

## AGENDA PAPER

**Item Number:** 11.4

**Date of Meeting:** 8<sup>th</sup> May 2009

**Subject:** APES 335 *Financial Advisory Services - Consultation Paper*

**Action Required**

**For Information Only**

### Purpose

To provide the Board with a review and analysis of the respondents' comments on the Consultation Paper *Review of Miscellaneous Professional Statement APS 12: Statement of Financial Advisory Services*.

### Background

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.

### Consideration of Issues

The key discussion areas identified in the Consultation Paper were:

- Application and scope of the proposed APES 335;
- Overarching guiding principles for the provision of financial and investment advice;
- Independence and the impact of current remuneration models;
- Potential threats to compliance with APES 110 and APES 335;
- Holding and receiving client monies;
- Quality assurance.

The respondents' comments were considered by the APES 335 Financial Planning Taskforce and the taskforce proposes the following:

- The standard will be applicable to all members;
- The taskforce will consider and assess the different kinds of financial planning engagements and the impact these engagements may have on professional obligations of members;
- The definition of financial advice will be expanded to include procurement of loans, margin lending and other gearing strategies;
- The public interest and fiduciary obligations of members will be considered in the development of the proposed standard;

- There will be circumstances where the concept of independence is applicable in financial advisory services and needs to be addressed in the proposed standard;
- The proposed standard to consider the remuneration of members who provide financial advisory services and make a clear statement on professional fees. The taskforce's preliminary view is that remuneration structures that are based on commissions, % of funds under management or any other remuneration structure that encourage sale of products or funds under management creates threats to the fundamental principles and must be discouraged. Given the current global financial crisis ( and local examples such as Storm Financial, Opes prime and WestPoint), the remuneration principle in APS 12 (issued in 2005) seems ahead of its time when it strongly recommended that a member should charge a fee for service similar to any other professional service provided by a member. The taskforce believes that fee for service will minimise conflicts compared to the other more prevalent fee structures in the financial planning industry;
- The remuneration disclosure requirements and the alternative remuneration schedule in APS 12 must be carried forward to the proposed new standard;
- In respect of Client Monies a cross reference to be provided to the APESB standard dealing with Client Monies;
- Quality Control obligations of members in public practice to be addressed in the proposed standard;

### **Staff Recommendation**

The Board to consider respondents comments and provide Board's view on the issues and proposed recommendations.

### **Material Presented**

- General comments table of respondents comments
- Specific comments table of respondents comments
- An article from the "Professional Planner" magazine written by Robert Brown FCA.

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**Date:** 23 April 2009