ACCOUNTING PROFESSIONAL & ETHICAL STANDARDS BOARD LIMITED

APES 230 Financial Planning Services
4th Taskforce Meeting

MINUTES

18 August 2020, Thursday
3.00 p.m. – 4.02 p.m.

Zoom Meeting

1. Present and Apologies

Present:

Mr Channa Wijesinghe (Chairman), Mr Robert Brown, Ms Suzanne Haddan, Ms Bronny Speed, Ms Keddie Waller and Ms Vicki Stylianou.

In Attendance:

Ms Jacinta Hanrahan and Mr Jon Reid.

Absent: Ms Claire Mackay

2. Scope of APES 230

The Chairman thanked everyone for their attendance. The Chairman referred to the Consultation Paper: Review of APES 230 *Financial Planning Services* December 2019 (APES 230 Consultation Paper) and that an update on the consultation process and submissions received was presented at the June 2020 Board meeting. The Chairman noted that the following broad themes were identified by Technical Staff from the submissions on the APES 230 Consultation Paper:

- Broader regulatory reform
- Fees/remuneration
- Best interests of the client
- Scope of APES 230; and
- Avoid duplication of requirements.

The Chairman noted that the Board approved the proposed approach to address the above themes progressively and that the purpose of this meeting was to address the Scope of APES 230 and the best interests of the client.

The Taskforce considered the first item on the Agenda being the Draft Flowchart – APES 230 Scope and there were divergent views in relation to the flowchart and the definition of 'financial planning advice' in APES 230.

Some Taskforce members expressed the view that the flowchart accurately depicts the intended scope of APES 230 to capture all financial planning advice in respect of personal financial affairs irrespective of whether it falls under an AFSL or ACL and also noting that (d) in the definition may cause confusion in this regard and should be reconsidered and redrafted to not link back to (a) to (c) of the definition.

Other Taskforce members expressed the view that the scope of APES 230 was not intended to go beyond financial planning and consumer credit advice in respect of personal affairs that were covered by an AFSL or ACL, that the standard should be anchored in legislation and to expand beyond this would cause confusion for the industry.

The Taskforce discussed recommendations to purchase property in a self-managed superannuation fund and noted that this is now deemed by ASIC as financial product advice.

The Taskforce discussed the notion that professional and ethical standards should stand above the law and the broader definition in APES 230 aimed to capture where accountants were providing financial planning advice outside of an AFSL, for example, advice on real estate and receiving commissions from estate agents. A contrasting argument was expressed that expanding the definition in this way would capture almost all activities and services provided by professional accountants, and if such actions were unethical, they would be captured under the Code of Ethics.

The Taskforce discussed the nature of APESB pronouncements, that the Code of Ethics is based on the international standard, which has a primary focus on audit independence. IESBA has not developed service specific standards that are left for National Standards Setters to develop to suit their specific jurisdictions. APESB's other standards, such as APES 230, are developed to capture service specific professional and ethical issues and set the standard of expected behaviour of professional accountants in Australia.

The Taskforce discussed developments in the financial planning industry since 2013 including the introduction of FASEA, however, it was noted that the FASEA Code is not currently being monitored or enforced and that guidance on the FASEA Code's application is ongoing. The Taskforce also discussed a separate project that has been running for three years to reform the regulatory environment in the financial industry and that this project is ongoing.

The Taskforce discussed the title of APES 230 and that this may be contributing to the confusion as financial planning advice is associated with an AFSL and if the standard applies more broadly, then the name of the standard could be reconsidered. It was noted there was considerable debate about the name of the standard in 2013 and the large accounting firms that undertook corporate finance work were not in favour of the use of "financial advice" in the title which led to the final position of "financial planning services".

Due to time constraints the Taskforce did not address the second part of Item 2 on the Agenda being the Draft Specific Comments Table – Items 9 to 15.

3. Best interest of the Client

Due to time constraints the Taskforce did not address the matters in Item 3 on the Agenda being:

- Draft Specific Comments Table – Items 16 to 22; and
- FASEA, Corporations Act, Credit Act, ASIC Guidance.

4. Other matters for consideration

No other matters were addressed by the Taskforce.

5. Way forward

Taskforce members:

- were requested to provide any comments on the Draft Flowchart – APES 230 Scope to Technical Staff; and
- agreed to convene a further Taskforce meeting in September 2020 to discuss the outstanding matters from Items 2 and 3 above and if time permitting an additional theme from the APES 230 Consultation.

6. Close of Meeting

The meeting was closed at 4.02 p.m.