

Project **IFRS Interpretations Committee Work In Progress**

Topic **Outstanding issues list**

Introduction

Objective of this paper

1. The objective of this paper is to update the Committee on the current status of issues that are yet to be discussed by the Committee and the progress made by the staff.
2. The following submissions have been received by the staff and will be discussed at a future meeting:

Ref.	Topic	Brief description	Progress
IFRS 2-15	Share-based payment awards settled net of tax withholdings	Request for clarification on classification of a share-based payment transaction in which the entity is required by law to withhold for tax purposes a specified portion of the shares that would otherwise be issued to the counterparty upon exercise (or vesting) of the share-based payment award. The withheld portion of the award is remitted in cash to the tax authority.	Comments received on the tentative agenda decision were discussed at the November 2010 meeting. The staff are preparing examples for further discussion at the March 2011 meeting.

This paper has been prepared by the technical staff of the IFRS Foundation for discussion at a public meeting of the IFRS Interpretations Committee.

The views expressed in this paper are those of the staff preparing the paper. They do not purport to represent the views of any individual members of the IFRS Interpretations Committee or the IASB. 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*.

Interpretations are published only after the IFRS Interpretations Committee and the Board have each completed their full due process, including appropriate public consultation and formal voting procedures. The approval of an Interpretation by the Board is reported in *IASB Update*.

IASB Staff paper

IFRIC 15-2	Clarification of 'continuous transfer'	Request for clarification of the meaning and application of the concept of continuous transfer in the context the sale of apartments off plan. The submission refers to concerns of diversity in practice in the application of the concept of continuous transfer.	The staff are in the progress of concluding their research and analysis of this issue and expect to present it at a future meeting. See Appendix A for an extract of the submission received.
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3. This paper does not include requests on issues that are still at a preliminary research stage, including where further information is being sought from the submitter, or other parties, to define more clearly the issue.

Question

Does the Committee have any questions or comments on the Committee Outstanding Issues List?

Appendix A – Interpretations Committee potential agenda item request – Clarification of ‘continuous transfer’

Extract from submission

1. The submission describes the concept of continuous transfer contained in IFRIC 15 *Agreements for the Construction of Real Estate* and goes on to provide the following examples of diversity in application of this concept:

The following serves to identify potential interpretations we are aware of, but more interpretations may be around:

1. Some would argue that continuous transfer of control to the buyer means that the buyer must have legal title to the work in progress. This is based on IE8 where the only variable that is changed from the fact pattern in IE6 (resulting in no continuous transfer of control) to the fact pattern in IE8 (resulting in continuous transfer of control) is the fact that the buyer in the jurisdiction requires the seller to transfer immediately to the buyer ownership of the real estate in its current state of completion and that any additional construction becomes the property of the buyer as construction progresses.
2. Others would argue that besides legal title there may be other ways in which a buyer can receive control over the work in progress while construction progresses, for example such that if the agreement is terminated before construction is completed, the buyer retains the work in progress and the seller has the right to be paid for the work performed. This is based on the third sentence of IE8 and on the fact that legal title may just be one way of having control.
3. Some would go further and consider that as long as the protective rights of the buyer are such that control rests no longer with the seller, the criteria of continuous transfer are met. For example, if seller would fail to meet its obligation, buyer would not own the work in progress, but the state or some other agency would step in and decide about the next steps. So it would not be necessary for control to be transferred to the buyer, as long as control does not entirely rest with the seller and there are sufficient protective rights of buyers, seller can claim they transfer control continuously while construction progresses.
4. Another view would be that continuous transfer can never take place in the case of individual units in a block of apartments since for sheer technical reasons alone, the foundation and the first floor must be built first before construction on the third floor for example can even begin. The margin on the sale of units on the first floor may be significantly different from those

IASB Staff paper

on the 15th floor. Continuous transfer would therefore mean that all agreements with all buyers are being considered one unit of account which is inconsistent with IAS 18 as they are not negotiated as one contract

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We are aware of the fact that the IASB is finalising a standard on revenue recognition which contains the notion of continuous transfer of control. Analogising to the new standard seems inappropriate as that standard intends to apply one model to all sources of revenue, sale of goods and rendering of services and continuous transfer of control would apply to contracts which are currently specifically dealt with in IAS 11. This probably explains why the indicators of continuous transfer of control in the ED contains notions that go beyond the indicators in the illustrative example in IFRIC 15 and seem to be taken from IAS 11, for example whether the buyer has a significant say in the design of the asset. So on the one hand this means it is probably inappropriate to analogise to the ED. On the other hand, the problems encountered when applying IFRIC 15 may also surface when applying the final revenue recognition standard if issued on the basis of the ED. We also note that it may be 4 years before that standard becomes mandatory, even if analogised to.

We would ask the Committee to clarify whether:

- (a) continuous transfer of control means that (i) the buyer actually receives control over the work in progress while construction takes place, or (ii) that the seller loses control and buyer receives protective rights while actual transfer only takes place at the completion; and
- (b) control means (i) that the buyer has or takes possession of work in progress while construction takes place, or (ii) that it is sufficient that the seller is unable to sell the work in progress to anyone else
- (c) whether the unit of account for determining whether control transfers continuously while construction takes place is each individual apartment in a block of apartments, or the whole of all apartments sold