

14 October 2010

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The Chairperson  
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Dear Sir,

### **COMMENT ON PROPOSED STANDARD APES 230**

I have been a member of the Institute of Chartered Accountants since 1988 working solely as a financial adviser in the past decade. In the past 10 (ten) years there have been many changes to the financial planning industry, but the changes have not succeeded in us achieving a public perception of being a trusted professional industry.

Of course it is important that we achieve that public recognition as so many Australians need the trust and encouragement to help tackle their financial challenges. The industry, associations and legislators need to work collectively in a consistent manner so that the public has a clearer understanding of the process and a more uniform experience when they see a financial adviser.

Whilst APES 230 seeks to advance the industry through the guidance it provides, I have concerns regarding its application and timing that may prove counter-productive.

**Timing** – I strongly believe that the introduction of APES 230 should be aligned with the legislation for practical consistency and commercial reasons.

**Fiduciary duty** – I have grave reservations about the drafted changes. As a member of FPA and The Institute of Chartered Accountants in Australia I believe that I operate clearly within established fiduciary bounds already, but that APES 230 seeks to extend the concept of that duty to be descriptive of what fee arrangements a client may prefer to adopt with me. Whilst I typically do charge a set and agreed discrete service fee, there are clients for whom an asset based fee is preferred. From a traditional fiduciary viewpoint this is not a problem as the arrangement is documented, agreed and clearly understood – indeed an asset based differential may be much more appropriate than a set fee (eg. The ongoing cost, responsibility and demands of advising a client with \$2m is typically more than those of a client with \$200k).

To the extent that there are problems in this matter, the proposed legislation will better deal with this issue across the industry, which I suspect is more an issue with industry participants who are non-members.

APES 230 should not prescriptively extend into determining “how” we may negotiate fees and should not commercially disadvantage its members by “going early” when legislation is being introduced to address the issue. Clients should continue to have choice as to how they pay for their services.

**Retrospectivity** – there has been much debate about this issue with regards to trail commission. In many areas, even where advisers like myself diligently seek to engage clients under a fee for service model, some legacy products exist – often for small value, often where the income received is less than the cost of advising those clients and/or the cost of administering a refund process. The rule changes simply should not be retrospectively applied on practical terms.

**Commissions vs Fees** – this debate has continued on for far too long and should be resolved once and for all. I believe APES 230 fails in the objective of doing so. Where product providers or licensees collect and forward remuneration on behalf of the planner from a client’s account on a directly agreed basis there should not be a concern (it is in the nature of a “fee” not a “commission”). The “commission” limitation should relate to conflicts of interest where an adviser is provided an inducement to advise on a particular product. I do not believe that APES 230 recognises this definition or distinction.

Some of the implications of the above are so strong that I and my business partners even need to address our ongoing professional memberships or our continuing business involvement in the industry. We trust that the introduction of these Standards can incorporate some amendment and be more sympathetic as to the manner and timing of their introduction.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Greg Blaskett', written in a cursive style.

Greg Blaskett CA CFP