

# Accounting Standards Board

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Avenue Des Arts 13-14

1210 Brussels

Belgium

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Dear Sirs

## **D21 'Real Estate Sales'**

I am writing to give the views of the ASB's Urgent Issues Task Force (UITF) on EFRAG's draft comment letter to the IFRIC regarding D21. The UITF is also responding to the IFRIC directly and a copy of its comment letter is attached to this letter.

EFRAG's comment letter is lengthy and detailed. As a consequence the UITF has a concern that the important issues that EFRAG wishes to raise with the IFRIC may not be highlighted sufficiently. The UITF suggests that where possible the language in the letter is condensed. In addition, the UITF suggests that the matters raised are categorised between those EFRAG considers it is essential to address and other matters it might wish to raise which seek to improve the clarity of matters in the draft Interpretation.

In paragraph 4 of its letter EFRAG notes it supports IFRIC in its efforts to provide interpretative guidance but has several significant concerns regarding the proposals in D21. The UITF agrees with EFRAG's concern about the wider implications of the consensus. However, the UITF does not consider it would be practicable for IFRIC to develop generic principles. The UITF considers an alternative approach would be for IFRIC to review the wider implications of the draft Interpretation and then either restrict the scope of D21 by stating the Interpretation should not be applied in providing general guidance as to the demarcation of sales agreements between IAS 11 and IAS 18 or reconsider its decision to issue D21.

The UITF has set out its concerns regarding the other matters EFRAG has raised in its draft comment letter in an appendix to this letter.

Should you wish to discuss the matters please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Mackintosh', written in a cursive style.

**Ian Mackintosh**

Chairman

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## **Appendix One – Detailed comments on EFRAG comment letter to IFRIC**

### **Paragraphs 3 - 12**

1. In paragraph 4 of Appendix one the UITF notes that EFRAG's interpretation of paragraph 8 of the consensus is "*if and only if*" there is an agreement for the seller to provide construction services to the buyer's specification. Therefore EFRAG considers the consensus to be restrictive. The UITF considers that the IFRIC should clarify the meaning of paragraph 8. That is, it should clarify whether sale agreements meet the definition "*if*" or "*if and only if*". In the absence of this clarification it is difficult to determine if IFRIC's intention was for the consensus to be restrictive.
2. In paragraph 6 it is stated that EFRAG would not support a limitation to the scope of IAS 11 *in any manner* (emphasis added). Although in paragraph 5, some of the concerns regarding the reference to construction services are discussed EFRAG's reasons for objecting to restricting the scope of IAS 11 are not stated. The UITF considers EFRAG should identify its reasons for not supporting a limitation to the scope of IAS 11.
3. In relation to paragraph 8, it is noted that the first reference within existing IFRS to 'buyer's specification' is set out in D21 and hence 'buyer's specification' is not presently a requirement of IFRS. However in paragraph 9 it is noted that some EFRAG members believe that the 'buyer's specifications' criterion is an interpretation of a 'construction contract' being specifically negotiated. The UITF considers these paragraphs conflict.
4. As regards the discussion regarding buyer's specification, similar to some EFRAG members, the UITF is of the view that buyer's specification criterion is a reference to 'specifically negotiated'. Some of the UITF members considered that reference was being made to bespoke sales agreements. It was also noted that the draft consensus could perhaps be improved if a link was made between assets of a bespoke nature where there was more likely to be a continuing transfer of risks and rewards in contrasted to generic goods where risk and reward is more likely to transfer at a single point in time.

### **Paragraphs 12 - 16**

5. In this section of its draft comment letter EFRAG sets out its concerns regarding the features that are proposed in D21 paragraphs 9 to 10 of the consensus. The UITF agrees with many of the points raised by EFRAG in this section of the comment letter. However, the UITF views the problem arises because paragraphs 8 and 9 of the consensus have not been linked together effectively.

The UITF is recommending that IFRIC reviews the drafting of paragraphs 8 and 9.

6. In the UITF's view paragraph 8 contains two criteria: 'construction services' and 'buyers specification'. The UITF is of the view that paragraph 9(a) might link to buyer's specification – that is the buyer being able to specify the major structural elements. It therefore considered that paragraph 9(b) might have been intended to link to the requirement for the agreement 'construction services'.
7. In relation to paragraph 9(b) the UITF thought that this paragraph was possibly attempting to articulate the view that sales agreements for bespoke goods often feature control and the significant risk and rewards being transferred during the course of construction. This fact pattern is more typical for construction of "bespoke goods" in contrast to "generic goods". The UITF considered that, if this was the IFRIC's view, the drafting of paragraph 9(b) should be reviewed such that this feature is articulated clearly.
8. Whilst the UITF support the comments made it considers that the recommendation made by EFRAG in paragraph 16, that a clear and unambiguous principle is required, may not be achievable. The UITF therefore recommends an alternative approach. It considers that:
  - (a) the drafting in paragraphs 8 and 9 should be improved. In the first instance the UITF considers that a "link" between requirements in paragraph 8 and the features in paragraph 9 should be made;
  - (b) the features should be specifically restricted to real estate sales, that is it should be explicitly noted that the features may not exist in other contracts;
  - (c) BC5 provides useful information regarding the IFRIC analysis and that some of the information in BC5 could more usefully be brought into paragraphs 8 and 9; and
  - (d) D21 should explain that were there is an agreement for construction services then this will be of a bespoke nature whereby risks and rewards are transferred as the contracts progress.

### **Paragraphs 17 - 19**

9. In relation to the withdrawal of example 9 from IAS 18, the UITF is of the view that it is not helpful for preparers to have guidance contained in a number of accounting standards and therefore supports the approach adopted by IFRIC.
10. In paragraph 18 EFRAG requests IFRIC to explain in more detail how the guidance in D21 replaces the guidance in that paragraph 1 of example 9 to IAS 18. The UITF notes that BC10 explains how D21 replaces the example. The UITF considers that if EFRAG wishes to raise this matter it should request greater detail is provided in paragraph BC10.

### **Paragraphs 20 -22**

11. The UITF agrees that paragraph BC19 might imply a free choice for the accounting of remaining obligations and proposes this could be addressed through improved drafting.
12. The UITF also agrees that the examples in paragraph 14(a) are not helpful. The UITF considers, however, that the matter could be addressed through improved drafting rather than articulation of a principle.

### **Paragraphs 23 to 28**

13. As discussed above the UITF is in agreement with EFRAG's concerns regarding the scope of the Interpretation.