

Ref	Issue	Technical Staff Response/Recommendation in the APES 230 Six month review	Update on Working Group discussions held on 10 April 2014	Update on Working Group discussions held on 17 April 2014
1.3	<b>Stakeholders' general comments</b>	Issues for the Board's consideration: <ul style="list-style-type: none"> <li>- Current status of <i>FoFA</i> regime;</li> <li>- The Code and APES 230;</li> <li>- A profession's obligation; and</li> <li>- APESB's annual review process.</li> <li>- Stakeholders request for another additional year to 2016 (in effect 2 years from now)</li> </ul>	Professional bodies stated that they only raised the issue whether the Board has considered an extension to the current transition provisions in respect of the remuneration component from 1 July 2015 to 1 July 2016 and not that they requested an extension.  Professional bodies concurred that a Technical Alert will be unnecessary if the issues can be clarified.	Working group discussed this issue no new comments were raised.  Some working parties were in agreement. However, other working parties requested Technical Staff to seek the Board's direction on the matter.
2.1	<b>Referral of Clients to financial service providers</b>	Referral fees and Commissions received when not providing a Financial Planning Service will be subject to APES 110.	Working group in agreement.	Working group in agreement.
2.2	<b>Grandfathering provisions</b>	<ul style="list-style-type: none"> <li>• Commissions on Investment Products in relation to Financial Planning Services provided pre 1 July 2014 is not within the scope of APES 230 as long as no further services are provided.</li> <li>• Members who provide Financial Planning Services and charge asset based fees need to get the appropriate documentation in place in the post 1 July 2015 period for all Clients.</li> <li>• The commencement date of APES 230 is 1 July 2014 with an additional year provided for Members to have appropriate documentation in place in respect of the remuneration requirements.</li> <li>• The three quotes is a key safeguard against threats to the fundamental principles. Providing this to the Client contributes to transparency and accountability.</li> </ul>	Professional bodies requested clarity on the application dates of the remuneration component and annual disclosure requirements for on-going commissions and once-off advice. The working party members will collate examples of practical issues for the working group's considerations for the next meeting on 17 <sup>th</sup> April 2014.  Technical staff will prepare a timeline guide which highlights the application dates of paragraphs 8 and 9 in the periods pre 1 July 2014, from 1 July 2014 to 30 June 2015 and post 30 June 2015.	Based on the transitional provision in paragraph 12, the requirements of paragraphs 8 and 9 in respect to professional fees and Third Party Payments are only effective from 1 July 2015.  The working group discussed the practical implications for Members in Public Practice on when Members are required to obtain informed consent and comply with the additional requirements of paragraph 9.2(b) of the APES 230 remuneration requirements.  If there is an engagement or assignment that occurs between 1 July 2014 and 30 June 2015 and

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				<p>there are no further services provided post 1 July 2015 then these contracts will also be grandfathered.</p> <p>Based on the transitional provision in paragraph 12, the requirements of paragraphs 9 in respect to Third Party Payments only becomes effective from 1 July 2015.</p> <p>Engagements prior to 1 July 2015 where no further services are provided, which may result in the receipt of investment commissions, are outside the scope of the standard.</p> <p>Refer to timeline for further details.</p> <p><b>Technical Staff will seek the Board's direction on this issue.</b></p>
2.3	<b>Provision of 'accounting insurance' that is not within the scope of a Financial Planning Service</b>	Accounting insurance services provided when not providing a Financial Planning Service will be subject to APES 110.	Working group in agreement.	Working group in agreement.
2.4	<b>Scope of APES 230 over Stock broking and general insurance</b>	General Insurance will not come within the scope of APES 230 as it will generally not be provided in relation to personal wealth management. Where the stock broking service is merely an execution process without the provision of any related <i>Financial Planning Advice</i> (as defined in APES 230), then it also	<p>The working group is in agreement that general insurance advice is not within the scope of APES 230.</p> <p>Taskforce members clarified that if the stock broking service is merely an execution process i.e. Client gives</p>	Working group in agreement.

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		does not fall within the scope of APES 230. However, Members will still need to comply with the provisions of APES 110 as noted in issues 2.1 and 2.3.	instruction to buy a specific portfolio of shares, it does not fall within the scope of APES 230. If it meets the financial planning advice definition and the fee is solely determined based on the value of assets then paragraph 8.2 (b) applies.  In circumstances where a flat fee is charged then it will be a Fee for Service.	
2.5	<b>New engagements and professional fees</b>	APES 230 applies to all Clients whether they are new Clients or whether a new or varied Service is provided to existing Clients in the post 1 July 2015 period. In the period between 1 July 2014 and 30 June 2015 the remuneration provisions do not apply.	Professional bodies requested further clarity in respect to the application dates of paragraphs 8 and 9 in conjunction with the transition provision in paragraph 12.  Technical staff referred stakeholders to page 9 of the Basis of Conclusion and paragraph 1.1 of APES 230. Technical staff will prepare a timeline guide which highlights the application dates of paragraphs 8 and 9 in the periods pre 1 July 2014, during 1 July 2014 to 30 June 2015 and post 30 June 2015.	Refer to comments made in respect of issue 2.2 and the timeline guide.  <b>Technical Staff will seek the Board's direction on this issue.</b>
2.6	<b>Best Interests obligations</b>	The Best Interests obligation is a specific additional safeguard incorporated by the Board to address threats created by Commissions. It is a matter of considering the Best Interest obligations in Section 961 (B) and replacing Financial Products with investment in properties or credit products.	Professional bodies raised concerns that some Members may be unfamiliar with the Corporations Act and whether the best interest obligations can be defined as a general obligation within APES 230.	Some working party members are of the view that it is preferable to have a Best Interest obligation that is stand-alone rather than linked to the <i>Corporations Act 2001</i> . The issue raised by these working party members is that some Members who

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			<p>A taskforce member who is a practitioner explained how she applies the best interest obligations in her practice but noted that she has both an Australian Financial Services License (AFSL) as well as an Australian Credit License (ACL).</p> <p>Technical staff clarified that references were made to the Corporations Act to avoid continual updates being made to APES 230 whenever changes occur in the Corporations Act.</p> <p>The working group discussed the issue and proposed that the professional bodies prepare a checklist or a work program to address the best interest requirements for Members who are providing services under an ACL.</p>	<p>are not subject to the <i>Corporations Act 2001</i> are being required to comply with it.</p> <p>Whilst they acknowledge that a checklist may address the application of the best interest obligations, they do not consider the checklist as the most effective solution to the issue raised in respect to the definition of <i>'Best interests of the Client'</i>.</p> <p>The other working party members also acknowledge that there has always been merit in developing a definition of <i>'Best Interests of the Client'</i> as a stand-alone definition which is not linked to the <i>Corporations Act</i> definition and requires Members to use professional judgement.</p> <p>However, it was noted by these working party members that this matter was discussed at length by the taskforce and the Board during the development of the standard. After considerable discussion, the Board resolved to adopt the current arrangement as a workable solution in order to obligate Members to consider the <i>Best Interests of the Client</i> across all Financial Planning Services.</p>

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				<p>Refer to the agenda paper on potential options to consider.</p> <p><b>Technical Staff will seek the Board's direction on this issue.</b></p>
2.7	<b>Transition and regulatory framework</b>	Similar to issue 1.3.	<p>Professional bodies requested further clarity on the application dates of paragraphs 8 and 9.</p> <p>Technical staff will prepare a timeline guide which highlights the application dates of paragraphs 8 and 9 in the periods pre 1 July 2014, from 1 July 2014 to 30 June 2015 and post 30 June 2015.</p> <p>This matter will be discussed further at the second meeting of the working group.</p>	<p>Refer to comments made in respect of issue 2.2.</p> <p><b>Technical Staff will seek the Board's direction on this issue.</b></p>
2.8	<b>Defined terms</b>	Definition to be made consistent with the Code.	Working group in agreement.	Working group in agreement.