exercise price of the warrant at inception of the instrument.
- b. The warrant has a short life.
- c. Entity C's stock is determined to have very low volatility.

480-10-55-47

Entity E issues a warrant to Holder allowing Holder to purchase 1 equity share at a strike price of \$10. The warrant has an embedded liquidity make-whole put that entitles Holder to receive from Entity E the net amount of any difference between the share price on the date the warrants are exercised and the sales price the holder receives when the shares are later sold. The make-whole provision is not legally detachable. Entity E can settle by issuing a variable number of shares. For example, if on the date Holder exercises the warrant, the share price is \$15 and the share price subsequently decreases to \$12 at the date Holder sells the shares, Holder would receive \$3 worth of equity shares from Entity E.

480-10-55-48

The financial instrument embodies an obligation to deliver a number of shares that varies-either a fixed number of shares under exercise of the warrant or additional shares if the share price declines after the warrant is exercised. However, unless it is judged that the possibility of having to issue a variable number of shares with a monetary value that is inversely related to the share price is predominant, the financial instrument is not in the scope of paragraph 480-10-25-14(c) and would be evaluated under Subtopic 815-40.

480-10-55-49

If exercisability of a feature into a fixed or variable number of shares is contingent on both the occurrence or nonoccurrence of a specified event and the issuer's share price, a financial instrument settleable in a number of shares that can vary should be analyzed following the same method as for the examples in paragraphs 480-10-55-45 and 480-10-55-50 to consider all possibilities. In some cases, it may be determined that the instrument may not be within the scope of paragraph 480-10-25-14 and thus not a liability under this Subtopic. That determination depends on whether the obligation to deliver a variable number of shares, with a monetary value based on either a fixed monetary amount known at inception or an inverse relationship with the share price, is predominant at inception.

Variable Share Forward Sales Contract**480-10-55-50**

Entity D enters into a contract to issue shares of Entity D's stock to Counterparty in exchange for \$50 on a specified date. If Entity D's share price is equal to or less than \$50 on the settlement date, Entity D will issue 1 share to Counterparty. If the share price is greater than \$50 but equal to or less than \$60, Entity D will issue \$50 worth of fractional shares to Counterparty. Finally, if the share price is greater than \$60, Entity D will issue .833 shares. At inception, the share price is \$49. Entity D has an obligation to issue a number of shares that can vary; therefore, paragraph 480-10-25-14 may apply. However, unless it is determined that the monetary value of the obligation to issue a variable number of shares is predominantly based on a fixed monetary amount known at inception (as it is in the \$50 to \$60 share price range), the financial instrument is not in the scope of this Subtopic.

480-10-55-51

Some financial instruments that are composed of more than one option or forward contract embody an obligation to issue a fixed number of shares and, once those shares are issued, potentially to issue a variable number of additional shares. The issuer must analyze that kind of financial instrument, at inception, to assess whether the possibility of issuing a variable number of shares in which the monetary value of that obligation meets one of the conditions in paragraph 480-10-25-14 is predominant.

Contingently Puttable Warrant**480-10-55-52**

Entity F has a share-settleable puttable warrant that provides that the put feature is exercisable only if Entity F fails to accomplish an operational plan (for example, failure to complete a building within two years). If at inception the possibility that both the building will not be completed in two years and the put will be exercised is judged to be predominant, the put warrant would be recognized as a liability under paragraph 480-10-25-14(a).

Glossary**480-10-20*****Variable-Rate Forward Contracts***

Variable-rate forward contracts are commonly used to effect equity forward transactions. The contract price on those forward contracts is not fixed at inception but varies based on changes in a specified index (for example, three-month U.S. London Interbank Offered Rate [LIBOR]) during the life of the contract.

Question 15

How would share-settled obligations not within the scope of ASC 480 be measured?

ASC 480 does not apply to instruments (1) that do not represent obligations or (2) for which the monetary value of the obligation changes in the same direction as the issuer's shares. For example, because purchased options indexed to, and potentially settled in, the issuer's own shares are not obligations (i.e., purchased options give the issuer the right, not the obligation, to sell or purchase shares), they are not within the scope of ASC 480. This conclusion applies even for purchased call options (i.e., the issuer has the right to purchase its own shares for a specified price), despite the fact that the monetary value to the counterparty changes in the opposite direction of the issuer's stock.

Further, even though written call options and forward sale contracts indexed to the issuer's nonredeemable shares represent obligations to issue shares (under physical or net share settlement), or a potential obligation to transfer cash (under net cash settlement), because the monetary value to the counterparty changes in the same direction as the issuer's shares, they are generally not subject to ASC 480 (provided that the monetary value of the obligation also is not predominantly fixed at inception). However, the same instruments indexed to the issuer's redeemable shares would be liabilities under ASC 480.

Financial instruments indexed to, and potentially settled in, the issuer's equity shares that are not within the scope of ASC 480, are subject to the guidance in ASC 815-40 for contracts in an entity's own equity. As previously discussed, if under all circumstances (other than liquidation) the issuer can settle the financial instruments by issuing its shares, ASC 815-40 generally permits those financial instruments to be classified as equity. However, the requirements of ASC 815-40 are complex and should be consulted to determine whether equity classification is appropriate for a particular instrument and issuer. Refer to Appendix B for further discussion of the application of the ASC 815-40.

Question 16

What are examples of physically settled forward contracts to purchase shares?

Excerpt from Accounting Standards Codification**Distinguishing Liabilities from Equity – Overall***Implementation Guidance**Physically Settled Forward Purchase Contract***480-10-55-14**

For example, an entity may enter into a forward contract to repurchase 1 million shares of its common stock from another party 2 years later. At inception, the forward contract price per share is \$30, and the current price of the underlying shares is \$25. The contract's terms require that the entity pay cash to repurchase the shares (the entity is obligated to transfer \$30 million in 2 years). Because the instrument embodies an unconditional obligation to transfer assets, it is a liability under paragraphs 480-10-25-8 through 25-12. The entity would recognize a liability and reduce equity by \$25 million (which is the present value, at the 9.54 percent rate implicit in the contract, of the \$30 million contract amount, and also, in this example, the fair value of the underlying shares at inception). Interest would be accrued over the 2-year period to the forward contract amount of \$30 million, using the 9.54 percent rate implicit in the contract. If the underlying shares are expected to pay dividends before the repurchase date and that fact is reflected in the rate implicit in the contract, the present value of the liability and subsequent accrual to the contract amount would reflect that implicit rate. Amounts accrued are recognized as interest cost.

480-10-55-15

In this example, no consideration or other rights or privileges changed hands at inception. If the same contract price of \$30 per share had been agreed to even though the current price of the issuer's shares was \$30, because the issuer had simultaneously sold the counterparty a product at a \$5 million discount, that right or privilege unstated in the forward purchase contract would be taken into

consideration in arriving at the appropriate implied discount rate—9.54 percent rather than 0 percent—for that contract. That entity would recognize a liability for \$25 million, reduce equity by \$30 million, and increase its revenue for the sale of the product by \$5 million. Alternatively, if the same contract price of \$30 per share had been agreed to even though the current price of the issuer's shares was only \$20, because the issuer received a \$5 million payment at inception of the contract, the issuer would recognize a liability for \$25 million and reduce equity by \$20 million. In both examples, interest would be accrued over the 2-year period using the 9.54 percent implicit rate, increasing the liability to the \$30 million contract price.

480-10-55-16

If a variable-rate forward contract requires physical settlement, a different measurement method is required subsequently, as set forth in paragraph 480-10-35-3.

480-10-55-17

In contrast to forward purchase contracts that require physical settlement in exchange for cash, forward purchase contracts that require or permit net cash settlement, require or permit net share settlement, or require physical settlement in exchange for specified quantities of assets other than cash are measured initially and subsequently at fair value, as provided in paragraphs 480-10-30-2, 480-10-30-7, 480-10-35-1, and 480-10-35-5 (as applicable), and classified as assets or liabilities depending on the fair value of the contracts on the reporting date.

Question 17

What is the monetary value of a contract?

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Monetary Value

480-10-55-2

Paragraph 480-10-05-5 explains that how the monetary value of a financial instrument varies in response to changes in market conditions depends on the nature of the arrangement, including, in part, the form of settlement. For example, for a financial instrument that embodies an obligation that requires:

- a. Settlement either by transfer of \$100,000 in cash or by issuance of \$100,000 worth of equity shares, the monetary value is fixed at \$100,000, even if the share price changes.
- b. Physical settlement by transfer of \$100,000 in cash in exchange for the issuer's equity shares, the monetary value is fixed at \$100,000, even if the fair value of the equity shares changes.
- c. Net share settlement by issuance of a variable number of shares based on the change in the fair value of a fixed number of the issuer's equity shares, the monetary value varies based on the number of shares required to be issued to satisfy the obligation. For example, if the exercise price of a net-share-settled written put option entitling the holder to put back 10,000 of the issuer's equity shares is \$11, and the fair value of the issuing entity's equity shares on the exercise date decreases from \$13 to \$10, that change in fair value of the issuer's shares increases the monetary value of that obligation at settlement from \$0 to \$10,000 (\$110,000 minus \$100,000), and the option would be settled by issuance of 1,000 shares (\$10,000 divided by \$10).
- d. Net cash settlement based on the change in the fair value of a fixed number of the issuer's equity shares, the monetary value varies in the same manner as in (c) for net share settlement, but the obligation is settled with cash. In a net-cash-settled variation of the previous example, the option would be settled by delivery of \$10,000.

- e. Settlement by issuance of a variable number of shares that is based on variations in something other than the issuer's equity shares, the monetary value varies based on changes in the price of another variable. For example, a net-share-settled obligation to deliver the number of shares equal in value at settlement to the change in fair value of 100 ounces of gold has a monetary value that varies based on the price of gold and not on the price of the issuer's equity shares.

Question 18

What are examples of monetary values that do not change and are settled in a variable number of shares that the issuer must or may settle by issuing a variable number of shares?

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Certain Obligations to Issue a Variable Number of Shares

Obligation to Issue Shares with Monetary Value Based on a Fixed Monetary Amount Known at Inception

480-10-55-22

Certain financial instruments embody obligations that require (or permit at the issuer's discretion) settlement by issuance of a variable number of the issuer's equity shares that have a value equal to a fixed monetary amount. For example, an entity may receive \$100,000 in exchange for a promise to issue a sufficient number of its own shares to be worth \$110,000 at a future date. The number of shares required to be issued to settle that unconditional obligation is variable, because that number will be determined by the fair value of the issuer's equity shares on the date of settlement. Regardless of the fair value of the shares on the date of settlement, the holder will receive a fixed monetary value of \$110,000. Therefore, the instrument is classified as a liability under paragraph 480-10-25-14(a). Some share-settled obligations of this kind require that the variable number of shares to be issued be based on an average market price for the shares over a stated period of time, such as the average over the last 30 days before settlement, instead of the fair value of the issuer's equity shares on the date of settlement. Thus, if the average market price differs from the share price on the date of settlement, the monetary value of the obligation is not entirely fixed at inception and is based, in small part, on variations in the fair value of the issuer's equity shares. Although the monetary amount of the obligation at settlement may differ from the initial monetary value because it is tied to the change in fair value of the issuer's equity shares over the last 30 days before settlement, the monetary value of the obligation is predominantly based on a fixed monetary amount known at inception. The obligation is classified as a liability under paragraph 480-10-25-14(a). Upon issuance of the shares to settle the obligation, equity is increased by the amount of the liability and no gain or loss is recognized for the difference between the average and the ending market price.

Unconditional Obligation that Must Be Either Redeemed for Cash or Settled by Issuing Shares

480-10-55-27

Some instruments do not require the issuer to transfer assets to settle the obligation but, instead, unconditionally require the issuer to settle the obligation either by transferring assets or by issuing a variable number of its equity shares. Because those instruments do not require the issuer to settle by transfer of assets, those instruments are not within the scope of paragraphs 480-10-25-4 through 25-6. However, those instruments may be classified as liabilities under paragraph 480-10-25-14.

480-10-55-28

For example, an entity may issue 1 million shares of cumulative preferred stock for cash equal to the stock's liquidation preference of \$25 per share. The entity is required either to redeem the shares on the fifth anniversary of issuance for the issuance price plus any accrued but unpaid dividends in cash

or to settle by issuing sufficient shares of its common stock to be worth \$25 per share. Preferred stockholders are entitled to a mandatory dividend, payable quarterly at a rate of 6 percent per annum based on the \$25 per share liquidation preference (\$1.50 per share annually). The dividend is cumulative and is payable in cash or in a sufficient number of additional shares of the preferred stock based on the liquidation preference of \$25 per share. That obligation does not represent an unconditional obligation to transfer assets and, therefore, is not a mandatorily redeemable financial instrument subject to paragraph 480-10-25-4. But it is still a liability, under paragraph 480-10-25-14(a), because the preferred shares embody an unconditional obligation that the issuer may settle by issuing a variable number of its equity shares with a monetary value that is fixed and known at inception. Because the preferred shares are liabilities, payments to holders are reported as interest cost, and accrued but not-yet-paid payments are part of the liability for the shares.

Question 19

What are examples of what it means to vary with something other than changes in the fair value of the issuer's equity shares?

Excerpt from Accounting Standards Codification

Distinguishing Liabilities from Equity – Overall

Implementation Guidance

Certain Obligations to Issue a Variable Number of Shares

Obligation to Issue Shares with Monetary Value Based on Something Other than Changes in the Fair Value of the Issuer's Equity

480-10-55-23

An entity's guarantee of the value of an asset, liability, or equity security of another entity may require or permit settlement in the entity's equity shares. For example, an entity may guarantee that the value of a counterparty's equity investment in another entity will not fall below a specified level. The guarantee contract requires that the guarantor stand ready to issue a variable number of its shares whose fair value equals the deficiency, if any, on a specified date between the guaranteed value of the investment and its current fair value. Upon issuance, unless the guarantee is accounted for as a derivative instrument, the obligation to stand ready to perform is a liability addressed by Topic 460. If, during the period the contract is outstanding, the fair value of the guaranteed investment falls below the specified level, absent an increase in value, the guarantor will be required to issue its equity shares. At that point in time, the liability recognized in accordance with that Topic would be subject to the requirements of Topic 450. This Subtopic establishes that, even though the loss contingency is settleable in equity shares, the obligation under that Topic is a liability under paragraph 480-10-25-14(b) until the guarantor settles the obligation by issuing its shares. That is because the guarantor's conditional obligation to issue shares is based on the value of the counterparty's equity investment in another entity and not on changes in the fair value of the guarantor's equity instruments.

480-10-55-24

If this example were altered so that the monetary value of the obligation is based on the deficiency on a specified date between the guaranteed value of the investment in another entity and its current fair value plus .005 times the change in value of 100 of the guarantor's equity shares, the monetary value of the obligation would not be solely based on variations in something other than the fair value of the issuer's (guarantor's) equity shares.

480-10-55-25

However, the monetary value of the obligation would be predominantly based on variations in something other than the fair value of the issuer's (guarantor's) equity shares and, therefore, the obligation would be classified as a liability under paragraph 480-10-25-14(b). That obligation differs in degree from the obligation under a contract that is indexed in part to the issuer's shares and in part (but not predominantly) to something other than the issuer's shares (commonly called a dual-indexed obligation). The latter contract is not within the scope of this Subtopic. That paragraph applies only if the monetary value of an obligation to issue equity shares is based solely or predominantly on variations in something other than the fair value of the issuer's equity shares. For example, an instrument meeting the definition of a derivative instrument that requires delivery of a variable number of the issuer's equity shares with a monetary value equaling changes in the price of a fixed number of the issuer's shares multiplied by the Euro/U.S. dollar exchange rate embodies an obligation with a monetary value that is based on variations in both the issuer's share price and the foreign exchange rate and, therefore, is not within the scope of this Subtopic. (However, that instrument would be a derivative instrument under Topic 815. Paragraphs 815-10-15-74[a] and 815-10-15-75[b] address derivative instruments that are dual indexed and require an issuer to report those instruments as derivative instrument liabilities or assets.)

Question 20

What are examples of what it means to have a monetary value move in the opposite direction as the value of the issuer's equity shares?

Excerpt from Accounting Standards Codification**Distinguishing Liabilities from Equity – Overall****Implementation Guidance*****Certain Obligations to Issue a Variable Number of Shares******Obligation to Issue Shares with Monetary Value Based on Variations Inversely Related to Changes in the Fair Value of the Issuer's Equity Shares*****480-10-55-26**

A freestanding forward purchase contract, a freestanding written put option, or a net written option (otherwise similar to the example in paragraphs 480-10-55-18 through 55-19) that must or may be net share settled is a liability under paragraph 480-10-25-14(c), because the monetary value of the obligation to deliver a variable number of shares embodied in the contract varies inversely in relation to changes in the fair value of the issuer's equity shares; when the issuer's share price decreases, the issuer's obligation under those contracts increases. Such a contract is measured initially and subsequently at fair value (with changes in fair value recognized in earnings) and classified as a liability or an asset, depending on the fair value of the contract on the reporting date. A net written or net purchased option or a zero-cost collar similar to the examples in paragraphs 480-10-55-18 through 55-20 that must or may be net share settled is classified as a liability (or asset) under paragraph 480-10-25-14(c), because the monetary value of the issuer's obligation to deliver a variable number of shares under the written put option varies inversely in relation to changes in the fair value of the issuer's share price. The purchased call option element of that freestanding instrument does not embody an obligation to deliver a variable number of shares and does not affect the classification of the entire instrument when applying that paragraph. In addition, a freestanding purchased call option is not within the scope of this Subtopic because it does not embody an obligation.

A.10

Summary of application of ASC 480 to specific instruments

The following table summarizes the accounting requirements for instruments indexed to, and potentially settled in, common shares (that are not redeemable). While a useful reminder, it should not be relied upon exclusively in determining the appropriate accounting for an instrument. Unless otherwise indicated, the example instruments are assumed to have a fixed strike price and are not considered to be dual-indexed.

Instrument	Guidance	Classification	Measurement and recognition
Mandatorily redeemable shares			
Fixed redemption dates and amounts	ASC 480	Liability	Initial recognition at fair value; accrete to redemption amount
Settlement date or amount not fixed	ASC 480	Liability	Initial recognition at fair value; subsequently carried at current settlement amount
Contingently or optionally redeemable shares	SEC redeemable equity guidance	Equity (temporary equity for public companies)	Refer to ASC 480-10-S99-3A
Physically settled forward purchase contract			
Fixed settlement date and amount	ASC 480	Liability	Initial recognition at the fair value of the underlying shares; accrete to redemption amount
Settlement date or amount not fixed	ASC 480	Liability	Initial recognition at the fair value of the underlying shares; subsequently carried at current settlement amount
Other contracts			
Other forward purchase contracts (that provide for net cash or net share settlement)	ASC 480	Asset/liability	Initially recognized and subsequently carried at fair value
Forward sale contract	ASC 815 and ASC 815-40	Equity or asset/liability	Initially recognized at fair value; assets/liabilities are subsequently carried at fair value
Purchased collar (purchased put and written call)	ASC 815 and ASC 815-40	Equity or asset/liability	Initially recognized at fair value; assets and liabilities subsequently carried at fair value
Written collar (purchased call and written put)	ASC 480	Asset/liability	Initially recognized at fair value; assets and liabilities subsequently carried at fair value
Preferred shares that are mandatorily convertible into common shares with a fixed monetary value	ASC 480	Liability	Initially recognized and subsequently carried at fair value
Purchased call option	ASC 815 and ASC 815-40	Equity or asset	Initially recognized at fair value; assets are subsequently carried at fair value
Purchased put option	ASC 815 and ASC 815-40	Equity or asset	Initially recognized at fair value; assets are subsequently carried at fair value
Written call option	ASC 815 and ASC 815-40	Equity or liability	Initially recognized at fair value; liabilities are subsequently carried at fair value
Written put option	ASC 480	Liability	Initially recognized and subsequently carried at fair value

B Contracts in an entity's own equity

B.1 Summary and overview

This appendix broadly discusses the application of ASC 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity*. This guidance was primarily codified from former EITF 07-5, "Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock," and EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock."

Companies issue freestanding contracts or embedded features that are indexed to, and can be fully or partially settled in, their own stock. Examples of such freestanding instruments include written call options (warrants), purchased call options, purchased put options and forward sale contracts. Examples of such embedded instruments are conversion features (embedded written call options) and mandatory share settlement features (embedded forward sale contracts).

Those instruments are referred to as "equity contracts" or "equity-linked" instruments or features in this publication. An equity contract is a freestanding financial instrument (other than an outstanding equity share) whose underlying is based on an issuer's own equity securities (e.g., common stock, preferred shares) such that its value fluctuates with changes in the underlying equity price and related factors (e.g., volatility of the share). Certain equity contracts meet the definition of a derivative pursuant to ASC 815, *Derivatives and Hedging*, and are referred to as equity derivatives in this publication.

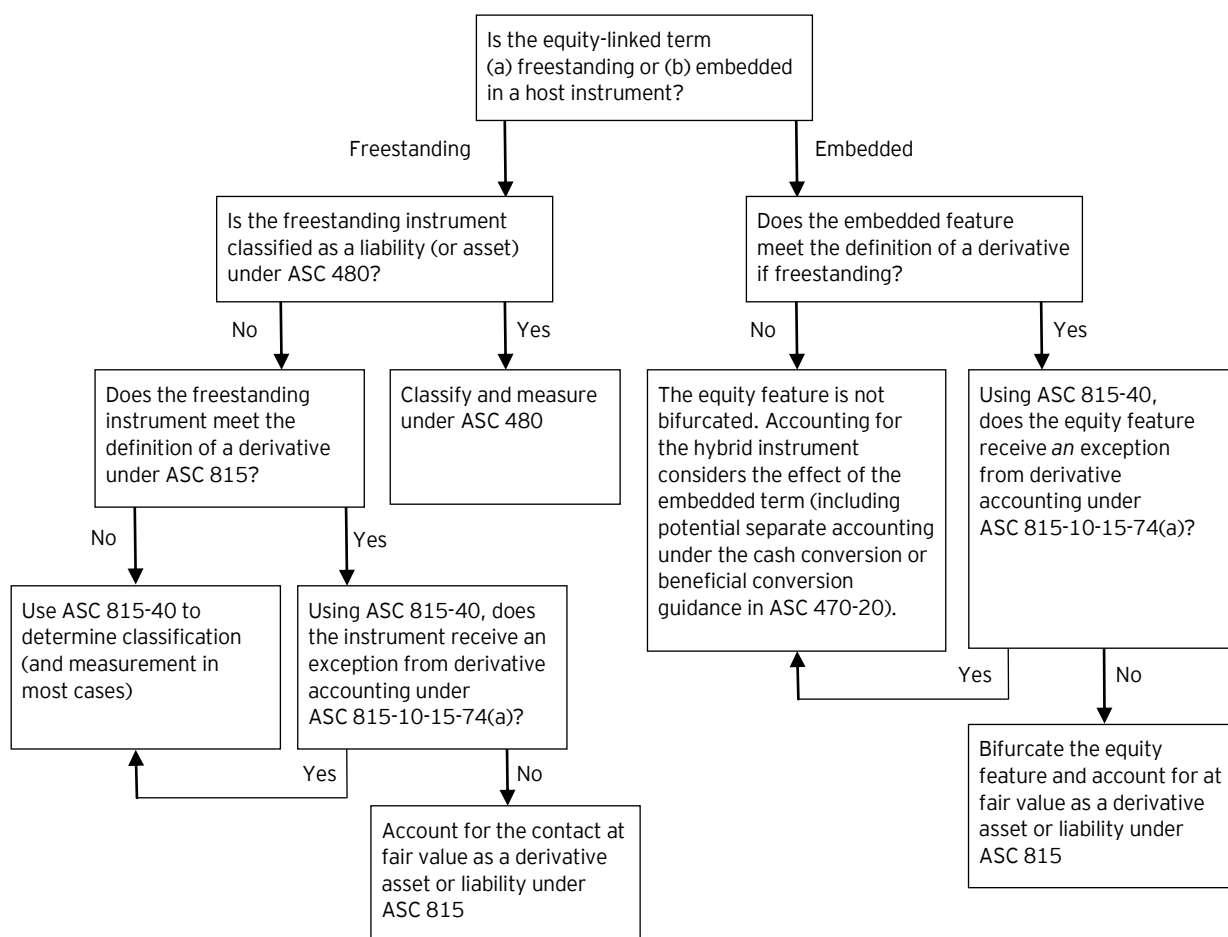
ASC 815-40 provides guidance to determine whether (1) a freestanding instrument should be accounted for as equity or as an asset/liability contract and (2) an embedded equity-linked feature that meets the definition of a derivative requires an exception from derivative accounting (bifurcation) under ASC 815. Equity contracts and bifurcated embedded features classified as assets or liabilities pursuant to ASC 815 are generally recorded at fair value with changes in fair value included in earnings. The accounting for the host instrument in a hybrid instrument should follow other classification and measurement guidance in this publication.

B.1.1 Overall process for considering ASC 815-40

ASC 815-40 is applied in two key areas in accounting for freestanding equity contracts and embedded equity-linked features:

- ▶ For a freestanding equity contract that is neither (1) accounted for pursuant to ASC 480, *Distinguishing Liabilities from Equity*, nor (2) a derivative pursuant to the characteristics-based definition in ASC 815, ASC 815-40 addresses whether the instrument should be classified in equity, and, if not, its measurement.
- ▶ For a freestanding equity contract (or embedded term) that meets the definition of a derivative (and, if embedded, would require bifurcation), ASC 815-40 is evaluated to determine whether the equity contract (or embedded equity-linked feature) receives an exception from derivative accounting (or bifurcation) pursuant to ASC 815-10-15-74(a) because the instrument (or feature) is both (1) indexed to the issuer's own stock and (2) classified in stockholders' equity in its statement of financial position.

The following flowchart summarizes the accounting evaluation of equity-linked instruments and features for classification and measurement:



B.1.2

Overview of ASC 815-40

To qualify for equity classification (or nonbifurcation, if embedded), the instrument (or embedded feature) must be both (1) indexed to the issuer's stock and (2) meet the requirements of the equity classification guidance.

Determining whether the instrument (or embedded feature) is indexed to the entity's own equity requires two steps:

- ▶ Step 1 – Evaluate any exercise contingencies – Exercise contingencies based on an observable market or index that is not based on the issuer's stock or operations preclude an instrument from being considered indexed to an entity's own stock.
- ▶ Step 2 – Evaluating whether each settlement provision is consistent with a fixed-for-fixed equity instrument – Any settlement amount not equal to the difference between the fair value of a fixed number of the entity's equity shares and a fixed monetary amount precludes an instrument from being considered indexed to an entity's own stock (with a certain exception for variables that would be inputs to the valuation model for a fixed-for-fixed forward or option contract).

Those two steps, which are outlined in ASC 815-40-15-5 through 15-8 with implementation guidance in ASC 815-40-55-26 through 55-48, are generally referred to in this publication as the "indexation guidance."

An instrument (or embedded feature) that is indexed to the entity's own equity should also be evaluated to determine whether the form of contractual settlement supports a conclusion of equity classification. If an issuer is able, in all circumstances, to settle the contract in net shares or by physical settlement (i.e., the gross exchange of the contractual shares for the contractual consideration), the contract qualifies for equity classification. If a contract must be net cash settled, or such settlement is (1) a contractual alternative that is not within the control of the issuer or (2) presumed under the guidance, the contract is precluded from being classified in equity. In determining whether an entity controls settlement in shares, the contractual provisions as well as the entity's current capital structure and any legal barriers to share settlement should be considered.

The evaluation of settlement methods is outlined in ASC 815-40-25-1 through 25-43, and related implementation guidance in ASC 815-40-55-2 through 55-18, and is referred to in this publication as the "equity classification guidance."

B.2

Scope of ASC 815-40

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Overview and Background

815-40-05-1

For a number of business reasons, an entity may enter into contracts that are indexed to, and sometimes settled in, its own stock. This Subtopic provides guidance on accounting for such contracts. Examples of these contracts include put and call options (both written and purchased) and forward contracts (for both sales and purchases). These contracts may be settled using a variety of settlement methods, or the issuing entity or counterparty may have a choice of settlement methods. The contracts may be either freestanding or embedded in another financial instrument.

Derivatives and Hedging – Contracts in Entity's Own Equity

Scope and Scope Exceptions

815-40-15-1

The guidance in this Subtopic applies to all entities.

815-40-15-2

The guidance in this Subtopic applies to freestanding contracts that are indexed to, and potentially settled in, an entity's own stock. Paragraph 815-40-55-1 provides related implementation guidance.

815-40-15-3

The guidance in this Subtopic does not apply to any of the following:

- a. Either the derivative instrument component or the financial instrument if the derivative instrument component is embedded in and not detachable from the financial instrument
- b. Contracts that are issued to compensate employees
- c. Contracts that are issued to acquire goods or services from nonemployees when performance has not yet occurred
- d. A written put option and a purchased call option embedded in the shares of a noncontrolling interest of a consolidated subsidiary if the arrangement is accounted for as a financing under the guidance beginning in paragraph 480-10-55-53
- e. Financial instruments that are within the scope of Topic 480 (see paragraph 815-40-15-12).

815-40-15-4

Item (a) in the preceding paragraph does not negate the applicability of this Subtopic (as further discussed in paragraphs 815-40-25-39 through 25-40) in analyzing the embedded feature under paragraphs 815-15-25-1(c) and 815-15-25-14 as though it were a freestanding instrument.

815-40-15-5

The guidance in this paragraph through paragraph 815-40-15-8 applies to any freestanding financial instrument or embedded feature that has all the characteristics of a derivative instrument (see the guidance beginning in paragraph 815-10-15-83). That guidance applies for the purpose of determining whether that instrument or embedded feature qualifies for the first part of the scope exception in paragraph 815-10-15-74(a). That guidance does not address the second part of the scope exception in paragraph 815-10-15-74(a). The guidance also applies to any freestanding financial instrument that is potentially settled in an entity's own stock, regardless of whether the instrument has all the characteristics of a derivative instrument for purposes of determining whether the instrument is within the scope of this Subtopic.

815-40-15-5A

The guidance in this paragraph through paragraph 815-40-15-8 does not apply to share-based payment awards within the scope of Topic 718 for purposes of determining whether instruments are classified as liability awards or equity awards under that Topic. Equity-linked financial instruments issued to investors for purposes of establishing a market-based measure of the grant-date fair value of employee stock options are not within the scope of Topic 718 themselves. Consequently, the guidance in this paragraph through paragraph 815-40-15-8 applies to such market-based employee stock option valuation instruments for purposes of making the determinations described in the preceding paragraph.

815-40-15-5B

The guidance in paragraphs 815-40-15-5 through 15-8 shall be applied to the appropriate unit of accounting, as determined under other applicable U.S. generally accepted accounting principles. For example, if an entity issues two freestanding financial instruments and concludes that those two instruments are required to be accounted for separately, then the guidance in paragraphs 815-40-15-5 through 15-8 shall be applied separately to each instrument. In contrast, if an entity issues two freestanding financial instruments and concludes that those two instruments are required to be linked and accounted for on a combined basis as a single financial instrument (for example, pursuant to the guidance in paragraph 815-10-15-8), then the guidance in paragraphs 815-40-15-5 through 15-8 shall be applied to the combined financial instrument.

815-40-15-6

The guidance in this paragraph applies to both the issuer and the holder of the instrument. Outstanding instruments within the scope of the guidance in paragraphs 815-40-15-5 through 15-8 shall always be considered issued for accounting purposes, except as discussed in the next sentence. Lock-up options shall not be considered issued for accounting purposes unless and until the options become exercisable.

Derivatives and Hedging – Contracts in Entity's Own Equity***Recognition*****815-40-25-39**

For purposes of evaluating under paragraph 815-15-25-1 whether an embedded derivative indexed to an entity's own stock would be classified in stockholders' equity if freestanding, the requirements of paragraphs 815-40-25-7 through 25-35 and 815-40-55-2 through 55-6 do not apply if the hybrid contract is a conventional convertible debt instrument in which the holder may only realize the value of the conversion option by exercising the option and receiving the entire proceeds in a fixed number of shares or the equivalent amount of cash (at the discretion of the issuer).

815-40-25-40

However, the requirements of paragraphs 815-40-25-7 through 25-35 and 815-40-55-2 through 55-6 do apply if an issuer is evaluating whether any other embedded derivative is an equity instrument and thereby excluded from the scope of Subtopic 815-10.

815-40-25-41

Instruments that provide the holder with an option to convert into a fixed number of shares (or equivalent amount of cash at the discretion of the issuer) for which the ability to exercise the option is based on the passage of time or a contingent event shall be considered conventional for purposes of applying this Subtopic. Standard antidilution provisions contained in an instrument do not preclude a conclusion that the instrument is convertible into a fixed number of shares.

815-40-25-42

Convertible preferred stock with a mandatory redemption date may qualify for the exception included in paragraph 815-40-25-39 if the economic characteristics indicate that the instrument is more akin to debt than equity. An entity shall consider the guidance in paragraph 815-15-25-17 in assessing whether the instrument is more akin to debt or equity. That paragraph explains that, if the preferred stock is more akin to equity than debt, an equity conversion feature would be clearly and closely related to that host instrument.

Derivatives and Hedging – Contracts in Entity's Own Equity***Implementation Guidance and Illustrations*****815-40-55-1**

Both of the following are within the scope of this Subtopic based on the criteria in paragraph 815-40-15-2:

- a. Security price guarantees or other financial instruments indexed to, or otherwise based on, the price of the entity's stock that are issued in connection with a purchase business combination and that are accounted for as contingent consideration
- b. Contracts issued to acquire goods or services from nonemployees when performance has occurred.

Instruments in the scope of ASC 480 are outside the scope of ASC 815-40. Therefore, written put options and forward agreements to repurchase the issuer's shares will generally be outside the scope of ASC 815-40 as they are classified as liabilities (or assets in certain circumstances) pursuant to ASC 480. Other equity contracts (e.g. written call options) may also be within the scope of ASC 480 if the underlying share is redeemable. Refer to Appendix A for guidance on instruments in the scope of ASC 480.

ASC 815-10-15-74(a) provides an exception to derivative accounting for "contracts issued or held by that reporting entity that are both (1) indexed to its own stock and (2) classified in stockholders' equity in its statement of financial position." For purposes of determining whether the scope exception in ASC 815-10-15-74(a) is met, the guidance in ASC 815-40 should be applied. Further, pursuant to ASC 815-10-15-76, temporary equity is considered stockholders' equity for purposes of applying ASC 815-10-15-74(a) even though the instrument may be required by the SEC to be displayed outside of permanent equity pursuant to ASC 480-10-S99.

Instruments that meet the definition of a derivative but do not qualify for a scope exception must be classified as assets or liabilities and measured at fair value in accordance with ASC 815. The provisions of ASC 815-40 should be applied to determine the classification (i.e., as equity or as an asset or liability) for freestanding investments not classified as an asset or liability pursuant to ASC 480 or ASC 815.

In addition, the following are specifically included within the scope of ASC 815-40:

- ▶ Security price guarantees or other financial instruments indexed to, or otherwise based on, the price of the issuer's own stock that are issued in connection with a business combination and that are accounted for as contingent consideration (pursuant to ASC 805-30-25-6)
- ▶ Certain contracts issued to acquire goods or services from nonemployees where performance has occurred, as discussed below

ASC 815-40 explicitly excludes any of the following:

- ▶ A written put option and a purchased call option embedded in the shares of a noncontrolling interest of a consolidated subsidiary if the arrangement is accounted for as a financing pursuant to ASC 480-10-55-53
- ▶ Share-based payments within the scope of ASC 718, *Compensation – Stock Compensation*
- ▶ Certain contracts issued to acquire goods or services from nonemployees where performance has not occurred (discussed further below)
- ▶ Financial instruments within the scope of ASC 480

Certain share-based contracts issued to acquire goods or services from nonemployees are within the scope of the share-based compensation guidance of ASC 718, as long as performance has not yet occurred. However, once performance has occurred, ASC 815-40 and ASC 480 are among the guidance that should be considered when determining the accounting. Refer to Chapter 9 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for further guidance.

Pursuant to ASC 815-40-15-6, outstanding instruments within the scope of ASC 815-40 are always considered issued for accounting purposes, except for certain lock-up options³⁸ sometimes exchanged in anticipation of a planned business combination. As a result, we generally believe that if an entity has a contractual obligation to issue instruments that are indexed to the entity's shares as a result of a contingent event, those instruments should be considered outstanding for accounting purposes prior to the occurrence of the contingent event (i.e., a contingently issuable equity contract is effectively the same as a contingently exercisable equity contract).

Refer to Question 1 in section B9 – How should a contingently issuable contract be considered pursuant to ASC 815-40?

³⁸ Lock-up options are contingently exercisable options to purchase equity securities of another party to a business combination, at favorable prices, to encourage successful completion of that combination. If the merger is consummated as proposed, the options expire unexercised. If, however, a specified event occurs that interferes with the planned business combination, the options become exercisable.

B.3 The indexation guidance (ASC 815-40-15)

B.3.1 Introduction

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Scope and Scope Exceptions

815-40-15-7

An entity shall evaluate whether an equity-linked financial instrument (or embedded feature), as discussed in paragraphs 815-40-15-5 through 15-8 is considered indexed to its own stock within the meaning of this Subtopic and paragraph 815-10-15-74(a) using the following two-step approach:

- a. Evaluate the instrument's contingent exercise provisions, if any.
- b. Evaluate the instrument's settlement provisions.

ASC 815-40-15-7 includes two steps for evaluating whether an instrument or feature is deemed indexed to the entity's own equity. In the first step, the issuer evaluates any exercise contingencies. In the second step, the issuer evaluates the instrument's settlement provisions.

B.3.2 Step 1 – Evaluating exercise contingencies

In applying the first step of the indexation guidance, if there are no exercise contingencies (i.e., the instrument or feature is immediately exercisable or exercisable only with the passage of time), Step 1 is not applicable and Step 2 would be considered.

In a freestanding instrument, if there are multiple exercise contingencies, the failure of a single contingency to meet the requirements of Step 1 results in the instrument not being considered indexed to the entity's stock. However, in an embedded equity contract with multiple exercise contingencies, there may be more latitude in determining the unit of analysis for the bifurcation evaluation. One approach would consider the embedded equity-linked feature to be a single term with multiple exercise contingencies, in which case the entire equity-linked feature would fail Step 1 if a single contingency fails. A second approach would view the hybrid instrument as containing multiple embedded equity-linked features, each with a single exercise contingency. Pursuant to this approach, if an exercise contingency fails the indexation guidance, only the defined equity-linked feature associated with that contingency would be affected. Refer to section 2.2.3.1 in Chapter 2 for further discussion of these concepts.

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Glossary

815-40-20

Exercise Contingency

A provision that entitles the entity (or the counterparty) to exercise an equity-linked financial instrument (or embedded feature) based on changes in an underlying, including the occurrence (or nonoccurrence) of a specified event. Provisions that accelerate the timing of the entity's (or the counterparty's) ability to exercise an instrument and provisions that extend the length of time that an instrument is exercisable are examples of exercise contingencies.

Derivatives and Hedging – Contracts in Entity's Own Equity

Scope and Scope Exceptions

815-40-15-7A

An exercise contingency shall not preclude an instrument (or embedded feature) from being considered indexed to an entity's own stock provided that it is not based on either of the following:

- a. An observable market, other than the market for the issuer's stock (if applicable)
- b. An observable index, other than an index calculated or measured solely by reference to the issuer's own operations (for example, sales revenue of the issuer; earnings before interest, taxes, depreciation, and amortization of the issuer; net income of the issuer; or total equity of the issuer).

If the evaluation of Step 1 (this paragraph) does not preclude an instrument from being considered indexed to the entity's own stock, the analysis shall proceed to Step 2 (see paragraph 815-40-15-7C).

815-40-15-7B

If an instrument's strike price or the number of shares used to calculate the settlement amount would be adjusted upon the occurrence of an exercise contingency, the exercise contingency shall be evaluated under Step 1 (see the preceding paragraph) and the potential adjustment to the instrument's settlement amount shall be evaluated under Step 2 (see the guidance beginning in the following paragraph).

In applying the indexation guidance, it is important to determine whether a feature is an exercise contingency (subject to Step 1 of the indexation guidance) or an adjustment to the settlement amount (subject to Step 2 of the indexation guidance). In many cases, a term may act as an on/off switch for the exercise of an instrument, which would generally be an exercise contingency. For example, assume Warrant A states that the holder may purchase 100 shares, but the warrant is exercisable only if the issuer's revenues exceed \$100 million. That revenue provision operates as an exercise contingency and passes Step 1 because the exercise contingency is based on an index calculated or measured solely by reference to the issuer's own operations.

To further illustrate, consider Warrant B, which permits the holder to purchase (1) 50 shares regardless of the issuer's revenues, (2) 100 shares if the issuer's revenues exceed \$100 million or (3) 150 shares if the issuer's revenues exceed \$150 million. In Warrant B, the issuer's revenues do not affect the instrument's exercisability (i.e., the instrument can always be exercised for 50 shares regardless of the amount of revenue), but instead it affects the settlement amount, by increasing the number of shares that may be purchased upon exercise of the warrant if revenues exceed \$100 million. The contingency affects the value of the contract (on more of a sliding scale) and does not simply act as an on/off switch (triggering a settlement or no settlement). The effect of the contingency on the settlement amount is evaluated pursuant to Step 2, as discussed below.

As a third example, assume Warrant C permits the holder to purchase (1) 100 shares if the issuer's revenues exceed \$100 million or (2) 150 shares if revenues exceed \$150 million. In Warrant C, the contingency is both an on/off switch and a sliding scale affecting the value of the contract. The on/off switch (revenues in excess of \$100 million) should be evaluated pursuant to Step 1. As in the first example, the exercise contingency does not preclude the instrument from being considered indexed to the issuer's stock because the contingency is based on an index measured solely by reference to the entity's operations. However, the potential adjustment in the number of shares issuable under the instrument (for revenues in excess of \$150 million) should be evaluated pursuant to Step 2.

The need to distinguish exercise contingencies from adjustments to the settlement amount can create complexity in determining the unit of accounting. For example, assume an entity issues one warrant exercisable for 100 shares if the issuer's revenues are above \$100 million and a second warrant that becomes exercisable for 50 shares if revenues are above \$150 million. The combination of warrants results in the same economics as Warrant C described in the preceding example.³⁹ If the warrants were evaluated separately, each warrant would be considered to have a permitted exercise contingency and settlement amount and thus indexed to the issuer's own stock pursuant to the indexation guidance. However, if the warrants were combined for accounting purposes, such as Warrant C in the previous example, the combined instrument would be considered to include a potential adjustment to the settlement amount that should be evaluated pursuant to Step 2 before a conclusion could be reached pursuant to the indexation guidance.

To determine whether the instruments should be combined into a single unit of accounting, ASC 815-10-15-8 should generally be considered. If it is determined that two freestanding financial instruments are required to be linked and accounted for on a combined basis as a single financial instrument, the indexation guidance should be applied to the combined financial instrument, as discussed directly in ASC 815-40-15-5B.

The indexation guidance does not provide comprehensive guidance on how broadly to interpret an "index calculated or measured solely by reference to the issuer's own operations," when evaluating an exercise contingency. Therefore, we generally believe that determination should be based on the individual facts and circumstances.

For example, we generally believe that it is reasonable to conclude that an exercise contingency based on a change in credit rating of the issuer is "measured solely by reference to the issuer's own operations," because an issuer's creditworthiness is based on its ability to meet its financial commitments. While external factors also would affect a specific entity's credit rating (e.g., the general economic environment and conditions in the industry in which the entity operates), those factors should be considered in the context of their effect on the issuer (which chooses the industry in which to compete) and the likelihood that the specific issuer would default on its debt.

Another example of an exercise contingency that would be considered "measured solely by reference to an issuer's own operations" is one based on an entity-specific activity or transaction, such as a financing transaction or change in control. This concept is illustrated in Example 2 in ASC 815-40-55-26 in the context of an entity's IPO.

B.3.3

Step 2 – Evaluating the settlement amount

The second step of the indexation guidance requires an analysis of features that affect the value distributed upon settlement. It is premised on a basic principle that the settlement amount should be based on an exchange of a fixed number of shares for a fixed amount of consideration. However, there are exceptions to this general rule.

This part of the guidance also addresses certain provisions in many equity contracts that are documented in standardized contracts and forms published by the International Swaps and Derivatives Association (ISDA) (refer to section 1.3.1 in Chapter 1). Those documents may stipulate that on the occurrence of certain extraordinary events (e.g., merger, tender offer, nationalization, insolvency, delisting), the contract (and thus the settlement amount) may be modified or terminated for a calculated settlement amount that may vary. These adjustments (as with any adjustments in an equity contract) are evaluated in light of the fixed-for-fixed criteria and its exceptions.

³⁹ An issuer could achieve the same economics in several different combinations of instruments. As another example, an issuer could issue one warrant that was exercisable for 100 shares but only if revenues were between \$100 million and \$150 million and a second warrant exercisable for 150 shares only if revenues exceeded \$150 million. The two instruments should be evaluated for potential combination for accounting purposes.

B.3.3.1**Fixed strike price, number of shares and fixed monetary amount****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity*****Scope and Scope Exceptions******815-40-15-7C***

An instrument (or embedded feature) shall be considered indexed to an entity's own stock if its settlement amount will equal the difference between the following:

- a. The fair value of a fixed number of the entity's equity shares
- b. A fixed monetary amount or a fixed amount of a debt instrument issued by the entity.

For example, an issued share option that gives the counterparty a right to buy a fixed number of the entity's shares for a fixed price or for a fixed stated principal amount of a bond issued by the entity shall be considered indexed to the entity's own stock.

815-40-15-7D (first part of paragraph)

An instrument's strike price or the number of shares used to calculate the settlement amount are not fixed if its terms provide for any potential adjustment, regardless of the probability of such adjustment(s) or whether such adjustments are in the entity's control.

An example of an instrument that meets the strict fixed-for-fixed criteria is a warrant permitting the holder to buy 100 shares from the issuer at a fixed price of \$15 per share. A forward contract that requires the entity to sell (and the counterparty to buy) 100 shares of the entity's stock for a fixed price of \$10 per share also meets the fixed-for-fixed criteria. Another example would be the conversion of a specified face amount of a debt instrument into a fixed number of shares.

The fixed-for-fixed criteria describes a settlement amount that is essentially the intrinsic value of the equity contract. The intrinsic value is the difference between the strike price in an option (or contract price in a forward) and the fair value of the underlying share on a given date. For example, in the warrant above, if the stock price were \$18 on the date of exercise, the settlement amount would be \$300 (100 shares x [\$18 fair value minus \$15 strike price]).

With respect to Warrants A through C described in section B3.2, only one of the warrants would be indexed to the issuer's stock. Assume that (1) each contract had a strike price of \$10 per share, (2) there are no other features adjusting the number of shares or strike price and (3) the current fair value of a share is \$12. Warrant A meets the fixed-for-fixed criteria as once it becomes exercisable, it is exercised for a fixed number of shares (100 shares) at a fixed strike price (\$1,000) with a settlement amount of \$200 (100 shares x [\$12 fair value minus \$10 strike price]).

As freestanding instruments, Warrants B and C do not meet the fixed-for-fixed criteria because they allow for multiple settlement amounts that vary based on revenues of the issuer (Warrant B settles for \$100, \$200 or \$300 and Warrant C settles for \$0, \$200, or \$300). However, if Warrant C were to only allow for a settlement of only \$0 or \$200, the settlement alternatives of \$0 to \$200 could be viewed as an allowable exercise contingency (i.e., revenues viewed as an on/off switch) and not as variable to the settlement amount.

As discussed above, many equity contracts use ISDA documentation and have terms that may require the settlement amount to change upon specified events (e.g., through a change in either the strike price or the number of shares). In addition, many transactions include antidilution or other protective provisions that may cause the settlement amount to change.

For example, many convertible debt instruments provide for an adjustment to the conversion ratio for any cash dividends (or cash dividends in excess of a specified level). All of those examples violate the strict fixed-for-fixed criteria in the indexation guidance described above. Moreover, the indexation guidance states that it does not matter how likely it is an adjustment will occur or even if the occurrence is entirely within the issuer's control.

Importantly, however, there is an exception under which certain adjustment features that violate the strict fixed-for-fixed criteria may still be considered indexed to the entity's shares, as discussed in section B3.3.2.

Refer to Question 2 in section B9 – How is a warrant or conversion option where the conversion ratio changes over time based on a contractual schedule evaluated pursuant to the indexation guidance?

B3.3.2

Adjustments solely based on non-levered inputs to a fixed-for-fixed instrument

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Scope and Scope Exceptions

815-40-15-7D (second part of paragraph)

... If the instrument's strike price or the number of shares used to calculate the settlement amount are not fixed, the instrument (or embedded feature) shall still be considered indexed to an entity's own stock if the only variables that could affect the settlement amount would be inputs to the fair value of a fixed-for-fixed forward or option on equity shares.

815-40-15-7E

A fixed-for-fixed forward or option on equity shares has a settlement amount that is equal to the difference between the price of a fixed number of equity shares and a fixed strike price. The fair value inputs of a fixed-for-fixed forward or option on equity shares may include the entity's stock price and additional variables, including all of the following:

- a. Strike price of the instrument
- b. Term of the instrument
- c. Expected dividends or other dilutive activities
- d. Stock borrow cost
- e. Interest rates
- f. Stock price volatility
- g. The entity's credit spread
- h. The ability to maintain a standard hedge position in the underlying shares.

Determinations and adjustments related to the settlement amount (including the determination of the ability to maintain a standard hedge position) shall be commercially reasonable.

815-40-15-7F

An instrument (or embedded feature) shall not be considered indexed to the entity's own stock if its settlement amount is affected by variables that are extraneous to the pricing of a fixed-for-fixed option or forward contract on equity shares. An instrument (or embedded feature) shall not be considered indexed to the entity's own stock if either:

- a. The instrument's settlement calculation incorporates variables other than those used to determine the fair value of a fixed-for-fixed forward or option on equity shares.

- b. The instrument contains a feature (such as a leverage factor) that increases exposure to the additional variables listed in the preceding paragraph in a manner that is inconsistent with a fixed-for-fixed forward or option on equity shares.

815-40-15-7G

Standard pricing models for equity-linked financial instruments contain certain implicit assumptions. One such assumption is that the stock price exposure inherent in those instruments can be hedged by entering into an offsetting position in the underlying equity shares. For example, the Black-Scholes-Merton option-pricing model assumes that the underlying shares can be sold short without transaction costs and that stock price changes will be continuous. Accordingly, for purposes of applying Step 2, fair value inputs include adjustments to neutralize the effects of events that can cause stock price discontinuities. For example, a merger announcement may cause an immediate jump (up or down) in the price of shares underlying an equity-linked option contract. A holder of that instrument would not be able to continuously adjust its hedge position in the underlying shares due to the discontinuous stock price change. As a result, changes in the fair value of an equity-linked instrument and changes in the fair value of an offsetting hedge position in the underlying shares will differ, creating a gain or loss for the instrument holder as a result of the merger announcement. Therefore, inclusion of provisions that adjust the terms of the instrument to offset the net gain or loss resulting from a merger announcement or similar event do not preclude an equity-linked instrument (or embedded feature) from being considered indexed to an entity's own stock.

815-40-15-7H

Some equity-linked financial instruments contain provisions that provide an entity with the ability to unilaterally modify the terms of the instrument at any time, provided that such modification benefits the counterparty. For example, the terms of a convertible debt instrument may explicitly permit the issuer to reduce the conversion price at any time to induce conversion of the instrument.] For purposes of applying Step 2, such provisions do not affect the determination of whether an instrument (or embedded feature) is considered indexed to an entity's own stock.

The indexation guidance states that certain adjustments that otherwise would violate the strict fixed-for-fixed criteria should not preclude a conclusion that an instrument is indexed to the issuer's stock. Adjustments that may be made to the settlement amount that are affected by variables that would be inputs to the fair value of a fixed-for-fixed forward or option on equity shares are acceptable. In addition, certain adjustments that are designed to compensate one of the parties to the instrument for changes in value that are not incorporated into a standard pricing model should not preclude a conclusion that an instrument is indexed to the issuer's stock.

The permitted adjustments to the fixed-for-fixed settlement amount, in most cases, accommodate the terms of an ISDA agreement and, in many cases, the terms of transaction specific agreements. However, some common adjustment terms do not comply with this guidance.

The issuer's counterparty often considers the possibility of certain extraordinary events (e.g., merger events or the issuer's delisting from a securities exchange) in the negotiation process. Those events represent risks that are not easily incorporated into, and may violate, the assumptions that underlie the valuation models for equity contracts, such as the Black-Scholes option-pricing model. For example, the Black-Scholes model often used to estimate the fair value of an option (including the embedded option in a convertible debt instrument) assumes that while the stock price will vary randomly over time, and there will be no instantaneous large changes in the price of the stock. This assumption is not necessarily true in the case of a merger event, which can cause a discontinuous price change based on the merger consideration.

As another example, the Black-Scholes model assumes that the underlying markets are liquid and efficient, and the counterparty will be able to hedge the risks of changes in share price at a reasonable cost. Such hedging is typically accomplished by selling borrowed shares (i.e. short selling). Accordingly, application of the Black-Scholes option-pricing model will not result in an appropriate valuation if the underlying shares are not available to be borrowed or the rate at which such borrowings occur is unusually high, which might be the case in certain market dislocations.

Events such as a merger or severe market dislocation are unpredictable and thus unhedgable. If the counterparty were exposed to those risks during the life of the transaction, it would demand a higher risk premium in pricing the contract, which may be difficult to estimate. Additionally, certain dislocation events may be significantly influenced or controlled by the issuer (e.g., merger events) and the counterparty would likely not be willing to assume the risks resulting from such an event for any price. Therefore, to mitigate the counterparty's exposure, the parties may agree to assume such events will not occur in the initial pricing, and then adjust the terms (and thus settlement amount) of the instrument (or provide for the termination of the equity contract in some cases) to maintain the fair value of the contract before and after the event. As a result, the initial pricing can ignore those events as both parties will maintain their economic position if those events occur.

As discussed in ASC 815-40-15-7E, there are many inputs to the pricing of a fixed-for-fixed equity contract or feature (e.g., entity's stock price, strike price, stock price volatility). In an effort to minimize the potential for abuse, the indexation guidance prohibits the inclusion of a leverage factor in the terms of the instrument. A leverage factor would adjust the settlement amount by a multiple of the change in fair value resulting from one of the events described above (refer to Question 3 in section B9).

The indexation guidance also states that the determination of whether a triggering event has occurred and the calculation of the resulting adjustment or settlement must be commercially reasonable. For example, the counterparty should apply industry conventions (1) in determining if a standard hedge cannot be maintained or (2) in calculating the amount of an adjustment. If that counterparty chose to be significantly over or under hedged relative to customary industry practices, the determination of whether an adjustment is appropriate and the manner in which the adjustment is calculated must be based on what is considered commercially reasonable and customary in the industry and not the counterparty's specific practices.

Although not explicitly stated in the guidance, since the fixed-for-fixed criteria allows for variables that are inputs to a standard pricing model for an equity option or forward, we believe settlement for the fair value of the instrument that is produced by that model is also acceptable.

Refer to the following Questions in section B9:

- ▶ Question 3 – Pursuant to the indexation guidance, how should a term in a warrant that, when settling on some early termination event, requires a calculation using a fixed volatility or market volatility with a floor, be considered?
- ▶ Question 4 – What are frequent early termination events that should be considered?

B.3.3.3**Application of Step 2 to an instrument denominated in a foreign currency****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity*****Scope and Scope Exceptions******815-40-15-7I***

The issuer of an equity-linked financial instrument incurs an exposure to changes in currency exchange rates if the instrument's strike price is denominated in a currency other than the functional currency of the issuer. An equity-linked financial instrument (or embedded feature) shall not be considered indexed to the entity's own stock if the strike price is denominated in a currency other than the issuer's functional currency (including a conversion option embedded in a convertible debt instrument that is denominated in a currency other than the issuer's functional currency). The determination of whether an equity-linked financial instrument is indexed to an entity's own stock is not affected by the currency (or currencies) in which the underlying shares trade.

The indexation guidance prohibits instruments that provide for an exercise or conversion price that is denominated in a currency other than the issuer's functional currency (as defined in ASC 830, *Foreign Currency Matters*) from being considered indexed to the entity's stock (e.g., convertible debt or a warrant denominated in a currency that differs from the issuer's functional currency). This guidance was based on the view that the denomination of an instrument (e.g., convertible debt or a warrant) in a foreign currency other than the issuer's functional currency represents currency exposure from an accounting perspective. The currency in which the underlying shares trade does not affect this determination. Refer to ASC 815-40-55-44 and ASC 815-40-55-47 for illustrations of this guidance.

Many convertible debt investors prefer that a convertible debt instrument be denominated in the same currency in which the investor can transact in the underlying shares because the complexity of estimating the value of the instrument and hedging the exposure to changes in share prices is reduced. While the debt may be denominated in a currency other than the functional currency of the issuer for a valid business purpose, the conversion option should be bifurcated as it would not be considered indexed to the issuer's own stock pursuant to the indexation guidance. Importantly, this conclusion is different than that reached under ASC 718-10-25-14A, which states that an employee share-based payment award with an exercise price denominated in the currency of a market in which a substantial portion of the entity's equity securities trades should be considered an equity award, assuming all other criteria for equity classification are met.

B.3.3.4**Application of Step 2 when payoff is based on stock of consolidated subsidiary****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity*****Scope and Scope Exceptions******815-40-15-5C***

Freestanding financial instruments (and embedded features) for which the payoff to the counterparty is based, in whole or in part, on the stock of a consolidated subsidiary are not precluded from being considered indexed to the entity's own stock in the consolidated financial statements of the parent if the subsidiary is a substantive entity. If the subsidiary is not a substantive entity, the instrument or embedded feature shall not be considered indexed to the entity's own stock. If the subsidiary is considered to be a substantive entity, the guidance beginning in paragraph 815-40-15-5 shall be applied to determine whether the freestanding financial instrument (or an embedded feature) is indexed to the entity's own stock and shall be considered in conjunction with other applicable GAAP

(for example, this Subtopic) in determining the classification of the freestanding financial instrument (or an embedded feature) in the financial statements of the entity. The guidance in this paragraph applies to those instruments (and embedded features) in the consolidated financial statements of the parent, whether the instrument was entered into by the parent or the subsidiary. The guidance in this paragraph does not affect the accounting for instruments (or embedded features) that would not otherwise qualify for the scope exception in paragraph 815-10-15-74(a). For example, freestanding instruments that are classified as liabilities (or assets) under Topic 480 and put and call options embedded in a noncontrolling interest that is accounted for as a financing arrangement under Topic 480 are not affected by this guidance. For guidance on presentation of an equity-classified instrument (including an embedded feature that is separately recorded in equity under applicable GAAP) within the scope of the guidance in this paragraph, see paragraph 810-10-45-17A.

ASC 815-40-15-5C states that freestanding financial instruments (or embedded features) for which the payoff is based on the stock of a consolidated subsidiary are not precluded from being considered indexed to an entity's own stock in the consolidated financial statements of the parent as long as the subsidiary is a substantive entity. Those instruments should be evaluated to determine whether they meet all conditions in ASC 815-40-15 to be considered indexed to the entity's own equity.

B.3.3.5

Application of the indexation guidance to contracts that do not meet the definition of a derivative

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Scope and Scope Exceptions

815-40-15-8A

If the instrument does not meet the criteria to be considered indexed to an entity's own stock as described in paragraphs 815-40-15-5 through 15-8, it shall be classified as a liability or an asset.

Companies may issue warrants and other freestanding instruments that do not meet the definition of a derivative pursuant to ASC 815. One example is when private companies issue an equity-linked instrument that requires gross physical settlement. In that circumstance, the contract is not considered net settleable as the shares are not readily convertible to cash. The shares of a public company in a contract also may not be considered readily convertible to cash because the number of shares for the smallest allowed unit on conversion or exercise is high relative to trading volumes (refer to ASC 815-10-55-99) or if a contractual restriction on resale is placed on the settlement shares (refer to ASC 815-10-15-130 through 15-138). When the freestanding instrument is not within the scope of the derivatives guidance, other accounting guidance such as ASC 815-40, should be considered in determining the appropriate classification of the instrument.

Instruments with features that are not considered indexed to the issuer's own stock pursuant to the indexation guidance are not subject to the scope of the equity classification guidance. ASC 815-40-15-8A requires those instruments be classified as a liability or an asset. However, ASC 815-40-15 does not provide subsequent measurement guidance.

B.3.3.6

Interaction of the indexation guidance with other authoritative guidance

Refer to the following Questions in section B9:

- ▶ Question 5 – Does the indexation guidance affect the determination of whether an embedded feature is “clearly and closely related” to the host instrument pursuant to ASC 815?
- ▶ Question 6 – How does the indexation guidance interact with the business combination guidance?

B3.4

Illustrative examples of the indexation guidance

The indexation guidance includes 20 specific examples to facilitate application of the guidance to various features. These examples should be carefully reviewed when applying the indexation guidance because they include many common terms and features in equity-linked instruments and embedded features, such as:

- ▶ An IPO as an exercise contingency
- ▶ An adjustment due to a merger announcement
- ▶ An adjustment due to the issuer's failure to achieve specified revenue goals
- ▶ Settlement based on a volume-weighted average price for a defined period
- ▶ Settlement in a variable number of shares within a specified range
- ▶ Caps on share prices in calculating settlement amount
- ▶ Adjustments for dividends
- ▶ Certain tabular make-whole provisions in convertible debt
- ▶ Instruments designed to approximate the value of employee stock options

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Implementation Guidance and Illustrations

Example 2: Variability Involving Completion of an Initial Public Offering

815-40-55-26

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for \$10 per share. The warrants have 10-year terms; however, they only become exercisable if Entity A completes an initial public offering. The warrants are considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The exercise contingency (that is, the initial public offering) is not an observable market or an observable index, so the evaluation of Step 1 does not preclude the warrants from being considered indexed to the entity's own stock. Proceed to Step 2.
- b. Upon exercise, the settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price (\$10 per share).

Example 3: Variability Involving Sales Volume

815-40-55-27

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for \$10 per share. The warrants have 10-year terms; however, they only become exercisable after Entity A accumulates \$100 million in sales to third parties. The warrants are considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The exercise contingency (that is, the accumulation of \$100 million in sales to third parties) is an observable index. However, it can only be calculated or measured by reference to Entity A's sales, so the evaluation of Step 1 does not preclude the warrants from being considered indexed to the entity's own stock. Proceed to Step 2.

- b. Step 2. Upon exercise, the settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price (\$10 per share).

Example 4: Variability Involving Stock Index

815-40-55-28

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for \$10 per share. The warrants have 10-year terms; however, they only become exercisable if the Standard & Poor's S&P 500 Index increases 500 points within any given calendar year during that 10-year period. The warrants are not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The exercise contingency (that is, the increase of 500 points in Standard & Poor's S&P 500 Index) is based on an observable index that is not measured solely by reference to the issuer's own operations.
- b. Step 2. It is not necessary to evaluate Step 2.

Example 5: Variability Involving a Commodity Price

815-40-55-29

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock in exchange for one ounce of gold. The warrants have 10-year terms; however, they only become exercisable if Entity A completes an initial public offering. The warrants are not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The exercise contingency (that is, the initial public offering) is not an observable market or an observable index, so the evaluation of Step 1 does not preclude the warrants from being considered indexed to the entity's own stock. Proceed to Step 2.
- b. Step 2. The settlement amount would not equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price. Although the number of shares that would be issued at settlement is fixed, the strike price varies based on the price of one ounce of gold. The price of gold is not an input to the fair value of a fixed-for-fixed option on equity shares.

Example 6: Variability Involving Merger Announcement

815-40-55-30

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for \$10 per share. The warrants have 10-year terms and are exercisable at any time. However, the terms of the warrants specify that if there is an announcement of a merger involving Entity A, the strike price of the warrants will be adjusted to offset the effect of the merger announcement on the net change in the fair value of the warrants and of an offsetting hedge position in the underlying shares. The strike price adjustment must be determined using commercially reasonable means based on an assumption that the counterparty has entered into a hedge position in the underlying shares to offset the share price exposure from the warrants. That strike price adjustment is not affected by the counterparty's actual hedging position (for example, the strike price adjustment does not differ in circumstances when the counterparty is over-hedged or under-hedged). The warrants are considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instruments do not contain an exercise contingency. Proceed to Step 2.

- b. Step 2. The settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price (\$10 per share), unless there is a merger announcement. If there is a merger announcement, the settlement amount would be adjusted to offset the effect of the merger announcement on the fair value of the warrants. In that circumstance, the only variables that could affect the settlement amount would be inputs to the fair value of a fixed-for-fixed option on equity shares. For further discussion, see paragraphs 815-40-15-7E and 815-40-15-7G.

Example 7: Variability Involving Revenue Target

815-40-55-31

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for an initial price of \$10 per share. The warrants have 10-year terms and are exercisable at any time. However, the terms of the warrants specify that the strike price is reduced by \$0.50 after any year in which Entity A does not achieve revenues of at least \$100 million. The warrants are not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instruments do not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount would not equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price. Although the number of shares that would be issued at settlement is fixed, the strike price would be adjusted after any year in which Entity A does not achieve revenues of at least \$100 million.] The amount of an entity's annual revenues is not an input to the fair value of a fixed-for-fixed option on equity shares.

Example 8: Variability Involving Stock Price Cap

815-40-55-32

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A purchases net-settled call options that permit it to buy 100 shares of its common stock for \$10 per share. However, the maximum appreciation on the call options is capped when Entity A's stock price reaches \$15 per share (that is, the counterparty's maximum obligation is \$500 [$(\$15 - \$10) \times 100$ shares]). The call options have 10-year terms and are exercisable at any time. The call options are considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instruments do not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price when Entity A's stock price is between the \$10 stated exercise price and the \$15 price cap. However, whenever Entity A's stock price exceeds \$15, the strike price of the call options increases and decreases in amounts equal to the corresponding increases and decreases in Entity A's stock price, such that the intrinsic value of each call option always equals \$5. Because the only variable that can affect the settlement amount is the entity's stock price, which is an input to the fair value of a fixed-for-fixed option contract, the call options are considered indexed to the entity's own stock.

Example 9: Variability Involving Future Equity Offerings and Issuance of Equity-Linked Financial Instruments**815-40-55-33**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for \$10 per share. The warrants have 10-year terms and are exercisable at any time. However, the terms of the warrants specify both of the following:

- a. If the entity sells shares of its common stock for an amount less than \$10 per share, the strike price of the warrants is reduced to equal the issuance price of those shares.
- b. If the entity issues an equity-linked financial instrument with a strike price below \$10 per share, the strike price of the warrants is reduced to equal the strike price of the newly issued equity-linked financial instrument.

815-40-55-34

The warrants are not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instruments do not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount would not equal the difference between the fair value of a fixed number of the entity's equity shares and a fixed strike price. The strike price would be adjusted if Entity A sells shares of its common stock for an amount less than \$10 per share or if Entity A issues an equity-linked financial instrument with a strike price below \$10 per share. Consequently, the settlement amount of the warrants can be affected by future equity offerings undertaken by Entity A at the then-current market price of the related shares or by the contractual terms of other equity-linked financial instruments issued in a subsequent period. The occurrence of a sale of common stock by the entity at market is not an input to the fair value of a fixed-for-fixed option on equity shares. Similarly, the occurrence of a sale of an equity-linked financial instrument is not an input to the fair value of a fixed-for-fixed option on equity shares, if the transaction was priced at market.

Example 10: Variability Involving Regulatory Approval**815-40-55-35**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues warrants that permit the holder to buy 100 shares of its common stock for \$10 per share. The warrants have 10-year terms and are exercisable at any time. However, the terms of the warrants specify that if Entity A does not obtain regulatory approval of a particular drug compound within 5 years, the holder can surrender the warrants to Entity A for \$2 per warrant (setttable in shares). The contingently puttable warrants are not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instruments do not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price (\$10 per share), unless regulatory approval of a particular drug compound is not obtained within 5 years. If that approval is not obtained within the allotted time period, the holder could elect to surrender the warrants to Entity A in exchange for \$2 per warrant. The contingent obligation to settle the warrants by transferring consideration with a fixed monetary value if regulatory approval of a particular drug compound is not obtained within a specified time period does not represent an input to the fair value of a fixed-for-fixed option on equity shares. A freestanding equity-linked instrument that provides for a fixed payoff upon the occurrence of a contingent event which is not based on the issuer's share price is not indexed to an entity's own stock.

Example 11: Variability Involving a Currency Other Than the Entity's Functional Currency**815-40-55-36**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A, whose functional currency is U.S. dollars (USD), issues warrants with a strike price denominated in Canadian dollars (CAD). The warrants permit the holder to buy 100 shares of its common stock for CAD 10 per share. Entity A's shares trade on an exchange on which trades are denominated in CAD. The warrants have 10-year terms and are exercisable at any time. The warrants are not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instruments do not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The strike price of the warrants is denominated in a currency other than the entity's functional currency, so the warrants are not considered indexed to the entity's own stock.

Example 12: Variability Involving Dividend Distributions**815-40-55-37**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A enters into a forward contract to sell 100 shares of its common stock for \$10 per share in 1 year. Historically, Entity A has paid a dividend of \$0.10 per quarter on its common shares. Under the terms of the forward contract, if dividends per common share differ from \$0.10 during any 3-month period, the strike price of the forward contract will be adjusted to offset the effect of the dividend differential (actual dividend versus \$0.10) on the fair value of the instrument. Additionally, the terms of the forward contract provide for an adjustment to the strike price, using commercially reasonable means, to offset the effect of any increased cost of borrowing Entity A's shares in the stock loan market on the fair value of the instrument. The forward contract is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The only circumstances in which the settlement amount will not equal the difference between the fair value of 100 shares and \$1,000 (\$10 per share) are if dividends per common share differ from \$0.10 during any 3-month period or if there is an increased cost of borrowing Entity A's shares in the stock loan market. The adjustments to the strike price resulting from those events are intended to offset their effects on the instrument's fair value. In those circumstances, the only variables that could affect the settlement amount (dividends and stock borrow cost) would be inputs to the fair value of a fixed-for-fixed forward contract on equity shares.

Example 13: Variability Involving Average Stock Price**815-40-55-38**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A enters into a net-settleable forward contract to sell 100 shares of its common stock in 1 year for an amount equal to \$10 per share plus interest calculated at a variable interest rate (Federal Funds rate plus a fixed spread). The share price used to determine the settlement amount is based on the volume-weighted average daily market price of Entity A's common stock for the 30-day period before the settlement date. The forward contract is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.

- b. Step 2. The settlement amount will not equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price. However, the only variables that cause the settlement amount to differ from a fixed-for-fixed settlement amount are the 30-day volume-weighted average daily market price of Entity A's common stock and an interest rate index. The pricing inputs of a fixed-for-fixed forward contract include the entity's stock price and interest rates. Additionally, the floating interest rate feature does not introduce a leverage factor or otherwise increase the effects of interest rate changes on the instrument's fair value.

Example 14: Variability Involving Interest Rate Index

815-40-55-39

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A enters into a forward contract to sell 100 shares of its common stock in 1 year for an amount equal to \$10 per share plus interest calculated at a variable interest rate that varies inversely with changes in the London Interbank Offered Rate (LIBOR) (similar to an "inverse floater," as described in paragraphs 815-15-55-170 through 55-172). The forward contract is not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount will not equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price. Although the number of shares that would be issued at settlement is fixed, the strike price varies inversely with changes in an interest rate index. The inverse floating interest rate feature increases the effects of interest rate changes on the instrument's fair value (that is, the feature increases the instrument's fair value exposure to interest rate changes) when compared to the exposure to interest rate changes of a fixed-for-fixed forward contract.

Example 15: Variability Involving Stock Price Cap and Floor

815-40-55-40

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A enters into a net-settled forward contract to sell 100 shares of its common stock in 1 year for \$1,000. However, the maximum amount payable to the counterparty at maturity is capped when Entity A's stock price is greater than or equal to \$15 per share (that is, Entity A's maximum obligation is \$500 $[(\$15 - \$10) \times 100 \text{ shares}]$). Additionally, the maximum amount receivable from the counterparty at maturity is capped when Entity A's stock price is less than or equal to \$5 per share (that is, the counterparty's maximum obligation is \$500 $[(\$5 - \$10) \times 100 \text{ shares}]$). The forward contract is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price (\$1,000) when Entity A's stock price is between \$5 and \$15. However, whenever Entity A's stock price is greater than or equal to \$15 at maturity, the amount payable to the counterparty always equals \$500. Additionally, whenever Entity A's stock price is less than or equal to \$5 at maturity, the amount receivable from the counterparty always equals \$500. Because the only variable that can affect the settlement amount is the entity's stock price, which is an input to the fair value of a fixed-for-fixed forward contract, the instrument is considered indexed to the entity's own stock.

Example 16: Variability Involving Cap on Shares Issued**815-40-55-41**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A enters into a forward contract to sell a variable number of its common shares in 1 year for \$1,000. If Entity A's stock price is equal to or less than \$10 at maturity, Entity A will issue 100 shares of its common stock to the counterparty. If Entity A's stock price is greater than \$10 but equal to or less than \$12 at maturity, Entity A will issue a variable number of its common shares worth \$1,000. Finally, if the share price is greater than \$12 at maturity, Entity A will issue 83.33 shares of its common stock. The forward contract is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The settlement amount will not equal the difference between the fair value of a fixed number of the entity's equity shares and a fixed strike price (\$1,000). Although the strike price to be received at settlement is fixed, the number of shares to be issued to the counterparty varies based on the entity's stock price on the settlement date. Because the only variable that can affect the settlement amount is the entity's stock price, which is an input to the fair value of a fixed-for-fixed forward contract on equity shares, the instrument is considered indexed to the entity's own stock.

Example 17: Variability Involving Various Underlyings**815-40-55-42**

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A enters into a forward contract to sell 100 shares of its common stock for \$10 per share in 1 year. Under the terms of the forward contract, the strike price of the forward contract would be adjusted to offset the resulting dilution (except for issuances and repurchases that occur upon settlement of outstanding option or forward contracts on equity shares) if Entity A does any of the following:

- a. Distributes a stock dividend or ordinary cash dividend
- b. Executes a stock split, spinoff, rights offering, or recapitalization through a large, nonrecurring cash dividend
- c. Issues shares for an amount below the then-current market price
- d. Repurchases shares for an amount above the then-current market price.

The contractual terms that adjust the forward contract's strike price are eliminating the dilution to the forward contract counterparty that would otherwise result from the occurrence of those specified dilutive events. The adjustment to the strike price of the forward contract is based on a mathematical calculation that determines the direct effect that the occurrence of such dilutive events should have on the price of the underlying shares; it does not adjust for the actual change in the market price of the underlying shares upon the occurrence of those events, which may increase or decrease for other reasons.

815-40-55-43

The forward contract is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.

- b. Step 2. The only circumstances in which the settlement amount will not equal the difference between the fair value of 100 shares and \$1,000 (\$10 per share) are upon the occurrence of any of the following:
 1. The distribution of a stock dividend or ordinary cash dividend
 2. The execution of a stock split, spinoff, rights offering, or recapitalization through a large, nonrecurring cash dividend
 3. The issuance of shares for an amount below the then-current market price
 4. The repurchase of shares for an amount above the then-current market price.

An implicit assumption in standard pricing models for equity-linked financial instruments is that such events will not occur (or that the strike price of the instrument will be adjusted to offset the dilution caused by such events). Therefore, the only variables that could affect the settlement amount in this example would be inputs to the fair value of a fixed-for-fixed option on equity shares.

Example 18: Variability Involving Forward Contract Settled in a Currency Other Than the Entity's Functional Currency

815-40-55-44

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A, whose functional currency is US\$, enters into a forward contract that requires Entity A to sell 100 shares of its common stock for 120 euros per share in 1 year. The forward contract is not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The instrument does not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. The strike price of the forward contract is denominated in a currency other than the entity's functional currency, so the forward contract is not considered indexed to the entity's own stock.

Example 19: Variability Involving Contingently Convertible Debt with a Market Price Trigger, Parity Provision, and Merger Provision

815-40-55-45

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues a contingently convertible debt instrument with a par value of \$1,000 that is convertible into 100 shares of its common stock. The convertible debt instrument has a 10-year term and is convertible at any time after any of the following events occurs:

- a. Entity A's stock price exceeds \$13 per share (market price trigger).
- b. The convertible debt instrument trades for an amount that is less than 98 percent of its if-converted value (parity provision).
- c. There is an announcement of a merger involving Entity A.

815-40-55-46

The terms of the convertible debt instrument also include a make-whole provision. Under that provision, if Entity A is acquired for cash before a specified date, the holder of the convertible debt instrument can convert into a number of shares equal to the sum of the fixed conversion ratio (100 shares per bond) and the make-whole shares. The number of make-whole shares is determined by reference to a table with axes of stock price and time. That table was designed such that the aggregate fair value of the shares deliverable (that is, the fair value of 100 shares per bond plus the make-whole shares) would be expected to approximate the fair value of the convertible debt instrument at the

settlement date, assuming no change in relevant pricing inputs (other than stock price and time) since the instrument's inception. The embedded conversion option is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The market price trigger and parity provision exercise contingencies are based on observable markets; however, those contingencies relate solely to the market prices of the entity's own stock and its own convertible debt. Also, the merger announcement exercise contingency is not an observable market or an index. Therefore, Step 1 does not preclude the warrants from being considered indexed to the entity's own stock. Proceed to Step 2.
- b. Step 2. An acquisition for cash before the specified date is the only circumstance in which the settlement amount will not equal the difference between the fair value of 100 shares and a fixed strike price (\$1,000 fixed par value of the debt). The settlement amount if Entity A is acquired for cash before the specified date is equal to the sum of the fixed conversion ratio (100 shares per bond) and the make-whole shares. The number of make-whole shares is determined based on a table with axes of stock price and time, which would both be inputs in a fair value measurement of a fixed-for-fixed option on equity shares.

Example 20: Variability Involving Functional Currency Debt Convertible to a Stock That Trades in a Currency Other Than the Entity's Functional Currency

815-40-55-47

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A, whose functional currency is the Chinese yuan (CNY), issues a debt instrument denominated in CNY with a par value of CNY 1,000 that is convertible into 100 shares of its common stock. Entity A's shares only trade on an exchange in which trades are denominated in US\$. Those shares do not trade on an exchange (or other established marketplace) in which trades are denominated in CNY. The convertible debt instrument has a 10-year term and is convertible at any time. The embedded conversion option is considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The embedded conversion option does not contain an exercise contingency. Proceed to Step 2.
- b. Step 2. Upon exercise of the embedded conversion option, the settlement amount would equal the difference between the fair value of a fixed number of the entity's equity shares (100 shares) and a fixed strike price denominated in its functional currency (CNY 1,000 fixed par value of the debt). The determination of whether the embedded conversion option is indexed to the entity's own stock is not affected by the currency (or currencies) in which the underlying shares trade.

Example 21: Variability Involving Securities Issued to Establish a Market-Based Measure of Employee Stock Option Value

815-40-55-48

This Example illustrates the application of the guidance beginning in paragraph 815-40-15-5. Entity A issues a security to investors for purposes of establishing a market-based measure of the grant-date fair value of a grant of employee stock options. Under the terms of that market-based employee stock option valuation instrument, Entity A is obligated to make variable quarterly payments to the investors that are a function of the net intrinsic value received by a pool of Entity A's employees, based on actual stock option exercises by those employees each period. The market-based employee stock option valuation instrument has a 10-year term, consistent with the contractual term of the underlying employee stock options. The market-based employee stock option valuation instrument is not considered indexed to Entity A's own stock based on the following evaluation:

- a. Step 1. The analysis of the exercise contingency (or contingencies) depends on the particular terms and features of the instrument. However, as indicated in Step 2 below, a market-based employee stock option valuation instrument would not be considered indexed to the entity's own stock.

- b. Step 2. The settlement amount will not equal the difference between the fair value of a fixed number of the entity's equity shares and a fixed strike price. The instrument provides for variable quarterly payments to investors that are based on actual employee stock option exercises for the period. Because a variable that affects the instrument's settlement amount is employee stock option exercise behavior, which is not an input to the fair value of a fixed-for-fixed option or forward contract on equity shares, the instrument is not considered indexed to the entity's own stock.

B.3.4.1

Antidilution provisions versus "down round" provisions

The indexation guidance states that typical antidilution provisions do not preclude a conclusion that the instrument is indexed to the issuer's stock. However, adjustments to the settlement amount (e.g., a reduction in the strike or conversion price) if the issuer subsequently sells equity at a price lower than the strike price of the equity contract would not be considered an antidilution provision and thus not be considered indexed to the issuer's stock. The SEC staff emphasized this issue in comments at the 2008 and 2010 AICPA National Conference on Current SEC & PCAOB Developments.

Example 17 of the indexation guidance in ASC 815-40-55-42 and 55-43 describes an instrument that provides for an adjustment in situations in which the issuer (1) distributes a stock dividend or ordinary cash dividend, (2) executes a stock split, spinoff, rights offering or recapitalization through a large, nonrecurring cash dividend, (3) issues shares for an amount below the then-current fair value or (4) repurchases shares for an amount above the then-current fair value. The indexation guidance states that those provisions do not preclude the instrument from being considered indexed to the issuer's stock.

Provisions (3) and (4) compare the price of a subsequent transaction to the then-current market price of the share. If the issuer were to issue shares for less than their then-current fair value, the current investors are economically diluted (because the proceeds of the sale are less than the fair value of the shares issued, the fair value per share is reduced). Likewise, if the entity purchased shares for more than their then-current fair value, existing shareholders are diluted (the entity gives up assets with a fair value in excess of the shares repurchased, thereby reducing the fair value per remaining share). Provided that the adjustments reflect only the decrease in fair value resulting from the dilutive transaction, those adjustments would not preclude the instruments from being considered indexed to the issuer's equity as they represent adjustments for discontinuous price movements caused by the issuer's own actions.

Other features may appear to be an antidilution feature, but do not provide dilution protection. An example is the feature noted by the SEC staff and discussed in Example 9 at ASC 815-40-55-33 and 55-34. This feature is sometimes referred to as a down round feature or protection, because it is often triggered when equity is issued for less than a previous issuance. This feature provides the investor with the right to receive the lowest pricing available to any other investors, rather than protecting against the economic dilution that occurs if shares are issued for less than their then-current fair value, as discussed above in Example 17.

In Example 9, the terms of a warrant state that (1) if the entity sells shares of its common stock for an amount less than strike price in the warrant or (2) if the entity issues an equity-linked financial instrument with a strike price below the strike price in the warrant, the strike price of the warrant is reduced to equal the price of the newly issued shares or the strike price of the newly issued equity-linked financial instrument. Provided the new investor pays fair value for the shares or equity-linked financial instrument, the issuance of those securities does not dilute the current investors. This "down round" feature gives the current investors price protection, but not antidilution protection.

While the market price of the stock is an input to the Black-Scholes model, an adjustment to provide this type of price protection does not address discontinuous price movement that is not adequately addressed by the Black-Scholes model. Accordingly, the adjustment feature causes the warrant to fail to

be indexed to the issuer's stock and requires liability classification. A similar adjustment in an embedded equity-linked feature that met the definition of a derivative would cause that feature to fail the exception from derivative accounting and therefore be bifurcated.

The strike price adjustment provision described in Example 9 has been relatively common in transactions with private company investees as well as in many privately negotiated transactions by public companies that may include convertible debt or warrants.

B.4 The equity classification guidance (ASC 815-40-25)

B.4.1 Introduction

An instrument or embedded feature that is considered indexed to the issuer's own stock pursuant to the indexation guidance in ASC 815-40-15 should be evaluated pursuant to the equity classification guidance in ASC 815-40-25 to determine whether it would be classified in equity. The basic accounting model outlined in the equity classification guidance is based on the premise that contracts (or embedded features) that require net cash settlement are assets or liabilities, and contracts that require settlement in shares (or provide the issuer with a choice of settlement in net cash or in shares) are equity instruments.

If the contract provides the issuer with a choice of net cash settlement or settlement in shares, settlement in shares is assumed. If the contract provides the counterparty with a choice of net cash settlement or settlement in shares, net cash settlement is assumed. Within this guidance, settlement in shares includes both:

- ▶ Net share settlement where the party in a loss position pursuant to the contract delivers a net number of shares with a fair value equal to the settlement amount
- ▶ Gross physical settlement where the party designated in the contract as the buyer delivers the full stated amount of cash to the seller, and the seller delivers the full stated number of shares to the buyer (also referred to as a gross physical settlement as the gross amounts are transferred)

For example, in a physical settlement the issuer either receives cash and delivers shares (as in a forward sales contract or a written call option) or where the issuer delivers cash and receives shares (as in a purchased call option). The forms of settlement are discussed further in section B4.2.

Pursuant to the equity classification guidance, if a contract potentially can be net cash settled and that form of settlement is not within the control of the issuer, the contract is precluded from equity classification as either (1) the contract meets the definition of a derivative pursuant to ASC 815, but does not qualify for the exception from derivative accounting pursuant to ASC 815-10-15-74(a) or (2) the contract is not a derivative pursuant to ASC 815, but ASC 815-40 requires liability (or asset) classification. Alternatively, if an issuer is able in all circumstances to settle the contract by net share or physical settlement, the contract is classified in equity pursuant to the equity classification guidance as either (1) the contract meets the definition of a derivative pursuant to ASC 815, but qualifies for the exception from derivative accounting pursuant to ASC 815-10-15-74(a) or (2) the contract is not a derivative pursuant to ASC 815, but ASC 815-40 requires equity classification.

The equity classification guidance focuses on the specific terms of a contract and the legal or regulatory obstacles an issuer could encounter in executing a net share or physical settlement of a contract. Certain criteria must be met to conclude that share settlement is within the control of the entity. If any of the following criteria are not met, the equity classification guidance precludes the contract from being classified in equity (or qualifying for an exception from derivative accounting):

- ▶ The contract permits the issuer to settle by delivery of unregistered shares or registered shares that are registered at contract inception and are not subject to any future registration criteria

- ▶ The issuer has sufficient authorized but unissued shares available to settle the contract considering all other commitments
- ▶ The contract contains an explicit limit on the number of shares to be delivered in a share settlement
- ▶ There are no required cash payments to the counterparty in the event the issuer fails to make timely filings with the SEC
- ▶ There are no required cash payments to the counterparty that are intended to provide the counterparty with a full return of the amount due (i.e., there are no cash-settled top-off or make-whole provisions)
- ▶ There are no provisions in the contract that indicate the counterparty has rights that rank higher than those of a shareholder of the stock underlying the contract
- ▶ There is no requirement in the contract to post collateral at any point or for any reason

The equity classification guidance is applied without regard to the probability of events occurring that require the issuer to net cash settle. This is sometimes referred to as a theoretically possible threshold for considering if net cash settlement could occur outside the control of the issuer.

B.4.2

Evaluation of the basic settlement features within a contract

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Recognition

815-40-25-1

The initial balance sheet classification of contracts within the scope of this Subtopic generally is based on the concept that:

- a. Contracts that require net cash settlement are assets or liabilities.
- b. Contracts that require settlement in shares are equity instruments.

815-40-25-2

Further, an entity shall observe both of the following:

- a. If the contract provides the counterparty with a choice of net cash settlement or settlement in shares, this Subtopic assumes net cash settlement.
- b. If the contract provides the entity with a choice of net cash settlement or settlement in shares, this Subtopic assumes settlement in shares.

815-40-25-3

Except as noted in the last sentence of this paragraph, the approach discussed in the preceding two paragraphs does not apply if settlement alternatives do not have the same economic value attached to them or if one of the settlement alternatives is fixed or contains caps or floors. In those situations, the accounting for the instrument (or combination of instruments) shall be based on the economic substance of the transaction. For example, if a freestanding contract, issued together with another instrument, requires that the entity provide to the holder a fixed or guaranteed return such that the instruments are, in substance, debt, the entity shall account for both instruments as liabilities, regardless of the settlement terms of the freestanding contract. However, this Subtopic does apply to contracts that have settlement alternatives with different economic values if the reason for the difference is a limit on the number of shares that must be delivered by the entity pursuant to a net share settlement alternative.

815-40-25-4

Accordingly, unless the economic substance indicates otherwise:

- a. Contracts shall be initially classified as either assets or liabilities in both of the following situations:
 1. Contracts that require net cash settlement (including a requirement to net cash settle the contract if an event occurs and if that event is outside the control of the entity)
 2. Contracts that give the counterparty a choice of net cash settlement or settlement in shares (physical settlement or net share settlement).
- b. Contracts shall be initially classified as equity in both of the following situations:
 1. Contracts that require physical settlement or net share settlement
 2. Contracts that give the entity a choice of net cash settlement or settlement in its own shares (physical settlement or net share settlement), assuming that all the criteria set forth in paragraphs 815-40-25-7 through 25-35 and 815-40-55-2 through 55-6 have been met.

As stated above, the determination of whether a contract or feature within the scope of this guidance is classified as either an asset or liability or as equity depends on the settlement method.

The settlement methods for contracts or features are typically specified in the contract. Many contracts are formalized in several legal documents that comprise a single agreement. For example, an equity contract executed in ISDA documentation usually consists of a Master Agreement, a Confirmation and Equity Derivatives Definitions (refer to section 1.3.1 in Chapter 1). However, some contracts are documented in forms other than standardized ISDA documentation.

There could be a single settlement method specified or, alternatively, the issuing company or the counterparty may have a choice of settlement methods. The typical settlement alternatives and an example of their application follow:

- ▶ Physical settlement (also called gross physical settlement) – The party designated in the contract as the buyer delivers the full stated amount of cash to the seller, and the seller delivers the full stated number of shares to the buyer.
- ▶ Net share settlement – The party with a loss delivers to the party with a gain shares with a current fair value equal to the gain.
- ▶ Net cash settlement – The party with a loss delivers to the party with a gain a cash payment equal to the gain, and no shares are exchanged.

To illustrate the application of settlement methods, assume that a company enters into a forward transaction with a third party to sell 1,000,000 shares of its common stock at a future date at \$10 per share (the current market price). At the settlement date, consider two scenarios:

1. The issuer's share price has increased to \$12.50
2. The issuer's share price has declined to \$8.00.

The following summarizes the settlement alternatives (which are economically equal) for each scenario:

- ▶ Physical settlement – The issuer receives \$10 million and delivers 1,000,000 shares of its common stock in both scenarios. In the first scenario, the issuer receives \$2,500,000 less than the market value of the stock while in the second scenario, the issuer receives \$2,000,000 more. A contract requiring physical settlement is classified as equity pursuant to the equity classification guidance, presuming the detailed requirements are met.

- ▶ Net share settlement – The issuer delivers 200,000 shares worth \$2,500,000 in the event that the share price increases to \$12.50 ($\$2,500,000/\12.50) and receives 250,000 shares worth \$2,000,000 in the event that the share price declines to \$8.00 ($\$2,000,000/\8). A contract requiring net share settlement is classified as equity, presuming the detailed requirements of the equity classification guidance are met.
- ▶ Net cash settlement – The issuer delivers \$2,500,000 in cash in the event that the share price increases to \$12.50 ($\2.50 increase in share price \times 1,000,000 shares) and receives \$2,000,000 in cash in the event that the share price declines to \$8.00 ($\2.00 decline in share price \times 1,000,000 shares). A contract requiring net cash settlement is precluded from being classified as equity.

If the contract provided the issuer with a choice of net cash settlement or settlement in shares (physical or net share), the equity classification guidance assumes settlement in shares and the contract is not precluded from being classified in equity. If the contract provides the counterparty with a choice of net cash settlement or settlement in shares, the equity classification guidance assumes net cash settlement and that the contract is an asset or a liability.

Refer to the following Questions in section B9:

- ▶ Question 7 – How do differences in the economic value of multiple settlement alternatives affect the analysis of equity classification?
- ▶ Question 8 – How does a penalty in one settlement alternative affect the analysis of equity classification when multiple settlement alternatives exist?
- ▶ Question 9 – How is the analysis of equity classification affected if the settlement method differs based on whether the contract is in a gain or loss position?

B.4.3

Evaluation of any additional provisions that could require net cash settlement

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Recognition

815-40-25-7

Contracts that include any provision that could require net cash settlement cannot be accounted for as equity of the entity (that is, asset or liability classification is required for those contracts), except in those limited circumstances in which holders of the underlying shares also would receive cash (as discussed in the following two paragraphs and paragraphs 815-40-55-2 through 55-6).

815-40-25-8

Generally, if an event that is not within the entity's control could require net cash settlement, then the contract shall be classified as an asset or a liability. However, if the net cash settlement requirement can only be triggered in circumstances in which the holders of the shares underlying the contract also would receive cash, equity classification is not precluded.

815-40-25-9

This Subtopic does not allow for an evaluation of the likelihood that an event would trigger cash settlement (whether net cash or physical), except that if the payment of cash is only required upon the final liquidation of the entity, then that potential outcome need not be considered when applying the guidance in this Subtopic.

Contracts (and embedded features) cannot be accounted for as equity if the contracts include any provision that could require net cash settlement, except in certain circumstances as described below. In evaluating whether there are any circumstances where net cash settlement may be required, an issuer should consider whether there are any circumstances that are outside the issuer's control that could potentially prevent it from settling the contract on a physical or net share basis.

The equity classification guidance states that the probability of occurrence of an event/circumstance is not a factor in making this assessment and should not be considered. This is sometimes referred to as using a theoretically possible threshold for evaluating possible future events. In essence, the guidance requires that the issuer determine it is able both contractually and fully within its control to settle an instrument on a physical or net share basis.

For example, actions that management of the issuer and its board of directors could take to avoid net cash settlement can be considered in the control of the issuer, but actions requiring shareholder approval are considered to be beyond the issuer's control. In practice, there is a distinction between items requiring a shareholder vote (perhaps at the annual meeting or a special vote) and items that are decided by the board of directors, despite the fact that the board represents the shareholders.

If there is any possibility that the issuer may be unable to share settle (e.g., it has an inadequate number of authorized and unissued shares), net cash settlement is presumed unless directly rebutted in the contract, even when the explicit terms of the contract provide for share settlement as the only allowable means of settlement (whether physical or net share). As nonperformance is assumed to be an unacceptable alternative to the counterparty, the contract is assumed to be cash-settled either through negotiation between the counterparties or legal proceedings.

While the assumption of net cash settlement is explicit in the authoritative literature when the contract requires settlement in registered shares, net cash settlement is also assumed as a general principle throughout the equity classification guidance (e.g., when shares of a particular character, such as listed shares, are required to be delivered but being able to deliver those shares, such as by maintaining a listing for shares, is not fully within the issuer's control). Unless a contract explicitly states an acceptable alternative settlement (e.g., settlement in shares of another character) in a case where shares of the specified character are not available, cash settlement is presumed as the counterparty is presumed to require some form of settlement. Therefore, the additional considerations discussed in section B4.4 should be analyzed even in circumstances where there is only one explicit contractual settlement choice.

The equity classification guidance provides limited exceptions for net cash settlement. ASC 815-40-25-8 provides an exception on a change in control when the counterparty is permitted to receive or deliver, upon settlement, the same form of consideration (e.g., cash, debt or other assets) as holders of the shares underlying the contract in that change of control transaction. In addition, ASC 815-40-25-9 provides an exception when cash settlement is required only on final liquidation of the issuer.

The terms of equity contracts should be carefully analyzed to determine whether there are events outside the issuer's control that may require (or be deemed to require) net cash settlement. Contracts executed using standard ISDA documentation (discussed in section B4.2) permit the counterparty to net cash settle the contract upon the occurrence of events outside the control of the entity (e.g., provisions that cause a technical default or early termination of the contract upon the occurrence of certain events, upon which net cash settlement is required). In practice, issuers address this automatic trigger of net cash settlement by including in the ISDA confirmation language that states that, notwithstanding any other terms or settlement provision in the associated ISDA Master Agreement or Equity Definitions, in all cases the issuer can override those provisions and choose the form of settlement. The effect of those provisions should be carefully considered in determining if the conditions for equity classification are met.

Refer to Question 10 in section B9 – How does a “net cash settlement upon a change in control” provision, or on nationalization or similar events, affect the determination of whether settlement in shares is within the control of the entity?

B.4.4

Additional considerations necessary for equity classification

Excerpt from Accounting Standards Codification**Derivatives and Hedging – Contracts in Entity's Own Equity****Recognition****815-40-25-10**

Because any contract provision that could require net cash settlement precludes accounting for a contract as equity of the entity (except for those circumstances in which the holders of the underlying shares would receive cash, as discussed in the preceding two paragraphs and paragraphs 815-40-55-2 through 55-6), all of the following conditions must be met for a contract to be classified as equity:

- a. Settlement permitted in unregistered shares. The contract permits the entity to settle in unregistered shares.
- b. Entity has sufficient authorized and unissued shares. The entity has sufficient authorized and unissued shares available to settle the contract after considering all other commitments that may require the issuance of stock during the maximum period the derivative instrument could remain outstanding.
- c. Contract contains an explicit share limit. The contract contains an explicit limit on the number of shares to be delivered in a share settlement.
- d. No required cash payment if entity fails to timely file. There are no required cash payments to the counterparty in the event the entity fails to make timely filings with the Securities and Exchange Commission (SEC).
- e. No cash-settled top-off or make-whole provisions. There are no cash settled top-off or make-whole provisions.
- f. No counterparty rights rank higher than shareholder rights. There are no provisions in the contract that indicate that the counterparty has rights that rank higher than those of a shareholder of the stock underlying the contract.
- g. No collateral required. There is no requirement in the contract to post collateral at any point or for any reason.

Paragraphs 815-40-25-39 through 25-42 explain the application of these criteria to conventional convertible debt and other hybrid instruments.

The equity classification guidance provides seven additional conditions (in addition to the basic settlement choice discussed in sections B4.2 and B4.3) in ASC 815-40-25-10 that must be met for a contract to be classified as equity. These conditions are not subject to a probability assessment (i.e., the likelihood of an event that would trigger cash settlement is not relevant) and must be met during the entire term of the contract. In the event that a contract fails to meet one or more of the conditions after issuance because of new facts or circumstances, reclassification (or bifurcation of an embedded feature) is required as of the date the requirement is no longer met.

As provided in ASC 815-40-25-39, the seven additional conditions described above do not apply when analyzing a potential embedded derivative for bifurcation pursuant to ASC 815 if the hybrid contract is a conventional convertible debt instrument. Pursuant to a conventional convertible debt instrument, the holder generally may realize the value of the conversion option only by exercising the option and receiving the entire proceeds in a fixed number of shares or the equivalent amount of cash (at the discretion of the issuer). Refer to section 2.2.4.10 in Chapter 2 for a discussion of conventional convertible instruments.

Refer to Question 11 in section B9 – How does one determine if an instrument qualifies as “conventionally convertible” in analyzing the requirements of the equity classification guidance for embedded conversion options?

B.4.4.1

Settlement permitted in unregistered shares

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Recognition

815-40-25-11

The events or actions necessary to deliver registered shares are not controlled by an entity and, therefore, except under the circumstances described in paragraph 815-40-25-16, if the contract permits the entity to net share or physically settle the contract only by delivering registered shares, it is assumed that the entity will be required to net cash settle the contract. As a result, the contract shall be classified as an asset or a liability.

815-40-25-12

Delivery of unregistered shares in a private placement to the counterparty is within the control of an entity, as long as a failed registration statement (that is, a registration statement that was filed with the SEC and subsequently withdrawn) has not occurred within six months before the classification assessment date. If a failed registration statement has occurred within six months of the classification assessment date, whether an entity can deliver unregistered shares to the counterparty in a net share or physical settlement is a legal determination.

815-40-25-13

Accordingly, the contract shall be classified as a permanent equity instrument assuming all of the following conditions exist:

- a. A failed registration statement does not preclude delivery of unregistered shares.
- b. The contract permits an entity to net share settle the contract by delivery of unregistered shares.
- c. The other conditions in this Subtopic are met.

815-40-25-14

If both the following conditions are met, then net cash settlement is assumed if the entity is unable to deliver registered shares (because it is unlikely that nonperformance would be an acceptable alternative):

- a. A derivative instrument requires physical or net share settlement by delivery of registered shares and does not specify any circumstances under which net cash settlement would be permitted or required.
- b. The derivative instrument does not specify how the contract would be settled in the event that the entity is unable to deliver registered shares.

815-40-25-15

Consequently, the derivative instrument shall be classified as an asset or a liability because share settlement is not within the entity's control.

815-40-25-16

If a derivative instrument involves the delivery of shares at settlement that are registered as of the inception of the derivative instrument and there are no further timely filing or registration requirements, the requirement that share delivery be within the control of the entity is met, notwithstanding the guidance in paragraph 815-40-25-11.

815-40-25-17

A contract may specify that the value of the unregistered shares to be privately placed under share settlement is to be determined by the counterparty using commercially reasonable means. That valuation is used to determine the number of unregistered shares that must be delivered to the counterparty. The term commercially reasonable means is sufficiently objective from a legal perspective to prevent a counterparty from producing an unrealistic value that would then compel an entity to net cash settle the contract. Similarly, a contractual requirement to determine the fair value of unregistered shares by obtaining market quotations is sufficiently objective and would not suggest that the settlement alternatives have different economic values.

815-40-25-18

If a settlement alternative includes a penalty that would be avoided by an entity under other settlement alternatives, the uneconomic settlement alternative shall be disregarded in classifying the contract. In the case of delivery of unregistered shares, a discount from the fair value of the corresponding registered shares that is a reasonable estimate of the difference in fair values between registered and unregistered shares (that is, the discount reflects the fair value of the restricted shares determined using commercially reasonable means) is not considered a penalty.

One of the additional requirements necessary for an equity contract to qualify for equity classification is that the contract must permit the entity to settle in unregistered shares. That guidance contains the basic premise that a registrant is unable to control all the events or actions necessary to settle in registered shares. For example, an issuer cannot control whether an audit firm will provide the audit opinion or consent required for a registration statement. As a result, if the contract requires settlement in registered shares, equity classification is generally precluded.

Pursuant to ASC 815-40-25-16, equity classification would be permitted for contracts that require the issuer to deliver registered shares provided those shares are registered at the inception of the transaction and are not subject to any further timely filing or registration requirements. Determining whether the exception in ASC 815-40-25-16 should be applied, however, may depend on the application of securities law. If subsequent periodic filings pursuant to the Securities Exchange Act of 1934 (e.g., annual reports on Form 10-K, quarterly reports on Form 10-Q, reporting of significant events on Form 8-K) are required to maintain the effectiveness of a registration statement, this exception cannot be used.

We understand that there is not universal agreement among the securities bar that a share can be issued under a previously effective registration statement and be considered registered if periodic filings have not been made. Therefore, legal counsel may need to be consulted to determine whether the exception in ASC 815-40-25-16 should be applied. We understand the guidance in ASC 815-40-25-16 may be more applicable to forward contracts where the investment decision (i.e., decision to purchase and take delivery of the shares in the future) was made at the inception of the contract so no further timely information is necessary at maturity. We understand this may differ from an option contract where the final investment decision (the exercise of the option) is made at a later date when timely financial information could influence the investment decision.

Most contracts either (1) do not explicitly require settlement in registered shares (i.e., are silent on the nature of the shares to be delivered) or (2) specify settlement in unregistered shares. However, in either case, it is not certain that the contract can legally be settled in unregistered shares. At the 2006 AICPA National Conference on Current SEC and PCAOB Developments, an SEC staff member⁴⁰ delivered remarks regarding the determination of whether a contract could be settled in unregistered shares and the interaction of that evaluation with federal securities laws.

⁴⁰ Hunsaker, 2006 – Refer to the SEC website at <http://www.sec.gov/news/speech/2006/spch121206slh.htm>

When evaluating a convertible instrument (e.g., convertible debt, convertible preferred stock) or an equity issuance that includes a freestanding equity contract (e.g., warrant, forward contract), the SEC staff observed that many companies incorrectly assume that if a contract is silent as to whether settlement requires registered or unregistered shares, settlement in unregistered shares can be assumed.

The SEC staff stated that both the terms of the contract and federal securities laws should be considered in evaluating settlement alternatives. The SEC staff explained the legal concept of registration pursuant to the Securities Act of 1933, whereby the offer and sale of securities must be registered (as opposed to the security itself), in the context of the evaluation pursuant to the equity classification guidance. Offerings and sales may rely on various registration exemptions, with a common exemption being for the private placement of securities. The nature of the instrument (a freestanding option or forward contract or convertible debt or convertible preferred stock) and whether a further investment decision is to be made under the instrument also will affect the availability of any applicable registration exemptions. This determination can be complex.

The SEC staff noted that generally a security issuance that is initially commenced pursuant to a private placement exemption must be completed pursuant to a private placement exemption (private stays private) and a security issuance that is commenced in a registered form must be completed in a registered form (public stays public). This determination generally applies to all elements of the transaction (e.g., the debt and underlying shares in a convertible debt issuance or the shares, warrants and underlying shares in a unit offering). Experts, including securities counsel, may be helpful in the evaluation of whether instruments may be settled in unregistered shares.

Likewise, the SEC staff noted that experts should be involved when evaluating settlement of a contract (or an embedded conversion option) involving the delivery of shares that are registered as of the inception of the transaction, in particular, in making the determination of whether timely filing and registration requirements are necessary. If no further timely filing or registration requirements are necessary, settlement may be within the control of the issuer. We generally have observed that for most transactions involving delivery of registered shares, securities counsel believe ongoing timely filing requirements are applicable under the fraud statutes and therefore settlement in registered shares is not within the control of the issuer. However, certain exemptions pursuant to the securities laws may be available, as discussed above.

The SEC staff provided general examples of the application of the federal securities laws to certain transactions. One example related to special purpose acquisition companies (SPACs), which often issue a share of common stock and a warrant in a registered unit. As the unit is registered at issuance, the issuer must deliver registered shares in satisfaction of exercise of the warrant. Pursuant to federal securities laws, it appears that such warrants would fail the equity clarification criteria as the issuer could not assert its ability to settle the warrants in registered shares (e.g., public stays public).

However, the SEC staff also noted that the terms of the warrant should be evaluated because in some cases the terms of the warrant might clearly indicate that the warrants are not exercisable unless a current prospectus is available. In that case, the issuer could be assured that net cash settlement could not be required (or presumed) outside of its control. If the terms of the warrant are clear that in no event must the registrant net cash settle the warrants, and thus the contract itself clearly rebuts the presumption of any net cash settlement, the SEC staff would not object to equity classification, assuming all other criteria in the equity classification guidance are met.

The requirement to deliver unregistered shares in a private placement to the counterparty is within the control of an issuer, as long as a failed registration statement (i.e., a registration statement that was filed with the SEC and subsequently withdrawn) has not occurred within six months prior to the classification assessment date. If a failed registration statement has occurred within six months of the classification assessment date, the determination of whether an issuer can deliver unregistered shares in a net share

or physical settlement is a matter of law. When an entity with a past failed registration statement can again legally deliver unregistered shares, the delivery would be considered within its control (e.g., if sufficient time had passed from the failed registration statement).

Refer to Question 12 in section B9 – If an equity contract requires settlement in some form of shares other than registered shares (e.g., requires settlement shares of a listed company), do the same concepts regarding the ability to deliver registered shares apply?

B.4.4.2

Entity has sufficient authorized and unissued shares

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Recognition

815-40-25-19

If an entity could be required to obtain shareholder approval to increase the entity's authorized shares to net share or physically settle a contract, share settlement is not controlled by the entity.

815-40-25-20

Accordingly, an entity shall evaluate whether a sufficient number of authorized and unissued shares exists at the classification assessment date to control settlement by delivering shares. In that evaluation, an entity shall compare both of the following amounts:

- a. The number of currently authorized but unissued shares, less the maximum number of shares that could be required to be delivered during the contract period under existing commitments, including any of the following:
 1. Outstanding convertible debt that is convertible during the contract period
 2. Outstanding stock options that are or will become exercisable during the contract period
 3. Other derivative financial instruments indexed to, and potentially settled in, an entity's own stock.
- b. The maximum number of shares that could be required to be delivered under share settlement (either net share or physical) of the contract.

815-40-25-21

When evaluating whether there are sufficient authorized and unissued shares available to settle a contract, an entity shall consider the maximum number of shares that could be required to be delivered under a registration payment arrangement to be an existing share commitment, regardless of whether the instrument being evaluated is subject to that registration payment arrangement.

815-40-25-22

If the amount in paragraph 815-40-25-20(a) exceeds the amount in paragraph 815-40-25-20(b) and the other conditions in this Subtopic are met, share settlement is within the control of the entity and the contract shall be classified as a permanent equity instrument. Otherwise, share settlement is not within the control of the entity and asset or liability classification is required.

815-40-25-23

For purposes of this calculation, if a contract permits both (a) net share and (b) physical settlement by delivery of shares at the entity's option (both alternatives permit equity classification if the other conditions in this Section are met), the alternative that results in the lesser number of maximum shares shall be included in this calculation.

815-40-25-24

If a contract is classified as either an asset or a liability because the counterparty has the option to require settlement of the contract in cash, then the maximum number of shares that the counterparty could require to be delivered upon settlement of the contract (whether physical or net share) shall be assumed for purposes of this calculation.

If an issuer does not have sufficient authorized and unissued shares to settle the contract, settlement is assumed to be in cash, resulting in asset or liability classification. The required shareholder approval to increase the issuer's authorized shares to be able to net share or physically settle a contract by issuing shares is not considered to be in the issuer's control. If an entity had an insufficient number of authorized and unissued shares, upon obtaining shareholder approval to increase the number of authorized and issued shares assuming the other conditions are met, reclassification to equity would be required.

This provision may be evaluated differently in jurisdictions, based on the relevant laws. For example, generally the shareholders (as opposed to board of directors) must directly vote on share authorizations in the US. However, that action generally is left to management and/or the board of a company in Canada.

In calculating the maximum number of available authorized and unissued shares, companies must exclude any shares that could be required to be delivered pursuant to all contracts providing the counterparty with an option to share settle (whether physical or net share). This calculation should be performed notwithstanding the fact that such contracts may already be classified as an asset or as a liability. In addition to the items specifically identified in ASC 815-40-25-20, other examples include convertible preferred shares or warrants to purchase convertible securities and share-settled contingent consideration issued in a business combination.

It is not necessary to subtract anticipated voluntary share issuances from the number of authorized but unissued shares, because such issuances are within the control of the issuer. However, any such voluntary issuances should be considered in the periodic reassessment of the classification of the contract when they occur, as discussed previously. Companies that anticipate the issuance of new shares, granting of stock options or issuance of convertible debt should consider obtaining the authorization for those issuances to avoid the reclassification of an equity contract if those events occur.

When analyzing outstanding contracts at a point in time, an issuer may determine that it has insufficient shares to assert share settlement for all the contracts. In those situations, the issuer should allocate the shares available to the various contracts, which likely will result in one or more new contracts being classified (or existing equity contracts reclassified) as an asset or liability. Refer to section B6 for a discussion of concept of allocating shares to contracts being analyzed.

B.4.4.3**Contract contains an explicit share limit****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity****Recognition****815-40-25-26**

For certain contracts, the number of shares that could be required to be delivered upon net share settlement is essentially indeterminate. If the number of shares that could be required to be delivered to net share settle the contract is indeterminate, an entity will be unable to conclude that it has sufficient available authorized and unissued shares and, therefore, net share settlement is not within the control of the entity.

815-40-25-27

If a contract limits or caps the number of shares to be delivered upon expiration of the contract to a fixed number, that fixed maximum number can be compared to the available authorized and unissued shares (the available number after considering the maximum number of shares that could be required to be delivered during the contract period under existing commitments as addressed in paragraph 815-40-25-20 and including top-off or make-whole provisions as discussed in paragraph 815-40-25-30) to determine if net share settlement is within the control of the entity. A contract termination trigger alone (for example, a provision that requires that the contract will be terminated and settled if the stock price falls below a specified price) does not satisfy this requirement because, in that circumstance, the maximum number of shares deliverable under the contract is not known with certainty unless there is a stated maximum number of shares.

815-40-25-28

This paragraph addresses a contract structure that caps the number of shares that must be delivered upon net share settlement but would also provide that any contract valued in excess of that capped amount may be delivered to the counterparty in cash or by delivery of shares (at the entity's option) when authorized, unissued shares become available. The structure requires the entity to use its best efforts to authorize sufficient shares to satisfy the obligation. Under the structure, the number of shares specified in the cap is less than the entity's authorized, unissued shares less the number of shares that are part of other commitments (see paragraph 815-40-25-20). Use of the entity's best efforts to obtain sufficient authorized shares to settle the contract is within the entity's control. If the contract provides that the number of shares required to settle the excess obligation is fixed on the date that net share settlement of the contract occurs, the excess shares need not be considered when determining whether the entity has sufficient, authorized, unissued shares to net share settle the contract pursuant to paragraph 815-40-25-20. However, the contract may provide that the number of shares that must be delivered to settle the excess obligation is equal to a dollar amount that is fixed on the date of net share settlement (which may or may not increase based on a stated interest rate on the obligation) and that the number of shares to be delivered will be based on the market value of the stock at the date the excess amount is settled. In that case, the excess obligation represents stock-settled debt and shall preclude equity classification of the contract (or, if partial net share settlement is permitted under the contract pursuant to paragraph 815-40-35-11, precludes equity classification of the portion represented by the excess obligation).

Contracts must contain an explicit share limit in order to be classified in equity. If the number of shares that could be required to be delivered upon net share settlement is essentially indeterminate the issuer cannot assert it will be able to settle the contract in shares given its authorized and unissued shares. The probability of the number of settlement shares exceeding the available shares is not considered.

For example, assume that an issuer writes a put option that permits the counterparty to put 100,000 issuer shares to the issuer at \$100 per share. The contract permits the issuer to net share settle the contract (i.e., at settlement, the issuer will deliver issuer shares with an aggregate value equal to the excess of \$100 over the market value times 100,000). If the market price of the issuer's shares falls to \$1 as of the settlement date, the issuer would be required to deliver 9,900,000 shares pursuant to a net share settlement $((\$99 \times 100,000) / \$1)$. If the market price of the shares falls to \$0.125, the issuer would be required to deliver 79,900,000 shares pursuant to a net share settlement $((\$99.875 \times 100,000) / \$0.125)$. The number of potential shares continues to increase without limit as the share price approaches zero.

Although the written put option in the above example is classified as a liability pursuant to ASC 480, it would affect the equity classification analysis of other potentially share-settled instruments. If the number of shares that could be required to be delivered to net share settle the contract is indeterminate, an issuer would be unable to conclude that it has sufficient available authorized and unissued shares and, therefore, share settlement or net share settlement of any other instrument would not be within the control of the issuer. As with other potential future events, the probability of the stock price declining to any given point is not considered pursuant to the equity classification guidance.

If a contract limits or caps the number of shares to be delivered upon exercise of the contract to a fixed maximum number, the fixed maximum number can be compared to the available authorized and unissued shares to determine if net share settlement is within the control of the issuer. An absence of such a cap would result in a theoretically unlimited number of shares that could potentially be issued and thus, preclude this contract and potentially other contracts from being classified in equity as it is presumed to absorb all remaining authorized and unissued shares.

However, an issuer may be able to avoid liability or asset classification for some or all of its affected equity contracts by ordering them in terms of which obligations are assumed to be settled first. Depending on which contracts are tainted with inadequate shares for settlement (refer to discussion in section B6), it may be possible to select an accounting policy that places the uncapped obligation last, thus supporting a conclusion that the issuer would have sufficient shares to settle all other contracts first, before potentially running out of shares for the uncapped contract.

A concern of counterparties in accepting a cap is that they would incur a loss if upon settlement the share settlement results in a number of shares that exceeds the cap. Accordingly, the equity classification guidance in ASC 815-40-25-28 permits issuers to set a cap and if the shares to be issued are more than the cap specified in the agreement, the guidance permits delivery of the remaining shares when the authorized number of shares is increased to accommodate the additional shares to be issued, whenever that will be. That provision provides the investor with some comfort that the issuer will endeavor to settle the excess shares, but not provide a contractual commitment to issue those shares (or equivalent incremental cash).

Refer to Question 13 in section B9 – How are contractual adjustments to the number of shares pursuant to an equity contract considered when evaluating the equity classification guidance?

B.4.4.3.1

Multiple share limits

An indenture may provide for more than one share cap. For example, equity-kicker features (refer to section 2.2.4.6 in Chapter 2) may reference one explicit limit, while another explicit limit may be referenced when settling both the basic conversion and a make-whole provision (refer to section 2.2.4.5 in Chapter 2). In other cases, an equity-kicker may explicitly state that the limit includes any shares added to the conversion rate in connection with a fundamental change event (the make-whole provision).

When evaluating whether the issuer has sufficient authorized and unissued shares available to settle the conversion, the issuer should determine the maximum number of shares that could be issued in every possible settlement scenario, which may require the issuer to clarify the interaction of the various limits. If only one limit exists when an equity-kicker and make-whole provision are present, the issuer should determine whether the limit covers all possible share delivery requirements associated with the conversion feature.

B.4.4.4**No required cash payment if entity fails to file timely****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity****Recognition****815-40-25-29**

The ability to make timely SEC filings is not within the control of the entity. Accordingly, if a contract permits share settlement but requires net cash settlement in the event that the entity does not make timely filings with the SEC, that contract shall be classified as an asset or a liability.

Certain contracts provide for a required cash settlement of the contract in the event of a failure by the issuer to make timely SEC filings. The ability to make timely SEC filings may appear to be in the control of the issuer, but, because particular filings require the inclusion of financial statements and an audit opinion (for annual statements) or review (for quarterly filings) and possibly the consent of third parties (e.g., auditors or other experts), the ability to make timely filings is not completely within the control of the issuer.

As the guidance does not consider the probability of an event occurring that would require cash settlement, issuers cannot ignore the possibility, however remote, that they would not be able to provide completed financial statements or have obtained the appropriate audit, review or consent. Accordingly, the existence of provisions that mandate net cash settlement of the contract in the event that the issuer does not make timely filings with the SEC would result in an asset or a liability classification for the contract.

Some contracts may include requirements, either embedded in the contract or in a separate agreement, to pay certain liquidated damages (rather than settle the entire contract) in the event an issuer cannot register the shares. While this provision requires a potential cash payment, it does not result in the settlement of the equity-linked instrument or feature. Accordingly, this provision does not preclude equity classification pursuant to ASC 815-40-25-29. ASC 825-20, *Financial Instruments – Registration Payment Arrangements*, states that certain registration payment agreements should be recognized as a separate unit of account from the financial instrument subject to that arrangement. Refer to section 5.11 in Chapter 5 for further discussion.

Many contingent interest provisions in convertible debt instruments may require additional interest payments in the event the issuer fails to file a timely report with the SEC. We generally believe those features also do not preclude equity classification of the conversion feature pursuant to ASC 815-40-25.

Refer to Question 14 in section B9 – How should a registration rights agreement be considered in the analysis of the entity's (1) ability to settle a contract in unregistered shares and (2) potential obligation to make cash payments in the event of a failure to timely file with the SEC?

B.4.4.5**No cash-settled "top-off" or "make-whole" provisions****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity****Recognition****815-40-25-30**

A top-off or make-whole provision would not preclude equity classification if both of the following conditions exist:

- a. The provision can be net share settled.

- b. The maximum number of shares that could be required to be delivered under the contract (including any top-off or make-whole provisions) is both:
 1. Fixed
 2. Less than the number of available authorized shares (authorized and unissued shares less the maximum number of shares that could be required to be delivered during the contract period under existing commitments as discussed in paragraph 815-40-25-20).

If those conditions are not met, equity classification is precluded.

Some contracts include "top-off" or "make-whole" provisions. Such provisions generally are intended to reimburse the counterparty for losses it incurs or to transfer to the issuer gains the counterparty recognizes on the difference between the settlement date value and the value received by the counterparty in subsequent sales of the securities. We generally believe those sales should occur within a relatively short specified time after the settlement date (e.g., typically 30 days). If such a provision can be net share settled, and the maximum number of shares that could be required to be delivered pursuant to the contract is fixed and less than the number of available authorized shares as discussed above, a top-off or make-whole provision would not preclude equity classification. If those conditions are not met, equity classification would be precluded.

For example, assume an issuer enters into a written call option contract that permits the counterparty to purchase from the issuer 100,000 of the issuer's common shares for \$10 a share during the six-month period commencing on the contract date. The contract provides the issuer with a choice of net cash or net share settlement. Additionally, the contract stipulates that in the event that the issuer elects net share settlement and the counterparty is unable to sell the shares during the 15-day period following the settlement date for at least the fair value amount as determined on the settlement date, the issuer is required to reimburse the counterparty for the difference in either cash or additional shares (limited to 100,000 shares), at the issuer's choice.

This contract includes a make-whole provision. However, because the provision could be net share settled at the issuer's choice, and the maximum number of shares that could be required to be delivered pursuant to the make-whole provision is capped at 100,000 shares, equity classification is appropriate (assuming the issuer has a sufficient number of authorized and unissued shares). In the absence of the share alternative to settle the shortfall, the contract would be classified as an asset or a liability.

We generally believe that a top-off provision does not violate Step 2 (the fixed-for-fixed criteria discussed in section B3.3) in assessing whether the instrument is indexed to the issuer's stock, notwithstanding that the number of shares ultimately delivered could be higher or lower (thus the number of shares is not fixed). We generally believe that the indexation guidance was not intended to change the equity classification guidance. Rather, the intent of the indexation guidance is to evaluate the settlement value of the contract to determine whether that value is based on the number of shares underlying the equity contract. That number of shares, which is often fixed, is the subject of the analysis pursuant to the indexation guidance, rather than the potential variability that can emerge in the relatively short term after the settlement date that is contemplated in the top-off provision pursuant to the equity classification guidance.

B.4.4.6

No counterparty rights rank higher than shareholder rights**Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity****Recognition****815-40-25-31**

To be classified as equity, a contract cannot give the counterparty any of the rights of a creditor in the event of the entity's bankruptcy. Because a breach of the contract by the entity is within its control, the fact that the counterparty would have normal contract remedies in the event of such a breach does not preclude equity classification. As a result, a contract cannot be classified as equity if the counterparty's claim in bankruptcy would receive higher priority than the claims of the holders of the stock underlying the contract.

815-40-25-32

Generally, based on existing law, a net share settled derivative instrument that an entity has a right to settle in shares even upon termination could be net share settled in bankruptcy. If the derivative instrument is not net share settled, the claim of the counterparty would not have priority over those of the holders of the underlying stock, even if the contract specified cash settlement in the event of bankruptcy. In federal bankruptcy proceedings, a debtor cannot be compelled to affirm an existing contract that would require it to pay cash to acquire its shares (which could be the case, for example, with a physically settled forward purchase or written put). As a result, even if the contract requires that the entity (debtor) pay cash to settle the contract, the entity could not be required to do so in bankruptcy. Because of the complexity of federal bankruptcy law and related case law, and because of the differences in state laws affecting derivative instruments, it is not possible to address all of the legal issues associated with the status of the contract and the claims of the counterparty in the event of bankruptcy.

815-40-25-33

A contract provision requiring net cash settlement in the event of bankruptcy does not preclude equity classification if it can be demonstrated that, notwithstanding the contract provisions, the counterparty's claims in bankruptcy proceedings in respect of the entity could be net share settled or would rank no higher than the claims of the holders of the stock underlying the contract.

815-40-25-34

Determination of the status of a claim in bankruptcy is a legal determination.

Generally, contracts with preferential rights in the event of bankruptcy will preclude equity classification, as holding the rights of a creditor in bankruptcy is not consistent with classification of an instrument as equity. However, particular consideration should be given to whether those rights are enforceable. Making such a determination will likely require the involvement of experts (e.g., bankruptcy counsel).

Contracts using ISDA documentation (refer to section B4.2) may provide netting provisions that permit the parties to set off all amounts receivable or payable in the contract against other contracts pursuant to the same ISDA Master Agreement to determine a net payment obligation at settlement. This netting is acceptable if the setoff is limited to only equity-classified transactions. If the netting provision permits the setoff of obligations pursuant to an equity contract and all other contracts (including non-equity-classified transactions), the netting provision may give the counterparty the rights of a creditor (which ranks higher than those of a common shareholder) once the equity transaction is aggregated with the non-equity classified transactions.

In practice, in order to avoid providing creditor rights, an ISDA confirmation may provide that the setoff of obligations arising only from equity-classified transactions is permitted. Alternatively, the ISDA confirmation may remove any rights of either party to set off obligations.

B.4.4.7**No collateral required****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity****Recognition****815-40-25-35**

A requirement to post collateral of any kind (other than the entity's shares underlying the contract, but limited to the maximum number of shares that could be delivered under the contract) under any circumstances is inconsistent with the concept of equity and, therefore, precludes equity classification of the contract.

A contract requirement to post collateral of any kind by the issuer under any circumstances (other than the issuer's shares underlying the contract, but limited to the maximum number of shares that could be delivered pursuant to the contract) would preclude equity classification because a requirement to post collateral is inconsistent with the concept of equity. For example, if a counterparty required an issuer to provide a letter of credit to support the issuer's performance pursuant to an equity contract, the contract would be precluded from equity classification (or qualifying for an exemption from derivative accounting).

Read literally, the posting of collateral by either party precludes equity classification by the issuer. However, based on the 10 July 2000, EITF Issue Summary discussed by the EITF at the 19-20 July 2000 EITF meeting, we generally believe the guidance was intended to address the posting of the collateral only by the issuer when shares underlie the contract. Therefore, we generally believe, and industry practice would support, that the equity classification guidance permits the counterparty to post collateral.

B.5**Initial measurement, subsequent balance sheet classification and measurement, and derecognition****Excerpt from Accounting Standards Codification****Derivatives and Hedging – Contracts in Entity's Own Equity****Initial Measurement****815-40-30-1**

All contracts within the scope of this Subtopic shall be initially measured at fair value.

Derivatives and Hedging – Contracts in Entity's Own Equity**Subsequent Measurement****Overall****815-40-35-1**

All contracts shall be subsequently accounted for based on the current classification and the assumed or required settlement method in Section 815-40-25 as follows.

Equity Instruments – Permanent Equity**815-40-35-2**

Contracts that are initially classified as equity under Section 815-40-25 shall be accounted for in permanent equity as long as those contracts continue to be classified as equity. Subsequent changes in fair value shall not be recognized as long as the contracts continue to be classified as equity. Both of the following shall be reported in permanent equity:

- a. Contracts that require that the entity deliver shares as part of a physical settlement or a net share settlement

- b. Contracts that give the entity a choice of either of the following:
 - 1. Net cash settlement or settlement in shares (including net share settlement and physical settlement that requires that the entity deliver shares)
 - 2. Either net share settlement or physical settlement that requires that the entity deliver cash.

815-40-35-3

[Paragraph not used]

Assets or Liabilities**815-40-35-4**

All other contracts classified as assets or liabilities under Section 815-40-25 shall be measured subsequently at fair value, with changes in fair value reported in earnings and disclosed in the financial statements as long as the contracts remain classified as assets or liabilities.

Settlement Assumptions**815-40-35-5**

Net share settlement should be assumed for contracts that are classified under Section 815-40-25 as equity instruments that provide the entity with a choice of either of the following:

- a. Net share settlement
- b. Physical settlement that may require that the entity deliver cash.

815-40-35-6

Physical settlement should be assumed for contracts that are classified under Section 815-40-25 as equity instruments that provide the counterparty with a choice of either of the following:

- a. Net share settlement
- b. Physical settlement that may require that the entity deliver cash.

815-40-35-7

[Paragraph not used]

Derivatives and Hedging – Contracts in Entity's Own Equity***Derecognition*****815-40-40-1**

If contracts classified as permanent equity are ultimately settled in a manner that requires that the entity deliver cash, the amount of cash paid or received shall be reported as a reduction of, or an addition to, contributed capital.

815-40-40-2

If contracts classified as assets or liabilities are ultimately settled in shares, any gains or losses on those contracts shall continue to be included in earnings.

After applying the indexation guidance and equity classification guidance in ASC 815-40, a freestanding contract (or embedded feature) should be classified in one of several ways:

- As an equity instrument (or not bifurcated) if:

- ▶ A freestanding contract (or embedded feature) met the definition of a derivative pursuant to ASC 815, but received an exception from derivative accounting pursuant to ASC 815-10-15-74 (a) after consideration of the guidance in ASC 815-40.
- ▶ A freestanding contract did not meet the definition of a derivative pursuant to ASC 815 but met the requirements for equity classification pursuant to ASC 815-40.
- ▶ As an asset or liability (or bifurcated) if:
 - ▶ A freestanding contract (or embedded feature) met the definition of a derivative pursuant to ASC 815 but did not receive an exception from derivative accounting pursuant to ASC 815-10-15-74(a) after consideration of the guidance in ASC 815-40.
 - ▶ A freestanding contract was not deemed to be indexed to the issuer's shares pursuant to the indexation guidance.
 - ▶ A freestanding contract did not meet the definition of a derivative pursuant to ASC 815 and did not meet the requirements for equity classification pursuant to ASC 815-40.

Generally, a freestanding equity contract should initially be measured at fair value, regardless of its classification. Sometimes, the equity contract may be measured initially at its allocated proceeds if it is issued as part of a basket issuance (e.g., warrant issued in connection with debt). Refer to section 1.2.7 in Chapter 1 for further guidance on the allocation of proceeds.

For embedded equity-linked features that require bifurcation, the value to be recognized for the bifurcated derivative depends on whether it is an option-based feature or a forward-based feature. Option-based features are bifurcated at their fair value based on the contractual terms. Forward-based features are bifurcated at zero and their terms are adjusted to the implied terms that produce fair value of zero (refer to sections 1.2.3.3 in Chapter 1).

Subsequent measurement will depend on where an equity-linked contract (or bifurcated feature) is classified and why it was classified there:

Classification	Reason for classification	Subsequent measurement
Equity	Meets the ASC 815-10 definition of a derivative and qualifies for the exception from derivative accounting when considering ASC 815-40	Not remeasured unless reclassification is required
Equity	Does not meet the definition of a derivative and meets the criteria for equity classification under ASC 815-40	Not remeasured unless reclassification is required
Asset/liability	Meets the definition of a derivative and did not qualify for the exception from derivative accounting under either or both of the indexation guidance in ASC 815-40-15 and the equity classification guidance in ASC 815-40-25	Fair value with changes in fair value reflected in earnings unless appropriately designated in a hedge
Asset/liability	Does not meet the definition of a derivative and fails the indexation guidance in ASC 815-40-15	Not specified in the guidance. For written options issued by public companies, the SEC expects the contracts to be measured at fair value. Fair value would also be a preferable basis for any other contracts in this situation. Guidance in the 1986 AICPA Options Issues Paper could also be considered
Asset/liability	Does not meet the definition of a derivative, but while meeting the indexation guidance in ASC 815-40-15, it fails the equity classification guidance in ASC 815-40-25	Fair value with changes in fair value reflected in earnings

As discussed in section B6, the classification of contracts and features can change over time. Contracts are reassessed at each balance sheet date for the appropriate classification.

Upon settlement or termination, if an equity contract or bifurcated embedded derivative is classified as an asset or liability at fair value, the instrument or bifurcated embedded derivative is marked to its fair value at the settlement date and then the asset is realized or liability settled.

- ▶ If cash is received or paid in the settlement, it is recorded as a debit or credit for the amounts transferred.
- ▶ Any shares received or delivered are recorded at that balance in equity as treasury stock (if shares are received) or as shares issued (if shares are delivered) with appropriate allocation to common stock at par and the remainder to additional paid-in capital related to common shares. If the treasury shares are considered retired, separate accounting is performed.

If the instrument is classified as equity, any cash received or paid in the settlement is recorded as a debit or credit for the amounts transferred with offset to additional paid-in capital. If any shares are received or delivered they are recorded in equity as treasury stock (if shares are received) or as shares issued (if shares are delivered) with appropriate allocation to common stock at par and additional paid-in capital. If the treasury shares are considered retired, separate accounting is performed.

B.6

Reclassification of contracts

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Initial Measurement

Reclassification of Contracts

815-40-35-8

The classification of a contract shall be reassessed at each balance sheet date. If the classification required under this Subtopic changes as a result of events during the period (if, for example, as a result of voluntary issuances of stock the number of authorized but unissued shares is insufficient to satisfy the maximum number of shares that could be required to net share settle the contract [see discussion in paragraph 815-40-25-20]), the contract shall be reclassified as of the date of the event that caused the reclassification. There is no limit on the number of times a contract may be reclassified.

815-40-35-9

If a contract is reclassified from permanent or temporary equity to an asset or a liability, the change in fair value of the contract during the period the contract was classified as equity shall be accounted for as an adjustment to stockholders' equity. The contract subsequently shall be marked to fair value through earnings.

815-40-35-10

If a contract is reclassified from an asset or a liability to equity, gains or losses recorded to account for the contract at fair value during the period that the contract was classified as an asset or a liability shall not be reversed.

815-40-35-11

If a contract permits partial net share settlement and the total notional amount of the contract no longer can be classified as permanent equity, any portion of the contract that could be net share settled as of that balance sheet date shall remain classified in permanent equity. That is, a portion of the contract shall be classified as permanent equity and a portion of the contract shall be classified as an asset, a liability, or temporary equity, as appropriate.

815-40-35-12

If an entity has more than one contract subject to this Subtopic, and partial reclassification is required, there may be different methods that could be used to determine which contracts, or portions of contracts, shall be reclassified. Methods that would comply with this Section could include any of the following:

- a. Partial reclassification of all contracts on a proportionate basis
- b. Reclassification of contracts with the earliest inception date first
- c. Reclassification of contracts with the earliest maturity date first
- d. Reclassification of contracts with the latest inception or maturity date first
- e. Reclassification of contracts with the latest maturity date first.

815-40-35-13

The method of reclassification shall be systematic, rational, and consistently applied.

ASC 815-40-35-8 requires that the issuer reassess the classification of a contract at each balance sheet date. If the classification changes because of events occurring during the reporting period, the contract is reclassified as of the date of the event that caused the reclassification.

To illustrate, assume that an issuer enters into a forward sale contract in which it has a choice of net share or net cash settlement (a partial settlement in shares and cash is not permitted, as discussed in the following section). Assume further that at issuance, the issuer has a sufficient number of authorized and unissued shares to net share settle the contract, the contract contains an explicit limit on the number of shares to be delivered and all other provisions for equity classification are met. Subsequently, because of an issuance of additional shares of stock, the issuer no longer has sufficient authorized and unissued shares to net share settle the contract after considering the explicit limit (a cap on shares to issue).

Pursuant to the equity classification guidance, the issuer should reclassify the contract to an asset or a liability on the date the additional shares were issued. Any changes in fair value during the period the contract was classified as equity should be accounted for as an adjustment to stockholders' equity. If, at a later date, the issuer obtains shareholder authorization and again has sufficient authorized and unissued shares to settle the contract, the contract is reclassified back to equity on the date the approval was obtained. Gains or losses recognized to account for the contract at fair value during the period that the contract was classified as an asset or a liability are not reversed.

B.6.1**Allocation of shares to contracts for reclassification**

An issuer may have more than one contract subject to the equity classification guidance. Some contracts (or portion of contracts) may require asset or liability classification because the issuer does not have sufficient authorized and unissued shares to cover all share settlement obligations under those contracts. In that case, an accounting policy (sometimes referred to as a contract ordering policy as it will order the contracts and then allocate shares to the first, then the second, etc.) may be elected to determine which contracts, or portions of contracts, should be reclassified.

ASC 815-40-35-12 describes several methods that would be appropriate. Although no illustrations are provided, the guidance states that the method of reclassification should be systematic, rational and consistently applied. Although ASC 815-40-35-12 appears to permit for the application of other methods, as indicated by the use of the phrase "could include," to our knowledge, the use of other methods is rare. A company should carefully consider its choice of policy given both current capitalization and future potential transactions.

The determination of how to partially reclassify contracts subject to the equity classification guidance is an accounting policy decision that, as described in ASC 815-40-50-4, should be disclosed pursuant to ASC 235, *Notes to the Financial Statements*.

B.6.2 Partial reclassification

If a contract permits partial net share settlement, any portion of the contract that could be net share settled pursuant to the contractual arrangement as of that balance sheet date would remain classified in equity. That is, a portion of the contract could be classified as equity, and a portion of the contract could be classified as an asset or liability, as appropriate. The terms of the contract should be carefully analyzed to determine if the contract allows for partial settlement in one form of consideration with the remaining settlement in another form (i.e., cash).

To illustrate, assume that on 1 January an issuer enters into a forward transaction with a third party, requiring the third party to purchase 1,000,000 of the issuer shares on 31 December at \$10 per share (the forward price on 1 January). The contract permits the issuer either to net share or net cash settle the contract at its choice (the contract does not permit physical settlement). The contract also permits partial settlement in either of the settlement choices (i.e., settlement in stock and cash). The contract contains a cap of 1,000,000 shares, and it meets all the other requirements of the indexation guidance and equity classification guidance for equity classification. Assume further that on the date the issuer entered into the contract, the issuer had 1,000,000 authorized and unissued shares and had no other outstanding commitments that may require the issuance of shares.

Pursuant to the equity classification guidance, the contract would be classified in equity at inception (1 January). Equity classification would be maintained provided that the total number of authorized and unissued shares is not less than 1,000,000.

Assume on 30 June the value of the issuer shares increases from \$10 to \$12. Additionally, on that date the issuer issued an additional 900,000 shares of stock without any increase to the number of authorized shares (thereby reducing the number of available authorized and unissued shares to 100,000). If the contract settles on that date, the issuer would be required to pay \$2,000,000 in cash ($(\$12 - \$10) \times 1,000,000$) pursuant to a net cash settlement or deliver the equivalent value in shares, requiring the delivery of 166,667 shares ($\$2,000,000 / \12) pursuant to a net share settlement. On 30 June, the contract does not meet the criteria to be classified entirely as equity because there is an insufficient number of authorized and unissued shares. Accordingly, pursuant to the equity classification guidance, the amount that may not be share-settled is required to be reclassified as a liability as of the date the requirements were no longer met (30 June).

The equity classification guidance does not contain detailed guidance on how to determine of the amount to be reclassified in situations such as that above. However, we generally believe that it is consistent with the equity classification guidance to assume that the issuer would settle its obligation by delivering shares to the extent it is able. Therefore, in this example, the value of the shares that the issuer is obligated to deliver that are not authorized (66,667 shares, or approximately \$800,000 [$66,667 \times \12]) would be reclassified as a liability on 30 June (the issuer would debit paid-in capital for \$800,000 and credit a liability for the same amount). This approach indicates that 40% of the contract is being recorded as a liability (\$800,000 of the \$2,000,000 value or alternatively the cash for 66,667 shares of the 166,667 that would be due). Note that this example values the forward contract without regard to discounting for simplicity.

Pursuant to the equity classification guidance, the changes in fair value between 1 January and 30 June attributable to the reclassified portion of the contract would remain in paid-in capital. Changes in fair value attributable to the portion classified as a liability occurring after 30 June would be reflected in current earnings as long as the contract remains classified as a liability.

Assume that on 30 September, the fair value of the issuer's shares had continued to increase from \$12 to \$15. As a result, if the contract settles on that date, the issuer would be required to pay \$5,000,000 in cash ($(\$15 - \$10) \times 1,000,000$) pursuant to a net cash settlement or deliver the equivalent value in shares, requiring the delivery of 333,333 shares ($\$5,000,000 / \15) pursuant to a net share settlement. On 30 September, the issuer can net share settle only \$1,500,000 of this obligation (100,000 authorized unissued shares \times \$15) and the remaining obligation of \$3,500,000 would have to be satisfied by a net cash payment (and, therefore, should be recorded as a liability). We generally believe calculating the amount to be recorded in earnings could be performed in at least two ways as a policy election.

The simplest method would be to mark the recorded liability to the new fair value. Consequently, on 30 September, the issuer would record a debit to income with a corresponding credit to liabilities for \$2,700,000 to record the additional obligation that may not be share-settled (representing both the change in fair value of the previously liability classified portion and the additional liability classification).

A potential alternative would be to recognize that 40% of the contract was classified as a liability at 30 June. That portion of the contract had a fair value of \$800,000 at 30 June, and 40% of the contract at 30 September would be \$2,000,000 (40% times \$5,000,000). That would suggest that the charge to earnings for the change in fair value of the portion of the contract previously classified as a liability would be \$1,200,000 ($\$2,000,000 - \$800,000$). As a result, \$1,500,000 (the remainder to arrive at the total liability of \$3,500,000) would be reclassified from equity as a result of an increase in the amount of the contract that could not be covered by existing authorized shares. At 30 September, 70% of the contract would be classified as a liability (\$3,500,000 of the \$5,000,000, or alternatively the cash for 233,333 shares of the 333,333 that would be due).

If the issuer subsequently authorized the issuance of a sufficient additional number of shares or its share price increased, the issuer would adjust the carrying amount of the liability to its current fair value (the amount that the issuer would have had to pay before the additional shares were authorized) and then reclassify that remeasured carrying amount to equity. The amounts that were previously recorded as a charge to earnings in excess of that final adjustment would not be reversed.

B.7 Illustrative examples of the control over equity settlement guidance

The equity classification guidance includes the following examples, based on underlying settlement provisions.

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Implementation Guidance and Illustrations

Application of this Subtopic to Specific Instruments

815-40-55-7

The following guidance reflects the application of this Subtopic to certain freestanding derivative financial instruments that are indexed to, and potentially settled in, an entity's own stock, specifically:

- a. Embedded written put options and forward purchase contracts
- b. Forward sale contracts, written call options or warrants, and purchased put options
- c. Purchased call options
- d. Detachable stock purchase warrants
- e. Put warrants.

Embedded Written Put Options and Forward Purchase Contracts

815-40-55-8

Paragraph 815-40-15-3(e) explains that financial instruments that are within the scope of Topic 480 are not subject to any of the provisions of this Subtopic. See paragraph 480-10-55-63 for a table for freestanding written put options and forward purchase contracts that are accounted for under Topic 480. The guidance that follows applies to embedded derivatives analyzed under paragraph 815-15-25-1(c).

815-40-55-9

The entity (the buyer) agrees to buy from the seller shares at a specified price at some future date. The contract may be settled by physical settlement, net share settlement, or net cash settlement, or the issuing entity or the counterparty may have a choice of settlement methods. Application of this Subtopic to purchased call options is discussed in paragraph 815-40-55-14.

815-40-55-10

The guidance in the following table includes shareholder rights (sometimes referred to as SHARP rights) issued by the entity to shareholders that give the shareholders the right to put a specified number of common shares to the entity for cash.

815-40-55-11

The guidance in this Subtopic would be applied as follows.

	One settlement method			Entity choice			Counterparty choice		
	Physical ^(a)	Net share	Net cash	Net share or physical ^(a)	Net share or net cash	Net cash or physical ^(a)	Net share or physical ^(a)	Net share or net cash	Net cash or physical ^(a)
(1) Initial classification:									
Equity ^(b)	X	X		X	X	X	X		
Asset or liability			X					X	X
(2) Initial measurement, subsequent classification and measurement:									
Fair value, permanent equity-no changes in fair value ^(b)		X		X ^(c)	X ^(c)				
Fair value, transfer to temporary equity an amount equal to cash redemption amount ^{(b)(d)}	X					X ^(e)	X ^(e)		
Fair value, asset or liability-adjusted for changes in fair value ^(f)			X					X ^(g)	X ^(g)

^(a) Physical settlement of the contract requires that the entity deliver cash to the holder in exchange for the shares.

^(b) Equity or temporary equity classification is only appropriate if the conditions in Section 815-40-25 do not require asset or liability classification of the contract.

^(c) If the contracts are ultimately physically settled by the entity, requiring that the entity deliver cash, or are ultimately settled in net cash, the amount of cash paid or received should be reported as a reduction of, or as an addition to, contributed capital.

^(d) Classification and measurement guidance within temporary equity applies only to public entities.

^(e) If the contracts are ultimately settled in net cash or net shares, the amount reported in temporary equity should be transferred and reported as an addition to permanent equity.

^(f) Subsequent changes in fair value should be reported in earnings and disclosed in the financial statements.

^(g) If the contracts are ultimately settled in shares, any gains or losses on those contracts should continue to be included in earnings.

Note: In all cases above, the contracts must be reassessed at each reporting period in order to determine whether or not the contract must be reclassified

815-40-55-12

See paragraph 480-10-55-63 for a table for freestanding written put options and forward purchase contracts that are accounted for under Topic 480. This table applies to embedded derivatives analyzed under paragraph 815-15-25-1(c).

Forward Sale Contracts, Written Call Options or Warrants, and Purchased Put Options**815-40-55-13**

The issuing entity (the seller) agrees to sell shares of its stock to the buyer of the contract at a specified price at some future date. The contract may be settled by physical settlement, net share settlement, or net cash settlement, or the issuing entity or counterparty may have a choice of settlement methods. The guidance in this Subtopic would be applied as follows.

	One Settlement Method			Entity Choice			Counterparty Choice		
	Physical (a)	Net Share	Net Cash	Net Share or Physical ^(a)	Net Share or Net Cash	Net Cash or Physical ^(a)	Net Share or Physical ^(a)	Net Share or Net Cash	Net Cash or Physical ^(a)
(1) Initial Classification:									
Equity ^(b)	X	X		X	X	X	X		
Asset or Liability			X					X	X
(2) Initial Measurement, Subsequent Classification and Measurement:									
Fair value, permanent equity – no changes in fair value ^(b)	X	X		X	X ^(c)	X ^(c)	X		
Fair value, asset or liability – adjusted for changes in fair value ^(d)			X					X ^(e)	X ^(e)

(a) Physical settlement of the contract requires that the entity deliver shares to the holder in exchange for cash.

(b) Equity or temporary equity classification is only appropriate of the conditions in Section 815-40-25 do not require asset or liability classification of the contract.

(c) If the contracts are ultimately settles in net cash, the amount of cash paid or received should be reported as a reduction of, or an addition to, contributed capital.

(d) Subsequent changes in fair value should be reported in earnings and disclosed in the financial statements.

(e) If the contracts are ultimately settled in shares, any gains or losses on those contracts should continue to be included in earnings.

Note: In all cases above, the contracts must be reassessed at each reporting period in order to determine whether or not the contract must be reclassified.

Purchased Call Options***815-40-55-14***

The entity (the buyer) purchases call options that provide it with the right, but not the obligation, to buy from the seller, shares of the entity's stock at a specified price. If the options are exercised, the contract may be settled by physical settlement, net share settlement, or net cash settlement, or the issuing entity or the counterparty may have a choice of settlement methods. The entity should follow the preceding table in accounting for purchased call options.

Detachable Stock Purchase Warrants***815-40-55-15***

An entity issues senior subordinated notes with a detachable warrant that gives the holder both the right to purchase 6,250 shares of the entity's stock for \$75 per share and the right (that is, a put) to require that the entity repurchase all or any portion of the warrant for at least \$2,010 per share at a date several months after the maturity of the notes in about 7 years. The proceeds should be allocated between the debt liability and the warrant based on their relative fair values, and the resulting discount should be amortized in accordance with Subtopic 835-30. The warrants should be considered, in substance, debt and accounted for as a liability because the settlement alternatives for the warrants do not have the same economic value attached to them and they provide the holder with a guaranteed return in cash that is significantly in excess of the value of the share-settlement alternative on the issuance date.

Put Warrants***815-40-55-16***

Put warrants are frequently issued concurrently with debt securities of the entity, are detachable from the debt, and may be exercisable only under specified conditions. The put feature of the instrument may expire under varying circumstances, for example, with the passage of time or if the entity has a public stock offering. Under Subtopic 470-20, a portion of the proceeds from the issuance of debt with detachable warrants must be allocated to those warrants.

815-40-55-17

Put warrants are instruments with characteristics of both warrants and put options. The holder of the instrument is entitled to do any of the following:

- a. Exercise the warrant feature to acquire the common stock of the entity at a specified price
- b. Exercise the put option feature to put the instrument back to the entity for a cash payment
- c. Exercise both the warrant feature to acquire the common stock and the put option feature to put that stock back to the entity for a cash payment.

815-40-55-18

Because the contract gives the counterparty the choice of cash settlement or settlement in shares, entities should report the proceeds from the issuance of put warrants as liabilities and subsequently measure the put warrants at fair value with changes in fair value reported in earnings as required by Topic 480. That is, a put warrant that embodies an obligation to repurchase the issuer's equity shares, or is indexed to such an obligation, and that requires or may require a transfer of assets is within the scope of that Topic and therefore is to be recognized as a liability.

B.8 Disclosures for contracts in an entity's own equity

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Disclosure

815-40-50-1

Changes in the fair value of all contracts classified as assets or liabilities shall be disclosed in the financial statements as long as the contracts remain classified as assets or liabilities.

815-40-50-2

Some contracts that are classified as assets or liabilities meet the definition of a derivative instrument under the provisions of Subtopic 815-10. The related disclosures that are required by Sections 815-10-50, 815-25-50, 815-30-50, and 815-35-50 also are required for those contracts.

Reclassifications and Related Accounting Policy Disclosures

815-40-50-3

Contracts within the scope of this Subtopic may be required to be reclassified into (or out of) equity during the life of the instrument (in whole or in part) pursuant to the provisions of paragraphs 815-40-35-8 through 35-13. An issuer shall disclose contract reclassifications (including partial reclassifications), the reason for the reclassification, and the effect on the issuer's financial statements.

815-40-50-4

The determination of how to partially reclassify contracts subject to this Subtopic is an accounting policy decision that shall be disclosed pursuant to Topic 235.

Interaction with Disclosures About Capital Structure

815-40-50-5

The disclosures required by Section 505-10-50 apply to all contracts within the scope of this Subtopic as follows:

- a. In the case of an option or forward contract indexed to the issuer's equity, the pertinent information to be disclosed under Section 505-10-50 about the contract includes all of the following:
 1. The forward rate
 2. The option strike price
 3. The number of issuer's shares to which the contract is indexed
 4. The settlement date or dates of the contract
 5. The issuer's accounting for the contract (that is, as an asset, liability, or equity).
- b. If the terms of the contract provide settlement alternatives, those settlement alternatives shall be disclosed under Section 505-10-50, including both of the following:
 1. Who controls the settlement alternatives
 2. The maximum number of shares that could be required to be issued to net share settle a contract, if applicable. Paragraph 505-10-50-3 requires additional disclosures for actual issuances and settlements that occurred during the accounting period.

- c. If a contract does not have a fixed or determinable maximum number of shares that may be required to be issued, the fact that a potentially infinite number of shares could be required to be issued to settle the contract shall be disclosed under Section 505-10-50.
- d. A contract's current fair value for each settlement alternative (denominated, as relevant, in monetary amounts or quantities of shares) and how changes in the price of the issuer's equity instruments affect those settlement amounts (for example, the issuer is obligated to issue an additional X shares or pay an additional Y dollars in cash for each \$1 decrease in stock price) shall be disclosed under Section 505-10-50. (For some issuers, a tabular format may provide the most concise and informative presentation of these data.)
- e. The disclosures required by paragraph 505-10-50-11 shall be made for any equity instrument in the scope of this Subtopic that is (or would be if the issuer were a public entity) classified as temporary equity. (That paragraph applies to redeemable stock issued by nonpublic entities, regardless of whether the private entity chooses to classify those securities as temporary equity.)

In addition to the disclosure requirements specifically provided for in ASC 815-40, the disclosure requirements of ASC 505, *Equity*, apply to all contracts that are within the scope of ASC 815-40. Further, ASC 815 requires certain disclosures for contracts that are subject to derivative accounting pursuant to ASC 815.

B.9 Frequently asked questions

The following Questions are included in this section:

- ▶ Question 1 – How should a contingently issuable contract be considered pursuant to ASC 815-40?
- ▶ Question 2 – How is a warrant or conversion option where the conversion ratio changes over time based on a contractual schedule evaluated pursuant to the indexation guidance?
- ▶ Question 3 – Pursuant to the indexation guidance, how should a term in a warrant that, when settling on some early termination event, requires a calculation using a fixed volatility or market volatility with a floor, be considered?
- ▶ Question 4 – What are frequent early termination events that should be considered?
- ▶ Question 5 – Does the indexation guidance affect the determination of whether an embedded feature is “clearly and closely related” to the host instrument pursuant to ASC 815?
- ▶ Question 6 – How does the indexation guidance interact with the business combination guidance?
- ▶ Question 7 – How do differences in the economic value of multiple settlement alternatives affect the analysis of equity classification?
- ▶ Question 8 – How does a penalty in one settlement alternative affect the analysis of equity classification when multiple settlement alternatives exist?
- ▶ Question 9 – How is the analysis of equity classification affected if the settlement method differs based on whether the contract is in a gain or loss position?
- ▶ Question 10 – How does a “net cash settlement upon a change in control” provision, or on nationalization or similar events, affect the determination of whether settlement in shares is within the control of the entity?

- ▶ Question 11 – How does one determine if an instrument qualifies as “conventionally convertible” in analyzing the requirements of the equity classification guidance for embedded conversion options?
- ▶ Question 12 – If an equity contract requires settlement in some form of shares other than registered shares (e.g., requires settlement in shares of a listed company), do the same concepts regarding the ability to deliver registered shares apply?
- ▶ Question 13 – How are contractual adjustments to the number of shares pursuant to an equity contract considered when evaluating the equity classification guidance?
- ▶ Question 14 – How should a registration rights agreement be considered in the analysis of the entity's (1) ability to settle a contract in unregistered shares and (2) potential obligation to make cash payments in the event of a failure to timely file with the SEC?

Question 1

How should a contingently issuable contract be considered pursuant to ASC 815-40?

An issuer may agree to issue an equity contract sometime in the future (e.g., upon the resolution of a contingency). For example, an issuer may agree to issue a warrant within the next two years if cumulative revenues exceed a specified amount. Because the contract that gives rise to the obligation to issue the warrant is outstanding and in the scope of 815-40-15-5 through 5-18 and thus considered issued for accounting purposes (refer to ASC 815-40-15-6).

We generally believe there is no substantive difference between (1) a currently issued instrument that contains an exercise contingency and (2) a contractual promise to issue an instrument in the future. For example, there is no substantive difference between the following:

- ▶ A commitment today to issue an immediately exercisable warrant anytime in the next two years on the date, if any, when cumulative revenues exceed a specified amount
- ▶ A warrant issued today that is contingently exercisable anytime in the next two years after the date that cumulative revenues exceed a specified amount

Question 2

How is a warrant or conversion option where the conversion ratio changes over time based on a contractual schedule evaluated pursuant to the indexation guidance?

The number of shares into which a warrant or conversion option is exercised may change over time according to a contractual schedule. For example, a warrant could permit the purchase of 1,000 shares in year one, 1,100 shares in year two, and 1,200 shares in year three. Those warrants or conversion options, if analyzed pursuant to the indexation guidance, may appear to fail the fixed-for-fixed criteria as the settlement amount varies over time and therefore would not be considered indexed to the issuer's own stock.

However, we generally believe that two views may support a conclusion that those instruments represent a fixed-for-fixed settlement pursuant to the guidance in ASC 815-40-15-7D and 15-7E. Under one view, for any given point in time during a 12-month period, the settlement amount is fixed; even though that settlement amount changes over time, the settlement amount is fixed in advance in terms of the number of shares for any given point in time in the future. Under another view the settlement amount changes simply with the passage of time, and time is an input into an option valuation model. Therefore, we generally believe such an instrument or embedded feature may be considered indexed to the issuer's own stock, provided all the other provisions of the indexation guidance are met.

Question 3

Pursuant to the indexation guidance, how should a term in a warrant that, when settling on some early termination event, requires a calculation using a fixed volatility or market volatility with a floor, be considered?

Equity contracts may include provisions that require, upon an early termination, the calculation of a settlement amount using a specified volatility input. This provision is frequently associated with some form of change in control or other corporate event and may require the calculation of a settlement amount using either the volatility at the inception of the equity contract or a specified volatility established at the inception of the transaction. The feature may require the calculation to consider the greater of a specific volatility or the then-market volatility. Those provisions are more frequently included in privately negotiated and documented transactions than equity contracts using ISDA documentation.

This feature raises questions as to the existence of leverage in the settlement amount. For example, if market-based volatility at inception was 20% and the contractually specified volatility for an early termination calculation was 40%, it could be inferred that there was a 2X leverage factor. Alternatively, it could be inferred that there was a floating leverage factor that, when applied against the market-based volatility at settlement, resulted in 40% volatility as an input to the calculation.

We generally believe that the feature described above would not necessarily violate the indexation guidance. Several examples in the indexation guidance indicate that inputs to the settlement amount can be floored or capped (e.g., Example 15 at ASC 815-40-55-40 regarding a capped share price). Provided the input to the model is not an established multiple of the current market-based input (e.g., two times current volatility) or creating an inverse leverage situation (e.g., Example 14 at ASC 815-40-55-39), we generally believe leverage has not necessarily been introduced to the settlement amount. A floor, as in the example above, does not change in reaction to changes in the current volatility and thus, does not create a leverage situation. For example, if the volatility rose above 40%, the floor remains unchanged. Determining whether leverage violates the indexation guidance is a matter of facts and circumstances requiring professional judgment.

Question 4

What are frequent early termination events that should be considered?

An equity contract will often specify events that can trigger an early termination of the instrument. Those events should be carefully evaluated at the inception of the transaction to determine the classification of the contract as an asset or liability or equity instrument. The following are examples of potential termination events that are often included in equity contracts:

- ▶ Hedging disruption – The counterparty is unable to establish, maintain or adjust a hedge position against the equity contract using commercially reasonable means.
- ▶ Increased cost of hedging – The counterparty is only able to establish, maintain or adjust a hedge position at a materially increased cost.
- ▶ Loss of stock borrow – The counterparty is not able to borrow the shares necessary to maintain a hedge using commercially reasonable efforts at a stock borrowing cost (similar to an interest charge) equal to or less than a defined maximum in the contract.
- ▶ Increased cost of stock borrow – The counterparty incurs stock borrow costs that exceed the inception date stock borrowing cost rate.

The counterparty often requires the inclusion of those termination events in the negotiation process. These events represent some of the assumptions that underlie the valuation models for those instruments (e.g., the counterparty will be able to hedge and will be able to borrow stock at reasonable rates) and therefore are underlying assumptions of the counterparty in pricing the transaction. These events are unpredictable and thus unhedgable. If the counterparty were to be exposed to those risks during the life of the transaction, then the counterparty would have to include a higher risk premium in

pricing the contract. By agreeing to terminate the contract and truncate the counterparty's exposure if one of those events were to occur, the parties can price the transaction by ignoring these events as possibilities (as the entity will make the counterparty whole if those events do occur).

In many cases, especially pursuant to the documentation provided by ISDA, the calculation of the termination settlement amounts will comply with the guidance in Step 2 of the indexation guidance. However, as discussed in section B4, the issuer must also determine that it can choose the form of settlement in all cases in order to classify the contract in equity. The effect of those provisions should be carefully considered in determining if the conditions for equity classification are met.

Question 5 **Does the indexation guidance affect the determination of whether an embedded feature is “clearly and closely related” to the host instrument pursuant to ASC 815?**

An embedded derivative should be bifurcated if each of the three conditions in ASC 815-15-25-1 is met. ASC 815-15-25-1(a) requires that “the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract.” Some have questioned whether an embedded equity-linked feature would have to be indexed to the issuer's stock pursuant to the indexation guidance before it could be considered “clearly and closely related” to an equity host. An example of this situation would be a conversion option in a preferred share that was considered to have an equity host.

Based on comments by the FASB staff at the 2008 AICPA National Conference on Current SEC & PCAOB Developments, we generally believe that the concept of “clearly and closely related” is a broader economic concept than the prescriptive classification guidance for financial instruments, and thus the indexation guidance should not be considered in a “clearly and closely related” evaluation pursuant to ASC 815-15-25-1(a).

Question 6 **How does the indexation guidance interact with the business combination guidance?**

Contingent consideration determined in ASC 805, *Business Combinations*, is not afforded an exception from derivative accounting pursuant to ASC 815. Therefore, the indexation guidance should be applied in conjunction with the equity classification guidance, as discussed in ASC 805-30-25-6, when determining how contingent consideration issued in a business combination should be classified.

Question 7 **How do differences in the economic value of multiple settlement alternatives affect the analysis of equity classification?**

When a contract provides for settlement alternatives that do not have the same economic value or if one of the settlement alternatives is fixed or contains caps or floors, the accounting for the instrument (or combination of instruments) should be based on the economic substance of the transaction. For example, if a freestanding contract, issued together with another instrument, requires that the issuer provide to the holder a fixed or guaranteed return such that the instruments are, in substance, debt, the issuer should account for both instruments as liabilities, regardless of the settlement terms of the freestanding contract.

To illustrate, assume an issuer receives a premium of \$200,000 for issuing a call option indexed to its stock that gives the holder the right to purchase 10,000 shares of the issuer's stock in one year at \$80 per share. At contract inception, the market value of the issuer's stock is \$120 (and a substantial decrease in value is not anticipated within a year based on volatility). The terms of the option provide that the issuer has the right to settle the call option in cash by paying the holder of the option \$220,000 or in a physical settlement by receiving \$800,000 from the holder of the option and delivering 10,000 shares of its stock.

If the equity classification guidance were applied literally and all other criteria were met, the written call option could be classified as equity because the issuer has the ability to settle the option by physical delivery. However, the substance of the transaction is that the issuer has effectively issued debt as it is unlikely that the issuer would choose physical settlement because the cost for the issuer would be substantially higher than cash settlement (gross settlement at a fair value of \$400,000 (10,000 shares with a fair value of \$1,200,000 less \$800,000 received on exercise) compared to the cash payment of \$220,000).

Because the alternatives do not have the same economic value, the accounting should be based on the underlying substance of the transaction (i.e., the alternative with the least economic cost to the issuer would be considered). In this example, the proceeds should be classified as debt with the difference between the \$200,000 and the \$220,000 recognized as interest expense over the contract period.

In some cases, an apparent uneconomic settlement alternative may be appropriate. For example, a different value may be appropriate when settlement is in unregistered shares (i.e., a reasonable discount to the fair value of a share when used in settlement).

Question 8

How does a penalty in one settlement alternative affect the analysis of equity classification when multiple settlement alternatives exist?

If a settlement alternative includes a penalty that an issuer can avoid pursuant to other settlement alternatives, that penalty requires that the contract to be accounted for based on the economic substance of the transaction. For example, if an issuer is required to deliver a significant additional agreed-upon amount to the counterparty to net share settle a contract rather than to cash settle, the contract should be evaluated as if only cash settlement were required.

Question 9

How is the analysis of equity classification affected if the settlement method differs based on whether the contract is in a gain or loss position?

Certain contracts provide for multiple settlement alternatives depending on whether the contract is in a gain or a loss position. For example, a forward sales contract can require an issuer to pay cash when the contract is in a loss position (a liability) but receive cash or net shares when the contract is in a gain position (an asset). ASC 815-40-25-36 through 38 addresses this situation.

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Recognition

815-40-25-36

This guidance addresses two circumstances in which settlement alternatives differ in gain and loss positions:

- a. Net cash payment required in loss position
- b. Net-stock alternative in loss position.

815-40-25-37

A contract indexed to, and potentially settled in, an entity's own stock, with multiple settlement alternatives that require the entity to pay net cash when the contract is in a loss position but receive (a) net stock or (b) either net cash or net stock at the entity's option when the contract is in a gain position shall be accounted for as an asset or a liability.

815-40-25-38

A contract indexed to, and potentially settled in, an entity's own stock, within the scope of this Subtopic and with multiple settlement alternatives that require the entity to receive net cash when the contract is in a gain position but pay (a) net stock or (b) either net cash or net stock at the entity's option when the contract is in a loss position shall be accounted for as an equity instrument. This guidance does not apply to a contract that is predominantly a purchased option in which the amount of cash that could be received when the contract is in a gain position is significantly larger than the amount that could be paid when the contract is in a loss position because, for example, there is a small contractual limit on the amount of the loss. Those contracts shall be accounted for as assets or liabilities.

Question 10

How does a "net cash settlement upon a change in control" provision, or on nationalization or similar events, affect the determination of whether settlement in shares is within the control of the entity?

Excerpt from Accounting Standards Codification**Derivatives and Hedging – Contracts in Entity's Own Equity*****Implementation Guidance – Additional Conditions for Equity Classification – Net Cash Settlement and Consideration to Holders of Underlying Shares*****815-40-55-2**

An event that causes a change in control of an entity is not within the entity's control and, therefore, if a contract requires net cash settlement upon a change in control, the contract generally must be classified as an asset or a liability.

815-40-55-3

However, if a change-in-control provision requires that the counterparty receive, or permits the counterparty to deliver upon settlement, the same form of consideration (for example, cash, debt, or other assets) as holders of the shares underlying the contract, permanent equity classification would not be precluded as a result of the change-in-control provision. In that circumstance, if the holders of the shares underlying the contract were to receive cash in the transaction causing the change in control, the counterparty to the contract could also receive cash based on the value of its position under the contract.

815-40-55-4

If, instead of cash, holders of the shares underlying the contract receive other forms of consideration (for example, debt), the counterparty also must receive debt (cash in an amount equal to the fair value of the debt would not be considered the same form of consideration as debt).

815-40-55-5

Similarly, a change-in-control provision could specify that if all stockholders receive stock of an acquiring entity upon a change in control, the contract will be indexed to the shares of the purchaser (or issuer in a business combination accounted for as a pooling of interests) specified in the business combination agreement, without affecting classification of the contract.

815-40-55-6

In the event of nationalization, cash compensation would be the consideration for the expropriated assets and, as a result, a counterparty to the contract could receive only cash, as is the case for a holder of the stock underlying the contract. Because the contract counterparty would receive the same form of consideration as a stockholder, a contract provision requiring net cash settlement in the event of nationalization does not preclude equity classification of the contract.

Generally, rights afforded contract holders that are consistent with those of the holders of the underlying shares do not preclude equity classification. Therefore, the equity classification guidance states that net cash settlement in the event of a change in control would not preclude classification as equity as long as a holder of the shares underlying the contract would also have the right to receive cash because of the change in control.

The guidance requires that the consideration received by the holder of the contract be the same as the consideration received by a shareholder. However, in some cases, shareholders may be offered a choice of consideration. In that case, we generally believe that as long as the contract holder is being offered the same choice, then a contract may still be classified in equity if a contract holder (either as an individual or collectively as a group) receives consideration that is different in nature or proportion from that received by the shareholders as a group. The key consideration is that the counterparty must be treated the same as a shareholder and offered the same choice upon the change in control.

Question 11 **How does one determine if an instrument qualifies as “conventionally convertible” in analyzing the requirements of the equity classification guidance for embedded conversion options?**

The guidance for determining if convertible debt or convertible preferred stock is conventionally convertible is set forth in ASC 815-40-25-39 through 25-42. ASC 815-40-25-41 states that conventional convertible debt is limited to those instruments that provide the holder with an option to convert into a fixed number of shares (or an equivalent amount of cash at the discretion of the issuer) and the ability to exercise that option is based on the passage of time or a contingent event.

Refer to section 2.2.4.10 in Chapter 2 for further discussion of conventional convertible debt

For convertible instruments that are considered conventional convertible instruments, the evaluation of whether the embedded conversion option receives an exception from derivative accounting is more limited when evaluating the “classified in equity” portion of the exception. That is, the additional criteria of the equity classification guidance in ASC 815-40-25-7 through 25-35, and the related implementation guidance in ASC 815-40-55-2 through 55-6, are not applicable. The only consideration for a conventionally convertible instrument is whether the contract requires or permits the issuer to settle in shares pursuant to the general equity classification guidance in ASC 815-40-25-1 through 25-4. However, conventionally convertible instruments must still meet all of the indexation guidance requirements, as there is no limited application for those steps.

Question 12 **If an equity contract requires settlement in some form of shares other than registered shares (e.g., requires settlement in shares of a listed company), do the same concepts regarding the ability to deliver registered shares apply?**

Yes. We generally believe that the concept of settling in registered shares applies to a contractual promise to deliver shares with any particular characteristic. The issuer must be able to, under all situations without regard to probability, deliver shares of the character promised. For example, if an issuer has promised to deliver listed shares, then it should be assessed whether it is fully within its control to become (or remain) a listed company.

Question 13 **How are contractual adjustments to the number of shares pursuant to an equity contract considered when evaluating the equity classification guidance?**

Many warrants and other equity contracts have contractual features that adjust the number of shares covered by the instrument upon the occurrence of potential future events. For example, the number of shares covered by a warrant usually requires a contractual adjustment if there is a share split or share combination in the future. There may be other features referred to generally as antidilution features that serve to protect the relationship of the contract holder to other equity holders. Such features may also provide other forms of protection, such as price protection on exercising the warrant.

Adjustment features should first be analyzed pursuant to the indexation guidance to determine whether the instrument is considered indexed to the issuer's own shares. If considered appropriately indexed, the contract is assessed pursuant to the equity classification guidance, which includes, among other things, an evaluation as to whether (1) sufficient authorized and unissued shares are available for settlement and (2) the instrument contains an explicit share cap.

Consider that the number of shares issuable could be infinite pursuant to certain adjustment provisions despite the existence of an explicit cap pursuant to either (1) other contractual terms or (2) the current shares covered by the contract. If the action required to trigger the adjustment is within the control of the issuer, that adjustment provision would not be considered in evaluating whether the issuer has sufficient shares. That is, the instrument is capped at the current number of shares until the issuer elects to trigger the adjustment provision.

Consider the two following provisions:

- ▶ The number of shares covered by the warrant is adjusted when the issuer or one of its subsidiaries tenders for the shares of the issuer.
- ▶ The number of shares covered by the warrant is adjusted when a third party tenders for the shares of the issuer.

In each case, the adjustment to the shares may be potentially infinite given the range of prices at which a tender offer could be made. However, the first provision does not violate the equity classification guidance, as its exercise is within the control of the issuer. In the second example, the issuer has no control over tender offers made by a third party, and thus that instrument should not be classified in equity.

Question 14

How should a registration rights agreement be considered in the analysis of the entity's (1) ability to settle a contract in unregistered shares and (2) potential obligation to make cash payments in the event of a failure to timely file with the SEC?

Excerpt from Accounting Standards Codification

Derivatives and Hedging – Contracts in Entity's Own Equity

Recognition – General

Effect of a Registration Payment Arrangement

815-40-25-43

Subtopic 825-20 requires that an entity recognize and measure a registration payment arrangement (see paragraph 825-20-15-3) as a separate unit of account from the financial instrument(s) subject to that arrangement. Accordingly, under that Subtopic (see paragraphs 825-20-25-2 and 825-20-30-2), a financial instrument that is both within the scope of this Subtopic and subject to a registration payment arrangement shall be recognized and measured in accordance with this Subtopic without regard to the contingent obligation to transfer consideration pursuant to the registration payment arrangement.

A registration payment arrangement does not affect the assessment of a freestanding or embedded equity contract pursuant to the equity classification guidance. That is, the existence and/or settlement of the registration payment arrangement (in cash or other consideration) is not deemed to be a settlement of the related instrument or feature and does not affect the accounting for the referenced instrument.

Registration rights agreements may require the issuer to pay cash in settlement of a calculated liquidated damages amount for failure to register the instrument or underlying shares. ASC 825-20, *Financial Instruments – Registration Payment Arrangements*, discusses registration payment arrangements, which will include most registration rights agreements in security issuances and certain contingent interest features in debt instruments. ASC 825-20 specifies that the contingent obligation to make future payments or otherwise transfer consideration pursuant to a registration payment arrangement, whether issued as a separate agreement or included as a provision of a financial instrument or other agreement, should be separately recognized and measured in accordance with ASC 450, *Contingencies*. Importantly, ASC 825-20 further clarifies that a financial instrument subject to a registration payment arrangement should be accounted for in accordance with other applicable US GAAP without regard to the contingent obligation to transfer consideration pursuant to the registration payment arrangement. Refer to section 5.11 in Chapter 5 for further discussion of registration rights agreements.

C Accounting for cash convertible instruments

C.1 Summary and overview

This appendix broadly discusses the accounting for convertible debt instruments that may be settled in cash (or other assets), including partial cash settlement, upon conversion. Those instruments were historically accounted for pursuant to EITF 90-19, "Convertible Bonds with Issuer Option to Settle for Cash upon Conversion," and FASB Staff Position APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Conversion)*. The guidance addressing those instruments is codified under the subheadings Cash Conversion throughout ASC 470-20, *Debt – Debt with Conversion and Other Options*. We refer to this guidance through this publication as the "cash conversion guidance."

The cash conversion guidance requires the issuer of certain convertible debt instruments that may be settled in cash (or other assets) upon conversion to separately account for the liability (debt) and equity (conversion option) components of the instrument in a manner that reflects the issuer's nonconvertible debt borrowing rate.

C.2 Background and scope

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Scope and Scope Exceptions

Instruments

470-20-15-4

The guidance in this section shall be considered after consideration of the guidance in Subtopic 815-15 on bifurcation of embedded derivatives, as applicable (see paragraph 815-15-55-76(A)). The guidance in the Cash Conversion Subsections applies only to convertible debt instruments that, by their stated terms, may be settled in cash (or other assets) upon conversion, including partial cash settlement, unless the embedded conversion option is required to be separately accounted for as a derivative instrument under Subtopic 815-15. The guidance in the Cash Conversion Subsections does not affect an issuer's determination under Subtopic 815-15 of whether an embedded feature shall be separately accounted for as a derivative instrument.

470-20-15-5

The Cash Conversion Subsections do not apply to any of the following instruments:

- a. A convertible preferred share that is classified in equity or temporary equity.
- b. A convertible debt instrument that requires or permits settlement in cash (or other assets) upon conversion only in specific circumstances in which the holders of the underlying shares also would receive the same form of consideration in exchange for their shares.
- c. A convertible debt instrument that requires an issuer's obligation to provide consideration for a fractional share upon conversion to be settled in cash but that does not otherwise require or permit settlement in cash (or other assets) upon conversion.

Other Considerations**470-20-15-6**

For purposes of determining whether an instrument is within the scope of the Cash Conversion Subsections, a convertible preferred share shall be considered a convertible debt instrument if it has both of the following characteristics:

- a. It is a mandatorily redeemable financial instrument.
- b. It is classified as a liability under Subtopic 480-10.

For related implementation guidance, see paragraph 470-20-55-70.

Debt – Debt with Conversion and Other Options**Recognition****Cash Conversion****Fair Value Option****470-20-25-21**

Paragraph 825-10-15-5(f) states that no entity may elect the fair value option for financial instruments that are, in whole or in part, classified by the issuer as a component of shareholder's equity (including temporary equity)(for example, a convertible debt instrument within the scope of the Cash Conversion Subsections or a convertible debt security with a noncontingent beneficial conversion feature).

Debt – Debt with Conversion and Other Options**Implementation Guidance and Illustrations****Cash Conversion****Implementation Guidance****Scope Application to a Convertible Preferred Share****470-20-55-70**

An example of a convertible preferred share that paragraph 470-20-15-6 requires an entity consider as a convertible debt instrument for purposes of the scope application of the Cash Conversion Subsections is a convertible preferred share that has a stated redemption date and also would require the issuer to settle the face amount of the instrument in cash upon exercise of the conversion option. Such a convertible preferred share is a mandatorily redeemable financial instrument and is classified as a liability under Subtopic 480-10 because it embodies an unconditional obligation to redeem the instrument by transferring assets at a specified or determinable date (or dates).

The cash conversion guidance applies to debt with conversion options that may be settled in cash or other assets,⁴¹ including partial cash settlement, but only if the embedded conversion feature is not bifurcated pursuant to ASC 815. It is applied before considering the guidance for beneficial conversion features.

Four types of structured convertible debt instruments are used to illustrate the application of the cash conversion guidance:

- Instrument A – Upon conversion, the issuer must satisfy the obligation entirely in cash based on the conversion value.

⁴¹ For this publication, “settlement in cash or other assets” is referred to as “settlement in cash.”

- ▶ Instrument B – Upon conversion, the issuer may satisfy the entire obligation in either stock or cash in an amount equal to the conversion value.
- ▶ Instrument C – Upon conversion, the issuer must satisfy the accreted value of the obligation (the amount accrued to the benefit of the holder exclusive of the conversion spread) in cash and may satisfy the conversion spread (the excess conversion value over the accreted value) in either cash or stock.
- ▶ Instrument X – Upon conversion, the issuer may settle the conversion value of the debt in shares, cash or any combination of shares and cash.

To illustrate, assume Company M issues a convertible debt instrument for \$1,000. The debt permits conversion to 50 shares of Company M's common stock (i.e., conversion price is \$20). At issuance, Company M's common stock is trading at \$20, such that the conversion feature is not in the money at issuance (i.e., the conversion feature is not a beneficial conversion feature). Subsequently, the common stock value of Company M increases to \$35 and is converted. At conversion, Company M would be able to satisfy the obligation for each contract as follows:

- ▶ Instrument A – Company M must pay the investor \$1,750, representing the conversion value of 50 shares at \$35 per share.
- ▶ Instrument B – Company M has the option to settle the obligation with either \$1,750 of cash or 50 shares of Company M stock.
- ▶ Instrument C – Company M must pay the investor \$1,000 cash, representing the value of the obligation exclusive of the conversion spread. Company M has the option to pay the conversion spread value of \$750 (50 shares at \$35 current value less \$20 conversion price) either in cash or with 24.13 shares (\$750 conversion spread value divided by \$35 current value).
- ▶ Instrument X – Company M may settle the conversion value of \$1,750 in cash, shares or any combination of cash and shares (e.g., 50 shares; \$1,750 cash; 20 shares and \$1,050 cash; 40 shares and \$350 cash).

As the conversion option in Instrument A is cash-settled, it is bifurcated pursuant to ASC 815 (i.e., the conversion feature does not qualify for the exception to derivative accounting set forth in ASC 815-10-15-74(a)). The cash conversion guidance does not affect the accounting for Instrument A. However, assuming the conversion feature qualifies for an exception in ASC 815-10-15-74(a), the cash conversion guidance would apply to Instruments B, C and X, because a portion of each instrument may be settled in cash upon conversion.

The cash conversion guidance also applies to certain convertible preferred stock that is classified as a liability pursuant to ASC 480. Preferred stock with a mandatory redemption feature and a conversion feature is usually not classified as a liability (as the conversion feature precludes a conclusion the instrument is certain to be redeemed). However, if the conversion of the preferred share settles in the form of Instrument C, where the liquidation preference (face amount) is settled in cash on conversion, it is known at inception that the face amount will be settled in cash (either on mandatory redemption or on conversion). Accordingly, that preferred stock is classified as a liability and would be subject to the cash conversion guidance.

The beneficial conversion feature subtopics pursuant to the general conversion guidance in ASC 470-20 do not apply to instruments within the scope of the cash conversion guidance, as the conversion feature is already separately accounted for in equity pursuant to the cash conversion guidance.

C.2.1 Scope of the cash conversion guidance for instruments that are settled in shares on redemption

Debt that could require settlement in shares upon redemption is not necessarily in the scope of the cash conversion guidance. For example, consider nonconvertible debt that is puttable by the holder for the principal amount on a given date whereby the issuer can choose to settle the instrument in either cash or shares equal to the put amount. While that debt instrument may be share-settled, it is not considered convertible because no conversion value (i.e., value in excess of the principal amount that relates to share price) is delivered at settlement. Instead, the issuer is using its shares as currency to settle the redemption. Accordingly, without a conversion option, we do not believe that those instruments are subject to the cash conversion guidance.

In cases where the debt instrument has a conversion option, the debt's terms should be carefully evaluated to determine if cash settlement may occur upon exercise and the settlement amount varies with the issuer's share price. Consider the following feature in a convertible debt instrument:

The notes may be converted into common shares after any ten consecutive trading-day period in which the average trading prices for the notes for that period was less than 95% of the average conversion value for the notes during that period; provided, however, if, on the actual conversion date, the closing fair value of common stock is (1) greater than the stated conversion price on the notes and (2) less than or equal to 110% of the stated conversion price on the notes, the investor will receive, at the issuer's option, cash, common stock or a combination of cash and common stock with a fair value equal to the principal amount of the notes upon conversion.

While this instrument may initially appear to be within the scope of the cash conversion guidance because it can be settled in cash or shares upon conversion at the option of the issuer, the issuer is obligated to deliver consideration equal only to the principal amount (i.e., no incremental conversion value related to share price is due). While nominally triggered by "conversion," this settlement feature is economically a redemption (or put) at par that could be settled in cash or shares. If this conversion feature were the only feature permitting the issuer to choose either cash or share settlement of that debt (i.e., all other conversions were settled entirely in shares), we generally believe that the instrument would not be subject to the cash conversion guidance.

C.3 Accounting model

The cash conversion guidance prescribes the initial recognition and measurement of the components of a convertible instrument and associated transaction costs. The guidance also addresses subsequent measurement, derecognition, modifications and exchanges, induced conversions and deferred taxes.

Refer to Question 1 in section C5 – What is a comprehensive example of the application of the cash conversion guidance for recognition and initial measurement, subsequent measurement and derecognition?

C.3.1 Recognition

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Objectives

Cash Conversion

470-20-10-1

The objective of the guidance in the Cash Conversion Subsections is that the accounting for a convertible debt instrument within the scope of those Subsections reflect the entity's nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods.

Debt – Debt with Conversion and Other Options**Recognition****Cash Conversion****Liability and Equity Components****470-20-25-22**

The liability and equity components of a convertible debt instrument within the scope of the Cash Conversion Subsections shall be accounted for separately. Recognition of a convertible debt instrument within the scope of the Cash Conversion Subsections is not addressed by paragraph 470-20-25-12.

The cash conversion guidance requires the convertible debt to be separated into its liability and equity components by allocating the issuance proceeds to each of those components. The equity component is classified in stockholders' equity and the resulting discount on the liability component is accreted such that interest expense equals the issuer's nonconvertible debt borrowing rate.

The fundamental principle of the separation approach is that an issuer of convertible debt that requires or permits partial cash settlement upon conversion should recognize the same interest cost as if it had issued a comparable debt instrument without the embedded conversion option. The equity component is measured as the residual amount, reflecting the interest cost paid with the conversion option.

Accordingly, separation is achieved by first determining the fair value of a similar liability that does not have an associated equity component. That amount is deducted from the initial proceeds of the convertible debt as a whole to arrive at a residual amount, which is allocated to the conversion feature that is classified as part of equity. This liability-first separation methodology differs significantly from the methodology to bifurcate an embedded conversion option from convertible debt, which separates the liability-classified derivative at its fair value and allocates the remaining proceeds to the host debt instrument. It is also different from the methodology for separating a beneficial conversion feature from a convertible instrument, where the conversion feature is classified in equity and measured at its intrinsic value with the remaining proceeds allocated to the debt.

C.3.2**Initial measurement****Excerpt from Accounting Standards Codification****Debt – Debt with Conversion and Other Options****Recognition****General****Overall****470-20-25-1**

The guidance in this Section shall be considered after consideration of the guidance in the Fair Value Options Subsection of Subtopic 825-10 and the guidance in Subtopic 815-15 on bifurcation of embedded derivatives, as applicable. The guidance in this Section is organized as follows:

- a. Debt instruments with detachable warrants
- b. Beneficial conversion features
- c. Conversion features that reset
- d. Conversion features that are not beneficial
- e. Convertible instruments issued to nonemployees for goods and services
- f. Own-share lending arrangements issued in contemplation of convertible debt issuance.

Cash Conversion**Liability and Equity Components****470-20-25-23**

The issuer of a convertible debt instrument within the scope of the Cash Conversion Subsections shall do both of the following:

- a. First, determine the carrying amount of the liability component in accordance with the guidance in paragraph 470-20-30-27.
- b. Second, determine the carrying amount of the equity component represented by the embedded conversion option in accordance with the guidance in paragraph 470-20-30-28.

470-20-25-24

If the issuance transaction for a convertible debt instrument within the scope of the Cash Conversion Subsections includes other unstated (or stated) rights or privileges in addition to the convertible debt instrument, a portion of the initial proceeds shall be attributed to those rights and privileges based on the guidance in other applicable U.S. generally accepted accounting principles (GAAP).

470-20-25-25

If a convertible debt instrument within the scope of the Cash Conversion Subsections contains embedded features other than the embedded conversion option (for example, an embedded prepayment option), the guidance in Subtopic 815-15 shall be applied to determine if any of those features must be separately accounted for as a derivative instrument. As discussed in paragraph 470-20-15-4, the guidance in the Cash Conversion Subsections does not apply if there is no equity component because the embedded conversion option is being separately accounted for as a derivative under Subtopic 815-15.

Debt – Debt with Conversion and Other Options**Initial Measurement****Cash Conversion****Liability and Equity Components****470-20-30-27**

The carrying amount of the liability component shall be determined for purposes of paragraph 470-20-25-23 by measuring the fair value of a similar liability (including any embedded features other than the conversion option) that does not have an associated equity component.

470-20-30-28

The carrying amount of the equity component represented by the embedded conversion option shall be determined for purposes of paragraph 470-20-25-23 by deducting the fair value of the liability component from the initial proceeds ascribed to the convertible debt instrument as a whole.

470-20-30-29

An embedded feature that is determined to be nonsubstantive at the issuance date shall not affect the initial measurement of the liability component.

Determining Whether an Embedded Feature is Nonsubstantive**470-20-30-30**

Solely for purposes of applying the initial measurement guidance in paragraphs 470-20-30-27 through 30-28 and the subsequent measurement guidance in paragraph 470-20-35-15, an embedded feature other than the conversion option (including an embedded prepayment option) shall be considered

nonsubstantive if, at issuance, the entity concludes that it is probable that the embedded feature will not be exercised. That evaluation shall be performed in the context of the convertible debt instrument in its entirety.

Derivatives and Hedging – Embedded Derivatives

Implementation Guidance and Illustrations

815-15-55-76A

The following steps specify how an issuer shall apply the guidance on accounting for embedded derivatives in this Subtopic to a convertible debt instrument within the scope of the Cash Conversion Subsections of Subtopic 470-20.

- a. Step 1. Identify embedded features other than the embedded conversion option that must be evaluated under Subtopic 815-15.
- b. Step 2. Apply the guidance in Subtopic 815-15 to determine whether any of the embedded features identified in Step 1 must be separately accounted for as derivative instruments. Paragraph 470-20-15-4 states that the guidance for a convertible debt instrument within the scope of the Cash Conversion Subsections of Subtopic 470-20 does not affect an issuer's determination of whether an embedded feature shall be separately accounted for as a derivative instrument.
- c. Step 3. Apply the guidance in paragraph 470-20-25-1 to separate the liability component (including any embedded features other than the conversion option) from the equity component.
- d. Step 4. If one or more embedded features are required to be separately accounted for as a derivative instrument based on the analysis performed in Step 2, that embedded derivative shall be separated from the liability component in accordance with the guidance in this Subtopic. Separation of an embedded derivative from the liability component would not affect the accounting for the equity component.

The cash conversion guidance provides a four-step process for evaluating and allocating the issuance proceeds to the components of a convertible debt instrument.

The first two steps require identifying any embedded features (other than the conversion option) in the hybrid instrument and determining which, if any, require bifurcation as a separate derivative. Those first two steps should occur prior to allocating proceeds to the liability and equity components because the determination whether to bifurcate some embedded features can depend on whether the hybrid instrument is issued at a discount.⁴² Importantly, in those first two steps the issuer concludes only which features, if any, will require bifurcation but nothing is valued and separate at this point.

In the third step, the liability component is allocated proceeds equal to the estimated fair value, as of the date of issuance, of similar debt without the conversion option (i.e., nonconvertible debt). This similar nonconvertible debt includes all other embedded features, whether or not they will be bifurcated (e.g., prepayment features, such as puts and calls), and covenants in the actual debt instrument.

⁴² For example, when evaluating embedded prepayment features under the guidance in ASC 815-15-25-42, the discount that is created under the cash conversion guidance does not create a discount to be considered in the application of step three of the four-step bifurcation analysis of redemption features in ASC 815-15-25-42.

In valuing the liability component, any embedded features that are determined to be nonsubstantive at issuance (i.e., features that are deemed probable of not being exercised) should not affect the initial measurement of the liability component. For example, if a debt instrument includes a put feature that is deemed to be substantive, the liability component value should reflect the shortened expected life of the instrument. However, if such a feature is deemed probable of not being exercised based on the facts and circumstances at inception, the feature would be viewed as nonsubstantive and not considered in the valuation of the liability component.

The difference between the proceeds of the convertible debt and the value allocated to the liability component is recorded in additional paid-in capital (APIC) as the initial carrying amount of the equity component (i.e., the conversion option). In the last step, any embedded features that require bifurcation (identified in steps 1 and 2), are allocated their full fair value and bifurcated from the liability component as a single compound derivative. This bifurcation occurs even if such features were considered nonsubstantive when valuing the liability component, as discussed above. However the value of the bifurcated features would consider their nonsubstantive nature (i.e., a market participant's view of the probability of being exercised).

If the issuance includes other unstated (e.g., side agreement to enter into a future transaction) or stated rights or privileges in addition to the convertible instrument, a portion of the initial proceeds is required to be allocated to those rights and privileges based on other US GAAP.⁴³

Refer to Question 1 in section C5 – What is a comprehensive example of the application of the cash conversion guidance for recognition and initial measurement, subsequent measurement and derecognition?

C.3.2.1

Estimating the fair value of the liability component

ASC 470-20-30-27 requires the liability component to be initially recognized equal to the fair value of similar nonconvertible debt. In practice, valuing a similar liability without a conversion option may be challenging because that instrument may not exist at the date of issuance or, if one does, it may not have the same features (e.g., early redemption provisions, contingent interest provisions and covenants) as the convertible debt instrument issued. If it does not exist, prices and other relevant information for a comparable liability may not be readily available. Assistance from a valuation specialist may be required.

When valuing the liability component, the guidance in ASC 820, *Fair Value Measurement*, should be applied. Depending on the terms of the instrument (e.g., if it contains substantive embedded features other than the embedded conversion option) and the availability of inputs to valuation techniques, it may be appropriate to determine the fair value of the liability component using an expected present value technique (an income approach) and/or a valuation technique based on prices and other relevant information generated by market transactions involving comparable liabilities (a market approach). ASC 470-20-55-73 illustrates that an issuer may use either approach to determine the fair value of the liability component. Irrespective of the valuation technique used, ASC 820 indicates that the fair value of a liability should be measured from the perspective of a market participant that holds the identical instrument as an asset.

Refer to Question 2 in section C5 – If cash convertible debt is issued in conjunction with a call spread, how is the pricing and valuation of the freestanding equity contract considered in valuing the components of the convertible debt?

⁴³ The cash conversion guidance (ASC 470-20-25-24) does not specify whether the proceeds allocated to those unstated or stated features should come from the liability component or the equity component. We believe this is an accounting policy election that should be consistently applied.

C.3.2.2 The nonconvertible debt borrowing rate

The fundamental principle of the cash conversion guidance is that the issuer should recognize interest cost as if it had issued a similar nonconvertible debt instrument. Accordingly, the nonconvertible debt borrowing rate is an important input in the fair value measurement of the liability component. Alternatively, under some valuation methodologies, the nonconvertible debt borrowing rate at the date of issuance could be an output of a valuation technique (see discussion of lattice model below).

Because observable market rates for a similar nonconvertible debt may not be available at the time of issuance, issuers may be inclined to use their own outstanding credit facilities or financing arrangements (e.g., revolvers, lines of credit, existing nonconvertible debt) as evidence of its nonconvertible debt borrowing rate. However, using the unadjusted interest rate on other borrowings for purposes of applying the cash conversion guidance would be appropriate only if those borrowings and the convertible debt are comparable (e.g., with respect to the date of issuance, collateral provisions, seniority, interest rate adjustment features, prepayment features and level of covenants). The cash conversion guidance requires issuers to consider substantive features when estimating the borrowing rate of a similar nonconvertible debt instrument.⁴⁴ Any adjustments to the observed interest rate should be corroborated with market-based data, to the extent possible.

An issuer may also look to the public debt market for borrowing rates for similar nonconvertible debt issued by other similar entities. This information could be obtained from available trading prices, an investment bank or other third party. However, for the rates to be appropriate, the other entities should be sufficiently comparable to the issuer (e.g., similar size, industry, geographic location, leverage, and creditworthiness). Adjustments to the observed interest rate should be made for any differences noted (e.g., considering date of issuance, seniority in the capital structure, covenants, guarantees by related parties) and corroborated with market data.

Companies may use a more sophisticated valuation technique in which the nonconvertible borrowing rate is an output. While there may be other appropriate techniques, we generally believe one reasonable approach is to derive the instrument specific expected rate of return for the issuer at the time of issuance using a lattice model. The lattice model would capture potential outcomes of the instrument considering all terms of the actual convertible debt instrument issued, including the conversion option and all other substantive features.

While this approach may seem inconsistent with the explicit requirement in the cash conversion guidance that the issuer use the market rate for a nonconvertible instrument, this approach presumes that the all-in return demanded on a nonconvertible debt instrument should be the same as the all-in return demanded on a convertible debt instrument with a similar expected life. The valuation professional calibrates all the inputs and outputs to determine whether the resulting expected rate of return, which would correspond with the estimated interest rate on nonconvertible debt, is reasonable.

C.3.2.3 Expected life

An issuer of a convertible debt instrument within the scope of the cash conversion guidance should measure the fair value of the liability component without regard to the conversion option (and any nonsubstantive terms). When using an income approach (discounted cash flows) to measure the fair value of the liability component, the expected life would be used as an input to the valuation model to derive the period of the cash flows to be discounted. Alternatively, if a lattice model is used, the expected life would typically be an output as many possible outcomes are modeled.

⁴⁴ Specifically, ASC 470-20-30-29 states that, an embedded feature that is determined to be nonsubstantive at the issuance date shall not affect the initial measurement of the liability component. Part of ASC 470-20-30-30 defines a feature as nonsubstantive if at issuance, the entity concludes that it is probable that the embedded feature will not be exercised.

Refer to Question 3 in section C5 – How are embedded put and call features considered in determining the expected life of the liability component of the cash convertible debt?

C.3.3

Transaction costs

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Recognition

Cash Conversion

Transaction Costs

470-20-25-26

Transaction costs incurred with third parties other than the investor(s) and that directly relate to the issuance of convertible debt instruments within the scope of the Cash Conversion Subsections shall be allocated to the liability and equity components in accordance with the guidance in paragraph 470-20-30-31.

Transaction costs incurred with third parties other than the investor(s) that directly relate to the issuance of an instrument in the scope of the cash conversion guidance are required to be allocated to the liability and equity components in proportion to the allocation of proceeds and accounted for as debt and equity issuance costs, respectively.

C.3.4

Subsequent measurement

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Subsequent Measurement

Cash Conversion

Liability Component

470-20-35-12

The excess of the principal amount of a liability component recognized in accordance with paragraph 470-20-25-23 over its carrying amount shall be amortized to interest cost using the interest method as described in paragraphs 835-30-35-2 through 35-4.

470-20-35-13

For purposes of applying the interest method to a convertible debt instrument within the scope of the Cash Conversion Subsections, debt discounts and debt issuance costs shall be amortized over the expected life of a similar liability that does not have an associated equity component (considering the effects of embedded features other than the conversion option).

470-20-35-14

If, under Subtopic 820-10, an issuer uses a valuation technique consistent with an income approach to measure the fair value of the liability component at initial recognition, the issuer shall consider the periods of cash flows used in the fair value measurement when determining the appropriate discount amortization period.

470-20-35-15

Embedded features that are determined to be nonsubstantive at the issuance date shall not affect the expected life of the liability component. Paragraph 470-20-30-30 provides guidance on assessing whether an embedded feature other than the conversion option (including an embedded prepayment option) shall be considered nonsubstantive at issuance for purposes of this paragraph.

470-20-35-16

The expected life of the liability component shall not be reassessed in subsequent periods unless the terms of the instrument are modified. Therefore, the reported interest cost for an instrument within the scope of the Cash Conversion Subsections shall be determined based on its stated interest rate once the debt discount has been fully amortized.

Equity Component**470-20-35-17**

The equity component (conversion option) shall not be remeasured as long as it continues to meet Subtopic 815-40's conditions for equity classification.

Reclassifications**470-20-35-18**

A reclassification of the equity component (conversion option) would not affect the accounting for the liability component.

470-20-35-19

If Subtopic 815-40 requires the conversion option to be reclassified from stockholders' equity to a liability measured at fair value (see the guidance beginning in paragraph 815-40-35-8), the difference between the amount previously recognized in equity and the fair value of the conversion option at the date of reclassification shall be accounted for as an adjustment to stockholders' equity.

470-20-35-20

If Subtopic 815-40 requires that a conversion option that was previously reclassified from stockholders' equity be subsequently reclassified back into stockholders' equity, gains or losses recorded to account for the conversion option at fair value during the period it was classified as a liability shall not be reversed.

The cash conversion guidance requires the amortization period for the debt discount to match the expected life of a similar nonconvertible instrument, considering the potential effect only of substantive embedded features other than the conversion option. This period may not be the full contractual term of the instrument if it contains put or call rights. Most convertible instruments within the scope of the cash conversion guidance contain prepayment features (e.g., puts and calls) that generally are considered substantive. Once the amortization period is determined, it is not reassessed unless the instrument is subsequently modified.

Although a prepayment upon a change-in-control is common, the substance of that feature should be carefully considered at inception. If a change-in-control feature is deemed nonsubstantive (because it is probable at inception that the change-in-control option will not be exercised during the life of the instrument), it would be disregarded in determining the expected life and estimating the fair value of the liability component. Regardless of the method used to determine the fair value of the liability component at initial recognition, the expected life used in (or resulting from) the fair value measurement should be considered when determining the amortization period.

Amortizing the debt discount over the instrument's expected life is different from the typical amortization period for traditional debt discounts (e.g., amortization to the contractual maturity, to the first put date, etc.). The basis for conclusions in the pre-Codification cash conversion guidance explicitly stated that this model was not intended to be a broad-based interpretation applicable to debt instruments that were not within its scope.

Refer to the following Questions in section C5:

- ▶ Question 1 – What is a comprehensive example of the application of the cash conversion guidance for recognition and initial measurement, subsequent measurement and derecognition?
- ▶ Question 3 – How are embedded put and call features considered in determining the expected life of the liability component of the cash convertible debt?

C.3.5

Derecognition

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Derecognition

Cash Conversion

470-20-40-19

If an instrument within the scope of the Cash Conversion Subsections is derecognized, an issuer shall allocate the consideration transferred and transaction costs incurred to the extinguishment of the liability component and the reacquisition of the equity component.

470-20-40-20

Regardless of the form of consideration transferred at settlement, which may include cash (or other assets), equity shares, or any combination thereof, that allocation shall be performed as follows:

- a. Measure the fair value of the consideration transferred to the holder. If the transaction is a modification or exchange that results in derecognition of the original instrument, measure the new instrument at fair value (including both the liability and equity components if the new instrument is also within the scope of the Cash Conversion Subsections)
- b. Allocate the fair value of the consideration transferred to the holder between the liability and equity components of the original instrument as follows:
 1. Allocate a portion of the settlement consideration to the extinguishment of the liability component equal to the fair value of that component immediately before extinguishment.
 2. Recognize in the statement of financial performance as a gain or loss on debt extinguishment any difference between (i) and (ii):
 - i. The consideration attributed to the liability component.
 - ii. The sum of both of the following:
 01. The net carrying amount of the liability component
 02. Any unamortized debt issuance costs.
 3. Allocate the remaining settlement consideration to the reacquisition of the equity component and recognize that amount as a reduction of stockholders' equity.

470-20-40-21

If the derecognition transaction includes other unstated (or stated) rights or privileges in addition to the settlement of the convertible debt instrument, a portion of the settlement consideration shall be attributed to those rights and privileges based on the guidance in other applicable U.S. GAAP.

470-20-40-22

Transaction costs incurred with third parties other than the investor(s) that directly relate to the settlement of a convertible debt instrument within the scope of the Cash Conversion Subsections shall be allocated to the liability and equity components in proportion to the allocation of consideration transferred at settlement and accounted for as debt extinguishment costs and equity reacquisition costs, respectively.

In derecognizing an instrument in the scope of the cash conversion guidance, the entity is considered to extinguish the liability component and reacquire the equity component, regardless of whether the obligation is settled in cash, shares, other assets or any combination thereof.

To account for the extinguishment of the instrument, an amount equal to the fair value of the liability component immediately prior to extinguishment is deducted from the fair value of the total settlement consideration transferred and allocated to the liability component. Any difference between the amount allocated to the liability and the net carrying amount of the liability component (including any unamortized debt issue costs) is recognized in earnings as a gain or loss on debt extinguishment. Any remaining consideration is allocated to the reacquisition of the equity component and recognized as a reduction of stockholders' equity.

If an instrument is settled for cash equal to the principal amount at its maturity date (i.e., the conversion option expires out of the money), there would be no gain or loss on settlement. The fair value of the liability component would be its principal amount, and the fair value of the conversion option would be zero (i.e., no intrinsic value and there is no time value because the option has expired).

Refer to the following Questions in section C5:

- ▶ Question 1 – What is a comprehensive example of the application of the cash conversion guidance for recognition and initial measurement, subsequent measurement and derecognition?
- ▶ Question 4 – When settling cash convertible debt pursuant to ASC 470-20-40-20, may proceeds be allocated to the liability component in an amount greater than the total consideration transferred, resulting in an increase (credit) to equity?

C.3.6**Modifications and exchanges****Excerpt from Accounting Standards Codification****Debt – Debt with Conversion and Other Options*****Derecognition******Cash Conversion******Modifications and Exchanges*****470-20-40-23**

The guidance in the Cash Conversion Subsections does not affect an issuer's determination of whether a modification (or exchange) of an instrument within the scope of those Subsections should be accounted for as an extinguishment of the original instrument or a modification to the terms of the original instrument. An issuer shall apply the guidance in Subtopic 470-50 to make that determination. If a modification (or exchange) does not result in derecognition of the original instrument, then the expected life of the liability component shall be reassessed based on the guidance in paragraph 470-20-35-15 and the issuer shall determine a new effective interest rate for the liability component in accordance with the guidance in Subtopic 470-50.

470-20-40-24

If an instrument within the scope of the Cash Conversion Subsections is modified such that the conversion option no longer requires or permits cash settlement upon conversion, the components of the instrument shall continue to be accounted for separately unless the original instrument is required to be derecognized under Subtopic 470-50. If an instrument is modified or exchanged in a manner that requires derecognition of the original instrument under Subtopic 470-50 and the new instrument is a convertible debt instrument that may not be settled in cash upon conversion, the new instrument would not be subject to the guidance in the Cash Conversion Subsections and other U.S. GAAP would apply (for example, paragraph 470-20-25-12).

470-20-40-25

If a convertible debt instrument that is not within the scope of the Cash Conversion Subsections is modified such that it becomes subject to the Cash Conversion Subsections, an issuer shall apply the guidance in Subtopic 470-50 to determine whether the original instrument is required to be derecognized. If the modification is not accounted for by derecognizing the original instrument, the issuer shall apply the guidance in the Cash Conversion Subsections prospectively from the date of the modification. In that circumstance, the liability component is measured at its fair value as of the modification date. The carrying amount of the equity component represented by the embedded conversion option is then determined by deducting the fair value of the liability component from the overall carrying amount of the convertible debt instrument as a whole. At the modification date, a portion of any unamortized debt issuance costs shall be reclassified and accounted for as equity issuance costs based on the proportion of the overall carrying amount of the convertible debt instrument that is allocated to the equity component.

Issuers should apply ASC 470-50 to determine whether a modification to an instrument should be accounted for as an extinguishment or as a modification. The cash conversion guidance explicitly addresses various modification and exchange situations, some of which are described below.

If the modification or exchange results in extinguishment of the original instrument, the new instrument is measured at fair value and that fair value is considered the consideration in derecognizing the original instrument in accordance with section C3.5. If the new instrument is subject to the cash conversion guidance, its fair value is allocated to its liability and equity components as required by the model for any other issuance. If the new instrument is not subject to the cash conversion guidance, other US GAAP would apply.

If the modification or exchange does not result in the derecognition of the original instrument, the expected life of the liability component is reassessed and a new effective interest rate is calculated (refer to section C3.2.3).

Even if an instrument is modified such that the conversion option no longer requires or permits cash settlement, the components are still accounted for separately after the modification, unless extinguishment accounting is required. Therefore, an instrument within the scope of the cash conversion guidance that is originally separated into its liability and equity components cannot be recombined at a later date unless the original instrument is considered extinguished with a new instrument issued as a result of the modification. Instead, the liability component should continue to be accreted to its principal amount based on the modified terms of the instrument.

C.3.7

Induced conversions

Excerpt from Accounting Standards Codification**Debt – Debt with Conversion and Other Options***Derecognition**Cash Conversion**Induced Conversions***470-20-40-26**

An entity may amend the terms of an instrument within the scope of the Cash Conversion Subsections to induce early conversion, for example, by offering a more favorable conversion ratio or paying other additional consideration in the event of conversion before a specified date. In those circumstances, the entity shall recognize a loss equal to the fair value of all securities and other consideration transferred in the transaction in excess of the fair value of consideration issuable in accordance with the original conversion terms. The settlement accounting (derecognition) treatment described in paragraph 470-20-40-20 is then applied using the fair value of the consideration that was issuable in accordance with the original conversion terms. The guidance in this paragraph does not apply to derecognition transactions in which the holder does not exercise the embedded conversion option.

Induced conversions are conversions of convertible debt to equity securities pursuant to amended terms that reflect changes made by the debtor to the convertible instrument to induce the holder to convert. Induced conversions generally involve changing the terms of the instrument to reduce the original conversion price (thereby resulting in the issuance of additional shares of stock), issuing warrants or other securities not provided for in the original conversion terms, or paying cash or other consideration to those debt holders who convert during the specified time period.

In an induced conversion, the debtor should recognize an expense equal to the fair value of all securities and other consideration transferred in excess of the fair value of securities issuable pursuant to the original conversion terms. The expense should not be reported as an extraordinary item.

The fair value of the securities and other consideration is measured as of the date the inducement offer is accepted by the convertible debt holder. Normally, this date will be when the debt holder converts the convertible debt into equity securities or enters into a binding agreement to do so.

Settlement accounting is then applied using the fair value of the consideration that was issuable pursuant to the instrument's original terms. Refer to section C3.5 for further guidance on settlement accounting.

Refer to the following Questions in section C5:

- ▶ Question 4 – When settling cash convertible debt pursuant to ASC 470-20-40-20, may proceeds be allocated to the liability component in an amount greater than the total consideration transferred, resulting in an increase (credit) to equity?
- ▶ Question 5 – Should an induced conversion pursuant to the cash conversion guidance involve the actual exercise of the conversion option?

C.3.8 Deferred taxes

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Recognition

Cash Conversion

Deferred Taxes

470-20-25-27

Recognizing convertible debt instruments within the scope of the Cash Conversion Subsections as two separate components – a debt component and an equity component – may result in a basis difference associated with the liability component that represents a temporary difference for purposes of applying Subtopic 740-10. The initial recognition of deferred taxes for the tax effect of that temporary difference shall be recorded as an adjustment to additional paid-in capital.

The recognition of a liability and an equity component pursuant to the cash conversion guidance may result in a basis difference that represents a temporary difference pursuant to ASC 740, *Income Taxes*. The temporary difference represents the difference between the carrying amount (book basis) and tax basis of the liability (i.e., the issuance is treated as two instruments for book – debt and equity – and one instrument for tax – debt). This temporary difference likely will be a taxable temporary difference that results in the recognition of a deferred tax liability because the tax basis of the liability component generally will exceed the book basis. The initial recognition of deferred taxes related to this temporary difference should be recorded as an adjustment to APIC as the difference results from the allocation of the equity component to APIC.

Refer to section 15.2.5.1 of our Financial Reporting Developments publication, *Income taxes* (SCORE No. B1150), for further guidance.

C.4 Presentation, disclosure and earnings per share

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Objectives

Cash Conversion

Disclosure Objectives

470-20-10-2

The disclosure requirements of the Cash Conversion Subsections are intended to provide users of financial statements with both:

- a. Information about the terms of convertible debt instruments within the scope of those Subsections
- b. An understanding of how those instruments have been reflected in the issuer's statement of financial position and statement of financial performance.

Debt – Debt with Conversion and Other Options***Other Presentation Matters******Cash Conversion******Balance Sheet Classification of Liability Component******470-20-45-3***

The guidance in the Cash Conversion Subsections does not affect an issuer's determination of whether the liability component should be classified as a current liability or a long-term liability. For purposes of applying other applicable U.S. GAAP to make that determination, all terms of the convertible debt instrument (including the equity component) shall be considered. Additionally, the balance sheet classification of the liability component does not affect the measurement of that component under paragraphs 470-20-35-1 through 470-20-35-4.

Debt – Debt with Conversion and Other Options***Disclosure******Cash Conversion******470-20-50-3***

An entity shall provide the incremental disclosures required by the guidance in this section in annual financial statements for convertible debt instruments within the scope of the Cash Conversion Subsections that were outstanding during any of the periods presented.

470-20-50-4

As of each date for which a statement of financial position is presented, an entity shall disclose all of the following:

- a. The carrying amount of the equity component
- b. For the liability component:
 - 1. The principal amount
 - 2. The unamortized discount
 - 3. The net carrying amount

470-20-50-5

As of the date of the most recent statement of financial position that is presented, an entity shall disclose all of the following:

- a. The remaining period over which any discount on the liability component will be amortized
- b. The conversion price and the number of shares on which the aggregate consideration to be delivered upon conversion is determined
- c. For a public entity only, the amount by which the instrument's if-converted value exceeds its principal amount, regardless of whether the instrument is currently convertible

- d. All of the following information about derivative transactions entered into in connection with the issuance of instruments within the scope of the Cash Conversion Subsections regardless of whether such derivative transactions are accounted for as assets, liabilities, or equity instruments:
 1. The terms of those derivative transactions
 2. How those derivative transactions relate to the instruments within the scope of the Cash Conversion Subsections
 3. The number of shares underlying the derivative transactions
 4. The reasons for entering into those derivative transactions.

An example of a derivative transaction entered into in connection with the issuance of an instrument within the scope of the Cash Conversion Subsections is the purchase of call options that are expected to substantially offset changes in the fair value of the conversion option.

470-20-50-6

For each period for which a statement of financial performance is presented, an entity shall disclose both of the following:

- a. The effective interest rate on the liability component for the period
- b. The amount of interest cost recognized for the period relating to both the contractual interest coupon and amortization of the discount on the liability component.

C.4.1

Presentation

The cash conversion guidance does not affect the classification of the liability component (i.e., current or long-term). Other applicable US GAAP should be applied in making that determination, considering all terms of the instrument (including the equity component). For example, if Instrument C were issued by a company (refer to section C2) and is contingently convertible and that contingency has been met, at the balance sheet date, the liability component would be classified as a current liability. This current classification is a result of the principal being payable in cash on demand upon conversion.

In addition, if the equity component is considered redeemable, the SEC staff guidance on redeemable equity instruments should be considered.

Refer to Question 6 in section C5 – How should the redeemable equity guidance in ASC 480-10-S99-3A be applied to instruments subject to the cash conversion guidance (or the beneficial conversion feature guidance)?

C.4.2

Disclosures

For convertible instruments within its scope, the cash conversion guidance requires annual disclosures that are intended to provide users of the financial statements with the following:

- Information regarding the terms of the convertible debt instruments
- An understanding of how those instruments have been reported in the financial statements

Those disclosures are incremental to the general debt disclosures required by existing US GAAP and are required for all periods that an instrument is outstanding.

C.4.3 Earnings per share

The cash conversion guidance does not directly change the calculation of EPS for instruments within scope. However, interest expense will be higher as a result of the discount on the debt from separation of the equity component resulting in lower income available to common shareholders.

For those instruments within the scope of the cash conversion guidance (Instruments B, C and X – refer to section C2), the effect on EPS can vary as follows:

- ▶ Instrument B generally would be included in diluted EPS using the if-converted method unless past experience or a stated policy provides a reasonable basis to believe that the issuer would settle the instrument in cash. This would result in interest expense (net of any income tax effects) being added back to the numerator for purposes of the if-converted calculation in addition to any other adjustment as required by ASC 260-10-45-40.
- ▶ Pursuant to ASC 260, the dilutive effect of Instrument C is limited to the conversion spread, which is reflected in the calculation of diluted EPS as if it were a freestanding written call option on the issuer's shares. Therefore, the effect of the conversion spread would be included in diluted EPS based on ASC 260's provisions for contracts that may be settled in cash or stock at the issuer's election, which require that unless past experience or a stated policy provides a reasonable basis to believe that the contract will be paid partially or wholly in cash.
- ▶ Instrument X for EPS purposes presumes share settlement; however, this presumption that the contract will settle in common stock may be overcome if the entity controls the means of settlement and past experience or a stated policy provides a reasonable basis to believe that the contract will be partially or wholly settled in cash. If the entity has the intention and a stated policy to settle only the accreted value in cash, the EPS effect would be consistent with that of Instrument C as described above.

Refer to section 4.9.1 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance.

C.5 Frequently asked questions

The following Questions are included in this section:

- ▶ Question 1 – What is a comprehensive example of the application of the cash conversion guidance for recognition and initial measurement, subsequent measurement and derecognition?
- ▶ Question 2 – If cash convertible debt is issued in conjunction with a call spread, how is the pricing and valuation of the freestanding equity contract considered in valuing the components of the convertible debt?
- ▶ Question 3 – How are embedded put and call features considered in determining the expected life of the liability component of the cash convertible debt?
- ▶ Question 4 – When settling cash convertible debt pursuant to ASC 470-20-40-20, may proceeds be allocated to the liability component in an amount greater than originally transferred, resulting in an increase (credit) to equity?
- ▶ Question 5 – Should an induced conversion pursuant to the cash conversion guidance involve the actual exercise of the conversion option?
- ▶ Question 6 – How should the redeemable equity guidance in ASC 480-10-S99-3A be applied to instruments subject to the cash conversion guidance (or the beneficial conversion feature guidance)?

Question 1**What is a comprehensive example of the application of the cash conversion guidance for recognition and initial measurement, subsequent measurement and derecognition?**

The following example is based on an illustration in the cash conversion guidance. The facts used in the example are as follows:

- ▶ ABC Co. raised \$100 million on 1 January 20X2, by issuing 100,000 convertible notes. Each \$1,000 par value note:
 - ▶ Bears a fixed interest rate of 2% payable annually in arrears on 31 December
 - ▶ Matures on 31 December 20Y6 (15 years)
 - ▶ Is convertible at any time into the equivalent of 10 shares of ABC Co.'s common stock (par value of \$0.01 per share) for a conversion price of \$100 per share
 - ▶ Can be settled in cash, common stock or any combination thereof on conversion at the election of ABC Co. (i.e., Instrument X)
 - ▶ Contains embedded prepayment features that permit either ABC Co. to call the debt, or the investors to put the debt, at par at 31 December 20Y1 (10 years)
- ▶ At the issuance date:
 - ▶ The quoted market price of ABC Co.'s common stock is \$70 per share
 - ▶ The market interest rate for similar 10-year debt without a conversion option is 8%
 - ▶ The tax basis of the notes is \$100 million, ABC Co. is entitled to tax deductions based on cash interest payments and its tax rate is 40%
- ▶ All holders of the convertible notes exercise their conversion options on 1 January 20X7
- ▶ At the conversion date:
 - ▶ The quoted market price of ABC Co.'s common stock is \$140 per share
 - ▶ The market interest rate for similar debt without a conversion option is 7.5%
 - ▶ ABC Co. receives no tax deduction for the payment of consideration upon conversion in excess of the tax basis of the convertible notes, regardless of the form of that consideration (i.e., cash or shares)
 - ▶ All transaction costs have been omitted
 - ▶ Certain amounts have been rounded to the nearest thousand

Recognition and initial measurement

Upon issuance of the notes, the conversion option is evaluated and determined not to require bifurcation pursuant to ASC 815-15, resulting in the notes being within the scope of the cash conversion guidance. The prepayment features are also determined to not require bifurcation pursuant to ASC 815-15 (because the prepayment amount is at par). The repayment features are considered substantive at issuance as they are not deemed probable of not being exercised, resulting in the convertible debt having an effective life of 10 years rather than the 15-year stated maturity. Refer to Question 3 below for further discussion of the expected life of a liability component.

Pursuant to the cash conversion guidance the liability component is measured first, with the difference between the proceeds from the issuance and the fair value of the liability assigned to the equity component. ABC Co. determines the fair value of the liability component at initial recognition using a discount rate adjustment present value technique. Using a discount rate of 8% which is the market rate for similar notes that have no conversion rights and mature in 10 years (given the substantive prepayment features in the notes), the fair value is determined as follows:

Present value of principal, \$100 million payable in 10 years	\$ 46,319,000
Present value of interest, \$2 million payable annually in arrears for 10 years	<u>\$ 13,420,000</u>
Total liability component	\$ 59,739,000
Total equity component (\$100,000,000 – \$59,739,000)	\$ 40,261,000

ABC Co. records the following journal entry at issuance:

Cash	\$ 100,000,000	
Debt discount	40,261,000	
Debt		\$ 100,000,000
APIC – conversion feature		40,261,000

To record the liability component of the convertible debt issuance at fair value, with the residual amount recorded as the equity component, resulting in a debt discount

APIC – deferred tax-related	\$ 16,104,000	
Deferred tax liability (\$40,261,000 x 40%)		\$ 16,104,000

To record deferred taxes for the tax effect of the basis difference associated with the liability component

Subsequent measurement

ABC Co. concludes that the expected life of the notes is 10 years for purposes of applying the effective interest method, consistent with the cash flows used to measure the fair value of the liability component given the substantive nature of the prepayment features.

During the five-year period from 1 January 20X2 through 31 December 20X6, ABC Co. cumulatively records the following entry:

Interest expense	\$ 26,304,000	
Cash		\$ 10,000,000
Debt discount		16,304,000

To record interest expense on convertible debt pursuant to the effective interest method

Taxes payable	\$ 4,000,000	
Deferred tax liability	6,522,000	
Current tax benefit (\$10,000,000 x 40%)		\$ 4,000,000
Deferred tax benefit (\$16,304,000 x 40%)		6,522,000

To record the tax effects of interest expense, including tax effects of deductions for cash interest payments and annual reversal of the deferred tax liability due to amortization of the debt discount

At 31 December 20X6, the carrying amount of the notes is \$76,043,000 (\$100 million principal – \$23,957,000 unamortized discount). The remaining deferred tax liability is \$9,582,000.

Derecognition

Upon settlement through conversion of the notes on 1 January 20X7, the fair value of the liability component immediately prior to extinguishment is measured first, with the difference between the fair value of the aggregate consideration remitted to the holder (\$140 million, or 10 shares per note x \$140 per share fair value x 100,000 notes outstanding) and the fair value of the liability component attributed to the reacquisition of the equity component.

ABC Co. values the liability component using a discount rate adjustment present value technique. The fair value of the liability component, which has a remaining expected term of five years at the settlement date, can be estimated by calculating the present value of its cash flows using a discount rate of 7.5%, the then-current market rate for similar notes that have no conversion rights, as shown below:

Present value of principal, \$100 million payable in five years	\$ 69,656,000
Present value of interest, \$2 million payable annually in arrears for five years	<u>8,092,000</u>
Consideration attributed to the liability component	<u>\$ 77,748,000</u>
Consideration attributed to the equity component (\$140,000,000 – \$77,748,000)	<u>\$ 62,252,000</u>

Regardless of the form of the \$140 million consideration transferred at settlement, \$77,748,000 would be attributed to the extinguishment of the liability component and \$62,252,000 would be attributed to the reacquisition of the equity component. As noted above, the carrying amount of the liability is \$76,043,000 at 31 December 20X6 (the day before the settlement date), resulting in a \$1,705,000 loss on extinguishment.

The following entries reflect settlement using different assumptions for the consideration delivered on conversion. The tax entry is shown only once as it is the same in each scenario.

Assuming settlement in a combination of cash and shares – At settlement, ABC Co. would record the following assuming it elects to transfer consideration to the holder in the form of \$100 million in cash and \$40 million in shares (or 285,714 shares of common stock at a fair value of \$140 each):

Debt	\$ 100,000,000	
APIC – conversion feature	62,252,000	
Loss on extinguishment	1,705,000	
Debt discount		\$ 23,957,000
Cash		100,000,000
Common stock at par (not rounded)		2,857
APIC – issued shares (not rounded)		39,997,143

To record the extinguishment of the liability component, loss on the extinguishment and reacquisition of the equity component

As ABC Co. receives no tax deduction for the payment of consideration upon conversion (\$140 million) in excess of the tax basis of the convertible notes (\$100 million), regardless of the form of that consideration (i.e., cash or shares), the related tax entries are:

Deferred tax liability	\$ 9,582,000	
Deferred tax benefit ($\$1,705,000 \times 40\%$)		\$ 682,000
APIC [$(\$23,957,000 - \$1,705,000) \times 40\%$]		8,900,000

To reverse the deferred tax liability relating to the unamortized debt discount at conversion, adjusted for the loss on extinguishment

Assuming settlement in cash – At settlement, ABC Co. would record the following assuming it elects to transfer consideration to the holder entirely in cash:

Debt	\$ 100,000,000	
APIC – conversion feature	62,252,000	
Loss on extinguishment	1,705,000	
Debt discount		\$ 23,957,000
Cash		140,000,000

To record the extinguishment of the liability component, loss on the extinguishment and reacquisition of the equity component

Assuming settlement in shares – At settlement, ABC Co. would record the following assuming it elects to transfer consideration to the holder entirely in shares:

Debt	\$ 100,000,000	
APIC – conversion feature	62,252,000	
Loss on extinguishment	1,705,000	
Debt discount		\$ 23,957,000
Common stock at par		10,000
APIC – issued shares		139,990,000

To record the extinguishment of the liability component, loss on the extinguishment and reacquisition of the equity component

Question 2

If cash convertible debt is issued in conjunction with a call spread, how is the pricing and valuation of the freestanding equity contract considered in valuing the components of the convertible debt?

A popular financing structure involves the issuance of convertible debt and a freestanding “call-spread.” A call-spread consists of an issuer (1) purchasing a call option on its own shares with an exercise price at a specific strike price and (2) writing a call option on its own shares at a higher strike price (i.e., issuing a warrant). The purchased call option has an exercise price equal to the conversion price of its convertible debt, which economically offsets dilution from the conversion option included in the convertible debt (but does not offset dilution for the purpose of calculating EPS). The written call option has a higher strike price to partially finance the purchased call option.

FASB Staff Position APB 14-1 stated in paragraph B9 (in part, and not included in Codification):

Some entities purchase call options on their own stock concurrently with the issuance of convertible debt, and the two instruments are integrated for tax purposes, resulting in a tax deduction that may be similar to their nonconvertible debt borrowing rate. Consequently, many issuers of convertible debt instruments within the scope of this FSP already are obtaining **some of the information** that may be used to estimate the fair value of the liability component in order to adequately support deductions taken on their U.S. federal income tax returns. (Emphasis added)

An issuer that enters into a call spread in connection with a convertible debt issuance may be inclined to consider the fair value of the purchased call option when estimating the nonconvertible borrowing rate, especially in circumstances when it may not have any other nonconvertible debt with similar terms currently outstanding. That issuer may believe that the amount paid for the call option approximates the fair value of the conversion option embedded in the debt and, therefore, should be able to subtract the price paid for the option from the debt proceeds to determine the fair value of an otherwise similar liability but without a conversion option. The issuer may believe that this approach is better than estimating the rate of a “hypothetical” comparable debt instrument without a conversion feature since the price for an call option similar to the embedded conversion feature can be observed.

We believe the result of the calculation described above does not necessarily correspond to the fair value of the liability for two reasons. First, the creditworthiness of the counterparty to the conversion option (i.e., the issuer) and the counterparty to the purchased call option (e.g., an investment bank) are likely not identical. Therefore, the fair values of the separately purchased call option and the embedded written conversion option in theory would not be identical and one would not be a proxy for the other. Second, the fair value of a convertible debt instrument does not always equal the sum of the fair values of its parts. That is, fair value of the debt component (nonconvertible debt valued using its contractual maturity, stated interest rate and considering any other features such as prepayment features) plus a separately written call option does not always equal the proceeds of the issued instrument given the interaction of all the features in the combined hybrid instrument.

Nevertheless, we generally believe the fair value of the purchased call option is useful information. While an issuer may be able to use that value as a data point to estimate the fair value of the liability component, it would likely not be able to definitively conclude in all cases that the fair value of the purchased call option equals the discount necessary to derive the issuer’s nonconvertible debt borrowing rate.

Question 3

How are embedded put and call features considered in determining the expected life of the liability component of the cash convertible debt?

The cash conversion guidance states that nonsubstantive features should not be considered when determining the expected life of the liability component. The guidance defines a nonsubstantive feature as one where, at issuance, the entity concludes that it is probable that the embedded feature will not be exercised, with the evaluation performed in the context of the convertible debt instrument in its entirety. Most convertible instruments within the scope of the cash conversion guidance contain prepayment features (e.g., puts and calls) that generally are considered substantive. (Refer to section C3.4 for guidance on considering change-in-control prepayment features.)

Substantive put or call features can often result in an expected life of the liability component that is shorter than its contractual maturity. In most cases, if a convertible debt instrument has a put and call exercisable on the same date at the same price, we generally believe the expected life of the instrument is to the first put/call date because it is likely that either the put option or the call option will be in the money.

If the instrument is puttable and the put feature is substantive, we generally believe the expected life of the instrument likely would be the period to the initial put date even if an initial call date were earlier.

The following examples illustrate the aforementioned interpretations:

Prepayment features	Expected life in most cases
Two-year call; four-year put	Four years
Two-year put; four-year call	Two years
Two-year put; two-year call	Two years
Four-year put only	Four years
Four-year call only	Contractual life

Question 4

When settling cash convertible debt pursuant to ASC 470-20-40-20, may proceeds be allocated to the liability component in an amount greater than originally transferred, resulting in an increase (credit) to equity?

Upon settling cash convertible debt, ASC 470-20-40-20 requires an amount equal to the fair value of the liability component immediately before extinguishment to be allocated to the liability component. In unusual circumstances, the consideration available to be allocated is less than the fair value of the liability component. One example would be in induced conversion situations where, after allocating proceeds to the inducement charge pursuant to ASC 470-20-40-26, the remaining proceeds are less than the fair value of the liability component.

In general, we do not believe that an issuer should allocate an amount to the liability component greater than the proceeds delivered (or available to be allocated if the transaction is an induced conversion). That is, we do not believe the application of this guidance should result in an increase (credit) to equity, as that would imply that the fair value of similar debt without the conversion option is greater than the fair value of the convertible debt (i.e., the conversion feature has negative value). In addition, we also note that the guidance in ASC 470-20-40-20 states that the issuer recognizes “a reduction of stockholders’ equity.”

To the extent the estimated fair value of the liability component immediately prior to extinguishment is greater than the consideration transferred, further review of the estimated fair value should be performed. Recognizing the inherent imperfections in any fair value estimate and potential market inefficiencies, to the extent the estimated fair value of the liability component is greater than the consideration transferred, we generally believe the difference between the total consideration transferred and the carrying amount of the liability component should be recorded as a gain or loss upon extinguishment, with appropriate disclosure.

Question 5

Should an induced conversion pursuant to the cash conversion guidance involve the actual exercise of the conversion option?

ASC 470-20-40-13 through 40-17 (referred to herein as “the historical induced conversion guidance”) states that induced conversions are conversions that both (1) occur pursuant to changed conversion privileges that are exercisable only for a limited period of time and (2) include the issuance of all of the equity securities issuable pursuant to conversion privileges included in the terms of the debt at issuance for each debt instrument that is converted. ASC 470-20-40-14 in part further explains that:

A conversion includes an exchange of a convertible debt instrument for equity securities or a combination of equity securities and other consideration, **whether or not the exchange involves legal exercise of the contractual conversion privileges included in terms of the debt.** [Emphasis added.]

The cash conversion guidance also states specific induced conversion considerations for instruments in its scope in ASC 470-20-40-26, an excerpt of which follows:

An entity may amend the terms of an instrument within the scope of the Cash Conversion Subsections to induce early conversion, for example, by offering a more favorable conversion ratio or paying other additional consideration in the event of conversion before a specified date. In those circumstances, ... [accounting model discussion omitted]. **The guidance in this paragraph does not apply to derecognition transactions in which the holder does not exercise the embedded conversion option.** [Emphasis added.]

The difference in the language in the historical induced conversion guidance and the cash conversion guidance regarding the type of transactions that are subject to induced conversion accounting has raised questions in practice. The questions can arise when evaluating settlement transactions for cash

convertible instruments that can have the same economics as an inducement (issuance of incremental value to induce settlement) but are executed in a process that is different than what is described for conversions as defined in the underlying indenture.

While the cash conversion guidance states that the conversion option must be exercised by the holder for a settlement transaction to be considered an induced conversion, the historical induced conversion guidance indicates that the legal exercise of the conversion privileges is not necessary. The underlying issue is whether the cash conversion guidance should be applied literally, potentially resulting in a different definition of an induced conversion than the historical induced conversion guidance.

Despite the explicit requirement for cash convertible debt that the embedded conversion option must be exercised in order to be an induced conversion, we understand that the FASB staff did not intend to create a difference with the historical induced conversion guidance. Based on this understanding, we generally believe for cash convertible instruments, the preferred approach is to evaluate whether a holder has “exercise[d] the embedded conversion option” with a broader perspective than the literal execution of the conversion forms and processes pursuant to the indenture for a conversion and more in line with the concepts in the historical induced conversion guidance.

Notwithstanding the preferred approach, a literal reading of the cash conversion guidance (which does not directly reference the historical induced conversion guidance) may lead an issuer to conclude that without a formal “exercise of the embedded conversion option,” the cash conversion guidance on induced conversions would not apply. We generally believe an issuer that takes this literal approach should support its conclusion that settlement or exchange does not include the holder’s exercise of the embedded conversion option and should apply this view consistently as an accounting policy.

Question 6

How should the redeemable equity guidance in ASC 480-10-S99-3A be applied to instruments subject to the cash conversion guidance (or the beneficial conversion feature guidance)?

In September 2008, the SEC staff announced that for convertible debt instruments with equity-classified components (which includes instruments pursuant to the cash conversion guidance and instruments pursuant to the beneficial conversion feature guidance), the equity-classified component should be considered redeemable if at the balance sheet date the issuer can be required to settle the convertible debt instrument for cash (i.e., the instrument is currently redeemable or convertible for cash). Based on the terms of the instrument, an issuer may have to settle the instrument for cash, resulting in the equity-classified component being considered redeemable and thus requiring classification in temporary equity.

Refer to section E3.1 in Appendix E for further discussion of the application of ASC 480-10-S99-3A to convertible debt instruments within the scope of the cash conversion guidance.

Refer to Question 6 in section E7 – How is the amount recorded in temporary equity associated with convertible debt affected when embedded derivatives (other than the conversion option) have been bifurcated from the debt instrument?

D Beneficial conversion features

D.1 Summary and overview

This appendix broadly discusses the accounting for beneficial conversion features (BCF), the guidance for which is included in various sections of ASC 470-20, *Debt – Debt with Conversion and Other Options*. That guidance was codified from EITF 98-5, “Accounting for Convertible Securities with Beneficial Conversion Features or Contingently Adjustable Conversion Ratios,” and EITF 00-27, “Application of Issue No. 98-5 to Certain Convertible Instruments,” and is referred to in this publication as the “beneficial conversion feature guidance” (BCF guidance). In addition certain tentative conclusions reached in the pre-Codification EITFs are referenced in various sections throughout this appendix. The BCF guidance is considered only after determining that the feature does not need to be bifurcated under ASC 815 or separately accounted for under the cash conversion literature (refer to Appendix C).

The BCF guidance addresses situations in which a debt or equity security is issued with a nondetachable (embedded) conversion option that is beneficial to the investor (in the money) at inception because the conversion option has an effective strike price that is less than the market price of the underlying stock at the commitment date.

The accounting for a BCF requires that the BCF be recognized by allocating the intrinsic value (not the fair value) of the conversion option to additional paid-in capital, resulting in a discount on the convertible instrument. This discount should be accreted from the date on which the BCF is first recognized through the stated maturity date for instruments with a stated maturity date or earliest conversion date for instruments that do not have a stated redemption date. Essentially, the intrinsic value of the BCF is recognized as interest expense on convertible debt or deemed dividends on convertible preferred stock over a period specified in the guidance.

The BCF guidance also addresses situations in which securities may be convertible (1) only upon the occurrence of a future event outside the control of the holder (such as an IPO) or (2) at inception but contain conversion terms that change upon the occurrence of a future event, in either case resulting in conversion options that may become beneficial (or more beneficial) in the future (referred to as contingent BCFs).

D.2 Scope

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Glossary

470-20-20

Beneficial Conversion Feature – A nondetachable conversion feature that is in the money at the commitment date.

Debt – Debt with Conversion and Other Options***Overview and Background******General******Beneficial Conversion Features******470-20-05-7***

Entities may issue convertible debt securities and convertible preferred stock with a beneficial conversion feature. Those instruments may be convertible into common stock at the lower of a conversion rate fixed at the commitment date or a fixed discount to the market price of the common stock at the date of conversion.

470-20-05-8

Certain convertible instruments may have a contingently adjustable conversion ratio; that is, a conversion price that is variable based on future events such as any of the following:

- a. A liquidation or a change in control of the entity
- b. A subsequent round of financing at a price lower than the convertible instrument's original conversion price
- c. An initial public offering at a share price lower than an agreed-upon amount.

Debt – Debt with Conversion and Other Options***Scope and Scope Exceptions******General******Entities******470-20-15-1***

The guidance in this Subtopic applies to all entities.

Instruments***470-20-15-2***

The guidance in this Subtopic applies to all debt instruments. The guidance on beneficial conversion features and conversion features that reset applies also to convertible preferred stock. The guidance in the General Subsections does not apply to those instruments within the scope of the Cash Conversion Subsections.

Debt – Debt with Conversion and Other Options***Recognition******General******Beneficial Conversion Features******470-20-25-4***

The guidance in the following paragraph [470-20-25-5] and paragraph 470-20-25-6 applies to all of the following instruments if the instrument is not within the scope of the Cash Conversion Subsections:

- a. Convertible securities with beneficial conversion features that must be settled in stock
- b. Convertible securities with beneficial conversion features that give the issuer a choice of settling the obligation in either stock or cash
- c. Instruments with beneficial conversion features that are convertible into multiple instruments, for example, a convertible preferred stock that is convertible into common stock and detachable warrants

- d. Instruments with conversion features that are not beneficial at the commitment date (see paragraphs 470-20-30-9 through 30-12) but that become beneficial upon the occurrence of a future event, such as an initial public offering.

Debt – Debt with Conversion and Other Options

Recognition

General

Conversion Features that Reset

470-20-25-8

If a convertible instrument has a conversion option that continuously resets as the underlying stock price increases or decreases so as to provide a fixed value of common stock to the holder at any conversion date, the convertible instrument shall be considered stock-settled debt and the contingent beneficial conversion option provisions of this Subtopic would not apply when those resets subsequently occur. However, the guidance in paragraph 470-20-25-5 applies to the initial recognition of such a convertible instrument, including any initial active beneficial conversion feature. Example [4] (see paragraph 470-20-55-18) illustrates application of the guidance in this paragraph.

Pursuant to ASC 815, *Derivatives and Hedging*, embedded conversion options are first evaluated to determine whether they should be bifurcated. If not bifurcated as a derivative, the guidance in the “Cash Conversion” subheadings of ASC 470-20 (referred to in this publication as the “cash conversion guidance”) is considered to determine if separate accounting for the conversion feature is required. Refer to Appendix C for further discussion on accounting for cash convertible instruments.

If not separately accounted for pursuant to the cash conversion guidance, a conversion feature should be evaluated pursuant to the BCF guidance. As a result, the BCF guidance does not apply to conversion features that are bifurcated pursuant to ASC 815 or are within the scope of the cash conversion guidance. The BCF guidance is applied to both (1) convertible debt and (2) equity-classified convertible preferred stock that requires settlement in stock upon conversion.

The terms of convertible preferred shares classified as liabilities pursuant to ASC 480, *Distinguishing Liabilities from Equity*, will generally have an embedded conversion option that will be separately accounted for pursuant to the cash conversion guidance and thus would not be subject to BCF accounting. For example, a convertible preferred share that has a stated redemption date that also requires the issuer to settle the liquidation preference in cash upon exercise of the conversion option is a mandatorily redeemable financial instrument and should be classified as a liability pursuant to ASC 480. With those terms, it is known at issuance that the issuer will settle the liquidation preference in cash, either upon conversion or mandatory redemption. Further, because the issuer would be required to settle a portion of the instrument in cash, the embedded conversion feature should be separated pursuant to the cash conversion guidance and would thus not be in the scope of the BCF guidance.

Certain instruments may be share-settled whereby a fixed amount (typically par) is settled upon maturity using a variable number of shares with a fair value equal to the fixed settlement amount. This settlement is not viewed as a conversion feature but as a redemption feature because the settlement amount does not vary with share price and the continually resetting conversion price causes the instruments to be outside the scope of the BCF guidance. However, a BCF may be present upon initial issuance if the debt is also convertible. Refer to section D3.2.3 for further discussion.

Pursuant to ASC 470-20-25-4, the BCF guidance is not limited to convertible preferred shares and convertible debt. For example, in certain situations warrants may have BCFs that require separate accounting (refer to section D3.3.4 for further discussion). In addition, the right to convert between classes of common shares may contain a BCF.

D.3 Recognition and initial measurement

D.3.1 Beneficial conversion feature that is accounted for at inception

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Recognition

General

Beneficial Conversion Features

470-20-25-5

An embedded beneficial conversion feature present in a convertible instrument shall be recognized separately at issuance by allocating a portion of the proceeds equal to the intrinsic value of that feature to additional paid-in capital. Paragraph 470-20-30-4 provides guidance on measuring intrinsic value that applies to both the determination of whether an embedded conversion feature is beneficial and the allocation of proceeds.

Debt – Debt with Conversion and Other Options

Initial Measurement

General

Debt Instruments with Detachable Call Options

470-20-30-1

The allocation of proceeds under paragraph 470-20-25-2 shall be based on the relative fair values of the two instruments at time of issuance. If a commitment date must be identified in accordance with paragraphs 470-20-30-9 through 30-12 for purposes of applying the guidance on beneficial conversion features, that commitment date shall be used also to determine the relative fair values of all instruments issued together with a convertible instrument when allocating the proceeds to the separate instruments pursuant to this paragraph.

Debt – Debt with Conversion and Other Options

Initial Measurement

General

Beneficial Conversion Features

470-20-30-3

An embedded beneficial conversion feature recognized separately under paragraph 470-20-25-5 shall be measured initially at its intrinsic value.

470-20-30-4

The following guidance on measurement of the intrinsic value of an embedded conversion feature applies for purposes of both determining whether the feature is beneficial and allocating proceeds under paragraph 470-20-25-5, if applicable.

470-20-30-5

The effective conversion price based on the proceeds received for or allocated to the convertible instrument shall be used to compute the intrinsic value, if any, of the embedded conversion option. Specifically, an issuer shall do all of the following:

- a. First, allocate the proceeds received in a financing transaction that includes a convertible instrument to the convertible instrument and any other detachable instruments included in the exchange (such as detachable warrants) on a relative fair value basis.
- b. Second, apply the guidance beginning in paragraph 470-20-25-4 to the amount allocated to the convertible instrument.
- c. Third, calculate an effective conversion price and use that effective conversion price to measure the intrinsic value, if any, of the embedded conversion option.

Example 2 (see paragraph 470-20-55-10) illustrates the application of this guidance.

470-20-30-6

Intrinsic value shall be calculated at the commitment date (see paragraphs 470-20-30-9 through 30-12) as the difference between the conversion price (see paragraph 470-20-30-5) and the fair value of the common stock or other securities into which the security is convertible, multiplied by the number of shares into which the security is convertible.

470-20-30-8

If the intrinsic value of the beneficial conversion feature is greater than the proceeds allocated to the convertible instrument, the amount of the discount assigned to the beneficial conversion feature shall be limited to the amount of the proceeds allocated to the convertible instrument.

Commitment Date**470-20-30-9**

This guidance addresses when a commitment date should occur for purposes of determining the fair value of the issuer's common stock to be used to measure the intrinsic value of an embedded conversion option.

470-20-30-10

The commitment date is the date when an agreement has been reached that meets the definition of a firm commitment.

[470-20-30-11 not used]

470-20-30-12

If an agreement includes subjective provisions that permit either party to rescind its commitment to consummate the transaction, a commitment date does not occur until the provisions expire or the convertible instrument is issued, whichever is earlier. Both of the following are examples of subjective provisions that permit either party to rescind its commitment to consummate the transaction:

- a. A provision that allows an investor to rescind its commitment to purchase a convertible instrument in the event of a material adverse change in the issuer's operations or financial condition
- b. A provision that makes the commitment subject to customary due diligence or shareholder approval.

Effect of Issuance Costs**470-20-30-13**

Costs of issuing convertible instruments do not affect the calculation of the intrinsic value of an embedded conversion option; specifically, issuance costs shall not be offset against the proceeds received in the issuance in calculating the intrinsic value of a conversion option. Issuance costs are limited to incremental and direct costs incurred with parties other than the investor in the convertible instrument. Any amounts paid to the investor when the transaction is consummated represent a reduction in the proceeds received by the issuer (not issuance costs) and shall affect the calculation of the intrinsic value of an embedded option.

An embedded beneficial conversion feature is measured at the commitment date (refer to section D3.1.1) by allocating a portion of the proceeds equal to the intrinsic value of that feature (not the fair value) to additional paid-in capital (APIC). This allocation will result in a discount on the convertible instrument. The intrinsic value is calculated as the difference between the effective conversion price (refer to section D3.1.2) and the fair value of the common stock or other securities into which the security is convertible, multiplied by the number of shares into which the security is convertible.

For example, assume the following:

- ▶ Company A issues for \$1,000,000 convertible debt at par
- ▶ The debt is immediately convertible at \$20 per share (holder would receive 50,000 shares of common stock upon conversion)
- ▶ The effective conversion price is \$20 ($\$1,000,000 \div 50,000$ shares)
- ▶ The fair value of Company A's common stock at the commitment date is \$25

In this scenario, the convertible debt has a beneficial conversion feature with an intrinsic value of \$250,000 ($50,000 \times (\$25 - \$20)$).

If the intrinsic value of the beneficial conversion feature is greater than the proceeds allocated to the convertible instrument, the amount of the discount assigned to the beneficial conversion feature is limited to the amount of proceeds allocated to the convertible instrument. In this scenario, the net carrying amount should be accreted from zero to its par amount over the term of the convertible debt.

While some instruments may not have BCF at inception, contingent BCFs may be subsequently recognized. Refer to section D3.2 for further discussion of contingent BCFs.

Refer to the following Questions in section D7:

- ▶ Question 1 – What is a simplified example of the measurement of a BCF for a convertible instrument?
- ▶ Question 2 – What is an example of how the effective conversion price is determined and the BCF measured when a convertible security is issued with another security?
- ▶ Question 17 – What are examples of other BCFs or contingently adjustable conversion ratios?
- ▶ Question 18 – How should an issuer measure the intrinsic value of a conversion feature in a debt instrument when the underlying (e.g., a preferred share) is itself convertible into another instrument that may be more or less beneficial at the commitment date?

D.3.1.1

Commitment date

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Glossary

470-20-20

Firm Commitment

An agreement with an unrelated party, binding on both parties and usually legally enforceable, with the following characteristics:

- a. The agreement specifies all significant terms, including the quantity to be exchanged, the fixed price, and the timing of the transaction. The fixed price may be expressed as a specified amount of an entity's functional currency or of a foreign currency. It may also be expressed as a specified interest rate or specified effective yield. The binding provisions of an agreement are regarded to include those legal rights and obligations codified in the laws to which such an agreement is subject. A price that varies with the market price of the item that is the subject of the firm commitment cannot qualify as a fixed price. For example, a price that is specified in terms of ounces of gold would not be a fixed price if the market price of the item to be purchased or sold under the firm commitment varied with the price of gold.
- b. The agreement includes a disincentive for nonperformance that is sufficiently large to make performance probable. In the legal jurisdiction that governs the agreement, the existence of statutory rights to pursue remedies for default equivalent to the damages suffered by the nondefaulting party, in and of itself, represents a sufficiently large disincentive for nonperformance to make performance probable for purposes of applying the definition of a firm commitment.

The BCF guidance defines the term “commitment date” consistently with the “firm commitment” definition in the derivative accounting guidance in ASC 815.

If an agreement includes subjective provisions that permit either party to rescind its commitment to consummate the transaction (e.g., material adverse change in the issuer's operations or financial condition, customary due diligence, shareholder approval), a commitment date has not occurred until the rescission provisions expire or the convertible security is issued, whichever is earlier. In practice, few convertible instrument transactions meet the commitment date definition requirements prior to the issuance date.

D.3.1.2

Determination of the effective conversion price

An issuer first allocates the proceeds received in a financing transaction to the convertible instrument and then uses those allocated proceeds to determine the effective conversion price, as discussed in ASC 470-20-30-5. If the convertible instrument is issued in a basket transaction (i.e., issued along with other freestanding financial instruments), the proceeds should first be allocated to the various instruments in the basket. Refer to section 1.2.7 in Chapter 1 for further discussion of the potential allocation methods.

ASC 470-20-30-4 states that the commitment date must be used to determine the relative fair values of all instruments issued with a convertible security when allocating proceeds to the separate instruments. Generally, we believe that proceeds should be allocated to the securities on a relative fair value basis unless one of the securities is subject to subsequent fair value measurement (e.g., certain warrants and other equity derivatives), in which case that instrument is allocated proceeds equal to its full fair value and the residual is allocated to the remaining instruments (which would include the convertible instrument) on a relative fair value basis.

The proceeds allocated to the convertible instrument should be used to evaluate whether there is a bifurcated embedded derivative. We generally do not believe an embedded derivative requiring bifurcation (e.g., a put or call option) should affect the proceeds in determining the effective conversion price of a convertible instrument unless that feature could be settled in addition to (i.e., prior to, or contemporaneously with) the conversion of the instrument.

For example, if the holder could receive a contingent interest settlement either before or on conversion (i.e., receives both shares for the conversion and consideration for contingent interest accounted for as a bifurcated derivative), the proceeds that are subject to conversion would exclude the bifurcated derivative, as it would be settled separately (similar to convertible debt with a detachable warrant that would be settled separately).

As stated in ASC 470-20-30-13, any amounts paid to the investor when the transaction is consummated (e.g., origination fees, due diligence costs) represent a reduction in the proceeds received by the issuer. Incremental and direct costs incurred with parties other than the investor in connection with issuing convertible instruments shall not be offset against the proceeds received in the issuance in calculating the intrinsic value of a conversion option.

The intrinsic value of the conversion option should be measured using the effective conversion price for the convertible security based on the proceeds allocated to that instrument. The effective conversion price represents proceeds allocable to the convertible security divided by the number of shares into which it is convertible. The effective conversion price is then compared to the per share fair value of the underlying shares on the commitment date.

D.3.1.3

Fair value considerations

The “fair value of the common stock or other securities into which the convertible instrument is convertible” (as stated in ASC 470-20-30-6) is the amount at which the underlying security could be sold in an orderly transaction (i.e., other than in a forced or liquidation sale) between market participants as of the measurement date. Fair value incorporates an exit price concept, as described in ASC 820, *Fair Value Measurement*. A quoted market price is the best measure of the common stock's fair value and that quoted market price should not be adjusted to reflect holder-specific transferability restrictions, blockage factors, avoided underwriters' fees or time value discounts. If a quoted market price is not available, the estimate of fair value should be based on the appropriate exit market and market participant assumptions, as described in ASC 820.

At the 1999 AICPA SEC Conference on Current SEC Developments, the SEC staff noted that, in measuring beneficial conversion features, registrants should expect the SEC staff to challenge the determination of fair value of the underlying common stock. Specifically, the staff indicated that convertible securities issued within a year prior to the filing of an initial registration statement with a conversion price below the initial offering price are presumed to contain an embedded beneficial conversion feature. To overcome this presumption, a registrant should have sufficient objective and verifiable evidence to support its assertion that the conversion price represented fair value at the commitment date.

D.3.1.4

Income tax consequences

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Recognition

General

Beneficial Conversion Features

470-20-25-7

For the application of Topic 740 to beneficial conversion features that result in basis differences, see paragraph 740-10-55-51.

For financial reporting purposes, the recognition of a beneficial conversion feature separately from the debt creates two separate components for US GAAP – a debt instrument and an equity component – while the entire instrument is accounted for as a debt instrument for federal US income tax purposes. As a result, the reported amount in the financial statements (book basis) of the debt instrument is different from its tax basis. That basis difference is a temporary difference pursuant to ASC 740, *Income Taxes*.

Pursuant to ASC 740-10-55-51, because the beneficial conversion feature (an allocation to additional paid-in capital) created the basis difference in the debt instrument, the provisions of ASC 740-20-45-11(c) apply and the establishment of the deferred tax liability for the basis difference should be charged to the “related components of shareholders’ equity.”

D.3.2

Contingent beneficial conversion features (including conversion options with variable prices and contingencies)

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Recognition

General

Beneficial Conversion Features

470-20-25-6

A contingent beneficial conversion feature shall be measured using the commitment date stock price (see paragraphs 470-20-30-9 through 30-12) but, as discussed in paragraph 470-20-35-3, shall not be recognized in earnings until the contingency is resolved.

Debt – Debt with Conversion and Other Options

Recognition

General

Conversion Features that Reset

470-20-25-8

If a convertible instrument has a conversion option that continuously resets as the underlying stock price increases or decreases so as to provide a fixed value of common stock to the holder at any conversion date, the convertible instrument shall be considered stock-settled debt and the contingent beneficial conversion option provisions of this Subtopic would not apply when those resets subsequently occur. However, the guidance in paragraph 470-20-25-5 applies to the initial recognition of such a convertible instrument, including any initial active beneficial conversion feature. Example 14 (see paragraph 470-20-55-18) illustrates application of the guidance in this paragraph.

470-20-25-9

For guidance on a contingent conversion feature that will reduce (reset) the conversion price if the fair value of the underlying stock declines after the commitment date to or below a specified price, see paragraph 470-20-35-4.

Debt – Debt with Conversion and Other Options***Recognition******General******Contingent Conversion Options******470-20-25-20***

Changes to the conversion terms that would be triggered by future events not controlled by the issuer shall be accounted for as contingent conversion options, and the intrinsic value of such conversion options shall not be recognized until and unless the triggering event occurs. The term recognized is used to mean that the calculated intrinsic value is recorded in equity with a corresponding discount to the convertible instrument.

Debt – Debt with Conversion and Other Options***Initial Measurement******General******Beneficial Conversion Features******470-20-30-7***

The most favorable conversion price that would be in effect at the conversion date, assuming there are no changes to the current circumstances except for the passage of time, shall be used to measure the intrinsic value of an embedded conversion option. Example 3 (see paragraph 470-20-55-13) illustrates the application of this guidance.

Debt – Debt with Conversion and Other Options***Subsequent Measurement******General******Contingently Adjustable Conversion Ratios******470-20-35-1***

If the terms of a contingent conversion option do not permit an issuer to compute the number of shares that the holder would receive if the contingent event occurs and the conversion price is adjusted, an issuer shall wait until the contingent event occurs and then compute the resulting number of shares that would be received pursuant to the new conversion price. The number of shares that would be received upon conversion based on the adjusted conversion price would then be compared with the number that would have been received before the occurrence of the contingent event. The excess number of shares multiplied by the commitment date stock price equals the incremental intrinsic value that results from the resolution of the contingency and the corresponding adjustment to the conversion price. That incremental amount shall be recognized when the triggering event occurs. Example 5 (see paragraph 470-20-55-22) illustrates the application of this guidance.

470-20-35-2

The guidance in the following paragraph applies to an instrument with either of the following characteristics:

- a. The instrument becomes convertible only upon the occurrence of a future event outside the control of the holder.
- b. The instrument is convertible from inception but contains conversion terms that change upon the occurrence of a future event.

470-20-35-3

A contingent beneficial conversion feature in an instrument having the characteristics in the preceding paragraph shall not be recognized in earnings until the contingency is resolved.

470-20-35-4

A contingent conversion feature that will reduce (reset) the conversion price if the fair value of the underlying stock declines after the commitment date to or below a specified price is a beneficial conversion option if that specified price is below the fair value of the underlying stock at the commitment date. This is the case even if both of the following conditions exist:

- a. The initial active conversion price is equal to or greater than the fair value of the underlying stock at the commitment date.
- b. The contingent conversion price is greater than the then fair value of the underlying stock at the future date that triggers the adjustment to the conversion price.

A beneficial conversion amount shall be recognized for such for a beneficial conversion option when the reset occurs.

470-20-35-5

Example 4A (see paragraph 470-20-55-19A) illustrates the application of this guidance.

An instrument may become convertible only upon the occurrence of a future event outside the control of the holder or may be convertible from inception but contain conversion terms that change (and either become beneficial or more beneficial through the resolution of a contingency). Such contingent BCFs (or contingent adjustments to BCFs) are measured at the commitment date but are not recognized until the contingency is resolved.

Some convertible securities may provide for an adjustment to the conversion price if certain events occur. In those cases, the most favorable conversion price that would be in effect at the conversion date is used to measure the initial intrinsic value of the embedded conversion option, assuming there are no changes to the current circumstances except for the passage of time.

If the terms of a contingent beneficial conversion option do not permit the issuer to compute the number of shares that the holder would receive if the contingent event occurs and the conversion price is adjusted, the computation of the number of shares that would be received by the holder at the new conversion price should be made when the contingent event occurs.

The indexation guidance in ASC 815-40-15-5 through 15-8 should be carefully considered in evaluating whether an embedded conversion option meeting the definition of a derivative and containing a contingent BCF should receive an exception from bifurcation. Many adjustments to a conversion option (i.e., to the conversion price or conversion ratio) would cause the instrument to not be considered indexed to the entity's own stock pursuant to the indexation guidance. Refer to section D3.2.5 for further discussion.

Refer to the following Questions in section D7:

- ▶ Question 3 – What is an example of contingently convertible debt with a conversion feature that is beneficial at the commitment date?
- ▶ Question 4 – What are examples of (1) the measurement and recognition of a contingent BCF assuming the most favorable conversion price given the passage of time and (2) if the adjustment results in a less beneficial conversion option?
- ▶ Question 17 – What are examples of other BCFs or contingently adjustable conversion ratios?

D.3.2.1**Contingent conversion options that reduce or reset the conversion price, or where the option does not permit the issuer to compute the number of shares to be issued**

If an event occurs that causes the conversion price of a convertible instrument to decline below the commitment date fair value of the stock, that change results in a BCF at the time of the reset. The intrinsic value of that conversion option is measured at the commitment date, but is not recognized until and unless the triggering event occurs. If an event occurs that triggers a change in the number of shares issuable to the holder upon conversion, the intrinsic value of the adjusted conversion option should be recomputed using the commitment date fair value of the underlying stock and the proceeds received for (or allocated to) the convertible instrument at the initial measurement date.

To determine the BCF to be recognized when the contingent event occurs, the number of shares to be received by the holder based on the adjusted conversion price is multiplied by the commitment date stock price. The excess of that calculated amount over the proceeds allocated to the convertible debt instrument represents the new amount of beneficial conversion option. We generally believe that excess should then be compared to the originally measured beneficial conversion option, if any, and any incremental intrinsic value should be recognized when the triggering event occurs. If the initial conversion option was not beneficial, then we generally believe the BCF should be measured in comparison to the initial proceeds allocated to the convertible instrument. Refer to section D3.2.2 for further discussion of contingent conversion options that were initially out of the money.

The BCF examples in Codification also illustrate what to do if a subsequent adjustment makes a BCF less beneficial, as noted below.

Refer to the following Questions in section D7:

- ▶ Question 4 – What are examples of (1) the measurement and recognition of a contingent BCF assuming the most favorable conversion price given the passage of time and (2) if the adjustment results in a less beneficial conversion option?
- ▶ Question 5 – What is an example of how contingent conversion options that reduce or reset the conversion price should be measured and recognized?
- ▶ Question 6 – What is an example of how a contingent conversion option that does not permit the issuer to compute the number of shares to be issued should be measured and recognized?
- ▶ Question 17 – What are examples of other BCFs or contingently adjustable conversion ratios?

D.3.2.2**Contingent conversion options that were initially out of the money**

ASC 470-20-35-1 addresses the measurement of a contingent BCF and states in part:

The number of shares that would be received upon conversion based on the adjusted conversion price would then be compared with the number that would have been received before the occurrence of the contingent event. The excess number of shares multiplied by the commitment date stock price equals the incremental intrinsic value that results from the resolution of the contingency and the corresponding adjustment to the conversion price.

An example at ASC 470-20-55-22 through 55-24 (refer to Question 6 in section D7) further illustrates that guidance and calculation. That example is based on a BCF that was “at the money” at the commitment date such that every incremental share represented a benefit. However, when the initial conversion price is “out of the money,” the conversion price could decrease, resulting in incremental shares, but still be higher than the commitment date fair value of the underlying share. A literal application of the guidance in ASC 470-20-35-1 could potentially require the recognition of a BCF, even

though the conversion option does not have intrinsic value based on the commitment date values.

In some cases the amount calculated based on a literal application of ASC 470-20-35-1 will be the same as the amount under the intrinsic value method (i.e., when the conversion option was in the money or at the money at the commitment date). However, when the conversion option was out of the money at the commitment date, the two approaches will yield different BCF amounts (the literal application of ASC 470-20-35-1 will generally yield a higher amount than the intrinsic value method).

We generally do not believe the guidance in ASC 470-20-35-1 was meant to override the basic model used to measure a BCF in instances where there was no BCF at the commitment date. As a result, we generally believe that either the literal approach under ASC 470-20-35-1 or the intrinsic value method (i.e., revised number of shares multiplied by the commitment date share price less allocated proceeds) can be applied, but should be followed consistently.

Refer to Question 7 in section D7 – How is a contingent BCF measured if the initial conversion feature were out of the money?

D.3.2.3

Conversion options with continuous resets

If a convertible instrument has a conversion option that continuously resets as the underlying stock price increases or decreases to provide a fixed value of stock to the holder at any conversion date, the convertible instrument should be considered stock-settled debt and the contingent beneficial conversion option provisions of the BCF guidance would not apply when those resets subsequently occur.

The historical BCF guidance included an example where a BCF would be recognized for a convertible instrument that was settled in shares at a discount to the then-current fair value of the shares. For example, consider debt with a principal amount of \$1,000 that is settled in shares at a 10% discount to the fair value of the share. That feature would result in a settlement in shares worth \$1,111 at any share price (e.g., if the share price was \$10, the number of shares issued on settlement would be $\$1,000 / (90\% \times \$10)$ or 111.11 shares at \$10 fair value for \$1,111 in consideration).

The historical BCF guidance provided that the incremental \$111 in value was to be accounted for as a BCF. However, in 2008, the FASB staff removed this example and stated it was to be accounted as share-settled debt pursuant to ASC 480 rather than as a BCF. As a result, this settlement feature, whether on final maturity or on a conversion based on a contingent event, is not evaluated using the BCF guidance.

If a similar settlement is triggered by a contingent event (e.g., debt is settled in shares at a 10% discount to fair value if a contingent event outside the issuer's control occurs), we generally believe the settlement (1) is a redemption feature (embedded contingent put or call) to be evaluated as a potential embedded derivative or (2) would place the entire instrument within the scope of ASC 480 if it is considered the predominant settlement feature. Refer to section A6.1.5 in Appendix A for further discussion on consideration of predominant settlement feature) pursuant to ASC 480.

While the BCF guidance still indicates it applies to the initial accounting for such a convertible instrument, including any initial active beneficial conversion option, we generally believe that the BCF guidance would apply only to a true conversion option within the share-settleable instrument (i.e., a feature which provides incremental value that changes with the underlying share price on a conversion).

Refer to Question 8 in section D7 – What is an example of a conversion option that continuously resets the conversion price?

D.3.2.4

Instruments involving a multiple-step discount**Excerpt from Accounting Standards Codification****Debt – Debt with Conversion and Other Options***Initial Measurement**General**Beneficial Conversion Features**Application to Specific Instruments**Instrument with a Multi-Step Discount***470-20-30-15**

If an instrument incorporates a multiple-step discount, the computation of the intrinsic value shall use the conversion terms that are most beneficial to the investor. Example 10 (see paragraph 470-20-55-69) illustrates the application of this paragraph.

Some instruments incorporate a multiple-step discount (e.g., an instrument that provides for a 15% discount to the market price after three months and a 35% discount after nine months). For those types of convertible securities, consistent with ASC 470-20-30-7, the beneficial conversion feature is computed using the conversion terms that are most beneficial to the investor, which would assume the largest discount available with only the passage of time.

Refer to Question 9 in section D7 – What is an example of how the BCF in an instrument with a multiple-step discount should be measured and recognized?

D.3.2.5

Interaction of contingent BCFs with the indexation guidance in ASC 815-40

Some contingent BCF features may cause conversion options that meet the definition of a derivative pursuant to ASC 815 to fail to qualify for the exemption from derivative accounting in ASC 815-10-15-74(a), thus requiring them to be bifurcated. Those features may violate the provisions of the indexation guidance in ASC 815-40.

Pursuant to the indexation guidance, if the settlement amount changes as a result of an input that is not an element of a standard option valuation model, an embedded conversion option that is a derivative will not be considered indexed to the issuer's own shares. By its very nature a convertible instrument with terms that are being evaluated as a potential contingent BCF has either an exercise contingency or a settlement amount that can change. Those contingencies should be carefully evaluated to determine whether the embedded conversion option should be bifurcated pursuant to ASC 815 rather than considered within the scope of the BCF guidance.

For example, public companies with convertible debt instruments that include a conversion price that is contingently adjusted to the price of any future equity-linked transaction at a price lower than a initial conversion price (i.e., down round protection) will be required to bifurcate that option because the future equity-linked transaction is not an input to an option pricing model and thus the conversion feature would not be considered indexed to the issuer's own shares pursuant to ASC 815-40. Such a feature would be bifurcated as an embedded derivative before it would be considered pursuant to the BCF guidance.

The indexation guidance in ASC 815-40 is generally not applicable to convertible preferred instruments where the host instrument has been determined to be equity-like pursuant to ASC 815-10-S99-3A because the conversion features in those instruments are generally considered "clearly and closely" related to the equity host pursuant to ASC 815-15-25-1.

The indexation guidance considerations are highlighted in the relevant examples in section D7. The indexation guidance in general is further discussed in Appendix B.

D.3.3

Other recognition and initial measurement matters

D.3.3.1

Paid-in-kind interest or dividends

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Initial Measurement

General

Beneficial Conversion Features

Application to Specific Instruments

Instrument Paid in Kind

470-20-30-16

If dividends or interest on a convertible instrument must be paid in kind with the same convertible instruments as those in the original issuance and are not discretionary, the commitment date for the original instrument is the commitment date for the convertible instruments that are issued to satisfy interest or dividends requirements.

470-20-30-17

For purposes of the preceding paragraph, dividends or interest are not discretionary if both of the following conditions exist:

- a. Neither the issuer nor the holder can elect other forms of payment for the dividends or interest.
- b. If the original instrument or a portion thereof is converted before accumulated dividends or interest are declared or accrued, the holder will always receive the number of shares upon conversion as if all accumulated dividends or interest have been paid in kind.

470-20-30-18

In that circumstance, the intrinsic value of the embedded conversion option in the paid-in-kind instruments is measured using the fair value of the underlying stock of the issuer at the commitment date for the original issuance. Otherwise, the commitment date for the convertible instruments issued as paid-in-kind interest or dividends is the date that the interest or the dividends are accrued and the fair value of the underlying issuer stock at the recognition or declaration date shall be used to measure the intrinsic value of the conversion option embedded in the paid-in-kind instruments.

Dividends or interest on a convertible instrument that are paid-in-kind (PIK) are evaluated for a potential BCF based on whether the PIK amount is discretionary. If (1) the issuer or the holder has the option to pay interest/dividends either in kind or in cash or (2) the PIK amounts do not accrue to the holder if the instrument is converted prior to the PIK amount otherwise being accrued or due, the PIK feature would be deemed discretionary. The commitment date for convertible instruments issued as PIK interest/dividends is the date that the interest/dividends are accrued. In this case, the fair value of the underlying issuer's stock at the recognition or declaration date is used to measure the intrinsic value of the conversion option embedded in the paid-in-kind instruments. To the extent the PIK feature is considered non-discretionary, the commitment date for the convertible instruments issued in-kind is the commitment date for the original instrument.

As more fully discussed in section 2.4.3.2 of Chapter 2 and section 3.4.5.10 of Chapter 3, there is no specific guidance on measuring PIK interest/dividends.

If the PIK interest/dividends are not discretionary, the instrument generally functions similar to a zero-coupon bond. In that case, the PIK interest/dividend is likely recorded at its stated rate. Since any BCF for a non-discretionary PIK instrument is measured based on the commitment date fair value of the underlying share, the periodic interest/dividends generally would not be expected to have a BCF unless the initial issuance had a BCF.

For discretionary interest/dividends, we generally believe an accounting policy election should be made to record PIK interest/dividends either (1) at their stated rate or (2) at the fair value of the instruments to be delivered. The measurement on recognition of the PIK instruments will significantly affect the BCF analysis. If the PIK instruments, which are themselves convertible, are recorded at fair value, it is likely that the fair value measurement incorporates any current intrinsic value in the embedded conversion option and the PIK instrument will not have a BCF. However, if the discretionary PIK instrument is recorded at the stated interest/dividend rate, and the initial instrument had a BCF (or if it did not have a BCF but the share price has increased since the initial issuance), the PIK instrument will more likely have a BCF.

Refer to Question 10 in section D7 – What is an example of how a beneficial conversion option on paid-in-kind interest should be measured and recognized?

D.3.3.2

Issuance of convertible instruments in satisfaction of nonconvertible instruments

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Initial Measurement

General

Beneficial Conversion Features

Application to Specific Instruments

Instrument Issued as Repayment for Nonconvertible Instrument

470-20-30-19

If a convertible instrument is issued as repayment of a nonconvertible instrument at the nonconvertible instrument's maturity, the fair value of the newly issued convertible instrument shall be the redemption amount owed at the maturity date of the original instrument if both of the following conditions exist:

- a. The original instrument has matured.
- b. The exchange of debt instruments is not a troubled debt restructuring that would be accounted for by the issuer under Subtopic 470-60.

470-20-30-20

After the exchange accounting occurs, any intrinsic value of the embedded conversion option in the new instrument shall be measured and accounted for under paragraph 470-20-25-5 based on the proceeds received for that instrument (the satisfaction of the redemption amount of the old instrument).

470-20-30-21

If the original instrument is extinguished before maturity, Subtopic 470-50 [Modifications and Extinguishments] shall be applied first.

If new convertible instruments are issued in exchange for matured nonconvertible debt instruments, the fair value of the newly issued convertible instrument is presumed to be equal to the redemption amount owed at the maturity date of the original debt. This accounting presumes the exchange is not a troubled debt restructuring that would be accounted for by the issuer pursuant to ASC 470-60, *Debt – Troubled Debt Restructurings by Debtors*. This is because the issuer could have repaid the debt in cash for that amount and its holder would not accept an instrument with a fair value less than the redemption amount. After the exchange accounting, any intrinsic value of the embedded conversion option in the new instrument should be measured and accounted for pursuant to the BCF guidance based on the presumed proceeds received for the new convertible instrument (the redemption amount of the original debt).

If the original debt is being extinguished or modified prior to its stated maturity, ASC 470-50, *Debt – Modification and Extinguishments*, should be applied. As outlined in ASC 470-50-40-10, a modification or an exchange of debt instruments that adds a substantive conversion option would generally be considered an extinguishment. In such circumstances, the evaluation of whether a BCF exists would be made as if cash consideration (in the amount of the fair value of the new instrument) were received for the new instrument and the transaction represented a standalone issuance. Because the new convertible instrument would be recorded at fair value, it is likely that fair value incorporates any current intrinsic value in the embedded conversion option and there would be no BCF.

D.3.3.3

Beneficial conversion features in convertible instruments issued in exchange for goods and/or services

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Recognition

General

Convertible Instruments Issued to Nonemployees for Goods and Services

470-20-25-19

If the convertible instrument is issued for cash proceeds that indicate that the instrument includes a beneficial conversion feature and the purchaser of the instrument also provides (receives) goods or services to (from) the issuer that are the subject of a separate contract, the convertible instrument shall be recognized with a corresponding increase or decrease in the purchase or sales price of the goods or services.

Debt – Debt with Conversion and Other Options

Initial Measurement

General

Convertible Instruments Issued to Nonemployees for Goods and Services

470-20-30-23

The requirements of this Subtopic shall then be applied such that the fair value determined pursuant to Subtopic 505-50 [Equity-Based Payments to Non-Employees] is considered the proceeds from issuing the instrument for purposes of determining whether a beneficial conversion option exists. The measurement of the intrinsic value, if any, of the conversion option under paragraph 470-20-25-5 shall then be computed by comparing the proceeds received for the instrument (the instrument's fair value under Subtopic 505-50) to the fair value of the common stock that the counterparty would receive upon exercising the conversion option. For purposes of determining whether a convertible instrument contains a beneficial conversion feature under paragraph 470-20-25-5, an entity shall use the effective conversion price based on the proceeds allocated to the convertible instrument to compute the intrinsic value, if any, of the embedded conversion option.

470-20-30-24

The measurement date under Subtopic 505-50 [Equity-Based Payments to Non-Employees] shall be used both to measure the fair value of the convertible instrument and to measure the intrinsic value, if any, of the conversion option. That is, in measuring the intrinsic value of the conversion option under paragraph 470-20-25-5, the fair value of the issuer's equity securities into which the instrument can be converted shall be determined on the measurement date under Subtopic 505-50, and not on the commitment date specified in this Subtopic.

470-20-30-26

If an entity issues a convertible instrument for cash proceeds that indicate that the instrument includes a beneficial conversion option and the purchaser of the instrument also provides (receives) goods or services to (from) the issuer that are the subject of a separate contract, the terms of both the agreement for goods or services and the convertible instrument shall be evaluated to determine whether their separately stated pricing is equal to the fair value of the goods or services and convertible instrument. If that is not the situation, the terms of the respective transactions shall be adjusted by measuring the convertible instrument initially at its fair value with a corresponding increase or decrease in the purchase or sales price of the goods or services. It may be difficult to evaluate whether the separately stated pricing of a convertible instrument is equal to its fair value. If an instrument issued to a goods or services provider (or purchaser) is part of a larger issuance, a substantive investment in the issuance by unrelated investors (who are not also providers or purchasers of goods or services) may provide evidence that the price charged to the goods or services provider represents the fair value of the convertible instrument.

Similar to convertible instruments issued for cash, convertible instruments issued in exchange for goods or services by non-employees are evaluated pursuant to the BCF guidance to determine whether a beneficial conversion option exists. For purposes of that evaluation, the deemed proceeds should be measured at the fair value of the convertible instruments issued, or, we generally believe, could be the fair value of consideration received if that is more reliably measurable. Those deemed proceeds should be compared to the measurement date (rather than the commitment date) fair value of the common stock issuable upon conversion. The measurement date for determining if a beneficial conversion option exists for convertible instruments issued in exchange for goods or services is the ASC 505-50, Equity-Based Payments to Non-Employees, measurement date rather than the commitment date pursuant to the BCF guidance.

Companies that issue convertible instruments for cash to providers/purchasers of goods and/or services subject to a separate agreement should evaluate the terms and conditions of the two agreements to determine whether the separately stated pricing is equal to the fair value of the goods and/or services and the convertible instrument. If either or both are not at fair value, the terms of the agreements should be modified for recognition purposes and the convertible instrument should be recognized at fair value with an offsetting adjustment to the purchase or sale price of the goods and/or services.

D.3.3.4**Issuance of warrants exercisable into convertible instruments**

A standalone warrant is not considered convertible as it is exercisable by delivering additional consideration (or net settling) for a new instrument, and thus is not beneficially convertible within the context of the BCF guidance. However, the BCF guidance does apply to a warrant that permits the holder to acquire a convertible instrument that may be beneficially convertible by virtue of the conversion option embedded in the underlying convertible instrument. In addressing warrants on convertible instruments, the EITF reached tentative conclusions that depended on whether the freestanding warrant was classified as equity or as a liability. Those issues were never finalized, but were published in the abstract on EITF 00-27 and are generally applied in practice. As the issues were never finalized, they are not included in the Codification's BCF guidance in ASC 470-20. However, we generally believe they are appropriate models to follow.

D.3.3.4.1 Equity-classified warrant

The following tentative guidance from EITF 00-27 addresses the accounting for an equity-classified warrant for a convertible instrument.

Issue 13 – A company issues a warrant that allows the holder to acquire a convertible instrument for a stated exercise price. The warrant provides only for physical settlement (that is, delivery of the convertible instrument in exchange for the stated exercise price) and is classified as an equity instrument (either temporary or permanent). The issue is how to measure and when to recognize a beneficial conversion option in the underlying warrant.

Issue 13(a) – Whether the commitment date for purposes of measuring the intrinsic value of the conversion option in the convertible instrument that is the underlying for the warrant is (a) the commitment date for the warrant or (b) the exercise date of the warrant.

43. The Task Force reached a tentative conclusion that the date used to measure the intrinsic value of a conversion option in a convertible instrument that is the underlying for a warrant that provides only for physical settlement upon exercise and that is classified as an equity instrument should be the commitment date for the warrant, provided the issuer receives fair value for the warrant (or for the warrant and for any other instruments issued at the same time as the warrant) upon its issuance. The Task Force also reached a tentative conclusion that if the holder transfers consideration upon issuance of the warrant that is less than the fair value of the warrant (or for the warrant and for any other instruments issued at the same time as the warrant), the exercise date of the warrant should be used to measure the intrinsic value of the conversion option.

Issue 13(b) – When measuring the intrinsic value of a conversion option embedded in a convertible instrument that is the underlying for the warrant, how the deemed proceeds for the convertible instrument should be computed.

44. The Task Force reached a tentative conclusion that the deemed proceeds for the convertible instrument are equal to the sum of the proceeds received for (or allocated to) the warrant and the exercise price of the warrant.

Issue 13(c) – Whether the measured intrinsic value of a beneficial conversion option in a convertible instrument that is the underlying for the warrant should be recognized at the date the warrant is issued or at the date the warrant is exercised and the convertible instrument is issued.

45. The Task Force reached a tentative conclusion that if the sum of the proceeds received for or allocated to the warrant and the exercise price of the warrant is less than the fair value of the common stock that would be received upon exercising the conversion option in the convertible instrument that is the underlying for the warrant, the excess (limited to the total proceeds originally received for or allocated to the warrant) represents a deemed distribution to the holder of the warrant for the convertible instrument that should be recognized over the life of the warrant. Any intrinsic value in excess of the proceeds received for or allocated to the warrant upon its issuance should be recognized when the warrant is exercised. On the date the warrant is exercised, that excess intrinsic value and any remaining unamortized intrinsic value measured at the date the warrant was issued should be combined and amortized over the period specified in Issue 98-5 (as interpreted by Issue 6, above) based on the characteristics of the convertible instrument.

Refer to Question 11 in section D7 – What is an example of how physically settled, equity-classified warrants exercisable for convertible instruments should be evaluated?

D.3.3.4.2***Liability-classified warrant***

The following tentative guidance from EITF 00-27 addresses the accounting for a liability-classified warrant for a convertible instrument.

Issue 14 – A company issues a warrant that allows the holder to acquire a convertible instrument for a stated exercise price. The warrant provides only for physical settlement (that is, delivery of the convertible instrument in exchange for the stated exercise price) and is classified as a liability instrument. The issues are (1) whether the commitment date for purposes of measuring the intrinsic value of a conversion option in a convertible instrument that is the underlying for a warrant is (a) the commitment date for the warrant or (b) the exercise date of the warrant, (2) how the deemed proceeds for the convertible instrument should be computed, and (3) when the intrinsic value of a beneficial conversion option in the underlying convertible instrument should be recognized.

49. The Task Force reached a tentative conclusion that the date used to measure the intrinsic value of a conversion option in a convertible instrument that is the underlying for a warrant that provides only for physical settlement upon exercise and that is classified as a liability instrument should be the exercise date for the warrant. The Task Force observed that a warrant that is classified as a liability is being marked to fair value through earnings while it is outstanding and that warrant's fair value depends in part on the value of the conversion option in the underlying convertible instrument.

Refer to Question 12 in section D7 – What is an example of how physically settled, liability-classified warrants exercisable for convertible instruments should be evaluated?

D.3.3.5**Measurement of a BCF in convertible instruments convertible into common stock and other equity instruments deliverable upon conversion**

The EITF reached tentative conclusions on accounting for BCFs in convertible instruments that were convertible into common stock and other equity instruments. This issue was never finalized, but was published in the abstract on EITF 00-27 and is generally applied in practice. As the issue was never finalized, it is not included in Codification's BCF guidance in ASC 470-20. However, we generally believe it is an appropriate model to follow.

Issue 15 – How a beneficial conversion amount should be measured when an entity issues a convertible instrument that, if converted, will result in the holder receiving common stock and other equity instruments of the issuer, such as warrants to acquire common stock of the issuer.

52. The Task Force reached a tentative conclusion that the intrinsic value of the conversion option should be computed based on a comparison of (a) the proceeds of the convertible instrument allocated to the common stock portion of the conversion option and (b) the fair value at the commitment date of the common stock to be received by the holder upon conversion. The excess of (b) over (a) is the intrinsic value of the embedded conversion option that should be recognized by the issuer at the issuance date for the convertible instrument.

Refer to Question 13 in section D7- What is an example of how to measure a BCF in convertible instruments convertible into common stock and other equity instruments on conversion?

D.4 Subsequent measurement

D.4.1 Accretion and amortization of discount resulting from BCF

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Subsequent Measurement

General

Discount Accretion and Amortization

Effects of Beneficial Conversion Features

470-20-35-7

Any discount recognized by the allocation of proceeds to a beneficial conversion feature under paragraph 470-20-25-5 shall be accounted for as follows:

- a. Instruments having a stated redemption date. If a convertible instrument has a stated redemption date (such as debt and mandatorily redeemable preferred stock), that discount shall be accreted from the date of issuance to the stated redemption date of the convertible instrument, regardless of when the earliest conversion date occurs.

Example 7 (see paragraph 470-20-55-28) illustrates the application of this guidance.

- b. Instruments involving a multiple-step discount. If an instrument incorporates a multiple-step discount and does not have a stated redemption date, that discount shall be amortized over the minimum period in which the investor can recognize that return. However, amortization recognized may require adjustment to ensure that the discount amortized at any point in time is not less than the amount the holder of the instrument could obtain if conversion occurred at that date. This method can be expressed as requiring cumulative amortization equal to the greater of the following:
 1. The amount derived using the effective yield method based on the conversion terms most beneficial to the investor
 2. The amount of discount that the investor can realize at that interim date.
- c. All other instruments. If a convertible instrument does not involve a multiple-step discount and does not have a stated redemption date (such as perpetual preferred stock), that discount shall be amortized from the date of issuance to the earliest conversion date as follows:
 1. For convertible preferred securities, that discount (which is analogous to a dividend) shall be recognized as a return to the preferred shareholders using the effective yield method.
 2. For convertible debt securities, that discount shall be recognized as interest expense using the effective yield method.

All discounts retain their character such that a discount resulting from the accounting for a beneficial conversion option is amortized from the date of issuance to the earliest conversion date. For SEC registrants, other discounts on perpetual preferred stock that has no stated redemption date but that is required to be redeemed if a future event that is outside the control of the issuer occurs (such as a change in control) shall be accounted for in accordance with Section 480-10-S99.

For instruments with a stated redemption date (e.g., debt and mandatorily redeemable preferred stock), the discount resulting from recording a beneficial conversion option is to be accreted from the date of issuance to the stated redemption date of the convertible instrument, regardless of when the earliest conversion date occurs. The accretion should be recognized using the effective interest method as interest expense for debt instruments or as dividends for preferred stock instruments.

This guidance could be viewed as establishing a different amortization period for the discount created from the BCF (i.e., to stated maturity or redemption date) than what might be used for other discounts associated with the convertible instrument (i.e., discount from initial allocation of proceeds, discount from bifurcation of embedded features) as well as the amortization period for debt issuance costs, which may be amortized to a shorter date (generally to the first put date). Refer to Chapter 2 for further discussion.

We generally believe that while a literal application of the literature may result in the BCF being amortized to the stated maturity date and other discounts and issuance costs to a shorter date, it would not be unreasonable to align the BCF amortization period to that of other discounts or issuance costs such that the BCF discount is amortized to the first put date.

For convertible instruments that do not have a stated redemption date (such as perpetual preferred stock or preferred stock subject to a put), any recorded discount should be recognized as a dividend or interest expense, as appropriate, over the minimum period from the date of issuance through the date of earliest conversion, using the effective yield method. As a result, securities with no stated redemption date that are convertible at the issuance date would result in immediate accretion of the beneficial conversion option discount to income or income available for common shareholders. For SEC registrants, other discounts on preferred stock that does not have a stated redemption date but is subject the SEC staff's redeemable equity guidance in ASC 480-10-S99-3A should be accounted for in accordance with that guidance.

D.4.1.1 Contingent beneficial conversion features

The guidance in ASC 470-20-35-7 on the accretion and amortization of discounts recorded in connection with the recognition of a BCF does not distinguish between discounts recorded at inception of a convertible instrument and those recognized upon adjustments to the conversion price when certain events occur. The guidance states only that the discount shall be accreted from the date of issuance.

However, Example 5 in ASC 470-20-55-22 through 55-24 and Case D of Example 7 in ASC 470-20-55-44 through 55-48 indicate that the accretion of the discount created by contingent BCFs should be recorded from the date it is recognized to the stated redemption date or date of earliest conversion (as appropriate).

Convertible securities may have terms that can increase the conversion price (decrease the number of shares on conversion) if certain events occur. If an event occurs that triggers a decrease in the number of shares issuable to the holder upon conversion, the intrinsic value of the adjusted conversion option should be recomputed using the commitment date fair value of the underlying stock and the proceeds received for (or allocated to) the convertible instrument at the initial measurement date.

ASC 470-20-55-16 states that if the amortized portion of the initial intrinsic value of the BCF before adjustment exceeds the total remeasured intrinsic value of the BCF after adjustment, the excess amortization is not reversed. The unamortized portion of the original BCF discount, if any, that exceeds the amount necessary for the total discount (amortized and unamortized) to be equal to the intrinsic value of the adjusted BCF discount should be reversed through a debit to paid-in capital (as an adjustment to the intrinsic value measurement of the conversion option). The adjusted unamortized discount, if any, should be amortized using the effective interest method.

Stated differently, if the initial BCF discount amortized to date exceeds the newly recalculated BCF discount, that excess is not reversed. However, if the newly recalculated BCF discount is greater than the amortized portion of the initial BCF discount, the unamortized BCF discount should be adjusted to equal the difference between the newly recalculated BCF discount and the amortization of the initial BCF discount recognized to date. As appropriate, the unamortized BCF discount should either be increased (with a credit to APIC) or decreased (with a debit to APIC).

This concept and computation is illustrated at ASC 470-20-55-14 through 55-17.

Refer to Question 4 in section D7 – What are examples of (1) the measurement and recognition of a contingent BCF assuming the most favorable conversion price given the passage of time and (2) if the adjustment results in a less beneficial conversion option?

D.4.1.2

Accretion of instruments involving a multiple-step discount

For an instrument involving a multiple-step discount, because the initial recognition of the BCF is based on the most favorable conversion price given the passage of time the amortization recognized may need to be adjusted so that the cumulative amortized discount at any point in time is not less than the discount the holder of the instrument could realize if conversion occurred at that date.

Refer to Question 9 in section D7 – What is an example of how the BCF in an instrument with a multiple-step discount should be measured and recognized?

D.4.1.3

Instruments that become mandatorily redeemable at a premium upon termination of the conversion feature

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Subsequent Measurement

General

Discount Accretion and Amortization

Instrument with Conversion Feature that Terminates

470-20-35-10

Otherwise, if a beneficial conversion option terminates after a specified time period and the instrument is then mandatorily redeemable at a premium, any resulting discount under paragraph 470-20-25-5 shall be accreted to the mandatory redemption amount. Example 6 (see paragraph 470-20-55-25) illustrates the application of this guidance.

Convertible instruments that become mandatorily redeemable at a premium upon the termination of the conversion feature may contain embedded beneficial conversion options that are subject to the BCF guidance. Accordingly, the issuer should compute the intrinsic value of the BCF by comparing the proceeds allocable to the convertible instrument divided by the number of shares into which the instrument is convertible to the commitment date fair value of the issuer's shares. The resulting discounted carrying amount is accreted pursuant to the effective interest method to the mandatory redemption amount (i.e., including the premium due at redemption) through the stated redemption date.

Refer to Question 14 in section D7 – What is an example of how a BCF that is embedded in an instrument that becomes mandatorily redeemable at a premium upon termination of the conversion feature should be measured and recognized?

D.5 Derecognition

D.5.1 Conversions

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Derecognition

General

Beneficial Conversion Features

470-20-40-1

For instruments with beneficial conversion features all of the unamortized discount remaining at the date of conversion shall be recognized immediately at that date as interest expense or as a dividend, as appropriate, including both of the following amounts:

- a. The discount originated by the beneficial conversion option accounting under paragraph 470-20-25-5
- b. The discount from an allocation of proceeds under this Subtopic to other separable instruments included in the transaction.

470-20-40-2

If a convertible debt instrument containing an embedded beneficial conversion feature is converted, and the amount of discount amortized exceeds the amount the holder realized because conversion occurred at an earlier date, no adjustment shall be made to amounts previously amortized.

Upon conversion of an instrument with a beneficial conversion feature, all unamortized discounts at the conversion date should be recognized immediately as interest expense for debt securities or as a dividend for preferred stock securities. We believe this would also include any unamortized original issuance discount.

If the unamortized discount(s) is recognized as an expense, the expense should not be classified as a loss on the extinguishment of debt.

D.5.2 Extinguishments

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Derecognition

General

Beneficial Conversion Features

470-20-40-3

If a convertible debt instrument containing an embedded beneficial conversion feature is extinguished before conversion, the amount of the reacquisition price to be allocated to the repurchased beneficial conversion feature shall be measured using the intrinsic value of that conversion feature at the extinguishment date. The residual amount, if any, would be allocated to the convertible security. Thus, the issuer shall record a gain or loss on extinguishment of the convertible debt security. For guidance on classification of any gain or loss from extinguishment, see section 470-50-45.

D.5.2.1 Extinguishments of convertible debt

If a convertible debt instrument with an embedded BCF is extinguished before conversion, the guidance provides that a portion of the reacquisition price represents the repurchase of the BCF and therefore requires a portion of the consideration to be allocated to the repurchase of the BCF. The amount of the reacquisition price allocated to the BCF is measured using the intrinsic value of that conversion option at the extinguishment date and recorded as a reduction (debit) to additional paid-in capital. The difference between the total consideration paid and the intrinsic value of the conversion option, if any, is allocated to the convertible debt instrument. The gain or loss on the extinguishment of the convertible debt instrument is the difference between the carrying amount and the consideration allocated to the debt instrument.

Refer to Question 15 in section D7 – What is an example of the accounting for a convertible debt instrument with an embedded BCF extinguished prior to its conversion or stated maturity date?

While never finalized, the EITF addressed questions that arose in practice with respect to the reacquisition of a BCF on extinguishing the instrument. EITF 00-27 included tentative guidance published in the abstract on EITF 00-27 and is generally applied in practice. As the issue was never finalized, it is not included in the Codification's BCF guidance in ASC 470-20. However, we generally believe it is an appropriate model to follow.

Issue 12 – If a convertible instrument that included a beneficial conversion option under Issue 98-5 is extinguished prior to its stated maturity date, how Issue 98-5 should be applied to the reacquisition of the embedded conversion option.

Issue 12(a) – Whether it is appropriate to allocate a portion of the reacquisition price to the conversion option based on the intrinsic value of that option at the extinguishment date if no separate accounting for the conversion option under Issue 98-5 has occurred.

34. The Task Force reached a tentative conclusion that no portion of the reacquisition price should be allocated to the conversion option if that option had no intrinsic value required to be accounted for under Issue 98-5.

Issue 12(b) – How the requirement to allocate a portion of the reacquisition price to the beneficial conversion option for convertible debt should be applied if the intrinsic value of that option at the date of extinguishment is greater than the originally measured intrinsic value.

35. The Task Force reached a tentative conclusion that Issue 98-5 does not provide for a different measurement of the amount of the reacquisition price that is allocated to the reacquisition of the conversion option if the intrinsic value of the conversion option is greater at the extinguishment date than the amount measured at the commitment date. In other words, the amount of the reacquisition price allocated to the conversion option is always calculated based on the option's intrinsic value at the extinguishment date, which could result in a reduction in additional paid-in capital that exceeds the amount recorded in additional paid-in capital for the beneficial conversion option when the instrument was issued. The Task Force asked the Working Group for Issue 98-5 to evaluate this question further.

D.5.2.2 Extinguishments of preferred shares

EITF 00-27 also included tentative guidance related to reacquisition of a BCF in preferred shares that was never finalized, but was published in the abstract on EITF 00-27 and is generally applied in practice. As the issue was never finalized, it is not included in the Codification's BCF guidance in ASC 470-20. However, we generally believe it is an appropriate model to follow.

Issue 12 – If a convertible instrument that included a beneficial conversion option under Issue 98-5 is extinguished prior to its stated maturity date, how Issue 98-5 should be applied to the reacquisition of the embedded conversion option.

*Issue 12(c) – Whether it is ever appropriate to allocate a portion of the reacquisition price to an embedded beneficial conversion option on the issuer's common stock upon the early redemption of convertible preferred stock.*⁴

Issue No. 00-27 Footnote 4 – Topics No. D-42, "The Effect on the Calculation of Earnings per Share for the Redemption or Induced Conversion of Preferred Stock," and No. D-53, "Computation of Earnings per Share for a Period That Includes a Redemption or an Induced Conversion of a Portion of a Preferred Stock," relate to the computation of earnings per share when an entity redeems preferred stock and does not relate to the income statement impact of such redemptions.

39. The Task Force reached a tentative conclusion consistent with Topic D-42, while acknowledging that this tentative conclusion is inconsistent with the tentative conclusion on Issue 12(b). Thus, if an entity redeems a convertible preferred security with a beneficial conversion option, the excess of (a) the fair value of the consideration transferred to the holders of the convertible preferred security over (b) the carrying amount of the convertible preferred security in the issuer's balance sheet plus (c) the amount previously recognized for the beneficial conversion option should be subtracted from net earnings to arrive at net earnings available to common shareholders in the calculation of earnings per share. That is, upon extinguishment, the issuer allocates an amount to the reacquisition of the embedded conversion option equal to the intrinsic value that previously was recognized for the embedded conversion option. The remaining reacquisition price is allocated to the reacquisition of the convertible preferred stock, and any excess of that portion of the reacquisition price over the carrying amount of the convertible preferred stock is a reduction of earnings available to common shareholders for purposes of calculating earnings per share. Similarly, if the portion of the reacquisition price allocated to the reacquisition of the convertible preferred stock is less than the carrying amount of the convertible preferred stock, the amount of the shortfall is an increase to earnings available to common stockholders for purposes of computing earnings per share.

Refer to Question 16 in section D7 – What is an example of the accounting for a convertible preferred stock instrument with an embedded beneficial conversion option extinguished prior to its conversion or stated maturity date?

D.5.3

Modifications or exchanges of convertible debt instruments

For convertible debt instruments, the provisions of ASC 470-50 are applied first to determine whether the modification or exchange is to be accounted for as an extinguishment or as a modification.

If the transaction is accounted for as an extinguishment, the new debt instrument issued to extinguish the old debt instrument is evaluated (1) for a bifurcatable embedded derivative, then (2) for the application of the cash conversion guidance and finally (3) pursuant to the BCF guidance if there has been no other form of separate accounting for the embedded conversion option pursuant to the previous evaluations. However, as the new instrument is recorded at its fair value, and that fair value incorporates any current intrinsic value in the embedded conversion option, it is likely the new debt will not have a BCF.

If the debt is accounted for as a modification, ASC 470-50-40-16 states that the issuer should not recognize a BCF or reassess an existing BCF upon a modification or exchange of a convertible debt instrument that is not accounted for as an extinguishment. The guidance in ASC 470-50-40-15 specifies the accounting for changes in the value of the embedded conversion option.

D.6 Presentation and disclosure

D.6.1 Presentation requirements

D.6.1.1 Balance sheet

In its deliberations of EITF 00-27, the EITF considered whether convertible preferred stock classified in equity that has a conversion option within the scope of the BCF guidance should be classified as temporary equity (mezzanine equity) or in permanent equity. It reached a tentative conclusion as follows:

Issue 16(b) – Whether a convertible preferred stock that has a conversion option within the scope of the Issue 98-5 model (as interpreted by Issue 00-27) should be classified as either permanent or temporary equity using the guidance in Issue No. 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock."

60. The Task Force reached a tentative conclusion that the guidance in Issue 00-19 should be used to evaluate whether the issuer controls the actions or events necessary to issue the number of required shares under the conversion option if that conversion option is exercised by the holder. If the issuer does not control settlement of the conversion option's exercise by delivering shares, cash settlement of the instrument would be presumed and, if the issuer is an SEC registrant, the convertible preferred stock would be classified as temporary equity.

If the issuer does not control settlement of the conversion option's exercise by delivering shares, cash settlement of the instrument would be presumed and, if the issuer is an SEC registrant, the convertible preferred stock would be classified as temporary equity in accordance with ASC 480-10-S99-3A.

Refer to Appendix E for further discussion.

D.6.1.2 Income statement

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Other Presentation Matters

General

470-20-45-1

Any expense recognized under paragraph 470-20-40-1 shall not be classified as extraordinary.

D.6.1.3 Statement of cash flows

The proceeds from the issuance of a convertible instrument with a beneficial conversion feature are classified as part of cash flows from financing activities pursuant to ASC 230-10-45-14. In addition, ASC 230-10-50-3 through 50-6 requires disclosure of noncash financing activities, such as converting debt to equity.

D.6.2 Disclosures

The BCF guidance, as codified in ASC 470, contains no specific disclosure requirement for beneficial conversion features. ASC 470 merely references the disclosures related to equity securities in ASC 505-10-50 for all convertible debt. However, in the pre-Codification guidance (both EITF 98-5 and tentative conclusions in EITF 00-27), the EITF emphasized the then-existing disclosure requirements that would apply to the instruments in the scope of the BCF guidance. Those disclosures included, with their current Codification references:

- ▶ In summary form within its financial statements, the pertinent rights and privileges of the various securities outstanding. Examples of information that shall be disclosed are dividend and liquidation preferences, participation rights, call prices and dates, conversion or exercise prices or rates and pertinent dates, sinking-fund requirements, unusual voting rights, and significant terms of contracts to issue additional shares. (ASC 505-10-50-3)
- ▶ The possible conversion prices and dates as well as other significant terms for each convertible instrument shall be disclosed. For example, “The Company is obligated to issue X shares and as the market price of the common stock decreases, the Company is obligated to issue an additional X shares for each \$1 decrease in the stock price.” (ASC 505-10-50-7)
- ▶ The terms of the transaction, including the excess of the aggregate fair value of the instruments that the holder would receive at conversion over the proceeds received and the period over which the discount is amortized. (ASC 505-10-50-8)
- ▶ Securities (including those issuable pursuant to contingent stock agreements) that could potentially dilute basic EPS in the future that were not included in the computation of diluted EPS because to do so would have been antidilutive for the period(s) presented. Full disclosure of the terms and conditions of those securities is required even if a security is not included in diluted EPS in the current period. (ASC 260-10-50-1(c))

D.7 Frequently asked questions

The following Questions are included in this section:

- ▶ Question 1 – What is a simplified example of the measurement of a BCF for a convertible instrument issued?
- ▶ Question 2 – What is an example of how the effective conversion price is determined and the BCF measured when a convertible security is issued with another security?
- ▶ Question 3 – What is an example of contingently convertible debt with a conversion feature that is beneficial at the commitment date?
- ▶ Question 4 – What are examples of (1) the measurement and recognition of a contingent BCF assuming the most favorable conversion price given the passage of time and (2) if the adjustment results in a less beneficial conversion option?
- ▶ Question 5 – What is an example of how contingent conversion options that reduce or reset the conversion price should be measured and recognized?
- ▶ Question 6 – What is an example of how a contingent conversion option that does not permit the issuer to compute the number of shares to be issued should be measured and recognized?
- ▶ Question 7 – How is a contingent BCF measured if the initial conversion feature were out of the money?
- ▶ Question 8 – What is an example of a conversion option that continuously resets the conversion price?
- ▶ Question 9 – What is an example of how the BCF in an instrument with a multiple-step discount should be measured and recognized?
- ▶ Question 10 – What is an example of how a beneficial conversion option on paid-in-kind interest should be measured and recognized?
- ▶ Question 11 – What is an example of how physically settled, equity-classified warrants exercisable for convertible instruments should be evaluated?

- ▶ Question 12 – What is an example of how physically settled, liability-classified warrants exercisable for convertible instruments should be evaluated?
- ▶ Question 13 – What is an example of how to measure a BCF in convertible instruments convertible into common stock and other equity instruments on conversion?
- ▶ Question 14 – What is an example of how a BCF that is embedded in an instrument that becomes mandatorily redeemable at a premium upon termination of the conversion feature should be measured and recognized?
- ▶ Question 15 – What is an example of the accounting for a convertible debt instrument with an embedded BCF extinguished prior to its conversion or stated maturity date?
- ▶ Question 16 – What is an example of the accounting for a convertible preferred stock instrument with an embedded beneficial conversion option extinguished prior to its conversion or stated maturity date?
- ▶ Question 17 – What are examples of other BCFs or contingently adjustable conversion ratios?
- ▶ Question 18 – How should an issuer measure the intrinsic value of a conversion feature in a debt instrument when the underlying (e.g., a preferred share) is itself convertible into another instrument that may be more or less beneficial at the commitment date?

Question 1

What is a simplified example of the measurement of a BCF for a convertible instrument issued?

Assume the following:

- ▶ Company A issues for \$900,000 convertible debt with a par amount of \$1,000,000.
- ▶ The convertible debt is immediately convertible at \$10 per share (holder would receive 100,000 shares of common stock upon conversion).
- ▶ The fair value of Company A's common stock at the commitment date is \$10.

The effective conversion price is \$9 per share (\$900,000 proceeds ÷ 100,000 shares) and results in a beneficial conversion option with an intrinsic value of \$100,000 [100,000 shares x (\$10 – \$9)]. Therefore, the debt discount immediately after the initial accounting is performed is \$200,000. The journal entry to record the initial issuance of this instrument is as follows:

Cash	\$	900,000	
Debt discount – beneficial conversion option		100,000	
Debt discount – issuance		100,000	
Convertible debt			\$ 1,000,000
Additional paid-in capital			100,000

Question 2

What is an example of how the effective conversion price is determined and the BCF measured when a convertible security is issued with another security?

Excerpt from Accounting Standards Codification**Debt – Debt with Conversion and Other Options****Implementation Guidance and Illustrations****General****Example 2: Evaluating Whether an Embedded Conversion Option Is Beneficial to Holder****470-20-55-10**

This Example illustrates the guidance in paragraph 470-20-30-5.

470-20-55-11

Assume Entity A issues for \$1 million convertible debt with a par amount of \$1 million and 100,000 detached warrants. The convertible debt is convertible at a conversion price of \$10 per share (holder would receive 100,000 shares of Entity A common stock upon conversion). The fair value of Entity A's stock at the commitment date is \$10. Further, assume that the ratio of the relative fair values of the convertible debt and the detached warrants is 75 to 25. After allocating 25 percent or \$250,000 of the proceeds to the detached warrants (based on relative fair values), the convertible debt is recorded on the balance sheet at \$750,000 (net of the discount that arises from the allocation of proceeds to the warrants), and the detached warrants are recorded in paid-in capital in the balance sheet at \$250,000.

470-20-55-12

Entity A must evaluate whether the embedded conversion option within the debt instrument is beneficial (has intrinsic value) to the holder. The effective conversion price (that is, the allocated proceeds divided by the number of shares to be received on conversion) based on the proceeds of \$750,000 allocated to the convertible debt is \$7.50 ($\$750,000 \div 100,000$ shares). The intrinsic value of the conversion option therefore is \$250,000 $[(100,000 \text{ shares}) \times (\$10.00 - \$7.50)]$ and is recognized as a reduction to the carrying amount of the convertible debt and an addition to paid-in capital. The total debt discount immediately after the initial accounting is performed is \$500,000 (\$250,000 from the allocation of proceeds to the warrants and an additional \$250,000 from the measurement of the intrinsic value of the conversion option). The same answer would result if the debt had been issued without detachable warrants for \$750,000 in proceeds.

The journal entry to record the initial issuance of those instruments is as follows:

Cash	\$ 1,000,000	
Debt discount – beneficial conversion option	250,000	
Debt discount – relative FV of warrants	250,000	
Convertible debt		\$ 1,000,000
Additional paid-in capital		500,000

Note that the additional paid-in capital represents both the BCF that is recognized and the proceeds allocated to the warrant. If the warrant were instead classified as a liability and subsequently accounted for at fair value, then we generally believe it would be most appropriate for the warrant to have been allocated its full fair value rather than its relative fair value.

Question 3

What is an example of contingently convertible debt with a conversion feature that is beneficial at the commitment date?

Assume Company A issues for \$1,000,000 contingently convertible debt that matures in five years with a par amount of \$1,000,000. The debt is convertible at \$8 per share (holder would receive 125,000 shares of common stock upon conversion) at any time after the first date on which the fair value of the common stock is equal to or less than \$8.00 per share. If the price of Company A's stock never falls to \$8.00 or less, the debt is not convertible. The fair value of Company A's common stock at the commitment date is \$10. Assume six months after the date of issuance, the Company's stock price falls to \$8.

A contingent beneficial conversion amount of \$250,000 $[(\$1\text{million}/\$8) * (\$10 - \$8)]$ is required to be calculated at the commitment date but recognized only on the day that Company A's stock price falls to \$8 or less. In this example, the holder is eventually able to acquire 125,000 shares at \$8 per share (paying \$1,000,000 at issuance), whereas they would have paid \$1,250,000 $(125,000 * \$10)$ had they acquired the shares at fair value on the commitment date.

The journal entry to record the contingent BCF that arose due to the share price falling to \$8 is as follows:

Debt discount – beneficial conversion option	\$ 250,000	
Additional paid-in capital		\$ 250,000

In considering the indexation guidance in ASC 815-40, the debt is not convertible unless the share price decreases to a certain amount. That represents an exercise contingency that is based on the issuer's share price and thus is considered indexed to the issuer's stock pursuant to the indexation guidance. Provided this conversion feature meets the remaining criteria in the indexation guidance and the equity classification guidance from ASC 815-40, the conversion option would qualify for the ASC 815-10-15-74(a) exception from bifurcation (which is implicit in this fact pattern).

Question 4

What are examples of (1) the measurement and recognition of a contingent BCF assuming the most favorable conversion price given the passage of time and (2) if the adjustment results in a less beneficial conversion option?

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Implementation Guidance and Illustrations

General

Example 3: Conversion Price to Be Used to Measure Intrinsic Value

470-20-55-13

This Example illustrates the guidance in paragraph 470-20-30-7.

470-20-55-14

Assume Entity A, a private entity, issues for \$1 million a convertible instrument that is convertible 4 years after issuance at a conversion price of \$10 per share (fair value of the stock is \$10 at the commitment date). The instrument also contains a provision that the conversion price adjusts from \$10 to \$7 per share if Entity A does not have an initial public offering with a per-share price of \$13 or more within 3 years. Entity B, a private entity, issues for \$1 million a convertible instrument that is convertible 4 years after issuance at a conversion price of \$7 per share (fair value of the stock is \$10 at the commitment date). The instrument also contains a provision that the conversion price adjusts from \$7 to \$10 per share if Entity B successfully completes an initial public offering for a per-share price of \$13 or more within 3 years.

470-20-55-15

The active conversion price for both Entity A and Entity B is \$7, which is the conversion option price that would apply if there were no change in circumstances after the issuance date other than the passage of time. The intrinsic value of the conversion option of \$428,571 [$(\$1 \text{ million} \div \$7) \times (\$10 - \$7)$] should be recognized at the issuance date of the convertible instrument. If an event occurs that triggers a decrease in the number of shares to the holder upon conversion (the initial public offering in this Example), the intrinsic value of the adjusted conversion option should be recomputed using the commitment-date fair value of the underlying stock and the proceeds received for or allocated to the convertible instrument in the initial accounting.

470-20-55-16

If the amortized amount of discount on the convertible instrument resulting from the initial measurement of the intrinsic value of the conversion option before the adjustment exceeds the remeasured intrinsic value of the conversion option after the adjustment, the excess amortization charge should not be reversed. Any unamortized amount of that original discount amount that exceeds the amount necessary for the total discount (amortized and unamortized) to be equal to the intrinsic value of the adjusted conversion option should be reversed through a debit to paid-in capital (as an adjustment to the intrinsic value measurement of the conversion option). The adjusted unamortized discount, if any, should be amortized using the interest method pursuant to the recommended guidance in this Subtopic.

470-20-55-17

For example, assume in this Case that Entity A had an amortized discount of \$85,714 and the remaining unamortized discount was \$342,857 at the time it completed an initial public offering for a per-share price of more than \$13. Entity A would remeasure the intrinsic value of the conversion option based on the adjusted conversion price of \$10 per share and determine that there is no intrinsic value of the adjusted conversion option because the adjusted conversion price equals the fair value of the common stock at the initial commitment date. Entity A would reverse the entire \$342,857 of remaining unamortized discount (credit) with an offsetting entry (debit) to additional paid-in capital. The \$85,714 of discount previously amortized is not reversed.

The journal entry at the issuance date (assuming the instrument issued above was convertible debt) would be the same for both Entity A and Entity B:

Cash	\$ 1,000,000	
Debt discount – beneficial conversion option	428,571	
Convertible debt		\$ 1,000,000
Additional paid-in capital		428,571

In considering the indexation guidance in ASC 815-40, while an exercise contingency based on an IPO would be considered indexed to the issuer's shares, a change in the settlement amount based on the occurrence or nonoccurrence of an IPO would not, as the status of an entity as a private or public entity is not an input to an option pricing model. Neither of the conversion options would be considered indexed to the issuer's own stock and thus, if the embedded conversion option met the definition of a derivative pursuant to ASC 815, it would not qualify for an exception from bifurcation.

Because the embedded conversion options were not bifurcated in this example, it must be assumed that those embedded features did not meet the definition of a derivative pursuant to ASC 815 when evaluated as if freestanding. That is, as a private company, the underlying shares would generally not be considered readily convertible to cash. Therefore, it can be reasonably inferred that the debt was convertible on a gross physically settled basis with the investor exchanging all of the debt for the underlying private shares, thus not meeting the net settlement criterion in the definition of a derivative.

On the occurrence of the IPO, after adjusting the BCF for the changes in the conversion terms as illustrated in the example, there would no longer be potential variability in the settlement amount. Thus, when evaluated for bifurcation immediately after the IPO, the convertible debt that would now be net settleable (as the underlying public shares would be readily convertible to cash) may qualify for the ASC 815-10-15-74(a) exception, if the criteria in the indexation guidance and equity classification guidance were met.

Question 5

What is an example of how contingent conversion options that reduce or reset the conversion price should be measured and recognized?

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Implementation Guidance and Illustrations

General

Example 4A: Resets

470-20-55-19A

This Example illustrates the guidance in paragraph 470-20-35-4.

470-20-55-20

Assume Entity A issues for \$1 million a convertible debt instrument with a conversion option that allows the holder to convert the instrument at \$12.50 per share for 80,000 shares of Entity A's common stock. The fair value of the common stock is \$10 at the commitment date. The debt instrument also provides that if the market price of Entity A's common stock falls to \$7 or less at any point during the conversion term, then the conversion price resets to \$8.75 per share (the instrument would then become convertible into 114,286 shares).

470-20-55-21

A contingent beneficial conversion amount of \$142,858 [$(\$1 \text{ million} \div \$8.75) \times (\$10.00 - \$8.75)$] is required to be calculated at the commitment date but only recognized when and if Entity A's stock price falls to \$7 or less. The accretion of this discount would be required from the date the stock price falls to \$7 or less (regardless of the fact that the conversion price resets to \$8.75 per share) in accordance with this Subtopic.

The journal entry to record the initial issuance is as follows:

Cash	\$ 1,000,000	
Convertible debt		\$ 1,000,000

If the triggering event occurs (i.e., Company A's stock price falls to \$7 or less), the following journal entry is required:

Debt discount – beneficial conversion option	\$ 142,858	
Additional paid-in capital		\$ 142,858

In considering the indexation guidance in ASC 815-40, the contingency for the reset of the conversion price (which makes the settlement amount variable) is a change in the fair value of the stock. As the fair value of the stock is an input to an option valuation model, this adjustment to the settlement amount is considered indexed to the issuer's stock pursuant to the indexation guidance. Provided this conversion feature meets the remaining criteria in the indexation and equity classification guidance from ASC 815-40, the conversion option would qualify for the ASC 815-10-15-74(a) exception from bifurcation (which is implicit in this fact pattern).

Question 6

What is an example of how a contingent conversion option that does not permit the issuer to compute the number of shares to be issued should be measured and recognized?

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Implementation Guidance and Illustrations

General

Example 5: Contingent Conversion Option Does Not Permit Calculation of Shares Received on Conversion

470-20-55-22

This Example illustrates the guidance in paragraph 470-20-35-1.

470-20-55-23

Assume Entity A issues for \$1 million a convertible debt instrument that is convertible into 100,000 shares of Entity A common stock (\$10 conversion price) when the fair value of the stock is \$10. This instrument provides that if Entity A subsequently issues common stock at a price less than \$10, the conversion price adjusts to 90 percent of that subsequent issue price.

470-20-55-24

If Entity A subsequently issues common stock at a price of \$8 per share, the holder's conversion price adjusts to \$7.20 ($\$8 \times 90\%$) and the holder now would receive 138,888 shares ($\$1 \text{ million} \div \7.20) upon conversion, an increase of 38,888 shares from the 100,000 shares that would have been received before the occurrence of the contingent event. The incremental intrinsic value that results from triggering the contingent option is \$388,888 – calculated as 38,888 shares \times \$10 stock price at the commitment date or, alternatively, $(\$1 \text{ million} \div \$7.20) \times (\$10 - \$7.20)$ – and would be recognized upon the subsequent issuance of common stock at the \$8 per share price. The accretion of this discount would be required from the date the common stock was subsequently issued at \$8 per share in accordance with this Subtopic.

The journal entry to record the initial issuance is as follows:

Cash	\$ 1,000,000	
Convertible debt		\$ 1,000,000

The journal entry to record the beneficial conversion option discount upon resolution of the contingency is as follows:

Debt discount – beneficial conversion option	\$ 388,888	
Additional paid-in capital		\$ 388,888

In considering the indexation guidance in ASC 815-40, the conversion price adjusts (which makes the settlement amount variable) based on a subsequent issuance of shares for a price lower than a stated threshold, which is not an input into an option pricing model and is specifically cited as not being considered indexed to the issuer's own shares within the indexation guidance.

To the extent the conversion feature meets the definition of a derivative pursuant to ASC 815 (as would likely be the case if Company A was a public entity), the conversion feature would require bifurcation because it would not meet the requirements for the ASC 815-10-15-74(a) exception from bifurcation. Therefore, it can be reasonably inferred in this example the issuer was a private entity and that the debt was convertible on a gross physically settled basis with the investor exchanging all of the debt for the underlying private shares, thus not meeting the net settlement criterion in the definition of a derivative.

Question 7

How is a contingent BCF measured if the initial conversion feature were out of the money?

Assume the same facts as above in Question 6, except that (1) the initial conversion price was \$12 per share (and thus convertible into 83,333 shares) and (2) the conversion price is adjusted to 90% of any subsequent share issuance at a price less than \$12. In this example, if there were a share issuance for \$11.11 per share, the conversion price would adjust to \$10 (\$11.11 x 90%), resulting in 100,000 shares to be issued, or an increase of 16,667 shares.

Based on the literal reading of ASC 470-20-35-1 illustrated in Question 6, a beneficial conversion feature would be recorded for \$166,670 (16,667 shares x \$10 stock price at the commitment date). However, comparing the adjusted effective conversion price of \$10 (\$1,000,000 divided by 100,000 shares) to the \$10 commitment date fair value would indicate that a conversion had not yet become beneficial.

We generally believe that recognizing a BCF of \$166,670 based on the literal reading of ASC 470-20-35-1 is inconsistent with the basic BCF model, which is based on the intrinsic value concept and in this case is zero. Accordingly, while the literal application of ASC 470-20-35-1 is acceptable, we generally believe that when a conversion feature is out of the money at issuance, the BCF could be reasonably calculated as the excess of (1) the product of the number of shares now known to be issuable with the resolution of the contingency times the commitment date fair value of the shares over (2) the initial proceeds. In this example, no BCF would be recognized.

To further illustrate, assume the conversion price adjusts to \$9 (\$10 x 90%), resulting in 111,111 shares to be issued, or an increase of 27,778 shares. Based on the literal reading of ASC 470-20-35-1 illustrated in Question 6, a beneficial conversion option would be recorded for \$277,780 (27,778 shares x \$10 stock price at the commitment date). However, the \$1,111,110 conversion value (111,111 x \$10) could also be compared to the initial proceeds (\$1,000,000), resulting in a BCF of \$111,110.

Question 8

What is an example of a conversion option that continuously resets the conversion price?

Excerpt from Accounting Standards Codification**Debt – Debt with Conversion and Other Options***Implementation Guidance and Illustrations**General**Example 4: Stock-Settled Debt***470-20-55-18**

This Example illustrates the guidance in paragraph 470-20-25-8.

470-20-55-19

If the conversion price was described as \$1 million divided by the market price of the common stock on the date of the conversion, that is, resetting at the date of conversion, the holder is guaranteed to receive \$1 million in value upon conversion and, therefore, there is no beneficial conversion option and the convertible instrument would be considered stock-settled debt. However, if the conversion price does not fully reset (for example, resets on specified dates before maturity), the reset represents a contingent beneficial conversion feature subject to this Subtopic.

Question 9

What is an example of how the BCF in an instrument with a multiple-step discount should be measured and recognized?

Excerpt from Accounting Standards Codification**Debt – Debt with Conversion and Other Options****Implementation Guidance and Illustrations****General****Example 10: Multiple-Step Discount****470-20-55-69**

This Example illustrates the application of paragraphs 470-20-30-15 and 470-20-35-7 to an instrument that incorporates a multiple-step discount. If an instrument provides for a 15 percent discount to the market price after 3 months, a 25 percent discount after 6 months, a 35 percent discount after 9 months, and a 40 percent discount after 1 year, paragraph 470-20-30-15 requires that the computation of the intrinsic value be made using the conversion terms that are most beneficial to the investor; that is, the discount would be 40 percent and the amortization period would be 1 year. However, paragraph 470-20-35-7 indicates that the amortization recognized may require adjustment to ensure that the discount amortized at any point in time is not less than the amount the holder of the instrument could obtain if conversion occurred at that date. That is, at the end of 3 months, at least the 15 percent discount should have been recognized. Paragraph 470-20-35-7(a) states that, if a convertible instrument has a stated redemption date, the discount shall be accreted from the date of issuance to the stated redemption date of the convertible instrument, regardless of when the earliest conversion date occurs.

In the example above, Company A issues for \$1 million a three year convertible debt instrument that is initially convertible into 100,000 shares of Company A common stock (\$10 conversion price). The fair value of Company A's shares on the commitment date is \$10. The number of shares into which the debt is convertible adjusts over time as follows:

Three months from issuance – conversion price adjusts to \$8.50 (15% discount)

Six months from issuance – conversion price adjusts to \$7.50 (25% discount)

Nine months from issuance – conversion price adjusts to \$6.50 (35% discount)

Twelve months from issuance – conversion price adjusts to \$6.00 (40% discount)

The computation of the intrinsic value is made using the conversion terms that are most beneficial to the investor. Accordingly, there is a BCF in the amount of \$666,667 [$(\$1,000,000/\$6) \times (\$10-\$6)$]. Therefore, the debt discount immediately after the initial accounting is performed is \$666,667. The journal entry to record the initial issuance of this instrument is as follows:

Cash	\$ 1,000,000	
Debt discount – beneficial conversion option	666,667	
Convertible debt		\$ 1,000,000
Additional paid-in capital		666,667

Using straight-line amortization (assuming for the illustration that it is not significantly different from the effective interest method), the discount would be accreted at \$55,556 each quarter ($\$666,667 \div 12$ quarters). However, pursuant to the BCF guidance, at any point in time the cumulative discount accretion cannot be less than the discount the holder could realize if conversion occurred at that date. The discount accretion to date of \$55,556 is compared to the BCF amount of \$176,471 that could be obtained after three months from issuance measured on an \$8.50 conversion price [$(\$1,000,000/\$8.50) \times (\$10-\$8.50)$]. Therefore, incremental accretion in the amount of \$120,915 should be recognized in the first quarter after issuance.

In considering the indexation guidance in ASC 815-40, the conversion price adjusts automatically over time. This feature is discussed in Question 2 of section B9 in Appendix B. We generally believe such a feature, which varies solely with the passage of time (time being an input to an option pricing model), is an acceptable variation in the settlement amount pursuant to the indexation guidance. Provided this conversion feature meets the remaining criteria in the indexation guidance and the equity classification guidance from ASC 815-40, the conversion option would qualify for the ASC 815-10-15-74(a) exception from bifurcation (which is implicit in this fact pattern).

Question 10

What is an example of how a beneficial conversion option on paid-in-kind interest should be measured and recognized?

Assume the following:

- ▶ Company A issues for \$1 million a convertible debt instrument at par on 1 January 20X0, that pays 8% interest
- ▶ The convertible debt instrument matures 20 years after issuance if not converted prior to 31 December 20X9
- ▶ The instrument is convertible by the holder at any time after issuance into 100,000 shares of Company A common stock (conversion price = \$10)
- ▶ The fair value of Company A's common stock at the commitment date is \$10
- ▶ Interest must be paid in kind on a quarterly basis in arrears
- ▶ Upon conversion, accrued interest, if any, is issuable in kind immediately prior to conversion
- ▶ Company A accrues interest at the stated rate
- ▶ Further assume the fair value of Company A's common stock increases by \$1 each quarter after issuance of the original convertible debt instrument

In this fact pattern the original debt instrument does not contain a BCF (i.e., \$1 million proceeds ÷ 100,000 shares = \$10 per share compared to \$10 per share value at the commitment date). The measurement date for the conversion option in the convertible debt instruments issued quarterly as paid-in-kind interest is the original commitment date, rather than the subsequent interest payment dates because it is a non-discretionary PIK interest (refer to section D3.3.1). Therefore, the deemed proceeds (in the form of additional convertible debt) of the quarterly paid-in-kind dividend of \$20,000 are compared to the \$10 per share fair value of the underlying common stock at the original commitment date multiplied by the 2,000 shares of common stock into which the paid-in-kind instruments are convertible ($\$20,000 - (2,000 \times \$10) = 0$). Accordingly, there is no BCF associated with the instruments issued as interest.

Question 11

What is an example of how physically settled, equity-classified warrants exercisable for convertible instruments should be evaluated?

The following non-authoritative example from EITF 00-27 illustrates how physically settled, equity-classified warrants exercisable into convertible instruments should be evaluated. While non-authoritative, we generally believe the example is an appropriate application of the BCF guidance.

46. The following example illustrates the application of the Task Force's tentative conclusions on Issues 13(a), 13(b), and 13(c).

Assume Company A issues a freestanding warrant to Company B on January 15, 20X0, for its fair value, \$20. Also assume the commitment date for the warrant is the date of issuance. The warrant provides Company B with the right during the next 2 years to exercise the warrant for \$100 in cash and receive 1 share of Company A \$100 par value nonredeemable convertible preferred stock. The preferred stock is convertible into 10 shares of Company A common stock 1 year after the preferred stock's issuance date. Also assume that the terms of the warrant require physical settlement upon exercise and Company A has determined that the warrant is classified in equity. The fair value of Company A common stock on January 15, 20X0, is \$15 per share. Company B exercises the warrant on July 15, 20X0, when the fair value of Company A stock is \$20 per share.

47. The sum of the proceeds received for the warrant (\$20) and the warrant's exercise price (\$100) equals \$120, which is considered to be the proceeds of issuance of the convertible instrument pursuant to the Task Force's tentative conclusion on Issue 13(b). The fair value (as of the commitment date of the warrant pursuant to the Task Force's tentative conclusion on Issue 13(a)) of Company A's common stock that would be received upon exercising the conversion option in the convertible instrument is equal to \$150 (\$15 per share × 10 shares). The difference between the fair value of the common stock (\$150) and the proceeds of issuance of the convertible instrument (\$120) is \$30, which represents the intrinsic value of the conversion option in the instrument underlying the warrant (that is, a beneficial conversion option exists).

48. The amount of the beneficial conversion option recognized upon issuance of the warrant would be limited to \$20, the amount of proceeds received for the warrant (pursuant to the Task Force's tentative conclusion on Issue 13(c)). That amount would be recognized over the life of the warrant as a distribution to the warrant holder. Through the date the warrant is exercised, Company A recognized approximately \$5 in amortization of the \$20 beneficial conversion amount as a distribution to the warrant holder (that is, the remaining unamortized balance is \$15). When the warrant is exercised and the convertible preferred stock is issued, the amount of the originally measured intrinsic value of the conversion option (\$30) in excess of the proceeds received for the warrant (\$20) of \$10 is recognized. The sum (\$25) of that \$10 increment and the \$15 unamortized amount of the \$20 intrinsic value measured at the date the warrant was issued is immediately recognized as a deemed distribution to the holder of the convertible preferred stock because the instrument is not redeemable and is immediately convertible by the holder.

Question 12

What is an example of how physically settled, liability-classified warrants exercisable for convertible instruments should be evaluated?

The following non-authoritative example from EITF 00-27 illustrates how physically settled, liability-classified warrants exercisable into convertible instruments should be evaluated. While non-authoritative, we generally believe the example is an appropriate application of the BCF guidance.

50. Assume that Company A issues a freestanding warrant to Company B on January 15, 20X0, for its fair value, \$20. Also assume the commitment date for the warrant is the date of issuance. The warrant provides Company B with the right during the next 2 years to exercise the warrant for \$100 in cash and receive Company A \$100 par value convertible debt. The debt is convertible into 10 shares of Company A common stock. The fair value of Company A stock on January 15, 20X0, is \$11 per share. Company B exercises the warrant on February 15, 20X1, when the fair value of Company A stock is \$20 per share and the fair value and carrying amount of the warrant is \$105. Also assume that the warrant terms require physical settlement upon exercise and Company A has determined that the warrant is classified as a liability.

51. Because Company A has classified the warrant as a liability instrument, the exercise date for the warrant should be used to measure and recognize the intrinsic value of the conversion option in the convertible instrument that is the underlying for the warrant. Accordingly, the fair value of the stock on

the exercise date of \$20 per share should be used to calculate the intrinsic value of the conversion option. When the warrant is classified as a liability instrument, the deemed proceeds for the convertible instrument (\$205) should equal the sum of the carrying amount of the warrant at the exercise date (\$105) and the warrant's exercise price (\$100). In this example, there is no beneficial conversion option because the amount of proceeds (\$205) exceeds the fair value of the common stock into which the instrument can be converted (\$200, calculated as \$20 per share × 10 shares). The exercise of the warrant and resulting issuance of the convertible debt would be recorded as follows:

Cash	\$	100	
Warrant liability		105	
Convertible debt			\$ 100
Additional paid-in capital			105

Question 13

What is an example of how to measure a BCF in convertible instruments convertible into common stock and other equity instruments on conversion?

The following non-authoritative example from EITF 00-27 illustrates how to measure a BCF in convertible instruments convertible into common stock and other equity instruments on conversion. While non-authoritative, we generally believe the example is an appropriate application of the BCF guidance.

53. For example, assume Company A issues for \$1 million, convertible debt with a par value of \$1 million. The convertible debt is immediately convertible at a conversion price of \$10 per share (that is, holder will receive 100,000 shares of Company A stock upon conversion). In addition, upon conversion, the holder also will receive 100,000 warrants to acquire Company A's common stock. Each warrant entitles the holder to purchase 1 share of common stock at \$10 per share. The warrants (which have not yet been issued) would have a fair value of \$250,000 at the commitment date, and the fair value of Company A's common stock at the commitment date is \$9.

54. The beneficial conversion option amount related to the convertible instrument is \$117,391 and is calculated as the difference between the \$900,000 fair value of the common stock on the commitment date and the \$782,609 proceeds allocated to the common stock conversion option (\$1,000,000 total proceeds received × \$900,000 fair value of the common stock at the commitment date ÷ \$1,150,000 total fair value of all instruments received by the holder upon conversion at the commitment date). Upon conversion, the warrants would be recognized at \$217,391 (\$1,000,000 × (\$250,000 ÷ \$1,150,000), or \$1,000,000 – \$782,609).

Question 14

What is an example of how a BCF that is embedded in an instrument that becomes mandatorily redeemable at a premium upon termination of the conversion feature should be measured and recognized?

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Implementation Guidance and Illustrations

General

Example 6: Beneficial Conversion Option Terminates After a Specified Time Period and Instrument then Mandatorily Redeemable at a Premium

470-20-55-25

This Example illustrates the guidance in paragraph 470-20-35-10.

470-20-55-26

Assume Entity A issues for \$1 million a convertible debt instrument that is convertible by the holder 1 year from issuance into 120,000 shares of Entity A common stock (fair value of Entity A's common stock at the commitment date is \$10). If the instrument is not converted at the end of 1 year, Entity A is required to redeem it for \$1.2 million.

470-20-55-27

The debt instrument contains a beneficial conversion option with an intrinsic value of \$200,000 – that is, (120,000 shares × \$10 per share) (which is equal to the fair value of stock to be received upon conversion) – \$1 million (proceeds received). The total proceeds of \$1 million are therefore allocated as follows: \$800,000 to the convertible debt and \$200,000 to the conversion option (recognized as additional paid-in capital). The debt is then accreted from \$800,000 to the \$1.2 million redemption amount over the 1-year period to the required redemption date in accordance with this Subtopic.

The journal entry to record the issuance of the convertible debt is as follows:

Cash	\$ 1,000,000	
Debt discount – beneficial conversion option	200,000	
Debt discount – deferred interest	200,000	
Convertible security – redemption value		\$ 1,200,000
Additional paid-in capital		200,000

Question 15

What is an example of the accounting for a convertible debt instrument with an embedded BCF extinguished prior to its conversion or stated maturity date?

Excerpt from Accounting Standards Codification**Debt – Debt with Conversion and Other Options****Implementation Guidance and Illustrations****General**

Case G: Extinguishment of Convertible Debt that Includes a Beneficial Conversion Feature

470-20-55-61

This Case illustrates the guidance in paragraph 470-20-40-3.

470-20-55-62

Both of the following conditions exist at the commitment date:

- Proceeds for sale of zero coupon convertible debt are \$100.
- Intrinsic value of beneficial conversion feature is \$90.

470-20-55-63

At the commitment date, the issuer records \$90 as discount on the debt with the offsetting entry to additional paid-in capital. The remainder (\$10) is recorded as debt and is accreted to its full face value of \$100 over the period from the issuance date until the stated redemption date of the instrument (3 years). The debt is subsequently extinguished one year after issuance.

470-20-55-64

All of the following conditions exist at the extinguishment date:

- a. The reacquisition price is \$150.
- b. The intrinsic value of the beneficial conversion feature at the extinguishment date is \$80.
- c. The carrying value of debt is \$22.

The net carrying value of the debt one year after issuance is calculated using the effective interest method to amortize the debt discount over three years.

470-20-55-65

At the date of extinguishment, the extinguishment proceeds should first be allocated to the beneficial conversion feature (\$80). The remainder (\$70) is allocated to the extinguishment of the convertible security.

470-20-55-66

Entry to record the extinguishment.

Debt	\$	22	
Equity (paid-in capital)		80	
Loss on extinguishment		48	
Cash			\$ 150

Question 16

What is an example of the accounting for a convertible preferred stock instrument with an embedded beneficial conversion option extinguished prior to its conversion or stated maturity date?

The following example is a non-authoritative illustration from EITF 00-27 that the Task Force used in its discussion. While non-authoritative, we generally believe the interpretation is an appropriate application of the BCF guidance.

40. To illustrate, assume Company A receives total proceeds of \$100 from issuing preferred stock (that is not mandatorily redeemable) that is immediately convertible by the holder into Company A's common stock. The intrinsic value of the beneficial conversion option at the commitment date is \$10. In accordance with Issue 98-5, Company A makes the following entry to record the preferred stock issuance:

Cash	100	
Preferred stock discount	10	
Preferred stock		100
APIC – Beneficial conversion amount		10

41. In accordance with Issue 6, Company A also makes the following entry to amortize the preferred stock discount on the date of issuance because the preferred stock is not mandatorily redeemable and is immediately convertible into common stock:

Retained earnings	10	
Preferred stock discount		10

42. Assume that Company A subsequently extinguishes the convertible preferred stock. Also assume that the reacquisition price is \$175, the intrinsic value of the beneficial conversion option at the extinguishment date is \$80 (although the current intrinsic value of the beneficial conversion option is \$80, the originally recognized intrinsic value of \$10 is the amount debited to additional paid-in capital), and the carrying amount of the preferred stock is \$100. The adjustment to reduce earnings available to common shareholders for purposes of calculating earnings per share is \$65, and the entry to record the extinguishment under the Task Force's tentative conclusion is:

Preferred stock	100	
APIC – Common stock	10	
Retained earnings	65	
Cash		175

Question 17

What are examples of other BCFs or contingently adjustable conversion ratios?

Excerpt from Accounting Standards Codification

Debt – Debt with Conversion and Other Options

Implementation Guidance and Illustrations

General

Example 7: Beneficial Conversion Features or Contingently Adjustable Conversion Ratios

470-20-55-28

The following Cases illustrate the guidance for beneficial conversion features or contingently adjustable conversion ratios for convertible securities:

- Instrument is convertible at inception, fixed dollar conversion terms (Base Case) (Case A).
- Instrument is not convertible at inception, fixed dollar conversion terms (Base Case) (Case B).
- Instrument is convertible at inception, conversion terms are not fixed (Case C).
- Instrument contains a fixed percentage conversion feature dependent on a future event (Case D).
- Convertible instrument contains fixed terms that change based on a future event (Case E).
- Conversion is dependent on a future event and terms are variable (Case F).
- Extinguishment of convertible debt that includes a beneficial conversion feature (Case G).

Case A: Instrument Is Convertible at Inception, Fixed Dollar Conversion Terms (Base Case)

470-20-55-29

This Case illustrates the guidance in paragraph 470-20-35-7.

470-20-55-30

This Case has the following assumptions:

- \$1,000,000 of convertible debt with a redemption date on the fifth anniversary of issuance
- Convertible at date of issuance
- Convertible at \$40 per share
- Fair value of common stock at commitment date equals \$50 per share.

470-20-55-31

The calculation is as follows.

Fair value at commitment date	\$	50
Conversion price (stated and will not change)	\$	40
Intrinsic value of beneficial conversion feature	\$	250,000 (a)
Amount to record at date of issuance	\$	250,000

(a) Convertible into 25,000 shares ($1,000,000 \div 40$) with an intrinsic value of \$10 ($50-40$) or overall: $(1,000,000 \div 40) \times (50-40)$.

470-20-55-32

The beneficial conversion feature is calculated at its intrinsic value (that is, the difference between the conversion price and the fair value of the common stock into which the debt is convertible, multiplied by the number of shares into which the debt is convertible) at the commitment date. A portion of the proceeds from issuance of the convertible debt, equal to the intrinsic value, is then allocated to additional paid-in capital. Because the debt has a stated redemption on the fifth anniversary of issuance, the debt discount should be amortized over a five-year period from the date of issuance to the stated redemption date.

470-20-55-33

Entry at date of issuance.

Cash	\$	1,000,000	
Debt discount		250,000	
Debt	\$	21	\$ 1,000,000
Additional paid-in capital			250,000

Case B: Instrument Is Not Convertible at Inception, Fixed Dollar Conversion Terms (Base Case)

470-20-55-34

This Case illustrates the guidance in paragraph 470-20-35-7.

470-20-55-35

This Case has the following assumptions:

- \$1,000,000 of convertible debt with a redemption date on the fifth anniversary of issuance
- Convertible in one year
- Convertible at \$40 per share
- Fair value of common stock at commitment date equals \$50 per share.

470-20-55-36

The calculation is as follows.

Fair value at commitment date	\$	50
Conversion price (stated and will not change)	\$	40
Intrinsic value of beneficial conversion feature	\$	250,000 (a)
Amount to record over period to stated redemption	\$	250,000

(a) $(1,000,000 \div 40) \times (50-40)$.

470-20-55-37

The beneficial conversion feature is calculated at its intrinsic value at the commitment date (that is, the difference between the conversion price and the fair value of the common stock into which the debt is convertible, multiplied by the number of shares into which the debt is convertible). A portion of the proceeds from issuance of the convertible debt, equal to the intrinsic value, is then allocated to additional paid-in capital. Because the debt has a stated redemption on the fifth anniversary of issuance, the debt discount should be amortized over a five-year period from the date of issuance to the stated redemption date.

470-20-55-38

Entry at date of issuance.

Cash	\$ 1,000,000	
Debt discount	250,000	
Debt		\$ 1,000,000
Additional paid-in capital		250,000

470-20-55-39 [Paragraph Not Used]

470-20-55-40 [Paragraph Not Used]

470-20-55-41 [Paragraph Not Used]

470-20-55-42 [Paragraph Not Used]

470-20-55-43 [Paragraph Not Used]

Case D: Instrument Containing a Fixed Percentage Conversion Feature Dependent on a Future Event

470-20-55-44

This Case illustrates the guidance in paragraphs 470-20-35-2 through 35-3.

470-20-55-45

This Case has the following assumptions:

- \$1,000,000 of convertible debt with a redemption date on the fifth anniversary of issuance
- Convertible upon an initial public offering
- Convertible at 80 percent of stock price at commitment date (that is, \$40)
- Fair value of common stock at commitment date equals \$50 per share.

470-20-55-46

The calculation is as follows:

Initial public offering price	\$ 50	\$ 60	\$ 70
Stock price at commitment date	\$ 50	\$ 50	\$ 50
80% of stock price at commitment date	\$ 40	\$ 40	\$ 40
Intrinsic value of beneficial conversion at commitment date	\$250,000 (a)	\$250,000 (b)	\$250,000 (c)

(a) $(1,000,000 \div 40) \times (50-40)$

(b) $(1,000,000 \div 40) \times (50-40)$

(c) $(1,000,000 \div 40) \times (50-40)$

470-20-55-47

The instrument is not convertible at the commitment date, however it will become convertible and that conversion feature will be beneficial if an initial public offering is completed. The intrinsic value of the beneficial conversion feature is calculated at the commitment date using the stock price as of that date, that is, \$250,000. However, that amount would only be recorded at the date an initial public offering is completed. If the IPO were completed on the third anniversary of the debt issuance, the discount amount would be recorded at that date and amortized over a two-year period ending on the stated redemption date of the debt.

470-20-55-48

Entry at issuance:

Cash	\$ 1,000,000	
Debt		\$ 1,000,000

Entry at public offering:

Debt discount	\$ 250,000	
Additional paid-in capital		\$ 250,000

Case E: Convertible Instrument Containing Fixed Terms that Change Based on a Future Event

470-20-55-49

This Case illustrates the guidance in paragraphs 470-20-35-2 through 35-3 and 470-20-35-7.

470-20-55-50

This Case has the following assumptions:

- \$1,000,000 of convertible debt with a redemption date on the fifth anniversary of issuance
- Convertible at date of issuance
- Convertible at 80 percent of stock price at commitment date (that is, \$40)
- Fair value of common stock at commitment date equals \$50 per share and if there is an initial public offering, the conversion feature adjusts to the lesser of \$30 or 80 percent of the initial public offering price.

470-20-55-51

This Case has the following assumptions:

Fair value at commitment date	\$ 50
Conversion price at commitment date	\$ 40
Intrinsic value of basic beneficial conversion feature at commitment date	\$ 250,000 (a)
Conversion price at contingency resolution	unknown
Intrinsic value of contingent beneficial conversion feature at commitment date	unknown

(a) $(1,000,000 \div 40) \times (50 - 40)$.

470-20-55-52

This instrument includes a basic beneficial conversion feature that is not contingent upon the occurrence of a future event and a contingent beneficial conversion feature. Accordingly, the intrinsic value of the basic beneficial conversion feature of \$250,000 is calculated at the commitment date and recorded at the issuance date. Because the debt has a stated redemption on the fifth anniversary of issuance, the debt discount should be amortized over a five-year period from the date of issuance to the stated redemption date.

470-20-55-53 [Paragraph Not Used]**470-20-55-54**

Entry at date of issuance:

Cash	\$ 1,000,000	
Debt discount	250,000	
Debt		\$ 1,000,000
Additional paid-in capital		250,000

470-20- 55-54A

The terms of the convertible debt instrument do not permit the number of shares that would be received upon conversion if an initial public offering occurs to be calculated at the commitment date.

Case F: Conversion Dependent on a Future Event and Terms Are Variable

470-20-55-55

This Case illustrates the guidance in paragraph 470-20-35-2 through 35-3.

470-20-55-56

This Case has the following assumptions:

- \$1,000,000 of convertible debt with a redemption date on the fifth anniversary of issuance
- Convertible at date of issuance
- Convertible at 80 percent of stock price at commitment date (that is, \$40)
- Fair value of common stock at commitment date equals \$50 per share
- If the stock price increases at least 15 percent one year after an initial public offering, the conversion feature adjusts to 65 percent of the fair value of the common stock 1 year after the initial public offering.

470-20-55-57

The calculation is as follows.

Fair value at commitment date	\$ 50
Conversion price at commitment date	\$ 40
Conversion price at contingency resolution	unknown
Intrinsic value of basic beneficial conversion feature at commitment date	\$ 250,000 (a)
Intrinsic value of contingent beneficial conversion feature at commitment date	unknown

(a) $(1,000,000 \div 40) \times (50 - 40)$.

470-20-55-58

The amount of the beneficial conversion feature is measured using the terms of the beneficial conversion feature that are operative at issuance, that is, the 20 percent discount. The intrinsic value of that beneficial conversion feature (\$250,000) is calculated at the commitment date and recorded at the issuance date. Because the debt has a stated redemption on the fifth anniversary of issuance, the debt discount should be amortized over a five-year period from the date of issuance to the stated redemption date.

470-20-55-59 [Paragraph Not Used]**470-20-55-60**

Entry at date of issuance:

Cash	\$ 1,000,000	
Debt discount	250,000	
Debt		\$ 1,000,000
Additional paid-in capital		250,000

470-20-55-60A

The terms of the convertible debt instrument do not permit the number of shares that would be received upon conversion if an initial public offering occurs to be calculated at the commitment date.

Question 18

How should an issuer measure the intrinsic value of a conversion feature in a debt instrument when the underlying (e.g., a preferred share) is itself convertible into another instrument that may be more or less beneficial at the commitment date?

In certain cases, a convertible debt instrument may permit the holder to convert the debt instrument into a fixed number of shares, whereby those underlying shares (e.g., preferred shares) may be optionally convertible into a fixed number of shares of a different series or class (e.g., ultimately convertible into common shares).

A question arises as to how an issuer should identify and measure a beneficial conversion feature, if any, when the instrument is convertible into sequential underlyings. Pursuant to ASC 470-20-30-6, the intrinsic value should be calculated by comparing the conversion price to the fair value of the common stock or other securities into which the security is convertible, and multiplying this difference by the number of shares into which the security is convertible. While not clear in the guidance, we generally believe this incorporates any security into which the instrument is ultimately convertible. Therefore, the intrinsic value of an embedded conversion option would incorporate the most beneficial terms from the perspective of the holder.

Thus, we generally believe a beneficial conversion feature should be measured at the commitment date by comparing the proceeds allocated to the convertible debt instrument to the greater of (1) the intrinsic value of the underlying shares into which the debt is convertible or (2) the intrinsic value of the shares into which the underlying shares are convertible.

For example, assume debt issued for \$100 is convertible into 10 shares of preferred stock (\$10 effective conversion price) and each share of preferred stock is convertible into 5 shares of common stock (\$2 effective conversion price). Assume the fair value of a preferred share is \$11 and the fair value of a common share is \$2 at issuance. Converting the \$100 convertible debt into the shares of preferred stock results in an intrinsic value of \$10 (10 shares x \$11 per share less proceeds of \$100). At the same time, looking through to the ultimate conversion into common shares, there is no intrinsic value (i.e., 50 shares times \$2 per share less proceeds of \$100).

Since the intrinsic value of the option to convert into the preferred share at the commitment date is greater than the intrinsic value of option to convert into the common share, we would expect the issuer to use the intrinsic value of the option to convert into preferred shares when measuring the BCF at the commitment date. Accordingly, a BCF of \$10 would be recognized.

E SEC guidance on redeemable equity instruments

E.1 Summary and overview

Although issued in the form of equity, the SEC requires certain redeemable equity instruments to be distinguished from permanent capital. The positions of the SEC and its staff on the accounting for certain redeemable equity instruments are in the following guidance, which has been codified in ASC 480-10-S99. We refer to this guidance throughout this publication as the “redeemable equity guidance.”

- ▶ Financial Reporting Release section 211, *Redeemable Preferred Stock* (ASR 268)
- ▶ Staff Accounting Bulletin No. 64 Topic 3-C, *Redeemable Preferred Stock* (SAB 64)
- ▶ EITF Topic D-98, “Classification and Measurement of Redeemable Securities (Topic D-98)”

Under the redeemable equity guidance, instruments not otherwise required to be classified as liabilities pursuant to ASC 480 and for which redemption could be required (1) at a fixed or determinable date (2) upon the occurrence of certain contingent events (e.g., an IPO, change in control, liquidation event or achievement of a performance condition) not solely within the control of the issuer or (3) at the option of the holder are in the scope of the redeemable equity guidance. Importantly, as described later, the SEC staff does not consider probability in determining whether the instrument will become redeemable in applying the redeemable equity guidance. If the redemption of the equity instrument is certain to occur, the instrument is generally classified as a liability pursuant to ASC 480.

The redeemable equity guidance applies to all redeemable equity instruments, including common stock, preferred stock, noncontrolling interests and equity components of certain financial instruments, such as convertible debt.

The SEC requires instruments in the scope of this guidance to be classified as temporary (or mezzanine) equity between liabilities and stockholders’ equity to highlight the future cash obligations attached to these types of securities and thus distinguish it from permanent equity. Instruments classified as temporary equity cannot be included in any subtotals that imply it is considered equity.

While certain exceptions exist, the initial carrying amount of a redeemable equity security should generally be its fair value on the date of issuance. However, the subsequent measurement varies based on whether the instrument is currently redeemable or it is probable that the instrument will become redeemable.

Changes to the carrying amount of a redeemable security are generally treated in the same manner as dividends on nonredeemable stock. The impact to EPS depends on the type of security (preferred or common), whether the security represents a noncontrolling interest and the basis for the redemption amount (i.e., fair value, fixed amount or formulaic amount).

E.2

Scope

Excerpt from Accounting Standards Codification

480-10-S99-3A

1. This SEC staff announcement provides the SEC staff's views regarding the application of Accounting Series Release No. 268, Presentation in Financial Statements of "Redeemable Preferred Stocks." (*Footnote reference omitted*)
2. ASR 268 requires preferred securities that are redeemable for cash or other assets to be classified outside of permanent equity if they are redeemable (1) at a fixed or determinable price on a fixed or determinable date, (2) at the option of the holder, or (3) upon the occurrence of an event that is not solely within the control of the issuer. As noted in ASR 268, the Commission reasoned that "[t]here is a significant difference between a security with mandatory redemption requirements or whose redemption is outside the control of the issuer and conventional equity capital. The Commission believes that it is necessary to highlight the future cash obligations attached to this type of security so as to distinguish it from permanent capital."
3. Although ASR 268 specifically describes and discusses preferred securities, the SEC staff believes that ASR 268 also provides analogous guidance for other redeemable equity instruments including, for example, common stock, derivative instruments, noncontrolling interests FN2, securities held by an employee stock ownership plan FN3, and share-based payment arrangements with employees FN4. (*Extraneous material omitted.*)

FN2 The Master Glossary defines **noncontrolling interest** as "The portion of equity (net assets) in a subsidiary not attributable, directly or indirectly, to a parent. A noncontrolling interest is sometimes called a minority interest." ASR 268 applies to redeemable noncontrolling interests (provided the redemption feature is not considered a freestanding option within the scope of Subtopic 480-10). Where relevant, specific classification and measurement guidance pertaining to redeemable noncontrolling interests has been included in this SEC staff announcement.

FN3 ASR 268 applies to equity securities held by an employee stock ownership plan (whether or not allocated) that, by their terms, can be put to the registrant (sponsor) for cash or other assets. Where relevant, specific classification and measurement guidance pertaining to employee stock ownership plans has been included in this SEC staff announcement.

FN4 As indicated in Section 718-10-S99, ASR 268 applies to redeemable equity-classified instruments granted in conjunction with share-based payment arrangements with employees. Where relevant, specific classification and measurement guidance pertaining to share-based payment arrangements with employees has been included in this SEC staff announcement.

E.2.1

Applicability to public companies

Although not entirely clear, we generally believe that the SEC's guidance in ASC 480-10-S99-3A should be applied to financial statements that are prepared in accordance with the SEC's Regulation S-X.

While not required, we generally believe that the application of this guidance is preferable for the financial statements of nonpublic companies.

E.2.2 Items within the scope of ASC 480-10-S99

ASC 480-10-S99 applies to equity-classified securities that are not otherwise required to be classified as liabilities by ASC 480 (e.g., it does not apply to mandatorily redeemable instruments) and that are redeemable for cash or other assets either (1) at a fixed or determinable date (2) at the option of the holder or (3) upon the occurrence of an event that is not solely within the control of the issuer. Refer to section E3 for determining whether an instrument is required to be classified outside of permanent equity.

Preferred stock, common stock, noncontrolling interests, securities held by an employee stock ownership plan and share-based payment arrangements with employees are all subject to ASC 480-10-S99's requirements.

E.2.3 Noncontrolling interests

The redeemable equity guidance in ASC 480-10-S99 generally applies to noncontrolling interests that are redeemable but not considered mandatorily redeemable. Noncontrolling interests that are mandatorily redeemable should be accounted for as a liability. However, for certain mandatorily redeemable noncontrolling interests classified as a liability under ASC 480 that receive an exception from the measurement provisions of that guidance, the measurement guidance in ASC 480-10-S99 would apply pursuant to the transition provisions in ASC 480-10-65-1. Refer to the additional discussion in section E2.5.

Refer to section A4 in Appendix A for further guidance on mandatorily redeemable instruments.

E.2.4 Equity-classified instruments potentially settleable in shares

The redeemable equity guidance focuses on circumstances where issuers may be required to settle equity-classified instruments for cash or other assets. Instruments with features that require or provide the issuer the option to settle in shares generally do not require temporary equity classification. However, in those cases, the issuer should have the ability to settle in shares pursuant to the equity classification guidance in ASC 815-40-25. If share settlement cannot be assured, ASC 815-40-25 presumes cash settlement will be required and, therefore, the instrument should be within the scope of the redeemable equity guidance.

For example, a conversion feature in equity-classified, convertible preferred stock for which conversion is not within the control of the issuer should be analyzed to determine whether the issuer could satisfy its obligation to deliver shares upon exercise of the conversion feature. If the issuer could not satisfy its obligation to deliver shares upon conversion, the instrument should be classified in temporary equity because it would be presumed the issuer would be required to settle the instrument in cash, as if it were a redemption feature.

Refer to Appendix B for further guidance on evaluating whether share settlement can be assured to occur pursuant to ASC 815-40-25.

Refer to Question 1 in section E7 – Are shares that are by themselves not redeemable, but are convertible into other shares that are redeemable, within the scope of the redeemable equity guidance?

E.2.5 Freestanding financial instruments classified as assets or liabilities

Excerpt from Accounting Standards Codification

480-10-S99-3A

3a. *Freestanding financial instruments classified as assets or liabilities.* Freestanding financial instruments that are classified as assets or liabilities pursuant to Subtopic 480-10 or other applicable GAAP (including those that contain separated derivative assets or derivative liabilities) are not subject to ASR 268. FN5 Mandatorily redeemable equity instruments for which the relevant portions Subtopic 480-10 have been deferred are subject to ASR 268.

FN5 An equity instrument subject to potential redemption under a freestanding written put option is not subject to ASR 268 (since the put option liability is considered a separate unit of account). However, as discussed in paragraph 3(b), when an embedded written put option has been separated from a hybrid financial instrument with an equity host contract, the host equity instrument is subject to ASR 268.

Freestanding financial instruments classified as assets or liabilities based on the guidance in ASC 480 or other applicable US GAAP are not within the scope of the redeemable equity guidance.

While mandatorily redeemable equity instruments are required to be classified as liabilities pursuant to ASC 480, certain mandatorily redeemable instruments, such as (1) redeemable noncontrolling interests that are redeemable only upon liquidation of a subsidiary issuer and (2) mandatorily redeemable noncontrolling interests issued before 5 November 2003, are addressed by the deferral provisions in ASC 480.

- ▶ Noncontrolling interests that are redeemable only upon liquidation of a subsidiary issuer generally would not require temporary equity classification if the redemption were truly triggered by a final liquidation (refer to discussion at section E2.10).
- ▶ Noncontrolling interests classified in equity in the consolidated financial statements are in the scope of the redeemable equity guidance, with an exception for those noncontrolling interests that are redeemable only upon liquidation of the subsidiary issuer. In addition, the redeemable equity measurement guidance applies to mandatorily redeemable noncontrolling interests issued before 5 November 2003 that are classified as liabilities in the financial statements of the subsidiary.

Refer to Appendix A for further guidance on the applicability of ASC 480.

E.2.6 Freestanding derivatives and hybrid instruments classified in stockholders' equity

Excerpt from Accounting Standards Codification

480-10-S99-3A

3b. *Freestanding derivative instruments classified in stockholders' equity.* Freestanding derivative instruments that are classified in stockholders' equity pursuant to Subtopic 815-40 are not subject to ASR 268. FN6 Equity-classified freestanding financial instruments that were previously classified outside of permanent equity under Subtopic 815-40 are now classified as assets or liabilities pursuant to Subtopic 480-10. However, Subtopic 815-40 continues to apply to embedded derivatives indexed to, and potentially settled in, a company's own stock. Accordingly, when a hybrid financial instrument that is not classified in its entirety as an asset or liability under Subtopic 480-10 or other applicable GAAP contains an embedded derivative within the scope of Subtopic 815-40, the registrant should consider the applicability of ASR 268 to:

- ▶ The hybrid financial instrument when the embedded derivative *is not* separated under Subtopic 815-15, or

- ▶ The host contract when the embedded derivative is separated under Subtopic 815-15.

FN6 A freestanding derivative instrument would not meet the conditions in Subtopic 815-40 to be classified as an equity instrument if it was subject to redemption for cash or other assets on a specified date or upon the occurrence of an event that is not within the control of the issuer

Freestanding derivatives (e.g., warrants, forward arrangements, purchased call options) that qualify for equity classification pursuant to ASC 815-40 are not subject to the redeemable equity guidance.

Equity-classified hybrid instruments (generally common shares or preferred shares) that contain potentially cash-settled embedded features should be evaluated to determine whether temporary equity classification is required, even if the embedded feature is bifurcated. The redeemable equity guidance does not affect the accounting for embedded features that are required to be bifurcated pursuant to ASC 815 and accounted for as derivative assets or liabilities.

Cash-settled redemption features are the most common type of embedded features that trigger temporary equity classification. However, in certain circumstances instruments that may be share-settled would be assumed to be cash-settled when the issuer is not assured to be able to settle the instrument in shares.

E.2.7 Equity instruments subject to registration payment arrangements

Excerpt from Accounting Standards Codification

480-10-S99-3A

3c. *Equity instruments subject to registration payment arrangements.* The determination of whether an equity instrument subject to a registration payment arrangement (as defined in Paragraph 825-20-15-3) is subject to ASR 268 should be made without regard to the existence of the registration payment arrangement (that is, the registration payment arrangement is a separate unit of account). However, in determining the applicability of ASR 268 to an equity instrument with any other related arrangement, a conclusion that the related arrangement is a separate unit of account should not be based on an analogy to Paragraph 815-10-25-16.

Registration payment arrangements represent contingent obligations to make future payments or otherwise transfer consideration in the event certain instruments are not registered as agreed and may be either a separate agreement or embedded as a provision within a financial instrument. The contingent obligation to transfer consideration pursuant to the registration payment arrangement should not be considered in applying the redeemable equity guidance because that obligation is recognized separately and accounted for pursuant to ASC 825-20 *Financial Instruments – Registration Payment Arrangements*. Refer to section 5.11 in Chapter 5 for further guidance on the accounting for registration payment arrangements.

E.2.8 Share-based payment awards

Excerpt from Accounting Standards Codification

480-10-S99-3A

3d. *Share-based payment awards.* Equity-classified share-based payment arrangements with employees are not subject to ASR 268 due solely to either of the following:

- ▶ Net cash settlement would be assumed pursuant to Paragraphs 815-40-25-11 through 25-16 solely because of an obligation to deliver registered shares. FN7

- ▶ A provision in an instrument for the direct or indirect repurchase of shares issued to an employee exists solely to satisfy the employer's minimum statutory tax withholding requirements (as discussed in Paragraphs 718-10-25-18 through 25-19).

FN7 See footnote 84 of Section 718-10-S99

Equity-classified share-based payment arrangements may be subject to the SEC Staff's redeemable equity guidance.

Refer to section 5.2.3.5 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for further guidance related to the application of the redeemable equity guidance to share based payments.

E.2.9

Convertible debt instruments that contain a separately classified equity component

Excerpt from Accounting Standards Codification

480-10-S99-3A

- 3e. *Convertible debt instruments that contain a separately classified equity component.* Other applicable GAAP may require a convertible debt instrument to be separated into a liability component and an equity component. FN8 In these situations, the equity-classified component of the convertible debt instrument should be considered redeemable if at the balance sheet date the issuer can be required to settle the convertible debt instrument for cash or other assets (that is, the instrument is currently redeemable or convertible for cash or other assets). For these instruments, an assessment of whether the convertible debt instrument will become redeemable or convertible for cash or other assets at a future date should not be made. For example, a convertible debt instrument that is not redeemable at the balance sheet date but could become redeemable by the holder of the instrument in the future based on the passage of time or upon the occurrence of a contingent event is not considered currently redeemable at the balance sheet date.

FN8 See Subtopics 470-20 and 470-50 ; and Paragraph 815-15-35-4

As described in section 2.2 in Chapter 2, the accounting for certain types of convertible debt may require certain amounts to be classified in equity, including:

- ▶ Convertible instruments subject to the cash conversion guidance in ASC 470-20
- ▶ Convertible debt subject to the beneficial conversion feature guidance in ASC 470-20
- ▶ Convertible debt issued with a substantial premium that is classified in equity pursuant to ASC 470-20
- ▶ Convertible debt with a previously bifurcated conversion feature that no longer requires bifurcation that has been reclassified to equity pursuant to ASC 815-15-35-4
- ▶ Convertible debt that has been modified or exchanged but not considered extinguished and results in an increase in the fair value of the embedded conversion feature pursuant to ASC 470-50-40-15

Depending on the terms of the convertible instrument, an issuer may be required to settle the instrument (or a portion thereof) for cash or other assets. Accordingly, amounts recorded in equity may be considered redeemable and thus classified in temporary equity. Refer to section E3.1 for further discussion.

E.2.10

Consideration of “deemed liquidation” provisions

Excerpt from Accounting Standards Codification**480-10-S99-3A**

3f. *Certain redemptions upon liquidation events.* Ordinary liquidation events, which involve the redemption and liquidation of all of an entity's equity instruments for cash or other assets of the entity, do not result in an equity instrument being subject to ASR 268. In other words, if the payment of cash or other assets is required only from the distribution of net assets upon the final liquidation or termination of an entity (which may be a less-than-wholly-owned consolidated subsidiary), then that potential event need not be considered when applying ASR 268. Other transactions are considered deemed liquidation events. For example, the contractual provisions of an equity instrument may require its redemption by the issuer upon the occurrence of a change-in-control that does not result in the liquidation or termination of the issuing entity, a delisting of the issuer's securities from an exchange, or the violation of a debt covenant. Deemed liquidation events that require (or permit at the holder's option) the redemption of only one or more particular class of equity instrument for cash or other assets cause those instruments to be subject to ASR 268. However, as a limited exception, a deemed liquidation event does not cause a particular class of equity instrument to be classified outside of permanent equity if all of the holders of equally and more subordinated equity instruments of the entity would always be entitled to also receive the same form of consideration (for example, cash or shares) upon the occurrence of the event that gives rise to the redemption (that is, all subordinate classes would also be entitled to redeem).

Ordinary liquidation provisions that involve the redemption and liquidation of all equity securities for cash or other assets (i.e., upon final liquidation of the issuer) are not in the scope of ASC 480-10-S99 and should be viewed differently than “deemed liquidation” events.

ASC 480-10-S99 provides that deemed liquidation events (which are usually defined in the governance documents establishing the terms of the equity instrument), such as a change in control, that require one or more particular class or type of equity security to be redeemed should result in those securities being classified outside of permanent equity unless all of the holders of equally or more subordinated equity instruments of the entity would be entitled to receive the same form of consideration upon the occurrence of the event.

To apply this limited exception, an entity's governing documents should be specific that all equity holders are entitled to the same consideration in any deemed liquidation event. The provisions of the redeemable instrument, the entity's corporate governance structure and all applicable laws should be carefully considered.

In some instances, what may appear to be a deemed liquidations provision might actually require the complete termination and liquidation of the entity. For example, an entity may have articles of incorporation that, if strictly applied, require the issuer to liquidate if there is a change in ownership. Based on a literal application of the redeemable equity guidance, the instrument would appear to qualify for the ordinary liquidation exception.

However, it seems counterintuitive that an acquirer would purchase a controlling interest in the issuer only to have the issuer liquidate immediately. Instead, the provisions may have been designed to provide preferred investors with the ability to negotiate the redemption of their shares in the case of a change in control, in exchange for agreeing to amendments to the terms of the equity instrument to allow the entity to remain a going concern.

The form of the provisions (full liquidation) should be considered against the substance of the arrangement (partial redemption) in evaluating whether the ordinary liquidation exception should be applied. In those cases, legal counsel may need to be consulted to understand the purpose of those provisions. To the extent those provisions are designed to provide certain investors with the ability to negotiate the redemption of their shares in exchange for provisions allowing the issuer to remain in existence, the use of the ordinary liquidation exception may not be appropriate.

E.2.11

Redemptions covered by insurance proceeds

Excerpt from Accounting Standards Codification

480-10-S99-3A

3g. *Certain redemptions covered by insurance proceeds.* As a limited exception that should not be analogized to, an equity instrument that becomes redeemable upon the death of the holder (at the option of the holder's heir or estate FN9) or upon the disability of the holder is not subject to ASR 268 if the redemption amount will be funded from the proceeds of an insurance policy that is currently in force and which the registrant has the intent and ability to maintain in force.

FN9 If an equity instrument is required to be redeemed for cash or other assets upon the death of the holder, the instrument is classified as a liability pursuant to Subtopic 480-10 even if an insurance policy would fund the redemption.

The SEC staff has provided an exception permitting permanent classification of a security that is optionally redeemable (not mandatorily redeemable pursuant to ASC 480) upon the death of the holder if the redemption will be funded from the proceeds of an insurance policy that currently is in force and for which the issuer has the intent and ability to maintain in force. The SEC staff has indicated that this is a narrow exception that should not be applied by analogy to other transactions.

E.2.12

Redemptions limited to proceeds from sale of equity and exchanged for a permanent equity security

Although not stated in the redeemable equity guidance, the SEC staff has stated that permanent equity classification is acceptable in circumstances where the issuer has an unconditional right, coupled with the present intent and ability, to satisfy the redemption by exchanging the redeemable security for a permanent equity security (considering the requirements in ASC 815-40-25 to ensure that the issuer has the ability to settle in shares) or limiting the redemption to the cash proceeds to be received from a new permanent equity offering, with appropriate disclosure.⁴⁵

E.2.13

Increasing rate preferred stock

Increasing rate preferred stock (as described in section 3.1.2.8 in Chapter 3) that is not contractually mandatorily redeemable is not a liability pursuant to ASC 480. However, based on the facts and circumstances and magnitude of the increasing rate, SEC registrants should evaluate whether redemption would essentially be assured as a result of economic compulsion (e.g., through a dividend rate that increases dramatically). In those circumstances, the stock should be evaluated pursuant to ASC 480-10-S99-3A, which might result in the increasing rate preferred stock being classified in temporary equity.

⁴⁵ Per the "SEC Staff Interpretations in Registrant Matters Involving Accounting and Auditing Issues" presented at the 1992 AICPA National Conference on Current SEC Developments.

E.3

Classification

Excerpt from Accounting Standards Codification**480-10-S99-3A**

4. ASR 268 requires equity instruments with redemption features that are not solely within the control of the issuer to be classified outside of permanent equity (often referred to as classification in “temporary equity”). The SEC staff does not believe it is appropriate to classify a financial instrument (or host contract) that meets the conditions for temporary equity classification under ASR 268 as a liability. FN10

FN10 At the June 14, 2007 EITF meeting, the SEC Observer stated that a financial instrument (or host contract) that otherwise meets the conditions for temporary equity classification may continue to be classified as a liability provided the financial instrument (or host contract) was classified and accounted for as a liability in fiscal quarters beginning before September 15, 2007 and has not subsequently been modified or subject to a remeasurement (new basis) event.

5. Determining whether an equity instrument is redeemable at the option of the holder or upon the occurrence of an event that is solely within the control of the issuer can be complex. The SEC staff believes that all of the individual facts and circumstances surrounding events that could trigger redemption should be evaluated separately and that the possibility that *any* triggering event that is not *solely* within the control of the issuer could occur—without regard to probability—would require the instrument to be classified in temporary equity.

In evaluating whether an instrument should be classified as part of temporary equity, the SEC staff believes that each event that could trigger redemption should be evaluated separately.

Any possibility that a triggering event not solely within the control of the issuer could force the issuer to redeem the equity instrument for cash or other assets – regardless of the probability that the event will occur – requires the instrument to be classified outside of permanent equity. The holder’s ability to control the circumstances under which the issuer could be required to redeem the equity security is not considered in the analysis. That is, the event does not need to be in the control of the holder. It must be only outside the control of the issuer.

For example, the SEC staff consistently has required stock that is redeemable for cash or other assets upon a change in control of the issuer (i.e., change in control is generally not within the control of the issuer) to be classified outside of permanent equity, regardless of the likelihood of a change in control. The SEC staff’s view also applies to stock with other redemption features outside the control of the issuer, including those redemption features triggered by future events such as the following:

- ▶ Termination of an employment relationship with the holder
- ▶ Delisting of the issuer’s shares from a stock exchange
- ▶ Failure to maintain compliance with debt covenants
- ▶ Failure to have a registration statement declared effective by the SEC by a designated date
- ▶ A reduction in the issuer’s credit rating
- ▶ The failure to achieve specified performance targets

Certain redemption features may be, contractually, within the control of the issuer (such as an issuer's call right). However, to the extent the holder of the instrument controls the issuer, that redemption feature cannot be assumed to be within the control of the issuer. In those cases, the holder has the ability to cause the issuer to exercise the redemption feature and the instrument should be classified outside of permanent equity. The individual facts and circumstances should be considered when evaluating whether certain redemption features are within the control of the issuer.

The redeemable equity guidance focuses on circumstances in which the issuer, beyond its control, may be obligated to redeem outstanding equity instruments for cash or other assets. Accordingly, to the extent the issuer has the option and ability to settle the redemption in its own shares, temporary equity classification may not be required.

As discussed in section E2.4, for instruments that may be settled in shares, an issuer should carefully evaluate the requirements in ASC 815-40-25 to determine whether the issuer controls the actions or events necessary to issue the maximum number of shares that could be required to be delivered under share settlement. Consistent with the evaluation made pursuant to the redeemable equity guidance, the assessment made in evaluating the requirements in ASC 815-40-25 should be made without regard to probability.

Importantly, even without the contractual provision for cash (or other assets) redemption, temporary equity classification would be required pursuant to the guidance in ASC 815-40-25 if share settlement is not assured (i.e., cash settlement would be presumed to occur).

Registrants should evaluate all of the individual facts and circumstances in determining how an equity security should be classified. The SEC staff's examples provided in ASC 480-10-S99-3A and in certain SEC staff speeches (described in this chapter) should be carefully considered in making this evaluation. Refer to section B4.4 in Appendix B for additional guidance.

Refer to Question 2 in section E7 – What are examples of instances in which classification of a security outside of permanent equity is and is not appropriate?

E.3.1 Convertible debt instruments that contain a separately classified equity component

As discussed in section E2.9, the accounting for convertible debt may result in amounts recognized in equity. Those amounts recorded in equity (or a portion thereof) may require temporary equity classification if the instrument is currently redeemable or convertible.

The equity-classified component should be considered redeemable if at the balance sheet date the issuer can be required to settle the convertible debt instrument for cash or other assets (i.e., the instrument is currently redeemable or convertible for cash or other assets).

For example, assume a convertible debt instrument is issued pursuant to which the conversion value will be settled up to the principal amount in cash, and any conversion spread (i.e., the value of the shares into which the instrument is convertible times the then-current fair value of the shares less the principal amount) will be settled in shares or cash at the issuer's option (i.e., an Instrument C). Also assume that the debt is issued at par with no bifurcated embedded derivatives, is immediately convertible and the conversion option is at the money (i.e., if converted immediately, the cash paid by the issuer would be equal to the par value of the instrument). Upon initial recognition, under the cash conversion guidance, this instrument would have a liability component and an equity component that total the par amount of the debt.

In this example, the amount payable in cash upon conversion when the conversion option is at the money or in the money is equal to the par amount of the convertible debt instrument. Any excess of the amount of cash that would be required to settle the instrument upon settlement over the carrying value of the liability-classified component should be classified in temporary equity.

Classification of that amount in temporary equity is required only if the instrument is currently redeemable or convertible at the balance sheet date for cash or other assets. The likelihood of a convertible debt instrument becoming redeemable or convertible for cash or other assets at a future date is not relevant. This approach differs from the application of ASC 480-10-S99-3A to all other instruments within its scope, which requires temporary equity classification if there is any possibility that cash settlement of an equity instrument could be required outside the control of the issuer.

For example, consider a convertible debt instrument that is not redeemable at the balance sheet date, but becomes redeemable by the holder based on the passage of time or upon the occurrence of a contingent event that has not yet occurred. This instrument is not considered currently redeemable at the balance sheet date and, therefore, temporary equity classification of all or a portion of the equity component is not required. Additionally, depending on the terms of the conversion feature, the debt may be convertible only at certain times. In those circumstances the equity component (or a portion thereof) may alternate between temporary and permanent equity from period to period.

Importantly, temporary equity classification should be considered only if the issuer could be required to settle a portion of the equity component for cash (i.e., the possibility of cash settlement is outside the issuer's control). If the issuer has a choice to settle in cash or shares, provided the issuer has the ability to settle in shares and meets all of the requirements in ASC 815-40-25, temporary equity classification would not be required. The following table summarizes the application of the SEC's guidance to certain common convertible instruments involving cash upon conversion:

Instrument description⁴⁶	If convertible as of the balance sheet date⁴⁷	If redeemable as of the balance sheet date (i.e., subject to a currently exercisable put option)
Instrument B – Convertible into all cash or all shares at the option of the issuer	Temporary equity classification may not be necessary if, on conversion, the issuer has the ability to choose a method that avoids cash settlement	Temporary equity classification is required if the redemption amount exceeds the accrued liability component
Instrument C – Convertible into cash up to the principal amount with any excess conversion spread in cash or shares at the option of the issuer	Temporary equity classification is required if the amount required to be settled in cash (i.e., the principal amount) exceeds the accrued liability component	Temporary equity classification is required if the redemption amount exceeds the accrued liability component
Instrument X – Convertible into any combination of cash or shares at the option of the issuer	Temporary equity classification may not be necessary if, on conversion, the issuer has the ability to choose a method that avoids cash settlement	Temporary equity classification is required if the redemption amount exceeds the accrued liability component

⁴⁶ Instrument A is not discussed in the table as its conversion option is bifurcated and thus would not result in any amount recorded in equity.

⁴⁷ Consideration should be given to the requirements of ASC 815-40-25 to evaluate whether the issuer has the ability to settle in shares. Additionally, the issuer should also consider whether the holder of the instrument has the ability to control the issuer's decision to settle the conversion feature in cash or shares through the holder's ownership interest or other rights.

E.3.2 Noncontrolling interests

Noncontrolling interest holders may have rights requiring either the issuing subsidiary or its parent to redeem the noncontrolling interest at the option of the holder or upon the occurrence of a contingent event. Provided (1) the rights are considered embedded in the noncontrolling interest (regardless of whether or not bifurcated) and (2) the noncontrolling interest is not considered mandatorily redeemable in accordance with ASC 480, those redemption features should be evaluated to determine whether the noncontrolling interest should be classified in temporary equity.

E.4 Measurement

ASC 480-10-S99-3A provides general initial and subsequent measurement guidance for instruments within its scope, in addition to specific guidance on the following types of instruments:

- ▶ Share-based payments and certain employee stock ownership plans
- ▶ Noncontrolling interests
- ▶ Convertible debt
- ▶ Host equity contracts

E.4.1 General

Excerpt from Accounting Standards Codification

480-10-S99-3A

12. Initial measurement. The SEC staff believes the initial carrying amount of a redeemable equity instrument that is subject to ASR 268 should be its issuance date fair value, except as follows: FN12

FN12 SAB Topic 3C, Redeemable Preferred Stock, states that the initial carrying amount of redeemable preferred stock should be its fair value at date of issue. The SEC staff believes this guidance should also be applied to other similar redeemable equity instruments. Consistent with Paragraph 820-10-30-3, the transaction price will generally represent the initial fair value of the equity instrument when the issuance occurs in an arm's-length transaction with an unrelated party and there are no other unstated rights or privileges.

- 12e. For host equity contracts (see paragraph 3(b)), the initial amount presented in temporary equity should be the initial carrying amount of the host contract pursuant to Section 815-15-30. Similarly, the initial amount presented in temporary equity for a preferred stock instrument that contains a beneficial conversion feature or is issued with other instruments should be the amount allocated to the instrument in its entirety pursuant to Subtopic 470-20 less any beneficial conversion feature recorded at the issuance date.
13. *Subsequent measurement.* The SEC staff's views regarding the subsequent measurement of a redeemable equity instrument that is subject to ASR 268 are included in paragraphs 14-16. Paragraphs 14 and 15 discuss the general views regarding subsequent measurement. Paragraph 16 discusses the application of those general views in the context of certain types of redeemable equity instruments.
14. If an equity instrument subject to ASR 268 is currently redeemable (for example, at the option of the holder), it should be adjusted to its maximum redemption amount at the balance sheet date. If the maximum redemption amount is contingent on an index or other similar variable (for example, the fair value of the equity instrument at the redemption date or a measure based on historical

EBITDA), the amount presented in temporary equity should be calculated based on the conditions that exist as of the balance sheet date (for example, the current fair value of the equity instrument or the most recent EBITDA measure). The redemption amount at each balance sheet date should also include amounts representing dividends not currently declared or paid but which will be payable under the redemption features or for which ultimate payment is not solely within the control of the registrant (for example, dividends that will be payable out of future earnings). FN13

FN13 See also Section 260-10-45.

15. If an equity instrument subject to ASR 268 is not currently redeemable (for example, a contingency has not been met), subsequent adjustment of the amount presented in temporary equity is unnecessary if it is not probable that the instrument will become redeemable. If it is probable that the equity instrument will become redeemable (for example, when the redemption depends solely on the passage of time), the SEC staff will not object to either of the following measurement methods provided the method is applied consistently:
 - a. Accrete changes in the redemption value over the period from the date of issuance (or from the date that it becomes probable that the instrument will become redeemable, if later) to the earliest redemption date of the instrument using an appropriate methodology, usually the interest method. Changes in the redemption value are considered to be changes in accounting estimates.
 - b. Recognize changes in the redemption value (for example, fair value) immediately as they occur and adjust the carrying amount of the instrument to equal the redemption value at the end of each reporting period. This method would view the end of the reporting period as if it were also the redemption date for the instrument.
16. The following additional guidance is relevant to the application of the SEC staff's views in paragraphs 14 and 15:
 - e. For a redeemable equity instrument other than [share based payment arrangements, employee stock ownership plans and convertible debt instruments], regardless of the accounting method applied in paragraphs 14 and 15, the amount presented in temporary equity should be no less than the initial amount reported in temporary equity for the instrument. That is, reductions in the carrying amount of a redeemable equity instrument from the application of paragraphs 14 and [15] are appropriate only to the extent that the registrant has previously recorded increases in the carrying amount of the redeemable equity instrument from the application of paragraphs 14 and 15.

E.4.1.1

Initial measurement

Except for share-based payment arrangements and employee stock ownership plans (refer to section E4.4), noncontrolling interests (refer to section E4.2) and the equity-classified component of convertible debt instruments (refer to section E4.3), the initial carrying value of a redeemable equity security classified in temporary equity should generally be its issuance date fair value (generally the proceeds from issuance), except as stated in the next paragraph. While the specific terms of the redemption feature should be reflected in the initial fair value, the redemption amount is not relevant to the amount initially recorded in temporary equity. For example, if an entity issues preferred stock for \$1,000 (fair value) that is redeemable at the option of the holder at any time for \$750, the amount initially classified in temporary equity would be \$1,000.

In the event a redeemable equity instrument is issued with other freestanding instruments, the initial carrying value of the amount classified in temporary equity should be based on the guidance in ASC 470-20 (generally, relative fair value unless one of the securities is subject to subsequent fair value measurement, in which case that instrument is allocated its full fair value and the residual is allocated to the remaining instruments). If an embedded feature is bifurcated from the redeemable equity instrument, the amount initially recorded in temporary equity should be based on the guidance in ASC 815 (generally the bifurcated feature is allocated its full fair value and the residual is allocated to the host equity instrument). Beneficial conversion features, if any, further reduce the initial carrying value.

E.4.1.2 Subsequent measurement

With the exception of share-based payment arrangements and employee stock ownership plans (refer to section E4.4), noncontrolling interests (refer to section E4.2) and the equity-classified component of convertible debt instruments (refer to section E4.3), the subsequent measurement of a redeemable instrument depends on whether the instrument is currently redeemable or it is probable that the instrument will become redeemable. Importantly, the probability that a security “will become redeemable” is different than the probability that a security “will be redeemed.” For example, consider a preferred security that is redeemable at the option of the holder after five years. While there may be uncertainty as to whether the security will be redeemed, there is no uncertainty as to whether the security will become redeemable as the mere passage of time will cause the security to become redeemable.

The SEC staff has stated that this probability assessment should not consider the likelihood that other options held by the holder may be exercised first.⁴⁸ For example, convertible preferred shares that are also redeemable at the option of the holder in five years would be considered “probable of becoming redeemable,” as the conversion option is controlled entirely by the holder. Absent any action by the holder, the security will become redeemable based on the passage of time.

E.4.1.2.1 *Securities that are currently redeemable*

If redeemable currently, the amount recorded in temporary equity should be adjusted to its maximum redemption amount at each balance sheet date. If the maximum redemption amount is not a fixed amount (e.g., fair value, based on an index or based on a formula), the amount reported should be calculated based on the conditions that exist as of the balance sheet date. The carrying amount should also be adjusted to include dividends not currently declared or paid, but that would be payable under the redemption features if the redemption were to occur as of the balance sheet date.

E.4.1.2.2 *Securities that are not currently redeemable but probable of becoming redeemable in the future*

If the security is probable of becoming redeemable, the issuer may elect to consistently follow either of the following accounting methods to measure redeemable securities:

- ▶ Method 1 – Changes in the redemption value are accreted over the period from the date of issuance to the earliest redemption date using an appropriate methodology, usually the interest method. Changes in the redemption amount are considered to be changes in accounting estimates.
- ▶ Method 2 – Changes in the redemption value are recognized immediately as they occur and the carrying value of the security is adjusted to equal what the redemption amount would be as if redemption were to occur at the end of the reporting date based on the conditions that exist as of that date. This method would view the end of the reporting period as if it were also the redemption date for the security.

⁴⁸ Mark Northan, 2005 – Refer to the SEC website at <http://www.sec.gov/news/speech/spch120505mn.htm>

While either of the above methods are acceptable, we generally believe issuers should evaluate the specific facts and circumstances of the applicable redemption feature and the level of subjectivity and assumptions necessary and apply the method that best represents the economics of the instrument.

To the extent a security is redeemable at a fixed date in the future for a fixed amount, Method 1 may be the most appropriate method. However, if either the redemption date or amount (or both) is variable yet reasonably estimable, applying Method 1 may be more difficult. In those cases, the issuer may need to make a number of assumptions and update them during the accretion period to derive an accretion pattern that is representative of the underlying economics.

For example, assume a preferred security is issued on 1 January 20X1, and is redeemable at a future date at 10% of the issuer's net income during the year prior to redemption and it is probable the instrument will become redeemable. If the issuer followed Method 1, at each reporting period, the issuer would need to estimate (1) when the redemption option is expected to be exercised and (2) net income for the year prior to exercise. The redemption value would then be appropriately accreted (e.g., if two years have elapsed over an estimated four year period prior to becoming redeemable, one half of the difference between the initial carrying amount and the estimated redemption amount would be accreted). Under Method 2, the issuer would assume the redemption amount were equal to the amount that would be redeemable if the instrument were redeemed on that date (provided that amount exceeded the initial carrying amount).

E.4.1.2.3 Securities that are not currently redeemable and not probable of becoming redeemable in the future

If an equity instrument subject to the SEC guidance on redeemable equity instruments is not initially redeemable and it is not probable it will become redeemable (e.g., it is not probable a contingency that triggers redemption will be met), the instrument should be classified in temporary equity, but an adjustment of the initial carrying amount is not necessary until it is probable that the security will become redeemable. In that case, disclosure should be made of the reasons why it is not considered probable that the security will become redeemable.

E.4.1.2.4 Accounting for the adjustments to temporary equity

Except for adjustments to the carrying amount of noncontrolling interests (refer to sections E4.2), separately classified equity components (refer to section E4.3) and share-based payments (refer to section E4.4), increases in the carrying amount of instruments in temporary equity are effected by charges against retained earnings (or in the absence of retained earnings, additional paid-in capital) and may affect EPS, as discussed in section E5. Decreases in the carrying amount are recognized only to the extent that increases to the amount initially recognized in temporary equity were previously recorded. That is, the carrying amount of redeemable securities should not be lower than the initial carrying amount recognized.

Refer to the following questions in section E7:

- ▶ Question 3 – When assessing whether it is probable an instrument will become redeemable, what does “probable” mean?
- ▶ Question 4 – May the fair value option pursuant to ASC 825 be elected for an instrument subject to the redeemable equity guidance?

E.4.2 Noncontrolling interests

Excerpt from Accounting Standards Codification

480-10-S99-3A

Initial measurement

12c. For noncontrolling interests, the initial amount presented in temporary equity should be the initial carrying amount of the noncontrolling interest pursuant to Section 805-20-30.

Subsequent measurement

16c. For noncontrolling interests, the adjustment to the carrying amount presented in temporary equity is determined after the attribution of net income or loss of the subsidiary pursuant to Subtopic 810-10.

16e. For a redeemable equity instrument other than [share based payment arrangements, employee stock ownership plans and convertible debt instruments], regardless of the accounting method applied in paragraphs 14 and 15, the amount presented in temporary equity should be no less than the initial amount reported in temporary equity for the instrument. That is, reductions in the carrying amount of a redeemable equity instrument from the application of paragraphs 14 and [15] are appropriate only to the extent that the registrant has previously recorded increases in the carrying amount of the redeemable equity instrument from the application of paragraphs 14 and 15.

Noncontrolling interests that are not a liability and that require temporary equity classification should be initially measured pursuant to the accounting for noncontrolling interests in ASC 805-20-30. The subsequent measurement should first consider the noncontrolling interest accounting and then the redeemable equity guidance.

The redeemable equity guidance complements the requirements in ASC 810-10-45-18 through 45-21 for SEC registrants. As a result, an issuer should first attribute net income or loss of the subsidiary to the noncontrolling interest pursuant to ASC 810-10. Although the redeemable equity guidance states in paragraph 16e that the amount presented in temporary equity should be no less than the initial amount reported in temporary equity for the instrument, that guidance is effectively nullified for noncontrolling interests to the extent the decrease is from the attribution of losses (or potentially the distribution of dividends). After following that guidance, the issuer should consider the provisions of ASC 480-10-S99 to determine whether any further adjustments are necessary to the carrying value of redeemable noncontrolling interests.

There is no limit to the increases that can be recorded on top of the ASC 810-10 traditional noncontrolling interest carrying amount. However, there is a limit on decreases. Decreases are limited to previously recorded increases made pursuant to the redeemable equity guidance. As a result, the noncontrolling interest should not be adjusted below its ASC 810-10 carrying amount. The amount presented in temporary equity should be the greater of the noncontrolling interest balance determined pursuant to the noncontrolling interest guidance or the amount determined pursuant to paragraphs 12-15 and 16(e) of the redeemable equity guidance. Accordingly, issuers should maintain measurement information under each approach. Many do this by maintaining the ASC 480-10-S99 adjustments in a separate account that is grouped with the noncontrolling interest when presenting the statement of financial position.

Refer to Question 5 in section E7 – Are adjustments to the carrying value of redeemable noncontrolling interest in accordance with ASC 480-10-S99 included in the gain or loss calculation when the subsidiary with the noncontrolling interest is deconsolidated?

E.4.3 Convertible debt instruments that contain a separately classified equity component

Excerpt from Accounting Standards Codification

480-10-S99-3A

Initial measurement

12(d) For convertible debt instruments that contain a separately classified equity component, an amount should initially be presented in temporary equity only if the instrument is currently redeemable or convertible at the issuance date for cash or other assets (see paragraph 3(e)). The portion of the equity-classified component that is presented in temporary equity (if any) is measured as the excess of (1) the amount of cash or other assets that would be required to be paid to the holder upon a redemption or conversion at the issuance date over (2) the carrying amount of the liability-classified component of the convertible debt instrument at the issuance date.

Subsequent measurement

16(d) For convertible debt instruments that contain a separately classified equity component, an amount should be presented in temporary equity only if the instrument is currently redeemable or convertible at the balance sheet date for cash or other assets (see paragraph 3(e)). The portion of the equity-classified component that is presented in temporary equity (if any) is measured as the excess of (1) the amount of cash or other assets that would be required to be paid to the holder upon a redemption or conversion at the balance sheet date over (2) the carrying amount of the liability-classified component of the convertible debt instrument at the balance sheet date. FN15

FN15 ASR 268 does not impact the application of other applicable GAAP to the accounting for the liability component or the accounting upon derecognition of the liability and/or equity component.

An amount classified in equity that is associated with a convertible debt instrument may require temporary equity classification (refer to section E3.1) if the instrument is currently redeemable or convertible at the balance sheet date. The portion that is presented in temporary equity (if any) should be measured as (1) the amount of cash that would be required to be paid to the holder upon redemption or conversion at the balance sheet date in excess of (2) the current carrying amount of the liability-classified component of the convertible debt instrument. For example, if a convertible debt instrument is currently redeemable at the option of the holder for \$1,000 in cash and the liability-classified component of the instrument is carried at \$950, \$50 of the equity-classified component should be presented as temporary equity.

We generally believe the equity component discussed in ASC 480-10-S99-3A excludes any related deferred tax effects of the convertible debt issuance recognized in equity.⁴⁹ That is, the amount subject to reclassification pursuant to the SEC's redeemable equity guidance is not the net equity component after considering deferred tax implications, because any tax liabilities are payable to the taxing authorities, not to the investor.

Adjustments recorded to the carrying amounts of the equity component of convertible debt included in temporary equity pursuant to this guidance should be recorded against additional paid-in capital. There should be no EPS effect for the initial classification to temporary equity or any subsequent adjustments.

⁴⁹ The cash conversion guidance in ASC 470-20 notes its application may result in a basis difference associated with the liability component that represents a temporary difference for purposes of applying the deferred tax guidance in ASC 740. The initial deferred taxes for the tax effect of that temporary difference are recognized as an adjustment to additional paid-in capital. Examples of those journal entries are provided in Question 1 in section C5 of Appendix C – *Accounting for cash convertible instruments*.

Refer to Question 6 in section E7 – How is the amount recorded in temporary equity associated with convertible debt affected when embedded derivatives (other than the conversion option) have been bifurcated from the debt instrument?

E.4.4

Share-based payments and employee stock ownership plans

Excerpt from Accounting Standards Codification

480-10-S99-3A

Initial measurement

- 12(a) For share-based payment arrangements with employees, the initial amount presented in temporary equity should be based on the redemption provisions of the instrument and the proportion of consideration received in the form of employee services at initial recognition. For example, upon issuance of a fully vested option that allows the holder to put the option back to the issuer at its intrinsic value upon a change in control, an amount representing the intrinsic value of the option at the date of issuance should be presented in temporary equity.
- 12(b) For employee stock ownership plans where the cash redemption obligation relates only to a market value guarantee feature, the registrant may elect as an accounting policy to present in temporary equity either (i) the entire guaranteed market value amount of the equity securities or (ii) the maximum cash obligation based on the fair value of the underlying equity securities at the balance sheet date.

Subsequent measurement

- 16(a) For share-based payment arrangements with employees, the amount presented in temporary equity at each balance sheet date should be based on the redemption provisions of the instrument and should take into account the proportion of consideration received in the form of employee services (that is, the pattern of recognition of compensation cost pursuant to Topic 718). FN14

FN14 See also the Interpretative Response to Question 2 in Section E of Section 718-10-S99.

- 16(b) For employee stock ownership plans where the cash redemption obligation relates only to a market value guarantee feature, the registrant may elect as an accounting policy to present in temporary equity either (i) the entire guaranteed market value amount of the equity securities or (ii) the maximum cash obligation based on the fair value of the underlying equity securities at the balance sheet date.

Refer to sections 2.3 and 5.2.3.5 of our Financial Reporting Developments publication, *Share-based payment* (SCORE No. BB1172), for further guidance on employee stock ownership plans and temporary equity considerations for share-based payment arrangements.

E.4.5

Reclassifications between temporary equity and permanent equity

Excerpt from Accounting Standards Codification

480-10-S99-3A

18. If classification of an equity instrument as temporary equity is no longer required (if, for example, a redemption feature lapses, or there is a modification of the terms of the instrument), the existing carrying amount of the equity instrument should be reclassified to permanent equity at the date of the event that caused the reclassification. Prior financial statements are not adjusted. Additionally, the SEC staff believes that it would be inappropriate to reverse any adjustments previously recorded to the carrying amount of the equity instrument (pursuant to paragraphs 14-16) in conjunction with such reclassifications.

Over the life of an instrument, there may be changes in circumstances that require changes in its classification between temporary and permanent equity. The redeemable equity guidance specifically addresses circumstances in which a security may no longer be required to be classified in temporary equity. For example, preferred shareholders holding shares that are redeemable by the issuer may lose their ability to force redemption if they lose control of the board of directors or equity instruments may become nonredeemable upon expiration of the redemption option. In those cases, the instrument should be reclassified from temporary equity to permanent equity.

The carrying amount of the security should be reclassified to permanent equity at the date of the event that caused reclassification. Amounts recorded in accordance with the redeemable equity guidance while the instrument was classified in temporary equity should not be reversed upon the reclassification of an instrument from temporary equity to permanent equity.

The redeemable equity guidance does not provide specific guidance on reclassifications of instruments from permanent into temporary classification. We believe one reasonable approach would be to reclassify the security at its fair value as of the date of the event that caused reclassification. By analogy to the guidance in ASC 815-40-35-9 on reclassifying a contract from permanent equity to an asset or liability, under this approach any difference between the fair value of the security to be recorded in temporary equity and the previous carrying value of the security recorded in permanent equity would be accounted for as an adjustment to shareholder's equity (i.e., APIC). There may be other acceptable methods.

E.5

Earnings per share

Excerpt from Accounting Standards Codification

480-10-S99-3A

Earnings per Share

20. *Preferred stock instruments issued by a parent (or single reporting entity).* Regardless of the accounting method selected in paragraph 15 and the redemption terms (that is, fixed price or fair value), the resulting increases or decreases in the carrying amount of a redeemable instrument other than common stock should be treated in the same manner as dividends on nonredeemable stock and should be effected by charges against retained earnings or, in the absence of retained earnings, by charges against paid-in capital. Increases or decreases in the carrying amount should reduce or increase income available to common stockholders in the calculation of earnings per share and the ratio of earnings to combined fixed charges and preferred stock dividends. Additionally, Paragraph 260-10-S99-2, provides guidance on the accounting at the date of a redemption or induced conversion of a preferred stock instrument.
21. *Common stock instruments issued by a parent (or single reporting entity).* Regardless of the accounting method selected in paragraph 15, the resulting increases or decreases in the carrying amount of redeemable common stock should be treated in the same manner as dividends on nonredeemable stock and should be effected by charges against retained earnings or, in the absence of retained earnings, by charges against paid-in capital. However, increases or decreases in the carrying amount of a redeemable common stock should not affect income available to common stockholders. Rather, the SEC staff believes that to the extent that a common shareholder has a contractual right to receive at share redemption (in other than a liquidation event that meets the exception in paragraph 3(f)) an amount that is other than the fair value of the issuer's common shares, then that common shareholder has, in substance, received a distribution different from other common shareholders. Under Paragraph 260-10-45-59A, entities with capital structures that include a class of common stock with different dividend rates from those of another class of common stock but without prior or senior rights, should apply the two-class method of calculating earnings per share. Therefore, when a class of common stock is

redeemable at other than fair value, increases or decreases in the carrying amount of the redeemable instrument should be reflected in earnings per share using the two-class method. FN17 For common stock redeemable at fair value FN18, the SEC staff would not expect the use of the two-class method, as a redemption at fair value does not amount to a distribution different from other common shareholders. FN19

FN17 The two-class method of computing earnings per share is addressed in Section 260-10-45. The SEC staff believes that there are two acceptable approaches for allocating earnings under the two-class method when a common stock instrument is redeemable at other than fair value. The registrant may elect to: (a) treat the entire periodic adjustment to the instrument's carrying amount (from the application of paragraphs 14-16) as being akin to a dividend or (b) treat only the portion of the periodic adjustment to the instrument's carrying amount (from the application of paragraphs 14-16) that reflects a redemption in excess of fair value as being akin to a dividend. Under either approach, decreases in the instrument's carrying amount should be reflected in the application of the two-class method only to the extent they represent recoveries of amounts previously reflected in the application of the two-class method.

FN18 Common stock that is redeemable based on a specified formula is considered to be redeemable at fair value if the formula is designed to equal or reasonably approximate fair value. The SEC staff believes that a formula based solely on a fixed multiple of earnings (or other similar measure) is not considered to be designed to equal or reasonably approximate fair value.

FN19 Similarly, the two-class method is not required when share-based payment awards granted to employees are redeemable at fair value (provided those awards are in the form of common shares or options on common shares). However, those share-based payment awards may still be subject to the two-class method pursuant to Section 260-10-45.

22. *Noncontrolling interests.* Paragraph 810-10-45-23 indicates that changes in a parent's ownership interest while the parent retains control of its subsidiary are accounted for as equity transactions, and do not impact net income or comprehensive income in the consolidated financial statements. Consistent with Paragraph 810-10-45-23, an adjustment to the carrying amount of a noncontrolling interest from the application of paragraphs 14-16 does not impact net income or comprehensive income in the consolidated financial statements. Rather, such adjustments are treated akin to the repurchase of a noncontrolling interest (although they may be recorded to retained earnings instead of additional paid-in capital). The SEC staff believes the guidance in paragraphs 20 and 21 should be applied to noncontrolling interests as follows:

- a. *Noncontrolling interest in the form of preferred stock instrument.* The impact on income available to common stockholders of the parent arising from adjustments to the carrying amount of a redeemable noncontrolling interest other than common stock depends upon whether the redemption feature in the equity instrument was issued, or is guaranteed, by the parent. If the redemption feature was issued, or is guaranteed, by the parent, the entire adjustment under paragraph 20 reduces or increases income available to common stockholders of the parent. Otherwise, the adjustment is attributed to the parent and the noncontrolling interest in accordance with Paragraphs 260-10-55-64 through 55-67.
- b. *Noncontrolling interest in the form of common stock instrument.* Adjustments to the carrying amount of a noncontrolling interest issued in the form of a common stock instrument to reflect a fair value redemption feature do not impact earnings per share. Adjustments to the carrying amount of a noncontrolling interest issued in the form of a common stock

instrument to reflect a non-fair value redemption feature do impact earnings per share; however, the manner in which those adjustments reduce or increase income available to common stockholders of the parent may differ. FN20 If the terms of the redemption feature are fully considered in the attribution of net income under Paragraph 810-10-45-21, application of the two-class method is unnecessary. If the terms of the redemption feature are not fully considered in the attribution of net income under Paragraph 810-10-45-20, application of the two-class method at the subsidiary level is necessary in order to determine net income available to common stockholders of the parent.

FN20 Subtopic 810-10 does not provide detailed guidance on the attribution of net income to the parent and the noncontrolling interest. The SEC staff understands that when a noncontrolling interest is redeemable at other than fair value some registrants consider the terms of the redemption feature in the calculation of net income attributable to the parent (as reported on the face of the income statement), while others only consider the impact of the redemption feature in the calculation of income available to common stockholders of the parent (which is the control number for earnings per share purposes).

23. *Convertible debt instruments that contain a separately classified equity component.* For convertible debt instruments subject to ASR 268 (see paragraph 3(e)), there should be no incremental earnings per share accounting from the application of this SEC staff announcement. Subtopic 260-10 addresses the earnings per share accounting.

The EPS effect of subsequent measurement adjustments to the carrying amount of redeemable securities pursuant to ASC 480-10-S99-3A is based primarily on the form of the redeemable security and nature of the redemption feature. Changes in the carrying amount of such securities generally affect income available to common shareholders (i.e., the EPS numerator). Such securities can be grouped into four categories:

- ▶ Preferred securities issued by a parent (or a single reporting entity)
- ▶ Common securities issued by a parent (or a single reporting entity)
- ▶ Noncontrolling interests issued in the form of preferred securities
- ▶ Noncontrolling interests issued in the form of common securities

In addition to the discussion below, refer to section 3.2.2 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance on the EPS treatment of redeemable equity instruments.

E.5.1 Preferred securities issued by a parent (or a single reporting entity)

Subsequent measurement adjustments recorded pursuant to ASC 480-10-S99-3A related to redeemable preferred securities issued by a parent or a single reporting entity should be treated in the same manner as dividends on nonredeemable stock. Therefore, increases and decreases in the carrying amount of redeemable preferred securities should be reflected as adjustments to income available to common shareholders in the calculation of EPS. Redeemable securities cannot be reduced below their initial carrying amounts in temporary equity.

E.5.2 Common securities issued by a parent (or a single reporting entity)

Subsequent measurement adjustments recorded pursuant to ASC 480-10-S99-3A related to redeemable common securities issued by a parent or a single reporting entity should be treated in the same manner as dividends on nonredeemable stock. If the redeemable common shareholders have a contractual right to receive at share redemption an amount other than fair value (e.g., a fixed amount or a formulaic amount) of the issuer's common shares, those redeemable common shareholders have, in substance, received a different distribution than other common shareholders (i.e., a preferential dividend).

If the redemption right is at fair value, adjustments to the carrying value of the redeemable securities do not affect the EPS calculation because the redemption does not constitute a preferential distribution for that holder – the holder is receiving an amount no different than if selling the security in the market and the company is receiving fair value for the consideration distributed. Common stock that is redeemable based on a specified formula is considered to be redeemable at fair value if the formula is designed to approximate fair value. However, the SEC staff believes that a formula based solely on a fixed multiple of earnings (or other similar measure) is not considered to be designed to equal or reasonably approximate fair value. Likewise, even if a formula adjusts to a current multiple we generally believe that issuer-specific and instrument-specific facts and circumstances should be carefully considered before concluding that a formula would be expected to result in a fair value price at each measurement date.

Common securities that are redeemable at something other than fair value require the use of the two-class method pursuant to ASC 260, *Earnings per Share*. As noted in footnote 17 to ASC 480-10-S99-3A, the SEC staff believes that in those circumstances there are two acceptable approaches for allocating earnings between the different classes of shareholders pursuant to the two-class method:

- (1) Treat the entire periodic adjustment to the security's carrying amount like a dividend.
- (2) Treat only the portion of the periodic adjustment to the security's carrying amount that reflects a redemption in excess of fair value like a dividend.

Under either approach, decreases in the instrument's carrying amount should be reflected in the computation of EPS only to the extent they represent recoveries of amounts previously reflected in the computation of EPS. These alternative approaches are accounting policy elections that should be applied consistently and disclosed as an accounting policy in the notes to the financial statements.

E.5.3 Noncontrolling interests issued in the form of preferred securities

When a consolidated subsidiary has issued redeemable preferred securities to outside holders, such interests represent noncontrolling interests. Adjustments to the carrying amount of redeemable noncontrolling interests require careful consideration of their effect on the parent company's EPS calculation. To the extent the parent has issued or guaranteed the redemption feature of the subsidiary's preferred security, the adjustment is included as an adjustment to income available to common shareholders. In substance, the parent has issued the redemption feature and, as such, it is accounted for in the same manner as if the parent had issued redeemable preferred stock.

When the redemption feature of a subsidiary's preferred stock has not been issued or guaranteed by the parent, the adjustment in the carrying amount is allocated between the parent and noncontrolling interests in accordance with the example in ASC 260-10-55-64 through 55-67.

Refer to section 6.1 in our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance.

E.5.4 Noncontrolling interests issued in the form of common securities

Adjustments to the carrying amount of noncontrolling common stock instruments for potential fair value redemptions do not affect EPS. However, adjustments for noncontrolling common stock instruments redeemable at other than fair value (e.g., a fixed amount or formulaic amount) do affect EPS. When adjustments of those redeemable equity securities affect EPS, the SEC staff notes that some registrants adjust net income attributable to the parent (as reported on the face of the income statement) for changes in the carrying amount of the redeemable equity securities. Other registrants do not adjust net income attributable to the parent and only consider the effect of the redemption feature in the calculation of income available to common stockholders of the parent (which may be disclosed on the face of the income statement pursuant to SEC guidance). These two alternatives affect presentation and disclosure only, but do not affect the amount of reported EPS. These alternative approaches are accounting policy elections and should be applied consistently.

Consistent with the guidance for common stock instruments issued by the parent and based on discussions with the SEC staff, we generally believe that the registrant may elect to either:

- (1) Treat the entire periodic adjustment to the security's carrying amount like a dividend
- (2) Treat only the portion of the periodic adjustment to the security's carrying amount that reflects a redemption in excess of fair value like a dividend

Under either approach, decreases in the instrument's carrying amount pursuant to the redeemable equity guidance should affect the computation of EPS only to the extent they represent recoveries of amounts previously reflected in the computation of EPS.

Refer to section 3.2.2 in our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance on the EPS effects of redeemable equity instruments.

E.6 Disclosures

Excerpt from Accounting Standards Codification

480-10-S99-3A

Disclosures

24. ASR 268 and SEC Regulation S-X require certain disclosures about redeemable equity instruments. In addition, the SEC staff expects the following disclosures to be provided in the notes to the financial statements:
 - a. A description of the accounting method used to adjust the redemption amount of a redeemable equity instrument (as discussed in paragraphs 14-16).
 - b. When a registrant elects to accrete changes in the redemption amount of a redeemable equity instrument in accordance with paragraph 15(b), the redemption amount of the equity instrument as if it were currently redeemable.
 - c. For a redeemable equity instrument that is not adjusted to its redemption amount, the reasons why it is not probable that the instrument will become redeemable.
 - d. When charges or credits discussed in paragraphs 20 and 22(a) are material, a reconciliation between net income and income available to common stockholders.
 - e. The amount credited to equity of the parent upon the deconsolidation of a subsidiary (as discussed in paragraph 19).

In addition to the specific disclosure requirements highlighted in paragraph 24 of ASC 480-10-S99-3A, the general disclosures required for capital stock (e.g., pursuant to ASC 505-10-50, *Equity – Disclosures*) are required for all issuers, including nonpublic entities that choose not to apply the redeemable equity guidance. For public companies, ASC 480-10-S99-1 also requires disclosure of the aggregate amount of redemption obligations in each of the subsequent five years from the date of the most recent balance sheet. While there is no specific guidance for computing the redemption amounts for redeemable securities without scheduled maturity dates, we generally believe that instead of estimating future earnings or anticipating holders' actions, the redemption provisions could be disclosed instead of estimating future earnings or anticipating holders' actions.

The redeemable equity guidance requires the changes in each redeemable stock issue to be explained in a footnote separately from the statement of changes in stockholders' equity, because the SEC staff does not believe redeemable stock should be included with permanent equity. The SEC staff permits including redeemable stock in the statement of changes in stockholders' equity if the statement is appropriately titled (e.g., "Statement of Changes in Redeemable Preferred Stock, Common Stock and Other Stockholders' Equity") and if redeemable instruments are not included in any total.⁵⁰

E.7 Frequently asked questions

The following Questions are included in this section:

- ▶ Question 1 – Are shares that are by themselves not redeemable, but are convertible into other shares that are redeemable, within the scope of the redeemable equity guidance?
- ▶ Question 2 – What are examples of instances in which classification of a security outside of permanent equity is and is not appropriate?
- ▶ Question 3 – When assessing whether it is probable an instrument will become redeemable, what does "probable" mean?
- ▶ Question 4 – May the fair value option pursuant to ASC 825 be elected for an instrument subject to the redeemable equity guidance?
- ▶ Question 5 – Are adjustments to the carrying value of redeemable noncontrolling interest in accordance with ASC 480-10-S99 included in the gain or loss calculation when the subsidiary with the noncontrolling interest is deconsolidated?
- ▶ Question 6 – How is the amount recorded in temporary equity associated with convertible debt affected when embedded derivatives (other than the conversion option) have been bifurcated from the debt instrument?

Question 1

Are shares that are by themselves not redeemable, but are convertible into other shares that are redeemable, within the scope of the redeemable equity guidance?

Although not specifically addressed by the redeemable equity guidance, we generally believe that issuers should follow the classification and measurement provisions of the redeemable equity guidance in accounting for equity shares that, although not redeemable, enable the holder to acquire redeemable instruments of the issuer (at the election of the holder, on a future date or upon the occurrence of an event that is not solely within the control of the issuer).

⁵⁰ Carnall, 23 June 2009 SEC Regulations Committee meeting - http://www.thecaq.org/resources/secregs/pdfs/highlights/2009_0623_highlights.pdf

For example, we generally believe that convertible preferred stock that is not redeemable itself, but enables the holder to convert into common shares that are puttable to the issuer should be classified in temporary equity. We generally believe that accounting for those instruments in temporary equity even before exercise or the first available conversion date is consistent with the provisions of the redeemable equity guidance that preclude permanent equity classification for instruments that are subject to redemption requirements that are outside the issuer's control.

In measuring the EPS impact of nonredeemable securities (other than those addressed by ASC 480-10-25-8 through 25-10 and 25-12) that enable the holder to acquire redeemable securities, issuers should follow the redeemable equity guidance.

Refer to section 3.2.2 of our Financial Reporting Developments publication, *Earnings per share* (SCORE No. BB1971), for further guidance.

Question 2

What are examples of instances in which classification of a security outside of permanent equity is and is not appropriate?

Registrants should evaluate all of the individual facts and circumstances in determining how an equity security should be classified.

Examples of situations in which temporary equity classification may be appropriate

Scenario A – Preferred stock redeemable at option of holder or upon occurrence of event outside issuer's control, but payable in cash or shares at the option of the issuer

Excerpt from Accounting Standards Codification

480-10-S99-3A

6. *Example 1.* A preferred security that is not required to be classified as a liability under other applicable GAAP may be redeemable at the option of the holder or upon the occurrence of an event that is not solely within the control of the issuer. Upon redemption (in other than a liquidation event that meets the exception in paragraph 3(f)), the issuer may have the choice to settle the redemption amount in cash or by delivery of a variable number of its own common shares with an equivalent value. For this instrument, the guidance in Section 815-40-25 should be used to evaluate whether the issuer controls the actions or events necessary to issue the maximum number of common shares that could be required to be delivered under share settlement of the contract. If the issuer does not control settlement by delivery of its own common shares (because, for example, there is no cap on the maximum number of common shares that could be potentially issuable upon redemption), cash settlement of the instrument would be presumed and the instrument would be classified as temporary equity.

To the extent the issuer has the option and ability to settle the redemption in its own shares, temporary equity classification may not be required. However, for instruments that may be settled in shares, an issuer should carefully evaluate the requirements in ASC 815-40-25 to evaluate whether it controls the actions or events necessary to issue the maximum number of shares that could be required to be delivered under share settlement.

Scenario B – Preferred stock callable by issuer and preferred stock holders control the board

Excerpt from Accounting Standards Codification**480-10-S99-3A**

7. *Example 2.* A preferred security that is not required to be classified as a liability under other applicable GAAP may have a redemption provision that states it may be called by the issuer upon an affirmative vote by the majority of its board of directors. While some might view the decision to call the security as an event that is within the control of the company because the governance structure of the company is vested with the power to avoid redemption, if the preferred security holders control a majority of the votes of the board of directors through direct representation on the board of directors or through other rights, the preferred security is redeemable at the option of the holder and classification in temporary equity is required. In other words, any provision that requires approval by the board of directors cannot be assumed to be within the control of the issuer. All of the relevant facts and circumstances should be considered.

Questions frequently arise about whether temporary equity classification is required when the holder of a nonredeemable instrument controls the issuer and could require the issuer to redeem the otherwise nonredeemable instrument. We do not believe it is necessary to consider circumstances beyond those pursuant to the existing terms of the instrument and contractual or other rights held currently by the investor.

Scenario C – Preferred stock redeemable by the holder upon a change in control that is outside the issuer's control

Excerpt from Accounting Standards Codification**480-10-S99-3A**

8. *Example 3.* A preferred security that is not required to be classified as a liability under other applicable GAAP may contain a deemed liquidation clause that provides that the security becomes redeemable if the common stockholders of the issuing company (that is, those immediately prior to a merger or consolidation) hold, immediately after such merger or consolidation, common stock representing less than a majority of the voting power of the outstanding common stock of the surviving corporation. This change-in-control provision would require the preferred security to be classified in temporary equity if a purchaser could acquire a majority of the voting power of the outstanding common stock without company approval, thereby triggering redemption.

The presence of a cash-settled redemption provision that is contingent upon a change in control that is outside of the issuer's control would require classification outside of permanent equity. While there may be certain circumstances (e.g., state or other corporate law) in which a change in control may occur only after acceptance or approval of the board of directors, generally the occurrence of a change in control is considered to be outside the control of the issuer (e.g., because a third party could acquire a majority of the voting power in common stock without ever seeking the approval of the issuer).

A careful evaluation of what constitutes a change in control pursuant to the terms of the arrangement is required to determine whether it is within the issuer's control, particularly when only certain change in control provisions trigger the redemption. For example, if the only change in control that triggers redemption is one in which the issuer itself participates (e.g., through the issuance of a controlling number of new shares rather than simply the investor accumulating existing shares) and the issuer is able to control the issuance of new shares, that change in control provision would not trigger temporary equity classification.

Pursuant to some change in control provisions, the holder is entitled to receive only the consideration that was used by the third party effecting the change in control (e.g., cash or securities issued by an acquirer). Some believe that because the redemption of the instrument for cash is not at the option of the holder and because the holder will receive (outside of its control) consideration used to effect the change in control, the securities should be classified as permanent equity. We generally believe that although the holder of the instrument will not control the type of consideration to be received upon redemption of the securities, cash redemption could be triggered by a change in control, which would be considered to be outside the control of the issuer. Accordingly, the securities should be classified outside of permanent equity. However, permanent equity classification may be appropriate if all holders of equally and more subordinated equity securities would always be contractually entitled to also receive the same form of consideration (e.g., cash or shares) upon the occurrence of the change in control.

Scenario D – Preferred stock redeemable at the option of the holder upon occurrence of events not in issuer's control

Excerpt from Accounting Standards Codification

480-10-S99-3A

9. *Example 4.* An equity instrument may contain provisions that allow the holder to redeem the instrument for cash or other assets upon the occurrence of events that are not solely within the issuer's control. Such events may include:
- ▶ The failure to have a registration statement declared effective by the SEC by a designated date
 - ▶ The failure to maintain compliance with debt covenants
 - ▶ The failure to achieve specified earnings targets
 - ▶ A reduction in the issuer's credit rating.

Since these events are not solely within the control of the issuer, the equity instrument is required to be classified in temporary equity.

The SEC staff requires stock redeemable upon a change in control that is outside the control of the issuer to be classified outside of permanent equity, regardless of the likelihood of a future change in control. The SEC staff's position also applies to stock with other redemption features outside the control the issuer, including those redemption features triggered by future events such as delisting of the issuer's shares from a stock exchange, failure to maintain compliance with debt covenants, failure to have a registration statement declared effective by the SEC by a designated date, a reduction in the issuer's credit rating or the failure to achieve specified performance targets.

Scenario E – Preferred stock is callable by the issuer and contains a contingent control feature that is not within the control of the issuer

The SEC staff has noted that it is important to consider possible interactions whereby a combination of rights creates a security that is puttable or contingently puttable at the option of the holder. In a speech on 7 December 2009,⁵¹ the SEC staff presented a fact pattern in which an entity issues a preferred share that is callable at the option of the entity, and also provides a contingent control feature in which the preferred shareholders can take control of the entity upon failure to pay dividends, thereby permitting the preferred shareholders to exercise the issuer's call feature. Unless there is a third provision that

⁵¹ Fields, 2009 – Refer to the SEC website at <http://www.sec.gov/news/speech/2009/spch120709bwf.htm>

makes the call inoperable when the preferred shareholders are in control of the board, the combination of the call feature and the contingent control feature can be viewed in the same manner as a contingent put feature (i.e., the securities are redeemable at the option of the holder upon the failure to pay dividends), resulting in temporary equity classification for the shares. However, the staff acknowledged that not all contingent protective rights would result in temporary equity classification. We generally believe inherent in the fact pattern is the conclusion that it is not within the issuer's control to have the ability to pay the preferred stock's stated dividend.

Examples of situations in which permanent equity classification may be appropriate

Scenario F – Preferred stock is automatically redeemed upon issuer's decision to sell substantially all assets and preferred stockholders do not control the board

Excerpt from Accounting Standards Codification

480-10-S99-3A

10. *Example 5.* A preferred security may have a provision that the decision by the issuing company to sell all or substantially all of a company's assets and a subsequent distribution to common stockholders triggers redemption of the security. In this case, the security would be appropriately classified in permanent equity if the preferred stockholders cannot trigger or otherwise require the sale of the assets through representation on the board of directors, or through other rights, because the decision to sell all or substantially all of the issuer's assets and the distribution to common stockholders is solely within the issuer's control. In other words, if there could not be a "hostile" asset sale whereby all or substantially all of the issuer's assets are sold, and a dividend or other distribution is declared on the issuer's common stock, without the issuer's approval, then classifying the security in permanent equity would be appropriate.

Scenario G – Preferred stock is automatically redeemed upon merger or consolidation (either of which would require board approval) and preferred stockholders do not control the board

Excerpt from Accounting Standards Codification

480-10-S99-3A

11. *Example 6.* A preferred security may have a provision that provides for redemption in cash or other assets if the issuing company is merged with or consolidated into another company, and pursuant to state law, approval of the board of directors is required before any merger or consolidation can occur. In that case, assuming the preferred stockholders cannot control the vote of the board of directors through direct representation or through other rights, the security would be appropriately classified in permanent equity because the decision to merge with or consolidate into another company is within the control of the issuer. Again, all of the relevant facts and circumstances should be considered when determining whether the preferred stockholders can control the vote of the board of directors.

Question 3 When assessing whether it is probable an instrument will become redeemable, what does “probable” mean?

The use of the word “probable” is consistent with that as in ASC 450, *Contingencies*, which defines probable as “the future event or events are likely to occur.”

While pursuant to the share-based payment literature, an IPO is not considered probable until it is consummated, the guidance in ASC 450 should be followed in determining probability for purposes of applying the redeemable equity guidance. Accordingly, in most cases, an IPO would be considered probable of occurring before it actually occurs.

Question 4 May the fair value option pursuant to ASC 825 be elected for an instrument subject to the redeemable equity guidance?

Excerpt from Accounting Standards Codification

480-10-S99-3A

17. *Application of the fair value option.* Measurement of a redeemable equity instrument (or host contract) subject to ASR 268 at fair value through earnings in lieu of the measurement guidance provided in paragraphs 14-16 is not appropriate. FN16

FN16 Paragraph 825-10-50-8 prohibits the election of the fair value option for financial instruments that are, in whole or in part, classified in stockholder’s equity (including temporary equity).

Historically, the staff had not objected to the presentation of redeemable securities as debt, if such presentation were made on a consistent basis. However, Statement 159, *The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115*, prohibited an issuer from electing the fair value option for instruments classified in whole or in part as a component of shareholders’ equity (including temporary equity). As a result, in 2007 the SEC staff stated it would no longer accept liability classification for instruments that met the conditions for temporary equity classification pursuant to the redeemable equity guidance. Transition guidance was provided in paragraph 39 of Topic D-98 as follows:

The SEC staff announcement ... should be applied prospectively to all affected financial instruments (or host contracts) that are entered into, modified, or otherwise subject to a remeasurement (new basis) event in the registrant’s first fiscal quarter beginning after September 15, 2007. Subsequent to initial adoption of the guidance in paragraph 38, a registrant should not initially apply hedge accounting or initially elect the fair value option for an affected financial instrument (or host contract) that continues to be classified on the balance sheet as a liability. That is, while an existing financial instrument (or host contract) that otherwise meets the conditions for classification as temporary equity may continue to be classified as a liability when the guidance in paragraph 38 is adopted prospectively, that financial instrument (or host contract) would not be eligible for initial application of the fair value option under Statement 159 or initial adoption of hedge accounting in fiscal quarters beginning after September 15, 2007. As an alternative to prospective application, a registrant may retrospectively apply the guidance ... to all prior financial reporting periods in accordance with paragraphs 7-10 of Statement 154. Regardless of the method of transition, the disclosures in paragraph 24 of Statement 154 should be provided. Earlier adoption is permitted.

- Question 5** Are adjustments to the carrying value of redeemable noncontrolling interest in accordance with ASC 480-10-S99 included in the gain or loss calculation when the subsidiary with the noncontrolling interest is deconsolidated?

Excerpt from Accounting Standards Codification

480-10-S99-3A

Deconsolidation of a Subsidiary

19. Section 810-10-40 provides guidance on the measurement of the gain or loss that is recognized in net income when a parent deconsolidates a subsidiary. As indicated in Paragraph 810-10-40-5, that gain or loss calculation is impacted by the carrying amount of any noncontrolling interest in the former subsidiary. Since adjustments to the carrying amount of a noncontrolling interest from the application of paragraphs 14-16 do not initially enter into the determination of net income, the SEC staff believes that the carrying amount of the noncontrolling interest that is referred to in Paragraph 810-10-40-5 should similarly not include any adjustments made to that noncontrolling interest from the application of paragraphs 14-16. Rather, previously recorded adjustments to the carrying amount of a noncontrolling interest from the application of paragraphs 14-16 should be eliminated in the same manner in which they were initially recorded (that is, by recording a credit to equity of the parent).

- Question 6** How is the amount recorded in temporary equity associated with convertible debt affected when embedded derivatives (other than the conversion option) have been bifurcated from the debt instrument?

Assume an issuer initially allocated proceeds from issuing an instrument subject to the cash conversion guidance that also had a bifurcated derivative, resulting in the following journal entry:

Cash	\$	1,000	
Debt (liability) component		\$	850
Derivative liability			50
Equity component			100

In this circumstance, we generally believe the issuer would classify as temporary equity an amount equal to (1) the amount required to be paid to the holder upon redemption (including any amounts to be paid under the bifurcated derivative) in excess of (2) the sum of the liability-classified components of the single legal instrument issued.

If the instrument were redeemable immediately for its face amount of \$1,000, \$100 would be classified in temporary equity (\$1,000 face amount less \$850 for the liability component less \$50 for the derivative liability). By classifying \$100 in temporary equity, the total cash redemption requirement would be displayed on the face of the balance sheet outside of permanent equity. We generally believe deducting the combination of the liability component and bifurcated derivative from the redemption amount to derive the temporary equity amount in this analysis is reasonable given the SEC staff view that a bifurcated derivative may be presented with the debt host on the balance sheet, despite being accounted for separately pursuant to ASC 815.

If the derivative liability's fair value increased to \$150, no amount would be classified in the mezzanine as \$1,000 of liabilities would be reported on the balance sheet (the sum of the liability component of \$850 and the derivative liability of \$150).⁵²

⁵² For simplicity, the accretion of the liability component is ignored.

However, assume that subsequently the derivative liability declined to \$25. The sum of the balance sheet liabilities would be \$875, in which case \$125 would be classified into the mezzanine, resulting in a carrying amount of \$1,000 in the liability and mezzanine sections of the balance sheet. However, only \$100 was allocated to the equity component at issuance, raising the question as to whether the amount reclassified from equity to temporary equity may exceed the amount originally recognized in equity for the conversion option.

The SEC staff guidance requires that a portion of the equity-classified component [be] presented in temporary equity. Read literally, that guidance could indicate that the amount to be reclassified into the mezzanine should be capped at the amount initially allocated to the equity component pursuant to the cash conversion guidance because a “portion” of any amount cannot be more than the entire amount (i.e., reclassification to the mezzanine is capped at \$100 in the example). Alternatively, the guidance could be interpreted to require the redemption amount to be presented outside of equity (\$125 in the example), even though that amount exceeds the amount initially recognized for the equity component pursuant to the cash conversion guidance.

We generally believe either approach is acceptable as an accounting policy election with appropriate disclosure. If the amount reclassified to temporary equity were capped at the initial amount recognized for the equity component, we generally believe disclosure of the total potential redemption amount and the difference between that amount and the amounts recognized on the balance sheet would be appropriate.

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Glossary

Throughout this booklet, we use the following terms and conventions:

Term used in the section	Concept and/or historical authoritative guidance
Beneficial conversion feature	Embedded conversion option that is in the money at issuance (positive intrinsic value, or has a conversion price less than the fair value of the share at issuance). A conversion feature that may become beneficial is referred to as a contingent beneficial conversion feature.
Beneficial conversion feature guidance	Guidance addressing beneficial conversion features; primarily the former EITF 98-5, "Accounting for Convertible Securities with Beneficial Conversion Features or Contingently Adjustable Conversion Ratios," and EITF 00-27, "Application of Issue 98-5 to Certain Convertible Instruments." Generally codified in ASC 470-20 under the "General" subtopics in the various sections using the headings "Beneficial conversion features," "Conversion features that reset," and "Contingently adjustable conversion ratios."
Cash conversion guidance	Guidance addressing cash convertible instruments; primarily the former FASB Staff Position APB 14-1, <i>Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Conversion)</i> . Generally codified under the subheadings "Cash Conversion" throughout ASC 470-20.
Cash convertible debt	Convertible debt instruments that can be settled in cash or shares, or a mixture thereof, at the option of the issuer.
Conversion option and conversion feature	The written call option embedded in a convertible instrument and are used interchangeably both within our guidance and the authoritative guidance.
Convertible debt and convertible stock	Generic reference to a convertible instrument. This publication uses "debt" or "bond" or "note" to mean a nonconvertible debt instrument. The modifier "convertible" is used to signify a convertible instrument, unless the context is clear. without regard to whether it is share convertible or cash convertible
Equity classification guidance	Guidance determining whether an equity contract or equity-linked feature (e.g., conversion and share redemption features) would be classified in stockholders' equity if it were freestanding; primarily the former EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock." Generally codified under ASC 815-40-25.
Equity contract or equity-linked contract	Generic reference to describe any freestanding financial instrument (but not the stock itself) whose value is based on (indexed to or potentially settled in) a company's own stock. Refers to all instruments that require analysis for classification either as an asset or liability under ASC 815 or ASC 480.
Equity derivative	Reference to an equity contract that meets the definition of a derivative under ASC 815 and is classified as an asset or liability.

Term used in the section	Concept and/or historical authoritative guidance
Equity redemption feature	Redemption feature (i.e., an issuer call option or an investor put option) embedded in equity-host contract.
Equity-classified contract	An equity contract that has been determined to qualify for classification as equity (as opposed to an asset or liability).
Freestanding financial instrument	A financial instrument that is separately accounted from other financial instruments or equity transactions, as defined under ASC 480, <i>Distinguishing Liabilities from Equity</i> .
General conversion guidance	Guidance addressing share convertible instruments; primarily the former APB Opinion No. 14, <i>Accounting for Convertible Debt and Debt Issued with Stock Purchase Warrants</i> , and any related interpretive guidance. Generally codified under the "General" subheadings throughout ASC 470-20, <i>Debt – Debt with Conversion and Other Options</i> .
Indexation guidance	Guidance considered when determining whether an equity contract or equity-related feature (e.g., conversion and share redemption features) is "indexed to its own stock"; primarily the former EITF 07-5, "Determining Whether an Instrument (or Embedded Feature) Is Indexed to An Entity's Own Stock." Generally codified in ASC 815-40-15.
ISDA (International Swaps and Derivatives Association)	A trade organization of participants in the market for over-the-counter financial instruments. It has created standard contracts (the ISDA Master Agreement, ISDA Equity Definitions, Confirmation) for financial instruments that are frequently used in practice.
Net cash settlement	Upon maturity or upon the exercise by either party to the contract, the party with a loss delivers to the party with a gain a cash payment equal to the gain, and no shares are exchanged.
Net settlement	Upon maturity or upon the exercise of either party to the contract, the contract may be settled net (as opposed to physically settled). Net settlement can include either or a combination of net share settlement or net cash settlement.
Net share settlement	Upon maturity or upon the exercise by either party to the contract, the party with a loss delivers to the party with a gain shares with a current fair value equal to the gain.
Physical settlement	Upon maturity or upon the exercise by either party to the contract, the party designated in the contract as the buyer delivers the full stated amount of cash to the seller, and the seller delivers the full stated number of shares to the buyer. Also referred to as gross settlement or gross physical settlement.
Redeemable securities	Equity instruments may be redeemable at the option of the holder or have redemption provisions that are outside the control of the issuer.

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