

AGENDA PAPER

Item Number: 7
Date of Meeting: 5 June 2019
Subject: Review of APES 230 Financial Planning Services

Action Required For Discussion For Noting For Information

Purpose

To:

- (a) provide the Board with an update on the project to revise APES 230 *Financial Planning Services* (APES 230) and;
- (b) obtain the Board's feedback and views on the proposed changes to APES 230 to primarily reflect the restructured Code and changes to APESB drafting conventions since the original issue of APES 230 in 2013.

Background

APESB issued APES 230 *Financial Planning Services* (APES 230) in April 2013, with an effective date of 1 July 2014, apart from the sections relating to remuneration which became effective on 1 July 2015.

During 2017 the Board determined to undertake a post-implementation review of APES 230. Initially, a desktop review of developments in the financial services industry in relation to key aspects of APES 230 was undertaken. Subsequently, in April 2017, APESB issued Consultation Paper 01/17 to inform its post-implementation review of APES 230 and to obtain the views of stakeholders in respect of their implementation experience and whether APES 230 should transition to a fee for service approach.

APESB received 27 submissions in response to CP 01/17, which had diverging views about the application of APES 230 and whether to transition to a fee for service approach. The Board determined to undertake further stakeholder engagement in relation to APES 230.

Concurrently with the stakeholder engagement, a Royal Commission into misconduct in the banking, superannuation and financial services industry in Australia (the Banking Royal Commission) was being held, and a new Authority was established – the Financial Adviser Standards and Ethics Authority Ltd (FASEA) – to set a professional education and ethics framework for financial planners and advisers.

The Banking Royal Commission made a number of recommendations on how to improve the financial services industry. However, due to the recent federal election, there is some uncertainty around the reforms that will be implemented to address the recommendations from the Banking Royal Commission.

In addition to the external developments in the financial services industry, APESB commenced a project to restructure all of its pronouncements to align with the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* issued in November 2018. Due to the interconnectedness of the Code and the pronouncements, all APESB pronouncements will need to be revised by 1 January 2020 to align with the effective date of the restructured Code.

At the February 2019 Board Meeting, the Board requested Technical Staff commence a project to revise APES 230 and to undertake further engagement with key stakeholders.

Matters for Consideration

In commencing this project to revise APES 230, and being aware of the deadline of 1 January 2020 to have a revised APES 230 issued to align with the restructured Code, Technical Staff have initially determined to address the revisions that are required to achieve consistency with the restructured the Code and other APESB pronouncements.

Technical Staff will then work with the Taskforce and key stakeholders to consider the impact of potential changes to APES 230 due to the evolving regulatory landscape (for example, to address recommendations from the Banking Royal Commission) as they develop.

Based on this proposed approach to the project, the initial key revisions proposed to APES 230 include:

- new scope and application paragraphs which set out the objectives of the standard and clarify how APES 230 is to be applied;
- an effective date of 1 January 2020;
- new definitions of Professional Activity and Professional Services (historical amendments to the Code in late 2013);
- the new definition of Writing to align with other APESB pronouncements;
- amendments to the definitions of Acceptable Level, Client, Code, Member, Member in Business, Member in Public Practice, Professional Bodies and Professional Independence to be consistent with the restructured Code; and
- updating cross-references to the restructured Code.

Other than the key amendments stated above, other Code related changes proposed to APES 230 are of a minor editorial nature.

Refer to Agenda Item 7(a) for the marked-up version of the proposed revised APES 230.

Taskforce views

A Taskforce meeting was held in May 2019 to ascertain the Taskforce's views on the proposed revisions to APES 230 to align with the restructured Code.

The Taskforce was supportive of the proposed changes as drafted. In addition, the Taskforce recommended that the time frame for obtaining Informed Consent from a client should occur

on an annual basis. This change has been included in the marked-up version of APES 230 presented at Agenda Item 7(a).

The Taskforce acknowledged that there are further matters that need to be considered in the revision of APES 230, including:

- A new definition for Australian Financial Services licensee or holder (depending on the terminology used by ASIC);
- The provisions on grandfathered commissions and how to reflect the different allowances for different financial products and advice;
- The definition of financial planning advice and whether it covers all relevant financial planning services;
- A key change proposed is in respect of obtaining a Client's consent, which is currently on a biennial basis. Taskforce members discussed current industry practice where Members are currently reporting or engaging with clients on an annual basis (including obtaining informed consent), which is considered best practice. Based on the discussion, the Taskforce Members are supportive of amending paragraph 8.2(b)(iii) to obtain consent on an annual basis rather than a biennial basis and to seek comments on this change at the exposure draft stage.
- The establishment of monitoring bodies and the impact on APES 230; and
- The impact of the changing regulatory landscape (for example, the new FASEA Financial Planners and Advisers Code of Ethics and implementation of recommendations from the Banking Royal Commission).

These matters are to be considered further by the Taskforce at their next meeting.

Refer to Agenda Item 7(b) for the draft minutes of the APES 230 Taskforce meeting held on 21 May 2019.

Way forward

After incorporating the Board's feedback into the proposed revised APES 230, Technical Staff will continue to work with the Taskforce to develop resolutions to the additional matters listed above. Technical Staff will also engage with key stakeholders to discuss the proposed revisions.

Technical Staff are planning to present the Board with an exposure draft for the revised APES 230 at the August 2019 Board Meeting.

Staff Recommendation

The Board note the progress made on the APES 230 project and provide feedback on the proposed amendments to date in respect of APES 230.

Material Presented

Agenda Item 7(a): DRAFT restructured APES 230 (marked-up)
Agenda Item 7(b): DRAFT minutes of APES 230 Taskforce Meeting, 21 May 2019

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