

September 2017



## **Basis for Conclusions: APES GN 31 Professional and Ethical Considerations relating to Low Doc Offering Sign-offs**

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*Prepared by the Technical Staff of the Accounting Professional & Ethical Standards Board*

## BASIS FOR CONCLUSIONS:

### **APES GN 31 Professional and Ethical Considerations relating to Low Doc Offering Sign-offs**

This basis for conclusions has been prepared by Technical Staff of Accounting Professional & Ethical Standards Board Limited (“APESB”). It has been reviewed and approved by the Board of Directors of APESB and is provided for the benefit of stakeholders so they may gain an understanding of the background to the development of APES GN 31 *Professional and Ethical Considerations relating to Low Doc Offering Sign-offs* (APES GN 31).

The basis for conclusions **does not** form part of APES GN 31 and is not a substitute for reading the Guidance Note.

### **Background**

APESB has issued APES GN 31 to provide guidance on the application of paragraph 1.10 of APES 350 *Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document* (APES 350) to Low Doc Offerings, including when it is considered appropriate to provide a Low Doc Offering Sign-off.

APES GN 31 provides guidance for Members in Public Practice when performing Low Doc Offering Engagements in respect of:

- Fundamental responsibilities;
- Roles and responsibilities;
- Engagement circumstances that may enable or preclude the issue of a Low Doc Offering Sign-off; and
- Reporting and documentation considerations.

APESB issued an exposure draft of the proposed Guidance Note in June 2017 with a comment deadline of 25 July 2017. APESB received five submissions and in response to the comments received, APESB made a number of changes to APES GN 31.

The following summarises the key issues raised by respondents during the development of APES GN 31 and how APESB addressed them.

### **Comfort Letter Engagements**

A respondent raised an issue in respect of the applicability of APES GN 31 to comfort letter Engagements undertaken in accordance with ASRS 4450 *Comfort Letter Engagements* (ASRS 4450). The respondent was of the view that comfort letter Engagements, by their nature, meet the definition of a Low Doc Offering and therefore should be included in the scope of APES GN 31.

Comfort letter Engagements are different in nature as they are generally undertaken by the Company’s auditor for overseas entities. This is different to the Engagements for Australian based entities undertaken by a Member in Public Practice to which APES 350 or by extension APES GN 31 are applicable to. APESB has therefore determined that comfort letter engagements are not within the scope of APES GN 31.

Members in Public Practice who require guidance on comfort letter engagements should refer to the relevant AUASB standard ASRS 4450 and the accompanying Explanatory Guide.

### **Definitions - Low Doc Offering**

A respondent noted that the proposed definition of Low Doc Offering as a security offering without any regulated disclosure was not factually correct. Both the *Corporations Act 2001* and the ASX Listing Rules set out specific requirements for Low Doc Offerings which do include disclosure requirements (e.g. a Cleansing Notice).

APESB has amended the definition of Low Doc Offering by replacing the reference to unregulated disclosures with a reference to a Public Document (as referred to in section 708AA and section 1012DAA of the *Corporations Act 2001*). This change assists in clarifying the scope of the Guidance Note.

### **Use of the word 'should' (paragraphs 5.2, 5.4, 6.1, 7.1)**

A respondent was concerned about the use of 'should' in APES GN 31 and whether its use presents requirements of APES 350 and other standards as guidance. The respondent identified paragraphs 5.2, 5.4, 6.1 and 7.1 of the Exposure Draft as examples of where the word 'should' may be viewed as diluting mandatory professional obligations in existing standards.

APESB agrees with the respondent's observation that when a requirement in another APESB standard must be followed, such as exercising professional judgement, the word 'should' is not appropriate. Paragraphs 5.2, 5.4 and 7.1 have been revised to appropriately refer to existing professional obligations of Members.

The use of 'should' is generally used to denote guidance. APESB has included a reference in paragraph 1.4 in the Guidance Note to the APESB's *Due Process and working procedures for the development and review of APESB pronouncements* (the Due Process document) to ensure that Members and other users understand the implications of the word 'should' in its pronouncements.

### **Documentation (paragraph 7.1)**

Paragraph 7.1 set out guidance on documentation and was reviewed for appropriateness in relation to the use of the word 'should' (refer to comments in the section above). Additional revisions to this paragraph were made to reinforce the need to comply with the quality control requirements of APES 320 *Quality Control for Firms*.