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28 September 2010

Mr Channa Wijesinghe
Technical Director
Accounting Professional & Ethical Standards Board
Level 7, 600 Bourke Street
Melbourne Vic 3000

Dear Mr Wijesinghe

PROPOSED STANDARD: APES230 – FINANCIAL ADVISORY SERVICES

Thank you for inviting comment on the proposed Standard APES 230. Specifically we provide the following responses to the proposed ban from 1 July 2011 of percentage- based asset fees for members providing financial advisory services.

1. **Fee for service** – we agree that numerous providers of financial advice as well as many commentators incorrectly consider asset-based fees as fee for service. They are not. Fee for service refers to time based or job based remuneration models. The crucial difference providers of financial providers should be informing their clients about is whether they are "fee only", "commission only" or a "mixture of fees and commissions". We reject commissions as a conflicted source of remuneration for the provision of financial advice. We also reject pure time-based fee for service as potentially both providing insufficient advice to clients and/or encouraging inefficiency. We fully support however the provision of genuinely independent financial advice on a fee only basis.

2. **Competitive disadvantage** - we do not understand why the Board wishes to impose a more onerous standard on accountants providing financial advice than others within the financial planning industry. Such a standard would place accountants at a permanent competitive disadvantage against major organisations that could be expected to continue to provide asset-based fee advice. We are not aware of evidence that accountants providing financial advice have been a major cause of the numerous problems within the financial planning industry that have come to light over recent years. There have also now been numerous reviews of the industry and none have made the recommendation to abolish asset-based fees. There is a risk that accountants could be rendered uncompetitive and irrelevant yet we can do much to improve standards in this industry.

3. **Fiduciary duty** - we fully support the move to an explicit fiduciary duty being imposed upon the providers of financial advice towards their clients. As accountants providing financial advice, this has always been our primary duty. However, we do not consider that an asset-based fee is inconsistent with fulfilling a fiduciary duty. On the contrary, an inherent risk in a time-based fee model is that a client may prevent their best interests being the dominant driver of advice by seeking to cut costs and not receive important advice.

4. **Conflicted remuneration models** – we completely reject conflicted remuneration models in which the providers of financial advice are paid by product providers, administration providers or any party other than the client. We fully support remuneration models that are transparent, simple and easy to understand for the client. We also fully support transparent and simple performance reporting so that clients can see at a glance what value-added (if any) has been achieved by the advisors recommended asset allocation and/or fund and stock selection. Clients in our experience like the transparency of an asset-based fee. We do not consider that a simple, sliding scale asset-based fee determined using a fair and reasonable estimate of the time and complexity of the advisory responsibility is in any way in conflict with the best interests of the client. Ultimately, the "fee" debate in our view must give way to the "value" debate in which clients are able to clearly assess the costs and benefits of their financial advice and make their choice of advisor accordingly.

5. **Fixed asset based fees** – we are aware that fund managers frequently charge the same fixed level of asset-based fees regardless of scale and complexity and agree that there is a conflict in that business model which may encourage asset accumulation rather than asset performance. In the medium to long term however, the funds management industry is a competitive industry and an asset manager who underperformed would be expected to lose their funds under management and therefore their fee income.

6. **Scale and complexity asset based fees** – we consider that asset based fees that are tiered to reflect both the economies of scale in managing larger sums and set to reflect the complexity and time involved in the full asset allocation, portfolio construction, investment selection, investment implementation, investment administration, investment monitoring and investment reporting tasks (particularly if this is supported with timesheet records) meet all the requirements expected of our profession. They also provide a very reasonable basis to allocate the significant fixed charges involved in research and compliance. In particular, we contend that asset-based fees <u>are</u> consistent with our fiduciary duty towards clients, <u>are</u> consistent with the clients best interests and <u>are</u> consistent with our ultimate obligation that our profession has towards the public interest.

In summary, we respectfully request that the Board reconsider its proposal that accountants abolish all asset-based fees from 1 July 2011 in favour of a proposal ***that asset based fees must be based on the scale and complexity of the financial advice to be provided.***

I would be please to meet with you and or the Board to expand on or discuss any of the points we raise in this submission. I can be contacted during business hours on 8610 5124 and thank you again for the opportunity to make this submission.

Yours sincerely

SUE DAHN
Partner

c.c
Mr Alex Malley, CEO, CPA Australia
Mr Graham Meyer, CEO, Institute of Chartered Accountants
Mr Andrew Conway, CEO, National Institute of Accountants
Ms Kate Spargo, President, Accounting Professional & Ethical Standards Board

PITCHER PARTNERS

BACKGROUND AND CONTEXT TO OUR SUBMISSION

Pitcher Partners

Pitcher Partners is a national association of full service accounting, audit and advisory firms with a long standing reputation for providing superior expertise and advice to clients particularly in the middle market.

Pitcher Partners has the breadth and depth of technical expertise of the largest accounting firms and are large enough to meet the national and international needs of our clients combined with the ability to maintain committed and personal involvement with our clients and with each other. Nationally we have over 80 partners and over 800 staff and internationally we are part of the Baker Tilly network of independent accounting firms. Several of our partners and directors are represented on the professions's committees where we advocate for the interests of the middle market.

Pitcher Partners Investment Services

Pitcher Partners Investment Services is an independent investment advisory practice within the Melbourne firm of Pitcher Partners. The practice has offered independent and fee only advice to clients of the firm since 1991.

The practice can call itself independent because it is not owned by or associated with any provider of financial products, it is a fee-only practice - we do not retain any commissions or other forms of payment from third parties and all product recommendations are determined via an in-house and independent research team and Investment Committee.

Our client's are typically the proprietors and families of middle market businesses as well as a range of not-for-profits such as membership organisations, private trusts and philanthropic trusts. The practice's single focus is the best interests of its clients which was in clear evidence during the recent global financial crisis when approximately 50% of client's assets were held as cash.