

Imran Vanker
Director of Standards
Independent Regulatory Board for Auditors

3 April 2023

Submitted electronically to standards@irba.co.za

Dear Mr. Vanker

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

1. The South African Institute of Chartered Accountants (SAICA) welcomes the opportunity to make submission to the Independent Regulatory Board of Auditors (IRBA) *Revisions to the Definitions of Listed Entity and Public Interest Entity in the IRBA Code*.
2. SAICA is South Africa's pre-eminent accountancy body which is widely recognised as one of the world's leading accounting institutes. The Institute provides a wide range of support services to more than 52 000 members who are chartered accountants [CAs (SA)] and associates who hold positions as chief executive officers, managing directors, board members, business owners, chief financial officers, auditors, and leaders in their spheres of business operation.
3. In responding to the proposed revisions to the definitions of listed entity and public interest entity in the IRBA Code, SAICA has consulted its members through various platforms including member survey, discussion forums and structures.
4. Our response to the revisions to the definitions of listed entity and public interest entity in the IRBA Code is contained in Annexure A of this document.
5. Please do not hesitate to contact Natasha Soopal (natashias@saica.co.za) should you wish to discuss the contents of this document.

Regards,



Mpho Mookapele
Chairperson of the Ethics Committee



Milton Segal
Executive Director

Annexure A – Comments on the Revision to Definition of Listed Entity and Public Interest Entity in the IRBA Code

Question 1

Do respondents believe that the proposed amendments provide useful guidance to help the Registered Auditor in determining whether an entity is a public interest entity? Yes / No.

If “No”, please indicate additional guidance is needed.

- 1.1. SAICA in consultation with its membership believe that the proposed amendments provide useful guidance to help Registered Auditor in determining whether an entity is a public interest entity.
- 1.2. The proposed amendments will improve consistency in the determination of public interest entities by Registered Auditors.

Question 2

Do respondents agree that public entities listed in schedule 2 of the Public Finance Management Act No. 1 of 1999 should be identified as public interest entities?

If “No”, please explain your view and provide a suggested way forward.

- 2.1. SAICA in consultation with its membership agrees that public entities listed in schedule 2 of the Public Finance Management Act No. 1 of 1999 should be identified as public interest entities.

Question 3

Do respondents agree that public entities or institutions authorised in terms of legislation to receive money for a public purpose with annual expenditure in excess of R5 billion or who are responsible for the administration of funds for the benefit of the public in excess of R10 billion as at financial year end should be identified as public interest entities?

If “No”, please explain your view and provide as suggested way forward.

- 3.1. SAICA in consultation with its membership agrees with the proposed amendments relating to public entities or institutions in terms of legislation to receive money for a public purpose with annual expenditure in excess of R5 billion or who are responsible for the administration of funds for the benefit of the public in excess of R10 billion as at financial year end should be identified as public interest entities.

Question 4

Do respondents agree that all universities as defined in the Higher Education Act No. 101 of 1997 should be identified as public interest entities?

If “No”, please explain your view and provide as suggested way forward.

- 4.1. SAICA in consultation with its membership agrees with the inclusion of all universities as defined in the Higher Education Act No. 101 of 1998 as public interest entities.
- 4.2. Questions have been raised by some members on whether the proposed amendments on inclusion of all universities as public interest entities includes both private and public universities. We therefore recommend that the IRBA clarifies if private universities were considered in the proposed revision.

Question 5

Do respondents agree with the proposed harmonisation of the thresholds to R10 billion as follows:

- (i) Collective Investment Schemes, including hedge funds, in terms of the Collective Investment Schemes Control Act No. 45 of 2002, that hold assets in excess of R10 billion.
- (ii) Funds as defined in the Pension Funds Act No. 24 of 1956, that hold or are otherwise responsible for safeguarding client assets in excess of R10 billion.
- (iii) Pension Fund Administrators in terms of Section 13B of the Pension Funds Act No. 24 of 1956 with total assets under administration in excess of R10 billion.
- (iv) Financial Services Providers as defined in the Financial Advisory and Intermediary Services Act No. 37 of 2002, holding financial products or funds on behalf of clients in excess of R10 billion.
- (v) Authorised users of an exchange as defined in the Financial Markets Act No. 19 of 2012, who hold or are otherwise responsible for safeguarding client assets in excess of R10 billion.

If “No”, please explain your view and provide a suggested way forward.

- 5.1. SAICA in consultation with its membership agrees with the harmonisation of the threshold of R10 billion.

Question 6

Considering the proposed thresholds outlined in question 5 above, are respondents aware of entities that could fluctuate from being a public interest entity to not being a public interest entity, year on year, as a result of the proposed thresholds?

If “Yes”, may you please indicate how many.

- 6.1. Based on interaction with members, no member was aware of entities that fluctuate from being a public interest entity to not being a public interest entity, year on year, because of the proposed thresholds.

Question 7

Do respondents agree with the proposed threshold of 89 000 beneficiaries for medical schemes?

If “No”, please explain your view and provide a suggested way forward.

- 7.1. SAICA in consultation with its membership agrees with the proposed threshold of 89 000 beneficiaries for medical schemes.

Question 8

Do respondents believe that the thresholds set in paragraph **R400.18 SA** will allow consistent application of the code and are appropriate?

If “No”, please explain your view.

- 8.1. SAICA in consultation with its membership agrees that the thresholds set in paragraph R400.18SA will allow for a more consistent application of the Code and is appropriate.
- 8.2. However, we received concerns from some members relating to other paragraphs in the Code that may result in the continuous inconsistency in the determination of public interest entities by registered auditors.
- 8.3. SAICA notes that the concerns raised members has no bearing on the local amendments proposed but it relates to amendments as per the IESBA Code and acknowledge that it is mandatory for it to be included in the Code unless more stringent requirements are proposed.
- 8.4. SAICA has however thought it relevant to share this information with the IRBA, so that the IRBA is also aware of the views of some of the registered auditors.
- 8.5. The following two paragraphs from the exposure draft were given as examples which could allow for continuous inconsistency in the determination of public interest entities:

Paragraph 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.
- 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.”

Paragraph 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.”

Question 9

Do respondents believe that there are other types of entities that should be included in paragraph **R400.18 SA**?

If “Yes”, please provide details and an explanation to support the response.

- 9.1. SAICA received feedback from members that there should be consideration on including attorney trust accounts and property trust accounts in paragraph 400.18 SA.
- 9.2. Some members believe that based on the high value thresholds provided in the proposed amendments for institutions included in paragraph R400.18 SA that it may not be necessary to include trust accounts as a separate category as not many of the trust accounts will achieve a high value threshold. Furthermore, it is believed that other paragraphs in the Code (i.e., paragraph 400.9 and 400.19 A1) may assist registered auditors with determining if the trust account is a public interest entity.
- 9.3. However, there were also concerns raised based on the grey listing of South Africa and the key deficiencies identified by the Financial Action Task Force (FATF) which

included risks associated with trusts and other legal entities. SAICA has noted that there have been amendments to legislation, the General Laws Amendment Act, 22 of 2022 which includes changes to the Trust Property Control Act to address this deficiency identified by the FATF. We believe that paragraph 400.9 and 400.19 A1 will assist auditors to determine if trusts and other legal entities should be considered as public interest entities as it may be difficult to determine a threshold for all category of entities to be included.

- 9.4. The FATF indicates that a risk exists as South Africa does not know who the actual owners are of legal persons including NPOs, companies, trusts, etc. and therefore these entities can be used for money laundering, terrorist financing, etc. as the actual owner hide behind these entities. The FATF therefore wants South Africa to maintain registers of actual owners which must be available for scrutiny by regulators and investigators. As a result of this, SAICA recommends that the IRBA considers including actual owners in paragraph 400.9 from a local perspective as per the following:

400.9 Number and nature of stakeholders including investors, customers, creditors, actual owners (beneficial ownership) and employees.

Question 10

Do respondents agree with the proposed definition of publicly traded entity?

If “No”, please explain your view.

- 10.1. SAICA and its membership agrees with proposed definition of publicly traded entity.

Question 11

Do respondents agree with the effective date proposed?

If “No”, please indicate the reason for the disagreement as well as an effective date and transitional provisions that will be more appropriate.

- 11.1. SAICA and its membership agrees with proposed effective date of 15 December 2024.