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Financial Accounting Standards Board
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Via email: director@fasb.org



* E I T F 0 7 0 6 D A *

LETTER OF COMMENT NO.

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Re: File Reference No. EITF 0706 - Draft Abstract EITF Issue 07-6, "Accounting for the Sale of Real Estate Subject to the Requirements of FASB Statement No. 66, *Accounting for Sales of Real Estate*, When the Agreement Includes a Buy-Sell Clause"

Dear Mr. Golden,

Marriott International, Inc. is a worldwide operator, predominantly via management agreements, and franchisor of hotels and related lodging facilities. At the end of our 2007 third quarter, we operated 2,942 properties (527,307 rooms).

We develop new hotel, timeshare interval, fractional ownership, and whole ownership properties, both directly and through partnerships, including joint ventures, and other business structures with third parties. Today we have investments in partnerships with many different partners. In some cases, we sold or contributed land to these partnerships, and in other cases, we have contributed cash or other equity.

Buy-sell clauses are included in partnership agreements in order to avoid complicated negotiations and protracted and expensive legal proceedings between the investors in the event that an investor wants to exit the partnership. We do not utilize buy-sell clauses to provide us with the opportunity to repurchase property contributed to a partnership. Our exit strategy for partnerships generally involves selling our interest to third parties.

We do not believe that buy-sell clauses are options because buy-sell clauses do not convey to the selling party the unilateral right to purchase the real estate. This view is supported by analogy to SFAS No. 66 "Accounting for Real Estate Sales" ("SFAS No. 66"). Footnote 7 of SFAS No. 66 states "A right of first refusal based on a bona fide

offer by a third party ordinarily is not an obligation or an option to repurchase.” In agreements with a right of first refusal clause, the original seller does not have an option to buy the property back unless an action occurs that is outside the control of the original seller. Agreements with buy-sell clauses function similarly in that the original seller does not have an option to repurchase property that was sold unless either the other party accepts an offer made by the original seller or the other party makes an offer itself. Much like a right of first refusal clause, a buy-sell clause only results in an opportunity to repurchase the property after some action, outside the control of the original seller, has been taken by the other party. Accordingly, we agree with paragraph 7 of the Exposure Draft that determining whether the terms of the buy-sell clause indicate that the seller has transferred the usual risks and rewards of ownership and does not have substantial continuing involvement is a matter of judgment and requires consideration of all relevant facts and circumstances of the transaction at the time the real estate is sold.

With respect to paragraph 8 of the Exposure Draft, we agree that a buy-sell clause, in and of itself, does not constitute a prohibited form of continuing involvement that would preclude partial sales treatment under SFAS No. 66, but that facts and circumstances may be indicative of a prohibited form of continuing involvement. However, we believe that the broad list of factors in paragraph 8 that may indicate that the seller has substantial continuing involvement in the real estate, may be construed as a checklist, despite language that the examples are not intended to be presumptive or determinative. Accordingly, such a list may result in the unintended consequence of causing diversity in practice. Additionally, such a list is consistent with a rules-based approach to standard setting, and we support the development of principles-based accounting standards that require the evaluation of facts and circumstances and the use of professional judgment. For these reasons, we recommend the deletion of the last two sentences of paragraph 8 along with the deletion of all of the examples, as shown below.

8. A buy-sell clause, in and of itself, does not constitute a prohibited form of continuing involvement that would preclude partial sales treatment under Statement 66. However, a buy-sell clause may constitute a prohibited form of continuing involvement if the buyer cannot act independently from the seller or if the seller is economically compelled to reacquire the other investor's interest in the jointly owned entity (thereby reacquiring the real estate). Determining whether the terms of the buy-sell clause constitutes a prohibited form of continuing involvement is a matter of judgment and all of the relevant facts and circumstances of the arrangement should be considered. ~~Examples of factors that the seller should consider in its evaluation of whether the buy-sell clause constitutes a prohibited form of continuing involvement are included below. These examples are not intended to be presumptive or determinative.~~


~~*Factors that may indicate that the seller has substantial continuing involvement in the real estate:*~~

- ~~a. The price specified in a buy-sell clause may indicate that the parties have already negotiated for the seller to acquire the buyer's interest. For example, a fixed price is specified in the buy-sell clause.~~

- ~~b. The seller has a strategic necessity or an investment strategy that indicates that it cannot relinquish its ownership rights to the buyer and therefore compel the seller to reacquire full ownership of the real estate.~~
- ~~c. The seller has arrangements with the jointly owned entity, such as management or third party leasing arrangements, that may economically compel the seller to reacquire the real estate in order to retain the economic benefits (for example, leasing commissions from lessees) or escape the negative economic consequences (for example, below market contract with the entity) of such arrangements.~~
- ~~d. Tax implications economically compel the seller to acquire the buyer's interest in the entity (thereby reacquiring the real estate).~~

If you have any questions regarding the comments set forth in this letter, please contact me at (301) 380-4326.

Sincerely,



Carl T. Berquist
Executive Vice President, Financial
Information and Enterprise Risk Management and
Principal Accounting Officer