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Basis for Conclusions

Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

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I. INTRODUCTION

1. This Basis for Conclusions has been reviewed and approved by the Ethics Committee (“Ethics Committee”) of the Hong Kong Institute of Certified Public Accountants (“HKICPA” or the “Institute”). It is provided for the benefit of stakeholders to gain an understanding of the background to the *Revisions to the Definitions of Listed Entity and Public Interest Entity* in Part 4A, Chapter A of the HKICPA *Code of Ethics for Professional Accountants* (“Code”).
2. This Basis for Conclusions does not form part of the Code and is not a substitute for reading the Code.

II. BACKGROUND

3. The Institute adopted the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the “IESBA Code”) published by the International Ethics Standards Board for Accountants (“IESBA”) in 2018. Chapter A of the Institute’s Code is converged with the IESBA Code.
4. In April 2022, the IESBA issued [Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code](#) (“PIE Provisions”) to Part 4A of the IESBA Code. Part 4A of the IESBA Code sets out independence standards for audit and review engagements. The PIE Provisions will be effective for audits and reviews of financial statements for periods beginning on or after 15 December 2024.
5. The PIE Provisions include an expanded definition of “public interest entity” (“PIE”) in the IESBA Code by specifying a broader list of categories of entities as PIEs whose audits and reviews should be subject to additional independence requirements, including a new category “publicly traded entity” (“PTE”) to replace the category “listed entity”.
6. The IESBA’s new definition of PIE contains three mandatory categories. Local ethics standard-setting bodies are responsible for refining these mandatory categories taking into account the local context. The IESBA Code further allows for additional PIE categories to be specified by a jurisdiction’s laws, regulations, or professional standards.

HKICPA Exposure Draft

7. On 27 February 2024, the Ethics Committee released an Exposure Draft (“ED”), [Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code](#) for public comments. It sets out the Ethics Committee’s proposals to amend Part 4A, Chapter A of the Code when adopting the IESBA’s PIE Provisions, with local refinements to define a PIE more explicitly to align with the circumstances in Hong Kong. The [Explanatory Memorandum](#) (“EM”) that accompanied the ED provided detailed explanations of the proposed local refinements to the PIE definition.
8. The following table summarizes the ED’s proposals to refine the PIE definition in the local context:

PIE categories in the IESBA Code (paragraph R400.17 of the PIE Provisions)	Ethics Committee's proposed refinement a local context
(a) A publicly traded entity	No local refinement has been proposed to the definition of PTE in the PIE Provisions.
(b) An entity one of whose main functions is to take deposits from the public	The Ethics Committee proposed a more precise definition that licensed banks ("LBs"), as defined under the Banking Ordinance (Cap. 155) ("BO"), are PIEs under this category, except where there is no statutory requirement for audit engagements to be performed.
(c) An entity one of whose main functions is to provide insurance to the public	Given the unique context of Hong Kong, the Ethics Committee proposed that authorized insurers, as defined under the Insurance Ordinance (Cap. 41) ("IO"), are PIEs under this category except for: <ul style="list-style-type: none"> • captive insurers; and • insurers where there is no statutory requirement for audit engagements to be performed.
(d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.10.	The Ethics Committee proposed additional PIE categories as follows: <ul style="list-style-type: none"> • Mandatory Provident Fund ("MPF") Schemes ("MPF schemes"), as registered under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPF Ordinance"). • Occupational Retirement Schemes ("ORSO schemes"), as registered under the Occupational Retirement Schemes Ordinance (Cap. 426) ("ORSO Ordinance") with total assets exceeding HK\$100 million by reference to the most recent set of audited financial statements. If such audited financial statements are not available, firms should make the determination based on the most recent available information which indicates the asset size of the scheme.

9. The Ethics Committee [invited comments](#) on all matters in the ED, with particular emphasis on the areas highlighted in the Request for Specific Comments section in the EM which can be found in **Annex 1**.

10. The comment period for the ED closed on 27 April 2024. The Ethics Committee received six comment letters in response to the ED. Overall, respondents welcomed the Ethics Committee’s effort to refine the PIE definition in Part 4A, Chapter A of the Code within the local context. Some provided feedback to the specific intricacies of the proposed local refinements.

III. Key Changes Post the ED

11. After deliberations, the Ethics Committee decided to retain the proposals in the ED with the following revisions:

ED Proposals	Key Revisions to the ED
For the purpose of R400.17(c), authorized insurers, as defined under the IO are PIEs, except for: <ul style="list-style-type: none"> • captive insurers; and • insurers where there is no statutory requirement for audit to be performed. 	Expanded the scope of exception to include special purpose insurers (“SPI”) from being mandatory PIEs under Part 4A, Chapter A of the Code.
For the purpose of R400.17(d), ORSO schemes, as registered under the ORSO Ordinance with total assets exceeding HK\$100 million by reference to the most recent set of audited financial statements, are PIEs.	Only ORSO schemes registered under the ORSO Ordinance which are exempted under section 5 of the MPF Ordinance (“MPF-exempted ORSO registered schemes”) with total assets exceeding HK\$100 million by reference to the most recent set of audited financial statements are PIEs.

IV. Summary of Comments and Recommendations

12. Below is a summary of the respondents’ comments and how the Ethics Committee evaluated and addressed their concerns.

Deposit-Taking Institutions and Insurers

13. The IESBA added deposit-taking institutions and insurers as two new mandatory PIE categories in paragraph R400.17(b) and (c) of the PIE Provisions.
14. The Ethics Committee proposed that within these two categories, only (i) LBs defined under the BO, and (ii) authorized insurers defined under the IO with the exception of captive insurers are PIEs. Exceptions also apply for LBs and authorized insurers where there is no statutory requirement for an audit to be performed.
15. Hong Kong maintains a three-tier system of deposit-taking institutions, comprising LBs, restricted licence banks (“RLBs”), and deposit-taking companies (“DTCs”). They are classified according to the amount and term of deposits that can be accepted as well as the nature of the business.

- LBs may offer a full range of banking services. As the major target customers of some LBs include retail depositors, LBs are subject to a higher capital requirement (a minimum of HK\$300 million). Accordingly, the Ethics Committee considered that LBs have significant public interest.
 - On the contrary, the Ethics Committee considered that the public interest associated with RLBs and DTCs is relatively limited compared with LBs. The deposit threshold requirements and business nature of RLBs and DTCs would arguably limit their customers to those with more professional financial knowledge and stronger financial capabilities, and consequently, reduces the level of public interest in these entities.
16. Within the scope of the IO, there are four authorized insurers classified as captive insurers. They are established by their parent companies with the primary purpose of insuring and reinsuring risks of the companies within the group to which they belong. Given that captive insurers are not directly accountable to the public and arguably do not possess public interest, the Ethics Committee considered it more appropriate for auditors to determine their PIE status at the firm level based on the factors in paragraphs 400.9 and 400.19 A1 of the PIE Provisions.
17. Respondents expressed their support for the proposed local refinements regarding deposit-taking companies and insurers discussed above, while putting forward further suggestions:
- For deposit-taking institutions categorized as mandatory PIEs, i.e., LBs, one respondent suggested expanding the PIE categorization to include their subsidiaries that provide financial services given the businesses of the subsidiaries are often highly interconnected with those of their parent institutions.
 - The respondent further recommended the Ethics Committee to assess whether RLBs or DTCs should be designated as mandatory PIE categories if their parent entity, regardless of whether it is located (Hong Kong or overseas), falls under a mandatory PIE category.
 - In relation to insurers, one respondent pointed out that there are two SPIs in Hong Kong that are established specifically for issuing insurance-linked securities (“ILS”). These SPIs operate under bespoke requirements. In addition to captive insurers, the respondent proposed excluding SPIs from the PIE definition of the Code, relegating the determination of their PIE status to auditors at the firm level.

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The impact of the parent’s PIE status on that of the subsidiary

18. In light of the comments received, the Ethics Committee noted as follows:
- Entities engaging in business activities that have a significant interconnection with a PIE is not a determining factor or criterion in paragraph 400.9 of the PIE Provisions to categorize them as PIEs.

- Likewise, whether a subsidiary is a PIE should not be solely based on the PIE status of its parent entity, but rather on the subsidiary’s own facts and characteristics.
- The new provisions in Section 405, Group Audits in Chapter A of the Code are effective for audits and reviews of the financial statements and audits of group financial statements for periods beginning on or after 15 December 2023. The new provisions specify the independence requirements for entities within a group (e.g., subsidiaries) and other related entities as defined by having regard to the PIE status of the parent entity.
- Group audit client is defined as the entity on whose group financial statements the group auditor firm (“GAF”) conducts an audit engagement. When the entity is a listed entity, group audit client will always include its related entities and any other components at which audit work is performed. When the entity is not a listed entity, group audit client includes related entities over which such entity has direct or indirect control and any other components at which audit work is performed.
- Section 405 in Chapter A of the Code sets out the relevant independence requirements for the GAF, component audit firms (“CAF”) and the group audit team members. It specifies which independence provisions in the other Sections of Part 4A apply to them. The independence requirements referred to in HKSA 600 (Revised), *Special Considerations – Audits of Group Financial Statements (Including the Work of Component Auditors)* are those set out in Section 405.
- The overarching principle in Section 405 is that the provisions applicable at the group level should also apply consistently and uniformly across the group. The determination of whether a group audit client is a PIE depends on the national laws and regulations applicable in the group audit client’s jurisdiction. As noted in paragraph R405.3, HKSA 600 (Revised) requires the group engagement partner to take responsibility for making the CAF aware of the relevant ethical requirements applicable to the group audit. Paragraph R405.3 also requires the GAF to communicate at appropriate times the necessary information to enable the CAF to comply with Section 405. This will include informing the CAF about whether the group audit client is a PIE and the relevant ethical requirements applicable to the group audit.

Insurance companies: SPIs

19. Regarding insurance companies, SPIs are authorized insurers within the IO to carry out special purpose business (“SPB”). SPB is defined in section 2(1) of the IO to mean “the insurance business of effecting and carrying out contracts of insurance that are fully funded through insurance securitization”. SPIs are specifically formed for issuing ILS in Hong Kong, which typically involves an insurer/reinsurer (“cedant”) setting up and transferring risks to an SPI through a reinsurance/risk transfer contract, which in turn issues ILS to finance the full amount of such risks.¹ The core feature of SPB is that it must be “fully funded”, meaning that the value of the assets held by, or on behalf of the SPI for the benefit of the cedant(s), shall at all times be no less than the amount of

¹ Paragraph 1.3, [Guideline on Application for Authorization to Carry on Special Purpose Business](#) (“GL 33”), Insurance Authority

liabilities borne by it under the reinsurance/risk transfer contract(s) entered into with the cedant(s).²

20. Under the IO, an SPI is authorized to carry on a class of business separate from long term business and general business.³ Consequently, the Insurance Authority's regulatory regime does not impose the same capital or solvency requirements on SPIs as are applied to other insurers. Instead, SPIs are required to be "fully funded". Arguably, SPIs are similar to special purpose vehicles in securitization transactions, rather than traditional insurers taking on risks and significant financial obligations.
21. As ILS is regarded as a high-risk investment product, the sale of ILS is limited to institutional investors through private placement. Rule 3(2) of the [Insurance \(Special Purpose Business\) Rules](#) reinforces the prohibition against offering or selling ILS to retail investors by excluding from the persons to whom ILS may be offered or sold, retail funds authorized by the Securities and Futures Commission ("SFC"), MPF schemes and funds, approved pooled investment funds into which MPF funds could invest, ORSO schemes and any person in the capacity as operator of such schemes.
22. Currently there are two SPIs in Hong Kong. Considering the above facts and circumstances, the Ethics Committee agreed that the public interest associated with SPIs is limited. Accordingly, the Ethics Committee considered it more appropriate for auditors to determine which SPIs should be treated as a PIE at the firm level based on the factors in paragraphs 400.9 and 400.19 A1 of the PIE provisions.

Entities not subject to statutory requirement for an audit to be performed

23. In response to the ED, one respondent highlighted that while branches of overseas insurers are not subject to any statutory audit requirements when the new risk-based capital regime becomes effective, the Insurance Authority has the power to require insurers to submit the audited financial statements of their branches. Accordingly, the respondent would like to clarify whether in such cases those branches would be captured as mandatory PIEs according to the Ethics Committee's proposal, given that the proposed PIE definition excludes authorized insurers that are not subject to statutory audit requirements.
24. According to the glossary of the Code, "audit engagement" means "*A reasonable assurance engagement in which a professional accountant in public practice expresses an opinion whether financial statements are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with Hong Kong Standards on Auditing. **This includes a Statutory Audit, which is an audit required by legislation or other regulation.***"
25. Consequently, in the context of the Code, a statutory audit includes an audit required by legislation or other regulation.

² Paragraph 1.4, GL 33, Insurance Authority

³ Paragraph 1.2, GL 33, Insurance Authority

26. During its deliberation, the Ethics Committee emphasized the importance of distinguishing between two scenarios: one where legislation or regulations require an entity to prepare financial statements audited by a professional accountant in public practice, and another where the regulator exercises its authority to require audits of financial statements for other purposes, such as requesting a branch to submit its audited financial statements.
27. In the latter scenario, where there are no specific laws or regulations requiring an entity to perform an audit and the submission of audited financial statements is within the regulator's authority and jurisdiction to request information, typically on an ad-hoc basis, it may not necessarily fall within the definition of a "statutory audit". However, it is important for firms to exercise professional judgement and conduct a comprehensive assessment to determine whether the audit engagement is a statutory audit in the context of the Code.

Pension Funds

28. In IESBA's [Proposed Revisions to the Definition of Listed Entity and PIE in the Code](#) published in 2021, post-employment benefits ("PEBs") and collective investment vehicles ("CIVs") were included in the proposed list of mandatory PIE categories taking into account the likelihood of these categories being adopted by most jurisdictions as PIEs and their impact on a large number of stakeholders in the event of a financial failure for entities in those two categories. However, having reflected on the feedback from respondents, the IESBA decided to remove PEBs and CIVs from the mandatory list in its final pronouncement.
29. The IESBA nevertheless agreed to conduct a holistic review of PEBs and CIVs on their arrangements and relationship with trustees, managers and advisors. The IESBA acknowledged that a better understanding of these arrangements would be important to ensure that the independence provisions and the application of the "related entity" definition in the IESBA Code remain fit for purpose. Given the complexity of these arrangements or structures and the degree of variation across jurisdictions, the IESBA will proceed cautiously before determining whether there is a need to revise the IESBA Code. As a first step, the IESBA will conduct the necessary research and outreach with key stakeholders in 2024 to fully understand the issues. Following this, the IESBA plans to issue an exposure draft based on the findings in 2025, and subsequently release the final pronouncement in 2026 to address any concerns regarding the independence requirements in relation to the structure of PEBs and CIVs.
30. Despite the IESBA's decision, the Ethics Committee considered that pension funds and funds authorized by the SFC are potential categories of PIEs in Part 4A, Chapter A of the Code given the specific circumstances in Hong Kong.
31. Accordingly, the ED proposed classifying all MPF schemes, and ORSO schemes with total assets exceeding HK\$100 million by reference to the most recent set of audited financial statements, as mandatory categories of PIE. For SFC-authorized funds, the Ethics Committee decided to defer the PIE determination until further information is available (see paragraphs 52 to 53 below).
32. Respondents to the ED expressed mixed views on classifying MPF schemes and ORSO schemes as mandatory PIEs within Part 4A, Chapter A of the Code.

33. One respondent considered MPF schemes and ORSO schemes are CIVs with similar characteristics as SFC-authorized funds. Any conclusions relating to MPF schemes and ORSO schemes should be consistent with that of SFC-authorized funds. As the IESBA will conduct further research and analyses of the CIVs (paragraph 29), the respondent suggested that the PIE classification of MPF schemes and ORSO schemes to be addressed together with SFC-authorized funds at a later date.
34. The respondent also raised concerns about the proposed size threshold of HK\$100 million of total assets for classifying an ORSO scheme as a PIE. They argued that it is relatively low compared to the thresholds implemented in the UK⁴ and the Netherlands.⁵ Additionally, the respondent pointed out that a mere HK\$100 million would only cover the retirement funds of approximately 21 individuals, based on the assumption that Hong Kong people requires around HK\$ 4.7 million to retire comfortably.⁶ Consequently, the respondent deemed the HK\$100 million threshold to be disproportional and the “very low aggregate size” of ORSO schemes suggests that they should be scoped out from the PIE regime of the Code rather than setting the PIE threshold very low to capture them. Furthermore, the respondent held the view that ORSO schemes are predominantly of a “private nature” and given the number of MPF schemes and ORSO schemes in the market, it would be disproportional for approximately nine out of ten PIE pension schemes to be ORSO schemes.⁷
35. Another respondent expressed a completely opposite view. Taking into account factors such as the significant member size and MPF schemes being the “second pillar” of the multi-pillar retirement protection framework recommended by the World Bank, the respondent is of the view that audit firms should tighten the independence requirements when performing audits of the financial statements of the MPF schemes. Consequently, it is considered appropriate to categorize MPF schemes as a mandatory PIE category in Part 4A, Chapter A of the Code.
36. The respondent agreed with the proposed categorization of all MPF schemes as PIE entities, i.e., no need for a size threshold. Considering ORSO schemes are alternative options to MPF schemes, the respondent suggested that the Ethics Committee remove the proposed asset size threshold for and categorize all MPF-exempted ORSO registered schemes as PIEs to enhance the independence requirement for safeguarding the interests of the members of ORSO schemes.
37. Since the launch of the MPF system in 2000, the Mandatory Provident Fund Authority (“MPFA”) has exempted a number of ORSO schemes that meet certain criteria from following the MPF regulations. Consequently, there are two types of ORSO schemes:

⁴ According to the [Ethical Standard](#) developed by the Financial Reporting Council of the United Kingdom, the definition of Other Entities of Public Interest (i.e., An entity which does not meet the definition of a PIE but nevertheless is of significant public interest to stakeholders) includes private sector pension schemes with more than 10,000 members and more than £1 billion of assets, by reference to the most recent set of audited financial statements.

⁵ According to the Royal Netherlands Institute of Chartered Accountants’ [comment letter](#) (May 2021) to the IESBA’s *Proposed Revisions to the Definitions of Listed Entity and PIE in the Code*, the Dutch legislator designated pension funds as PIE based on their size, with a threshold of EUR 10 billion of managed assets.

⁶ [How much do I need to save for retirement](#), HSBC

⁷ According to the statistics of the MPFA, as of 31 December 2023, there were 198 MPF-exempted ORSO registered schemes with total assets exceeding HK\$100 million, and 24 MPF schemes registered with the MPFA.

- ORSO exempted schemes are exempted from the auditing and investment requirements, but are required to provide specified information to the MPFA annually, notify the MPFA of certain changes and settle periodic fees to the MPFA.
- ORSO registered schemes are subject to various funding, investment, auditing and disclosure of information requirements.

38. As ORSO exempted schemes have no audit requirements, they are out of the scope of the revised PIE definition and are not considered further by the Ethics Committee. The MPFA concurred with this perspective.

39. ORSO registered schemes may further be classified into two types according to their MPF exemption status:

MPF-exempted ORSO registered schemes	<ul style="list-style-type: none"> • Schemes with MPF exemption granted by the MPFA under section 5 of the MPF Ordinance. • Employers and members of MPF-exempted ORSO registered schemes are exempt from MPF requirements.
Non-MPF exempted ORSO registered scheme	<ul style="list-style-type: none"> • Schemes that do not have the MPF exemption granted by the MPFA. • Non-MPF exempted ORSO registered schemes can be provided by relevant employers for their employees as top-up schemes in addition to MPF schemes, or retained by employers for keeping the benefits of their employees accrued before the launch of the MPF System for continued investment.⁸

40. As of December 2023, the [statistics](#) of ORSO registered schemes published by the MPFA are as follows:⁹

ORSO registered schemes	No. of members	No. of schemes	No. of schemes with asset over HK\$100 million
MPF-exempted ORSO registered schemes	230,160	2,437	198
Non-MPF exempted ORSO registered schemes	36,656	428	32

⁸ Paragraph 8, [Proposed Amendments to the Occupational Retirement Schemes Ordinance \(Cap.426\)](#), Financial Services and the Treasury Bureau and the MPFA, 4 June 2018

⁹ [ORSO Schemes Statistics as at 31 December 2023](#), MPFA

41. As discussed in paragraph 36, a respondent suggested categorizing all MPF-exempted ORSO registered schemes (approximately 2,400 schemes) as mandatory PIEs. The suggestion did not include non-MPF exempted ORSO registered schemes, which comprise approximately 430 schemes and only 32 of them had assets over HK\$100 million as of December 2023. A further trend analysis in **Table 1** notes a decline in the total number of non-MPF exempted ORSO registered schemes between 2019 and 2023, while the number of schemes having assets over HK\$100 million remained stable.

Table 1: Non-MPF Exempted ORSO Registered Schemes

As of ¹⁰	Total			No. of schemes with asset over HK\$100 million	
	No. of members	No. of schemes	Total asset size (HK\$'m)	No. of schemes (% out of total)	Total asset size (HK\$'m) (% out of total)
31-Dec-2019	45,880	517	15,851	31 (6%)	12,087 (76%)
31-Dec-2020	40,239	492	17,115	33 (7%)	13,472 (79%)
31-Dec-2021	36,079	475	17,585	32 (7%)	13,807 (79%)
31-Dec-2022	36,378	444	17,278	31 (7%)	13,503 (78%)
31-Dec-2023	36,656	428	15,778	32 (7%)	12,590 (80%)

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Non-MPF exempted ORSO registered schemes

42. The Ethics Committee observed that the purpose and operations of MPF-exempted and non-MPF exempted ORSO registered schemes are different. The latter generally functions as top-up schemes or retained funds to provide additional retirement benefits to employees, rather than serving as retirement savings vehicles with continuous contributions as in the case of MPF schemes and MPF-exempted ORSO registered schemes.
43. As of 31 December 2023, non-MPF exempted ORSO registered schemes covered approximately 36,000 members. If these individuals are employees and self-employed persons aged between 18 and 64, they are still required to join either MPF schemes or MPF-exempted ORSO registered schemes. Therefore, it can be argued that funds held in non-MPF exempted ORSO registered schemes do not fall within the scope of statutory retirement protection as intended by the MPF system.
44. Given the above facts and circumstances, the Ethics Committee concluded that non-MPF exempted ORSO registered schemes do not constitute a fundamental pillar of retirement protection among the working population in Hong Kong, and considered it more appropriate for their auditors to determine their PIE status at the firm level.

¹⁰ [ORSO Scheme Statistics](#), MPFA

MPF-exempted ORSO registered schemes

45. With regard to MPF-exempted ORSO registered schemes, following careful consideration of comments received, the Ethics Committee decided to retain its proposal of categorizing those with total assets over HK\$100 million by reference to the most recent set of audited financial statements as PIEs.
46. In reaching this position, the Ethics Committee noted the respondent's comparison between MPF and ORSO schemes and SFC-authorized funds (paragraph 33 above). While both MPF/ORSO schemes and SFC-authorized funds are CIVs, it is vital to highlight that contributing to an MPF scheme or MPF-exempted ORSO registered scheme is mandatory for the working population of Hong Kong, whereas investing in a SFC-authorized fund is voluntary. Furthermore, MPF scheme participants are unable to withdraw their funds until they reach the age of 65, unless specific criteria are met. In contrast, investors of SFC-authorized funds have the flexibility to withdraw their investments at any time. Considering these factors, the Ethics Committee determined that the public interest of MPF schemes and MPF-exempted ORSO registered schemes, in a local context, is significantly higher than that of SFC-authorized funds.
47. When evaluating the proposed size threshold of HK\$100 million for categorizing a MPF-exempted ORSO registered scheme as a mandatory PIE, the Ethics Committee took note of the comment that the proposed threshold is low when compared to thresholds implemented in other jurisdictions. The respondent suggested that instead of setting a low threshold to capture some of the ORSO schemes as PIEs, it may be more appropriate to exclude all ORSO schemes from being mandatory PIEs (paragraph 34 above).
48. However, the Ethics Committee recognized that size of an entity is just one factor in determining its public interest. Other considerations 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 (paragraph 400.9 of the PIE Provisions).
49. Similar to deposit-taking institutions, all retirement schemes in Hong Kong, including MPF schemes and ORSO schemes, accept funds on behalf of individuals. Any failure in fulfilling these obligations would have significant consequences for the individuals involved and could undermine public confidence in the system.
50. In determining the PIE size threshold of MPF-exempted ORSO registered schemes, the Ethics Committee noted that based on publicly available information, approximately 90% of the total assets of MPF-exempted ORSO registered schemes are contributed by those schemes with asset size over HK\$100 million. Although these schemes constituted only around 8% of the total number of ORSO schemes, they notably hold the majority of "public interest" of ORSO registered schemes in Hong Kong (**Table 2**). Consequently, the Ethics Committee believed that the size threshold of HK\$100 million in terms of total assets by reference to the most recent set of audited financial statements as a PIE category would remain appropriate.

Table 2: MPF Exempted ORSO Registered Schemes

MPF-exempted ORSO registered schemes				
As of ¹¹	Total		No. of schemes with asset over HK\$100 million	
	No. of schemes	Asset size (HK\$'m)	No. of schemes (% out of total)	Asset size (HK\$'m) (% out of total)
31-Dec-2019	2,871	311,948	234 (8%)	278,374 (89%)
31-Dec-2020	2,823	316,651	230 (8%)	283,368 (89%)
31-Dec-2021	2,679	346,246	232 (9%)	314,469 (91%)
31-Dec-2022	2,531	331,550	222 (9%)	301,878 (91%)
31-Dec-2023	2,430	274,540	198 (8%)	247,184 (90%)

51. The Ethics Committee also decided to retain a size threshold to categorize certain MPF-exempted ORSO registered schemes as mandatory PIEs, rather than including all of them as mandatory PIEs, in light of the following:

- Paragraph 400.18 A1 of the PIE Provisions allows local bodies to incorporate appropriate size criteria to define the categories of PIEs.
- ORSO schemes, in general, are not available for “public subscription” as the membership of each ORSO scheme is restricted to employees of companies that have enrolled in that specific scheme. Additionally, the enrollment rate for MPF-exempted ORSO registered schemes is relatively low, with approximately 4% of the Hong Kong population participating in them.¹² In contrast, MPF schemes have a much higher enrollment rate, covering around 63% of the total population of Hong Kong.¹² Considering these factors, the extent of public interest associated with ORSO schemes is arguably limited compared to MPF schemes. Given this disparity, it is reasonable to exclude smaller ORSO registered schemes from being categorized as mandatory PIEs.
- As of 31 December 2023, there were 24 MPF schemes but over 2,400 MPF-exempted ORSO registered schemes (**Table 2**). Consequently, classifying all of the MPF-exempted ORSO registered schemes as PIEs without regard to their sizes may not yield the same level of efficacy as it does for MPF schemes. Instead, it will potentially place a disproportionate burden to their operators and auditors from a cost and operational perspective, for example, inability to meet auditor rotation requirements.
- The Ethics Committee noted the comment that it would be disproportionate for the majority of PIE pension schemes to be ORSO schemes (paragraph 34). However, it is important to note that there are only 24 MPF schemes but over 2,400

¹¹ [ORSO Scheme Statistics](#), MPFA

¹² Based on:

- The provisional estimate of the Hong Kong population of 7,503,000 at end-2023 published by the Census and Statistics Department of the Government of the Hong Kong Special Administrative Region in February 2024.
- Number of scheme members for ORSO registered schemes of 266,816 as of 31 December 2023 published by the MPFA.
- Number of scheme members for MPF schemes of 4,754,000 as of 31 December 2023 published by the MPFA.

MPF-exempted ORSO registered schemes. Each individual ORSO scheme is generally significantly smaller in scale and asset size compared to any individual MPF scheme. As such, the Ethics Committee is of the view that the emphasis should be placed on the size of assets under management rather than the number of schemes.

Other Potential PIE Categories

SFC-Authorized Funds

52. As explained in the EM, at the time of developing the proposed local refinement, the Ethics Committee recognized the mixed factors and circumstances that did not give any definitive conclusion regarding the categorization of SFC-authorized funds as PIEs:
- While SFC-authorized funds are offered to the public as PTEs do, they operate differently from PTEs. Unlike PTEs which have dedicated governance and management for strategic and operational decision-making, funds themselves do not participate in such decision-making processes of their underlying investments. Instead, funds are invested in a diverse range of assets based on the perspectives of managers or trustees who are service providers for the funds. Consequently, funds are considered “passive” because they do not involve in the operations and activities of their investments, nor do they make decisions over the selection and allocation of their investment portfolio.
 - Although trustees and managers generally have fiduciary duties to their clients for the funds they govern or manage, they are not caught as the CIVs’ related entities under the Code. Including CIVs as PIEs would only cover the funds themselves and does not extend to the relevant trustees, managers or advisors. As the range of non-assurance services (and specifically those prohibited for PIEs) that can be provided to these funds is much more limited compared with an operating entity, the newly enhanced non-assurance services and fees standards of the Code will not be as relevant to the audits of funds.
 - The top three jurisdictions for open-ended funds in terms of net asset value, namely the United States¹³, Luxembourg and Ireland¹⁴ were yet to define CIVs as PIEs as at April 2023 according to the [Database of Jurisdictional Definitions](#) published by the IESBA.
53. Accordingly, the Ethics Committee decided, at a standard setter level, to defer determining whether SFC-authorized funds should be classified as PIEs within Part 4A, Chapter A of the Code to Phase 2 of the local refinement until further information is available, including the conclusive decision of the IESBA following their holistic review (paragraph 29) and the local decisions made by other major jurisdictions for open-ended funds.

¹³ In December 2023, the AICPA issued [New and revised definitions related to public interest entities](#) to capture an investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933, as PIE defined in the AICPA Code of Professional Conduct.

¹⁴ [IOSCO Investment Funds Statistics Report](#), January 2023.

54. The Ethics Committee's ED issued in February 2024 sought specific comments on the possible categorization of SFC-authorized funds and the following categories of entities as PIEs in Part 4A, Chapter A of the Code:
- Organizations that handle client assets as part of their primary business
 - Organizations that receive government subvention
 - Charities
 - Financial market infrastructures
 - Public utilities
 - Systemically significant entities
55. Among the six comment letters received,
- Four respondents did not provide any comments regarding the Ethics Committee's possible PIE categorization of entities outlined in paragraph 54.
 - One respondent considered that it would be important for the Institute to conduct a holistic comparison with the mandatory PIE categories adopted in other jurisdictions, especially those categories that are not currently considered as mandatory PIEs in Hong Kong.
 - Another respondent opined that it would be prudent to wait for the revisions to the IESBA Code following their holistic review of PEBs and CIVs to ensure the Institute's local categorization of SFC-authorized funds is not inconsistent with the IESBA Code revisions. They further suggested that Exchange Traded Funds ("ETFs") should be considered along with SFC-authorized funds, as the inherent risks and governance structured are very similar to non-list SFC authorized funds, and very different to that of listed companies other than ETFs.
56. In the PIE Provisions, PTE is a new mandatory category to replace "listed entity" in the extant Code. The term PTE is intended to scope in more entities as it is not confined to entities having shares, stock or debt traded only in formal exchanges but encompassed those on second-tier markets or over-the-counter trading platforms.
57. Unlike SFC-authorized funds, ETF is an open-end fund that can be bought and sold on a stock exchange. As a result, an ETF falls under the scope of mandatory PIEs based on the PIE Provisions, and it does not require further consideration from the Ethics Committee.
58. Other than feedback relating to ETFs, the Ethics Committee acknowledged comments provided by respondents summarized in paragraph 55. The Ethics Committee will monitor any relevant developments and consider them in any future revisions to the PIE definition of the Code as appropriate after taking into account Hong Kong-specific circumstances.

Annex 1: Request for Specific Comments in the Exposure Draft

Mandatory PIE categories

In terms of the revised PIE definition in the context of Part 4A of the Code:

1. For the second mandatory PIE category, i.e., entities whose main function is to take deposits from the public, do you agree with the Ethics Committee's proposal to define these entities more precisely as licensed banks (as defined under the BO), except where there is no statutory requirement for audit engagements to be performed? Please explain your views.
2. For the third mandatory PIE category, i.e., entities whose main function is to provide insurance to the public, do you agree with the Ethics Committee's proposal to define these entities more precisely as authorized insurers (as defined under the IO), except for (i) captive insurers, and (ii) insurers where there is no statutory requirement for audit engagements to be performed? Please explain your views.

Additional PIE categories

3. Do you agree with the Ethics Committee's proposals to classify the following entities as PIE within the context of Part 4A of the Code? Please explain your views.
 - All MPF schemes registered under the MPF Ordinance; and
 - ORSO schemes registered under the ORSO Ordinance with total assets exceeding HK\$100 million by reference to the most recent set of audited financial statements. If such audited financial statements are not available, firms should make the determination based on the most recent available information which indicates the asset size of the scheme.
4. Do you have any comments on the possible classification of certain SFC-authorized funds; organizations that handle client assets as part of their primary business; organizations that receive government subvention; charities; financial market infrastructures; public utilities and systemically significant entities as PIEs?

Others

5. Are there any other matters related to this ED that the Ethics Committee should consider as it deliberates the proposed local refinement of the PIE definition? Please explain your views.