

# ACCOUNTING PROFESSIONAL & ETHICAL STANDARDS BOARD LIMITED

## APES 230 Financial Planning Services 1st Taskforce Meeting

### MINUTES

21 May 2019, Tuesday  
4.00 p.m. – 5.02 p.m.

Teleconference

#### 1. Present and Apologies

##### Present:

Mr Channa Wijesinghe (Chairman), Ms Suzanne Haddan, Mr Robert Brown, Ms Bronny Speed, Ms Keddie Waller and Mr Andrew Best.

##### In Attendance:

Mr Craig Farrow (Board Member), Ms Jacinta Hanrahan and Mr Jon Reid.

#### 2. Proposed revisions to APES 230

The Chairman thanked everyone for their attendance. The Chairman outlined the purpose of the meeting to consider the proposed revisions to APES 230 *Financial Planning Services* (APES 230) to align with the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code). To facilitate the discussion, the Chairman proposed to do a page turn of the standard to consider the reason for each of the proposed amendments (summarised in the sections below).

##### Section 1: Scope and application

Key revisions include:

- New paragraph 1.1 which provides an overview of the standard and clarifies the scope of the standard – included to be consistent with APESB's drafting approach;
- The effective date of 1 January 2020 to align to the effective date of the restructured Code; and
- Amendments to achieve consistency with the Code and other APESB pronouncements.

The Taskforce did not raise any objections to these proposed amendments.

##### Section 2: Definitions

The majority of the changes to the Definition section are to align with definitions in the restructured Code or other APESB pronouncements.

The Taskforce did not note any additional changes to those proposed for the extant definitions.

The Taskforce considered the use of the term Australian Financial Services licensee in APES 230. The Taskforce discussed whether the appropriate term was the holder or licensee, and whether the term should be defined in the Standard.

The Taskforce was supportive of a definition being included in APES 230 as long as the definition is consistent with the terminology used by the Australian Securities and Investments Commission (ASIC). Technical Staff are to draft a definition to be circulated to the Taskforce for their consideration.

Technical Staff raised the different approach to the definition of Independence in APES 230 to other APESB pronouncements, where APES 230 uses the term Professional Independence to differentiate from the independence requirements in the *Corporations Act 2001*.

Technical Staff outlined the treatment of Independence in proposed APES 330 *Insolvency Services* (APES 330) where the definition of Independence is aligned to the restructured Code. However, it includes an additional paragraph that references the need to consider legal precedents.

The Taskforce discussed the different approaches to Independence but agreed that the extant approach should be retained in APES 230.

### Section 3: Fundamental responsibilities of Members

The majority of the changes to Section 3 are to align with the restructured Code or other APESB pronouncements.

The Taskforce agreed with the proposed changes.

### Section 4: Professional Independence

No changes were proposed to Section 4 of APES 230.

### Section 5: Terms of the Financial Planning Service

The proposed changes to Section 5 are to use the defined term 'Writing' rather than referring to 'write.'

The Taskforce agreed with the proposed changes.

The Taskforce discussed the concept of Informed Consent and whether the requirements in paragraph 5.2 of APES 230 (and also paragraph 8.2(b)(iii)) require further amendment. The Taskforce considered the current legislative requirements, the use of Informed Consent in the *Financial Planners and Advisers Code of Ethics* issued by the Financial Adviser Standards and Ethics Authority Ltd (FASEA) and the recommendations from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Banking Royal Commission).

Taskforce members discussed current industry practice where Members are currently reporting or engaging with clients on an annual basis (including obtaining informed consent). This is considered best practice, and Taskforce Members reported that within the industry there is a push to engage with Clients on an annual basis.

Based on the discussion, the Taskforce Members agreed that paragraph 8.2(b)(iii) should be amended to obtain consent on an annual basis rather than a biennial basis.

The Taskforce Members also discussed the scope of APES 230, especially in relation to the Best Interest Duty. One Taskforce Member queried whether a guidance note should be prepared for Members on how to comply with the Best Interest Duty for different types of financial planning services.

### Section 6: The basis of preparing and reporting Financial Planning Advice

The Taskforce noted the minor editorials in Section 6. No further amendments were proposed.

### Section 7: Client's information, monies, and other property

The Taskforce noted the editorial amendments to update the references to APES 310 *Client Monies*.

### Section 8: Professional Fees

The Taskforce noted the minor editorials in Section 8.

### Section 9: Third Party Payments

The Taskforce discussed the current developments in relation to grandfathered commissions and noted that the consultation process on proposed legislation to end grandfathered commissions had paused due to the recent federal election.

The Taskforce considered whether APES 230 should just specify a date for ending the receipt of grandfathered commissions by Members. However, it was noted that paragraph 9.4 considers a range of different products and there may be different time frames for commission changes (and potentially some exemptions for mortgage broking services).

The Taskforce agreed to watch the developments in this space and consider this matter again at the next Taskforce Meeting.

### Section 10: Soft Dollar Benefits

The Taskforce noted the minor editorials in Section 10. No further amendments were proposed.

### Section 11: Documentation and Quality Control

The Taskforce noted the minor editorials in Section 11. No further amendments were proposed.

## **3. Other matters for consideration**

### Definition of Financial Planning Advice

A Taskforce Member queried whether the definition of Financial Planning Advice captured all necessary advice (for example, advice on direct property). The Taskforce discussed the scope of APES 230 and whether it should be restricted just to cover licensing or should it apply to every financial planning service provided by Members. Due to timing constraints, the Taskforce did not reach a resolution on this matter, and it will be included on the agenda for the next Taskforce meeting.

### Establishment of Monitoring Bodies

A Taskforce Member raised that by the time the revised APES 230 is released, financial planners will need to be registered under a FASEA Code Monitoring Body. Taskforce Members noted that there are currently 3 applicants to ASIC to be a Monitoring Body. However, the process has been put on hold for the federal election and the Royal Commission.

One of the recommendations from the Banking Royal Commission was the establishment of a body above ASIC and APRA that may undertake this role.

The Taskforce agreed that this should be a matter for consideration at the next Taskforce meeting.

#### **4. Way forward**

Technical Staff will:

- update the Board at the June 2019 Board Meeting on the proposed amendments to APES 230 to achieve consistency with the restructured Code and other APESB pronouncements;
- circulate an updated version of the proposed APES 230, including amendments discussed at the Taskforce meeting;
- provide feedback to the taskforce in respect of any review comments from the June Board meeting; and
- undertake further consultation with the Taskforce to prepare an Exposure Draft for the August 2019 Board Meeting.

#### **5. Close of Meeting**

The meeting was closed at 5.02 p.m.

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