

3 May 2021

Stavros Thomadakis
Chair
International Ethics Standards Board for Accountants
539 Fifth Avenue
New York, 10017
USA

Dear Stavros,

IESBA Exposure Draft – Proposed Revision to the Definitions of Listed Entity and Public Interest Entity (PIE) in the Code

Thank you for the opportunity to comment on the IESBA exposure draft *Proposed Revision to the Definitions of Listed Entity and Public Interest Entity in the Code*. We submit the feedback from the New Zealand Auditing and Assurance Standards Board (NZAuASB).

The External Reporting Board (XRB) is a Crown Entity responsible for developing and issuing accounting and auditing and assurance standards including professional and ethical standards in New Zealand. The XRB's outcome goal is to contribute to the creation of dynamic and trusted markets through the establishment of an accounting and assurance framework that engenders confidence in New Zealand financial reporting, assists entities to compete internationally and enhances entities' accountability to stakeholders. The NZAuASB has been delegated responsibility by the XRB for developing and issuing auditing and assurance standards, including ethical standards and standards for related services.

In formulating this response, the NZAuASB held a virtual roundtable to seek views from various stakeholders, including auditors, academics, and preparers. We also met with regulators, including the Financial Markets Authority and Chartered Accountants Australia and New Zealand and sought views from the public sector. All feedback received informed the development of this submission.

In New Zealand, the NZAuASB has adopted a New Zealand specific PIE definition that is broader than listed entities which has been in effect for a number of years. The New Zealand definition has been refined over time. The NZAuASB is therefore very supportive of the IESBA's project to revise the global definition of a PIE in the *International Code of Ethics for Professional Accountants including International Independence Standards* and is broadly supportive of the approach adopted, recognizing the role of the global standard setter, local standard setters, regulators and the firms in adopting and adapting which entities meet the objectives of the additional PIE requirements.

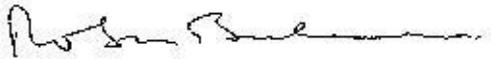
In particular, the NZAuASB encourages the IESBA to reconsider the way in which the purpose of the PIE requirements has been articulated. With respect to disclosing whether or not an audit client has been treated as a PIE, there were mixed views, with some members of the NZAuASB supportive of enhanced transparency while others suggest a need for more clarity as to what problem disclosure would solve. The NZAuASB encourages the IESBA to first more clearly articulate the problem and consider how best users could engage with any additional information. An alternative suggestion to a disclosure requirement is to

provide more transparency as to the impact of treating an entity as a PIE, rather than simply disclosing that the PIE requirements have been applied.

Further details on these key points are outlined in response to the particular questions below.

Should you have any queries concerning our submission please contact, Misha Pieters, Interim Director – Audit and Assurance Standards, at misha.pieters@xrb.govt.nz.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Buchanan', written in a cursive style.

Robert Buchanan

Chair

Submission of the New Zealand Auditing and Assurance Standards Board

IESBA Exposure Draft – *Proposed Revision to the Definitions of Listed Entity and Public Interest Entity in the Code*

Schedule of Responses to the IESBA’s Specific Questions

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?

Response:

The NZAuASB agrees that it is important to clearly articulate the objective for defining entities as PIEs and considers that it is especially important to make it clear that the additional independence requirements are not about having a different “level” of independence.

The NZAuASB does not however support the objectives as set out in proposed paragraphs 400.8 and 400.9, as we consider the proposed objective lacks the necessary clarity to make this clear. Rather, the proposed objective may be confusing and misunderstood to imply that there are two levels of independence.

The NZAuASB considers that proposed paragraph 400.8 is clearer, with a focus on perception, and on entities with wider and higher visibility. However, we consider that proposed paragraph 400.9 is too generic and when read on its own is applicable to all audit engagements.

67% of participants on our virtual outreach event also agreed that the proposed objective applies equally to all audit engagements with a further 17% supporting a revised objective.

The purpose of an audit is to enhance the degree of confidence of intended users in the financial statements.¹ It is therefore important that all intended users have confidence in the audit engagement that they are relying on.

We recommend that the rationale in proposed paragraph 400.9 may be better articulated with reference to the conceptual framework within the Code, i.e., for entities which reflect significant public interest in the financial condition, there are or may be different or heightened threats, perceived or otherwise, to the independence of auditors. Based on the higher threats (perceived or otherwise), additional requirements are included within the Code for audits of public interest entities to ensure that the threats are eliminated or reduced to an acceptable level. There is also an opportunity to emphasise in the Code as part of the objective for the PIE requirements that the rationale for the PIE requirements does not create different levels of independence.

¹ ISA 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with the International Standards on Auditing*, paragraph 3.

The factors described in proposed paragraph 400.8 helpfully articulated why there may be significant public interest in an entity, which is an important part of describing the rationale for the additional requirements.

In addition, the NZAuASB considers there to be a lack of clarity between proposed paragraph 400.8, which references more broadly to the financial condition of these entities but then reverts back to a focus on confidence in the financial statements in proposed paragraph 400.9.

The NZAuASB is supportive of a broader focus on the financial conditions of the entity as part of identifying PIEs and the rationale for the PIE requirements, so specifically recommends that proposed paragraph 400.9 should be reworded. The NZAuASB recommends that more context is needed to describe what “financial conditions” refer to and encourages the IESBA to include the words used in the Supplementary Guidance to the exposure draft “i.e., how its financial success or failure may impact the public”, within the Code.

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?

Response:

At our virtual event, the majority of participants did not identify concerns with the factors as described, rather agreed that these confirmed what types of entities should be considered to be identified as a PIE.

The NZAuASB also found the proposed list of factors useful and that the proposed revisions are in line with the current understanding of and approach to identifying PIEs in the extant New Zealand definition. We recommend that to the IESBA consider emphasising within the Code that the factors should be balanced against each other, rather than being considered in isolation, similar to the explanation in the explanatory memorandum.

An example of where there is a need for clarity was highlighted in the new factor, as to whether the entity is subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations. In isolation this factor would imply that any entity that is subject to regulatory supervision is a PIE. The explanatory memorandum notes that these should not be read in isolation.

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?**

Response:

The NZAuASB is very supportive of the approach adopted by the IESBA and considers that replacing the extant PIE definition with a list of categories of PIEs is a useful step to promote global consistency, appropriately tailored at the local level.

The extant New Zealand definition of a PIE encompasses the categories of entities included in the proposed categories of PIEs.

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.**

Response:

The NZAuASB considers that the term listed entity would benefit from revision to ensure consistent application in the current markets with respect to second-tier markets or over-the-counter trading platforms, and what is meant by a “recognised” stock exchange.

The NZAuASB encourages the IAASB and the IESBA to work closely together to ensure that any new “term” can be defined and applied consistently across both the auditing standards and the ethical standards.

During our virtual outreach event, the change in terminology raised more questions, including how many trades are needed to meet the definition of “publicly traded”, one, two or more? What if it is available to trade but not actually traded? The new terminology also highlighted that not all of these other platforms are regulated in the same way as stock exchanges are, so there is likely to remain ongoing matters for consideration at a local level. The questions raised by participants confirms that there is a need for further clarification or implementation support.

The NZAuASB considers that the extant New Zealand definition incorporates the broader approach proposed by the IESBA. For example, there is a large dairy co-operative whose instruments may not be “listed”, rather shares can be purchased from other farmer shareholders at the co-operative’s shareholders market or privately through an off-market transaction (e.g., as part of a farm sale). The co-operative is included within the New Zealand definition of a PIE.

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

Response:

Yes, the NZAuASB agrees with the remaining categories set out in proposed R400.14. We consider that these categories reflect the types of entities that would be adopted by most jurisdictions and includes the categories of entities that are captured by the extant New Zealand definition (to the extent that the determination is not made with reference to the size, which is determined within the New Zealand context).

- 6. 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? 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.

Response:

Yes, we agree with the proposed factors and have not identified any key missing factors. As noted in response to question 2, the NZAuASB found the proposed list of factors useful and that the proposed revisions are in line with the current understanding of and approach to identifying PIEs in the extant New Zealand definition. We encourage the IESBA to make it clearer in the Code that the factors should not be read in isolation.

The majority of the participants at our virtual roundtable agreed that less conventional forms of capital raising, such as an initial coin offering should be captured as a PIE, however many participants also supported “maybe”, suggesting that it may not be as simple that all forms of capital raising default to being a PIE.

The NZAuASB considers that the factors in proposed 400.8 are useful in balancing the factors that should be considered in determining whether ICOs and other less conventional forms of capital raising should be captured as a PIE, rather than being captured as a separate PIE category. Further implementation material might be useful in this context.

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?

Response:

The NZAuASB is supportive of the high-level nature of the list and the role described by IESBA for the relevant local bodies. We encourage the IESBA to reflect on how a local jurisdiction would adopt paragraph 400.15 A1 in a local Code. While the language in proposed paragraph 400.15 A1 is appropriate in a global code it is not easily adopted in a local code, as it is largely not relevant within a specific jurisdiction. We also recommend that the term “exclude” should be replaced by “refine”. If entities are excluded, it may raise questions as to whether a local jurisdiction is less stringent than the IESBA Code (i.e., IESBA Code minus).

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?

Response:

The NZAuASB found the *Supplementary Guidance to Exposure Draft to Aid Local Body Considerations Regarding Adoption and Implementation* very useful. Ongoing discussion at the annual NSS meeting as to how each jurisdiction is adopting and adapting the PIE definition would also be welcomed as especially helpful at a local level, including the specific types of entities where IESBA has not included a category of entity, including: charities, public sector entities, public utilities and custodians. Further support would be welcomed where outreach to date has indicated that the proposals have raised more questions, including:

- Guidance on what is meant by “publicly traded”.

- Examples of where local jurisdictions are excluding or extending the entities that are captured as PIEs.
- For ICOs, including whether there is a financial instrument or not.

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

Response:

At our virtual roundtable, 67% of participants supported the proposal.

The NZAuASB is supportive of a principled-based approach whereby firms exercise their professional judgement to determine whether an entity should be treated as a PIE. Additional guidance may be needed to assist firms determine when a reasonable and informed third party would be likely to conclude that an entity should be treated as a PIE. The repercussions for the firms may be significant if a regulator assesses that a reasonable and informed third party would conclude that an entity should be treated as a PIE, but the firm has not reached that conclusion. Clear guidance would be helpful to ensure that a proportionate and cost-effective approach is applied by all.

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

Response:

During our virtual event, participants specifically agreed that the entity itself should be an important consideration as to whether or not the PIE requirements should apply. In this regard, we recommend that, before promoting transparency by the auditor to the user as to whether the PIE requirements have been applied, an interim but very important first step should be communicating which independence requirements have been applied to the entity's audit engagement with those charged with governance to guide the firm's assessment as to whether the entity is a PIE or not. This may be especially important for entities where the PIE requirements have not been applied.

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

Response:

78% of participants at our virtual roundtable did not support the proposal for firms to disclose if they treated an audit client as a PIE.

As noted in response to question 1, we have concerns with the way in which the objective of the PIE requirements has been expressed. We consider that the rationale for, the definition of a PIE and the implications thereof is a complex matter, with the potential for misinterpretation. The Code requires all auditors to be independent. Confidence in the independence of all auditors for all audits, is in the public interest, regardless of whether the audit is performed for a public interest entity. Any confusion may run the risk of further widening the audit expectation gap.

While some NZAuASB members are supportive of increased transparency, others were unclear as to what underlying problem is to be resolved by a disclosure requirement. The changes to the PIE definition proposed by the IESBA reflect that the decision as to whether an entity is a PIE or not is a

complex matter, and is one that involves factors to be considered by both the local standard setter and regulators, as well as judgements by the firms. Is the problem that IESBA is seeking to resolve, simply that there is a wider range of possible entities that could be treated as a PIE and so consider it necessary to be transparent as to whether or not it is a PIE. This seems an oversimplification of the issue, if the ultimate objective is to enhance confidence in the audit. It would appear that more context is needed, i.e., why is an entity considered to be a PIE and what are the implications if an entity is a PIE.

The Board encourages the IESBA to explore further whether users might better engage with information about what it means when the auditor has treated an entity as a PIE rather than simply reporting when the PIE independence requirements have been applied. While some NZAuASB members note the benefits of and support enhanced transparency, others suggest a need for more clarity as to what problem disclosure would solve. When compared to non-PIE clients, in summary, the application of the PIE requirements, potentially impact on:

- The types of Non-assurance services (NAS) that can be performed for the audit client.
- The rotation requirements for the engagement partner and other key partners.
- Employment with an audit client.
- Fees.

We encourage the IESBA to further explore how transparency will increase confidence in the audit and the financial statements, and encourage the exploration of alternative options, for example disclosure as to the number of years that the engagement partner has served together with how many more years are permitted in line with the independence requirements, and information about any NAS that has been performed for the client. Such information may already be disclosed by the client through the financial statements in the audit fee disclosures².

We urge the IESBA to consider any unintended consequences for confidence in non-PIE audits, when promoting transparency as to whether or not a client has been treated as a PIE and whether such reporting could potentially widen the number entities that seek to be treated as PIEs and the implications thereof on the audit market, as entities might seek out auditors who are perceived as “more independent” or might cherry pick between firms based on interpretation of whether to treat the entity as a PIE. There is likely to be ongoing variation between jurisdictions as to which entities meet the definition of a PIE, based on local circumstances, including size and whether a firm determines it is necessary to treat an entity as a PIE.

Without a clear rationale as to what the objective is for the additional PIE requirements, and further information about the context in which the determination has been made, and the impact for treating an entity as a PIE, we consider that there is a risk that users may misinterpret such transparency as meaning that some auditors are “more independent” than others. We consider that this could then have a detrimental effect in the confidence in audits that are conducted for non-PIE entities and potentially exacerbate the audit expectation gap.

² In New Zealand, FRS 44, *New Zealand Additional Disclosures*, paragraph 8.1 requires separate disclosure of fees paid for the audit or review of the financial statements and all other services. New Zealand and Australia have a current joint project to review the disclosure of audit fees and other fees paid to the auditor in the financial statements.

- 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.**

Response:

The NZAuASB considers that the IAASB will need to determine whether the auditor’s report is an appropriate mechanism for achieving any disclosure regarding whether or not the auditor has applied the PIE requirements for that engagement and the impact of this classification. This might be addressed as part of the post implementation review of the revised auditors report.

However, we recommend that more thought should first be given as to what underlying problem is to be resolved. As noted in response to question 11, the NZAuASB similarly encourages the IAASB to further explore how transparency will increase confidence in the audit and the financial statements. We recommend that the IAASB explore transparency around the impact of being a PIE, i.e., what it means when a client is treated as a PIE. This could for example include disclosure as to the number of years that the engagement partner has served and how many more years are permitted in line with the independence requirements, and information about any NAS that has been performed for the client, which may somewhat be disclosed by the client through the financial statements in the audit fee disclosures³.

Similarly, we encourage the IAASB to consider any unintended consequences of such disclosure and how those may be overcome in determining whether the auditor’s report is an appropriate mechanism.

As noted in response to question 10, we also recommend that an interim but important first step should be communicating which independence requirements have been applied by the auditor to those charged with governance of the client. This may be especially important for entities where the PIE requirements have not been applied.

- 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?**

Response:

The NZAuASB supports the IESBA’s conclusion.

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

Response:

The NZAuASB agrees that some assurance engagements, other than audits of financial statements, are of greater public interest than others, and that this has to do with both the nature of the engagement and the nature of the entity.

³ New Zealand and Australia have a current joint project to review the disclosure of audit fees and other fees paid to the auditor in the financial statements.

While the NZAuASB agrees that proposing amendments to Part 4B is outside the scope of this project, we highlight that IFAC and the IIRC have recently set out their vision for accelerating integrated reporting assurance. They recognise that as an increasing number of businesses around the world implement integrated reporting as a route to long-term value creation and sustainable development, demand for assurance on such reports is expected to rise and that development and evolution of integrated reporting assurance is needed to make a greater contribution to the confidence and credibility of integrated reporting. They recognise that ultimately assurance on integrated reports enhances the credibility of corporate reporting on the business as a whole, which provides a more robust foundation of trust in capital markets.

The NZAuASB encourages the IESBA to commence a project to explore the need for a PIE definition and PIE requirements for specific entities on some types of other assurance engagements covered by Part 4B, recognizing the increasingly significant public interest to ensure that confidence in the assurance of that information is high so as to promote the credibility of the reported information.

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

Response:

Yes, the NZAuASB supports the proposed effective date, however considers that it is also in the public interest for the recently revised non-assurance services requirements to apply to the broader classification of PIEs sooner rather than later.

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.**

Response:

As noted in response to question 2, the NZAuASB agrees that it is important to clearly articulate the objective for defining entities as PIEs and/or establishing differential requirements for certain entities.

The NZAuASB does not however support the objectives as set out in proposed paragraphs 400.8 and 400.9, as we consider the proposed objective lacks the necessary clarity to make this clear and that rather the proposed objective may be confusing and misunderstood to imply that there are two levels of independence or two levels of “audits”. We consider that proposed paragraph 400.9 is too generic and when read on its own is applicable to all audit engagements. The purpose of an audit is to enhance the degree of confidence of intended users in the financial statements.⁴ It is therefore important that all intended users have confidence in the audit engagement that they are relying on.

⁴ ISA 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with the International Standards on Auditing*, paragraph 3.

Why and how to establish differential requirements for certain entities is a key theme in a number of IAASB and IESBA projects, including the less complex entities project, the non-assurance services project, the quality management project and also in determining who has to report key audit matters, etc. This is an important issue where we consider that it is in the public interest for the two boards to collaborate closely to ensure that the why and how to establish any differential requirements is clear and does not undermine the level of confidence and trust in audited financial statements.

It may be that there are similar but varying underlying reasons for various differential requirements and therefore it may be appropriate for the reasons and objectives to differ. For example, in the quality management standards, the reasons for requiring an engagement quality review may not be the same as the reasons for identifying that users would find reporting of key audit matters useful. We support a collaborative and flexible approach, where the public interest and trust and confidence in all audit engagements is not undermined, but that enables a proportionate, risk and cost/benefit analysis to guide the approach.

- 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.**

Response:

Yes, the NZAuASB is supportive of a case-by-case approach for determining whether differential requirements should be applied more broadly, but encourages both the IESBA and IAASB to collaborate in developing a framework which would inform both boards in establishing differential requirements.

We note that in New Zealand, the NZAuASB has already adopted a “case-by-case” approach in adopting both the Code and the ISAs. In New Zealand, the ISAs (NZ) do not refer to “listed entities” nor do they refer to PIEs. The ISAs (NZ) use a term established by the New Zealand regulator, and is a subset of the extant New Zealand PIE definition.

- 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?**

Response:

We consider that the definition and scope of the PIE definition is a complex matter, with the potential for misinterpretation. It is important that confidence in the independence of all audits, for all auditors, is in the public interest, regardless of whether the audit is performed for a public interest audit. The Code requires all auditors to be independent of their audit clients.

As noted in response to question 11, 78% of participants at our virtual roundtable did not support the proposal for firms to disclose if they treated an audit client as a PIE.

While some NZAuASB members are supportive of increased transparency, we recommend that more thought is needed as to what underlying problem is to be resolved. The changes

proposed by the IESBA, reflect that the decision as to whether an entity is a PIE or not is a complex matter, and involves judgement by both the local standard setter and regulators as well as the firms.

The Board considers that users may not always understand what it means for the client to be treated as a PIE and might better engage with information about what it means where the auditor has treated an entity as a PIE rather than simply reporting when the PIE independence requirements have been applied.

We consider that transparency around the impact of being a PIE, is where trust and confidence may be best enhanced. This could for example include disclosure as to the number of years that the engagement partner has served and how many more years are permitted in line with the independence requirements, and information about any NAS that has been performed for the client, which may somewhat be disclosed by the client through the financial statements in the audit fee disclosures⁵.

We urge both the IESBA and IAASB to consider the unintended consequences of promoting transparency as to whether or not a client has been treated as a PIE. Without a clear rationale as to what the objective is for the additional PIE requirements, and further information about the context in which the determination has been made, and the impact of such classification, we consider that there is a risk that users may misinterpret such transparency as meaning that some auditors are “more independent” than others. We consider that this could then have a detrimental effect in the confidence in audits that are conducted for non-PIE entities.

⁵ New Zealand and Australia have a current joint project to review the disclosure of audit fees and other fees paid to the auditor in the financial statements.