Media Release

Friday 5 April 2013

APES 230 Financial Planning Services issued

The Accounting Professional and Ethical Standards Board (APESB) today issued APES 230 *Financial Planning Services*, which sets new requirements for accountants providing financial advice.

The release of APES 230 follows more than five years of public and industry consultation, which attracted submissions from the professional bodies, accounting firms, dealer groups, financial institutions, ASIC, consumer groups, various professional associations as well as individual members of the accounting profession.

The area attracting most comment was remuneration for financial advice. The requirements in APES 230 were developed based on the fundamental ethical principles set out in APES 110 *Code of Ethics for Professional Accountants* and they are aimed at eliminating or reducing to an acceptable level the threats created by the conflicted remuneration methods of asset based fees and third party payments.

Since November 2012, the Board has worked to address remaining concerns.

“We acknowledge that with the introduction of the Federal Government’s *Future of Financial Advice* (*FOFA*) reforms, we are operating within a new framework and APES 230 has been finalised within that context,” says APESB Chair Kate Spargo.

Ms Spargo says the Board also determined to extend the *Best Interests Duty* in *FoFA* to all clients and financial planning services, meaning APES 230 captures activities such as mortgage broking and extends to wholesale clients, all of which are not subject to *FoFA*.

The Board’s strong preference is for accountants to be remunerated on a fee for service basis as defined in APES 230. Subject to the Board’s ongoing review processes, the Board has determined to also permit the use of asset based fees and third party payments, but only in circumstances where the accountant is able to obtain informed consent from the client and complies with the additional requirements specified in APES 230.

“The Board strongly recommends to professional accountants that clients be charged on a fee for service basis for financial planning services to minimise the opportunity for conflicts of interest,” Ms Spargo says.

However, where accountants and clients agree to asset based fees or third party payments then the accountant will need to obtain informed consent from the client and be able to comply with additional stringent procedures designed to safeguard the interests of the client.

“‘Informed consent’ is an established legal principle that requires a higher standard than simple disclosure and some clients may not have the capacity to provide informed consent to their professional accountant. Informed consent requires that the client has a clear appreciation and understanding of the relevant facts in relation to the charging for services, as well as the implications of what the client is agreeing to. The accountant must also form a view about the level of understanding of his or her client. In the event of any challenge the reasonableness of this view would be assessed by an adjudicating body on an objective basis” Ms Spargo says.

There are also additional requirements which will act as safeguards including annual disclosure to the client about the actual and estimated amount of the fees, comparative quotes in the case of insurance and disclosure in relation to the impact of changes in fees.

The strengthening of the duty of care requirement to act in the client's best interests and the requirement to give priority to a client's interests, legislated in *FoFA* and incorporated in APES 230, provide additional safeguards for clients, thus ensuring the accountant brings all necessary information to their attention to enable them to give informed consent. These requirements are new and untried in the financial planning area and it will be important to monitor how well they work as safeguards.

Ms Spargo says the Board will monitor and review the alternative remuneration methods of asset based fees and third party payments to evaluate their effectiveness in practice.

"If the safeguards prove to be inadequate, we will readdress the issue of conflicted remuneration in the future," Ms Spargo says.

The majority of the standard will be effective from 1 July 2014, with the exception being the remuneration provisions that will commence from 1 July 2015.

For a full copy of APES 230 *Financial Planning Services* or the Basis for Conclusions visit: www.apesb.org.au

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Notes to Editors: The APESB is an independent body that sets the code of ethics and professional standards by which members of Australia's three professional accounting bodies are required to abide.