CNCC
COMPAGNIE NATIONALE DES COMMISSAIRES AUX COMPTES

Le Président

Dr. Stavros THOMADAKIS
IESBA Chair
IFAC
529 5th Avenue
New York, New York 10017

Paris, le 3 mai 2021

Reference: YO/CG/SLN/20210160

Object: Reply to ED PIEs of IESBA

Dear Mr Chairman,

The *Compagnie Nationale des Commissaires aux Comptes* (CNCC), the national professional organisation for statutory auditors in France is pleased to provide to the IESBA its comments on the ED on the "Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code".

Overall, we support the IESBA's intention to clarify and extend the definition of PIEs.

We strongly believe that beyond listed entities, the definition of PIES in the Code should include banks and insurance companies. It is a common feature all over the world to consider listed entities, banks and insurance companies as PIEs and it seems unquestionable that they should be included in the definition of PIEs in the Code.

However, we have strong concerns about the approach taken by IESBA in the ED, which we believe may lead to:

- Less consistency in the definition of PIEs around the world, rather than more.
- Increase the number of PIEs to a level which is unpracticable.
- Instil in the Public's mind the idea that there are two different audits: the audits of PIEs and the others.

Three assumptions of the ED we challenge

Independence of the auditor vs quality of the audit

The ED is built on the assumption that imposing more stringent independence requirements ~~to~~ on the auditors directly increases the confidence of the users of the financial statements in the audits. And this, because the users would automatically link independence of the auditor and quality of the audit. We believe that this assumption is questionable and that independence and quality are not always linked and we have no evidence that imposing additional independence requirements on the auditor would directly enhance public confidence in the audited financial statements.

Independence of the auditor vs investment risks

The ED sometimes seems to confuse the need to better inform the investors on the risks of certain investments, which is the role of the market regulator and the market regulation, and the need to treat an entity as a PIE and require the auditor to follow more stringent independence requirements. As an example, we do not believe that treating entities raising capital from an ICO as PIEs for the purpose of

imposing additional independence requirement on the auditors of their financial statements will ever make those investments less risky or more transparent on their risks.

Managing clients' risk through ISQC1 and ISQM1vs requiring firms to define their own PIEs

When requiring audit firms to consider as PIEs certain entities, over and above the entities defined as PIEs by law or regulation, the ED seems to neglect the already existing requirements of ISC1 and future ISQM1 that firms design criteria to classify the risk profile of their audit clients and apply more stringent independence and quality rules to those clients which are considered high risk. Firms can for example decide to have an engagement quality control reviewer on certain high-risk clients, even though those clients are not PIEs. We believe that these requirements of ISQC1 and ISQM1 are better suited to manage the risks of certain clients, including through additional independence and quality requirements, than requiring firms to consider certain clients as PIEs, based on their own criteria, which would be a source of great confusion to the users of the financial statements.

Keep the number of PIEs at a reasonable level

Although we support the intention of IESBA to extend the definition of PIEs beyond listed entities, we believe that it is very important that the number of PIEs remains reasonable in every jurisdiction and that it does not increase to a level where it would become totally impracticable and unmanageable.

A PIE, should always have a large or very large number of shareholders, investors, stakeholders, users, etc. It is the "Public interest" which is at stake in a PIE, i.e., the interest of a large portion of the Public. The PIE definition should never lead to treat as a PIE an entity which is very local with a limited number of stakeholders.

Role of the local bodies

We have strong concerns about the approach taken by IESBA in its ED which consist in having a very wide definition of PIEs in the Code which is expected to be tailored by local regulators or local bodies to meet their local needs. This includes the possibility for the local bodies not to consider as PIEs for their local needs, some entities which are in the list of PIEs in the Code.

We believe that it is not the role of an international Code to provide a wide list of potential PIEs from which the local authorities can "cherry pick" to meet their local needs. It would be a source of inconsistencies and confusion worldwide which could be very detrimental to the user's perception of the audits and understanding of the audit reports.

On the contrary, we believe that the role of an international code, such as the IESBA Code is to provide a baseline, a common ground, to which everybody can adhere.

The success of the approach taken in the ED is subject to the local bodies actually tailoring the code to their needs while the IESBA itself recognises that most local bodies might simply adopt the code as is, "*a situation which would undermine the IESBA's broader approach*".

In view of all these conditions which need to be met for the project to be successful, we believe that there is a high risk that the proposals in the ED result in less consistency in the PIE definition around the world rather than more. This is why we disagree with the approach taken by the ED.

Role of the firms

The final point with which we strongly disagree is the role assigned to the firms in the ED.

The ED foresees to require the audit firms to consider as PIEs some audit clients, based on their own criteria inspired by the Code, over and above those defined as PIEs by local regulation. In other words, the Code would require the audit firms to individually have their own definition of PIEs in addition to the PIEs defined by law or regulation.

We believe that this requirement would be a source of inconsistency and confusion for the Public, for the reasons explained below.

In many countries and jurisdictions, the status of being a PIE is usually defined by law or regulation and it usually creates additional requirements for the entities themselves (in terms of Governance for example, such as the obligation to have an audit committee) as well as it creates additional obligations to the auditor (such as the obligation to issue a written report to the audit committee, for example). It also entails additional obligations for the supervisory authorities.

If the audit firm was to consider an entity as a PIE, based on its own criteria, it would nevertheless not be able to impose to the client entity the other requirements imposed by law to a PIE and the Public may be misled, especially if the audit firm discloses that it has considered the entity as a PIE, in believing that the entity has met all the requirements imposed to a PIE, in terms of Governance or mandatory rotation of firms for example.

If the IESBA considers that audit firms should apply more stringent independence and quality requirements to certain audit clients, which is an objective we support, we note that it is already required by ISQC1 and future ISQM1 that firms design criteria to classify the risk profile of their audit clients and apply more stringent independence and quality rules to those clients which are considered high risk. Firms can for example decide to have an engagement quality control reviewer on certain high-risk clients, even though those clients are not PIEs.

Finally, we believe that it would be a source of great confusion for the Public if an audit firm would disclose in the auditor's report that it has considered an entity as a PIE. We favour transparency of course but when it is a source of clarity not a source of confusion. Disclosing certain audits as PIE audits would instil in the Public's mind the idea that there are two different audits: the audits of PIEs and the others. It would also mislead the Public as to whether the client entity itself has complied with the additional requirements imposed to a PIE by law or regulation, such as the requirement to have an audit committee for example.

When the auditor rotates, and the incoming auditor does not consider the entity as a PIE, based on its own criteria, what will the Public understand? What will happen in a joint audit if one firm considers this client as a PIE and the other firm not? And so on.

For all these reasons, we believe that all requirements at the level of the firms should be removed from the ED.

In addition to those fundamental comments, we respond below to the detailed questions of the ED.

We hope that our comments will be useful to the IESBA. Please do not hesitate to contact us if you want to discuss any of them.

Best regards,

Yannick Ollivier
President of the CNCC

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?*

As mentioned in our general comments above, we support the IESBA's intention to clarify and extend the definition of PIEs.

We strongly believe that beyond listed entities, the definition of PIES in the Code should include banks and insurance companies. It is a common feature all over the world to consider listed entities, banks and insurance companies as PIEs and it seems rather unquestionable that they should be included in the definition of PIEs in the Code.

With respect to paragraph 400.8, we consider that it should be clarified:

The term "financial condition" is unclear. We note that the ED takes 3 paragraphs in its explanatory memorandum to explain what it means and what it does not mean and nevertheless ends up concluding that it does not need to be defined. However, the reader will only have the words of the code and will need to interpret the meaning of financial condition on its own. We believe it will lead to many interpretations.

Similarly, we do not understand the sentence *"reflecting significant public interest in the financial condition of these entities"* and we believe that it is too vague and will be difficult to understand for the readers of the Code.

In the first bullet point, we do not understand the sentence *"taking on financial obligations to the public as part of an entity's primary business".*

With respect to the second bullet, we consider that the existence of a regulator or a supervisory authority for a sector should not be a decisive factor to qualify as a PIE but more of an indication that the entity could qualify as a PIE.

Overall, we find that some of those factors, as presently drafted, may be subject to interpretations and even misunderstanding and that the difficulties in trying to define what is meant in the different bullet points/factors would be reflected in future difficulties to interpret the Code.

With respect to paragraph 400.9, there is no evidence that imposing additional independence requirements to the auditor directly enhance the public confidence in the audited financial statements.

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?*

See our comments to question 1 above, most factors are unclear.

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?*

No, we do not support the approach taken by IESBA in revising the PIE definition, see our general comments above.

We believe that the PIE definition in the IESBA code should be a baseline, a common ground, to which everybody can adhere and that local bodies should only be allowed to add to this baseline and define or provide guidance on materiality.

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.*

No, we do not support the new term "publicly traded entity". It is unclear and the entities which are potentially included under this term cannot be ring fenced. It can potentially lead to define a huge number of entities as PIEs, beyond what can ever be practicable.

In addition, the definition of *"publicly traded entity"* is circular since it is defined as *"an entity that issues financial instruments that are transferrable and publicly traded"*.

Overall, we believe that the definition of listed entity may not be perfect but it is globally understood and used with consistency.

If the definition of listed entity was to be amended, it should keep a reference to a market, whether a recognized market as in the current IESBA definition or a regulated market as in the EU definition, but definitely it should keep a reference to a market.

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

Overall, we agree with the remaining PIE categories except for the collective investment vehicles included under (e). It would increase significantly the number of PIEs for entities that are often very local with limited number of stakeholders. We believe that the issue with collective investment vehicles is more about better informing the investors on the risks of their investments rather than an issue of auditor independence.

In addition, we disagree with paragraph 400.14.A1: we consider that if an entity is defined as a PIE by a local body, PIE requirements of the code should apply. It is impracticable because it will be totally impossible to find objective reasons to exclude local PIEs even if they do not meet the definition of a PIE in the IESBA code. How would we explain in the context of a group audit to a component auditor that what his country defines as a PIE is in fact not a PIE and should not be treated as such?

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.*

No, we believe that there is a confusion between better informing the investors of the risks of certain investments, which is the role of the market regulator and the market regulation and imposing additional independence requirements to the statutory auditors of the financial statements of PIEs.

We do not believe that treating entities raising capital from an ICO as PIEs for the purpose of imposing additional independence requirement to the auditors of their financial statements will ever make those investments less risky or more transparent on their risks.

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?*

As mentioned in our general comments above we do not support the approach taken in this ED to defining PIEs and the role assigned to the local bodies in tailoring the wide definition of PIE from the Code to their local needs.

The reason given by IESBA for adopting such an approach seems contradictory. On the one hand the ED states in page 5 *"that regulators in many jurisdictions do not have the power to set a definition"* and then explains in page 10 and 11 that the potential success of the approach is subject to an active role of the local bodies to tighten the IESBA's list of potential Pies: *"In adopting the broad approach, the IESBA acknowledged that the categories included as PIEs will inevitably be defined at quite a high level and could therefore scope in entities in whose financial condition the public interest is not significant. The IESBA therefore believes it is appropriate under these circumstances that the Code should deviate from its normal practice and allow the relevant local bodies to tighten those broad categories to exclude entities that the Code would otherwise include."*

The ED then states that some IESBA an IAASB members as well as other stakeholders have mentioned the risk that the local bodies *"may not have the requisite capacity, in the sense of capability, knowledge and resources, or the authority to make the necessary assessment and refinements of a list of high-level PIE categories in their local codes."* And further that *"the IESBA recognized that some jurisdictions might simply adopt the Code as is without much or any refinement, a situation which would undermine the IESBA's broader approach."*

To respond to that risk which we believe is a very real and high risk, the IESBA mentions that:
"a questionnaire was circulated to approximately 50 professional accountancy organizations (PAOs) in mostly smaller and less developed jurisdictions in Asia, the Middle East and Africa as well as Central and South America." And that in view of the responses received to the questionnaire *"There was strong indication that refinement of the PIE definition can be achieved in these jurisdictions."*

In view of all these conditions which need to be met for the project to be successful, we believe that there is a high risk that the proposals in the ED would result in less consistency in the PIE definition around the world rather than more. This is why we disagree with the approach taken by the ED.

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?*

Since we do not support the approach taken in the ED to the definition of PIES and the role assigned to local bodies, we will not comment on the outreach and education support to the local bodies.

We have doubt that the local bodies will tailor the PIE definition to their needs when the IESBA itself recognises *"that regulators in many jurisdictions do not have the power to set a definition"* and that "*some jurisdictions might simply adopt the Code as is without much or any refinement, a situation which would undermine the IESBA's broader approach"*.

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?*

No, we do not support the proposal to introduce a requirement for firms to determine if additional entities should be treated as PIEs. As explained in our general comments above, we believe that this requirement would be a source of inconsistency and confusion for the Public.

If the IESBA considers that audit firms should apply more stringent independence and quality requirements to certain audit clients, which is an objective we support, we note that it is already required by ISQC1 and future ISQM1 that firms design criteria to classify the risk profile of their audit clients and apply more stringent independence and quality rules to those clients which are considered high risk. Firms can for example decide to have an engagement quality control reviewer on certain high-risk clients, even though those clients are not PIEs.

We believe that the approach of ISQC1 and ISQM 1 which allows the firm to judge which additional independence and quality requirements is better suited to respond to the independence or quality risks on such clients and enables the firm to better target the risks of many more clients than any requirement to "upgrade" some clients as PIEs would do.

The IESBA might want to liaise with the IAASB to see how they could feed in their list of factors to a potential implementation guidance of ISQM1.

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

Since we are in favour of removing from the ED any requirements for firms to determine if additional entities should be treated as PIEs, we will not comment on the proposed list of factors.

Transparency Requirement for Firms

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

No, we do not. As explained in our general comments above, we consider that it is not an element of transparency to the Public but rather a source of confusion for the Public. Disclosing certain audits as PIE audits would instil in the Public's mind the idea that there are two different audits: the audits of PIEs and the others. It would also mislead the Public as to whether the client entity itself has complied with the additional requirements imposed to a PIE, such as the requirement to have an audit committee for example, when in fact the auditor would have had no means to impose it to the entity. It would be further inappropriate to impose upon the auditor to oblige an entity to comply with provisions which have not been clearly mandated. Furthermore, this could also unnecessarily expose the auditor to liability claims.

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.*

See our comments above, we do not support the proposal for firms to disclose if they treated an audit client as a PIE.

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?

Yes, we support.

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

2024 can be too short a deadline, depending on the number of new PIEs created by the new definition. In France, the European Regulation significantly increased the number of PIEs and it took time to adjust teams and systems to these requirements.

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.

We do not agree that defining an entity as a PIE by the IESBA Code for the purpose of imposing additional independence requirements to the auditor should systematically entail differential requirements for the audit in the ISAs and ISQMs. The status of PIE is usually defined by law or regulation in many countries and it usually creates additional requirements for the entities themselves, in terms of Governance, such as the obligation to have an audit committee for example, as well as it creates additional obligations to the auditor, such as the obligation to issue a written report to the audit committee, for example. It also entails additional obligations for the supervisory authorities.

Those differential requirements for the auditors are relevant as long as they also mirror differential requirements for the entity itself such as for example specific commitments from the financial market authority and governance commitments (e.g., Audit committee). We therefore believe that expanding the PIE definition for the purpose of the IESBA code should not systematically lead to creating additional requirements in the ISAs for all PIEs.

(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 believe that only a case-by-case approach is suited to establish differential requirements in the ISAs. It will be particularly true if the proposed changes to the definition of PIE would lead, unfortunately, to too many interpretations either by the local bodies and/or the audit firms. In which case it would be better to stay with differential requirements for listed entities only in the ISAs and let the local bodies decide whether they want to extend those differential requirements to all 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?

See our response to question 11 above and our general comments, we do not support the requirement for the auditor to disclose in the auditor's report that it has treated the entity as a PIE.