

AGENDA PAPER

Item Number: 13
Date of Meeting: 3 September 2024
Subject: Proposed revised APES 310 *Client Monies*

Action required **For discussion** **For noting** **For information**

Purpose

To seek the Board's approval, subject to the Board's review comments and editorials, to issue a revised APES 310 *Client Monies* and related guidance document.

Background

APESB originally issued APES 310 *Dealing with Client Monies* in December 2010. It was based on APS 10 *Trust Accounts*, which was originally issued in June 1997 by the Australian Society of Certified Practising Accountants (now CPA Australia) and the Institute of Chartered Accountants in Australia (now CA ANZ) and Joint Guidance Note GN 3 *Operation of Trust Accounts*, issued by CPA Australia and the Institute of Chartered Accountants in Australia (now CA ANZ) in December 2003.

APES 310 was revised in 2013 and 2018 (when the standard was renamed to Client Monies). The current version of APES 310 *Client Monies* (APES 310) was released in November 2019 and incorporated revisions to align with the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code).

In 2021, the APESB Issues Register was updated to include matters raised by a professional body about some Members in Public Practice experiencing difficulties in establishing bank accounts complying with APES 310 requirements as the trust accounts are not considered statutory trust accounts, the bank account terms do not exclude the right of set-off, and the bank account name will not include the word 'trust'. APESB had determined to conduct a post-implementation review during the current strategic period to obtain practitioners' feedback on the challenges they face in complying with the requirements of APES 310.

At the May 2023 Board Meeting ([Agenda Item 9](#)), the Board approved the release of [ED 04/23](#), which proposed revisions to APES 310 to incorporate quality management-related conforming amendments and changes to align with AUASB standards. The exposure draft also included a request for specific comments on whether Members have experienced issues applying the requirements in APES 310. The comment period for the exposure draft closed on 18 August 2023.

At the November 2023 Board Meeting ([Agenda Item 9](#)), the Board considered the outcome of the exposure draft due process. APESB received three submissions on ED 04/23 from the three professional accounting bodies, who generally supported the proposed amendments but did raise concerns about the challenges professional accountants face when trying to comply with certain requirements in APES 310.

The Board discussed:

- the proposed new requirement in paragraph 5.2, which provides an exception to paragraph 5.1 to allow the use of the term 'client account' instead of 'Trust Account' in the title of the Trust Account to address a common concern raised by the respondents. The Board noted that the professional bodies have agreed to write a letter to the major banks to determine if the alternative wording is a viable option and to explore other potential solutions to address the issues accountants face when trying to open a trust account.
- the requirement for a limited assurance engagement for co-authorised client bank transactions and the risks for the client and the accountants when acting as co-signatories. The Board noted the Technical Staff position that the external independent review performed on those transactions acts as a safeguard, particularly given recent misconduct cases in the profession.

The Board requested that Technical Staff undertake further research on whether the requirement of limited assurance is an appropriate safeguard for co-signed client banking transactions.

At the June 2024 Board Meeting ([Agenda Item 9](#)), the Board received an update on developments related to client monies, including the project in New Zealand, to revise their professional and ethical standard on client monies (e.g., *PS-2 Client Monies*).

Matters for Consideration

Technical Staff have noted the following developments relevant to the Board's consideration for issuing the revised APES 310.

Professional Bodies' engagement with the Big 4 Banks

As noted above, at the November 2023 Board meeting, the professional accounting bodies agreed to engage with the Big Four Banks in Australia regarding the ability of members to open and operate a Trust Account that complies with the requirements of APES 310.

APESB Technical Staff provided updates to the Board at the March and June 2024 meetings on the progress made by CA ANZ in engaging with the National Australia Bank (NAB) regarding the opening of Trust Accounts by Members.

In June 2024, CA ANZ released guidance to their members on the ability to open trust accounts with NAB that would meet the compliance requirements in APES 310. CA ANZ members can access the guidance at www.charteredaccountantsanz.com/tools-and-resources/practice-management/running-your-practice/apes-310-client-monies-trust-account-guide.

Proposed revisions to the New Zealand PS 2 *Client Monies*

In February 2024, the New Zealand Regulatory Board (NZRB) of the New Zealand Institute of Chartered Accountants (NZICA) released an [exposure draft](#) to update PS-2 *Client Monies*. The proposed changes to the standard are significant and include specific requirements relating to controlling and monitoring client monies activities via a client bank account. The Board were provided with a list of these changes as part of the June 2024 update.

The comment period for the exposure draft closed on 7 May 2024, and NZRB were expected to consider approving the revised standard at either their July or September 2024 Board Meeting. However, APESB Technical Staff note that the deliberation on the revised PS-2 by the NZRB is now expected to occur at their meeting on 20 November 2024.

Limited Assurance Engagement is required for co-authorised client banking transactions

When APESB issued the first version of APES 310 in 2010, it required members to comply with the audit requirements of APES 310. This applied consistently to Trust Accounts and Client Bank Accounts.

In the 2018 revision of APES 310, the professional requirements relating to trust accounts and client bank accounts were separated into discrete sections in the Standard. During the exposure draft due process, a respondent requested relief from the reasonable assurance engagement for Members in Public Practice who do not maintain a trust account and can only co-authorise client transactions in conjunction with a client. The example provided at the time was in response to requests from part-time bookkeepers who would have to have a reasonable assurance engagement performed.

The Board noted the request and agreed to include a provision in APES 310 that allows a limited assurance engagement to be performed to satisfy the assurance requirements in the standard in circumstances where Members in Public Practice do not maintain a trust account and can only co-authorise client transactions in conjunction with a client. This exception (in paragraph 7.3) has been in effect from 1 January 2020.

It should be noted that a reasonable assurance engagement must still be performed in situations where a Member in Public Practice:

- maintains a Trust Account;
- maintains a Trust Account and can either solely or in conjunction with the client, authorise transactions in a Client's Bank Account; and
- can solely authorise transactions in a Client's Bank Account.

As part of the due process for ED 04/23, two respondents raised concerns about the requirement in paragraph 7.3 for Members to have a limited Assurance Engagement performed where they have acted as a co-signatory to authorise client transactions. They were of the view that any risks associated with being a co-signatory on client banking transactions could be addressed through other alternatives to a Limited Assurance Engagement, such as:

- requiring the Member in Public Practice to detail the processes for the Firm to address associated risks in their Risk Management Framework, noting this may include an external review at the request of the Client; and
- specific disclosure in the engagement letter of the risks of co-authorised transactions and the responsibilities of the Client to reduce these risks to an acceptable level.

Technical Staff did not recommend any changes to paragraph 7.3 for the respondents' comments as:

- Those Charged with Governance of the client would have determined for commercial or governance reasons that the involvement of the Member in Public Practice is important. If not, the client can authorise the transactions as a sole signatory without the Member's participation in the process.
- An engagement letter does not assure the adequacy and effectiveness of a client's internal controls or the Member's internal processes. It is the view of Technical Staff that disclosure in an engagement letter would not provide an adequate form of protection for Those Charged with Governance of the Client.
- In most cases, the Client may not be in a position to determine whether a review of external transactions co-signed by a Member in Public Practice is necessary, and one Client would not have visibility of activities carried out for other clients.
- Dealing with Client Monies is a critical matter, which, if not performed appropriately, can have a significant impact on the standing and reputation of the accounting profession.

After considering the update, the Board requested further research be undertaken on whether the requirement of a Limited Assurance Engagement is an appropriate safeguard for co-signed client banking transactions.

Technical staff have performed a desktop review to ascertain the monitoring and reporting requirements for dealing with Client Monies. The research highlighted that very few jurisdictions had specific requirements or guidance on situations involving co-signing transactions for a client in their bank account. However, the research highlighted that monitoring and oversight are important considerations when handling Client Monies, whether performed as an internal quality management process or an external/independent assurance engagement. Refer to Agenda Item 13 (a) for further details on the desktop review performed.

Technical Staff did note that the NZRB are proposing additional requirements and guidance in PS 2 *Client Monies* relating to being a signatory on a client bank account. These proposed changes include:

- An acknowledgement that modern banking solutions make it increasingly easy for clients to transact their own money anytime and from anywhere, and there is less imperative for Members in Public Practice to perform traditional Client Monies activities (ED proposed para 2.3A)
- A member in public practice should require two-person authorisation of transactions through a client bank account, where at all possible. (ED proposed para 4.4)
- Requiring the member in public practice to only hold a signing authority on a client bank account for the period that is reasonably necessary. (ED proposed para R4.5)
- Requiring annual monitoring and inspection of client monies activities (including authorising transactions in a client bank account). (ED proposed para R5.2)

Technical staff are of the view that if the proposals in New Zealand are adopted, the requirements across the jurisdictions will be more closely aligned compared to the extant NZ standard.

Technical Staff have also engaged further with the professional bodies in relation to Limited Assurance Engagements.

Technical Staff have sought evidence from CA ANZ to support the comments raised in their submission and at the November 2023 Board Meeting, in particular, statistics on the number of members affected or the number of members who have raised this concern. CA ANZ could not provide specific information but said they had anecdotal evidence as members have consistently reported over many years that they choose to refrain from co-authorising transactions due to the costs associated with the limited assurance required. They are of the view that this could lead to a greater negative impact on the public interest than the benefit derived from the limited assurance of co-authorized transactions.

Technical Staff note this position but are of the view that if a Client requires a Member in Public Practice to be involved in co-authorising a transaction as a control mechanism for their business, then it is appropriate for the Member in Public Practice to charge a fee that reflects the costs (and risks) of providing that service.

Technical Staff also engaged with IPA about the requirement for limited assurance engagements. Their view was that it is important to safeguard Client Bank Account transactions. They do not see a need for changes to APES 310 for this matter at this point in time.

One matter that was noted in the discussions with the Professional Bodies was that a declining number of Members in Public Practice are using Trust Accounts.

Technical Staff have reflected on the position presented by the respondents to ED 04/23 and the subsequent engagement with the professional accounting bodies, and still firmly believe it is appropriate to have requirements relating to accountability for a Member in Public Practice when they are dealing with Client Monies. The purpose of the assurance engagement (reasonable or limited) is to mandate the monitoring and oversight of the handling of Client Monies on a timely basis. The assurance report is addressed to the professional bodies and complements the quality review programme undertaken by those bodies.

Technical Staff are concerned that the removal of the limited assurance requirement will lower existing standards and remove the timely monitoring of the handling of Client Monies. We are of the view this position would not be viewed favourably, especially at a time when the adequacy of the monitoring and oversight in place for the accounting profession is being questioned and examined.

Technical Staff also note that NZRB is proposing changes to their client monies standard that will strengthen the oversight and monitoring of client monies activities, albeit through a quality management system. In paragraph R5.2 of the proposed PS 2, the Member in Public Practice must ensure that an annual inspection of a sample of engagements that includes Client Monies activities for each partner that performs Client Monies engagements is performed.

Based on the above, Technical Staff do not recommend any changes to paragraph 7.3 of APES 310.

Proposed revisions to APES 310

An analysis of the outcome of the due process for [ED 04/23](#) and the key matters raised in the submissions was presented to the Board at the November 2023 Board Meeting. The summary of the key issues is set out in [Agenda Paper 9](#) with the general and specific comment tables set out at agenda items [9\(a\)](#) and [9\(b\)](#), respectively.

To address the matters raised through the exposure draft process, Technical Staff propose the following amendments to the proposed APES 310:

a) *The title of the Trust Account*

Respondents raised a common concern that banks are often unwilling to open accounts with the term "Trust Accounts" for Members in Public Practice. To address this concern Technical Staff have proposed a new requirement be included at paragraph 5.2, which provides an exception to paragraph 5.1 to allow the use of the term 'client account' or similar term instead of 'Trust Account' in the title of the Trust Account.

Technical Staff note this is consistent with the current proposed position in the NZ PS2 Standard, which would expand the terms used for a trust account to allow the use of the terms "trust account" or "client funds" in the title of the account.

b) *Establishing a right of set-off arrangement that complies with APES 310*

Some respondents highlighted the difficulty of opening a bank account that excludes a right of set-off as required by APES 310, recommending that Members open Trust Accounts at a separate financial institution, a solution supported by Technical Staff as essential for protecting client funds and aligning with similar requirements in New Zealand and the UK.

Therefore, Technical Staff proposed the addition of a new paragraph (proposed paragraph 5.5) which states that when a bank does not agree to the terms required in extant APES 310 (i.e., the exclusion of a right of set-off), Members shall open their Trust Account at a Financial Institution where no other firm bank accounts or credit facilities are held.

In addition, Technical Staff have noted editorial and conforming amendments are required to align with the latest version of APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*. These changes relate to the inclusion of the definition of Confidential Information, the capitalisation of that defined term throughout APES 310 and a correction in Appendix 3 to replace the word 'opinion' with 'conclusion.'

Based on the outcome of the exposure draft due process and the additional work performed, Technical Staff have prepared a proposed revised APES 310 for the Board's consideration. A version with marked-up changes from the exposure draft (ED 04/23) is included at Agenda Item 13(b), and a clean version at Agenda Item 13(c). The proposed effective date is 1 April 2025, with early adoption permitted.

Technical Staff have also proposed revisions to the related guidance document, *Trust Account Information Sheet*, for the proposed changes to APES 310. The draft revised document is set out at Agenda Item 13(d).

Technical Staff seek the Board's approval to issue the proposed revised APES 310 and the updated guidance document *Trust Account Information Sheet*.

Small and Medium Practices (SMPs)

Technical Staff believe the proposed revisions for APES 310 provide practical solutions to current challenges faced by SMPs in complying with APES 310. The amendments should assist them in complying with current professional requirements.

Staff Recommendation

The Board, subject to the Board's review comments, approve the issue of:

- (a) the revised APES 310 *Client Monies*, and
- (b) the revised Trust Account Information Sheet.

Materials presented

- Agenda Item 13 (a) Desktop Research – Client Monies monitoring and reporting requirements
- Agenda Item 13 (b) Proposed Revised APES 310 (marked-up)
- Agenda Item 13 (c) Proposed Revised APES 310 (clean)
- Agenda Item 13 (d) Revised Information Sheet on Opening Trust Accounts

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