

## AGENDA PAPER

**Item Number:** 9  
**Date of Meeting:** 17 May 2012  
**Subject:** Proposed revision to APES 230 *Financial Planning Services* ED

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**Action Required**                       **For Information Only**

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### Purpose and background

To obtain the Board's feedback and direction on the proposed revised APES 230 ED *Financial Planning Services* and the draft *Explanatory Memorandum APES 230 Financial Planning Services*.

### Background

The professional bodies submitted a project proposal to develop a proposed pronouncement to replace the current APS 12 *Statement of Financial Advisory Services* in August 2007. The Board established the APES 230 *Financial Advisory Services* Taskforce to develop the proposed standard and engaged June Smith of Argyle Partners to prepare a Consultation Paper to inform the development of the proposed standard. APESB released the Consultation Paper *Review of Miscellaneous Professional Statement APS 12: Statement of Financial Advisory Services* in October 2008 for public comment for a period of 3 months. APESB received five submissions from professional bodies, firms and members and the respondents comments were considered at the May 2009 Board meeting.

In February 2009 the Parliamentary Joint Committee (PJC) on Corporations and Financial Services initiated an inquiry in *Financial Products and Services* in Australia to inquire into the issues associated with financial product and services provider collapses that occurred in 2007-08. In August 2009 APESB made a submission to this inquiry and also made representations to the PJC inquiry. The PJC inquiry issued its report in November 2009.

In March 2010, the APES Board approved the *Proposed Principles to be addressed in APES 230 Financial Advisory Services*.

On 26<sup>th</sup> April 2010 the federal government released an information pack on *The Future of Financial Advice* which is in effect the Government's response to the findings of the PJC inquiry.

At its June 2010 APESB Board meeting the Board approved the issue of ED 02/10 Proposed Standard APES 230 *Financial Advisory Services* for public comment.

APES 230 ED was closed for comment on the 15<sup>th</sup> October 2010. To date APESB has received 67 submissions from Members, Firms, commercial organisations, professional organisations and the joint accounting bodies.

At the November 2010 APESB Board meeting, the Board agreed to issue a media release to the public advising of the major issues identified by respondents and communicate that there will be an extension of the time frame.

The key issues identified were:

- Operative date of APES 230;
- Definition of Fee for Service;
- Fiduciary duties;
- Application to Members in Business
- Application to insurance and risk products; and
- The retrospective effect of the proposed standard in respect of trailing commissions.

APESB issued a Media release in December 2010 to this effect.

The Board considered the issues identified by respondents in the Specific Comments Table 1, 2 and 5 at the January 2011 Board Meeting. The preliminary analysis of the Specific Comments Tables 3-4, 6-9 and the General Comments table were considered by the Board at its March 2011 Board Meeting. At this meeting the Board determined to invite key stakeholders/respondents to present on the key issues to the Board.

APESB engaged in an extensive stakeholder consultation process during 2011 including public consultations with key stakeholders. APESB considered the various matters that were raised by key stakeholders at the public Board meetings as well as the respondents' comments to APES 230 ED, and has developed a revised APES 230 *Financial Planning Services*.

Technical Staff have also prepared a draft *Explanatory Memorandum* for APES 230 which documents the background, key issues considered and the Board's rationale for the key decisions.

### **Consideration of issues**

Refer to APES 230 *Financial Planning Services* Explanatory Memorandum (attached)

### **Material Presented**

- Draft *Explanatory Memorandum* APES 230 *Financial Planning Services*;
- APES 230 *Financial Planning Services* (Marked Up – from June 2010 ED);
- APES 230 *Financial Planning Services* (Marked Up – from 20<sup>th</sup> April);
- APES 230 *Financial Planning Services* (Clean);
- The future of advice post-FoFA, a speech by Peter Kell, Commissioner ASIC 1 May 2012 ; and
- Parliamentary documents for the *FoFA Bills 2011* as read in Parliament in March 2012:
  - *Replacement Explanatory Memorandum – FoFA Bill 2012*;
  - *Supplementary Explanatory Memorandum – FoFA Bill 2012*;

- *Corporations Amendment (Future of Financial Advice Measures) Bill 2012* (as read a third time in Parliament);
- *Replacement Explanatory Memorandum – Further FoFA Bill 2012*;
- *Supplementary Explanatory Memorandum – Further FoFA Bill 2012*;and
- *Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012* (as read a third time in Parliament).

### **Staff Recommendation**

Subject to the Board's direction, review comments and editorials, issue the proposed revised APES 230 *Financial Planning Services* as ED 02/12 for an exposure period of not less than 30 days with the *Explanatory Memorandum APES 230 Financial Planning Services* for public comment.

**Authors:** Channa Wijesinghe  
Rob Nickel

**Date:** 7 May 2012