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6 October 2010

The Chairperson
Accounting Professional & Ethical Standards Board Limited
Level 7, 600 Bourke Street
MELBOURNE VIC 3000

Dear Sir/Madam

APES 230

We are a federation of accounting firms with offices in all mainland States of Australia. All firms trade independently under the name of William Buck in their respective States. Each firm provides wealth advisory services under a number of AFSL licensing arrangements.

The Wealth Advisory Focus Group, which comprises representatives from each State office, have considered the contents of the APES 230 Exposure Draft, and comment as follows.

Commissions and Conflicts of Interest

The Exposure Draft contends that charging for the provision of financial advice on any other basis than fee for service creates conflicts of interest and, as such, compromises the ability of members to fulfil their fiduciary responsibility to their clients.

We do not believe that the charging of commissions in itself creates conflicts of interest provided the best interests of the client are always maintained. Those providers of financial advice who do not act in the best interests of the client will continue to act in that fashion irrespective of the form of their remuneration.

The charging of commission is common place, embedded in many industries, and a concept that is understood. It is prevalent in industries such as real estate and stock broking and it is a method of remuneration used by corporate finance divisions of accounting firms in respect of fundraising and where success fees are charged based on outcomes.

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Determination of Fees Based on Accumulation of Funds under Management

Despite its shortcomings, we believe that remuneration based on the accumulation of funds under management is the best method for determining the appropriate level of fees. This is because it is the most relevant, accepted, tangible and transparent basis for determining remuneration. It is well understood, practical and easy to communicate to clients.

Other factors that are relevant in the determination of remuneration are the composition of funds under management in terms of asset classes, the level of complexity associated with those assets and the structures within which they are held. Also relevant is the level of responsibility being taken by the advisor in respect of those funds under management. However, we cannot see any better alternative than funds under management for the determination of remuneration. The client knows what they are paying, have the ability to compare fees with what other service providers charge, can assess the worth to them of those services provided and, if appropriate, use this basis as a means of negotiating the level of fees.

Members do not set the Structure of Remuneration

For some products, particularly insurance products, it is the product provider that sets remuneration level not the provider of the financial advice.

To change existing practice and remove commissions it must start at the level where the structure and remuneration implicit in the product is set. That is with the product providers over which of course this Exposure Draft, if adopted, would have little or no influence. Members are takers of the fee determined by the provider and have no influence over the remuneration paid. This is so regardless of the particular product.

Whilst the service provider can rebate commission the form of remuneration is largely out of the hands of the service provider.

Date of Application

It is proposed that this standard will be operative from 1 July 2011. Apart from the political uncertainty currently facing the community at large as a result of the recent elections, there is a plethora of recommendations in the public forum which if adopted will create uncertainty and different start dates to that envisaged by this exposure draft. This includes recommendations from the Cooper Report and the Henry Report. It is not practical or workable for this exposure draft to be operative from 1 July 2011.

Impact on Member's Business Activities

As this Exposure Draft only has application to members of the accounting profession the document in its current form would create a commercial competitive disadvantage to member firms. This will be because those not covered by this ruling will continue in the same manner as they have done in the past because this Exposure Draft would have no impact in their businesses. It is also possible that member firms could renounce their membership if they see having to abide by this Exposure Draft as having such a commercial disadvantage that it damages their business going forward. Permanent damage could be done, impacting on the value of businesses and the ability to provide financial advice.

Further, commissions are paid to member firms by the product provider rather than the client. This is an advantage to member firms in that it improves their cash flow substantially as they do not need to chase the client for the fee. Further, clients do not like drawing cheques to pay for financial advice, they understand they are still paying it but it is being paid by the product provider on their behalf. To change that system would have a major impact on the viability of financial advice providers.

Most financial service businesses are valued on the basis of a multiple of ongoing income. Whilst we are of the view that a net earnings based calculation provides a more accurate value, multiples of ongoing income are applied and understood in the industry. If this ongoing income which is being paid in the form of a commission was removed, the basis of valuing a business may be destroyed in the short term. Any new remuneration methods will need to be operative for some time before they could be used as a basis for assessing the value of a financial advice business

Existing Clients

We do not agree with the application of this Exposure Draft, should it be adopted, to existing clients. This is retrospectivity and should be avoided. Apart from the fact that the client has already agreed to the remuneration arrangements, often ongoing commissions are paid to enable that client to be properly serviced in future years.

Public Interest

We do not believe that the best interests of the public would be served by banning all other forms of remuneration than fee for service particularly if it results in substantially lower advisor remuneration.

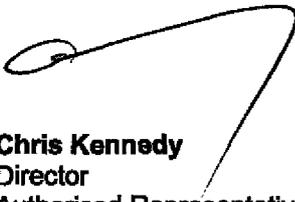
The majority of financial advisors currently charge a reasonable fee for the service provided irrespective of the form in which that remuneration is paid. The risk is that the public will be underserved because of the unpreparedness of quality service providers to get involved in an industry where remuneration is insufficient.

This is particularly relevant in the insurance industry where the product must be sold. The general public do not have the skills to assess what protection they need based on factors such as their debt level, family circumstances etc. Once again, if the remuneration is insufficient to attract the appropriately skilled advisors the outcome will be a public that continues to be underinsured with the flow on risk to the public purse.

Summary

- The payment of commissions does not create conflicts of interest if the best interests of the client are always uppermost in the advisor's mind.
- Funds under management is the best and most practical method of determining remuneration.
- Methods of remuneration are set by product providers who are outside the influence of this Exposure Draft and it is not under the control of members to change that system which has evolved.
- The date of application of 1 July 2011 is too early and conflicts with other significant changes in the financial services review process.
- Members would be at a commercial disadvantage to their competitors by being subject to the provisions in this Exposure Draft.
- Members' businesses would be adversely affected by the adoption of these provisions.
- If the Exposure Draft is adopted it should only apply to new clients and not existing clients.
- There is the potential for members to relinquish their membership if forced to comply with this Exposure Draft.
- We do support the banning of commissions on tax effectives.

Yours sincerely
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