



National Association of State Boards of Accountancy

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Professional Ethics Executive Committee  
American Institute of Certified Public Accountants  
1345 Avenue of the Americas  
New York, NY 10105

Via e-mail: [ethics-exposedraft@aicpa.org](mailto:ethics-exposedraft@aicpa.org)

**Re: Exposure Draft: Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity (ET Sec. 0.400)**

Dear Members and Staff of the AICPA Professional Ethics Executive Committee (PEEC):

The National Association of State Boards of Accountancy (NASBA) appreciates the opportunity to comment on the above-referenced Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity (ET Sec. 0.400)* (the Exposure Draft). NASBA's mission is to enhance the effectiveness and advance the common interests of State Boards of Accountancy (State Boards) that regulate all Certified Public Accountants (CPAs) and their firms in the United States and its territories, which includes all audit, attest and other services provided by CPAs. State Boards are charged by law with protecting the public.

In furtherance of that objective, NASBA supports the PEEC in this initiative. We have reviewed the Exposure Draft and have the following suggestions for improving the understandability and applicability of the proposals.

### **General Comments**

NASBA is supportive of convergence with other standard setters as making standards uniform wherever possible helps to avoid confusion and potential misapplication by the CPA and aids in enforcement from a regulatory perspective. We especially liked the references to SEC rules or other rules in the proposed revisions instead of repeating the language. Consistency among standard setters is in the public interest.

We are concerned about whether PEEC fully considered how the definitions may impact smaller issuers and small/medium-sized accounting firms. The definitions extend to all entities that issue debt that can be traded. This would include special taxing districts, private water utilities, private universities and developers that create planned unit developments and issue property tax funded bonds. Many of these issuers are located in small and/or underserved communities in rural areas. These bonds are traded through market makers and, as written, the definition leaves open the

fact that there are many types of financial instruments that are traded, but not necessarily on the NASDAQ or NYSE.

Given the population of entities that could be considered to be PIEs and the varied facts and circumstances which could result in an entity being considered to be a PIE, we are concerned that there may be situations where an entity could be determined to be a PIE yet does not fit within any of the categories in the proposed definitions. Additional application guidance should be provided including the factors that the IESBA identified for voluntarily designating an entity as a PIE for independence purposes.

The term “publicly accessible market mechanism” is utilized as a key element of the new definition of the term “publicly traded entity”. There does not appear to be any definition of the term “publicly accessible market mechanism” within the Exposure Draft. A definition of the term should be provided to allow practitioners to better comply with the proposal if adopted.

### **Comments on Specific Questions**

*a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.*

NASBA generally agrees with the decision to defer to the relevant regulators for the purposes of the specific independence requirements applicable to each PIE category. We are concerned that while certain regulators do consider auditor independence as part of their oversight others do not. Guidance should be provided to address those situations where an entity is deemed to be a PIE however their oversight entities do not address auditor independence.

*b. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.*

NASBA agrees with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01.

*c. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.*

NASBA generally agrees with the refinement to the “deposits from the public” category; however, NASBA suggests the PEEC consider if the \$1 billion or more threshold should be increased to a higher number. A bank with \$1 billion in deposits from the public may generate \$25-\$40 million in

annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.

*d. Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.*

NASBA agrees with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums.

*e. Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.*

NASBA agrees with the “investment company” category PEEC proposes to include on the PIE definition.

*f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?*

NASBA believes that credit unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs.

*i. If so, which entities and why?*

Credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. The Navy Federal Credit Union with \$144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over \$1.5 billion in assets. From a public interest perspective, credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to more restrictive independence requirements.

*ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.*

NASBA believes that the AICPA code should incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs) for credit unions. Consistent with our comment in (c) above, PEEC should consider whether a \$1 billion threshold is appropriate for these entities.

*g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.*

NASBA does not believe the definition of publicly traded entity is clear. Paragraph .13 of the Explanation Section states that a publicly traded entity includes financial instruments of certain non-issuers such as government bonds. However, the definition of publicly traded entity (0.400 Definition .45) refers only to “an entity”. Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, NASBA suggests that the explanation be wholly consistent with the definition.

*h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*

NASBA believes that there are situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.

*i. If so, describe such situations and which independence standards are typically applied.*

Entities that are about to go public, about to be purchased by a publicly traded entity, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards.

*ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?*

NASBA believes that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid.

*iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator’s transparency requirement is not applicable?*

NASBA believes that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the letter to those charged with governance.

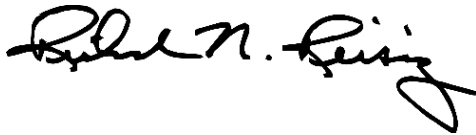
*iv. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.*

NASBA agrees that the effective date provides adequate time to implement the proposals.


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We appreciate the opportunity to comment on the Exposure Draft.

Very truly yours,



Richard N. Reisig, CPA  
NASBA Chair



Ken L. Bishop  
NASBA President and CEO