

**From:** [Paul Walters \(HK - ASR\)](#)  
**To:** [P.T. Comment Letter](#)  
**Subject:** PwC response to INVITATION TO COMMENT ON PROPOSED REVISIONS TO THE DEFINITIONS OF LISTED ENTITY AND PUBLIC INTEREST ENTITY IN THE CODE  
**Date:** Monday, 8 April 2024 9:16:21 am

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Please find our comments below for consideration by the Ethics committee. The comments only relate to the funds related sections of the paper.

#### Q3 – MPFs

With regards to MPF schemes, these are collective investment schemes with many important features which are similar to SFC authorised funds, such as an independent trustee and an independent custodian/depository. We therefore believe that any conclusions relating to MPF schemes should apply consistent logic with that for SFC authorised funds, and hence reflect the forthcoming IESBA Code revisions. Making any PIE determination relating to MPF schemes prior to the IESBA review findings being issued may result in local definitions which are (i) inconsistent with international guidance and best practice, and (ii) inconsistent with the logic applied to SFC authorised funds. We believe that no conclusions on PIE should be made with respect to MPF schemes at this point, and that they be addressed together with SFC authorised funds.

#### Q3 - ORSOs.

1. Please refer to the above comments on MPFs, as ORSOs have a similar fiduciary governance structure as MPFs (independence of trustee/ custodian from the employer being the key governance structure), and we believe that the forthcoming IESBA Code revisions should be an integral consideration of any local application of PIE to all CIVs, including ORSOs.
2. With respect to proportionality, which is mentioned as a key consideration in the Explanatory Memorandum, the proposals with respect to MPFs and ORSOs seem disproportional. The paper concludes that 27 MPF schemes (combined NAV of HK\$1,109,031 millions) would result in being designated as PIE, and that approx. 240 ORSO schemes (combined NAV of approx. HK\$286,276 millions) would result in being designated as PIE. Given that the paper mentions the private nature of the ORSO schemes, it seems grossly disproportional that approximately nine out of ten pensions schemes designated as PIE would be ORSO schemes.
3. Again, with respect to proportionality, the Explanatory Memorandum mentions the size criteria in the UK and Holland, of GBP1bn and Euro 10bn respectively. The ORSO size threshold to trigger PIE suggested of HK\$100m is just 1.0% of the UK threshold, and just 0.01% of the Dutch threshold, which is clearly disproportional. In simple \$ terms, given HSBC assumption that people need HK\$4.7m to retire, the HK\$100m represents approximately just 21 peoples' retirement fund. We believe that the very low aggregate size of ORSO schemes suggests that they should be scoped out of PIE rather than setting the PIE threshold very low to capture them.

<https://www.hsbc.com.hk/wealth-management/retirement/articles/plan-your-retirement-fund/#:~:text=The%20more%20affluent%20your%20lifestyle,not%20reflect%20your%20realistic%20amount.>

#### Q4 – SFC authorised funds

1. With respect to SFC authorised funds, we agree that it would be prudent to wait for the revisions to the IESBA Code following their holistic review of PEBs and CIVs, following which we can learn from their findings, and ensure that our local categorization is not inconsistent with the logic behind the IESBA Code revisions. We would hope that the IESBA Code revisions would include a focus on the inherent risk and the quality of the governance structure of various CIVs, such as an independent trustee and or custodian/depository in concluding to what degree investors rely on the audited financial statements, and hence if a CIV were to be considered as PIE.
2. Para 131 refers to the SFC authorised funds which are not subject to AFRC oversight, which we agree is an important aspect in ensuring (i) consistency of governance so more understandable to investors, and (ii) a level playing field for Hong Kong audit firms vs overseas firms. We have set out information below from the SFC website, which gives a good high level understanding, given that Hong Kong domiciled CIVs will likely be audited by firms under the AFRC's oversight, and Non-Hong Kong domiciled CIVs will likely be audited by firms not under their oversight. The majority of funds, and vast majority of NAV will not be under AFRC's oversight. We believe that PIE determination for SFC funds should be implemented consistently with other territories following the IESBA review findings, so the same rules apply irrespective of where the auditor is based.

**Number of Authorised Unit Trusts and Mutual Funds, not including OFCs and LPFs**

- Hong Kong domiciled - **914**
- Non-Hong Kong domiciled - **1,423**
- Total **2,337**

**Value (US\$ million) of Authorised Unit Trusts and Mutual Funds, not including OFCs and LPFs**

- Hong Kong domiciled - **173,301**
- Non-Hong Kong domiciled - **1,525,928**
- Total - **1,699,229**

Source: <https://www.sfc.hk/en/Published-resources/Statistics>

Q 5 - other

We would suggest that Hong Kong ETFs should be considered along with SFC authorised funds, as the inherent risks and governance structured are very similar to non-list SFC authorised funds, and very different to that of listed companies other than ETFs.

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