

AGENDA PAPER

Item Number: 10.3
Date of Meeting: 16 -17 November 2010
Subject: Proposed APES 310 *Dealing with Client Monies*

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Purpose

Subject to the Board's editorial comments, to obtain Board approval to issue *APES 310 Dealing with Client Monies (Supersedes APS 10 and GN 3)*.

Background

APS 10 *Trust Accounts* (APS 10) was issued in December 2003 by the National Councils of the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants (CPA Australia) to establish the responsibility of members who hold or receive Trust Money. To assist members with APS 10 compliance, the professional bodies also issued GN3 – Operation of Trust Accounts.

In May 2007, the APESB approved a project proposal for the re-development and rebranding of Miscellaneous Professional Statement APS 10 as APES 310 *Client Monies and Auditing Trust Accounts*. Following this, an exposure draft was prepared and presented in August 2007. The Board's initial view was that the proposed pronouncement contained mainly procedural matters and did not contain principles similar to other APESB pronouncements. As a result, the matter was then referred back to the professional bodies for further consideration.

The professional bodies reviewed this request and made several submissions during 2008 that stated that there are matters in APS 10 that can be drafted in a principles based manner which can be included in a professional standard. The Board then instructed technical staff to redraft APS 10 in a principles based manner for the consideration of the Board.

In 2009 as part of the APES 310 ED development process, technical staff prepared and presented to the Board a matrix of circumstances where a Member in Public Practice will transact Client Monies and compared these requirements against the *Legal Professions Act 2004 (Vic)*. Additionally, a comparative review of the requirements of a proposed draft APES 310 ED against the existing APS 10 and NZICA's PS-2 *Client Monies* was presented at the September 2009 Board Meeting.

At the September 2009 Board Meeting, the Board agreed that a working party be formed to progress the development of the exposure draft. The Board discussed further draft versions of the APES 310 ED at its meetings on 8 February 2010 and 10 March 2010. Subsequently Exposure Draft ED01/10 was approved for issue via circulating resolution in April 2010 with a comment period closing 31 May 2010.

August 2010 Update

Six submissions were received from constituents in response to Exposure Draft ED01/10. Responses were received from the Australian Bankers' Association, the professional accounting bodies, and Firms. A tabulation of the General and Specific comments raised were presented for the Board's consideration at the August Board meeting.

The Board directed Technical Staff as follows:

- Technical staff address the issue when Trust Accounts are Outsourced (Refer General Comment 3);
- The defined term "Auditor" should be changed to "Auditor of Client Monies";
- The definition of "Client Monies" be amended to indicate that Client Monies include where the Member in Public Practice has no present entitlement to such Monies;
- Paragraph 4.9 be repositioned as paragraph 4.7;
- Technical Staff pursue discussions with the Australian Banking Association (ABA) staff to bring resolution to the concerns raised by the ABA in relation to paragraph 5.5;
- Technical Staff undertake a detailed review of Client Bank Account requirements to ensure those requirements are workable;
- In relation to paragraphs 6.6 and 6.7, acknowledgement of receipt of Client Monies should remain as "within 21 Business Days";
- The word "documentation" should be replaced with the defined term "Records" in paragraphs 6.11, 7.3, 7.5 and 7.6;
- Reference to "true position" be changed to "financial position" in sub-paragraph 7.3(b);
- The time period for the paragraph 7.9(a) requirement be changed from "60 Business Days" to "30 Business Days of the applicable year-end date";
- The requirement in paragraph 8.6 be amended to require the applicable Professional Body to be notified when a Deficiency of Client Monies occurs;
- The requirements in paragraph 9.2 be amended to only require modified audit reports to be lodged with the applicable professional body; and
- Include an additional paragraph in Section 9 which requires a Member in Public Practice to notify the applicable Professional Body within 5 business days of their resignation.

November 2010 update

Technical Staff have processed the amendments requested by the Board at its August Board meeting.

Discussions have been held with Australian Banking Association (ABA) in respect of the mandatory requirement in paragraph 5.5 (b) of APES 310 ED to obtain an acknowledgment from a Financial Institution. ABA stated that it would be easier for their members to incorporate this in their terms and conditions and for Members of the Professional Accounting Bodies to check when they open a Trust Account that this has been included in

the terms and conditions. Accordingly, paragraphs 5.5 and 5.6 have been amended to reflect the outcome of the discussions with the ABA.

Some respondents have raised concern over the extension of the Audit requirement to cover Client bank accounts. The professional bodies have supported the broadening of the scope to cover Client Bank Accounts

As requested by the Board we have inquired in to NZICA's approach to auditing of Client Monies. As per discussions held with NZICA Staff, Client Monies are audited in two circumstances in New Zealand:

1. Firms that have Associated Finance Entities (i.e. Financial Planning entities) need to be audited every year;
2. When requested by NZICA, a Firm has to perform an audit of Client Monies.

Where an audit is performed under the NZICA equivalent of Client Monies standard there is no exception given for Client Bank Accounts (i.e. the Audit is performed on Trust Accounts as well as Client Bank Accounts).

It is in the public interest that Member transactions with Client Monies get audited. Members in Public Practice must main maintain appropriate records of the transactions they have performed on Client Bank Accounts. The requirement is to perform a compliance audit of the Client Bank Account transactions. The auditor will select an appropriate sample and thus it is not necessary that all Client Bank Accounts be audited. Further, what is required to be performed under the proposed APES 310 is a compliance audit and not a financial audit.

APES Board consider this issue and provide Technical Staff with drafting instructions to finalise APES 310 *Dealing in Client Monies*.

Staff Recommendation

Subject to the Board's editorial comments, the Board approve the issue *APES 310 Dealing with Client Monies (Supersedes APS 10 and GN 3)*.

Materials Presented

- Marked up version of APES 310 *Dealing with Client Monies*;
- Clean version of APES 310 *Dealing with Client Monies*;
- Constituents' Submissions General Comments – Exposure Draft ED 01/10 Proposed Standard: APES 310 *Dealing with Client Monies*; and
- Constituents' Submissions Specific Comments – Exposure Draft ED 01/10 Proposed Standard: APES 310 *Dealing with Client Monies*.

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Date: 6 November 2010