

AGENDA PAPER

Item Number: 10
Date of Meeting: 16 November 2012
Subject: ED 02/12 APES 230 *Financial Planning Services* – Summary and Analysis of Key Issues Raised by Respondents



**Action
Required**



For Information Only

Purpose

The purpose of this paper is to provide APES Board with:

- a summary of key issues raised by respondents in response to APESB's ED 03/12 *APES 230 Financial Planning Services*; and
- Technical staff comments, views and recommendations.

Background

The professional bodies submitted a project proposal to develop a proposed pronouncement to replace the current APS 12 Statement of Financial Advisory Services in August 2007. The Board established the APES 230 Financial Advisory Services Taskforce to develop the proposed standard and engaged June Smith of Argyle Partners to prepare a Consultation Paper to inform the development of the proposed standard. APESB released the Consultation Paper Review of Miscellaneous Professional Statement APS 12: Statement of Financial Advisory Services in October 2008 for public comment for a period of 3 months. APESB received five submissions from professional bodies, firms and members and the respondents comments were considered at the May 2009 Board meeting.

In February 2009 the Parliamentary Joint Committee (PJC) on Corporations and Financial Services initiated an inquiry in Financial Products and Services in Australia to inquire into the issues associated with financial product and services provider collapses that occurred in 2007-08. In August 2009 APESB made a submission to this inquiry and also made representations to the PJC inquiry. The PJC inquiry issued its report in November 2009.

In March 2010, the APES Board approved the Proposed Principles to be addressed in APES 230 Financial Advisory Services.

On 26th April 2010 the federal government released an information pack on The Future of Financial Advice which is in effect the Government's response to the findings of the PJC inquiry.

At its June 2010 APESB Board meeting the Board approved the issue of ED 02/10 Proposed Standard APES 230 Financial Advisory Services for public comment.

APES 230 ED was closed for comment on the 15th October 2010. APESB received 67 submissions from Members, Firms, commercial organisations, professional organisations and the joint accounting bodies.

At the November 2010 APESB Board meeting, the Board agreed to issue a media release to the public advising of the major issues identified by respondents and communicate that there will be an extension of the time frame.

The key issues identified were:

- Operative date of APES 230;
- Definition of Fee for Service;
- Fiduciary duties;
- Application to Members in Business
- Application to insurance and risk products; and
- The retrospective effect of the proposed standard in respect of trailing commissions.

APESB issued a Media release in December 2010 to this effect.

The Board considered the issues identified by respondents in the Specific Comments Table 1, 2 and 5 at the January 2011 Board Meeting. The preliminary analysis of the Specific Comments Tables 3-4, 6-9 and the General Comments table were considered by the Board at its March 2011 Board Meeting. At this meeting the Board determined to invite key stakeholders/respondents to present on the key issues to the Board.

APESB engaged in an extensive stakeholder consultation process during 2011 including public consultations with key stakeholders. APESB considered the various matters that were raised by key stakeholders at the public Board meetings as well as the respondents' comments to APES 230 ED, and developed a revised APES 230 Financial *Planning Services*.

Technical Staff prepared an Explanatory Memorandum for APES 230 which documents the background, key issues considered and the Board's rationale for the key decisions.

The Board issued the second Exposure Draft, APES 230 ED 03-12, along with the Explanatory Memorandum in July 2012 for public comments. APESB has received 163 submissions from professional accounting bodies, other associations, Members, Dealer groups, financial institutions, consumer groups, the regulator and other stakeholders.

Technical Staff prepared a Technical Analysis Paper and mapping table of respondents' issues for APES 230 which documents the analysis of respondents' comments and key issues for the Board's consideration.

Summary of themes from submissions received:

1. General Comments
2. Align APES 230 with FoFA Reforms and other legislative safeguards with consideration for the Client's best interests and affordability of advice
3. Financial Advice and Asset-Based Fees
4. Insurance and risk product commissions
5. Mortgage Broking and referral arrangements
6. Retrospectivity/grandfathering/transitional arrangements

7. Competitive advantage/disadvantage and value of practice and possibility of cancellation of membership
8. Soft dollar benefits
9. Practical matters such as rebating commissions, Dealer Group restrictions and lack of support from the professional accounting bodies
10. Business structures, monitoring and enforcement
11. Editorial suggestions

Staff Recommendation

The Board provide direction and review comments on the key issues identified in the APES 230 Technical Analysis Paper.

Material Presented

- APES 230 Technical Staff Paper - Executive Summary;
- APES 230 Detailed Technical Analysis Paper; and
- Research Report 'Transitioning to Fee for Service' by Jim Stackpool.

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Date: 13 November 2012