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PRINCIPAL MEMBER



06 October 2010

The Chairperson
Accounting, Professional & Ethical Standards Board Limited
Level 7, 600 Bourke Street
MELBOURNE VIC 3000

Via e-mail: sub@apesb.org.au

Dear Madam

Proposed Standard: APES 230 – Financial Advisory Services

I am writing in response to the Board's request for comment on the above Proposed Standard and thank you for the opportunity.

This submission is made in my capacity as a CPA and also as Managing Director of an independently owned boutique Australian Financial Services Licensee, Ferguson Betts P/L. Ferguson Betts is also a CPA practice specialising in Financial Planning.

My experience as a full-time planner for over 20 years has given me great insight into the issues surrounding the provision of advice.

I have no issue with the Board's attempts to raise professional standards, but there are particular proposals which I simply cannot support. These relates to the area of Fee for Service. .

As you are aware, through legislation and self-regulation, commissions are being phased out in financial planning. In addition, disclosure rules are such that clients are made aware of any commissions or alternative remuneration being paid to an adviser.

I would be the first to agree that, in practice, there are many instances where this disclosure is lacking or obscured but this does not change the fact that, in a good adviser/client relationship, the method of remuneration is known to both parties.

The Proposed Standard requires the CPA member who provides a Financial Advisory Service to only charge clients on a 'Fee for Service' basis. There are two issues with this which I believe will create unnecessary problems. I refer to the exclusion of asset based fees as a form of Fee for Service and secondly the move to ban the acceptance of commission for placement of insurance.

Asset Based Fees

The Proposed Standard specifically excludes 'percentage based asset fees ... whether paid by the Client or a third party such as a manufacturer'.

With respect, any agreement between a client and an adviser, where an amount is agreed upon for a service, must be a fee. Why is this standard attempting to redefine something which is simply a fact?

It would appear that the Board has reservations that somehow asset based fees carry conflicts of interest and as such are unacceptable. I would argue that all forms of remuneration have potential for abuse. However, an asset based fee is levied only after extensive discussion and negotiation

between an adviser and a client. In fact, even commission based remuneration, correctly disclosed, is not inherently flawed.

In our practice, we have many clients whose fees, asset-based or otherwise, would not be sufficient to cover the cost of advice *at this stage*. As such there is an element of cross-subsidisation but surely this is an issue for us as business people. The fact we choose to levy fees in this way is our business choice and I fail to see how it is the business of the Board to determine how a market based business should be remunerated! Taken to its logical conclusion perhaps the Board should nominate maximum hourly rates for accountants?

As you may be aware, there is considerable antipathy from clients over the use (or alleged abuse) of hourly rate fees. There is an inherent encouragement to unnecessarily prolong tasks; and inefficiency can be rewarded. Naturally a professional CPA would never unnecessarily prolong tasks and will write off any time that is due to inefficiency, but the potential conflict still exists. Similarly, I do not promote unnecessary investment of funds to the detriment of my clients' best interests, even though there is a potential conflict.

In recent years, I have become somewhat frustrated by the overkill of the various bodies, implying that financial advisers cannot be trusted to 'do the right thing'. In fact, like all occupations, the vast majority are keen to assist their clients. There will always be rogues, just as there are in other areas of the accounting profession.

Commission on Insurance Placement

The second area of contention is commission for insurance advice and placement.

I believe insurance should be differentiated from financial planning. It is a service that is 'sold' rather than purchased. Often there is considerable initial resistance when the subject is broached and it is difficult to see how a demand for a fee at that stage would actually enhance the client engagement experience.

Insurance advice is complicated, with issues involving estate planning, asset structuring, Capital Gains Tax, income tax, plus calculation of appropriate amounts and knowledge of a wide variety of products. Unfortunately, there seems to be a perception that it is easy money.

In our practice we have a dedicated financial planning division and risk division. The financial planning division is more profitable, despite apparent high commission for insurance.

Commission in insurance should be seen as a success fee. Its payment covers those that accept cover and also compensates an adviser for those potential clients who either refused their offer or were rejected owing to health or financial issues.

In general, commission rates are similar across the industry and premiums are directly comparable, meaning a client has the ability to check with other advisers if they are uncertain. A client can also seek alternative insurance at any time without penalty if they consider they have been poorly advised.

If commissions are banned on insurance, I believe a natural consequence will be a move to salary-based advisers, working solely for one institution. These advisers will be paid salary plus 'bonus', ie not a commission. It will therefore comply with all laws and regulations, but hardly seems a great outcome for the consumer.

Summary

In summary, I believe elements of these proposals are merely caving in to a desire to be seen to be professional rather than actually considering what may be in the best interests of the consumer.

If the standard is proposed in its present form, I will have little choice but to resign as a member of the CPA's, as I will continue to charge in any manner agreed between my client and my practice. This is

not in any way meant to sound like a threat, but merely reflects our desire to remain independently owned and offer a full range of services to our clients.

This proposed standard would severely damage long standing independently owned firms such as ours.

Please reconsider this stance.

Yours faithfully

A handwritten signature in cursive script that reads "Rob Ferguson". The signature is written in black ink and is positioned above the printed name and title.

ROB FERGUSON B Com FFIN CPA (FPS)
CERTIFIED FINANCIAL PLANNER
DIRECTOR