4 September 2009

International Accounting Standards Board
30 Cannon Street
London EC4M 6XH

Submitted electronically through the IASB website (www.iasb.org)

Ladies and Gentlemen

Exposure Draft (ED/2009/9) *Classification of Rights Issues* (proposed amendment to IAS 32)

Xstrata plc welcomes the opportunity to comment on the International Accounting Standards Board's Exposure Draft ED/2009/9 *Classification of Rights Issues* (proposed amendments to IAS 32).

We believe the proposed amendment to IAS 32, which specifies the classification of a pro rata rights issue as an equity transaction regardless of the currency in which the exercise price is denominated, is required to avoid misleading users of the financial statements. Consistent with our previous letter to the IASB on this matter in July 2009, we consider that the current requirement under IAS 32 to classify a rights issue as a derivative financial liability when the functional currency of the entity is different to the rights issue denomination currency does not reflect the nature and substance of such a transaction. We have considered ED/2009/9 and have commented below our thoughts regarding such changes to the standard.

1. Specifying the characteristics of the rights issue

We agree that the proposed amendment should apply to instruments (rights) to be offered pro rata to all existing owners of the same class of equity instruments and the exercise price to be a fixed amount of cash in **any** currency.

However, we consider this issue is broader than the narrow scenario proposed in the Exposure Draft. We believe the IASB should expand the exemption to apply to all situations that meet the following criteria:

- a one sided binding offer is made by a Company to issue a fixed number of its own shares or other equity instruments and there is a period of time over which the offer remains open for acceptance;
- the offer can be either to existing or new shareholders; and
- the only possible outcomes under the terms of the offer are either;
  - the issuance of the shares; or
  - the lapsing of the offer.

Consider the following scenario as an example:

- Company A offers to issue new shares in its own equity to shareholders in Company B in exchange for the equity of Company B;

- The offer is binding on Company A;
- There is an offer period of two weeks from the commencement of the offer period; and
- Company A and Company B are listed entities.

These conditions do not satisfy the fixed price criteria of IAS 32 for the transaction to be accounted for as an equity instrument as the value of the consideration will fluctuate with the respective share prices of the acquirer and acquiree. Further, the exemption available under IAS 39.2 (g) (as updated in April 2009) seems not to be applicable in these circumstances as this exemption only applies where there are 'forward contracts between an acquirer and a selling shareholder to buy or sell an acquiree that will result in a business combination at a future acquisition date'. It seems that Company A could therefore be required to apply the requirements of IAS 39 and recognise a derivative financial instrument representing the option issued to Company B shareholders to acquire equity instruments in Company A. The value of such an option would move over the offer period in accordance with respective share prices of Company A and Company B. Under the current requirements of IAS 39, it seems Company A could be required to recognise a derivative at the inception of the offer, with the fair value movements over the offer period being recognised in the income statement. At the end of the offer period, the derivative would be reversed through equity.

In our view the accounting implications of the scenario presented above are similar in nature to those being addressed by the Exposure Draft which is the subject of this letter. The recognition of a derivative liability in these circumstances does not represent the substance of such transactions and is misleading to users of financial statements. In particular, this may result in potentially significant income statement impacts that will never be realised and are simply offset with movements directly in equity. Given the underlying issue relates to the recognition of a derivative financial instrument over an offer period in circumstances where a gain or loss will never impact distributable reserves, we consider it is appropriate for such a scenario to be addressed at this time.

We consider there are two possible ways this situation may be dealt with as follows:

1) The definition of an equity transaction is expanded to include scenarios that meet the above listed criteria; or
2) The exemption currently available under IAS 39.2 (g) is expanded to include all offers over a reasonable period made by an acquirer to the shareholders of a target acquiree that will either result in:
   a. A business combination on acceptance of an offer; or
   b. The lapsing of the offer.

2. Specifying the currency of the exercise price

We agree with the proposed amendment that specifies the fixed amount of cash the entity receives can be denominated in any currency even if the currency is not the entity's functional or reporting currency. We consider that the current requirement of IAS 32 for an entity to recognise a derivative liability where the exercise price of a rights issue is denominated in a different currency to its functional or reporting currency is inherently misleading to users of financial statements, as is the requirement to recognise fair value movements in that liability through the income statement. The proposed amendment to classify rights with such characteristics as equity instruments correctly reflects the nature and underlying substance of such transactions.

3. Retrospective Application

We agree with the requirement that the proposed change should be applied retrospectively. Retrospective application will ensure that the comparatives of all entities that are to be affected by this amendment are presented on a consistent basis. We do not consider the retrospective application of the proposed amendment will be onerous.

We appreciate your allowing us to comment on this Exposure Draft.

Yours sincerely

Trevor Reid
Chief Financial Officer