

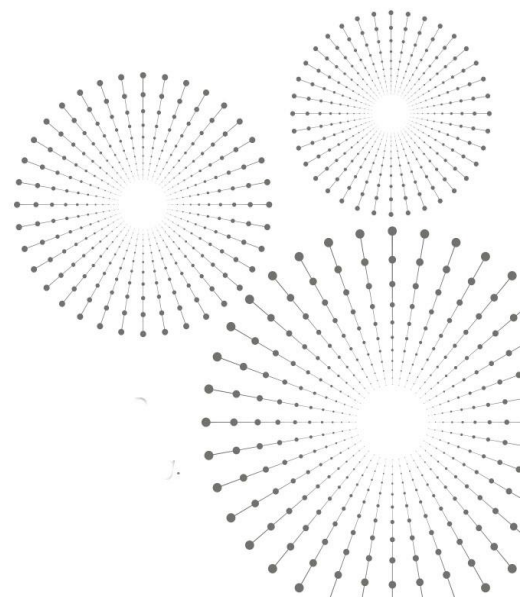


Te Kāwai Ārahi Pūrongo Mōwaho
EXTERNAL REPORTING BOARD

Exposure Draft NZAuASB 2022-2
Proposed revisions to the definitions of
Listed Entity and Public Interest Entity
in PES 1

Invitation to Comment

May 2022



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Information for respondents

Invitation to Comment

The New Zealand Auditing and Assurance Standards Board (NZAuASB)¹ is seeking comments on the specific matters raised in this Invitation to Comment. We will consider all responses before finalising the revisions to the definitions of listed entity and public interest entity (PIE) in PES 1.

If you want to comment, please supplement your opinions with detailed comments, whether supportive or critical of the proposals, as both supportive and critical comments are essential to a balanced view.

Comments are most useful if they indicate the specific paragraph to which they relate, contain a clear rationale and, where applicable, provide a suggestion for an alternative. Feel free to provide comments only for those questions, or issues, that are relevant to you.

Comments should be submitted electronically using our 'Open for Comment' page [here](#)

The closing date for submissions is 15th August 2022.

Publication of Submissions, the Official Information Act and the Privacy Act

We intend publishing all submissions on the XRB website (xrb.govt.nz) unless the submission may be defamatory. If you have any objection to publication of your submission, we will not publish it on the internet. However, it will remain subject to the Official Information Act 1982 and, therefore, it may be released in part or full. The Privacy Act 1993 also applies.

If you have any objection to the release of any information contained in your submission, we would appreciate you identifying the parts of your submission to be withheld, and the grounds under the Official Information Act 1982 for doing so (e.g., that it would be likely to unfairly prejudice the commercial position of the person providing the information).

¹ The NZAuASB is a sub-Board of the External Reporting Board (XRB Board) and is responsible for setting auditing and assurance standards.

List of abbreviations

The following abbreviations are used in this Invitation to Comment.

Australian Code	Australian Code of Ethics for Professional Accountants
ED	Exposure Draft
FMC HLPAs	Financial market conduct entities with a higher level of public accountability
IESBA	International Ethics Standards Board for Accountants
IESBA Code	International Code of Ethics for Professional Accountants (including International Independence Standards)
IAASB	International Auditing and Assurance Standards Board
ITC	Invitation to comment
NZAuASB	New Zealand Auditing and Assurance Standards Board
PBEs	Public Benefit Entities
PES	Professional and Ethical Standard
PES 1	International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand)
PIE	Public interest entity
XRB	External Reporting Board

Questions for respondents

Respondents are asked to consider the following specific questions and to respond to the NZAuASB by 15th August 2022.

New Zealand definition of Public Interest Entity (PIE)

Questions for Respondents

Question 1.	Do you agree with carrying forward the extant NZ PIE definition in PES 1? If not, please provide your reasons.
Question 2.	Are there any categories of entities not captured by the extant NZ PIE definition that you consider should be, when considering the revised global PIE approach in the IESBA Code? Please describe the category of entity you consider should be added and provide your reasons.
Question 3.	Are there any categories of entities that are captured by the extant NZ PIE definition that you consider should not be? Please describe how you would suggest amending the proposed NZ approach and provide your reasons as to why the category you have identified should not be captured.
Question 4.	Do you have any other comments on the PIE revisions to PES 1?

1. Introduction

1.1 Purpose of this Invitation to Comment

1. The purpose of this Invitation to Comment (ITC) is to seek feedback from stakeholders on Exposure Draft (ED) NZAuASB 2022-2 *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in PES 1*².

1.2 Background

International position

2. The International Ethics Standards Board for Accountants (IESBA) has recently revised the public interest entity (PIE) provisions of the IESBA Code.
3. The concept of a PIE was first introduced in the extant IESBA Code in early 2000. At that time, IESBA concluded that other than for listed entities, determining which entities should be treated as PIEs should be largely left to local regulators or standard setters. However, firms were also encouraged to consider whether additional entities should be treated as PIEs, taking into account the guidance provided in the IESBA Code.
4. In recent years, some regulatory stakeholders have asked IESBA to re-examine the definition of a PIE. Also, developments in capital markets globally and new forms of capital raising (e.g., crowd funding) have raised questions about the need to update the definition of a listed entity in the IESBA Code to ensure clarity and continued relevance.
5. Recent key changes to the IESBA Code relating to PIEs are:
 - The inclusion of an overarching objective for additional independence requirements for entities that are PIEs (400.8).
 - Guidance on factors for consideration when determining the level of public interest in an entity (400.9).
 - A broadening of the extant global definition of PIE to include additional categories of entities. The categories are at a high-level and IESBA's expectation is that local jurisdictions will refine these as part of the implementation and adoption process (**R400.17**).
 - Replacement of the term "listed entity" with one of the new PIE categories, "publicly traded entity".
 - The encouragement of firms to determine whether to treat additional entities as PIEs and factors for consideration by firms (400.19A1).

² International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand) (PES 1)

- A requirement for firms to disclose if an audit client has been treated as a PIE (**R400.20**).

Overarching Objective

6. The overarching objective for the PIE provisions (paragraphs 400.8 and 400.9) places the emphasis on the public interest in the financial condition of entities due to the possible impact of that financial condition on stakeholders. As such, the overarching objective captures the following rationale:
 - There are types of entities for which there is a significant interest in their financial condition, and therefore their financial statements.
 - It is important that there is public confidence in the financial statements. A major contributor to that confidence, is in turn confidence in the audit of the financial statements; and
 - Confidence in such audits will be enhanced by additional independence requirements.

Level of public interest in an entity

7. The IESBA has provided further guidance on determining the level of public interest in the financial condition of entities by setting out a list of non-exhaustive factors. This list is intended to be used by local jurisdictions when refining the definition of PIE as part of their adoption process. It is also intended to be used by firms to determine if additional entities should be treated as PIEs.
8. The IESBA notes that each of the factors on its own may not amount to significant public interest in the financial condition of an entity and should not be considered in isolation. The factors in paragraph 400.9 are as follows:
 - The nature of an entity's business or activities – this covers those entities that take on financial obligations to the public as a key element of their business model.
 - Whether an entity is subject to regulatory supervision designed to give confidence that the entity will meet its financial obligations. Such supervision is relevant to entities providing financial services, but it is not intended to be restricted to only these entities.
 - The size of the entity.
 - The impact of the entity on the sector in which it operates including how easily replaceable the entity is in the event of financial failure.
 - The number and nature of stakeholders including investors, customers, creditors and employees.
 - The potential systemic impact on other sectors and the economy as a whole in the event of financial failure of the entity.

IESBA's approach to revising the PIE definition

9. The IESBA's approach to revising the PIE definition in the IESBA Code has three key elements.
 - A top-down approach including a broader list of high-level categories of entities as PIEs.
 - A bottom-up approach recognising the important role of local jurisdictions to refine the IESBA categories for local circumstances. For example, by tightening definitions, setting size criteria and adding new types of entities or exempting particular entities.
 - Determination by firms if any additional entities should be treated as PIEs.
10. Under this combination of a top-down and bottom-up approach, local jurisdictions are expected to revise the IESBA PIE definition as part of the local adoption process. In doing so, consideration needs to be given to the overarching objective, the list of factors (400.9) and the high-level categories (**R400.17**).
11. Paragraph **R400.17** sets out the list of PIE categories, for the purpose of the top-down approach, as follows:
 - (a) A publicly traded entity.
 - (b) An entity, one of whose main functions is to take deposits from the public.
 - (c) An entity, one of whose main functions is to provide insurance to the public; or
 - (d) An entity, specified as such by law or regulation to meet the objective described in paragraph 400.10³.
12. In refining the list of PIE categories, a local jurisdiction may also consider including other categories of entities as additional categories of PIEs for the purpose of the bottom-up approach (400.18 A2). For example, after considering the factors set out in paragraph 400.9, a local jurisdiction may include additional categories such as pension funds, not-for-profit entities, public sector entities and collective investment vehicles.
13. Under the IESBA's broad approach, firms are also encouraged to consider whether any additional entities or categories of entities should be treated as PIEs for the purpose of audits carried out by the firm. It is important to note that firms can only treat a client as a PIE where it would not otherwise be one. Firms cannot

³ Stakeholders have heightened expectations regarding the independence of a firm performing an audit engagement for a public interest entity because of the significance of the public interest in the financial condition of the entity. The purpose of the requirements and application material for public interest entities as described in paragraph 400.8 is to meet these expectations, thereby enhancing stakeholders' confidence in the entity's financial statements that can be used when assessing the entity's financial condition (400.10).

treat any audit clients as non-PIE entities if those entities are required to be treated as PIEs for the purposes of the IESBA Code or the applicable local Code.

14. The NZAuASB is aware that New Zealand firms do additionally designate many entities as PIEs. Some examples are:
 - an entity that intends to list on the stock exchange in the near future.
 - an organisation with expansive stakeholders (e.g., a Māori Trust Board or a post-settlement iwi organisation).
 - an entity that has recently been the subject of regulatory scrutiny.
 - an entity which has suffered recent reputational damage.
 - a private investment entity that is owned by professional directors who may expect the entity to be considered a PIE.

2. NZ definition of PIE

2.1 Extant NZ definition of PIE

15. A key strategic objective set by the XRB Board for the NZAuASB is to adopt international auditing and assurance standards, including professional and ethical standards, in New Zealand. Modifications for application in New Zealand may be acceptable where there is a compelling reason, provided such modifications consider the public interest in New Zealand and do not conflict with or result in lesser requirements than the international standards.
16. At the time the XRB adopted the extant PIE definition in New Zealand, the global definition was limited to listed entities. The NZAuASB applied the compelling reason test to that definition which resulted in the New Zealand specific PIE definition that is broader than listed entities. This definition has been in effect for a number of years.
17. The extant definition of a PIE in PES 1 is as follows:

[NZ] Public interest entity	Any entity that meets the Tier 1 criteria in accordance with XRB A1 ⁴ and is not eligible to report in accordance with the accounting requirements of another tier.
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18. The NZ PIE definition has therefore, historically, been broader than listed entities.
19. The NZAuASB is supportive of the IESBA's approach to revising the global definition of PIE, recognising the roles of both the global standard setter and local jurisdictions in adapting which entities meet the objectives of the additional PIE requirements.

⁴ XRB A1 *Application of the Accounting Standards Framework*

20. Having worked through the top-down and bottom-up approach, the NZAuASB is of the view that the existing NZ definition of PIE is broadly consistent with the new global definition.
21. Specifically, when applying the IESBA top-down and bottom-up approach, the NZAuASB noted that the current NZ approach to defining PIEs remains broader than the IESBA top-down categories but aligns with the new factors introduced in the revised IESBA Code. For example, the current NZ approach captures the top-down categories listed in paragraph **R400.17** of the IESBA Code. It also includes additional bottom-up categories, for example, large public sector and not-for-profit public benefit entities (PBEs), large for-profit public sector entities, and licenced Managed Investment Scheme (MIS) Managers (for the financial statements of the MIS they manage).
22. Some entities that currently meet the tier 1 criteria and are therefore NZ PIEs (e.g., some Financial Market Conduct entities with a higher level of public accountability (FMC HLPAs⁵)) fall within the expanded IESBA global PIE categories (**R400.17 (a)-(d)**).
23. Other entities (e.g., the remaining FMC HLPAs, large for-profit public sector entities and large PBEs) that currently meet the tier 1 criteria, fall within the IESBA's five non-exhaustive factors (400.9), which are to be considered when determining the level of public interest in the financial condition of an entity.
24. For example, the NZAuASB considers that:
 - All FMC HLPAs entities should be NZ PIEs given:
 - (a) that these entities are subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations;
 - (b) the number and nature of their stakeholders; and
 - (c) the potential systemic impact on the economy as a whole in the event of financial failure.
 - Large reporting entities as captured by tier 1 of XRB A1 (i.e., large public sector and large not-for-profit entities) should be NZ PIEs given:
 - (a) that these entities are subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations;
 - (b) the size of these entities;
 - (c) their impact on their sector; and
 - (d) the number and nature of their stakeholders.

⁵ The [Financial Markets Conduct Act 2013](#) (FMC Act) identifies FMC reporting entities deemed to have a higher level of public accountability. Under the FMC Act, the Financial Markets Authority (FMA) can vary these designations for either individual FMC reporting entities, or classes of FMC reporting entities. A list of these entities can be found here: [FMC HLPAs entities](#).

- Any other entities that meet the tier 1 criteria, because they have public accountability, given:
 - (a) the regulatory supervision over some of these entities;
 - (b) their impact on their sector; and
 - (c) number and nature of their stakeholders.
25. The XRB’s objective of linking the PIE definition to the tier 1 criteria in XRB A1 was, and still is, for understandability and simplicity (i.e., not introducing unnecessary complexity to the multi-sector, multi-tier approach). It is also considered appropriate that entities that can only report using tier 1 financial reporting requirements should be audited under the most rigorous and stringent independence rules. This objective of the PIE definition remains unchanged and has been taken into consideration when applying the bottom-up approach.
26. The NZAuASB is seeking comments from constituents about their views on whether the extant definition is sufficiently consistent with the new global definition.

Questions for Respondents

Question 1.	Do you agree with carrying forward the extant NZ PIE definition in PES 1? If not, please provide your reasons.
Question 2.	Are there any categories of entities not captured by the extant NZ PIE definition that you consider should be, when considering the revised global PIE approach in the IESBA Code? Please describe the category of entity you consider should be added and provide your reasons.
Question 3.	Are there any categories of entities that are captured by the extant NZ PIE definition that you consider should not be? Please describe how you would suggest amending the proposed NZ approach and provide your reasons as to why the category you have identified should not be captured.
Question 4.	Do you have any other comments on the PIE revisions to PES 1?

2.2 Effective date

27. In line with the IESBA revisions, *Proposed revisions to the definitions of Listed Entity and Public Interest Entity in PES 1* will be effective for audits of financial statements for periods beginning on or after 15 December 2024.
28. Early adoption will be permitted.

2.3 Timeline and next steps

29. Submissions on ED NZAuASB 2022-2 are due by 15 August 2022. Information on how to make a submission is provided on page 4 of this ITC.
30. After the consultation period ends, we will consider the submissions received, and subject to the comments in those submissions, we expect to finalise and issue the New Zealand revisions by the end of the year.

EXPOSURE DRAFT NZAuASB 2022-2

**Proposed revisions to the definitions of listed entity and public interest entity
in
Professional and Ethical Standard 1 (PES 1) International Code of Ethics for Assurance
Practitioners (Including International Independence Standards) (New Zealand).**

**REVISIONS TO THE DEFINITIONS OF LISTED ENTITY AND PUBLIC
INTEREST ENTITY IN THE CODE**

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The grey shaded paragraphs below indicate the substantive changes made to the IESBA Code in *Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code*. Paragraphs have been renumbered accordingly. In the Glossary, new definitions are shaded in full.

In New Zealand, we propose to adopt the IESBA revisions (including conforming and consequential amendments) in PES 1 and to add some further text which is underlined below. We are seeking comments on the underlined New Zealand text.

PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS

SECTION 400

APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS

Introduction

General

...

Public Interest Entities

400.8 Some of the requirements and application material set out in this Part are applicable only to the audit of financial statements of public interest entities, reflecting significant public interest in the financial condition of these entities due to the potential impact of their financial well-being on stakeholders.

400.9 Factors to consider in evaluating the extent of public interest in the financial condition of an entity include:

- The nature of the business or activities, such as taking on financial obligations to the public as part of the entity's primary business.
- Whether the entity is subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations.
- Size of the entity.
- The importance of the entity to the sector in which it operates including how easily replaceable it is in the event of financial failure.
- Number and nature of stakeholders including investors, customers, creditors and employees.
- The potential systemic impact on other sectors and the economy as a whole in the event of financial failure of the entity.

400.10 Stakeholders have heightened expectations regarding the independence of a firm performing an audit engagement for a public interest entity because of the significance of the public interest in the financial condition of the entity. The purpose of the requirements and application material for public interest entities as described in paragraph 400.8 is to meet these expectations, thereby enhancing stakeholders'

confidence in the entity's financial statements that can be used when assessing the entity's financial condition.

...

Requirements and Application Material

General

...

Public Interest Entities

R400.17 For the purposes of this Part, a firm shall treat an entity as a public interest entity when it falls within any of the following categories:

- (a) A publicly traded entity;
- (b) An entity one of whose main functions is to take deposits from the public;
- (c) An entity one of whose main functions is to provide insurance to the public; or
- (d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.10.

NZ R400.17.1 When considering the factors in 400.9, and the categories in R400.17, in New Zealand a firm shall treat an entity as a public interest entity, when it meets the tier 1 criteria in accordance with XRB A1⁶ and is not eligible to report in accordance with the accounting requirements of another tier.

400.17 A1 When terms other than public interest entity are applied to entities by law, regulation or professional standards to meet the purpose described in paragraph 400.10, such terms are regarded as equivalent terms. However, if law, regulation or professional standards designate entities as "public interest entities" for reasons unrelated to the purpose described in paragraph 400.10, that designation does not necessarily mean that such entities are public interest entities for the purposes of the Code.

R400.18 In complying with the requirement in paragraph R400.17, a firm shall take into account more explicit definitions established by law, regulation or professional standards for the categories set out in paragraph R400.17 (a) to (c).

400.18 A1 The categories set out in paragraph R400.17 (a) to (c) are broadly defined and no recognition is given to any size or other factors that can be relevant in a specific jurisdiction. The Code therefore provides for those bodies responsible for setting ethics standards for professional accountants to more explicitly define these categories by, for example:

- Making reference to specific public markets for trading securities.
- Making reference to the local law or regulation defining banks or insurance companies.

⁶ XRB A1 Application of the Accounting Standards Framework

- Incorporating exemptions for specific types of entities, such as an entity with mutual ownership.
- Setting size criteria for certain types of entities.

400.18 A2

Paragraph R400.17 (d) anticipates that those bodies responsible for setting ethics standards for professional accountants will add categories of public interest entities to meet the purpose described in paragraph 400.10, taking into account factors such as those set out in paragraph 400.9. Depending on the facts and circumstances in a specific jurisdiction, such categories could include:

- Pension funds.
- Collective investment vehicles.
- Private entities with large numbers of stakeholders (other than investors).
- Not-for-profit organisations or governmental entities.
- Public utilities.

400.19 A1

A firm is encouraged to determine whether to treat other entities as public interest entities for the purposes of this Part. When making this determination, the firm might consider the factors set out in paragraph 400.9 as well as the following factors:

- Whether the entity is likely to become a public interest entity in the near future.
- Whether in similar circumstances, a predecessor firm has applied independence requirements for public interest entities to the entity.
- Whether in similar circumstances, the firm has applied independence requirements for public interest entities to other entities.
- Whether the entity has been specified as not being a public interest entity by law, regulation or professional standards.
- Whether the entity or other stakeholders requested the firm to apply independence requirements for public interest entities to the entity and, if so, whether there are any reasons for not meeting this request.
- The entity's corporate governance arrangements, for example, whether those charged with governance are distinct from the owners or management.

Public Disclosure – Application of Independence Requirements for Public Interest Entities

R400.20

Subject to paragraph R400.21, when a firm has applied the independence requirements for public interest entities as described in paragraph 400.8 in performing an audit of the financial statements of an entity, the firm shall publicly disclose that fact in a manner deemed appropriate, taking into account the timing and accessibility of the information to stakeholders.

R400.21

As an exception to paragraph R400.20, a firm may not make such a disclosure if doing so will result in disclosing confidential future plans of the entity.

...

GLOSSARY, INCLUDING LISTS OF ABBREVIATIONS

...

[NZ] Public interest entity	<p>For the purposes of Part 4A, an entity is a public interest entity when it falls within any of the following categories:</p> <ul style="list-style-type: none">(a) A publicly traded entity;(b) An entity one of whose main functions is to take deposits from the public;(c) An entity one of whose main functions is to provide insurance to the public; or(d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.10. <p>The Code provides for the categories to be more explicitly defined or added to as described in paragraphs 400.18 A1 and 400.18 A2.</p> <p><u>In New Zealand, in addition to categories (a) – (d) above, an entity that meets the Tier 1 criteria in accordance with XRB A1⁷ and is not eligible to report in accordance with the accounting requirements of another tier is a public interest entity.</u></p>
Publicly traded entity	<p>An entity that issues financial instruments that are transferrable and traded through a publicly accessible market mechanism, including through listing on a stock exchange.</p> <p><i>A listed entity as defined by relevant securities law or regulation is an example of a publicly traded entity.</i></p>

EFFECTIVE DATE

This pronouncement will be effective for audits of financial statements for periods beginning on or after 15 December 2024.

Early adoption is permitted.

⁷ XRB A1 Application of the Accounting Standards Framework.