

# New Auditor Independence Requirements and Client Monies (Trust Accounts)

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# Overview

- Revised APES 110 *Code of Ethics for Professional Accountants*
- APES 310 *Dealing with Client Monies*

***Revised***

***APES 110 Code of Ethics for Professional Accountants***

# Background to the revised Code of Ethics for Professional Accountants

- APES 110 (the Code) is based on the Code of Ethics for Professional Accountants issued by IESBA
- IESBA issued a revised Code in July 2009
- APESB provided input to the IESBA process by completing 3 submissions

# Background to the revised Code of Ethics for Professional Accountants

- APESB reviewed and revised the Code based on four sources of input and public consultations:
  1. IESBA's revisions to its Code
  2. APESB's amendments to revised IESBA Code
  3. APESB's changes to existing Code
  4. APESB's consideration of respondents' comments to APES 110 Exposure Draft
- Operative date 1 July 2011 with early adoption permitted

# IESBA's Revision to its Code

- Three projects undertaken by IESBA

## 1. Independence I

- Auditor independence requirements extended from Listed Entities to audits of all Public Interest Entities (PIEs)
- Mandatory Partner rotation requirements for audits of PIEs
  - Extended from Engagement Partner and Engagement Quality Control Review Partner to all Key Audit Partners i.e.
    - ❖ Engagement Partner
    - ❖ Quality Control Review Partner
    - ❖ Other Partners responsible for key decisions or judgments on the audit engagement

# IESBA's Revision to its Code

- Key Audit Partner rotation required after 7 years and time-out of 2 years
  - ❖ An exemption available where there are only a few people with knowledge & skill to serve as a Key Audit Partner;
  - ❖ Independent regulator has provided an exemption; and
  - ❖ Independent regulator has provided safeguards

# IESBA's Revision to its Code

- Mandatory cooling off period for a Key Audit Partner before joining former Audit Client that is a PIE as a:
  - Director;
  - Officer; or
  - Employee with significant influence over accounting records or financial statements



# IESBA's Revision to its Code

- Cooling off period:
  - Senior or managing Partner = 1 year
  - Key Audit Partner = 1 audit opinion covering 12 months
- New section on Management responsibilities
- New or enhanced provisions dealing with Taxation Services and Corporate Finance Services

# IESBA's Revision to its Code

- Structure of Code changed to enhance clarity and understanding of the Independence requirements for Audit/Reviews and Other Assurance Engagements:
  - Section 290: Audit and Review Engagements of Financial Statements
  - Section 291: Other Assurance Engagements

# IESBA's Revision to its Code

## 2. Independence II

- Additional requirements/guidance on provision of internal audit services to Audit Clients
- Additional requirements/guidance on providing other services to Assurance Clients on a Contingent Fee basis

# IESBA's Revision to its Code

- Relative size of Fees
  - where total fees from a PIE audit client & its related entities exceed 15% of total fees of the Firm for two consecutive years:
    - ❖ Pre-issuance review required ;or
    - ❖ Post-issuance review required and
    - ❖ Must be performed by professional accountant who is not a member of the Firm

# IESBA's Revision to its Code

- Partner compensation and evaluation
  - Evaluation or compensation based on Key Audit Partner's success in selling non-assurance services to audit clients is prohibited (prohibition commences on 1 January 2012)
  - Compensating or evaluating other members of the audit team for selling non-assurance services may also create a threat

# IESBA's Revision to its Code

## 3. Drafting conventions

- Consistent use of following terms throughout the Code:
  - Shall - mandatory requirement
  - Consider - Member required to think about a matter
  - Evaluate - Member to assess and weigh significance of matter
  - Determine - Member to conclude and make a decision

# APESB's amendments to the revised IESBA Code

- Scope & application section added
- Addition of Australian paragraphs with prefix AUST
- Additional defined terms: AASB, Administration, AuASB, AUASB, Auditing and Assurance Standards, Australian Accounting Standards and Member
- Replace “Professional Accountants” with “Members”
- Defined terms in title case

# APESB's amendments to the revised IESBA Code

- Tailored definitions of: Audit Engagement, Engagement Team, Financial Statements, Firm, Member in Public Practice and Review Engagement
- Prohibitions in respect of Accounting, Bookkeeping & Taxation Services provided to Public Interest Entities
  - Provision of accounting and bookkeeping services and preparation of tax calculations for Audit Clients which are Public Interest Entities are prohibited even in emergency situations



# APESB's changes to the existing Code

- Legislative references
  - Legislative references which were incorporated within the existing APES 110 to the Corporations Act 2001 and Privacy Act have been removed
  - Where more stringent independence requirements are imposed by the Corporations Act 2001, a footnoting system to warn readers has been adopted in the revised APES 110

# APESB's consideration of respondents' comments to APES 110 ED

- Inadvertent violations of the Code
  - IESBA Code recognises that inadvertent violations of independence requirements does occur in practice
    - ❖ The revised APES 110 introduces additional mandatory requirements that:
    - ❖ Unless the inadvertent violation of independence is trivial and inconsequential, the Firm must document and discuss the matter with Those Charged with Governance of the entity

# APESB's consideration of respondents' comments to APES 110 ED

- Definition of Public Interest Entity (PIE)
  - Auditor independence requirements extended from listed entities to audits of all Public Interest Entities in the IESBA Code
  - IESBA defines a PIE as:
    - ❖ Listed Entities; and
    - ❖ Entities
      - Defined by regulation or legislation as a Public Interest Entity; or
      - For which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of Listed Entities

# APESB's consideration of respondents' comments to APES 110 ED

- Countries such as New Zealand, Canada and the European Union have proposed or are proposing to capture a broader range of entities, in addition to Listed Entities
- IESBA is encouraging Firms and member bodies to determine whether to treat other entities as PIE's because the entities have a large number and wide range of stakeholders

# APESB's consideration of respondents' comments to APES 110 ED

- APESB has adopted the IESBA definition for the moment and is working on a project to determine what constitutes a Public Interest Entity in the Australian context
- Due to transitional provisions, independence requirements applicable to Public Interest Entities only commence 1/1/2012

# Summary of significant changes

Audit & Assurance Practitioners	All Practitioners
The restrictive Independence requirements extended from Listed Entities to Public Interest Entities	Clarification and revision of the Code through the use of consistent drafting conventions
Rotation requirements extended to Key Audit Partners	Consistent use of Shall to specify a mandatory obligation
Key Audit Partner cooling off period	Addition of Scope & Application section
Splitting existing section 290 into new 290 and 291	AUST paragraphs
Prohibition on provision of tax, bookkeeping & accounting services to PIE that are audit clients even in emergency situations	Additional Australian definitions
Definition of Public Interest Entity	
Professional obligations in respect of inadvertent violations of independence requirements	

# ***APES 310 Dealing with Client Monies***

# APES 310 - Dealing with Client Monies

## Client Bank Accounts (New requirements)

- Means a Client's bank account held with a Financial Institution for which a Member in Public Practice, acting either solely or in conjunction with one or more people, holds a signing authority
- Appropriate records to support the member's transactions
- Appropriate internal controls and procedures
- Where the client receives bank statements, provide details of transactions undertaken by the member within 25 business days
- Where the member receives bank statements, reconcile at least every 25 business days and resolve problems within 5 business days
- Auditor is concerned with member's compliance.



# APES 310 - Dealing with Client Monies

Applicable year end:

- Means a date, which once determined cannot be changed without the approval of the applicable Professional Body
- Existing APS 10 trust accounts already determined it as 31 March
- For new practices - within 12 months of the month-end following the Member in Public Practice opening a Trust Account or the Member obtaining the authority to operate a Client Bank Account
- Audit annually within 3 months.

# APES 310 - Dealing with Client Monies

Delegation of authority:

- Previously to one Member or two others
- Now able to delegate in writing to one of:
  - Another Member in Public Practice;
  - A solicitor holding a current practising certificate;
  - A suitably competent person employed by the Member; or
  - A manager of a branch of a Financial Institution

# APES 310 - Dealing with Client Monies

## Audit requirements:

- Not a financial statement audit
- Compliance audit in accordance with *ASAE 3100 Compliance Engagements*
- auditor independence requirements apply
- An Auditor of Client Monies shall not undertake an audit of another Member in Public Practice's compliance with this Standard in circumstances where there are threats to the independence of the Auditor as a result of a past, existing or proposed relationships.
- Must hold a CPP from one of the Professional Bodies.
- A completely revised and updated audit opinion is provided in APES 310

# APES 310 - Dealing with Client Monies

Other changes in requirements:

- Illegal activities
- Documentation of deposits
- Timing requirements re deposit, withdrawal and document retention.

# APES 310 - Dealing with Client Monies

Key issues:

- Outsourcing the trust account function
- Insolvency practitioners – no client relationship in formal insolvencies.
- Queensland – Trust Accounts Act 1973.

# APES 310 - Dealing with Client Monies

Outsourcing the trust account function:

- Does not remove the requirement for an audit under APES 310
- Definition of 'personnel' includes agents and contractors
- Would expect the auditor to adjust their audit program to accommodate the use of a service provider.

# APES 310 - Dealing with Client Monies

Insolvency practitioners:

- No client relationship in formal Appointments thus APES 310 will not apply
- APES 310 will apply in respect of engagements that are not Appointments.

# APES 310 - Dealing with Client Monies

## Queensland – Trust Accounts Act 1973

- 31 March year end
- By 14 April, a declaration (witnessed by a Justice of the Peace) stating the largest total amount of monies held in their trust account on any given day during the financial year ending 31 March
- By 14 April, lodgement of a financial security based upon the above declaration to the value of one third or \$10,000, whichever is the lesser
- No later than 31 May, an independent auditor's report
- Scope of audit.



# Questions?

For more information visit:

[www.apesb.org.au](http://www.apesb.org.au)

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