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Mr Ken Siong,
Senior Technical Director
International Ethics Standards Board for Accountants (IESBA)
529 Fifth Avenue, 6th Floor
New York, New York 10017 USA

By Email: kensiong@ethicsboard.org

Dear Ken,

Exposure Draft: *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code.*

CPA Australia represents the diverse interests of more than 168,000 members working in over 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia agrees that it is important to provide clarity about the scope of entities that would be impacted by the changes to the International Code of Ethics for Professional Accountants (“the Code of Ethics”) with respect to Non-Assurance Services and Fees. In this regard, consideration of the definition of Public Interest Entity (PIE) is important.

Public Interest Entity Definition

Feedback received from our members is generally supportive of retaining the current definition, which we believe works well. In Australia, the local standard setting board (the [Accounting Professional and Ethical Standards Board](#) (APESB)) has, as intended under the current provisions of the Code of Ethics, provided further clarity on what may be considered a PIE within the Australian code ([APES 110](#)). This has worked well.

In other jurisdictions our members have commented that current regulatory arrangements have been well established using the current definition, which has been clarified locally as required. There were some concerns expressed that creating a broader definition within the Code of Ethics would potentially create problems for local regulators in deciding whether or not to comply with any new definition, or to potentially expand their local definition and draw greater numbers of entities into the PIE definition.

This highlights two significant issues:

- Broadening the definition and defining a larger group of entities as PIEs in the Code of Ethics may potentially significantly increase the costs of doing business for those entities that are subsequently drawn

into a new definition. For some entities, particularly smaller entities which may be included in a broader definition, there are issues to be considered beyond independence requirements for the external auditors. The entities themselves may be faced with higher audit costs, and may need to change auditors, as certain jurisdictions have different regulatory requirements for auditors that audit PIEs and those that audit non-PIEs. Discussion by the International Ethics Standards Board for Accountants (IESBA) in Section IV of the Explanatory Memorandum focuses only on the impact upon regulators, NSSs, PAOs and audit firms, but fails to consider the impacts on reporting entities/audit clients. This appears to be an oversight that the IESBA should consider addressing before finalising any proposed change to the PIE definition.

- Paragraph 31 of the Explanatory Memorandum notes: “*The IESBA therefore believes it is appropriate under these circumstances that the Code should deviate from its normal practice and allow the relevant local bodies to tighten those broad categories to exclude entities that the Code would otherwise include.*” This notion is then addressed in paragraph 400.15 A1 of the proposed revisions. While this provision arguably provides local bodies with a means to address concerns about a new broader definition bringing in a larger number of entities as PIEs, particularly in jurisdictions where the current definition has worked well, it does so at the expense of the fundamental integrity of the Code of Ethics. That is, allowing exclusions to be made from the Code of Ethics when adopting it locally raises potential concerns about compliance. Our view is that such exclusions should not be permitted, and that the IESBA should consider developing a definition that provides for clarification and additions only, and not for exclusions to be made. CPA Australia sees this as another example¹ of where the IESBA is potentially undermining the foundations of the Code of Ethics, by introducing what might be argued to be “pragmatic” rules-based solutions – seemingly to address specific issues raised by certain regulators in particular jurisdictions – into what is otherwise a principles-based code.

If further guidance is needed to assist certain specific jurisdictions to implement the Code of Ethics – and in particular a PIE definition – the IESBA might consider the benefits of developing and issuing non-authoritative or technical staff guidance.

Failure to Address Stated Concerns

An observation made by our members is that the expanded definition doesn’t necessarily address the concerns highlighted in the Explanatory Memorandum, or the reasons given for revising the definition. That is, the Explanatory Memorandum notes at:

- Paragraph 4 that “*IOSCO has also commented that regulators in many jurisdictions do not have the power to set a definition*”. The proposed revised definition will not change this situation and continues to leave a role for local bodies to clarify, add to, refine and (newly, and potentially) exclude elements of the definition.
- Paragraph 4 that “*Other stakeholders, particularly the SMP community, have expressed concern that the independence requirements in the Code are increasingly disproportionate in those circumstances where firms provide audit and review services to small entities that fall within the PIE definition*”. The proposed revised definition does not address this concern. Indeed, feedback from some of our members suggests that this concern will be potentially exacerbated by the new definition.

¹ In its [submission](#) to the proposed revisions to Non- Assurance Services sections of the Code of Ethics, CPA Australia noted *The proposed NAS provisions, however, appear to aim to prohibit services based on threats, rather than the inability to mitigate or reduce threats to an acceptable level. In parts, the structure of these provisions is inconsistent with the drafting conventions on which the Code is based.*

- Paragraph 5 that “*various jurisdictions have also taken different or more specific approaches to defining or scoping the concept of a PIE for their local purposes.*” The proposed revised definition will not change this situation and continues to leave a role for local bodies to clarify, add to, refine and (newly, and potentially) exclude elements of the definition.

Different Definitions

It is unfortunate that different definitions are being used by the International Auditing and Assurance Standards Board (IAASB) and IESBA. While the IAASB is using the terms Listed Entity and Entities of Significant Public Interest (ESPI), the IESBA is using the term PIE. Moreover, the IAASB is working towards developing a separate auditing standard for Less Complex Entities (LCE); while the International Accounting Standards Board (IASB) uses the term Publicly Accountable to guide preparers with respect to the financial reporting framework they might use.

It is argued by some that clear definitions (if indeed the definitions are clear) will assist preparers, auditors and users in understanding reporting and auditing requirements. However, the use of a range of different definitions adds complexity and complications. Once the LCE auditing standard is published there are potentially 48 different options that must be considered by reporting entities and auditors. Where the audit “lands” is important with respect to the regulatory requirements that must be adhered to by the reporting entity and the auditor, as well as the type of standards that must be used.

To demonstrate the point, a reporting entity will potentially use (i) IFRS (if they are publicly accountable), (ii) IFRS for SMEs; or (iii) another relevant reporting framework. An auditor will have different requirements, including quality management requirements, with which to comply depending on whether the reporting entity is: (i) a listed entity or ESPI, or (ii) not; and also, whether it is: (i) an LCE; or (ii) not. Then of course, the requisite independence requirements will depend on whether the entity is; (i) a PIE; or (ii) not a PIE. As noted earlier in this submission, in some jurisdictions it is not possible for entities and auditors to be able to readily “switch” between these different options.

Therefore, it is critical that international standard setters – i.e., the IASB, IAASB and IESBA in particular – work more closely together to ensure that there is greater consistency in definitions and requirements that impact the manner in which the standards for reporting, auditing and auditor independence are implemented and used. Additionally, as the review of the governance arrangements for international standard setting (for auditing and ethics standards) continues, consideration needs to be given to how closer coordination can be achieved between the IAASB and the IESBA, and indeed whether audit-related ethics (i.e., essentially auditor independence requirements) are best promulgated by the same standard setting body that develops auditing standards.

Independence Requirements

Paragraphs 17 and 18 of the Explanatory Memorandum note that the issue being addressed, when looking at independence requirements for audits of PIEs, is not about different levels of independence but rather additional independent requirements. The distinction between these two ideas is not made clear, and users of financial statements and readers of audit reports are unlikely to be able to distinguish the subtlety of this distinction. Arguably, the wording may be seen to be making a contradictory, even counterintuitive, point. Surely, to most people, additional requirements for anything would strongly suggest a different level of requirements? If the IESBA feels that this distinction is critical to be made, consideration might be given to providing further clarification. That is, might it be said that “*there are additional requirements that allow the auditor to more clearly demonstrate, or assert, that he/she is independent*”?

Responses to the questions in the Request for Specific Comments section of the Explanatory Memorandum are included in the attachment to this letter.

Should you have any questions regarding this submission, please do not hesitate to contact me on +613 9606 9941 or gary.pflugrath@cpaaustralia.com.au.

Yours sincerely



Dr Gary Pflugrath
Executive General Manager, Policy and Advocacy

Request for Specific Comments

Overarching Objective

- 1. Do you support the overarching objective set out in proposed paragraphs 400.8 and 400.9 as the objective for defining entities as PIEs for which the audits are subject to additional requirements under the Code?**

While, on the whole, the overriding objective set out in proposed paragraphs 400.8 and 400.9 seems appropriate, we are unsure about the use of the term “financial condition” and how it has been described and used in the proposed revised sections of the Code. The term remains undefined, but in proposed paragraph 400.9 reference is made to “*confidence in financial statements*.” It is not clear whether, without clear definitions, it will create confusion for readers of the Code in determining whether these are the same, or different, concepts.

This is further potentially confused in proposed paragraph 400.8 with wording that notes that the section of the Code of Ethics only applies to the “*audit of financial statements of public interest entities, reflecting significant public interest in the financial condition of these entities*.” That is, is this suggesting that the interest people have in financial statements is restricted solely to an organisation’s financial condition?

Finally, it is not ideal that different international standard setting boards are using different definitions for what potentially could be seen as being similar concepts. With the IAASB using the term ESPI and the IASB using the term publicly accountable, it does not augur well for investors, potential investors and other key stakeholders in getting a clear understanding of the objectives of broader corporate reporting, and in particular, financial reporting. The differences between the IESBA and IAASB gives weight to the arguments of the Monitoring Group that audit-related ethics standard setting should be undertaken by the same standard setting board that promulgates auditing standards. The differences in definitions between the IESBA and IAASB potentially brings into question the assertion that the proposed revisions to the Code of Ethics are about the audits of financial statements.

Consideration should be given to defining all relevant terms; at a minimum, the term “financial condition”, given the important role that this term plays in assessing whether an entity is a PIE.

- 2. Do you agree with the proposed list of factors set out in paragraph 400.8 for determining the level of public interest in an entity? Accepting that this is a non-exhaustive list, are there key factors which you believe should be added?**

The list of factors is generally supported.

With respect to the factor, “Size of the entity”, it might be appropriate for IESBA to provide further guidance by adding a phrase that indicates the relative size of the stakeholder base/group might be an important consideration. With this in mind, we suggest the following:

- Size of the entity, including the relative size of its stakeholder base and those affected by its operation.

Given the increasing international attention being given to the financial impacts associated with climate change and other sustainability risks, financial reporting (and an entity’s financial condition) is being inexorably linked to sustainability, climate change and environmental issues. Arguably, financial statement audits will increasingly need to consider such issues, and hence consideration should be given to including sustainability, climate

change and environmental exposures and risks as a factor for determining the level of public interest in an entity.

Approach to Revising the PIE Definition

- 3. Do you support the broad approach adopted by the IESBA in developing its proposals for the PIE definition, including:**
 - **Replacing the extant PIE definition with a list of high-level categories of PIEs?**
 - **Refinement of the IESBA definition by the relevant local bodies as part of the adoption and implementation process?**

Member feedback suggests that the current definition is appropriate and can be effectively utilised when implementing a jurisdictional code of ethics.

However, there was some support for the broader approach being proposed, if a revised definition was to be introduced. It is important for the IESBA to ensure that a principles-based approach to standard setting is maintained. There was support for an approach that permitted local regulatory or other authorities to refine the definition of PIEs and determine a definition that best suits local needs.

Strong arguments could be made for including public sector entities and systemically significant entities (refer to paragraph 43 of the explanatory memorandum) in the list of high-level categories detailed in proposed paragraph R400.14. The IESBA should ensure that it carefully considers the feedback from this consultation to gain a clearer understanding of whether such entities should be included.

PIE Definition

- 4. Do you support the proposals for the new term “publicly traded entity” as set out in subparagraph R400.14(a) and the Glossary, replacing the term “listed entity”? Please provide explanatory comments on the definition and its description in this ED.**

As noted earlier, it is problematic that differences exist between definitions and expressions used by the international standard setters. Attempts should be made to reduce or eliminate such differences and an approach be found for harmonising definitions.

Notwithstanding this point, the use of the term “public traded entity” does not, of itself, seem to create any obvious issues or problems.

- 5. Do you agree with the proposals for the remaining PIE categories set out in subparagraphs R400.14 (b) to (f)?**

In general, CPA Australia agrees with the proposals.

- 6. Please provide your views on whether, bearing in mind the overarching objective, entities raising funds through less conventional forms of capital raising such as an initial coin offering (ICO) should be captured as a further PIE category in the IESBA Code. Please provide your views on how these could be defined for the purposes of the Code recognizing that local bodies would be expected to further refine the definition as appropriate.**

A principled-based approach would suggest that it is not the method of raising funds, nor how those funds are practically maintained (e.g., in a manual register, utilising a registry service, or using Blockchain technology), that is a defining criteria, but rather whether the funds are being raised from the public; and that the public has

an expectation that an entity's financial reporting will be of the highest quality for relevant and appropriate decision making. Moreover, how an item is accounted for in financial statements (refer to paragraph 38, sixth dot point of the explanatory memorandum) should not necessarily be a determinant of whether an entity is PIE.

Role of Local Bodies

7. Do you support proposed paragraph 400.15 A1 which explains the high-level nature of the list of PIE categories and the role of the relevant local bodies?

Paragraph 400.15 A1 links directly to, and is dependent on, paragraph 400.14 A1. Both paragraphs have the potential to create confusion, in particular, the sentences: "*However, if law or regulation designates entities as "public interest entities" for reasons unrelated to the objective set out in paragraph 400.9, that designation does not mean that such entities are public interest entities for the purposes of the Code*"; and "*Similarly, the Code also provides for such bodies to exclude entities that would otherwise be regarded as falling within one of the broad categories in paragraph R400.14 for reasons relating to, for example, size or particular organizational structure.*"

The Code of Ethics should remain silent on exclusions, as regulatory authorities have the option to make their own determinations, for their own jurisdictions, of what entities are defined as public interest entities. If they choose to ignore and/or revise the definition provided in the Code of Ethics that is surely their prerogative. However, it does raise questions about the ability to claim compliance with the Code of Ethics when implementing it locally.

Arguably, to establish such clear avenues by which those adopting the Code of Ethics can choose to ignore its contents is fundamentally undermining the Code of Ethics. Potentially, it also undermines one of the foundational cornerstones of the development of the Code – that is, that rather than saying that "this is what is expected", the proposed revisions introduce the idea that the IESBA is saying "while this is what we expect, we note that you can choose to ignore it."

Finally, and perhaps tangentially, it would be pertinent for the IESBA to consult with IFAC with respect to the implications of allowing such exclusions on IFAC members' Statement of Membership Obligations fulfilment obligations.

8. Please provide any feedback to the IESBA's proposed outreach and education support to relevant local bodies. In particular, what content and perspectives do you believe would be helpful from outreach and education perspectives?

We offer no specific comments on potential content at this time. However, it is clear that case studies and scenarios would be useful to demonstrate how firms might determine if an entity should be treated as a PIE.

Role of Firms

9. Do you support the proposal to introduce a requirement for firms to determine if any additional entities should be treated as PIEs?

Careful consideration needs to be given to the introduction of a requirement for firms to determine if any additional entities should be treated as PIEs. Potentially, it places undue pressure and focus on decisions by the audit firms that arguably, are decisions for others in the community to make. Additionally, audit firms making decisions about whether client entities should be treated as PIEs increases their exposure to criticism and complaint, as well as risks (e.g., what will happen if they make what is considered by a regulator, or court,

at a future point in time, to be an incorrect assessment about the entity's PIE status?), which will have an impact on firms' professional indemnity insurance policies, potentially increasing premiums in the market. Furthermore, audit firms should be free to apply additional independence requirements to an audit of any entity, not just a PIE, if relevant risk assessments warrant such additions.

While we note that the Australian standard setter, the APESB, has included a requirement for audit firms in the Australian code of ethics, it has done so within the context of very clear guidelines and examples as to which entities may be considered PIEs. It was also done following close consultation with all key stakeholders. It may be preferable for the IESBA to retain the current wording that encourages firms to make such determinations and which then allows each jurisdiction to determine how it might address this matter.

We note that proposed paragraph R400.16 refers to the reasonable and informed third party test. Arguably, it is preferable, and far less controversial, to have a third party make the determination about what constitutes a PIE in a jurisdiction – rather than an audit firm – as it demonstrates a greater level of objective judgement and minimises claims of potential actual and perceived conflicts of interest.

10. Please provide any comments to the proposed list of factors for consideration by firms in paragraph 400.16 A1.

Refer answer to the previous question.

Transparency Requirement for Firms

11. Do you support the proposal for firms to disclose if they treated an audit client as a PIE?

The proposal, in paragraph R400.17, for firms to disclose if they treated an audit client as a PIE is generally supported; noting however, that we do not support that it be a requirement for firms to determine whether to treat additional entities, or certain categories of entities, as public interest entities.

Also, it is important to note that such a disclosure to financial statement users may not be properly understood or interpreted by those users. Indeed, many financial statement users may have a very different view from the IESBA definition, about what constitutes a PIE. The potential misunderstanding and confusion – along the same lines as arguments about the expectations gap in auditing – should be recognised by the IESBA.

Disclosing such information will also require disclosing what it means – i.e., that it doesn't mean that the audit was undertaken differently from an audit of a non-PIE, but merely that the independence requirements were different. It also means that an audit firm would need to explain why they chose a particular entity to be considered a PIE from their perspective. Greater confusion in the market will ensue where firms offer different explanations and descriptions of why they have treated client entities as PIEs.

Taking all of this into account means that what might, on the face of it, seem to be a very simple disclosure becomes a very detailed and complex issue. It brings into question, from a cost-benefit perspective, the value of doing so.

12. Please share any views on possible mechanisms (including whether the auditor's report is an appropriate mechanism) to achieve such disclosure, including the advantages and disadvantages of each. Also see question 15(c) below.

There are mixed views on whether the auditor's report is the appropriate mechanism for making a disclosure about an audit firm's determination of a client as a PIE.

Feedback from some of our members is that the auditor's report is definitely not the place in which such a disclosure would be made, lest it creates an impression that there are different types and levels of audit, and auditor's report.

Other members believe that the auditor's report would really seem to be the only appropriate place for such a disclosure, as it is the only communication that is owned by the auditor. It could not be in the entity's own communications. Clearly, however, considerable additional details and explanations, beyond just declaring that an entity is being treated as a PIE, would be required (see response to the previous question).

Other Matters

13. For the purposes of this project, do you support the IESBA's conclusions not to:

- (a) Review extant paragraph R400.20 with respect to extending the definition of "audit client" for listed entities to all PIEs and to review the issue through a separate future workstream?**
- (b) Propose any amendments to Part 4B of the Code?**

Extending the definition of "audit client" for listed entities

It is not clear that there is a need to review extant R400.20 at this time, as the term "Listed Entity" is used in the ISAs and the current wording provides an important link back to the ISAs.

Amendments to Part 4B of the Code

Paragraph 79 of the explanatory memorandum, explaining the rationale for not making changes to Part 4B of the Code, is unclear and confusing. It seems to imply that an assurance engagement for an entity considered a PIE for audit purposes will not necessarily be an assurance engagement for a PIE; and vice versa?

Paragraph 900.13 of the Code – *Independence standards for audit and review engagements are set out in Part 4A - Independence for Audit and Review Engagements. If a firm performs both an assurance engagement and an audit or review engagement for the same client, the requirements in Part 4A continue to apply to the firm, a network firm and the audit or review team members* – suggests that the same independence requirements apply for audits as they do for assurance engagements, where a firm performs both types of engagements for the same client.

Therefore, if an entity is a PIE for audit purposes, the firm is obliged to maintain the same independence requirements for any assurance engagements it performs. What is not clear, is if the opposite is also true? One assumes it is. Therefore, the logic in paragraph 79 of the explanatory memorandum may need to be revisited. If there is an assurance engagement being performed that is "of significant public interest", does it make the entity a PIE. The answer, according to the proposed definition, is probably not, even if that assurance engagement is somehow related to the financial condition of the entity? But, is that the intention of the IESBA? Only after re-visiting and clarifying the logic in paragraph 79 can one then confidently opine on whether amendments of Part 4B of the Code are required.

14. Do you support the proposed effective date of December 15, 2024?

The proposed effective date should be set at or before the proposed effective date for the revisions to the Code of Ethics for non-assurance services and fees-related independence provisions.

Matters for IAASB consideration

15. To assist the IAASB in its deliberations, please provide your views on the following:

- (a) Do you support the overarching objective set out in proposed paragraphs 400.8 and 400.9 for use by both the IESBA and IAASB in establishing differential requirements for certain entities (i.e., to introduce requirements that apply only to audits of financial statements of these entities)? Please also provide your views on how this might be approached in relation to the ISAs and ISQMs.
- (b) The proposed case-by-case approach for determining whether differential requirements already established within the IAASB Standards should be applied only to listed entities or might be more broadly applied to other categories of PIEs.
- (c) Considering IESBA's proposals relating to transparency as addressed by questions 11 and 12 above, and the further work to be undertaken as part of the IAASB's Auditor Reporting PIR, do you believe it would be appropriate to disclose within the auditor's report that the firm has treated an entity as a PIE? If so, how might this be approached in the auditor's report?

- (a) Consistency between standards issued by the IAASB and standards issued by the IESBA is critical. Ideally, where the same concepts and matters are addressed, there should be no differences between the standards.
- (b) Refer to answer to sub-question (a).
- (c) Refer to responses to questions 11 and 12.

Other Matters

We offer the following observation:

- Arguably, there would be very few occasions where there might not be significant public interest in the financial condition of a public hospital providing health services (refer to paragraph 20 of the Explanatory Memorandum). Some might argue that in all situations there is an inexorable link between provision of services in a public hospital and its financial condition (versus its financial statements). Confusion may ensue if the IESBA uses an undefined term, "financial condition", in its proposed revisions.