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Dear Sirs

IESBA consultation: Proposed revisions to the definitions of listed entity and public interest entity in the Code

Baker Tilly International is a network of independent accountancy and business advisory firms. Member firms of Baker Tilly International provide assurance, tax, consulting, and advisory services. Our 37,000 people in 738 offices across 148 territories serve clients of all sizes across all sectors, including listed entities and public interest entities (PIEs).

We welcome the opportunity to comment on the IESBA's proposed revisions to the definitions of listed entity and public interest entity in the Code. The insights from our member firms inform our comments below as well as our detailed responses to the Exposure Draft questions which can be found in Appendix 1.

We support some aspects of the proposals, principally the change from "listed entity" to "publicly traded entity", subject to our concerns regarding language translation. We do not, however, consider that the IESBA has made the case for substantially broadening the scope of the Code's definition of a PIE. We do not agree that the proposed approach is appropriate for international standard setters who should set a minimum standard which can be expanded at local level if local conditions demand it. As a member network of the Forum of Firms, our member firms are required to follow the IESBA standards as a minimum, and it appears Forum of Firms members would not benefit from any jurisdictional-level changes, resulting in potentially large numbers of entities being inappropriately scoped in as PIEs for Forum of Firms member but not for their competitors in the same jurisdiction. We urge the IESBA to reconsider its proposals and adopt a "bottom up" approach, retaining a narrow definition of a PIE in the Code and allowing relevant local bodies to expand this definition appropriately at the jurisdiction level.

If I can clarify any of the comments in this letter then please contact me using the details below.

Yours faithfully

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Appendix

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?

Baker Tilly response:

We support the overarching objective of enhancing confidence in the financial statements of PIEs through enhancing confidence in the audit of PIEs.

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?

Baker Tilly response:

We broadly agree that the proposed list of factors may be relevant in determining the level of public interest in an entity. However:

- The inclusion of the number of customers and creditors appears unnecessary.
- There may be other factors that may give reason to treat an entity as a PIE. We recommend that this is emphasised by amending paragraph 400.8 to say, "The extent of public interest will depend on factors including, but not limited to:" (changes highlighted in red type).

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?

Baker Tilly response:

We do not support the "top-down" approach taken in the proposals of substantially broadening the scope of the definition of a PIE in the IESBA Code, and then relying on relevant local bodies to exempt certain entities at a local level. It is an inappropriate approach to international standard setting and a consequence of this approach is that members of the Forum of Firms will not be able to benefit from any such exemptions. This will result in a significant number of entities being inappropriately scoped in as PIEs in many jurisdictions. This negates the assertion made by the IESBA that it is impractical to introduce size thresholds at a global level, by effectively scoping in qualifying entities of all sizes where they are audited by a member of the Forum of Firms.

We would prefer a "bottom-up" approach, whereby the definition of a PIE is deliberately kept fairly narrow at the IESBA level, with relevant local bodies left to expand the definition and scope in additional entities as appropriate to their jurisdiction. This would result in the IESBA definition representing a

consistent level minimum playing field for inclusion as a PIE, with further entities scoped in at a jurisdictional level as considered appropriate by relevant local bodies.

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.

Baker Tilly response:

We support the proposal for the new term "publicly traded entity" to replace "listed entity". We believe the new term is clearer, less ambiguous, and appropriately scopes in entities listed on second tier or smaller markets as well as over the counter trading platforms.

We note that some of our member firms have raised concerns about the translation of the term "publicly traded entity". For example Spanish-speaking colleagues have commented that the translated phrase is identical for both the new and the old terms, which defeats the object.

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

Baker Tilly response:

As noted under Qu. 3 above, we do not support the principle of substantially broadening the scope of the definition of a PIE in the IESBA Code. However, we comment on the specific categories (b) to (f) as follows:

Categories (b), (c) and (f)

The definition of a PIE in the European Union as set out in paragraph 13 of Article 2 of Directive 2006/43/EC is comparable to that of categories (a), (b), (c) and (f). This definition has worked well within the EU since it was introduced. Many other jurisdictions take a similar approach, and so despite our earlier comments, if the definition of a PIE is to be expanded beyond just category (a), we believe the inclusion of categories (b), (c) and (f) would have limited adverse effects.

Category (d)

IESBA has not made the case for including category (d). Such a move would scope in very small pension schemes where interest in the financial statements is limited primarily to the scheme members, who may be few in number. There may be a case in some jurisdictions for relevant local bodies to scope certain pension schemes e.g.

- Pension schemes of PIEs.
- very large pension schemes.
- those dependent on governmental underwriting such as the UK's "lifeboat scheme".

We do not, however, believe it is appropriate to scope in all pension schemes automatically.

Category (e)

We believe that category (e) is effectively an extension of category (a), and hence we do not object to its inclusion in the revised definition of a PIE.

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.

Baker Tilly response:

We support the concept of capturing less conventional forms of capital raising in the definition of a PIE where these are of a public offering type. This could be defined as the first public sale of a cryptocurrency.

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?

Baker Tilly response:

We support the role of relevant local bodies in refining the definition of a PIE for jurisdictional purposes. However, since we support a "bottom up" approach, we support a narrower definition of a PIE and the role of relevant local bodies to be limited solely to expanding the definition if and as required, and not to limit its applicability through the use of size or other criteria.

We also support the principle of jurisdictional changes being subject to public consultation, to provide an opportunity for our member firms to engage with relevant local bodies and provide feedback on such proposals.

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?

Baker Tilly response:

We support the proposed outreach and education programme to guide relevant local bodies through the process of refining the requirements and definition of a PIE within their local jurisdiction. Helpful content would be to provide guidance on entities that are not considered to be PIEs.

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?

Baker Tilly response:

We support the proposal to introduce a requirement for firms to determine if any additional entities should be treated as PIEs. Some jurisdictions already operate such a system and we are not aware of any significant problems or difficulties that have arisen as a result. We believe our member firms are well placed to judge whether any additional entities should be treated as PIEs, and on occasion they have done so under the existing rules. Also under the existing rules the audited entity may ask to be treated as if it were a PIE

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

Baker Tilly response:

Entity likely to become a PIE in the near future

The most common situation where this is likely to occur is where an entity has plans to become publicly traded. A practical application may be when the listing documents/applications are being prepared, but there may be other natural points in the process that can/should be used depending on the exact process in a particular jurisdiction. Additional guidance may therefore be required if firms are to make this judgment themselves. In some cases the entity may specifically request to be treated as a PIE at an earlier stage in the listing process, in an analogous way to that in which entities preparing to list often early adopt the full accounting framework requirements of listed entities – see comments below.

Treated as a PIE by a predecessor firm

Additional guidance may also be required to clarify what is meant by "in similar circumstances". For example, an entity that is a large client to one firm may be a relatively small client of a larger firm. This category also has implications if the entity has previously requested to be treated as a PIE (see comments below). Treatment by a predecessor firm should have minimal influence. For example, a successor firm does not follow the audit plan of the predecessor firm and is not bound to accept accounting treatment signed off be a predecessor firm.

Firm has treated other entities as a PIE

All entities and their exact circumstances are different, even if only subtly, and whilst a firm's prior decisions may suggest a certain level of precedent, we do not support firms being compelled to treat an entity as a PIE purely because another entity "in similar circumstances" is/was treated as a PIE. This is particularly true in cases where the entity or its stakeholders have requested to be treated as a PIE (see comments below).

Entity or its stakeholders requests the firm treat the entity as a PIE.

The definition of a stakeholder will be critical in whether this factor is practical to apply. For example, it would be impractical if an individual employee in a large company could compel the firm to treat the entity as a PIE.

Guidance will also be required as to the grounds on which PIE treatment can be requested and on which the firm may refuse such a request, if any. The Code should clarify the rights and responsibilities of the auditor in such situations, including any documentation requirements in respect of such a decision.

Rather than allowing the entity to request or require that it be treated as a PIE, a better approach might be for an entity to make a more specific request e.g. to have an Engagement Quality Review (EQR), audit partner rotation etc. Entities already have the ability to limit or refuse the provision of non-audit services by their auditor by their own procurement policies.

Entity's corporate governance arrangements

Whilst this may be a factor to consider, we do not believe that simply having those charged with governance distinct from an entity's owners or management is sufficient justification alone to treat an entity as a PIE.

General comments

We believe significant additional guidance will be needed within the Code to explain and expand further on the practical application of these factors in order to achieve global consistency of approach.

Transparency Requirement for Firms

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

Baker Tilly response:

We support the principle of transparency and the objective of building confidence in the audit of financial statements. However, we are not sure it would be helpful in this case. We have a number of concerns regarding the proposals to disclose if an audit client has been treated as a PIE:

a) We anticipate that some stakeholders will not appreciate the implications of being treated as a PIE, and hence that such disclosure may confuse more than it clarifies. The scope and extent of such disclosure will therefore be critical in ensuring that users of the financial statements fully understand the implications of PIE designation.

b) We are concerned that disclosure of an entity as a PIE may be considered to be a quasi-permanent decision, and difficult to rescind in future, even where there is justification for doing so. It should therefore be clearly set out as to how/why such designation may change in future.

c) Further consultation ise required to consider the scope of such disclosures, e.g., whether:

- the IESBA Code (or a jurisdictional equivalent) be referenced in the disclosure.
- the reason(s) for treating the entity as a PIE should be disclosed.
- in the case where the entity or its stakeholders have requested the entity be treated as a PIE:
    - this fact should be disclosed; and
    - any refusal of the request by the firm should be disclosed.
- the implications of treating the entity as a PIE need to be explained.

At present we do not believe that the IESBA has made the case for requiring disclosure of PIE treatment.

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.

Baker Tilly response:

We can understand why that the auditor's report is considered a logical location for such disclosure, but, depending on the scope and extent of the disclosure, this may add significantly to the length of the audit report, which is already considerable for listed entities and many other entities designated as PIEs due to the inclusion of key audit matters. There may therefore be a case for separate disclosure in the financial statements.

A possible alternative location for the disclosure, if it is the auditor who is required to make it, is in the audit firm's transparency report (for those firms required to publish one) or on their website (for those firms not required to publish a transparency report).

We are particularly concerned that IESBA should avoid any perception that being designated as a PIE gives rise to a better quality audit. PIE designation should not impact the quality of an audit, and we do not support any measure that could potentially undermine this premise.

As the Exposure Draft does not address this aspect of the proposals, as noted in our comments in response to Qu. 11 above, we would welcome the opportunity to comment on more detailed proposals in the future in respect of both the content and location of the disclosure.

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?

Baker Tilly response:

We support the conclusion not to review extant paragraph R400.20 with respect to extending the definition of "audit client" for listed entities to all PIEs.

We also support 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?

Baker Tilly response:

In principle we support the effective date of December 15, 2024, assuming there is no unforeseen delay in finalising the changes to the IESBA Code. This application date will give firms time to develop experience with the application of the new non-audit services and fees provisions for PIEs based on the current definition before these provisions become applicable to potentially a broader group of PIEs.

We note that the Exposure Draft makes no mention of transitional arrangements. The provisions of R540.8 and R540.9 are framed for the situation where a single client becomes a PIE. The proposals in this Exposure Draft could result in numerous clients of a firm becoming PIEs at the same time in some jurisdictions, which may present significant challenges in respect of audit partner rotation. We therefore encourage the IESBA to reconsider the adequacy of the above-named paragraphs as transitional arrangements for such a major change to the definition of a PIE.

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?

Baker Tilly response:

There is a certain logic in using the factors set out in 400.8 and the objective in 400.9 as the basis for establishing differential requirements for certain entities. However, it is difficult to provide more detailed commentary without knowing what those differential requirements are, without the risk of unintended consequences.

We support a “bottom up” principle for the drafting of all standards, whereby there is a common base requirement for all entities, and additional requirements for more complex entities and/or PIEs. If the definition of a PIE is kept narrow at the IESBA level, then it can be left to relevant local bodies not only to decide whether to scope in additional entities as PIEs, but also to decide whether such entities should be subject to the existing differential requirements for listed entities in the IAASB Standards.

Regarding Qu. 15(c), please refer to our comments given in response to Qu. 12.