

STAFF PAPER

March 2018

IFRS Interpretations Committee Meeting

Project	Right to payment for performance completed to date (IFRS 15)		
Paper topic	Agenda decision to finalise		
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Introduction

1. The purpose of this paper is to provide the IFRS Interpretations Committee (Committee) with an analysis of the comments received on its tentative agenda decision published in November 2017 titled ‘Right to payment for performance completed to date’.
2. The Committee received a submission asking about the application of paragraph 35(c) of IFRS 15 *Revenue from Contracts with Customers* to a fact pattern in which:
 - (a) an entity and a customer enter into a contract for the sale of a real estate unit in a residential multi-unit complex before the entity constructs the unit. The entity’s obligation under the contract is to deliver the completed real estate unit as specified in the contract.
 - (b) the customer pays 10% of the purchase price for the real estate unit at contract inception, and pays the remainder of the purchase price to the entity after construction is complete.

- (c) the customer has the right to cancel the contract at any time before construction is complete. If the customer cancels the contract the entity is legally required to make reasonable efforts to resell the real estate unit to a third party. On resale, the entity enters into a new contract with the third party—ie the original contract is not novated to the third party. If the resale price to be obtained from the third party is less than the original purchase price (plus selling costs), the customer is legally obliged to pay the difference to the entity.
3. Specifically the request asked whether, in the fact pattern in the submission, the entity has an enforceable right to payment for performance completed to date as described in paragraph 35(c) of IFRS 15.
4. In its tentative agenda decision the Committee observed that the principle in paragraph 31 of IFRS 15 for the recognition of revenue is about the relationship between the entity and the customer. The Committee also observed that the objective in applying paragraph 35(c) is to assess whether the customer obtains control of the real estate unit as it is being constructed. It is therefore the payment the entity is entitled to receive from (or on behalf of) the customer relating to performance under the contract with the customer that is relevant in determining whether the entity has a right to payment for performance completed to date.
5. In addition, the Committee observed that the nature of the payment from the customer to which the entity has a right under the contract is a payment for the difference between the resale price and the original purchase price (plus selling costs). Accordingly, the entity has a right to compensation for loss of profit on termination of the contract—it does not have an enforceable right to payment for performance completed to date as described in paragraph 35(c).

Comment letter summary

6. As noted in Agenda Paper 2A, the Committee received nine comment letters on this tentative agenda decision. The comment letters are available on our [website](#). We have also been made aware of an alternative view, which is explained in paragraphs 23-24 of this paper.

7. Five of the nine respondents (the ASBJ, the ASCG, Deloitte, the ANAN and Mazars) say they agree, or do not disagree, with the Committee’s technical conclusion regarding the application of paragraph 35(c). Deloitte and Mazars, nonetheless, suggest changes to the wording of the tentative agenda decision.
8. The ASBJ, the ASCG and the OIC each have concerns about the Committee providing answers for specific fact patterns—Agenda Paper 2B discusses these concerns.
9. A group of Norwegian real estate developers, Orange and the alternative view disagree with the Committee’s technical conclusion. The KASB raise concerns about some aspects of the tentative agenda decision.
10. The Norwegian real estate developers also say in their view financial statements will provide less useful information if, in the fact pattern in the submission, entities are required to recognise revenue at a point in time rather than over time. Agenda Paper 2B discusses this concern.
11. The remainder of this paper is organised as follows:
 - (a) Fact pattern (paragraphs 14–19)
 - (b) Technical conclusion (paragraphs 20–33);
 - (c) Staff recommendation (paragraphs 34); and
 - (d) Wording of the agenda decision (paragraphs 35–41).
12. Paragraphs 20–33 of the paper discuss comments that relate directly to the Committee’s technical conclusion in the tentative agenda decision. Appendix A to this paper includes additional detailed comments made by respondents, and the staff analysis of those comments. Those additional comments relate to (a) implications of the Committee’s technical conclusion, and (b) implications of what was said in [Agenda Paper 2B](#) to the Committee’s November 2017 meeting.
13. The paper has two other appendices:
 - (a) Appendix B includes the proposed wording of the agenda decision; and
 - (b) Appendix C includes a ‘clean’ version of the proposed agenda decision, with no mark-up.

Fact pattern

Respondents comments

14. The Norwegian real estate developers say they disagree with the characterisation of the fact pattern in the November 2017 staff paper as the entity having a right to obtain from the customer any shortfall between the resale price and the original purchase price of the real estate unit. They say the customer's financial obligation is for the full original sales price, but the customer is entitled to the realised resale price—the potential shortfall payment is merely a settlement mechanism. In their comment letter, they say the submission clarified that the original customer is financially liable for the full sales price, and refer to the opening paragraph of the submission that said 'the issue is whether the "enforceable right to payment" criterion in IFRS 15.35(c) is met in a situation in which the seller is entitled to receive the full amount of the transaction price, but the payment may ultimately be fully or partially collected from a party other than the original customer'.

Staff analysis

15. We note that the opening paragraph of the submission (quoted in the comment letter from the Norwegian real estate developers) did not say that the customer is obliged to pay the full original sales price but is entitled to the realised resale price. Instead, it noted that the entity is entitled to receive the full original sales price, but that payment may be fully or partially made by a party other than the original customer. We think it would be misleading to say that the customer is entitled to the realised resale price. This is because, in the event that the resale price is more than the original sales price (plus selling costs), the customer is not entitled to any of the excess and thus is not entitled to all of that resale price.
16. We also note that in the section titled 'Description of facts and circumstances', the submission to the Committee said [**emphasis added**]:

In the event of cancellation by the customer, the developer is entitled to the original sales price for the completed residential unit, plus costs arising due to the cancellation. The Act establishes a settlement mechanism under which

the developer must make reasonable efforts to resell the specific residential unit in full or partial settlement of the customer's financial obligation. **The customer must pay to the developer the total shortfall between the resale price and the originally agreed sale price, as well as sale and marketing costs, interest, etc.** Through cancellation, the customer surrenders all rights to any upside.

17. We think that the point the Norwegian real estate developers wish to emphasise is that the entity has an enforceable right to ultimately receive at least the original sales price in the contract; it's just that part or all of the amounts ultimately received may come from a party other than the original customer.
18. In the tentative agenda decision, this aspect of the fact pattern has been described as [**emphasis added**]:

the customer has the right to cancel the contract at any time before construction is complete. If the customer cancels the contract:

i. the entity is legally required to make reasonable efforts to resell the real estate unit to a third party. On resale, the entity enters into a new contract with the third party—ie the original contract is not novated to the third party. **If the resale price to be obtained from the third party is less than the original purchase price (plus selling costs), the customer is legally obliged to pay the difference to the entity.**

19. Accordingly, we think this aspect of the fact pattern is appropriately described in the agenda decision.

Technical conclusion

Respondents comments

20. The Norwegian real estate developers, Orange and the alternative view all disagree with the Committee's conclusion regarding the entity's right to payment for performance completed to date.
21. The Norwegian real estate developers say the analysis of paragraph 35(c) should be based on the entity's right to be compensated for its performance in constructing the unit, without regard for how the entity will be compensated or who will pay the compensation. They say paragraph 35(c) should be considered from the entity's perspective and, thus, the criterion should be met if the entity has an enforceable right to receive the full amount of the transaction price in the contract. They note that this is the case in the fact pattern in the submission. In their view, the tentative agenda decision is overly focussed on who will make the payment, rather than the entity's right to the payment and its enforceability.
22. Orange disagrees with the Committee's conclusion for similar reasons. It says the Committee and the submission overlooks the mechanism of the cancellation. In Orange's view, the entity retains its commitment to construct the real estate unit for the customer, and retains its right to the payment of the original sales price from the customer, until the signing of any new contract with a third party after cancellation by the customer.

Alternative view

23. We have been made aware of an alternative view on this matter. That alternative view disagrees with the Committee's conclusion outlined in the tentative agenda decision for the following reasons:
 - (a) to reach its conclusion, the alternative view says the Committee focused on who the entity receives payment from, not on the rights to payment originated by the contract signed with the first customer. This focus is absent from the requirements identified as relevant to the fact pattern, ie paragraphs 35(c), 37 and paragraphs B9–B11. It is derived from what the alternative view says is an inappropriate interpretation of the

requirements in paragraph 31 of IFRS 15. Paragraph 31 does not refer ‘to the relationship between the entity and the customer’; rather, it requires an entity to recognise revenue when it transfers a promised good or service to a customer, ie sets the main principle in IFRS 15.

- (b) when applying paragraphs 37 and B9–B11, the alternative view says:
- (i) once the contract is signed, the entity acquires an enforceable right to receive the agreed selling price in all possible outcomes of the contract and, thus, paragraph 37 is satisfied at all times;
 - (ii) whether in taking delivery of the unit or in requiring that a second customer be identified and bearing the related selling cost, the customer is the party that gives economic substance to the right to receive the agreed selling price;
 - (iii) the customer is the only party that has the right to choose the outcome; and
 - (iv) in contrast with the Committee’s conclusion, the amount that the customer has to pay when deciding not to take delivery of the unit is to secure the right to payment of the entity to the agreed selling price in full, not merely compensation for loss of profit.

24. The alternative view, therefore, thinks that considering the contracts as separate contracts focuses on the legal form, rather than the substance, of the transaction. The second contract (with the third party) is a separate contract by its legal form, and the first contract (with the customer) is also terminated from a legal form standpoint. In substance, however, the effects of the first contract continue from the perspective of the entity—the same unit is sold with no alternative use, and the entity’s right to payment is for no less than the original price.

Staff analysis

25. Paragraph 37 of IFRS 15 says:

An entity shall consider the terms of the contract, as well as any laws that apply to the contract, when evaluating whether it has an enforceable right to payment for performance completed to date in accordance with paragraph 35(c). The right to payment for performance completed to date does not need to be for a fixed amount. However, at all times throughout the duration of the contract, the entity must be entitled to an amount that at least compensates the entity for performance completed to date if the contract is terminated by the customer or another party for reasons other than the entity's failure to perform as promised. Paragraphs B9–B13 provide guidance for assessing the existence and enforceability of a right to payment and whether an entity's right to payment would entitle the entity to be paid for its performance completed to date.

26. Paragraph B9 explains in more detail the meaning of compensation for performance completed to date:

...An amount that would compensate an entity for performance completed to date would be an amount that approximates the selling price of the goods or services transferred to date (for example, recovery of the costs incurred by an entity in satisfying the performance obligation plus a reasonable profit margin) rather than compensation for only the entity's potential loss of profit if the contract were to be terminated...

27. In the fact pattern in the submission, the customer is able to cancel the contract for reasons other than the entity's failure to perform as promised. Accordingly, the entity assesses whether, at all times throughout the duration of the contract, it is

entitled to an amount that at least compensates it for performance completed to date if the contract were to be cancelled.

28. We agree with respondents that the assessment of paragraph 35(c) is from the entity’s perspective—an entity assesses whether it has an enforceable right to payment for performance completed to date. We also understand that in the fact pattern in the submission, the entity has an enforceable right to ultimately receive at least the original purchase price in the contract. Nonetheless, we think the entity does not have an enforceable right to payment for performance completed to date as described in paragraph 35(c), for the reasons explained in the following paragraphs.

29. If the customer were to cancel the contract, the entity must make reasonable efforts to resell the contract to a third party under a new contract. The entity is entitled to compensation related to the contract with the customer calculated as the original sales price for the real estate unit less the resale price (plus selling costs). At any time, the amount of compensation the entity is entitled to under the contract varies depending on the resale price of the real estate unit. This could be less (or more) than compensation for performance completed to date (ie it could be less (or more) than an amount that approximates the selling price of the part-constructed unit at the time of cancellation). In our view, therefore, the entity is not entitled to an amount that at least compensates it for performance completed to date at all times throughout the duration of the contract if the contract were to be cancelled. Accordingly, in the fact pattern in the submission we think the criterion in paragraph 35(c) is not met.

30. The Committee’s conclusion in the tentative agenda decision clarified how to read the phrase ‘performance completed to date’ in paragraphs 35(c) and 37. The Committee said performance must be in the context of the existing contract with the customer—accordingly, the entity’s right to payment on cancellation must relate to performance under that existing contract with the customer. The Committee said the consideration that the entity receives from the third party in the resale contract is consideration relating to that resale contract—it is not payment for performance under the contract with the customer.

31. Consequently, we think it is inappropriate to consider the two separate contracts (the original contract and the resale contract) together when assessing whether the entity has an enforceable right to payment for performance completed to date. We note that paragraph 17 of IFRS 15 includes requirements for when an entity combines separate contracts and accounts for them as a single contract. Those requirements apply to contracts that are entered into at or near the same time, with the same customer (or related parties of the customer), provided that one or more of three specified criteria are met. In the fact pattern in the submission, the contracts are entered into at different times and with different counterparties. We see no basis on which to consider these contracts as one contract for the purpose of applying IFRS 15.
32. We agree with respondents that IFRS 15 does not require that the customer must directly make the payment to which the entity is entitled on cancellation and, thus, we agree that the source of the payment does not matter per se. What is important, however, is that the payment to which the entity is entitled on cancellation relates to performance under the contract with the customer, and not to performance under a different contract.
33. In our view, this conclusion is supported by the following:
- (a) the underlying objective of paragraph 35(c) as described in paragraph BC143. Paragraph BC143 notes that [**emphasis added**] ‘the underlying objective of the criterion is to determine whether the entity is transferring control of goods or services **to the customer** as an asset is being created for **that customer**’.
 - (b) paragraph BC142, which in explaining the Board’s decision to develop the criterion in paragraph 35(c) says [**emphasis added**]:

The boards decided that there is a link between the assessment of control and the factors of no alternative use and a ‘right to payment’. This is because if an asset that an entity is creating has no alternative use to the entity, the entity is effectively constructing an asset at the direction of the customer. Consequently, the entity will want to be economically protected from the risk of the customer

terminating the contract and leaving the entity with no asset or an asset that has little value to the entity. That protection will be established by requiring that **if the contract is terminated, the customer must pay for the entity’s performance completed to date**. This is consistent with other exchange contracts in which a customer would typically be obliged to pay only if it has received control of goods or services in the exchange. Consequently, **the fact that the customer is obliged to pay for the entity’s performance (or, in other words, is unable to avoid paying for that performance) suggests that the customer has obtained the benefits from the entity’s performance**.

- (c) the words in paragraph B9(a). In describing the compensation to which an entity must be entitled, paragraph B9(a) refers to compensation ‘for a proportion of the expected profit margin in the contract that reasonably reflects the extent of the entity’s **performance under the contract** before termination..’ [**emphasis added**].

Staff recommendation

- 34. Based on our analysis in paragraphs 25–33 of this paper, we recommend confirming the tentative agenda decision published in [IFRIC Update](#) in November 2017. If the Committee agrees with our recommendation, the next section of the paper discusses and suggests some improvements to the wording of the tentative agenda decision.

Question 1 for the Committee

1. Does the Committee agree with our recommendation to finalise the agenda decision?

Wording of the agenda decision

- 35. It is clear from some comments received that we could improve some of the wording in the tentative agenda decision to clarify the Committee’s conclusions.

Therefore, in this section of the paper we propose some changes to the wording of the tentative agenda decision.

36. We have identified the following improvements:

- (a) ‘payment...from (or on behalf of) the customer relating to performance under the contract...’. We think this phrase has caused some respondents to think the Committee’s view is that *the customer* must make the payment to which the entity is entitled on cancellation. This is not the case. Indeed, the intention of including ‘(or on behalf of)’ was to signal the opposite—that payment could come from a source other than the customer, but it must be in the context of the rights under the present contract (as described in paragraph BC187). To resolve this confusion, we recommend deleting the part of this sentence that says ‘from (or on behalf of) the customer’. We think the important part of the Committee’s reasoning is that the payment considered by the entity is the payment to which it is entitled in the context of performance under the contract with the customer.
- (b) the reference to the principle in paragraph 31. The alternative view disagreed with the description of the principle in paragraph 31 as being about ‘the relationship between the entity and the customer’. This sentence may also have implied that the Committee was focussed on the source of the payment being from the customer. We think this sentence does not add much to the agenda decision and recommend removing it.
- (c) bullet point c.ii. in the description of the fact pattern, which says ‘if the customer cancels the contract, the customer does not have any rights to sell, use or develop the real estate unit’. We think this aspect of the fact pattern is not directly relevant to the application of paragraph 35(c) in the fact pattern in the submission, and thus we recommend removing it. In developing agenda decisions, it is most helpful if we include only those facts that are relevant to the Committee in reaching its conclusion, and not others.

- (d) ‘the nature of the payment...’ in describing the payment to which the entity has a right. The Norwegian real estate developers say the nature of a payment is not relevant, as long as the financial outcome at least compensates the entity for work completed to date throughout the contract. We agree that it is unnecessary, and thus possibly confusing, to refer to the nature of the payment—instead, we recommend that the agenda decision refer only to the payment to which the entity has a right.
- (e) ‘the entity has a right to compensation for loss of profit...it does not have an enforceable right to payment for performance completed to date...’. The Norwegian real estate developers note that paragraph B9 says an entity must be entitled to compensation for the top-line (revenue), not the bottom-line (profit). They say, in the fact pattern in the submission, the customer is responsible for the top-line ie the entity is secured ‘loss of revenue’, not ‘loss of profit’. They say profit is normally the difference between the sales price and costs—in their view, the tentative agenda decision expands that profit definition, which may confuse users of IFRS 15 as to what is meant by ‘loss of profit’. We agree that it is unnecessary, and possibly confusing—instead, we recommend that the agenda decision refer only to the entity not having the right to payment for performance completed to date.

37. Deloitte suggests that the agenda decision specify that the entity is not acting as an agent for its customer in any future resale of the real estate unit to a third party. Mazars suggests clarifying that the transfer of significant risks incidental to ownership is not sufficient to demonstrate the transfer of control.
38. In our view, neither suggestion is necessary in the agenda decision and could possibly be confusing. As noted above, we think it is most helpful if we include only those facts that are relevant to the Committee in reaching its conclusion.
39. We think any reference to the entity acting (or not acting) as an agent might be confusing because it might imply that the principal versus agent requirements in IFRS 15 are relevant when assessing paragraph 35(c), whereas in the fact pattern in the submission we think this is not the case. Paragraph B34 says an entity

determines whether it is a principal or an agent when another party is involved in providing goods or services to a customer—this is not the case in the fact pattern in the submission.

40. Regarding Mazars suggestion, we note that IFRS 15 replaces the risks and rewards approach in IAS 18 with a control-based approach. Nonetheless, we see no reason to mention this in the agenda decision.
41. Appendix B to this paper outlines these recommendations regarding the wording of the agenda decision, showing the recommended changes as a mark-up to the tentative agenda decision. We have also identified some editorial improvements that are shown in mark-up in Appendix B.
42. Appendix C to this paper includes a ‘clean’ version of the proposed agenda decision, without any mark-up

Question 2 for the Committee

2. Does the Committee agree with our recommendations regarding the wording of the agenda decision outlined in Appendix B to this paper?

Appendix A—Additional detailed comments from respondents

A1. The table below outlines additional detailed comments from respondents who disagree with the Committee’s technical conclusion together with our analysis of those comments:

Respondents comments	Staff analysis
<p>1. The KASB and the Norwegian real estate developers say in Agenda Paper 2B to the November 2017 meeting, the staff emphasised that the customer does not control the part-constructed real estate unit on cancellation of the contract when assessing whether the criterion in paragraph 35(c) is met. The respondents say this implies such an assessment of control is required when assessing that criterion in paragraph 35(c). The KASB says this is inconsistent with paragraph BC131, which states ‘the boards observed that for some performance obligations, it may be unclear whether the asset that is created or enhanced is controlled by the customer. Consequently, it may be more challenging to determine when control transfers in those cases and, therefore, the boards developed a third criterion in paragraph 35(c) of IFRS 15’. It also says this conclusion is inconsistent with the Committee’s tentative agenda decision titled ‘Revenue recognition in a real estate contract’ published in September 2017.</p>	<p>As noted in comment letters from the KASB and the Norwegian real estate developers, the tentative agenda decision did not refer to whether the customer controls the part-constructed unit on cancellation. This is because such an assessment of control is not required when assessing whether the criterion in paragraph 35(c) is met. The KASB correctly notes the Board’s explanation in the basis for conclusions as to why it added the criterion in paragraph 35(c).</p> <p>Accordingly, we agree with respondents that an assessment of control on cancellation is not required when applying the requirements in paragraph 35(c).</p> <p>We suggest no change in this respect in the agenda decision.</p>

<p>2. The Norwegian real estate developers say contract terminations should not form the basis of assessing when to recognise revenue because they seldom occur. They also say revenue recognition will be affected by a possible future contract if the entity does not recognise revenue over time.</p>	<p>To have an enforceable right to payment as described in paragraph 35(c), paragraph 37 states that at all times throughout the duration of the contract the entity must be entitled to an amount that at least compensates it for performance completed to date if the contract is terminated for reasons other than the entity’s failure to perform as promised. In its tentative agenda decision on IFRS 15 published in September 2017, the Committee observed that the assessment of enforceable rights is focussed on the existence of the right and its enforceability (paragraph B12). The likelihood that the entity would exercise the right, or that the customer would terminate the contract, is not relevant to that assessment.</p> <p>We agree with the Committee’s observations and suggest no change in this respect in the agenda decision.</p>
<p>3. Orange and the Norwegian real estate developers say they are concerned that the tentative agenda decision implies an entity’s right to the full sales price in a contract is not considered to be compensation for performance completed to date. They say this conclusion is inconsistent with paragraph BC146—that paragraph notes that a 100 per cent non-refundable upfront payment would meet the ‘right to payment’ criterion in</p>	<p>The Committee’s conclusion in the tentative agenda decision provides clarity about how to read ‘performance completed to date’ in that it says performance must relate to performance under the contract with the customer.</p> <p>We think the fact pattern in the submission and the fact pattern discussed in paragraph BC146 are different. In the fact pattern in paragraph BC146, the entity has a right to</p>

<p>paragraph 35(c) if the entity’s right to retain (and not refund) that payment would be enforceable if the customer terminated the contract.</p>	<p>payment (and has been paid upfront) for all of the performance under the contract with the customer. Accordingly, at all times throughout the duration of the contract the entity is entitled to an amount that at least compensates it for performance completed to date under the contract with the customer if the contract is terminated. In contrast, in the fact pattern in the submission, the entity’s right to payment for performance under the contract (ie the difference between the resale price of the unit and its original purchase price (plus selling costs)) does not at all times entitle the entity to such an amount if the contract is terminated.</p> <p>We suggest no change in this respect in the agenda decision.</p>
<p>4. The Norwegian real estate developers say the November 2017 staff paper implied that, to meet paragraph 35(c), the entity is required to have the right to force the customer to accept the real estate unit on cancellation. They note in the fact pattern described in paragraph BC146, the customer is not required to take physical possession of an asset on cancellation.</p>	<p>We agree that paragraph 35(c) does not require the entity to have the right to force the customer to accept the real estate unit on cancellation. For this reason, the tentative agenda decision did not refer to the entity having such a right.</p> <p>We suggest no change in this respect in the agenda decision.</p>
<p>5. Orange says the Committee did not consider whether compensation for loss of profit could be in a form other than cash. In its view, compensation for loss of profit could be the</p>	<p>An entity applies paragraph 35(c) to determine <i>whether</i> an entity transfers control of a good or service over time to the customer. If we were to consider the real estate unit to be compensation on</p>

<p>customer transferring control of a part-constructed real estate unit back to the entity.</p>	<p>cancellation, then that would already assume that the customer controls the unit and transfers it back to the entity. We think it would be inappropriate to assume control has transferred when assessing whether control has transferred.</p>
<p>6. Orange says it disagrees with the implication in the November 2017 staff paper that the absence of the customer’s right to any upside on resale of the unit demonstrates that the entity does not have an enforceable right to payment for performance completed to date. Orange says the customer’s right to any potential upside on resale does not negate the entity’s right to payment for performance completed to date.</p>	<p>We agree that, in the fact pattern in the submission, the absence of the customer’s right to any upside on resale of the unit does not affect the assessment of whether the entity has an enforceable right to payment for performance completed to date. The tentative agenda decision did not include any reference to this aspect of the fact pattern for this reason.</p> <p>We suggest no change in this respect in the agenda decision.</p>
<p>7. The OIC says it is not clear in the tentative agenda decision whether the customer is obliged to pay if the entity is unable to resell the real estate unit to a third party (ie when the resale price is zero).</p>	<p>The tentative agenda decision noted as part of the fact pattern that ‘if the resale price to be obtained from the third party is less than the original purchase price (plus selling costs), the customer is legally obliged to pay the difference to the entity’. The proposed wording of the agenda decision in Appendix B in this paper also says ‘the payment to which the entity has a right under the contract with the customer is payment for the difference between the resale price of the unit and its original purchase price (plus selling costs)’. We think it is clear from these words that if the resale price is zero,</p>

	<p>then the customer would be obliged to pay the original purchase price (plus selling costs).</p> <p>We suggest no change in this respect in the agenda decision.</p>
<p>8. The Norwegian real estate developers say the customer cancelling the contract is comparable to the return of a good. They say by returning a good, the customer gives up its rights to, and control of, the good. In that scenario, it is accepted that the customer controls the good before it is returned. They say this should be the same for the sale of real estate units, even though they are constructed over time.</p>	<p>Paragraphs B20-B27 specify requirements that apply to the transfer of products with a right of return. Paragraph B20 explains the contracts to which those requirements apply—it states [emphasis added]: ‘In some contracts, an entity transfers control of a product to a customer and also grants the customer the right to return the product for various reasons...’. Accordingly, those requirements apply only when the entity has already transferred control of a product (assessed applying paragraphs 31-38) and, after having done so, the customer decides to return the product.</p> <p>In contrast, paragraph 35 applies in assessing <i>whether</i> an entity transfers control of a good or service over time to the customer. Those respective paragraphs are therefore dealing with different scenarios. We think it would be inappropriate to apply requirements that apply only when the entity has already transferred control to the customer in scenarios for which that is not the case.</p> <p>We suggest no change in this respect in the agenda decision.</p>

Appendix B—Proposed wording for agenda decision

B1. We propose the following wording for the final agenda decision (new text is underlined and deleted text is struck through). Text moved within the agenda decision is not shown in mark-up.

Right to Payment for Performance Completed to Date (IFRS 15 *Revenue from Contracts with Customers*)

The Committee received a request about whether to recognise revenue over time or at a point in time in relation to a contract for the sale of a unit in a residential multi-unit complex (real estate unit). Specifically, the request asked whether, in the fact pattern described in the request, the real estate developer (entity) has an enforceable right to payment for performance completed to date as described in paragraph 35(c) of IFRS 15.

~~For each performance obligation, an entity applies the criteria in paragraph 35 of IFRS 15 to determine whether to recognise revenue over time. If none of the criteria in paragraph 35 are met, the entity recognises revenue at a point in time.~~

~~The request specifically asked about the application of paragraph 35(c) of IFRS 15.~~

Applying paragraph 35(c), an entity recognises revenue over time if (i) the asset created by an entity's performance does not have an alternative use to the entity; and (ii) the entity has an enforceable right to payment for performance completed to date.

The underlying objective of the criterion in paragraph 35(c) is to determine whether the entity transfers control of goods or services to the customer as an asset is being created for that customer (paragraph BC143).

Paragraph 37 ~~of IFRS 15~~ states that, to have an enforceable right to payment, at all times throughout the duration of the contract, the entity must be entitled to an amount that at least compensates the entity for performance completed to date if the contract is terminated for reasons other than the entity's failure to perform as promised.

Paragraph B9 ~~of IFRS 15~~ states that an amount that would compensate an entity for performance completed to date would be an amount that approximates the selling price of the goods or services transferred to date, rather than compensation for only the entity's potential loss of profit if the contract were to be terminated. ~~Accordingly, if an~~

~~entity is entitled only to compensation for loss of profit, it does not have an enforceable right to payment for performance completed to date and, thus, the criterion in paragraph 35(c) is not met.~~

The Committee observed that it is, ~~therefore,~~ the payment the entity is entitled to receive ~~from (or on behalf of) the customer~~ relating to performance under the contract with the customer that is relevant in determining whether the entity has an enforceable right to payment for performance completed to date.

The Committee has also included explanatory information about the application of paragraph 35(c) to real estate contracts in its agenda decision ‘Revenue Recognition in a Real Estate Contract’ published in March 2018.

The Committee concluded that the principles and requirements in IFRS 15 provide an adequate basis for an entity to determine whether it has an enforceable right to payment for performance completed to date. Consequently, the Committee ~~{decided}~~ not to add this matter to its standard-setting agenda.

Application of paragraph 35(c) —~~enforceable right to payment~~— to the fact pattern in the request.

The assessment of whether an entity has an enforceable right to payment for performance completed to date requires an entity to consider the rights and obligations created by the contract, taking into account the legal environment within which the contract is enforceable. Accordingly, the Committee observed that the outcome of an entity’s assessment depends on the particular facts and circumstances of the contract.

In the fact pattern described in the request, the contract ~~for the real estate unit~~ includes the following features:

- a. the entity and the customer enter into a contract for the sale of a real estate unit in a residential multi-unit complex before the entity constructs the unit. The entity’s obligation under the contract is to construct and deliver the completed real estate unit as specified in the contract. The entity retains legal title to the real estate unit (and any land attributed to it) until the customer has paid the purchase price after construction is complete.

- b. the customer pays 10% of the purchase price for the real estate unit at contract inception, and pays the remainder ~~of the purchase price to the entity~~ after construction is complete.
- c. the customer has the right to cancel the contract at any time before construction is complete. If the customer cancels the contract,
 - i. the entity is legally required to make reasonable efforts to resell the real estate unit to a third party. On resale, the entity enters into a new contract with the third party—ie the original contract is not novated to the third party. If the resale price to be obtained from the third party is less than the original purchase price (plus selling costs), the customer is legally obliged to pay the difference to the entity.
 - ii. ~~the customer does not have any rights to sell, use or develop the real estate unit.~~

It is assumed that the entity identifies a single performance obligation applying paragraphs 22-30. It is also assumed that (i) the entity has determined that the contract does not meet the criteria in paragraphs 35(a) and 35(b); and (ii) the contract meets the first part of the criterion in paragraph 35(c) because the entity’s performance does not create an asset with an alternative use to the entity.

~~The Committee observed that the principle in paragraph 31 of IFRS 15 for the recognition of revenue is about the relationship between the entity and the customer. The Committee also observed that, in the fact pattern described in the request, the objective in applying paragraph 35(c) is to assess whether the customer obtains control of the real estate unit as it is being constructed. As noted above the underlying objective of the criterion in paragraph 35(c) is to determine whether the entity is transferring control of goods or services to the customer as an asset is being created for that customer. In line with this objective, it is, therefore, the payment the entity is entitled to receive from (or on behalf of) the customer relating to performance under the contract with the customer that is relevant in determining whether the entity has an enforceable right to payment for performance completed to date. The consideration received by the entity from the third party in the resale contract is consideration~~

relating to that resale contract—it is not payment for performance under the contract with the customer.

~~The Committee observed that, based on~~ In the fact pattern described in the request, ~~the nature of the payment from the customer~~ to which the entity has a right under the contract with the customer is a payment for the difference between the resale price of the unit and ~~the~~ its original purchase price (plus selling costs). That payment does not, at all times throughout the duration of the contract, entitle the entity to an amount that at least approximates the selling price of the part-constructed real estate unit and, thus, it does not compensate the entity for performance completed to date. Accordingly, the entity ~~has a right to compensation for loss of profit on termination of the contract—it~~ does not have an enforceable right to payment for performance completed to date as described in paragraphs 35(c) and 37 of IFRS 15.

Appendix C—Proposed wording for agenda decision

- C1. This appendix includes the proposed wording for the agenda decision in Appendix B but with no mark-up.

Right to Payment for Performance Completed to Date (IFRS 15 *Revenue from Contracts with Customers*)

The Committee received a request about whether to recognise revenue over time or at a point in time in relation to a contract for the sale of a unit in a residential multi-unit complex (real estate unit). Specifically, the request asked whether, in the fact pattern described in the request, the real estate developer (entity) has an enforceable right to payment for performance completed to date as described in paragraph 35(c) of IFRS 15.

Applying paragraph 35(c), an entity recognises revenue over time if (i) the asset created by an entity's performance does not have an alternative use to the entity; and (ii) the entity has an enforceable right to payment for performance completed to date.

The underlying objective of the criterion in paragraph 35(c) is to determine whether the entity transfers control of goods or services to the customer as an asset is being created for that customer (paragraph BC143).

Paragraph 37 states that, to have an enforceable right to payment, at all times throughout the duration of the contract, the entity must be entitled to an amount that at least compensates the entity for performance completed to date if the contract is terminated for reasons other than the entity's failure to perform as promised.

Paragraph B9 states that an amount that would compensate an entity for performance completed to date would be an amount that approximates the selling price of the goods or services transferred to date, rather than compensation for only the entity's potential loss of profit if the contract were to be terminated.

The Committee observed that it is the payment the entity is entitled to receive relating to performance under the contract with the customer that is relevant in determining whether the entity has an enforceable right to payment for performance completed to date.

The Committee has also included explanatory information about the application of paragraph 35(c) to real estate contracts in its agenda decision ‘Revenue Recognition in a Real Estate Contract’ published in March 2018.

The Committee concluded that the principles and requirements in IFRS 15 provide an adequate basis for an entity to determine whether it has an enforceable right to payment for performance completed to date. Consequently, the Committee decided not to add this matter to its standard-setting agenda.

Application of paragraph 35(c) to the fact pattern in the request.

The assessment of whether an entity has an enforceable right to payment for performance completed to date requires an entity to consider the rights and obligations created by the contract, taking into account the legal environment within which the contract is enforceable. Accordingly, the Committee observed that the outcome of an entity’s assessment depends on the particular facts and circumstances of the contract.

In the fact pattern described in the request, the contract includes the following features:

- a. the entity and the customer enter into a contract for the sale of a real estate unit in a residential multi-unit complex before the entity constructs the unit. The entity’s obligation under the contract is to construct and deliver the real estate unit as specified in the contract. The entity retains legal title to the real estate unit (and any land attributed to it) until the customer has paid the purchase price after construction is complete.
- b. the customer pays 10% of the purchase price for the real estate unit at contract inception, and pays the remainder after construction is complete.
- c. the customer has the right to cancel the contract at any time before construction is complete. If the customer cancels the contract, the entity is legally required to make reasonable efforts to resell the real estate unit to a third party. On resale, the entity enters into a new contract with the third party—ie the original contract is not novated to the third party. If the resale price to be obtained from the third party is less than the original purchase price (plus selling costs), the customer is legally obliged to pay the difference to the entity.

It is assumed that the entity identifies a single performance obligation applying paragraphs 22-30. It is also assumed that (i) the entity has determined that the contract does not meet the criteria in paragraphs 35(a) and 35(b); and (ii) the contract meets the first part of the criterion in paragraph 35(c) because the entity's performance does not create an asset with an alternative use to the entity.

As noted above the underlying objective of the criterion in paragraph 35(c) is to determine whether the entity is transferring control of goods or services to the customer as an asset is being created for that customer. In line with this objective, it is the payment the entity is entitled to receive relating to performance under the contract with the customer that is relevant in determining whether the entity has an enforceable right to payment for performance completed to date. The consideration received by the entity from the third party in the resale contract is consideration relating to that resale contract—it is not payment for performance under the contract with the customer.

In the fact pattern described in the request, the payment to which the entity has a right under the contract with the customer is a payment for the difference between the resale price of the unit and its original purchase price (plus selling costs). That payment does not, at all times throughout the duration of the contract, entitle the entity to an amount that at least approximates the selling price of the part-constructed real estate unit and, thus, it does not compensate the entity for performance completed to date.

Accordingly, the entity does not have an enforceable right to payment for performance completed to date as described in paragraphs 35(c) and 37 of IFRS 15.