Think Ahead ACCA

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

An exposure draft issued for public consultation by the International Ethics Standards Board for Accountants (**IESBA**)

Comments from ACCA
7 May 2021
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# GENERAL COMMENTS

ACCA welcomes the opportunity to comment on the proposals to revise the definitions of listed entity and public interest entity (**PIE**) in the Code. The ACCA Global Forum for Audit and Assurance has considered the matters raised and their views are represented in our response.

We are supportive of what the IESBA (**the Board**) is trying to achieve in updating and strengthening the International Independence Standards (**IIS**) within the Code to ensure the provisions are clear and remain relevant. We were strong advocates of the Board's project to review the definition of a PIE used in the Code and to harmonise it, as far as possible, with the concept of an Entity of Significant Public Interest (**ESPI**) used in the International Auditing and Assurance Standards Board's (**the IAASB**) standards. However, we have identified some areas of concern and these are highlighted in our responses to the questions raised where appropriate.

In particular, we have reservations regarding the use of the undefined term "financial condition" in paragraph 400.8. Although we understand the Board's viewpoint noted in paragraph 21 of the Explanatory Memorandum, we still believe that this could lead to different interpretations. This could be interpreted as having a meaning beyond financial position and financial performance, which is the focus of a financial statement audit. We also note that the use of the term "financial condition" could also create issues with translation of the term, which could be confused with the terms like "Going Concern" when translated in the local language.

We also have concerns regarding the proposal to elevate the extant encouragement for firms to determine if any additional entities should be treated as PIEs into a requirement. While we see a role for the IESBA and relevant local bodies in determining the entities that should be treated as PIEs, the additional involvement of firms in this process has the potential to create divergence and undue inconsistency in the treatment of PIEs between firms. Feedback received suggests that the involvement of firms in determining PIEs could have unintended consequences and risks related to "auditor shopping". We have included a list of factors that the IESBA should consider before progressing with the proposed change.

Furthermore, we have concerns regarding the proposal for firms to disclose if they treated an audited entity as a PIE. We encourage the IESBA to carefully consider the implications of introducing a requirement for such disclosure. The value of the disclosure will have to be evaluated from the perspective of the users as recipients of the disclosure. We have heard concerns being expressed about the users' ability to understand the implications of PIE vs. non-PIE classification. And warned about the risk of the perception of different 'quality level' of audit being provided to PIEs, undermining non-PIE audits. This could widen the audit expectation gap



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as the rationale and meaning behind such disclosure is unlikely to be immediately clear to users. Therefore, IESBA will have to proceed with caution and coordinate closely with IAASB on whether a disclosure is indeed useful and if so, decide which is the best way to approach this in order to avoid misinterpretation and any unintended consequences.

## AREAS FOR SPECIFIC COMMENT

**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 are generally supportive of the overarching objective set out in paragraphs 400.8 and 400.9 and the emphasis placed on the public interest in the financial wellbeing of PIEs. We believe a common overarching objective adopted by the IESBA and the IAASB is critical to the successful implementation and adoption of the additional independence requirements for the audit of these entities and to enhance the confidence in those audits. It is therefore, encouraging to read about the close coordination and commitment to achieve alignment in the approach of the two boards, noted in the Explanatory Memorandum.

Last sentence of paragraph 17 in the Explanatory Memorandum clearly explains, in simple terms, that it is not about having a different 'level' of independence but enhancing confidence in that independence. We encourage IESBA to consider if some of the wordings can be carried over to paragraph 400.8 & 400.9 to further enhance clarity.

As noted in our general comments, we have concerns regarding the use of the undefined term "financial condition" in paragraph 400.8. Although we understand the Board's viewpoint noted in paragraph 21 of the Explanatory Memorandum, we still believe that this could lead to different interpretations. This could be interpreted as having a meaning beyond financial position and financial performance, which is the focus of a financial statement audit. We also note that the use of the term "financial condition" could create issues with translation of the term. E.g. we understand that it could be confused with terms like "Going Concern" when translated into French.

Since the aim of the overarching objective is to enhance the confidence in financial statement audits, variances in the interpretations could create confusion to users and, as a consequence, widen the expectation gap. We therefore suggest the Board considers to either define the term 'financial condition' or to use an alternative term, and to provide further guidance for use by relevant local bodies.



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**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?**

Overall, we find that the direction of the proposed list of factors for determining the level of public interest in an entity to be relevant, however, we have some concerns about specific factors:

- The fourth factor set out in paragraph 400.8 suggests considering "how easily replaceable the entity is in the event of financial failure". We have received feedback that the way the factor is phrased may cause confusion because what the point really means is how difficult (rather than 'easy') it is to replace the entity in the event of financial failure. Additionally, we note that it is important to consider the function served by the sector in which the entity operates. That is because, if the sector does not serve a critical public function then, whether the entity can be easily replaceable or not would not necessarily matter as there would be no significant public interest in the entity.
- In regard to the factor referring to the "size of the entity", while we agree that this should be left to the national regulators to define at the local level as it would be very challenging for the IESBA to devise size criteria that are acceptable internationally, we have received feedback seeking more specific non-authoritative guidance from the IESBA in order to promote a degree of consistency across different jurisdictions.
- In terms of adding a new factor in the list set out in paragraph 400.8, some of our stakeholders suggested that the **geographical spread** should be considered as one of the key factors and should be added in the list of factors. We believe that for entities operating in jurisdictions with many remote communities, geographical spread might be an important factor to consider when defining PIE at the local level. Alternatively, it could be a factor to consider when determining how difficult it is to be replaced.

**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 welcome the introduction of a list of high-level categories of PIEs and are broadly supportive of the approach to allow relevant local bodies to refine the IESBA definition as part of the



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adoption and implementation process. There may be categories of PIE in some jurisdictions which are not suited to a global Code and the ability to refine the PIE definition will enable local bodies to capture these PIEs in their local Codes.

However, we have concerns about the appetite, capacity and ability of some relevant local bodies to undertake this refinement and develop a list of PIEs specific to their jurisdiction. We also have concerns about the scope of the refinement of the IESBA definition by relevant local bodies. We comment on this further within our response to Question 7 below.

According to feedback received, there were also mixed views on the refinement of the IESBA definition by the relevant bodies. Some stakeholders agreed that this approach would be more useful for local regulators to be more specific and contextualise, while others highlighted the risk of significant divergence and the potential unintended consequences of having a wide range of definitions of PIE. Furthermore, concerns were raised about the multi-location audit implications, where the entity has been defined as PIE in one jurisdiction and not in another. This would create further implications for the principal auditor in practices.

**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 are supportive of the new term "publicly traded entity", replacing the term "listed entity". The new definition encourages broader thinking about this term and addresses ambiguities.

Although we are supportive of the new term, we do note that due to its broad nature it does create complexities for local bodies when considering its refinement. We therefore believe that the IESBA's close engagement and support of local bodies as they look into implementation and localisation would be key in promoting consistent understanding globally.

**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 set out in subparagraphs R400.14 (b) to (f) with exception of (d) which states that "an entity whose function is to provide post-employment benefits" should treated as PIE. We wonder if this might be too specific and moves away from the principles-based approach of the Code. In the UK for example, this will potentially capture a large pool of entities incorporated for the sole purpose of providing post-employment benefits to specific parent entities, and therefore are not necessarily large and of direct impact to the public.



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**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.**

We are very pleased that the IESBA is considering the fact that entities may choose to raise funds through less conventional forms of capital raising such as ICOs as this reflects the current reality of the global economy.

There are however a number of issues associated with less conventional forms of capital. For example, in the case of ICOs, unlike IPOs, these are not regulated (at least not in most jurisdictions), resulting in frequent reported scams. Under an IPO, entities undergo a long process including due diligence and regulatory requirements. ICOs on the other hand do not have such requirements.

Capturing ICOs as a further PIE category will bring in a very large pool of entities from an unregulated industry with token holders ranging from a few to numerous, therefore, we do not currently support this. We do, however, note that the IESBA should continue to follow developments in this space. In the meantime, relevant local bodies and firms should be encouraged to review the need to classify such issuers as PIE based on the specific facts and circumstances.

**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 the intent behind the proposed paragraph 400.15 A1, but we have concerns about the practical implementation of these proposals. Some relevant local bodies do not have the capacity and ability to refine the high-level categories, while others may be unwilling to develop a list of PIEs specific to their jurisdiction. We also have concerns about the scope of the refinement of the IESBA definition by relevant local bodies. While local regulators will have the freedom to determine what entities should be classified as a PIE through close engagement with local stakeholders and firms, it may be necessary to emphasise that they are not be permitted to remove a category of PIE from the high-level list but rather to refine the list based on local facts and circumstances.



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**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 welcome the proposed outreach and education support to relevant local bodies. We are supportive of the IESBA plan to release non-authoritative guidance material with additional explanatory information. We also agree that assisting the relevant local bodies, with targeted stakeholder meetings and webinars as outlined in paragraph 59 of the Explanatory Memorandum, is crucial for the successful adoption and implementation process of the revised definition of PIE.

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

We suggest that the IESBA carefully consider the proposal to elevate the extant encouragement for firms to determine if any additional entities should be treated as PIEs into a requirement. While we see a role for the IESBA and relevant local bodies in determining the entities that should be treated as PIEs, the additional involvement of firms in this process has the potential to create divergence and undue inconsistency in the treatment of PIEs between firms. Feedback received suggests that the involvement of firms in determining PIEs could have unintended consequences and risks related to "auditor shopping", where entities may opt for a firm that does not treat them as PIEs for audit purposes.

We suggest that the IESBA take the following into considerations before progressing with this proposed change:

- Given that it is already an 'encouragement' in extant for firms to determine whether to treat additional entities or certain entities as PIEs, according to IESBA's investigation of how this has landed in practice, what changes does IESBA expect to see with the 'elevation' to a requirement?
- Is there sufficient push and guidance in the ED that will lead firms to the appropriate decision?
- Has there been a more thorough consideration of the cost implications of classifying an audit entity as PIE vs not, which helps IESBA understand the driver for inappropriate classification?
- Is there a risk that firms will be concerned about being second-guessed by their regulators all the time and will constantly err on the side of caution?
- Will such a requirement result in a disproportionate cost burden on the mid- and smaller-sized practices?



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We have also heard feedback expressing concerns over practical implications including those related to mandatory auditor rotation. For example, some firms may not interpret the principles correctly under these additional firm requirements and if they have treated an entity as PIE then the successor auditor may feel compelled to treat it as a PIE as well. Also, in jurisdictions where there is mandatory rotation, there are practical challenges as we could end up at a "procyclical PIE phenomenon" with every successor auditor treating an entity as a PIE, eventually leading to a situation where most entities are treated as PIEs.

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

Please see our response to Question 9 above.

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

We have concerns regarding the proposal for firms to disclose if they treated an audited entity as a PIE. We encourage the IESBA to carefully consider the implications of introducing a requirement for such disclosure. The value of the disclosure will have to be evaluated from the perspective of the users as recipients of the disclosure. We have heard concerns being expressed about the users' ability to understand the implications of PIE vs. non-PIE classification. And warned about the risk of the perception of different 'quality level' of audit being provided to PIEs, undermining non-PIE audits. This could widen the audit expectation gap as the rationale and meaning behind such disclosure is unlikely to be immediately clear to users. Therefore, IESBA will have to proceed with caution and coordinate closely with IAASB on whether a disclosure is indeed useful and if so, decide which is the best way to approach this in order to avoid misinterpretation and any unintended consequences.

**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.**

Please refer to our responses to Questions 11 and 15(c).



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**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?**

We support the decision to review this issue through a separate future workstream.

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

We also support the decision not to propose any amendments to Part 4B of the Code.

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

We support the proposed effective date of December 15, 2024. In previous consultation responses, we encouraged the Board to complete the revision of the definition of a PIE before finalising and issuing the revisions to Fees and Non-Assurance Services (**NAS**). While concurrent dates for implementation would have been ideal, we recognise that a later date for the implementation of the PIE provisions is a pragmatic solution. The longer timeframe will allow relevant local bodies to refine the revised PIE definition and ensure firms develop experience in applying the new Fees and NAS provisions for PIEs before they become applicable to entities who may be newly captured by the revised PIE definition.

However, we have concerns that the IAASB and IESBA are not moving at the same pace and while we understand the Boards will closely coordinate and contribute to each other's Board deliberations, there remains a risk that the two Boards may ultimately arrive at conclusions that do not fully align with each other. That will undermine the public's confidence in the Boards' ability to work with each other in a seamless manner and complicates the implementation efforts.

**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**



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**financial statements of these entities)? Please also provide your views on how this might be approached in relation to the ISAs and ISQMs.**

As noted in our response to Question 1, we are generally supportive of the overarching objective set out in paragraphs 400.8 and 400.9 and the emphasis placed on the public interest in the financial wellbeing of PIEs. We believe a common overarching objective adopted by the IESBA and the IAASB is critical to the successful implementation and adoption of the additional independence requirements for the audit of these entities and to enhance the confidence in those audits. It is therefore, encouraging to read about the close coordination and commitment to achieve alignment in the approach of the two boards, noted in the Explanatory Memorandum.

**(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 support that 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?**

As noted in our response to Q11, we have concerns regarding the proposal for firms to disclose if they treated an audited entity as a PIE. We encourage the IESBA to proceed with caution and coordinate closely with IAASB on whether a disclosure is indeed useful and if so, decide which is the best way to approach this in order to avoid misinterpretation and any unintended consequences.

Some of our stakeholders raised concerns regarding the length and readability of the auditor's report, particularly in light of the recent developments in auditor reporting i.e. with the introduction of ISA 701, *Key Audit Matters*. If firms will be required to disclosure that an entity has been treated as PIE, further disclosures will be necessary including their rationale, however the value added is not clear for the reasons noted above.



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**Request for general comments**

*Small and Medium-Sized Entities (**SMEs**) and Small and Medium Practices (**SMPs**):*
SMEs and SMPs are important stakeholders in developing and enhancing the Code. It is within such organisations (with more limited resources, including fewer personnel) where changes in behaviours are best supported through clear guidance which is proportionate and scalable. The implementation of new provisions could entail significant changes to policies and procedures for all firms. However, the burden on SMEs/SMPs could be disproportionately high, particularly in jurisdictions where PIEs may be small, and the proposed changes may be too costly and impractical for some smaller firms and businesses. The development of IIS should command public trust, but the standards also need to allow for efficiency and choice.

*Regulators and Audit Oversight Bodies:*
Any refinements to the Code by Regulators and Audit Oversight Bodies must focus on the desired outcomes, and the behavioural changes that will be perceived by the public, rather than simply whether the local Code's requirements are comprehensive. Therefore, the drafting of local Codes must be clear, and they must be drafted with due regard to enforceability. Regulators and Audit Oversight Bodies in some parts of the world, in particular in developing nations, may lack the appetite, capacity and ability to refine the Code specific to their jurisdiction. The implementation of the new provisions for PIEs will present practical challenges for local relevant bodies and they will require proactive engagement and support to deliver these changes.

*Developing Nations:*
Member bodies in different parts of the world operate within a range of cultural environments. While ethical values should not be regarded as relative to location or culture, clarity and sensitivity are important with regard to developing the Code. We believe the Code should remain principles-based and provide a clear framework, while allowing the flexibility for tailored implementation guidance by national standard setters and/or professional bodies. The provisions need to provide practical and effective guidance in respect of PIEs, in order to aid consistency of understanding, interpretation and application across all the IFAC member organisations.

*Translations:*
Translation of the Code for adoption in various environments is a challenging process for translators. Changes inevitably create inefficiencies and place additional demands on translation resources which could threaten accurate translation of the Code and compliance. In our opinion, the proposals should be clear, consistent and logical, and a realistic translation period is required. Although, as drafted, the proposed revisions would be unlikely to present



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translation issues as they use generally understood phrases rather than specific terms, we have highlighted one term “financial condition” which may create issues with translation of the term. The Board should remain alert to this when proposing changes to the existing wording.



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