

## AGENDA PAPER

**Item Number:** 15  
**Date of Meeting:** 8-9 May 2013  
**Subject:** SMSF Auditor Independence – Project Status Update

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**Action Required**

**For Information Only**

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### Purpose

To update the Board on the current status of the SMSF Auditor Independence project and to obtain the Board's approval to issue an amending standard to revise APES 110 *Code of Ethics for Professional Accountants*.

### Background

In February 2009 the Government commissioned a review of the superannuation system in Australia. The purpose of the Super System Review (the Review) was to ensure the system has a sharper focus on operating in superfund members' best interests.

The Government's response to the Review findings, known as "Stronger Super", contains a number of reforms to increase the efficiency, strength and ease of use of the superannuation system and maximise retirement income for superfund members. It is expected that these reforms will result in an average fee reduction of up to 40% for superfund members.

As part of Stronger Super the Government intends to legislate that SMSF auditors must comply with APES 110 *Code of Ethics for Professional Accountants* (the Code) as a condition of registration and has requested that APESB develop guidance for SMSF auditors on how the Code applies in the SMSF context.

As the registered SMSF auditor regime is scheduled to commence from 1 July 2013 the relevant pronouncement or guidance needs to be finalised by that date. Since February 2013 ASIC has been registering SMSF auditors in readiness for the commencement of the proposed new SMSF auditor regime. As a condition of registration the SMSF auditors will be required to comply with APES 110.

At the November 2011 meeting, the Board acknowledged the need to address this issue and agreed to establish a Taskforce to develop recommendations on a proposed approach for the Board's consideration.

### Consideration of Issues

The taskforce was established in February 2012 and had its first meeting in March 2012. At the March 2012 meeting, Mr Andrew Stringer of ICAA advised that the Joint Accounting Bodies (JAB) will release a revised JAB Independence Guide which will address SMSF

Independence issues. The Taskforce agreed that it would be useful to review this document before determining the next steps. As the government had also not released the final form of the super reforms it was agreed at the time to defer the next Taskforce meeting until the Government announcement was made and a draft of the JAB Independence Guide was available for the Taskforce's consideration.

In late June 2012 the government announced the final form of its reforms as well as the commencement date for the SMSF auditor registration process. At the second Taskforce meeting held on 21<sup>st</sup> August 2012, Liz Westover (ICAA) presented the draft JAB Independence Guide for the Taskforce's consideration.

Following the Taskforce's preliminary comments on the first JAB draft Independence Guide, JAB has considered the issues identified by the Taskforce and prepared the second draft of the SMSF Chapter of the JAB Independence Guide. The second draft of the SMSF Chapter of the JAB Independence Guide was presented at the third Taskforce meeting on 1 November 2012.

Some of the specific issues identified by the Taskforce and addressed by JAB in their second draft are:

- Auditor providing accounting or bookkeeping services;
- Auditor providing other services such as investment advice or tax advice; and
- Referral fees.

Technical staff reviewed the final version of the SMSF Chapter of the JAB Independence Guide, which was subsequently approved by all three JAB members in January 2013. Technical staff drafted an AUST Paragraph on *referral fees* for inclusion in the Code under Paragraph 290.220 *Referral Fees – Relative Size*. This was circulated to the Taskforce and the Board for input at the 25<sup>th</sup> February Board Meeting. The JAB Independence Guide was issued 8 March 2013.

### **APESB ED 01/2013: Proposed Amendments to the Definitions and Auditor Independence Requirements in APES 110 Code of Ethics for Professional Accountants**

APESB issued for public comment on 18 March 2013 the Exposure Draft ED 01-2013 APES 110 containing amendments to the Code from annual reviews and incorporating the AUST specific paragraph on independence threats created by referral fees from the same source. Three submissions were received.

#### **Summary of key issues in submissions received:**

All respondents were generally supportive of the object of the amendments.

#### Referral Fees

One respondent presented the view that the scope of the AUST paragraph should be limited to the SMSF context, arguing that the threat was identified in this context therefore the requirements should be restricted to SMSF Audits.

#### Drafting issues

One respondent presented minor editorial changes to reduce duplication of the safeguards in the AUST paragraph. In place of this, a reference to the preceding paragraph in the Code is proposed.

One respondent sought clarification of the first instance of the word 'Firm' requesting to replace it with 'organisation'.

## Technical Staff Analysis of Issues

### Referral Fees

Whilst the risk of referral source dependence has been identified in the SMSF context, it can exist in other areas in public accounting, (e.g. Auditors who audit small not for profits or small funds where one firm does the accounting and another perform the audits). The threat to independence does not necessarily arise as a result of practices of a specific industry, rather as a result of the relationship between the auditor and the referral source.

Further, the provisions of the Code are written in a general manner for it to have wider application as the threats to independence can occur in various contexts and are not necessarily industry specific.

### Drafting issues

ICAA and CPA Australia have proposed amendments to the proposed AUST paragraph to make it more succinct without losing the intent of the paragraph. Technical Staff agree with this proposed drafting recommendation.

Refer to the attached General and Specific comments tables for further details.

### **Staff Recommendation**

The Board note the respondents comments to ED 01/13 *Proposed Amendments to the Definitions and Auditor Independence requirements* and subject to the Board's editorial comments approve the amending standard.

### **Material Presented**

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| Attachment 14(a) | Proposed amended Standard (marked up);             |
| Attachment 14(b) | Proposed amended Standard (clean);                 |
| Attachment 14(c) | General Comments Table;                            |
| Attachment 14(d) | Specific Comments Table; and                       |
| Attachment 14(e) | Minutes of Taskforce meeting held 1 November 2012. |

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