30 June 2017

The Chairperson
Accounting Professional & Ethical Standards Board Limited
E-mail: sub@apesb.org.au

To the Chairperson,

Re: Post-implementation review of APES 230 Financial Planning Services

CHOICE welcomes the opportunity to provide feedback on APES 230, the professional standard for accountants offering financial planning services. Members of the accounting profession, including those offering financial planning services, rely on the creation of trust, helping consumers to navigate extremely complex financial decisions. Consumers need to be able to trust that accountants are always working in their best interests. The only way to achieve this is through comprehensively eliminating all forms of conflicted remuneration.

Unless such an approach is taken, recent history shows that many advisers will simply avoid the intention of relevant laws or ethical standards by replacing one form of conflicted remuneration with another. CHOICE recommends that APES230 is amended to remove the ability of accountants to receive all forms of conflicted remuneration, including third party commissions, asset-based fees, life insurance commissions, volume bonuses and all forms of sales incentives on managed funds, risk products, direct real estate and shares and credit/loan products.

Asset-based fees create conflicts when providing financial advice
Asset-based fees are a particularly egregious form of commission. Some industry members misleadingly refer to asset-based fees as "fees for service". On the contrary, asset-based fees encourage advisers to direct clients into certain types of investments over others, such as managed investment schemes over real estate. They are significantly less transparent than fixed fees for service and encourage business models in which a client continues to pay a fee long after they have received any service. Fixed fees for advice, either hourly rates or lump sums, remove these failings.

Failing	Level of Risk		
	Commissions	Asset-based fees	Fixed fees
Adviser incentivised to recommend sale of non-financial assets (like real estate) to invest in financial assets	High	High	None
Adviser incentivised to recommend gearing	High	High	None
Adviser biased against liquid/safe assets which pay low or no commissions	High	Moderate	None
Lack of transparency in total remuneration to the adviser	High	Moderate	None
Value of advice relative to the cost of the advice is difficult for client to determine	High	Moderate	None
Adviser incentivised to recommend inappropriate products with big commissions	High	None	None

Informed consent is not a strong protection against the risks introduced by conflicted payments

Currently, APES 230 allows professional accountants to charge asset-based fees or receive third-party payments if they:

1. Obtain written informed consent prior to the arrangement taking place.
2. Disclose fees received on an annual basis.
3. Obtain consent for arrangements to continue at least every two years.

These protections are not strong enough to prevent actual or perceived conflicts of interest. Disclosure of a conflict does not remove the conflict. The current system assumes that a consumer is well-placed to weigh up the risks of asset-based fees.

However, when a consumer is purchasing the expertise of a professional (like financial advice), they are often very poorly placed to assess the quality of the information they are receiving. The consumer is relying on the expertise and ethical behaviour of the professional to guide them through decisions.

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This is best seen in ASIC shadow-shopping research for financial advice. In 2012, ASIC shadow shopped retirement advice found that 39 per cent of advice was poor (failed to meet requirements of the law at the time), 58 per cent was adequate (met requirements of the law) and 3 per cent was good (complied with the law, met clients' needs, improved their situation and clearly explained recommendations). Many people had trouble objectively assessing the quality of information they had received – they trusted that the professional they had seen had done the right thing. 86 per cent of participants felt they had received good quality advice, and 81 per cent said they trusted the advice they received from their adviser 'a lot', even though only 3 per cent received objectively good advice.[1]

Consumers cannot be protected from the risks of conflicted payments through disclosure. Instead, professionals must set high ethical standards to remove conflicts that harm consumers.

Fee for service is the only approach that ensures independence and trust

CHOICE strongly recommends that the APESB amends APES 230 to mandate a genuine fee for service approach for accountants who offer financial planning services. This is the only approach which is consistent with a true profession acting in the public interest. It is also the only approach which is consistent with the creation of a relationship of unqualified trust between advisers and consumers.

Change will ensure accountants that provide financial advice are truly independent and appear as independent professionals well-placed to act in the best interests of consumers. If you have any questions about this submission please contact eturner@choice.com.au

Kind regards,

Erin Turner,
Head of Campaigns & Policy

[1] ASIC (2012) Report 279 Shadow shopping study of retirement advice, p 8, 54.