

## STAFF PAPER

November 2011

## IFRS Interpretations Committee Meeting

<b>Project</b>	<b>IFRIC 15 <i>Agreements for the Construction of Real Estate</i></b>		
<b>Paper topic</b>	Continuous transfer to the customer		
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This paper has been prepared by the staff of the IFRS Foundation for discussion at a public meeting of the IFRS Interpretations Committee. Comments made in relation to the application of an IFRS do not purport to be acceptable or unacceptable application of that IFRS—only the IFRS Interpretations Committee or the IASB can make such a determination. Decisions made by the IFRS Interpretations Committee are reported in *IFRIC Update*. The approval of a final Interpretation by the Board is reported in *IASB Update*.

**Objective of this paper**

1. In July 2008 the IASB issued *IFRIC 15 Agreements for the Construction of Real Estate*, which was effective for annual periods beginning on or after 1 January 2009.
2. The Committee is aware of diversity in applying IFRIC 15 and has received a submission requesting clarification of the notion of ‘continuous transfer of a good’ that is expressed in paragraph 17 of IFRIC 15. This paper discusses the factors that would be considered in assessing whether a good transfers continuously, ie over time, or at a point in time in accordance with IFRIC 15.

**Structure of the paper**

3. The paper is organised as follows:
  - (a) background;
  - (b) property development in different jurisdictions;
  - (c) requirements of IFRIC 15- continuous transfer of a good;
  - (d) satisfaction of the recognition criteria in IAS 18;
  - (e) link with entitlement to consideration in the Board’s revenue project; and
  - (f) staff summary and conclusion.

## Background

4. In July 2008 the IASB issued IFRIC 15 *Agreements for the Construction of Real Estate*. This interpretation addresses two questions:
  - (a) whether an agreement is within the scope of IAS 11 *Construction Contracts* or IAS 18 *Revenue*, and
  - (b) whether an agreement is a construction contract, an agreement for the rendering of services or an agreement for the sale of goods.
5. IFRIC 15 restricts the application of IAS 11 to agreements in which the buyer is able to specify the major structural elements of the design. This restriction affected many multiple-unit developments, such as apartment blocks, because individual buyers within such developments cannot alter the way in which their unit is integrated into the overall design. Consequently, applying IFRIC 15 resulted in many arrangements that had previously been accounted for in accordance with IAS 11 being redesignated as an agreement for the sale of goods in accordance with IAS 18.
6. In accordance with the interpretation, revenue can be recognised on the sale of goods either continuously or at a point in time depending on the criteria stated in paragraphs 16 and 17 of IFRIC 15. The IFRS Interpretations Committee ('the Committee') has received a request asking for clarification of the meaning of 'continuous transfer of a good' referred to in IFRIC 15.
7. In particular the submitter asked the Committee to clarify whether:
  - (a) continuous transfer of control means that the buyer receives control over the part-completed work in progress or the seller loses control and the buyer gains protective rights;
  - (b) control means that the buyer has legal or physical possession of the work in progress while construction takes place; or is it sufficient that the seller is unable to sell the work in progress to anyone else? and
  - (c) the unit of account is each individual unit or the entire block.
8. The topic of unit of account is discussed in paper 5B.

9. In a letter dated 21 July 2011 the Committee received a further request asking for clarification of two points relating to the continuous transfer of control:
  - (a) Do protective rights provided by a government or other authority to the buyer constitute a transfer of control to the buyer?
  - (b) Does the entitlement to consideration as articulated in the board's revenue proposals satisfy the notion of continuous transfer in IFRIC 15?
10. The original request was limited to off-plan sales of real estate. Accordingly, this paper will focus on off-plan sales of individual units in a multi-unit development that is built on land that is initially owned by the developer. The submitters' key question is—when is the sale of these goods recognised continuously?
11. This topic has been discussed twice before by the Committee. In both cases the discussions were inconclusive because the detailed fact-pattern considered varied over the course of the discussions.
12. Accordingly, the staff will discuss the submitters' issues by comparing the typical contract terms in two different jurisdictions - jurisdiction A and jurisdiction B. The contents of this paper have been reviewed by staff at the accounting standard boards in jurisdiction A and in jurisdiction B. The reviewers believe the paper presents a fair representation of the facts relating to typical sales of individual units in multi-unit developments in their jurisdictions.

### **Property development in different jurisdictions**

13. Typically jurisdiction A and jurisdiction B employ very different home building models. In jurisdiction A, a sell-then-build model is used, in which a developer waits until a significant proportion of units are sold, and finance is guaranteed, before work begins. By contrast, in jurisdiction B a developer will generally build the property using their own financing resources, whether through bank debt or internal cash flows, and sell the units off-plan as construction takes place.
14. The way in which the property development sector is regulated also varies.
15. Developers in jurisdiction A are highly regulated and licensed by a local Housing Act. This Act principally scopes in all housing developments in jurisdiction A – commercial development is not governed by the Act. Schedule H to the regulation

to this Act defines the sales and purchase agreement (SPA) that must be used for all sales of buildings intended for subdivision.

16. The effect of these statutory contract terms is to tie the buyer in jurisdiction A into the transaction at signature:
  - (a) The buyer has no right to rescind the contract unless the developer totally fails to perform in respect of any matters arising out of the SPA or the buyer cannot obtain finance.
  - (b) The buyer in jurisdiction A is required to pay throughout the construction process. Payments are made in line with certified stages of progress in accordance with clause 4 to the SPA (Appendix B). Eighty percent of the price is paid to the developer, therefore, before completion of the development. These payments are not refundable.
  - (c) In addition, the Special Relief Act of jurisdiction A provides for specific performance by both parties to the contract in jurisdiction A.
17. The buyer in jurisdiction A is obliged to perform. Many buyers, therefore, obtain a financier's undertaking (FU) that underwrites their payment. The FU is equal to a bank guarantee, performance bond or standby letter of credit. Payment to the developer and completion of the contract in jurisdiction A can be assumed, therefore, because of the irreversible nature of the contract and the certainty of payments.
18. The situation is quite different in jurisdiction B. There are quality-control regulations over building standards but the way in which developers do business is not regulated in the same sense as in jurisdiction A. Standard contract terms exist but these can be varied by either party.
19. The buyer in jurisdiction B is much less tied into the contract. Typically, only a 10 per cent deposit is required at contract inception, with the balance payable on completion. The buyer can choose not to complete the contract, although that will mean forfeiting the 10 per cent deposit. In addition, if the buyer chooses not to complete the developer could sue the buyer for the difference between the ultimate sales price and the original sales price.

20. Compared with jurisdiction A, the developer in jurisdiction B is not as tied into the agreement. Typically contract terms enable the developer in jurisdiction B to terminate the contract without penalty. The developer might want to do this if local building requirements become onerous or off-plan sales of units are too low.
21. In jurisdiction B specific performance may be required by the courts as an equitable remedy if the contract is breached, but it is not required by statute. In practice, a negotiated outcome is normally reached.
22. This paper compares the terms of agreements for the construction of multi-unit real estate in jurisdiction A and jurisdiction B with the criteria in IFRIC 15 paragraph 17 that define when revenue should be recognised continuously.

### **Requirements of IFRIC 15—continuous transfer of a good**

23. The requirements of IFRIC 15 are detailed in paragraphs 24-27 below.
24. As noted in paragraph 5, the sales of individual units within a multi-unit development do not meet the definition of a construction contract in IFRIC 15. They are agreements for the sale of goods as defined by paragraph 16 of the interpretation:

16 If the entity is required to provide services together with construction materials in order to perform its contractual obligation to deliver the real estate to the buyer, the agreement is an agreement for the sale of goods and the criteria for recognition of revenue set out in paragraph 14 of IAS 18 apply.

25. IFRIC 15 (paragraphs 17 and 18) states that these goods can either transfer continuously to the buyer or at a point in time. In drafting IFRIC 15, the committee envisaged that the constructed asset could transfer continuously to the customer in some circumstances.
26. Paragraph 17 of the interpretation contains the principle upon which continuous transfer is based in IFRIC 15, ie that control and the significant risks and rewards of ownership of the work in progress in its current state transfer to the buyer as construction progresses. Paragraph 17 goes on to state:

if all the criteria in paragraph 14 of IAS 18 are met continuously as construction progresses, the entity shall recognise revenue by reference to the stage of completion

using the percentage of completion method. The requirements of IAS 11 are generally applicable to the recognition of revenue and the associated expenses for such a transaction.

27. The criteria in paragraph 14 of IAS 18 that need to be met continuously before revenue is recognised continuously are:

- (a) the entity has transferred to the buyer the significant risks and rewards of ownership of the goods;
- (b) the entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;
- (c) the amount of revenue can be measured reliably;
- (d) it is probable that the economic benefits associated with the transaction will flow to the entity; and
- (e) the costs incurred or to be incurred in respect of the transaction can be measured reliably.

### **Satisfaction of the recognition criteria in IAS 18**

28. The recognition criteria in IAS 18.14 must be met continuously if transfer to the buyer is to be continuous. The criteria that are most troublesome in establishing continuous transfer of a good are IAS 18.14(a) and (b) above:

- (a) significant risks and rewards of ownership
- (b) effective control over goods sold
- (c) continuing managerial involvement to the degree associated with ownership

29. These conditions will be considered separately, using sales terms typical in jurisdiction A and in jurisdiction B, to illustrate the principles involved.

### ***Are the significant risks and rewards of ownership transferred to the buyer as construction progresses?***

30. The significant risks and rewards of ownership of the goods are the rights and obligations that are conferred on the buyer by the sales agreement. These rights and obligations change and develop over time.

#### *Ability to borrow against the work in progress*

31. In the initial stages the rights may be limited to the ability to borrow money against the work in progress.

32. In jurisdiction A the buyer acquires the right to borrow money against the work in progress when the FU is signed. This significant right, and reward of ownership, has transferred to the buyer. As a result of that right, the buyer receives access to finance.
33. At the same time, the developer loses its right to borrow against the asset. Once the FU is signed, any existing charges over the property must be discharged. The developer is prohibited thereafter from mortgaging the land and the developer's lender must disclaim any rights to the land or development.
34. Compare the rights of the buyer in jurisdiction A with the rights of the buyer in jurisdiction B. The buyer in jurisdiction B cannot borrow money against their interest in the transaction. In jurisdiction B, the *developer* can mortgage the land and the construction until the completion date.
35. An assessment of the risk and rewards of ownership will always involve judgement. The lenders in the two jurisdictions have acted differently in making this judgement. The lender in jurisdiction A lends money to the buyer and the lender in jurisdiction B lends money to the developer.

*Risk of non-completion by the developer*

36. The main risk of ownership associated with a part-completed property is the risk of non-completion by the developer. This is a current risk that transfers to the buyer in both jurisdictions.
37. In jurisdiction A, this represents a significant risk because the buyer pays continuously as the construction progresses. Eighty per cent of the sales price is paid to the developer prior to completion.
38. These monies are paid into a separate bank account used by the developer for the expenses of the continuing development under the supervision of the regulator. None of these payments are refundable. If these payments are made by the buyer's lender, they are not subject to the buyer's control. The lender must pay the scheduled amounts when work is certified.
39. Accordingly, in jurisdiction A, the buyer receives a number of rights to protect it from the risk of non-completion by the developer:
  - (a) Developers are regulated.

- (b) Contract terms are standardised by statute.
  - (c) If the developer fails to fulfil its obligations to the buyer the regulator has a wide range of powers under the Act, including the ability to appoint another developer.
40. These rights are protective; they signify that a significant risk has transferred to the buyer. This contrasts with the situation in jurisdiction B, where the risk of non-completion does not present the buyer with the same risks.
41. The buyer in jurisdiction B only pays ten per cent prior to completion and that ten per cent would be refundable if the developer doesn't complete. The risk of non-completion in jurisdiction B is a credit risk – will the buyer recover their deposit? The buyer in jurisdiction A is subject to full performance risk. The buyer is not able to recover its payment, it only has access to the part-completed property.
42. In recognition of the reduced risk to the buyer, in jurisdiction B the only remedy to a developer's default is litigation by the buyer or the appointment of a receiver. There are no protective rights conferred on the buyer in jurisdiction B by a central regulator.

*Other risks and rewards*

43. Some consider that there are many additional risks and rewards that remain with the developer such as the risk of damage, loss and the reward of access. In the staff view these risks and rewards arise because of the developer's managerial involvement rather than the developer's ownership. This managerial involvement is discussed in paragraphs 60-63.

***Is effective control over the goods sold transferred to the buyer continuously as work progresses?***

44. One difficulty in applying this test is that IAS 18 does not define effective control. Many of the characteristics that are associated with 'control' such as legal title or physical possession obviously transfer at a point in time. It is difficult to identify those indicators of effective control of a good that do transfer continuously as envisaged by paragraph 17 of IFRIC 15.



45. Some might think that a party to the sales agreement controls the asset if they have the capacity to use the asset in its existing state. In that case, control of the part-completed asset would be gauged in terms of the nature of the asset as it is created. Title cannot be created, or transferred, until the finished asset itself is created and registered. Similarly, the buyer cannot obtain physical possession until construction is complete, but some aspects of control can transfer to the buyer prior to completion.
46. In some jurisdictions, including jurisdiction A, the concept of strata-titled property is commonplace. Strata title involves the vertical subdivision of land and buildings into lots and common property. The lots comprise the individual units while the common property comprises the land above, below and around the building, as well as common facilities within the building. The lots are effectively parcels of airspace defined on a plan and registered in the local titles office. The common property is everything left after the lots are taken out.
47. This division of the property allows the transfer of two separate interests to the buyer—an interest in the individual unit and an interest in the common parts.

*Legal interest in the land and work and progress*

48. This interest in the common parts gives the buyer in jurisdiction A an interest in the development as soon as the SPA is signed. This interest can be registered by the buyer as a private caveat. The buyer in jurisdiction A can also register an interest in the land by private caveat.
49. These private caveats protect the buyer's rights under the contract and the right to sue for specific performance. This indicates the buyer has a right to the land against the developer. In a local legal case, the Federal Court in jurisdiction A went on to say that as the buyer has the right to caveat he must have a registrable interest and a right to the title to the property. These rights to the development and to the land are enforced by the courts in Jurisdiction A in preference to a chargee's rights.
50. Contrast this with the buyer in jurisdiction B, who cannot register an interest in the land or the development prior to completion as they are not the legal owner of the property. In jurisdiction B the developer's lenders would have preference over the buyer in a winding-up.

*Ability to change the developer*

51. Many consider that the buyer can only control the good (ie work in progress) during development if the buyer can appoint or change the developer. From a practical point of view the appointment of the developer is not something that individual buyers of the units can decide. All units must be built by one developer as part of an overall design. In jurisdiction A, however, the buyers do have some limited control over the appointment of the developer. Five or more buyers may apply to the regulator to assess whether the developer is unable to fulfil its obligations satisfactorily. If the investigation concludes the developer is unable to fulfil its obligations the regulator may appoint another developer.

*Bankruptcy of the developer*

52. What happens to the part-completed development if the developer becomes bankrupt is also considered relevant by many in determining control. The outcome can vary in both jurisdictions depending on the individual facts and circumstances.
53. In jurisdiction B the mortgagee or other creditor of the developer is likely to take over the property and either sell it or employ another developer to complete it in order to recover its loans.
54. In a liquidation in jurisdiction A the buyer has the right to the part-completed unit conferred under the SPA. The liquidator has rights to any receivables, monies, unbilled amounts or unsold units. The liquidator cannot deprive the buyer of the rights conferred under the SPA and will require the buyer's consent to deal with the buyer's unit in the event of sale of the part-completed development to another developer.
55. In the staff's view the buyer's right to the part-completed unit indicates that the buyer controls the work in progress as it is created. This is not the case in jurisdiction B.
56. In these two jurisdictions receivers and liquidators have already been required to assess who owns the work in progress. In the law in jurisdiction A the buyer has the rights to the work in progress. The buyer in jurisdiction B doesn't have the same level of control. Typically they would just receive a refund of their deposit, unless the receiver chooses to complete the project.

*Ability to assign current rights*

57. In jurisdiction A, the buyer has the ability to assign, or sell, the buyer's rights under the sales agreement. The assignment transfers:
- (a) the buyer's current rights, such as the right to borrow against the asset;
  - (b) the buyer's title and interest in the property, evidenced by the private caveat; and
  - (c) the buyer's interest in the sales agreement.
58. Many would conclude that in order to assign or sell an interest in the property and the agreement, that benefit must already have transferred to the buyer.
59. This assignment is different from a buyer selling or assigning its interest in a typical contract in jurisdiction B. In this case, the buyer has no significant *current* rights (no right to borrow money against the property, no right to title) to assign. The right assigned is only an option over the *future* rights conferred by the agreement—a forward contract in effect to buy the completed unit at an agreed price.

***Does continuing managerial involvement to the degree associated with ownership transfer to the buyer as construction progresses?***

60. Many contend that the managerial involvement by the developer is only involvement to a degree associated with the physical aspect of management and not ownership. IFRIC 15 (IE11) notes that in some circumstances the developer may have control over the activities related to the performance of its contractual obligations, but not over the real estate itself.
61. The developer has physical possession and controls access to the site, but does not exercise effective control. The developer cannot make the decisions normally associated with ownership. For example, it cannot sell the unit to someone else or substitute another unit.
62. One indicator of ownership is control of the design. In jurisdiction A the developer cannot change the design after contract signature. In jurisdiction B the developer can change the design, but the buyer's consent is needed if the change is material.

63. The developer's managerial involvement in jurisdiction A arises from its contractual obligation to complete. If the developer defaults in jurisdiction A, the regulator appoints another developer to complete the contract. In jurisdiction B, on the other hand, the developer acts as a principal and if the developer defaults the parties to the sales agreement must resort to litigation unless a receiver is appointed.

***Transfer of protective rights to the buyer***

64. Both submitters queried the effect of the transfer of protective rights to the buyer in determining if control has transferred to the buyer.
65. The staff wonders why the submitters emphasise protective rights. Protective rights are present rights and therefore meet the definition of an asset. Something has transferred to the buyer - although that right may not be very valuable at that stage.
66. Protective rights differ from other present rights because they give the possessor a right to a future action if a certain condition is met. That condition is generally default by the other party and the protective right is invoked when the other party is in default. They protect an entity from default (in contracts) or misfeasance (for investors.) The existence of a protective right does not affect the other party's current rights. The buyer may receive a protective right, but that does not deprive the developer of any right.
67. In the staff view, focusing on protective rights is not helpful in assessing control.
68. The discussions in paragraph 28-63 have focussed on *all* the buyer's present rights to assess when control passes. For control to pass as construction progresses the buyer must control all the significant present rights associated with ownership at each stage in construction.
69. In the staff view, the significance of protective rights transferring to the buyer is that this transfer indicates that the risks and obligations associated with ownership has transferred to the buyer.

## Link with entitlement to consideration in the Board's revenue project

70. The second submitter asked if the entitlement to consideration as articulated in the Board's revenue proposals satisfies the notion of continuous transfer in IFRIC 15. The staff thinks these proposals are relevant as they reflect the board's most recent deliberations on the topic of continuous control. The revenue proposals state that a good or service transfers continuously to the buyer in the following circumstances.

35 An entity transfers control of a good or service over time and, hence, satisfies a performance obligation and recognises revenue over time if at least one of the following two criteria is met:

(a) The entity's performance creates or enhances an asset (for example, work in progress) that the customer controls as the asset is created or enhanced.

(b) The entity's performance does not create an asset with an alternative use to the entity and at least one of the following criteria is met:

(i) The customer receives benefit as the entity performs.

(ii) Another entity would not need to substantially reperform the work the entity has completed to date if that other entity were to fulfil the remaining obligation to the customer.

(iii) The entity has a right to payment for performance completed to date, and the entity expects to fulfil the contract as promised.

71. In jurisdiction A statutory specific performance and the developer's inability to reassign the individual unit indicate that the unit has no alternative use to the developer. In paragraph 38 above, it is clear that the developer is reasonably assured to be entitled to the sales consideration in Jurisdiction A.

72. Consequently, we think that the terms of the sales agreement in jurisdiction A meets the Board's criteria for continuous transfer in the revenue project.

73. We do not think that this is the case in jurisdiction B. The developer in jurisdiction B has no alternative use for the sold units, but it does not have reasonable assurance to entitlement to the consideration. The customer could cancel the agreement at any time, although they would forfeit the deposit and the developer would still be likely to have recourse for breach of contract.

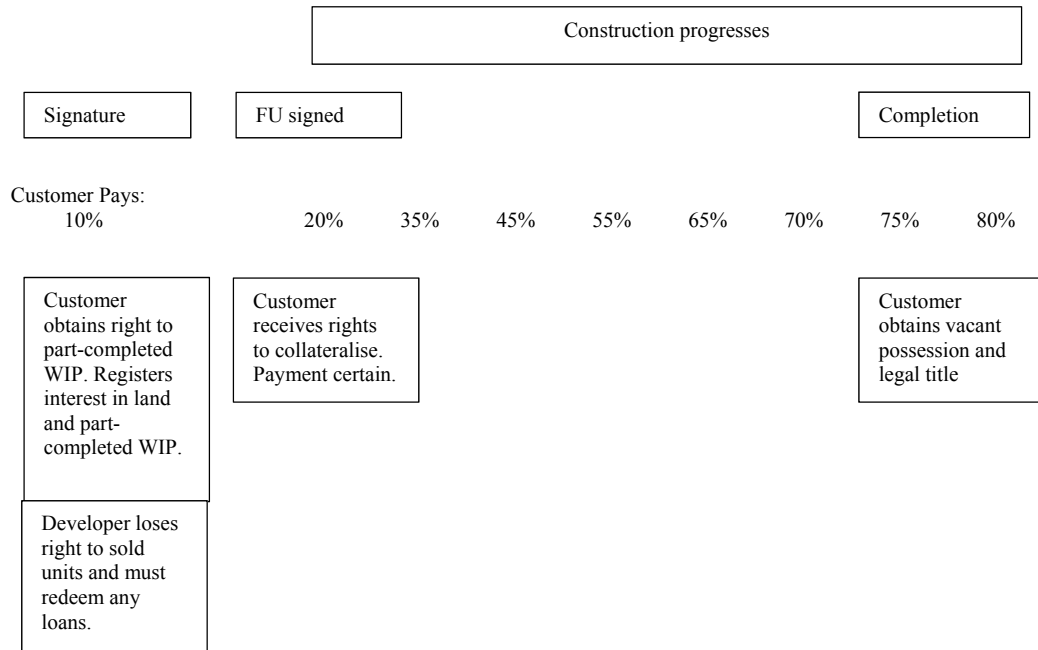
## **Staff summary and conclusion**

74. The submitters requested that the Committee clarify the meaning of ‘continuous transfer of control of a good’ expressed in IFRIC 15 and asked that four specific questions were answered.
75. This paper has tried to answer those questions by comparing the typical terms of the agreements for the construction of multi-unit apartment blocks in two contrasting jurisdictions with the criteria for continuous transfer in IFRIC 15. (Appendix A presents individual answers to the four questions asked.)

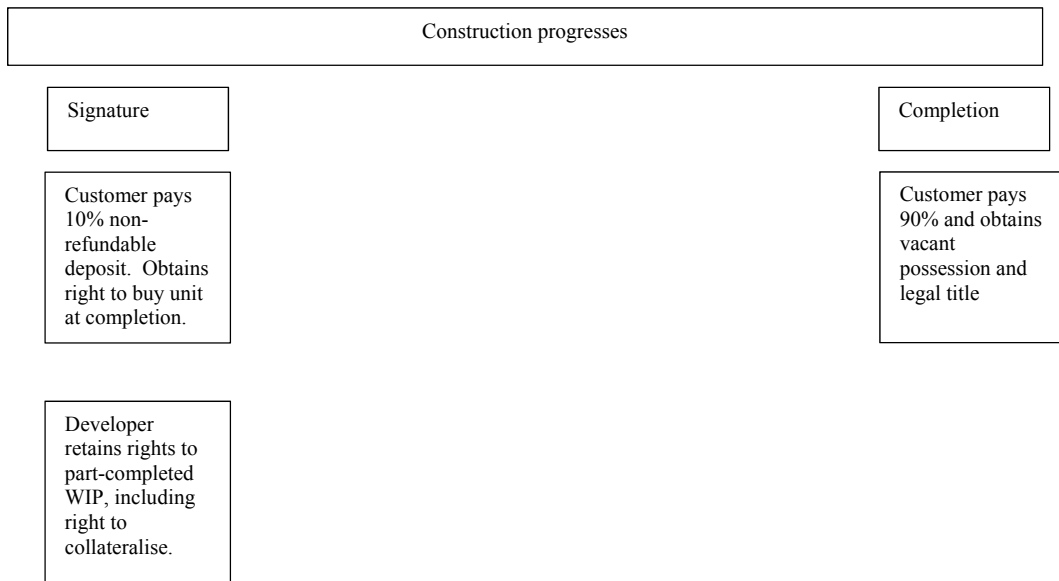
## ***Application of IFRIC 15 to examples from the two jurisdictions***

76. In the staff view the types of sales agreements common in jurisdiction A and jurisdiction B are very different in substance. We believe that by applying the guidance contained in IFRIC 15 it is possible to conclude when transfer of a good is continuous and when transfer of a good occurs at a point in time. The staff recommendation to the Committee is that the work in progress in the example in jurisdiction A transfers continuously to the buyer. In the example in jurisdiction B, the significant risks and rewards of ownership and control referred to in IAS 18 remain with the developer until completion.
77. This is based on a comparison of the transfer of risks and rewards and control of the work in progress in the two jurisdictions as construction progresses:

***Jurisdiction A timeline:***



***Jurisdiction B timeline:***



**Summary and conclusion**

78. In our view, there are numerous factors that are influential in concluding that the transfer of the good to the buyer is continuous in jurisdiction A but at a point in time in jurisdiction B.

79. In jurisdiction A the current risks and rewards of ownership transfer to the buyer continuously. During construction the main risk is that of non-completion and the main reward is the ability to borrow money against the work in progress. In jurisdiction B the risk of non-completion to the buyer is principally a risk of refund. The buyer in jurisdiction B doesn't receive the right to borrow money against the work in progress.
80. In jurisdiction A effective control over the good sold has also transferred to the buyer. The buyer can register its interest in both the development and the individual unit and this interest is recognised at law. The buyer in jurisdiction B doesn't have a legally recognised interest in the development or the land.
81. The buyer in jurisdiction A also has the ability to sell its present rights in the development and the sales agreement. The ability to transfer those present rights indicates that they must already have transferred to the buyer. The buyer in jurisdiction B hasn't acquired these rights and, therefore, has nothing to transfer. It can only sell its interest in the contract – effectively as a forward contract.
82. In both jurisdictions the managerial involvement by the developer typically arises from the physical aspect of management, not ownership. The developer has the right of access to the development, but the decisions associated with ownership of the part-completed development, such as the ability to sell, cannot be made by the developer.
83. In jurisdiction A the buyer is locked into the agreement. The buyer *must* continue to pay as construction progresses and the buyer cannot rescind the contract. After signature of the sales agreement the buyer is required to both pay and complete. Many consider the certainty of transfer and completion of the agreement in jurisdiction A to be an indicator of effective ownership. In jurisdiction B the buyer can choose not to complete the purchase, although they would forfeit their deposit and might be subject to litigation. In addition, the developer can rescind the contract, in effect, by failing to register the plan.
84. The protective rights conferred on the buyer in jurisdiction A by statute and the housing regulator reflect the risks assumed by the buyer. Because the buyer in jurisdiction B is not subject to the same level of risks, the buyer in jurisdiction B does not receive the same level of protection or the same degree of regulation.



85. In both jurisdictions, informed parties have already considered who owns the part-completed work in progress. From a commercial perspective, lenders in jurisdiction A typically lend money to the buyer. In jurisdiction B lenders typically lend money to the developer.
86. From a legal perspective, supported by case law, receivers and liquidators have concluded that the buyer in jurisdiction A has the rights to the part-completed work in progress but that typically the buyer in jurisdiction B does not.

**Question:**

- (a) Do you agree with the view expressed in the paper that the facts are substantially different in jurisdictions A and B?
- (b) Do you agree with the view expressed in the paper that by applying the guidance in IFRIC 15 it is possible to conclude when transfer of a good is continuous and when transfer of a good occurs at a point in time?
- (c) Do you agree that transfer of control to the buyer is continuous in a typical sales agreement in jurisdiction A, but is not continuous in the example quoted for jurisdiction B?

## **Appendix A – Specific questions raised by the submitters**

- A1. The paper discusses the questions raised by the submitters in broad terms. Answers to the specific questions raised are noted below.
- A2. The original submitter asked whether the buyer receives control or whether the developer loses control and the buyer gains protective rights.
- A3. In our view the two are not mutually exclusive. As discussed in the paper, continuous transfer to the buyer occurs when the control and significant risks and rewards of ownership of the work in progress transfer to the buyer as construction progresses. As this takes place the developer loses control, as evidenced by the loss of key rights such as the ability to borrow against the work in progress. Similarly, in paragraphs 64- 69, we suggest that the buyer also gains protective rights as control transfers to protect the buyer to protect them from the risks of non-performance by the developer.
- A4. The original submitter also asked whether the buyer needs legal or physical possession of the work in progress or whether it is sufficient that the developer is unable to sell the work in progress to anyone else.
- A5. It's clear from the discussion in the paper that developers generally cannot sell the work in progress to another buyer after the sales agreement is signed without breaching the agreement. The inability of the developer to sell to another is not indicative that the buyer has gained control. As discussed in paragraph 44, the ability to gain legal or physical possession of the part-completed work in progress is not a characteristic of part-completed work in progress. In our view, the question whether the buyer has gained control is answered by assessing who has the significant risks and rewards of ownership and effective control of the work in progress.
- A6. The second submitter asked whether protective rights provided by a regulator constitute a transfer of control to the buyer. In paragraphs 64-69 we discuss the significance of protective rights in determining if control has transferred to the buyer.

A7. The fourth question asked whether the entitlement to consideration as articulated in the board’s revenue proposals would satisfy the notion of continuous transfer in IFRIC 15. This question is discussed in paragraphs 70- 73.

**Appendix B—payment schedule in jurisdiction A**

The buyer is required to pay as the development work progresses. A typical payment schedule would be:

	Percentage
Signature	10.0
Foundations	10.0
Framework	15.0
Walls	10.0
Roofing, wiring, plumbing	10.0
Internal and external finishes	10.0
Sewerage	5.0
Drains	5.0
Roads	5.0
Vacant possession	12.5
Acceptance	2.5
Eight months after possession	2.5
Twenty-four months after possession	2.5