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Sent: Wednesday, 14 June 2017 2:05 PM
To: Enquiries APESB <enquiries@apesb.org.au>
Subject: Submission for consideration with the review of APES 230.

Hi, please find attached a copy of my submission to the CAANZ for their submission to the board in conjunction with the review of APES 230. I felt it may be helpful to submit it directly to the board.

Please feel free to contact me for any clarification.

Thank you,
Stan Moffatt

Review of APES 230

Hello,

I provided the following to the CAANZ for their submission to the APES Board, however I wished to submit my thoughts directly to the board as I have concerns that the requirements of APES 230 are misguided.

I fail to understand what the board was/is trying to achieve and I feel the opportunity to review the requirements is warranted.

Please contact me for any more information you may require.

Stan Moffatt

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Areas raised for comment

1. Since APES 230 became effective in July 2014:

a) What provisions of APES 230 were easy to implement?

1) the addition of a note in the statement of advice that "the adviser complied with APES 230". Otherwise I believe that the standards board neglected to consider a) business practice and b) the existing requirements and legislation that governed financial advice, when deciding on the requirements of APES 230. It seemed to require the incorporation of specifics. Eg. Engagement letter. Pre APES 230, all advisers were required to have a consent / acknowledgment to proceed, to turn this into a multi page engagement letter was unnecessary.

b) What systems, processes and policies have Members amended or developed to meet the requirements of the Standard? There have been several amendments including the production and

provision of an engagement letter for financial planning advice and services, the provision of 3 quotes as required by APES230, annual disclosure of potential insurance commissions etc.

Eg - insurance commission disclosure annually - 300 clients, 300 lots of research and 300 disclosure documents/ letter provided. Who wears that cost ?

Eg. -3 comparative quotes – we are required to research and make a recommendation. Our research is held on file to document alternatives not chosen. What value does the provision of 3 quotes provide a client? If we have under government legislation a best interests duty – we are bound by that – what good does giving the client 3 quotes do? Am I not held accountable by my professional obligations and compliance with the best interest duty – imposed by the law (as ALL advisers are)

2. APES 230 requires Members to act in their clients’ best interests and apply this requirement to all Financial Planning Advice. Have Members experienced any issues (positive and/or negative) implementing this requirement? The best interests duty is and was a requirement of the legislation before the standards board incorporated it in APES 230. So 230 imposed no higher standard in this regard. In my opinion it is an example of the disconnect between the standard setters and the reality of operating under the existing legislation. To impose a “standard” on professional practitioners that already exists on anyone licensed to provide advice is misdirected effort. What for? – we already had a best interests duty?

3. For holders of an Australian Financial Services Licence (AFSL): a) How do AFSL holders apply the APES 230 requirements in respect of terms of engagement? b) What challenges, if any, have AFSL holders encountered in respect of the application of APES 230 requirements relating to terms of engagement? When the standard was issued, there was a significant lack of assistance provided by the CAANZ with practical implementation such as the drafting of an engagement letter that incorporates the complexity of a fixed fee for production of financial advice with the potential commission that could be derived from insurance implementation. It has been difficult to draft an engagement letter that adequately covers the varied nature of remuneration possible and the varied nature of work involved in Financial Planning.

NOTE – a LOT of financial planning clients may have only had a tax return prepared, so an engagement letter is a new and confusing document. I am not sure the board has considered that this is not a document the majority of prospective clients would have seen before – or get a lot of value out of? Has the board done or considered researching this to see if it provides the consumer with value?

4. APES 230 requires Members in public practice to obtain their clients’ Informed Consent in respect of asset-based fees and third party payments.

a) If Members are using these remuneration methods, what are the new systems, processes and policies that Members have implemented in their practice relating to obtaining clients’ Informed Consent? No new systems – again this was a requirement of the legislation and of every licensed adviser before the introduction of APES 230. There was no new requirement introduced so no new systems needed.

b) What have been the positive benefits/outcomes of implementing APES 230 in your practice? I would say NIL. Most of the standard was already covered by requirements of the legislation. There has been no prospective clients who have actively sought service based on APES 230.

c) What are the challenges, if any, that Members have encountered in the application of these requirements? I have adjusted to it, however resent the fact that the standards board is proud that we, as members of a professional body, have a higher standard of compliance imposed by APES 230, than anyone who is not a member of a professional body.

Practically, this standard makes dealing with a member higher cost. Eg. Non professional body members do not have to provide an engagement letter, 3 quotes to a person etc, why does someone who is a recognised professional have to? What value does it add to the client – does it just add cost? Why should dealing with someone who is a professional have a higher compliance standard? And hence cost?

The adviser who isn't a member of the body, doesn't have to provide an engagement letter, doesn't have to provide 3 comparable quotes for insurance.

To make it higher cost and more cumbersome to deal with a professional is ridiculous. Why make it a disincentive to deal with a professional? That is why I feel the board has not considered the implication of the standard in everyday practice.

5. The APES 230 remuneration provisions allow fee-for-service basis, asset based fees and third party payments.

a) Have these provisions worked well for Members? What remuneration options are used more often by Members and why?

When you say have these provisions worked well – what other options are there? Yes, allowing freedom to operate a chosen business model has allowed members to retain their professional membership.

I use a fee for service basis and receive commissions from insurance recommendations. No asset based fees.

b) If APES 230 was transitioned to limit remuneration to fee-for-service basis, would this work? Would such a change create any challenges?

No, in my opinion it would not work. I don't know what the standards board would feel they achieve by bringing this requirement in?

I would leave the CAANZ. I refuse to operate a business with the remuneration model to be determined by a professional body. Why would a standards body take choice away from a highly trained professional member? As accountants we are trained to assess business models and adapt as required. Why restrain this? Again it is ridiculous to impose a stricter standard on members who are the most qualified professionals to provide advice. Should the board not be trying to make it easier for us to assist more clients? Or do they think the bank planners are more professional and better qualified to provide advice to a client?

c) What transition requirements would be needed? Please note, the provision of any practical examples would be helpful.

Don't do it. If the client doesn't like the proposal, they will make a choice. Has the board done any research into how advisers charge? Does the board make decisions on evidence/ research?

Is the board implying that the 365 FP Specialist don't operate professionally? I didn't think it was solely determined by the remuneration model. I thought it was more determined by mindset and

conduct? If the board thinks we lack professionalism – when compared to other planners, and other professionals, then that is a matter for the professional bodies (CAANZ and CPA) not to be prescribed by a standards board.

If an adviser chooses to promote their business on a fee for service basis, it should be their choice and if it is the holy grail they will be so successful that the industry will follow. I would say let the industry decide. The government legislation is not because of the action of the members of professional bodies.

Why put the membership at a professional and operational disadvantage by dictating a payment method?

I would challenge anyone to dictate a model that will work for the majority of Australians, not HNW or SMSF's but your average hard working Australian. Very hard to prescribe one method that is the best for all scenarios.

6. Given the recent legislative developments that impact on the financial services industry, what other issues do Members believe APESB should consider in its postimplementation review of APES 230?

Reduce the prescriptive elements of AES 230 so that professional members are at an advantage when compared to other planners – eg. The bank employed planners that have been the subject to massive complaints and restorative action. This may require the board to investigate how the standard works in practice and the value its current requirements deliver to consumers (both perceived and real)

7. Are there any further reforms, issues or ideas that Members believe the APESB should consider in order to protect consumers who receive financial advice?

Reduce the prescriptive elements and allow the membership to operate inline with the current legislative requirements. More onerous requirements do not lead to higher professionalism! I am not sure if the CAANZ wrote these q's - but who or what do you believe consumers need protecting from? Non professional advisers, advisers who operate in accordance with the law, people who choose their own business model and communicate that to advisers?

Wouldn't we, as members consider clients need to be protected from anyone who is not as professional as ourselves. Professionalism is not based on who has the most prescriptive requirements or remuneration method, but in our mindset as professionals and how we conduct our businesses and deal with clients.

I urge the board to consider what they are trying to achieve by the requirements of APES 230, it is really consumer protection? As that calls into question our professionalism? Our business practices and our mindset and training.

Other comments

Firstly, I welcome the review of the standard.

I hope it is clear that I do not agree that the professional members should have a more prescriptive standard than the current legislative requirement. I do not see what it achieves, that is what has not been made clear. If it is about consumer protection then that is an insult to our professionalism and

professional body. If it is an attempt to hold ourselves out as something better than any other adviser, then that is not a sound basis to prescribe a standard

Does the board feel clients who get advice from the FP Specialist members need to be protected from us ? to a higher level than the standard of government legislation that covers advisers who are NOT members of professional bodies?

To impose a more prescriptive standard on us makes no sense.

I hope the CAANZ and the board take these comments into consideration in the review process.

I am happy discuss them further and to explain my comments in detail and show what I mean in the practical implementation of the requirements.

Thank you,
Stan Moffatt
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