
April 26, 2021

International Ethics Standards Board for Accountants
529 5th Avenue
New York, New York 10017

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

Dear International Ethics Standards Board for Accountants and Staff:

Torrillo & Associates, LLC (“Torrillo”) appreciates the opportunity to comment on the International Ethics Standards Board for Accountants’ (IESB) Exposure Draft, *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code* issued in January 2021. We respectfully submit for the IESB’s consideration our comments on the proposed revisions to the definitions of listed entity and public interest entity (PIE) in the International Code of Ethics for Professional Accountants (including International Independence Standards (the Code)). While our letter does not contain responses to the specific questions posed in the Exposure Draft, the body of our letter addresses our concerns for what we believe are the most significant issues arising from the Exposure Draft.

Overall Observations

Torrillo is a small firm located in the suburbs of Philadelphia specializing in the audits of financial statements of employee benefit plans. Employee benefit plan audits comprise over 90% of our book of business. It is for this reason, that we are especially interested in what the final outcomes of the proposed amendments in this Exposure Draft may be. We appreciate the efforts of the IESB to serve the public interest by setting standards, including auditor independence requirements, for all professional accountants that are operable on a global level. It is our understanding that one of the focal points of this project was to explore the merit of convergence of the definition of a PIE. However, a topic such as PIE which in turn affects independence rules is especially sensitive to local factors and firm size. In other words, what may work one jurisdiction may not work in another jurisdiction. Also, what may work for large firms may not work for small firms. While the Exposure Draft discussed that a broad approach to defining PIEs may be adopted with the ability for local jurisdictions to modify and further refine at a local level, unfortunately, the Exposure Draft is silent on how that would occur, what the process would be for local jurisdictions (i.e the AICPA) and in which instances customization would be appropriate. Because of this, we fear that such local customization may not occur and a one size fits all definition of a PIE would remain which would then require all firms – regardless of size- to adhere to the associated independence requirements which could be onerous.

Proposed Amendments

Of particular interest to Torrillo is the expansion of the extant definition of a PIE to include:

“The entities used to provide for post-employment benefits, such as pension funds, usually hold significant investments over the medium to longer term often on behalf of large numbers of stakeholders...The IESBA notes that in common with other categories defined as PIEs, the board definition of this category might include very small entities, particularly in the case of single employer-sponsored plans.”

This would then require the following enhanced independence rules for entities that fall within the scope of a PIE:

- Prohibit the provision of a nonattest service that might give rise to the self-review threat in relation to the audit of the financial statements on which the firm will express an opinion.
- Firm rotation regarding long association of senior audit personnel with an audit client
- A one-year “cooling off” period regarding the employment of an audit team member or senior/managing partner with an audit client.

Such expansion may impose a serious hardship for firms such as ours – a small firm that specializes – for the following reasons:

- Subjecting a majority of audits performed by the firm to these enhanced independence requirements which are currently not required.
- A significant client-service that we are in most cases asked to provide is assistance with the preparation of financial statements. The revised PIE definition would not allow that for employee benefit plans under the provision of nonattest services that might give rise to the self-review threat. Currently, we adhere to guidance set forth by the professional ethics executive committee (PEEC) of the AICPA. ET 1.295 of the AICPA *Code of Professional Conduct* provides guidance on the performance of allowable nonattest services for an attest client. Before performing nonattest services, the practitioner is required to establish and document in writing his or her understanding with the client regarding
 - the objectives of the engagement,
 - the services to be performed,
 - the client’s acceptance of its responsibilities,
 - the practitioner’s responsibilities, and
 - any limitations of the engagement.

ET 1.295 also includes requirements for the practitioner:

- to be satisfied that, among other things, the client agrees to assume all management responsibilities pertaining to the nonattest service and oversee the service by designating an individual who possesses suitable skill, knowledge, and/or experience;

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- to assess and be satisfied that the designated individual understands the services to be performed sufficiently to oversee them; and
 - to consider whether the performance of multiple nonattest services to the client creates a threat to independence.

The above safeguards are currently attainable and have been executed by Torrillo and many other firms successfully for a considerable amount of time. The inability to provide assistance with the preparation of the financial statements may even cause hardship for our clients as in most cases the person charged with the responsibility for plan administration and overseeing the plan audit is usually not a person who normally has financial statement responsibility. The preparation of financial statements usually occurs once a year and while the client may have the capability to oversee the preparation and has substantial knowledge to review such financial statements he or she may not be able to unilaterally prepare the financial statements. He or she normally does not have knowledge of recently issued accounting guidance, disclosure guidance and requirements. Our proficient knowledge of these matters is a service that we provide.

- Another hallmark of a small firm, and one that specializes, is the relationships that we are able to build with our clients and the knowledge, skill and expertise that we can provide. It would be extremely disruptive and potentially devastating if we consistently had to turn over our book of business because of firm rotation requirements. This may be feasible for large firms as they have more than one partner who can rotate to service a client without losing the client, but no one has addressed what this would mean for sole proprietors who do not have that ability. Firm rotation would be extremely disruptive for both clients and small firms.

It is for these reasons that we believe that most small firms, whose clientele include entities that fall within the proposed revised definition of a PIE would not be able to compete and sustain in such an environment. Nor do we think it likely that entities that are being scoped into the proposed revised definition, would then be excluded by local jurisdictions, or in our case PEEC, as often small sole proprietors are often overlooked and the focus is on national and regional firms. In general, we believe that the IESBA's strategic actions and initiatives should include only matters that are relevant and feasible for which there is true public oversight and requirements by government oversight.

We believe that we look out for the public interest in the best way possible. We have developed a business specializing in audits of employee benefit plans. We are experts, have developed strong client relationships. We take seriously our responsibility to the public (i.e. plan participants and taxpayers), not only because we are obligated under our current professional ethics standards, but because it is the right thing to do.

We do not believe the auditing industry needs additional ethic rules related to public interest entities. Instead, the industry and regulators just need to enforce the current rules. No matter how many rules are made, the bad auditors will continue to be bad and the good auditors have to pay the price. Simply take

enforcement action against the bad auditors and audit quality will improve and the public interest will be served. In the United States of America, this is done through peer review, regulator referrals, state boards of accountancy, and legal action to which all auditors which are AICPA members are subject. There are plenty of current remedies available to ensure the public interest is served when bad auditors decide not to take their responsibility seriously.

As currently written, and if approved with no changes by the AICPA, the current rules would cause significant disruption in the audit industry and audit firms which specialize in niche areas like benefit plans such as ours. While we would expect the AICPA to make rules which would hopefully mitigate such disruption, we do not believe the International Ethics Standards Board for Accountants should be issuing rules and then asking local jurisdictions to modify. This is no way for audit firms to operate. Just like we must perform audits in accordance with auditing standards, we need to know with certainty what the ethics rules are as well.

We are also not in favor of any rules which would negatively impact specialized audit firms by requiring them to forgo relationships or work because they have been associated with a client for long periods of time or are assisting clients in preparing financial statements. The current safeguards are sufficient for firms. As mentioned, firms such as our firm are overseen by numerous bodies and regulators. If we do not perform quality audits, we risk going out of business as that is all we do. The proposed rules give no appreciation to the benefits of having specialized auditors such as ours which have a long standing relationship with clients. We know the client, their plan, the areas of past concern, industry concerns, etc. Our expertise and continuity as auditors help ensure accurate and complete financial statements. When there is turnover at the client, our experience and understanding of the client can be very helpful to the client as well as the audit.

All audit firms believe they can be independent in fact when clients pay them for the audit, and rightly so, as our standards require auditors to remain independent and the objective of the audit is to give an independent opinion. However, in appearance, they will never be independent. As an industry, we accept such. However, we continue to have debates over whether audit firms are independent if they assist a client in preparing financial statements or if the firm has had a long association with a client. How are these concerns any greater than clients paying audit firms? They are not, and so if audit firms can continue to be independent in fact when clients pay them, they can also be independent if they have had long durations with clients and/or assist clients in the preparation of financial statements. Proper safeguards should exist as currently in the existing standards, but we do not believe mandating client or partner rotation for small firms should be required for independence.

Lastly, any firm rotation whether it be once every five years, seven years or 10 years adds an increasingly difficult burden, especially for a small firm. You are asking a services business to change their business model so that they need to replace every year 10% to 20% of their business. How can you build a specialty business as a small firm, if every year, just to stay even, you need to replace 10% to 20% of your business, before any attrition from client turnover, mergers, acquisitions, etc? Small firms do not have unlimited resources or personnel. You are asking specialist firms who built a brand and reputation to

attract and retain clients by doing high quality audit work to switch to establishing and devoting resources to marketing and replacing clients. How is audit quality going to improve when doing a good quality audit is not rewarded? It will not. We do not believe economic harm needs to come to audit firms, especially those that specialize, when they are independent and they are performing high quality work.

We are not in favor of the current proposed changes.

We would be pleased to discuss our comments with you. If you have any questions, please contact David Torrillo, Managing Member, at david@torrillocpa.com or 484-574-8782 x101

Sincerely,

/s/ Torrillo & Associates, LLC