



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

30 April 2021

Senior Technical Director
International Ethics Standards Board for Accountants
545 Fifth Avenue, 14th Floor
New York, NY 10017 U.S.A.

Our Ref: 2021/O/C1/IESBA/MS/29

Subject Line: IEBSA’s Exposure Draft: Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code

Dear Sir:

The International Organization of Securities Commissions’ Committee on Issuer Accounting, Audit and Disclosure (Committee 1) appreciates the opportunity to comment on the International Ethics Standards Board for Accountants (the IESBA or the Board) Exposure Draft: *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code* (the Paper). As an international organization of securities regulators representing the public interest, IOSCO is committed to enhancing the integrity of international markets through the promotion of high quality accounting, auditing and professional standards, and other pronouncements and statements.

Members of Committee 1 seek to further IOSCO’s mission through thoughtful consideration of accounting, disclosure and auditing concerns, and pursuit of improved global financial reporting. Unless otherwise noted, the comments we have provided herein reflect a general consensus among the members of Committee 1 and are not intended to include all of the comments that might be provided by individual securities regulator members on behalf of their respective jurisdictions.



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

Overall Comments

General

We appreciate the IESBA’s initiative to take on this very important (and as expressed in the Paper, challenging) task of revisiting a fundamental concept of the Code with the goal of enhancing the definition of a Public Interest Entity (PIE). We fully support the overarching purpose set out in paragraph 400.9, which states:

“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.”

It is in the public interest that the IESBA clearly define which entities fall within the scope of a PIE. However, we believe a well-defined but narrow approach should be adopted as it will provide a “baseline” that establishes those entities that are consistently considered a PIE anywhere across the globe.

We do not support a broad approach that results in jurisdictions being provided with the option of excluding categories of entities from the definition established by the Code. We recognize that the ultimate responsibility for the designations of what entities are defined as a PIE, for the most part, rests with legislators, regulators, oversight bodies, and/or national standard setters, which is why a well-defined baseline in the Code could incentivize these bodies to adopt the definition, and *only add to the list*, as needed.

Retaining “listed entity” vs. introducing “publicly traded entity”

Having had an opportunity to reflect upon the Board’s Paper as well as our comment letter to the Board dated July 30, 2018, regarding the Board’s *Proposed Strategy and Work Plan, 2019-2023*, we believe that “listed entity” is an important term and should continue to be prominently featured in the Code. We believe that moving away from the “listed entity” definition, which is encapsulated in existing national accountancy regulation across numerous jurisdictions, may even decrease convergence further as jurisdictions could decide to hold on to proven concepts, thereby adding complexity if not confusion.



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

Rather than the Board replacing the term “listed entity” and deleting its definition, the Board should consider updating its listed entity definition, or provide additional guidance on the term “recognized stock exchange”, to better reflect its use in global capital markets. “Listed entity” is well understood across global jurisdictions and capital markets as well as encapsulated in existing national accountancy regulation.

We also note the following concerns with respect to IESBA’s proposed “publicly traded entity” definition:

- Introducing the term “financial instruments” while removing the reference to equity or debt, creates additional confusion as the term “financial instruments” itself is neither well understood and possibly not consistently applied across jurisdictions. If the term “financial instruments”, or a similar type term, is included then it should be defined.
- Additional guidance, or a definition, would be needed to interpret how the term “publicly traded” should be applied.

PIE definition

Given our views above on retaining the term “listed entity”, we believe that the IESBA should enhance the definition of a PIE by explicitly incorporating the term “public accountability” in the extant code as follows (***changes indicated in bold italics to the extant PIE definition***):

“(a) ***Public accountability, including*** a listed entity; 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 may be promulgated by any relevant regulator, including an audit regulator.”

This would drive closer convergence to the International Financial Reporting Standards (“IFRS”). Enhancing consistency in the approaches between the Code and the accounting



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

standards will benefit the financial reporting system by reducing complexity and possible confusion amongst auditors and issuers in jurisdictions that permit or require use of IFRS.

Role of Local Bodies

As indicated in our comments in the General section, while the Code establishes a “minimum set of categories” in R400.14, specifically naming deposit taking or insurance providing entities, local bodies need to have the ability to **add** entities on to that list subject to local circumstances, often times reflecting one or more aspects of national standard setting or legal frameworks.

Role of Firms

We believe the Board’s intention is that audit firms could add but not remove entities from being considered a PIE. We do not object to this approach, however we are concerned that there could be unintended consequences because of the current construct of the Board’s proposal in paragraph R400.16, which states:

“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 entities should be treated as public interest entities.” (Emphasis added).

Based on the current drafting, the sentence could be interpreted by some to mean that a firm could determine whether to treat (and thereby exclude) a certain category of entities, including those established in the baseline definition, as a PIE. While we do not believe this is the intention of the IESBA, we strongly believe that firms should not have the option to strip away any entities from the baseline definition. We encourage the IESBA to explore clarifying this paragraph.

While firms are clearly among those in the ecosystem that possess the knowledge and characteristics of an entity to determine if an entity is a PIE, there may be unintended consequences as it would also give firms the power to decide otherwise, therefore posing an independence threat.



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

Less conventional forms of capital raising

We believe that it is too early to include less conventional forms of capital raising, such as an initial coin offering (ICO), in the enhanced PIE definition. This rather new phenomenon has raised numerous questions, from regulatory to accounting, which still need to be addressed. At this point, we also observe a lack of legal consistency of ICOs, which vary in classification by jurisdiction. ICOs often possess a range of characteristics from digital currency units to equity, debt and financial instruments altogether.

The Board should also consider the unintended consequence of including ICOs in the PIE definition, that is, the public perception and enhanced investor confidence that would come with their inclusion. Unlike regulated and supervised listed entities (or publicly traded entities including financial instruments), ICOs are currently inconsistently regulated at the local level with challenges still to be addressed at supranational level. Ultimately, this may not appropriately contribute to the IESBAs overarching objective to serve the public interest. Therefore, we believe that prior to the inclusion of less conventional forms of capital raising such as ICOs in the definition of a PIE, further research and maturity of this capital raising mechanism is necessary for local regulators to use to better assess resulting implications (including involvement from accounting and auditing standard-setters).

Matters for IAASB Consideration

The Paper asks for views on page 26 related to *Transparency Requirements for Firms* and *Matters for IAASB Consideration*, specifically:

- (1) 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 and;
- (2) If there is support for the proposal for firms to disclose if they treated an audit client as a PIE.



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

Notwithstanding our observations made earlier in this comment letter, we believe that the IAASB should align the differential requirements already established within the IAASB Standards for listed entities today with the enhanced definition of a PIE resulting from the IESBA project. We believe it is an important public interest matter that those entities that operate in the capital markets and are defined as a PIE by local bodies are subject to the same requirements within the IAASB Standards. The IAASB should also contemplate the revised PIE definition as it progresses through its current work plan, most notably the scope of the less complex entities (or LCEs) project. We believe that the financial reporting system would benefit where the scope (or restrictions) that standard-setters use result in minimal instances of divergence (for example, the final scope of the IAASB’s LCE standard and the IFRS for small and medium-size entities (SMEs) standard).

In addition, we agree with the Paper which states that a firm should publicly disclose if an audit client has been treated as a PIE. Furthermore, should the IAASB also consider if it would be beneficial to investors if firms were also required to provide disclosures to allow users of financial statements to understand *why* an entity was defined as a PIE by the firm, along with the resulting independence and audit requirements? It is important that there is sufficient transparency by auditors, which we have concerns may not be adequately achieved if the disclosure requirement is limited only to stating whether an entity was defined as a PIE or not.

Other Matters

The remaining timeline for this project in paragraph 86 of the Paper is indicated to seek IESBA approval of the final pronouncement in December 2021. Relatedly, the proposed effective date is defined as December 15, 2024. We have concerns on both the remaining timeline and the proposed effective date.

First, as it relates to the remaining timeline, we encourage the IESBA to consider republishing the Paper for further public consultation once the IESBA has the opportunity to consider the responses received on this Paper and if the Board makes significant changes to its proposal. In our opinion, it is of critical importance that the revised definition of a PIE as an outcome of this project promotes confidence to be globally adopted and can remain fit for purpose over time.



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores

Second, on the proposed effective date, we believe that although the proposed effective date provides for approximately two years to implement, this will still be challenging for those jurisdictions that need to consider the new PIE definition and amend or adjust their local regulation, which oftentimes involves public consultation. Additionally, as firms may be required to disclose when an entity was treated as a PIE in their auditor's report, this also may result in additional challenges due to coordination with the IAASB and implementation of new requirements by audit firms.

Thank you for the opportunity to comment on the Paper. If you have any questions or would like to further discuss these matters, please contact Michael Porth at ph. + 49[0]228 4108-4013 (email: michael.porth@bafin.de) or myself. In case of any written correspondence, please mark a copy to me.

Sincerely,

Makoto Sonoda
Chair, Committee on Issuer Accounting, Audit and Disclosure
International Organization of Securities Commissions