MINISTERIO
DE ECONOMÍA Y
COMPETITIVIDAD

INSTITUTO DE CONTABILIDAD
Y AUDITORÍA DE CUENTAS

ED/2012/6
ED Sale or Contribution of Assets between
an Investor and its Associate or Joint Venture
Comment Letters
European Financial Reporting Advisory Group
35 Square de Meeûs
Brussels B-1000
Belgium

Dear Sir/Madam,

In the present letter ICAC gives its view on EFRAG's Draft Comment Letter on IASB´s ED Sale or Contribution of Assets between an Investor and its Associate or Joint Venture (Proposed amendments to IFRS 10 and IAS 28).

In general terms we agree with the views expressed by EFRAG on its Draft Letter, nevertheless we would like to point out some observations regarding proposed amendments to **IFRS 10 and IAS 28**:

Question 1: proposed amendment to IFRS 10

The IASB proposes to amend IFRS 10 so that the gain or loss resulting from the sale or contribution of a subsidiary that does not constitute a business, as defined in IFRS 3, between an investor and its associate or joint venture is recognized only to the extent of the unrelated investors' interests in the associate or joint venture. The consequence is that a full gain or loss is recognized on the loss of control of a subsidiary that constitutes a business, as defined in IFRS 3, including cases in which the investor retains joint control of, or significant influence over, the investee.

Do you agree with the amendment proposed? Why or why not? If not, what alternative do you propose?

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EFRAG agrees that there is an inconsistency between IAS 28 and IFRS 10 and supports the IASB's efforts to provide a short-term solution to remove diversity in practice. However, EFRAG has a number of concerns about the proposed amendments.

ICAC's comments:

The IASB proposes to amend paragraph 26 of IFRS 10 and add paragraph B99A to require partial gain or loss recognition when an investor contributes or sells a subsidiary that does not constitute a business to an associate or joint venture, recognizing only a gain or loss to the extent of the unrelated investors' interests in that associate or joint venture.

ICAC is concerned about the fact that the ED bases the accounting proposed on whether the subsidiary that is being sold or contributed constitutes a business or not. Applying the definition of a business in IFRS 3 requires considerable judgment. From our point of view, there is a lack of enough arguments on the ED that support the solution proposed, based on the definition of a "business", which is very indeterminate legal concept.

We agree with EFRAG when it states on it paragraph 12 that it should be explained *"why the IASB believes it is appropriate that only sales and contributions of businesses to an associate or joint venture should result in full recognition of a gain or loss, even if this creates an exception from the requirements of paragraph 25 of IFRS 10".*

ICAC is of the view that if amendments proposed are sustained by the idea that the only difference between a business and a non-business is "goodwill", then the IASB should explain more widely that idea. At present, full recognition of gains or losses is based on the loose of control of the *"subsidiary"* by the group independently whether it is a business or not. Apart from that, for general transactions between an entity (including its consolidated subsidiaries) and its associate or joint venture, gains and losses resulting from 'upstream' and 'downstream' operations are recognized in the entity's financial statements only to the extent of unrelated investors' interests in the associate or joint venture. In case of 'Downstream' transactions, for example, sales or contributions of assets from the investor to its associate or its joint venture, the investor's share in the associate's or joint venture's gains or losses resulting from these transactions is eliminated, no matter the asset is a business or not.

Question 2: proposed amendment to IAS 28 (2011)

The IASB proposes to amend IAS 28 (2011) so that:

(a) the current requirements for the partial gain or loss recognition for transactions between an investor and its associate or joint venture only apply to the gain or loss resulting from the sale or contribution of assets that do not constitute a business, as defined in IFRS 3; and

(b) the gain or loss resulting from the sale or contribution of assets that constitute a business, as defined in IFRS 3, between an investor and its associate or joint venture is recognized in full.

Do you agree with the amendment proposed? Why or why not? If not, what alternative do you propose?

EFRAG believes that the IASB has insufficiently articulated why it believes that the current requirement in paragraph 28 of IAS 28 to recognise partial gains or losses should only apply to transactions involving assets that do not constitute a business.

ICAC's Comments:

As noted above, we believe that the ED puts considerable stress on the definition of a business, which is something the IASB should specifically consider when finalizing the ED.

Current general rule of IAS 28 requires that gains and losses resulting from 'upstream' and 'downstream' transactions should be recognized only to the extent of the unrelated investors' interests in the associate or joint venture, regardless of whether they involve assets or businesses. We believe that different accounting treatment of gains and losses resulting from these transactions, as proposed by the ED, should not be based on whether the asset is a business or not. This case should not be an exception from the

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general rule of recognizing gain and losses only to the extent of the unrelated investors' interests in the associate or joint venture as covered by IAS28 when it refers to "transactions" between the entity and its associate or joint venture. Therefore we are of the view that generally the investor's share in the associate or joint venture's gains or losses resulting from these transactions is eliminated, unless control of a subsidiary is lost.

Question 3: Transition requirements

The IASB proposes to apply the proposed amendments to IFRS 10 and IAS 28 (2011) prospectively to sales or contributions occurring in annual periods beginning on or after the date that the proposed amendments would become effective.

Do you agree with the proposed transition requirements? Why or why not? If not, what alternative do you propose?

EFRAG agrees that the proposed amendments should be applied prospectively

ICAC's Comments:

ICAC agrees that the proposed amendments should be applied prospectively.

Finally we agree with EFRAG when it states on its paragraph 29 that the IASB has not addressed the issue of sales and contributions of assets between an investor and its associate or joint venture, from the separate financial statements' point of view; and with paragraphs 33 and 34 when saying that the proposed amendments do not specifically state how an investor should treat any amounts that are recorded in other comprehensive income that relate to the subsidiary being sold or contributed to an associate or joint venture

Please don't hesitate to contact us if you would like to clarify any point of this letter,

Yours sincerely,

Ana Mª Martínez-Pina

Chairman of ICAC

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