



National Association of State Boards of Accountancy

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International Ethics Standards Board for Accountants (IESBA)
529 Fifth Avenue, 6th Floor
New York, NY 10017

Via Website: www.ethicsboard.org

**Re: Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity
in the Code**

Dear IESBA Members and Staff:

The National Association of State Boards of Accountancy (NASBA) appreciates the opportunity to comment on the IESBA Exposure Draft on *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code* (Exposure Draft). NASBA's mission is to enhance the effectiveness and advance the common interests of Boards of Accountancy (State Boards) that regulate all Certified Public Accountants (CPAs) and their firms in the United States (U.S.) and its territories which covers all audit, attest and other services provided by CPAs. State Boards are charged by law with protecting the public.

In furtherance of that objective, NASBA offers the following comments on the Exposure Draft.

General Comments

NASBA commends the IESBA for taking on the challenging task of re-examining the definitions of Listed Entity and Public Interest Entity (PIE) in the *International Code for Professional Accountants (including International Independence Standards)* (the Code) as a means of achieving greater convergence at the global level. We appreciate the reasons why IESBA chose to address the changes to the Code using a broad approach. While we agree in concept with the approach, we are concerned that allowing relevant local bodies to refine the global PIE definition by setting size criteria and adding or exempting certain entities will lead to significant inconsistencies between and within jurisdictions.

The broad approach may work better in some jurisdictions than others. We will face challenges in the U.S., where multiple federal and state governmental, quasi-governmental, and private bodies oversee and regulate the accounting profession ("U.S. regulatory community"). The American Institute of Certified Public Accountants (AICPA), a private membership organization, establishes the *Code of Professional Conduct* (AICPA Code), which AICPA members agree to follow. However, membership in the AICPA is voluntary and the AICPA Code lacks the force of law.

Many of the fifty-five (55) State Boards adopt or refer to the AICPA Code, but several states, including three with the largest CPA populations, do not. State Boards have the ultimate authority for regulating the CPAs and firms practicing in their states and may set laws and regulations deemed to be in the public interest that differ or go beyond the requirements of the AICPA Code. Multistate practice by CPAs and their firms is common.

The U.S. regulatory community includes other federal and state agencies that largely operate independently to regulate auditors in the securities markets, banking and insurance industries, and auditors of certain employee benefit plans, among others. These laws and regulations are fairly understood by the U.S. auditing profession and the users of those audit reports. Although the IESBA Code, like the AICPA Code, does not have the force of law, the AICPA policy is convergence. Adding another layer to the well-established U.S. system of laws, regulations, and professional standards likely will complicate an already complex, but functional regulatory system.

We are similarly concerned about the proposal that firms determine whether additional entities that are *not* considered PIEs under the Code or applicable local independence standards or regulations should be treated as PIEs and disclosed to the public. Determination of PIE status appears to go beyond the legitimate remit of firms to audit financial statements and could raise questions about independence. We believe such requirements will have unintended consequences and could confuse the public.

Responses to Specific Questions

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?

We agree that the IESBA should establish an overarching objective for defining entities as PIEs and the factors that influence the extent of public interest in an entity. We are concerned with the focus on financial condition in the first sentence of 400.8 and recommend deleting the phrase, “reflecting significant public interest in the financial condition of these entities.” In the U.S., the term “financial condition” refers to the balance sheet. However, public interest in entities is a function of the overall financial health of the entity and its ability to continue as a going concern. We believe the focus should be on the financial statements as a whole and suggest the IESBA consider substituting the term “financial health” for “financial condition.”

Paragraph 400.9 indicates that the purpose of the requirements and application material for PIEs is to “enhance confidence” in the audits of those entities’ financial statements. How this is presented is critical. The “enhancement” concept may cause the public to believe that because the auditors of the financial statements of a PIE have different independence requirements, the auditors of non-PIE entities are less independent than auditors of PIE entities; hence, the public should have less confidence in the financial statements of non-PIE entities. We believe the public’s confidence in an entity’s financial statements is not based on the public’s understanding of auditor

independence standards, which we may not reasonably expect them to have. Rather, the public's interest is simply whether the auditor is independent. We suggest the provision be amended to read, "The purpose of these 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.~~"

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?

NASBA agrees with the proposed list of factors set out in paragraph 400.8 for determining the level of interest of public interest in an entity and does not have any other recommendations for key factors that should be added.

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?*

Conceptually, we support the broad approach by the IESBA in developing its proposals for the PIE definition, but we are concerned about the diversity within and between jurisdictions that may result. As noted in our General Comments above, refinement of the IESBA definition by relevant local bodies in the U.S. and elsewhere could lead to inconsistencies and result in confusion to the public and the profession.

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.

We support the proposal for the new term "publicly traded entity" replacing the term "listed entity." The glossary states the definition of a publicly traded entity as an entity that issues financial instruments that are transferrable and publicly traded. This definition seems reasonable and allows for inclusion of those securities not listed on a formal exchange but traded through other networks or markets.

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

We agree with the proposals for the remaining PIE categories set out in subparagraphs R400.14(b) to (f).

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.

We do not believe that entities raising funds through less conventional forms of capital raising such as initial coin offerings (ICOs) should be captured as a separate PIE category in the Code. As proposed, local bodies could further refine the definition of PIE to include other less conventional forms of capital raising as appropriate.

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?

We support the proposed paragraph 400.15 A1.

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 support the IESBA's proposed outreach and education support to relevant local bodies, which undoubtedly will take significant resources. If outreach and support are sufficiently resourced and disseminated, we believe this will help drive consistency in application by local bodies.

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?

As previously noted, NASBA has concerns about the proposal to require firms to determine if additional entities that are not deemed to be a PIE under relevant laws, regulations, and standards *should be* treated as a PIE. We do not believe that firms should be charged with making those determinations. NASBA believes this is the responsibility of the IESBA and local relevant bodies.

We foresee many possible negative consequences of requiring firms to assume this responsibility, including:

- Inconsistent PIE determinations from one audit firm to another.
- Disagreements on PIE status between predecessor and successor auditors.
- Firms erring on the side of caution when determining PIE status to avoid being “second guessed,” leading to more entities being treated as PIEs, potentially at greater cost to the entity’s shareholders.
- Disagreements between the auditor and the audit client when the auditor concludes that an entity should be treated as a PIE.
- Small and medium practices may be disproportionately disadvantaged by this requirement if users perceive a lesser level of independence or strength of audit.
- Enforcement by State Boards will be difficult due to the subjective nature of the determination.

We do not believe this is an appropriate role for audit firms and urge the IESBA to reconsider this portion of the proposal.

If the IESBA moves forward with the proposed requirement in R400.16, we suggest the IESBA provide additional guidance or application material to help firms navigate challenging situations that will arise. For example, how firms should address a change in auditor where the predecessor auditor classified the entity as a PIE and the successor auditor determines that the entity is not a PIE.

If desired, we believe an audit client should be able to request to be treated as a PIE and that the Code should address this situation.

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

If IESBA adopts 400.16 A1, we suggest that IESBA replace the word “near” with “foreseeable” in the second factor to consider.

Transparency Requirement for Firms

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

NASBA does not support the proposal to require firms to disclose PIE treatment but recommends that the IESBA instead consider a client requirement to disclose its status as a PIE in its description of who they are as required by generally accepted accounting principles, e.g., “XYZ Corporation is a public interest entity as determined by applicable professional standards.”

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.

If the IESBA adopts R400.16 and the disclosure requirement in R400.17, we believe the only appropriate vehicle for disclosure of PIE status would be the auditor's report as this report is the auditor's only mechanism for disclosing information to the public.

In the U.S., auditors apply different auditing standards based on the type of entity being audited, that is, the audits of a private closely held entity, publicly traded entity, and government funded entity are subject to different auditing standards. For each of these audits, the firm would apply independence standards that have been developed for each type of engagement. Incorporation of a consideration for PIEs would add complexity and inconsistency from one engagement to another and will likely cause great confusion in the U.S. regulatory community, especially the State Boards charged with enforcing the rules and the users accustomed to the way these audits are generally conducted.

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?*

We support the IESBA's conclusion not to review extant paragraph R400.20 with respect to extending the definition of "audit client" for listed entities to all PIEs and the conclusion not to propose any amendments to Part 4B of the Code.

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

Yes, we support the effective date of December 15, 2024.

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.

With the caveat of our previously noted concerns, we support the overarching objective set out in paragraphs 400.8 and 400.9 for use by both the IESBA and the IAASB in establishing differential requirements for certain entities. We agree that the IAASB should conclude on a case-by-case basis whether to apply differential requirements to listed entities or more broadly to other categories of PIEs.

In addition, if the IESBA will require auditors to consider whether to treat non-PIE entities as PIEs, we believe that auditors will need guidance regarding the documentation requirements, which the IAASB should address.

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Thank you for the opportunity to comment on the IESBA Exposure Draft on *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code*.

Very truly yours,



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NASBA Chair



Ken L. Bishop
NASBA President and CEO