

## AGENDA PAPER

**Item Number:** 2  
**Date of Meeting:** 19 May 2017  
**Subject:** Proposed amendments to APES 110 *Code of Ethics for Professional Accountants* due to revisions to IESBA's Code

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Action Required     For Discussion     For Noting     For Information

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### Purpose

- To present for Board consideration the key issues raised in submissions relating to Exposure Draft 02/16 *Amendments to APES 110 Code of Ethics for Professional Accountants* due to revisions to IESBA's *Code of Ethics for Professional Accountants* (ED 02/16); and
- To obtain the Board's approval on proposed actions to address the key issues including changing the effective date of NOCLAR and NAS standards.

### Background

APESB issued [ED 02/16](#) in December 2016 to seek comments (due 15 March 2017) from stakeholders regarding the proposed amendments to APES 110 *Code of Ethics for Professional Accountants* (the Code), to incorporate the IESBA amending standards on:

- Responding to Non-compliance with Laws and Regulations ([NOCLAR](#)); and
- Non-Assurance Services for Audit and Assurance Clients ([NAS](#)).

APESB has received submissions from various stakeholders which are summarised in Agenda Items 2(a) and 2(b) for General and Specific Comments, respectively.

### Key Considerations

#### I. Issue of Effective Date

The key issue raised by stakeholders relates to the effective date of 15 July 2017, with most of them commenting that it does not provide sufficient time for the effective implementation of the amending standards, particularly NOCLAR. Stakeholders have requested that APESB allow at least a year for them to prepare for NOCLAR's implementation and accordingly change the effective date to July 2018.

Considering the significance and extent of the new NOCLAR requirements, Professional Bodies and Members have cited that they need more time to be able to conduct education

and training as well as develop or revise their policies and procedures. Firms would have to communicate the new NOCLAR requirements to their clients, as well as any potential changes to their engagements' terms and conditions resulting from these new requirements.

Respondents have also highlighted that other organisations would also be impacted by the NOCLAR standard. Organisations that employ Members may have to amend their human resources policies while regulators will need to consider the effects of NOCLAR on their respective rules and review programs.

It should also be noted that the NOCLAR standard requires a significant change in the 'mindset' of accountants. SMPs including sole practitioners may find adopting this change problematic as it contradicts their long-held 'mindset' of acting as their clients' 'trusted advisors'. Keeping client confidentiality is viewed by accountants as paramount to being their clients' 'trusted advisors'.

Technical Staff have considered the concerns raised by stakeholders and are of the view that the Board may respond to these concerns by either:

- 1) retaining the proposed date of 15 July 2017 as effective date; or
- 2) changing the effective date to 1 January 2018; or
- 3) changing the effective date to 1 July 2018.

In determining which of these options should be adopted by APESB, the Board should consider the following key factors:

- No requirement to adopt the same effective date as the International equivalent – the effective date should be adjusted to accord with the due process undertaken in Australia;
- The change of 'mindset' required by NOCLAR is significant for national firms, SMPs and sole practitioners.
- The proposals for NOCLAR changed significantly over the development process (the provisions in the final standard are substantially different to the two exposure drafts that were released);
- The amount of time and resources required by different Members to implement the changes may vary significantly (for example, large firms that are well resourced vs SMPs, Members in Business who work for large corporates vs small businesses);
- Accountants about to enter their busy season – major tax deadline at the end of May with work levels remaining high through to end of 30 June reporting season;
- The likelihood of increased protection for whistleblowers under legislation in mid-2018 (Treasury working on consultation paper with aim of having draft legislation by the end of 2017).

Technical Staff are supportive of amending the date to 1 January 2018 or 1 July 2018.

#### *Proposed amendments to the Exposure Draft*

If the Board approves, the change of effective date will be reflected in the Transitional Provisions section, as follows:

## *Responding to Non-compliance with Laws and Regulations (NOCLAR)*

7. Sections 225 and 360 of the Code outline a framework to assist a Member in what actions to take in the public interest when they become aware of non-compliance or suspected non-compliance with laws and regulations by either a client or their employer. Other consequential amendments to consider this framework are included in paragraphs 100.5, 100.23 – 100.26, 140.7, and 270.3, and also Sections 150 and 210. The amendments for NOCLAR are effective from **[15 July 2017 / 1 July 2018 or 1 January 2018]**. Early adoption of these provisions is permitted.

### *Non-assurance services provisions for Audit and Assurance Clients*

8. The non-assurance services provisions set out in paragraphs 290.159 – 186 and paragraphs 291.141 – 144 are effective from **[15 July 2017 / 1 July 2018 or 1 January 2018]**. Early adoption of these provisions is permitted.

## II. Need for further guidance

Some stakeholders have raised the need for further guidance on how to effectively apply NOCLAR's key requirements and clearly interpret its significant requirements.

Technical Staff note that IESBA has developed comprehensive NOCLAR guidance materials which are available on their website. To address the issue of Australian stakeholders needing additional guidance, we propose that APESB create a section on the Board's website with links to these guidance materials.

Technical Staff also propose that APESB revisit this issue as part of the Board's annual review process after its implementation and reconsider at that time whether additional guidance material is necessary.

### **Staff Recommendations**

The Board:

- consider the options discussed above and approve a date that the Board would determine appropriate for the NOCLAR and NAS amending standards;
- approve the creation of a NOCLAR section on APESB's website with links to IESBA's guidance materials; and
- approve revisiting the issue of whether additional guidance is required in Australia as part of the annual review process.

### **Materials Presented**

Agenda Item 2 (a) APES 110 ED 02/16 General Comments Table  
Agenda Item 2 (b) APES 110 ED 02/16 Specific Comments Table

**Authors:** Channa Wijesinghe  
Ruth Oliquino

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