

Constituents' Submissions – Specific Comments Table

Exposure Draft 05/17: APES 310 Client Monies

Note: General comments relating to APES 310 are addressed in a separate table. This table excludes minor editorial changes.

Item No.	Paragraph No. in ED	Respondent	Respondents' Comments
1	1.11	CA ANZ	2. At paragraph 1.11 you state, "Members in Public Practice should be guided not merely by the words but also by the spirit of the Standard and the Code." Members' compliance with the standards is assessed by auditors, quality reviewers and at times the Courts. It would be extremely difficult for a member to know what the "spirit of the Standard and the Code" is. We recommend that the APESB consider removing or re-wording this paragraph so that members are able to establish their compliance with the paragraph.
2	1.1	Deloitte	4. Assurance Engagements on compliance with the Standard We have the following comments on this section of the standard: a) We question why the scope of this standard deals with ethical and other requirements for the auditor of client monies, given these have been set by the Australian Auditing and Assurance Standards Board (AUASB).
3	Definitions	CA ANZ	You have amended the definitions of Assurance Engagement, Limited Assurance Engagement and Reasonable Assurance Engagement. The Auditing and Assurance Standards Board (AUASB) is the responsible entity for defining these terms. You have proposed definitions that are not identical to the AUASB definitions. To avoid confusion by users of the Standards one definition should be used consistently by all standard setters. We recommend that the APESB reverts to the definitions issued by the AUASB.
4	Definitions	Deloitte	b) We are very concerned that the definition of assurance in the Assurance Framework, as issued by the AUASB, has been amended for the purpose of this standard. We do not believe that it is appropriate to take defined terms and redefine them for the purpose of the APESB standards. As drafted, it suggests that any Member in Public Practice, irrespective of functional classification, could perform an audit of compliance with APES 310. We believe that this is in conflict with section 130 of APES 110 which deals with Professional Competence and Due Care. Should the APESB continue to include a definition of assurance in APES 310 it should be consistent with the framework and ASAE 3000.
5	3.5	Deloitte	2. General Obligations a) Paragraph 3.5, as drafted, is in conflict with paragraph 4.13, which acknowledges Members' obligations under section 225 of the code. We suggest that paragraph 3.5 is revised as follows: "Other than as required by section 225 Responding to Non-Compliance with Laws and Regulations of the Code, in accordance with... for that client"

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6	4.11, 4.12	Deloitte	<p>b) We understand the desire and sentiment in paragraphs 4.11 and 4.12, however, we have a number of concerns with them. As the government has stated that it will strengthen the country's Anti-Money Laundering And Counter Terrorism Financing Act we are of the view the APESB should await this legislation before making changes in this regard in the standard.</p> <p>If the APESB is of the view that it will proceed with these requirements, we believe that the APESB needs to amend the paragraphs as follows:</p> <ul style="list-style-type: none"> i. 4.11 to state "A Member in Public Practice shall not knowingly (a) receive...is otherwise unlawful"; and ii. 4.12 to state "When Dealing ...shall not knowingly be involved in...financing". <p>In addition, we believe that the APESB should give regard to the following in finalising the requirements:</p> <ul style="list-style-type: none"> i. the fact that monies may be deposited into a trust account and it is only after receipt of these monies that the Member forms the belief that they have been obtained from illegal activities; and ii. providing a definition of illegal activities, which may vary state by state.
7	4.13, 8.3	CPAA	<p>We welcome the inclusion of the requirements in paragraphs 4.13 and 8.3 to address responding to non-compliance with laws and regulations (NOCLAR) which harmonise with APES 110 section 225 on NOCLAR for members in public practice.</p>
8	4.4, 5.18, 5.19, 6.6 and 7.7	Deloitte	<p>We have the following specific comments with respect to the ED:</p> <p>1. General Comments</p> <p>As we have stated in our responses to previous exposure drafts, we are concerned about the use of the word "should" in paragraphs which are not mandatory paragraphs. In our view the use of "should" creates an obligation for members to undertake the activity described therein. We note that "should" is used in paragraphs 4.4, 5.18, 5.19, 6.6, and 7.7. We are of the view that in each of these instances the activity described should be a mandatory requirement.</p>
9	5.1	CPAA	<p>We acknowledge the efforts that the APESB has made in attempting to find a solution with respect to accountants being able to open trust accounts. Opening a bank account as a "trust account" by accountants is not provided for in legislation or regulations, except in Queensland. Other States and Territories only legislate for solicitors and real estate agents to operate trust accounts. Consequently, the Australian Banking Association has indicated that the majority of its member banks will not open a trust account for an accountant.</p> <p>Paragraph 5.1, as a requirement, may not be able to be complied with due to a lack of legislation to support the member opening an account with "Trust Account" in its title. An alternative approach would be to remove the requirement to include the term "trust account" from the title. However, it is CPA Australia's view that the most appropriate solution would be for legislation to be enacted to require accountants to open a trust account if they deal with client monies. CPA Australia would be pleased to support the APESB in pursuit of this outcome.</p>

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10	5.1	North	<p>With regard to:</p> <p>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,</p> <p>This is impossible as the Banks won't allow it primarily because the APES is not a statutory trust account under banking law.</p> <p>You will need to change this before finalising.</p>
11	6.21	Deloitte	<p>3. Specific obligations in relation to Trust Account</p> <p>We have the following comments on the specific requirement in this section:</p> <p>a. Paragraph 6.21, states "A Member...provide additional reporting...the client" we are unclear what is meant by additional reporting.</p>
12	7.1	CPAA	<p>While CPA Australia welcomes the relief provided by paragraph 7.3, we continue to consider that a member who only has authority to co-authorise transactions should be excluded from the requirements of paragraph 7.1 as the member would be subject to the internal controls of the client.</p>
13	7.3	CPAA	<p>We support the inclusion of paragraph 7.3 as it will assist our members in managing the costs associated with complying with APES 310 by allowing the member to engage an auditor of client monies to perform a limited assurance engagement rather than a reasonable assurance engagement under ASAE 3100.</p>
14	7.8, 7.9	CPAA	<p>CPA Australia welcomes the removal of the requirement in paragraph 7.9 for the member in public practice to obtain approval from their professional body for the appointment of the auditor of client monies, but we question the objective of the new requirement to notify the professional body of that appointment.</p> <p>We suggest that there may be two possible objectives for notification of a change of auditor. These are either to enable the professional body to identify any problems with the previous audit which may require follow up, or to enable assessment of the appropriateness of the new auditor. If there is an alternative objective which we have overlooked, we would appreciate it if the APESB could identify that objective so that consideration can be given as to whether the notification of a change of auditor will be effective in achieving that objective.</p> <p>We consider that either of the identified objectives above may be met more effectively through other means. If problems existed with the previous audit this is most effectively identified by the new auditor's acceptance procedures set out in paragraph 8.3, including determining whether there are any reasons for not accepting the engagement and communicating with the existing auditor, if permitted to do so. If the objective is to assess the appropriateness of the new auditor, it is unlikely that this objective</p>

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			<p>will be achieved by paragraph 7.8 due to Professional Conduct processes within the professional bodies, Privacy Law and By-Law requirements.</p> <p>We would suggest a more effective approach would be to include criteria in the standard for the member engaging the auditor of client monies to conduct that due diligence. The member's compliance with paragraph 7.8 will be assessed at their periodic quality review by the member's professional body and may be incorporated in standard procedures in the engagement letter from the new auditor.</p> <p>Further, CPA Australia is of the view that the requirement to appoint a replacement auditor within 10 business days may prove difficult for members located in remote or regional areas. Our experience, via CPA Australia's Quality Review Program, has identified that members in remote or regional locations are finding it increasingly difficult to engage another member in public practice to perform their trust account audit. We suggest a more achievable requirement would be that the member in public practice must appoint a replacement auditor no later than 30 days prior to the applicable year end date.</p> <p>In considering these concerns, we suggested the following amendments to paragraph 7.8:</p> <p>7.8 A member in Public Practice shall appoint a replacement Auditor of Client Monies after the resignation or removal of the existing Auditor of Client Monies. The appointment must be made no later than 30 days prior to the applicable year end date. The member must also obtain from the incoming auditor, the following:</p> <ul style="list-style-type: none"> a) The Professional Body that the auditor is a member of b) The membership number of the auditor c) The Professional Body that issued the Public Practice Certificate d) Confirmation that the auditor is a member in good standing of their Professional Body. <p>Alternatively, the suggested amendment to paragraph 7.8 could be included in Part B of APES 310: Professional Obligations of an Auditor of Client Monies.</p>
15	Section 8	Deloitte	c) We do not believe that it is the role of the APESB to direct an assurance practitioner how to conduct an assurance engagement, the APESB should set the scope of the subject matter that is the scope of the assurance engagement, and the reporting that it requires. It is the role of the AUASB to direct the practitioners how to perform the engagement.
16	8.2	CA ANZ	3. Paragraph 8.1 directs members to comply with Section 291 of the Code of Ethics Independence – Other Assurance Engagements. The inclusion of paragraph 8.2 which paraphrases the requirements of Section 291 may cause a user of APES 310 to not refer to Section 291 of the Code. We recommend that the APESB consider removing paragraph 8.2.
17	8.2	Deloitte	d) We acknowledge that the requirements in paragraph 8.2 were set out in paragraph 9.2 of the existing standard however, we do not believe that the paragraph is necessary as it is captured by the requirements in 8.1.
18	8.8	Deloitte	e) We recommend that the APESB reconsider the requirement in paragraph 8.8, which is paragraph 9.6 in the existing standard. It requires an Auditor of client monies to report a deficiency of client monies to the auditee's professional body. Whilst this

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			may be appropriate in the case of trust accounts (which should never have a deficiency in them) we believe that it is inappropriate to have this obligation in all circumstances. There should not be a need to report where the Member is transacting using the client bank account and is making use of available banking facilities, such as bank overdrafts.
19	8.9	Deloitte	f) We recommend that the APESB reconsider the requirement in paragraph 8.9, which is paragraph 9.7 in the existing standard, in particular requirement (b), which requires the Auditor of client monies to report errors reflected in a statement issued by a Financial Institution to the auditee's professional body, we do not see either the purpose or merit in having this requirement.
20	8.10	CA ANZ	4. Paragraph 8.10 says that "An Auditor of Client Monies who has resigned from their role should consider notifying the auditee's Professional Body if the Auditor has any concerns about the circumstances that lead to the resignation, particularly if it relates to professional misconduct of the auditee." We are concerned that compliance with this paragraph could expose a member to breaching their obligations under paragraph 3.5 Confidentiality. We recommend that the APESB consider either removing or redrafting this paragraph.
21	Appendix 1	Deloitte	g) Appendix 1, we do not believe that it is appropriate to refer to APES 310 in the basis for opinion paragraph. In addition, as we believe that these engagements should only be undertaken by assurance practitioners, not all Members in Public Practice, we believe that the reference to APES 320 should be replaced with ASOQ1.

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.

RESPONDENTS

1	CPAA	CPA Australia
2	CA ANZ	Chartered Accountants Australia and New Zealand
3	Deloitte	Deloitte Touche Tohmatsu
4	North	Andrew North