

## Definitions of Listed Entity and Public Interest Entity Project

### Professional Accountancy Organizations Questionnaire – Issues Paper

#### PURPOSE OF QUESTIONNAIRE

1. The IESBA Task Force<sup>1</sup> responsible for its Definitions of Listed Entity and Public Interest Entity” (PIE) project is seeking input from professional accountancy organizations (PAOs) with regards to the Task Force’s current approach to revising the PIE definition, particularly the expected role of local bodies (e.g. regulators and PAOs) to refine the new list of PIE categories when approved.
2. Refer to Appendix 1 below for the preliminary proposed text presented to IESBA in June 2020.

#### BACKGROUND

3. The IESBA approved a project proposal, [Definitions of Listed Entity and Public Interest Entity](#), at its December 2019 meeting. Amongst other things, the PIE project aims to review the definitions of “listed entity” and “PIE” in the IESBA Code (the Code), in coordination with the International Auditing and Assurance Standards Board (IAASB), with a view to revising these terms as necessary so they remain relevant and fit for purpose.
4. Currently, the term “public interest entity” in the Code is defined as:
  - (a) A listed entity;<sup>2</sup> or
  - (b) An entity:
    - (i) Defined by regulation or legislation as a public interest entity; or
    - (ii) For which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation might be promulgated by any relevant regulator, including an audit regulator.
5. The Code also encourages a firm to determine if additional entities, or categories of entities, should be treated as PIEs in accordance with paragraph 400.8.<sup>3</sup>

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<sup>1</sup> Members:

- Michael Ashley, Chair, IESBA Member
- Liesbet Haustermans, IESBA Member
- Ian McPhee, IESBA Member
- Andrew Mintzer, IESBA Member

Correspondent members:

- Fiona Campbell, IAASB Deputy Chair
- Josephine Jackson, IAASB Member

<sup>2</sup> Listed entity is defined in the Code as “An entity whose shares, stock or debt are quoted or listed on a recognized stock exchange, or are marketed under the regulations of a recognized stock exchange or other equivalent body”

<sup>3</sup> Section 400, Applying the Conceptual Framework to Independence for Audit and Review Engagements

6. Since the introduction of the current definition of PIE in 2008, there have been calls from some within the regulatory community, such as the International Association of Insurance Supervisors (IAIS) and the Basel Committee on Banking Supervision (Basel Committee), as well as the small and medium practices (SMP) community, the Public Interest Oversight Board (PIOB) and others to review the PIE definition in the Code to ensure the right entities or types of entities are being scoped in or scoped out.
7. The PIOB has welcomed this project, noting that it is crucial to determine the categories of entities which should be subject to stricter provisions in the Code as the PIE definition affects other IESBA projects such as the Non-Assurance Services (NAS) and Fees projects. The PIOB also encouraged the IESBA to coordinate with the IAASB to ensure consistent application of the two sets of standards.
8. Since January 2020, the Task Force has discussed its preliminary views, approach and proposed text with the IESBA (March and June 2020), IESBA Consultative Advisory Group (CAG) (March 2020) and IAASB (July 2020) as well as other stakeholders such as the Forum of Firms and the International Forum of Independent Audit Regulators' (IFIAR's) Standards Coordination Working Group.

## OVERARCHING APPROACH

9. The IESBA generally supported the Task Force's view that it is important, at the outset, to have clarity about the overarching objective for defining a class of entities for which the audits require additional independence requirements. The objective can then inform the approach and also provide a clear principle against which any proposals can be tested.



10. At the June 2020 IESBA meeting, the IESBA was generally supportive of the Task Force's draft overarching objective (Proposed paragraph 400.8 and 400.9 in Appendix 1):

*400.8 Some of the requirements and application material set out in this Part are applicable only to the audit of financial statements of public interest entities, reflecting significant public interest in the financial condition of these entities. The extent of public interest will depend on factors including:*

- *The nature of the business, such as taking on financial obligations to the public as part of an entity's primary business.*
- *Size of the entity.*
- *The importance of the entity to the markets in which it operates.*
- *Number and nature of stakeholders including investors, customers, creditors and employees.*

- *The potential systemic impact on other entities and the economy as a whole in the event of financial failure.*

400.9 *The purpose of these additional requirements and application material for public interest entities is to enhance confidence in their financial statements through enhancing confidence in the audit of those financial statements.*

11. In developing the above proposed overarching objective, the Task Force:
  - Noted that as the material relates to Part 4A, the focus should be on building confidence in the audits of financial statements of PIEs as a result of additional independence requirements.
  - Agreed to clarify that the focus on financial statements of PIEs is due to the possible financial impact on stakeholders.
  - Is of the view that the revised objective is sufficiently broad to cover any entity that is, from a financial perspective, of systemic significance to the jurisdiction or society in which it operates.
  - Agreed to include a non-exhaustive list of factors for determining the level of public interest in the financial condition of entities. This list is largely drawn from the extant paragraph 400.8<sup>4</sup> and is intended to be used by local bodies and firms to determine if entities or categories of entities should be treated as PIEs.
  - Noted that the fourth bullet point relates to the direct impact on an entity's stakeholders whilst the fifth bullet point relates to the indirect impact that the entity might have on the overall economic system.
12. At its July 2020 PIE session, IAASB members were generally supportive of having an overarching objective for additional requirements to enhance confidence in the audits of certain entities and for sharing the same overarching objective between the two Boards. IAASB members were also generally supportive of the proposed paragraphs 400.8 and 400.9.

## APPROACH TO DEVELOPING THE "PIE" DEFINITION

13. The Task Force reached the preliminary view that it would be difficult, if not impossible, to develop a single definition of PIE at a global level that can be consistently applied by all jurisdictions without significant modification and further refinement at a local level.
14. At the March 2020 IESBA virtual meeting, the Task Force presented two approaches that the IESBA could adopt in revising the definition of PIE in the Code:

### 1. Narrow

A short and narrow list of categories, similar to the current definition of PIE in the Code, to which local regulators and authorities may continue to add

### 2. Broad

A longer and more broadly defined list which local regulators and authorities can modify by tightening definitions, setting size criteria and adding or exempting particular types of entities

15. The IESBA, IAASB and other stakeholders were generally supportive of the Task force's preference for Approach 2 and its rationale. In particular, the Task Force noted that it would be difficult to further

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<sup>4</sup> Section 400, *Applying the Conceptual Framework to Independence for Audit and Review Engagements*, paragraph 400.8

refine the current PIE definition under Approach 1, particularly given the principles-based nature of the Code. Approach 1 is also unlikely to meet the expectations of those who would wish the Code's definition to encompass a broader range of PIEs.

16. Under Approach 2, there are three key elements:
- a) An expanded list of categories of entities to be treated as PIEs (**Role of Code**)
  - b) Expected role of local bodies to refine the list through more explicit definition or establishment of size criteria (**Role of local bodies**)
  - c) Role of firms to determine if additional entities should be treated as PIEs (**Role of firms**)

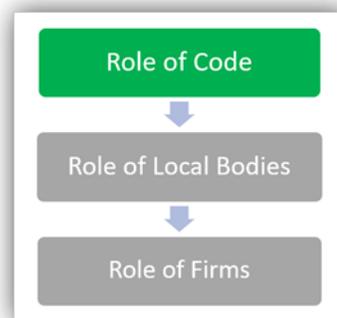


17. A few stakeholders, however, have expressed concern as to whether local bodies such as regulators, oversight bodies and other relevant authorities in some jurisdictions have the capacity to consider and implement the necessary local refinements to the proposed list to ensure the right entities are scoped in within their national contexts. This may lead to the unintended consequence of scoping in entities that should not be treated as PIEs and render the new definition almost impossible to implement in some jurisdictions. This particular concern will be further discussed under the section “Expected Role of Local Bodies.”

### List of PIE Categories

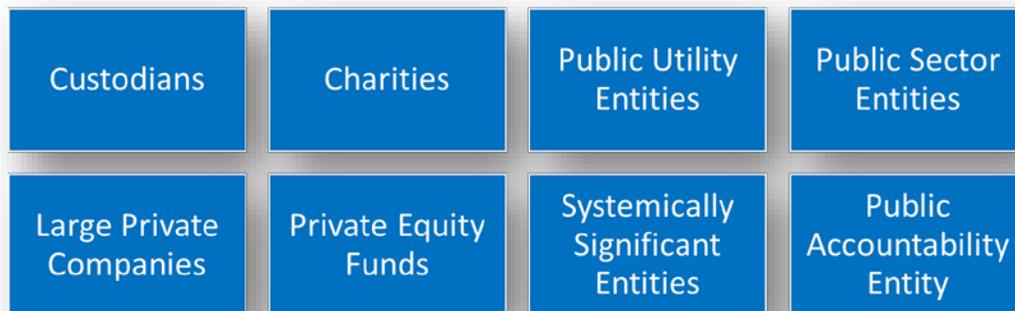
18. At the June 2020 virtual meeting, the Task Force presented the following draft list of categories to replace the existing PIE definition in the Code:

- (a) An entity whose shares, stock or debts are publicly traded
- (b) An entity one of whose main functions is to take deposits from the public
- (c) An entity one of whose main functions is to provide insurance to the public
- (d) An entity whose function is to provide post-employment benefits
- (e) An entity that pools money from the public to purchase shares, stock and debts
- (f) An entity specified as such by law or regulation



19. The above draft list was based largely on considering those categories already included by a number of countries in their national laws or regulations which set out to define a PIE. In settling on any list, the Task Force believes it is appropriate to include only categories that will (possibly with tighter definitions) be accepted by most countries, and equally, to exclude entities that are only likely to be regarded as necessary by a minority.

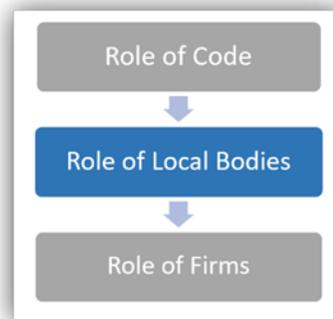
20. The Task Force therefore developed the proposed list of categories with the following in mind:
- To include those entities that should be included in this global list because of the nature of their main functions but would be excluded by the local bodies if they are too small (i.e., the entities in these categories are scoped in unless local bodies consider them to be insignificant); and
  - Conversely, not include those entities that would be included by local bodies principally because of the size of the entities (i.e. these entities, such as large private companies, are scoped out unless they are significant enough to be included by local bodies).
21. With regards to category (a), the IESBA also considered this as a possible replacement to the term “listed entity” in the extant Code. It was noted that category (a) removes the confusion created by the term “recognized stock exchange,” in the extant definition, including its relationship with the term “regulated market” in the EU Directive.
22. The IESBA was generally supportive of the Task Force’s draft list of PIE categories and its rationale.
23. The IESBA has also considered other possible categories at its June 2020 meeting, including:



24. The IESBA will consider a refined list from the Task Force in the upcoming September 2020 IESBA meeting including any new categories.

### Expected Role of Local Bodies

25. Given the high-level nature of the proposed expanded list, Approach 2 requires local bodies to assess and determine which entities or types of entities should be treated as PIEs for the purposes of additional independence requirements. The Task Force is of the view that local bodies, be it the national standard setters, regulators, oversight authorities or other relevant bodies, are also best placed to consider the issues, concerns and nuances specific to the local environment and how the financial conditions of certain entities or categories of entities might impact the public interest in their jurisdictions.



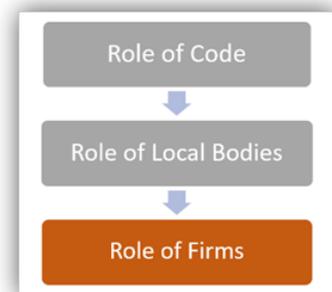
26. In following Approach 2, the Task Force is also conscious that any categories it seeks to include will, being principles based, inevitably be quite broad and could therefore scope in entities in which the public interest is not significant. The Task Force therefore believes it is appropriate in these circumstances that the Code should deviate from its normal practice and allow local law or regulation

to prevail where the local law or regulation would tighten those broad categories to exclude entities that the Code would otherwise include as PIEs.

27. The Task Force also considered the concerns raised by some IESBA members and other stakeholders that some regulators may not have the requisite capacity, in the sense of capability, knowledge and resource, or the authority to make the necessary assessment and refinements to a list of high-level PIE categories in their local Code. Further, the Task Force recognized that some jurisdictions might simply adopt the Code as is without much refinement, a step which is pivotal to Approach 2. The Task Force acknowledged that this issue may significantly impact the adoption or implementation of the changes to the definition of PIE developed under Approach 2 by a large number of jurisdictions.
28. South Africa's Independent Regulatory Board for Auditors (IRBA), Australia's Accounting Professional & Ethical Standards Board (APESB), and New Zealand's External Reporting Board (XRB) have all adopted the Code's International Independence Standards (IIS) and have further developed a list of PIE categories in their local Code. In this regard, the Task Force noted that:
  - All three stakeholders were supportive of the Task Force's approach as they have developed an expanded list to bring more clarity and consistency amongst firms about how the term "PIE" should be applied.
  - Each of their expanded lists was developed in conjunction with the relevant local industry regulators and authorities given their knowledge and sphere of expertise in the various industries. Whilst the process of developing such a list for local use was time-consuming, the exercise was worthwhile, and they had not received comments from stakeholders that would suggest otherwise.
29. Subject to the outcome of discussions with stakeholders, the Task Force is developing a mitigation strategy to address this issue. Amongst other things, one approach being considered is to develop non-authoritative guidance material in addition to the Explanatory Memorandum and the Basis for Conclusions, and conduct outreach to targeted stakeholders with assistance from IFAC, leveraging IFAC's resources and existing networks

### Role of Firms

30. The third component of Approach 2 relates to the role of firms. the Task Force presented its preliminary view:
  - Firms should be required to determine if any additional entities, or certain categories of entities, should be treated as PIEs. The extant material in paragraph 400.8 currently only encourages firms to make such determinations.
  - Whilst local bodies can refine the PIE list, firms should only be allowed to determine if additional entities should be treated as PIEs. In making such determination, firms should be reminded to apply the reasonable and informed third party test.
  - The Task Force recognizes that in some instances, an entity and other stakeholders might also request the firm to treat the entity as a PIE. Whilst this should as



a principle be generally encouraged, the firm would also need to consider whether such treatment is appropriate taking into account such factors as the entity's corporate governance arrangements, given the various stipulations on communication with those charged with governance (TCWG) of PIEs.

31. The IESBA and other stakeholders were generally supportive of the Task Force's preliminary view.
32. The Task Force is also exploring with the IAASB the option of adding a requirement in the International Standards on Auditing (ISAs) for audit reports to reference or disclose whether the particular entity was treated as a PIE if it is not otherwise clear from the financial statements themselves.

## QUESTIONS

33. Please provide your response to the following questions to [geoffkwan@ethicsboard.org](mailto:geoffkwan@ethicsboard.org) by **Friday, August 28, 2020**.
34. For an overview of the PIE project, please see the attached "Overview of PIE Project". You can also visit the [project webpage](#) for additional information.

### Questions

1. Is there a definition of PIE in your local jurisdiction which would in whole or in part encapsulate the draft overarching objectives and PIE definition set out in paragraphs 8 and 16 of this paper? If only in part, could you please specify what aspects are not currently incorporated and reason (e.g these aspects were considered but deemed not appropriate for the local PIE definition)
2. To the extent that a local PIE definition either does not exist or would require further development in order to meet the draft IESBA PIE definition (paragraph 16 of this paper) does your organization have the authority either in whole or in part to revise your local PIE definition? If it is only in part, can you please specify the other bodies (e.g the local regulator or Ministry of Finance) involved and indicate (to the extent that you are able/aware) as to whether you believe they would support the necessary changes.
3. If other bodies (e.g the local regulator or Ministry of Finance) have the sole authority to either create or amend any local PIE definition, could you please:
  - a) Specify who they are; and
  - b) Indicate (to the extent that you are able/aware) whether you believe that they would be prepared to make the necessary revisions.
4. In each case where further development is required, can you please indicate:
  - a) Whether in your opinion the draft IESBA PIE definition that are proposed will be sufficient to enable the development of a local PIE definition that would scope in the intended PIEs or categories of PIEs or do you believe that further guidance would need to be established by IESBA?
  - b) If the latter (i.e., further guidance is needed), in which areas the guidance would be required.

**Definitions of Listed Entity and Public Interest Entity –  
Preliminary Draft  
(Clean)**

**PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS**

**SECTION 400**

**APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR AUDIT  
AND REVIEW ENGAGEMENTS**

**Introduction**

**General**

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**Public Interest Entities**

400.8 Some of the requirements and application material set out in this Part are applicable only to the audit of financial statements of public interest entities, reflecting significant public interest in the financial condition of these entities. The extent of public interest will depend on factors including:

- The nature of the business, such as taking on financial obligations to the public as part of an entity's primary business.
- Size of the entity.
- The importance of the entity to the markets in which it operates.
- Number and nature of stakeholders including investors, customers, creditors and employees.
- The potential systemic impact on other entities and the economy as a whole in the event of financial failure.

400.9 The purpose of these additional requirements and application material for public interest entities is to enhance confidence in their financial statements through enhancing confidence in the audit of those financial statements. ...

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**Requirements and Application Material**

**General**

...

**Public Interest Entities**

**R400.14** For the purposes of this Part, a firm shall treat an entity as a public interest entity when it falls within any of the following categories:

- (a)** An entity whose shares, stock or debts are publicly traded;
- (b)** An entity one of whose main functions is to take deposits from the public;

- (c) An entity one of whose main functions is to provide insurance to the public;
- (d) An entity whose function is to provide post-employment benefits;
- (e) An entity that pools money from the public to purchase shares, stock or debts; or
- (f) An entity specified as such by law or regulation.

**R400.15** Firms shall have regard to law or regulation which provide more explicit definitions of the categories noted in paragraph R400.14 (b) to (e), for example by reference to the legislation under which such functions are performed.

**R400.16** As an exception to paragraph R400.14, a firm shall not treat an entity as a public interest entity when in accordance with law or regulation:

- (a) The financial statements of that entity are not required to be subject to audit;
- (b) The financial statements of that entity are not made available to [stakeholders]; or
- (c) That entity is specified not to be a public interest entity.

400.16 A1 When terms other than public interest entity (such as listed entity) are used in law or regulation to achieve the objective set out in paragraph 400.8, such terms are regarded as equivalent terms.

**R400.17** A firm shall determine whether to treat additional entities, or certain categories of entities, as public interest entities. When making this determination, the firm shall take into account whether a reasonable and informed third party would be likely to conclude such entity should be treated as a public interest entity. In addition to the factors listed in paragraph 400.8, factors to consider might include:

- Whether the entity has been specified as not being a public interest entity by law or regulation.
- [Whether the entity is likely to become a public interest entity before the conclusion of the subsequent year's audit]
- Whether the entity or other stakeholders requested the firm to treat the entity as a public interest entity and, if so, whether there are any reasons for not meeting this request.
- The entity's corporate governance arrangements, for example whether those charged with governance are distinct from the owners or management.

**R400.18** A firm shall publicly disclose in the audit report that an audit client was treated as a public interest entity [To be discussed with IAASB].

**[Paragraph 400.19 is intentionally left blank]**