

Exposure Draft 01/16: Proposed Standard: APES 310 *Client Monies*

Review of Submissions – Specific Comments Table
Exposure Draft 01/16: APES 310 *Client Monies*

Note: General comments relating to the Exposure Drafts are addressed in a separate table. This table excludes minor editorial changes.

Item No.	Paragraph No. in Exposure Draft	Respondent	Respondents' Comments
1	1.1	CPA A	In paragraph 1.1 the word either should be deleted in the first sentence as in some circumstances both may apply. Also the semicolon should be replaced with a colon after points (a) and (b).
2	1.1	Deloitte	<p>The objective</p> <p>We have the following comments on the objective, as drafted:</p> <ul style="list-style-type: none"> • we recommend that the final bullet point for a member who deals with client monies should be amended to read as follows “to have an assurance practitioner assess the member’s compliance with the requirements of APES 310 on an annual basis”. We believe that this clarifies that the obligation on the member who deals with client monies is to engage an assurance practitioner to perform the assurance engagement on compliance. • as the ethical obligations are set out in APES 110, we are of the view that this APES should only specify the professional obligations with respect to dealing with client monies. • similarly we do not believe that this standard should seek to specify a members professional obligations when performing an assurance engagement on another members compliance with the standard, that is other than specifying the members “other reporting” obligations. The assurance practitioner will be required to comply with the requirements of ASAE 3100 Compliance Engagements.
3	1.1	IPA	We are supportive of the addition of the objectives of APES 310 (paragraph 1.1) in the revised standard which provides the member in public practice who deals with client monies and the auditor of client monies with a high level overview of the purpose of the revised Standard.
4	1.1 and 1.6	IPA	The Standard should be clear and specific (as part of the overall objectives and as a separate sub-heading of the Standard) that it also deals with circumstances where the member has been appointed Power of Attorney or as a trustee of a trust for a client. In this instance, the member is not relieved of their obligations under the revised Standard.

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5	1.6	CA ANZ	<p>Include additional wording in paragraph 1.6 to make it clearer that members dealing with client monies in the capacity of a director or other officeholder of a company are not in a client relationship and accordingly are not obligated to follow APES 310. We suggest the following wording:</p> <p style="padding-left: 40px;">This Standard does not apply where a Member in Public Practice is acting as a trustee, under a power of attorney <i>or as a director or officeholder of a company</i>, as in these circumstances the Member is not acting in a Client relationship. When acting in the capacity of an attorney, <i>an officeholder</i> or a trustee, the Member is required to comply with the obligations specified in the relevant trust deed, the power of attorney <i>or their officeholder obligations</i>.</p>
6	2	Deloitte	<p><i>The definition of an assurance engagement</i></p> <p>The definition of an assurance engagement as set out in the ED has been amended to replace the term “assurance practitioner” with the term “member in public practice”. We do not believe that this is an appropriate amendment. The individual who performs the assurance engagement must have assurance competence and skills rather than merely being a member in public practice. Should the APESB wish to retain the phrase member in public practice we recommend that you revise the wording as follows “Assurance ...<i>in which an assurance practitioner who is a member in public practice aims to... criteria</i>).</p>
7	3.1	CPA A	<p>In Paragraph 3.1 there is reference to ‘relevant law’. We note that the fundamental principles include compliance with relevant laws and regulations so compliance with relevant law is not in addition to compliance with section 100 <i>Introduction and Fundamental Principles</i> of the Code but part of it. If this reference is to be retained in paragraph 3.1 we note that in other standards there is reference to ‘relevant legislation’ and in the APES 110 <i>Code of Ethics for Professional Accountants</i> there are references to ‘relevant laws and regulations’ and ‘legislation or regulation’. For consistency, we suggest that ‘relevant laws and regulations’ should be used throughout the standard.</p>
8	3.5	Deloitte	<p><i>Confidentiality</i></p> <p>As we have noted in prior submissions on other APESB standards the confidentiality provisions, which in this case are in paragraph 3.5, are not consistent with APES 110, section 140.</p>
9	4.5	CPA A	<p>The expression ‘client’s login’ in paragraph 4.5 may not necessarily be clear, particularly in all jurisdictions our Members operate, and an alternative term such as ‘electronic banking password’ may be more universally understood.</p>
10	5.1	North	<p>I suggest you review the following section of the ED:-</p> <p style="padding-left: 40px;">5.1 A Member in Public Practice who Deals with Client Monies shall open a Trust Account at a Financial Institution in the name of the Member or the Member’s Firm and include the term “Trust Account” in its title, unless the Member has been authorised to operate a Client Bank Account.</p>

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11	6.6	Deloitte	Paragraph 6.6 We are concerned with the current drafting of this paragraph which is intended to be a guidance paragraph. We suggest that it is reworded as follows “Where the...the Member in Public Practice considers whether it may be appropriate to donate these funds to a2013”
12	6.6	IPA	We agree with the inclusion of paragraph 6.6 on how to deal with unclaimed monies below legislative thresholds which allows for these funds to be donated to a charity as defined in the <i>Charities Act 2013</i> .
13	6.11	CA ANZ	As part of 6.11 duplicate as guidance the intent of paragraph 6.6: <i>Where it is unreasonable to allocate interest to the credit of each client, the Member in Public Practice should donate the interest to a charity as defined in the Charities Act 2013.</i>
14	6.1, 6.2, 6.12	CA ANZ	It is important that members allocate money received on behalf of clients, either via a cheque or a direct deposit to that client’s ledger or account in a timely manner. We understand that for direct deposits this can take some time but feel that it is in the public interest to place a reasonable time limit on this activity as expressed in paragraph 6.3. We recommend the following amendments to paragraphs 6.1, 6.2 and 6.12 as follows: 6.1 Subject to paragraph 6.9, a member in Public Practice shall a) deposit Client Monies into a Financial Institution within 3 Business Days of receipt <i>or</i> b) <i>for direct deposits identify the individual Client to whom the funds belong within 5 Business Days of the funds being deposited.</i> 6.2 <i>A Member in Public Practice who, despite using all reasonable endeavours, is not able to comply with paragraph 6.1 should document the steps taken to identify the individual Client to whom the funds belong.</i> 6.12 <i>After a Member in Public Practice has completed the recording of information required in paragraph 6.7, the Member in Public Practice shall disburse Client Monies within 3 Business Days of receipt of instructions in respect of the disbursement or in accordance with the Terms of Engagement.</i>
15	Section 8	CPA A	We are of the view that the change in the title of section 8 is not as clear and accurate as the extant title of this section, particularly since some of the content in this section is not about obtaining assurance. For example, paragraph 8.8 deals with what a Member ought to do when a deficiency of client monies is identified and paragraphs 8.9 and 8.10 deal with auditor changes. The title could be changed to: Assurance Engagement of a Member’s in Public Practice compliance with this standard.

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16	Section 8	Deloitte	<p>Section 8</p> <p>We recommend that the heading of this section be revised as follows “Assurance engagements on a member in Public Practice’s compliance with this standard”.</p>
17	Section 8	CPA A	<p>We support changes to terminology in this section for consistency with the standards on assurance engagements, which are applicable in these circumstances. However, those changes need to be consistent throughout the section. Further, the changes made in section 8 require some clarification.</p>
18	8.1, 8.3	CPA A	<p>Paragraph 8.1 requires an assurance engagement to be undertaken but does not specify whether that ought to be an audit / reasonable assurance engagement or a review / limited assurance engagement. However, paragraph 8.3 allows for a ‘review Engagement’, but the definition of Engagement in section 2 relates to a client engagement not an assurance engagement and a review engagement is not defined separately nor addressed under the definition of assurance engagement.</p>
19	8.2, 8.3, 8.4, 8.12	CPA A	<p>We are of the view that the type of assurance engagement required (audit / reasonable assurance engagement or a review / limited assurance engagement) when different criteria are met should be specified in section 8 and consideration should be given as to whether the different types of assurance engagements should be defined in section 2. We note that section 8 refers to “applicable assurance engagement” a number of times, paragraph 8.3 refers to “review Engagement” and paragraph 8.12 refers to “audit or review” without any clear explanation of when an audit or review is the applicable assurance engagement. There is also some inconsistency in the reference to “Assurance Engagement undertaken under legislation” in paragraph 8.2 and “legislative audit” in paragraph 8.4.</p>
20	Section 8	Deloitte	<p>Use of the phrases audit and assurance</p> <p>The extant requires a member who deals with client monies to have an assurance engagement performed to assess compliance with the requirements of the APES on an annual basis. The ED uses both the term audit and assurance when referring to the requirement for an assurance engagement to be performed, we believe that it may cause confusion. As these engagements will be performed in accordance with ASAE 3100 Compliance Engagements we believe that the phrase “assurance” should be used in this document and that all references to audit be removed.</p>

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21	8.1/8.2	IPA	<p>Paragraph 8.1 of the Standard provides clarification where an assurance engagement undertaken under legislation which covers all of the subject matter required by the Standard, the member is not required to appoint another member in public practice as auditor of client monies.</p> <p>In addition to the above, where the same auditor may be used for the assurance under legislation (for example, member may hold an AFS licence) and client monies, the Standard should include additional guidance on the responsibility of the auditor to identify synergies for compliance requirements under both the Standard and the legislation.</p>
22	8.3	IPA	<p>The new requirement as outlined in paragraph 8.3 of the Standard allows a review engagement to be conducted on client monies where the member does not have to maintain a trust account to comply with the Standard; and can only co-authorise transactions in a client bank account in conjunction with the client. We recommend that in addition, reference should be made to paragraph 4.5 that a member must comply with access controls specified by the relevant Financial Institution at all times.</p>
23	8.9	CA ANZ	<p>Remove paragraph 8.9 which currently states:</p> <p style="padding-left: 40px;">A member in Public Practice who proposes to change the existing Auditor of Client Monies, shall first obtain the approval of the applicable Professional Body.</p> <p>It is our view that the current requirement to obtain permission from the relevant Professional Body to change the auditor of client monies places an unreasonable compliance burden on practitioners without really addressing any risk. Further it is largely inconsistent with the requirements for removal and appointment of auditors under section 329(9) of the Corporations Act 2001.</p>
24	Sections 8 and 9	CPA A	<p>Section 8 and 9 refer to “auditor of client monies” throughout, whereas the relevant standards on assurance engagements use the term “assurance practitioner”. A more consistent term could be “assurance practitioner of client monies”, although ‘assurance practitioner’ would also suffice, if it is clear that the subject matter of the engagement is client monies.</p>
25	Part B	Deloitte	<p>Part B</p> <p>As noted earlier, we do not believe that this standard should set independence requirements for the performance of assurance engagements to assess a member’s compliance with the requirements of this APES, as these are contained in APES 110, section 291.</p> <p>Furthermore, as assurance engagements on compliance are performed in accordance with ASAE 3100, and there are proposed revisions to that standard currently on exposure by the AUASB, we do not believe that the APESB should include a proposed format for the assurance report that the assurance practitioners would issue. In our view, it is the role of the AUASB to prescribe the format of reports in accordance with its relevant pronouncements. If the APESB were to do so we would respectfully suggest that they are extending beyond their mandate.</p>

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26	Appendix 2	CA ANZ	Amend paragraph one in the Sample Authority Letter by adding “ <i>for the receipt of client monies</i> ” as follows: I/We [name of Client] of [address of Client] hereby authorise [Member’s name or Firm’s name] of [address] to pay immediately any Client Monies received by [them/him/her] on my account in respect to the Engagement referred to below into a Trust Account operated by [them/him/her] <i>for the receipt of client monies</i> with [name and address of the Financial Institution where the Trust Bank Account is held].
27	N/A	IPA	A decision-tree diagram may assist members when working through scenarios to determine if the Standard applies in the specific circumstance. Whilst professional accounting bodies play a significant role in communicating to members their obligations with respect to professional standards, it would still benefit to have common scenarios provided diagrammatically. For example, the Standard <i>does not apply</i> where the member has no authority to transact Client Monies, may have online access to the bank account but is only preparing or arranging banking transactions for subsequent client approval. In contrast, the Standard <i>does apply</i> where a member provides bookkeeping services and is able to transaction on a Clients Bank Account.
28	N/A	IPA	We recommend the Standard make reference to APES 230 <i>Financial Planning Services</i> (APES 230) to ensure a member considers circumstances where it may hold, receive or disburse client monies. For example, the member may receive remuneration to be able to transact on behalf of the client. Consideration of compliance with both APES 230 and this Standard will become even more common given the changes with the accountants exemption. This would also be consistent with the IPA’s Pronouncement 11 on financial services.
29		IPA	We recommend that consideration be given to instances where the member is a Power of Attorney in a client relationship and whether a review engagement is still adequate; we think not. An audit should be required. With respect to solicitor trust account audits, there is still a requirement for an audit to be conducted where the solicitor is a Power of Attorney.

Staff Instructions:

- Comments of a “general” nature should be dealt with first, followed by paragraph specific comments.
- Respondents’ comments must be copied verbatim into this table.
- Comments should be dealt with in paragraph order, not respondent order.
- Use acronyms only for respondents. Update the attached table with details of additional respondents.

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1	CA ANZ	Chartered Accountants Australia and New Zealand
2	CPA A	CPA Australia Ltd
3	Deloitte	Deloitte Touche Tohmatsu Australia
4	IPA	Institute of Public Accountants
5	North	North Financial Services Pty Ltd