

AGENDA PAPER

Item Number: 10.2
Date of Meeting: 7th September 2009
Subject: Proposed APES 310 *Client Monies*

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Purpose

To obtain Board approval to issue an Exposure Draft APES 310 *Client Monies* with a view to replacing the existing professional statement APS 10 *Trust Accounts*.

Background

APS 10 *Trust Accounts* was issued in December 2003 by the National Councils of the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants (CPA Australia) to establish the responsibility of members who hold or receive Trust Money. To assist members with APS 10 compliance, the professional bodies also issued GN3 – Operation of Trust Accounts.

In May 2007, the APESB approved a project proposal for the re-development and rebranding of Miscellaneous Professional Statement APS 10 as APES 310 *Client Monies*. Following this, an exposure draft was prepared and presented in August 2007. The Board's view was that the pronouncement contained mainly procedural matters and did not contain principles similar to other APESB pronouncements. As a result, the matter was then referred to the professional bodies for further consideration.

The professional bodies reviewed this request and stated that there are matters in APS 10 that can be drafted in a principles based manner, and thus should be stated in a professional standard. The Board then instructed the technical staff to redraft APS 10 in a principles based manner for the consideration of the Board.

Following earlier Board deliberations, a revised principles-based Exposure Draft of APES 310 has been prepared for the consideration of the Board. As part of the APES 310 ED development process we have prepared a matrix of circumstances where a Member in Public Practice will transact in Client Monies and compared the requirements of APES 310 ED against *Legal Professions Act 2004 (Vic)*. Additionally, a review of NZICA's PS -2 *Client Monies* (issued in 2008) was also performed.

Consideration of Issues

. The key changes from APS 10 are:

- Updated in accordance with APESB's drafting conventions.
- The approach adopted in APES 310 ED is to have two parts to the standard whereby Part A deals with the Member in Public Practice who deals in Client Monies whilst Part B deals with the auditor who is engaged in the audit of a Member's Trust Accounts;
- It has been revised to focus on circumstances where a Member in Public Practice either operates Trust Accounts or is a signatory on Client Bank Accounts; and
- Increase in scope to cover a Member in Public Practice who is acting as a trustee for a Client or carrying out duties under a power of attorney for a Client;

A comparison of APES 310 ED *Client Monies* (the standard) to the *Legal Profession Act 2004* (the Act) was performed to identify any potential inconsistencies in relation to requirements relating to Trust Accounts. The work performed indicates that whilst the requirements of both documents are broadly consistent, there is one potential difference in respect of the audit requirements. Whilst APES 310 ED requires that an audit of a Trust Account to be performed in accordance with Auditing and Assurance Standards, section 3.3.57 of the *Legal Professions Act 2004 (Vic)* states that:

- “(1) The (Legal Services) Board may issue directions and guidelines in relation to the conduct of examinations (audits) under this Division.
- (2) An approved external examiner (auditor) must comply with directions issued by the Board under subsection (1).”

Note that an external examiner is defined to include members of the professional bodies.

Thus in the case of the legal profession the audit will be in accordance with the guidelines issued by the Legal Services Board. Detailed review comments comparing the requirements of APES 310 ED with the *Legal Professions Act 2004 (Vic)* Act are contained in the accompanying comparison table.

Staff Recommendation

Subject to Board review comments and editorials approve APES 310 ED for exposure.

Material Presented

- Proposed APES 310 *Client Monies*
- Comparison table of APS 10 and APES 310 ED
- Matrix of Trust Account circumstances in respect of Client Money and how they are covered in APES 310 ED and NZICA Standard
- Comparison of APES 310 ED against the *Legal Profession Act 2004 (Vic)*
- NZICA's PS -2 Client Monies issued in 2008

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Date: 28 August 2009