

ACCOUNTING PROFESSIONAL & ETHICAL STANDARDS BOARD LIMITED

**MINUTES OF THE 9th MEETING OF
APES 230 FINANCIAL ADVISORY SERVICES TASKFORCE**

3 November 2011 from 2:30 – 3:45 PM

Teleconference

1. Present and Apologies

Present:

Mr Channa Wijesinghe (Chairman), Mr Reece Agland, Mr Hugh Elvy, Mr Robert M.C. Brown, Ms Suzanne Haddan, and Ms Keddie Waller

In Attendance:

Ms Si Jia Li and Ms Kate Spargo (Board Member)

2. Minutes of previous meeting

The minutes of the 8th Financial Advisory Services Taskforce meeting held on 3 June 2010 were accepted without amendment.

3. Revised APES 230 ED Discussion

Mr Channa Wijesinghe provided the taskforce the background to the proposed revisions to APES 230 ED. The exposure draft was issued in June 2010 and subsequently 67 submissions were received by the APESB and the proposed amendments are designed to address the stakeholder concerns.

Definition of 'Financial Planning Service'

The definition of 'Financial Planning Service' was proposed to replace 'Financial Advisory Service'. The term is used to address the common issue raised by major accounting firms as firms have service lines that are known as "Financial Advisory Services" that provide services to Clients that are not related to Financial Planning.

Further most Members provide financial advice to Clients and the vast majority of these services are not related to Financial Planning. Members who work in this area are known by this term as well as the common use of the term is used by consumers and other stakeholders to describe the work in this specialist area compared to the term "Financial Advisory Services".

Furthermore, the American Institute of Certified Practising Accountants (AICPA) has issued Professional Standards for "Personal Financial Planning" since 1992 (revised 1996) and AICPA, ICAA and CPA Australia have specialist financial planning chapters for Members as well as a financial planning specialisation for Members who practice in this area; and

There are differing views between the taskforce members on the application of this definition. Some taskforce members fully support the use of the term 'Financial Planning'. Others were concerned that the definition may cover services such as non-licensed advice which they argue are not covered by the proposed ED.

A taskforce member also raised the concern that some professionals do not call themselves financial planners but they are providing a service that is covered by the definition may not identify themselves with the revised title of the Standard 'Financial Planning Services' and subsequently the proposed Standard may not be adopted by those groups. The taskforce members who have a differing view believe that the title of the standard should remain as "Financial Advisory Services" as this is more reflective of the services to be addressed within the standard and there would be greater recognition by members that it is applicable to the services they provide.

Action item 1: Some taskforce members who are not supportive of the definition 'Financial Planning Services' will provide their feedback for alternative wording.

Definition of 'Client'

Taskforce members preferred to retain the original definition of Client instead of using the definition of 'Retail Client'.

Definition of 'Legacy Products'

The definition of 'Legacy Products' was adopted from the Joint Accounting Bodies' submission with minor editorial amendments.

Action item 2: Taskforce members will provide their feedback on further editorial changes to the definition.

Fiduciary Responsibilities

The original section 4 'Fiduciary Responsibilities' was deleted to incorporate the principles of fiduciary responsibilities into section 3 as paragraph 3.6 and 3.7. Some taskforce members support these paragraphs.

Other taskforce members questions why fiduciary responsibilities was placed in section 3 as section 3 usually contains the fundamental principles of the Code. The Chairman provided the example of APES 215, where the laws of natural justice was incorporated into section 3 as a precedent to allow incorporation of other relevant responsibilities. Some taskforce member are supportive of the principles behind fiduciary responsibilities whilst other taskforce members are not comfortable with the explicit use of the term 'fiduciary responsibility' in the proposed Standard. These taskforce members' note that *FoFA* addresses this issues and a "best interest duty" is being developed to replace the previously proposed statutory fiduciary duty.

The Board Member brought to taskforce's attention that the standard itself does not create a Fiduciary Duty, the duty already exists in common law, the benefit of specific paragraphs on this issue is to remind the Members that this already exists, and Members should be aware of it.

Section 5 and 6

The taskforce members agreed to remove paragraph 5.4 and 6.9.

Action item 3: Technical staff will update the proposed Exposure Draft.

Section 8

Section 8 was discussed at the taskforce meeting and the taskforce members had differing views. Some taskforce members are supportive of the Fee for Service remuneration proposed in section 8. Whereas other taskforce members propose to reconsider the mandatory requirement of the Fee for Service remuneration to allow flexibility for the Members to choose the remuneration method that is best suited to the Member's need.

The taskforce has agreed on the following editorial changes for section 8.

Action item 4: Remove paragraph 8.1.

Action item 5: Paragraph 8.3, replace 'receipt' with 'remuneration of professional fees based on'.

Action item 6: Taskforce members to provide other editorial suggestions for paragraph 8.5 and other paragraphs in section 8.

4. Way forward

APESB technical staff to prepare a revised proposed Exposure Draft of APES 230 *Financial Planning Services* to be tabled for discussion at the November 2011 Board Meeting and to obtain the Board's directions on the key issues and the way forward.

Some taskforce members agreed to provide further feedback prior to the Board meeting.

5. Close of meeting