

IESBA
529 5th Avenue
New York
New York
10017
KenSiong@ethicsboard.org

To whom it may concern

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

On behalf of the South African Institute of Professional Accountants (SAIPA) we would like to comment on Exposure Draft ***Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code*** published by the International Ethics Standards Board for Accountants for comments submitted by 03 May 2021. We appreciate the opportunity to comment on this Exposure Draft.

The International Ethics Standards Board for Accountants® (IESBA®) is an independent global standard-setting board. The IESBA's mission is to serve the public interest by setting ethics standards, including auditor independence requirements, which seek to raise the bar for ethical conduct and practice for all professional accountants through a robust, globally operable International Code of Ethics for Professional Accountants (including International Independence Standards) (the Code).

The PIE concept was first introduced into the extant Code when the IESBA finalized its Independence project in early 2000. In adopting this concept, the IESBA concluded that other than for listed entities, determining which entities should be treated as PIEs should be largely left to local regulators or other authorities, although firms were also encouraged to consider whether additional entities should be treated as PIEs, taking into account guidance provided in the Code.

In recent years, some regulatory stakeholders such as the International Association of Insurance Supervisors (IAIS) and the Basel Committee on Banking Supervision have suggested that the definition of a PIE be re-examined from the perspective of financial institutions, including banks. Another regulatory stakeholder, the International Organization of Securities Commissions (IOSCO), has also commented that regulators in many jurisdictions do not have the power to set a definition. Other stakeholders, particularly the small and medium practices (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 IESBA also observed that various jurisdictions (including a number of major ones such as the EU, Australia and South Africa) have also taken different or more specific approaches to defining or scoping the concept of a PIE for their local purposes. There is therefore a need to understand the commonalities and differences between those jurisdictional approaches and the approach taken in the Code, and whether there would be merit in seeking a pathway to greater convergence at the global level.

With regards to the definition of “listed entity,” some stakeholders have questioned the meaning of the term “recognized stock exchange” in the definition. IESBA Staff has also received questions as to whether that term is intended to be the same as, or broader than, the concept of a “regulated market” in the definition of a PIE in the EU Directive 2006/43/EC (the Audit Directive). In addition, developments in capital markets around the world and newer forms of capital raising such as crowd funding—and how these are regulated—have raised questions about the need to update the definition of a listed entity in the Code for clarity and continued relevance.

Against this background, the IESBA committed in its Strategy and Work Plan, 2019-2023 (SWP) to explore whether the definitions of “listed entity” and “PIE” should be revised and to assess the implications of any changes, especially in relation to the International Independence Standards (IIS). The IESBA made it clear in its SWP that it appreciates the importance of maintaining a principles-based approach to the definitions and avoiding an overly prescriptive approach that would undermine the Code’s global applicability. The IESBA also set a clear expectation that it would engage in coordination with the International Auditing and Assurance Standards Board (IAASB) on this initiative as the listed entity and PIE concepts are also relevant to IAASB standards.

As stated in the project proposal, the objectives of the PIE project are:

(a) To review, in coordination with the IAASB, the definitions of the terms “listed entity” and “PIE” in the Code with a view to revising them as necessary so that they remain relevant and fit for purpose; and

(b) In doing so, to:

(i) Establish agreement between the IESBA and IAASB on a common revised definition of the term “listed entity” that would be operable for both Boards’ standards; and

(ii) Develop a pathway that would achieve convergence between the concepts underpinning the definition of a PIE in the Code and the description of an entity of significant public interest (ESPI) in the IAASB standards to the greatest extent possible.

Whilst the project is focused on Part 4A of the Code with respect to audits of financial statements and auditor independence, the IESBA agreed to take into account, and address as necessary, the implications for Part 4B of the Code (independence for other assurance engagements).

Question 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 support the overarching objective as set out in proposed paragraphs 400.8 and 400.9 that encapsulates the following rationale:

- There are types of entities for which there is significant public interest in their financial condition and hence their financial statements.
- It is important, therefore, that there is public confidence in those financial statements. A major contributor to that confidence is in turn confidence in the audit of such financial statements; and
- Confidence in such audits will be enhanced by additional independence requirements

We agree that the additional requirements will enhance confidence in their audits which in turn will enhance confidence in those financial statements.

We understand and agree that the focus is public interest in the financial condition of an entity and not public interest of other aspects of the entity regardless of who significant they might be.

We understand that the IESBA wanted to link this enhancement closely to the role of the financial statement auditor therefore the proposal refer to financial condition rather than some narrower terms to encourage a broader consideration of just the financial statements.

We understand that Paragraph 400.8 is only application material which sets up the context for the overarching objective in paragraph 400.9 and the list of PIE categories in paragraph R400.14. Therefore, it is not necessary that the term “financial condition” be a defined term or used in international financial reporting or auditing standards.

Question 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?

We agree with the list of factors set out in paragraph 400.08 for determining the level of public interest in an entity.

The nature of the business and or activities is a key factor to considered specifically for businesses taking on financial obligations to the public as part of their primary business.

We agreed that companies falling with regulatory supervisions should be a factor of consideration.

We understand that the size of the business might have in effect that the entity is either too small to be included as a PIE or too big to not be included. This is a key factor to consider as smaller entities might be scoped in under some of the other factors.

We agree that consideration should be given to how important the entity is to the sector. The harder it is to replace an entity, the more likely it will have a higher level of public interest.

The nature and number of the stakeholders should also be considered.

We agree that the potential systemic impact on other sectors and the economy as a whole in the event of financial failure of the entity is an important factor.

We agree and understand that the factors listed are important but that it's a non-exhaustive list, we do not believe there is any additional key factors that should be added to the list.

We further want to acknowledge that in the supplementary material we noted that the Board did consider including the Not for profit organizations and we agree that these types of organisations should be considered taking into account the other factors listed in 400.8 and a separate reference to such are not required.

Question 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?***

We understand and agree that the board will not be able to establish a global definition of PIE. Under a narrow approach it will be difficult to refine the current definition and unlikely to meet the expectations of stakeholders. The board therefore determined a broad approach will be more suitable, but this approach must be on a high level, this will have the effect that entities will be scoped in the definition that should be excluded and here local bodies will have a key role to play in determining the inclusion.

The code will list common PIE categories which should be adopted by most jurisdictions. The local bodies will then have the role to refine the list by adding new types or exempting certain entities.

We agree with the approach in enhancing the current application material in the code in allowing firms to also determine if there should be additional categories to be included as PIE's.

Question 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 new term publicly traded entity as this term is a broader term than that of a listed entity. Publicly traded entity being defined as an entity that issues financial instruments that are transferrable and publicly traded. Financial instruments in this definition are a broad definition and includes shares, warrants, and bonds. The board specifically use the words publicly traded as some financial instruments are listed but not intended to be traded and we agree with this proposed change.

Question 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 and our understanding of the categories are noted below.

Entities referred to in subparagraphs b and c take on significant financial obligations to the public and are subject to supervisions being banks and insurance companies. These companies were also included in the current code.

Entities referred to on category d usually hold significant investments over the medium to longer term on behalf of large numbers of stakeholders, being pension funds.

Entities referred to in category e is aimed to cover those fund vehicles where investors can only realize their investments by selling them back to the entities, such as mutual funds.

Entities referred to in category f is from the extant PIE definition and aims to capture those entities that have been defined by laws or regulations as PIE's.

Question 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.

The question was raised as to whether entities that raise funds through initial coin offerings (ICOs) should also be regarded as PIEs.

Considering that ICOs can be accounted for as equity or otherwise as a financial instrument, as a non-financial instrument or as revenue.

In some but not necessarily all cases, therefore, it would fall within the new definition of a publicly traded entity. Where it does not fall within the code, consideration would need to be given to whether on an ongoing basis the financial condition of such entities (as opposed to the "value" of the cryptocurrency) would be of significant public interest.

We recommend that 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.

Question 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 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 understand the role of the local bodies is key to the success of the code. The local bodies must seek refinement and make it clear what their meaning is terms of the entities in their local jurisdiction. The code categories are very broad and might inadvertently scope in the wrong entities or not scope in other entities where appropriate.

We 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 and believe that the responsibilities of local bodies are clear under this paragraph.

In light of this responsibility and challenge to local bodies we agree with the longer transition period to December 2024.

Question 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 understand and agree that the process of refining the IESBA's revised definition of PIE, whilst achievable, is not a simple or quick process and will require significant effort and accumulation of experience from the relevant local bodies.

The IESBA has therefore agreed to develop an appropriate outreach and education program, commencing later in 2021 in order to achieve effective adoption of its revisions. In the first instance, the IESBA plans to release non-authoritative guidance material that provides additional explanation and information as a supplement to the explanatory memorandum in this ED. It aims to, amongst other things, assist the relevant local bodies in considering and planning how to revise the IESBA's definition as part of their adoption and implementation process. Other activities may include webinars and targeted stakeholder meetings. Upon approval of the final revisions, it is anticipated that a separate IESBA working group will be established to support the rollout of the revised PIE definition.

We agree with the IESBA approach in developing a non-authoritative guidance material and a series of webinar and seminars should be initiated by the IESBA to assist in the implementation.

In light of this responsibility and challenge to local bodies we agree with the longer transition period to December 2024.

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

The third component of the IESBA's approach relates to an increased role for the firms and is made up of two new proposed requirements:

- Elevation of extant application material to a requirement for firms to determine if any additional entities should be treated as PIEs (paragraph R400.16)
- A new requirement for the firms relating to increasing the transparency of when an entity has been treated as a PIE (paragraph R400.17)

We agree with paragraph R400.16 which makes it a requirement for firms to determine if any additional entities should be treated as PIE's.

This is a requirement in the South African Code currently.

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

We agree with the proposed list of factors for consideration by firms in paragraph 400.16 A1 and understand that this list is not an exception to the requirement set out in paragraph R400.14 and firms can only add more entities as PIEs.

We agree with the additional factors included in the paragraph to assist firms in their determinations and we have no further comments on these.

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

We support the proposal for firms to disclose if they treated an audit client as a PIE. This will ensure public accountability and transparency and is in the public's best interest.

Question 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

We agree that it is important that users of the accounts realise whether the organisation has been treated as a PIE for the purposes of the Independence rules. We support the requirement for the firms to make such disclosure where it is easily accessible by the users of the accounts.

We believe that the auditors report is an appropriate mechanism to achieve such disclosure as all other relevant disclosures relating to Ethics and laws and regulations are contained in this report.

Question 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?

The extant code currently utilises listed entity in the definition of audit client. So, audit client for a listed entity includes all 5 related entities (Upstream, downstream, sister entities). Other PIE's that are not listed entities include only downstream entities (where the client has direct or indirect control).

The key question here is whether the definition of audit client for listed entity should be extended to all PIE audit clients as well.

We 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? And (b) Propose any amendments to Part 4B of the Code?

We agree with the IESBA in replacing the word listed entity in R400.20 with the phrase publicly traded entity.

We however strongly urge the IESBA to review the definition of audit client in R400.20 as a separate IESBA workstream soonest.

We agree with the IESBA conclusion that Part4B of the code does not need to be revised as Not all assurance engagements for a PIE would be of significant public interest whereas some assurance engagements for a non-PIE might be of significant public interest.

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

We support the effective date of 15 December 2024 as this extended timeline will also assist local bodies in implementation.

Question 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.

We 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).

(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.

We believe that the differential requirements applicable to listed entities is IAASB Standards should be applied more broadly to other PIE Categories.

(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?

We agree that it is important that users of the accounts realise whether the organisation has been treated as a PIE for the purposes of the Independence rules. We support the requirement for the firms to make such disclosure where it is easily accessible by the users of the accounts. We believe that the auditor's report is an appropriate mechanism to achieve such disclosure as all other relevant disclosures relating to Ethics and laws and regulations are contained in this report.

Should you wish to discuss the contents of this letter with us, please contact Faith Ngwenya or Leana van der Merwe or Rashied Small on +27 (0)11 207 7840

Yours faithfully

South African Institute of Professional Accountants