



Annual Review of APES 310 *Dealing with Client Monies*

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Background to Standard

Accounting Professional and Ethical Standards Board (APESB) issued APES 310 *Dealing with Client Monies* (APES 310 or the Standard) in December 2010 with an effective date of 1 July 2011, and the revised Standard in July 2013 with an effective date of 1 October 2013.

Reason for this report

In accordance with APESB's constitution, a review should be performed on an annual basis after a new standard is effective in order to identify any issues reported by stakeholders. This report presents a review of the issues either reported to APESB or identified by an internal technical review and the proposed recommendations to address those identified issues.

Review of Issues

1. Reference to Standard on Assurance Engagements *ASAE 3100 Compliance Engagements*

Issue

A stakeholder suggested that APES 310 should specifically refer to *ASAE 3100 Compliance Engagements* (ASAE 3100) in Part B *Professional obligations of an auditor of a Member in Public Practice's compliance with this Standard*.

Analysis of Issue

The existing APES 310 requires a Member in Public Practice who acts as an Auditor of Client Monies to perform the audit in accordance with Auditing and Assurance Standards. This issue was discussed with the Senior Technical Manager of the AUASB, who stated that during the course of the audit it is possible that the Auditor may be required to refer to Auditing and Assurance Standards other than ASAE 3100 and thus the existing all-encompassing approach is preferred rather than a reference to one standard.

Impacted Stakeholders

Members in Public Practice, Firms and Professional Bodies.

Recommendation

Due to the comments noted above, no changes are proposed in respect of APES 310.

2. Examples of exceptions in respect of qualified audit opinions

Issue

A stakeholder noted that the proforma audit report in Appendix 1 of APES 310 does not provide examples of exceptions that could lead to a qualified audit opinion, and that it would be beneficial if examples of exceptions were provided.

Analysis of Issue

Exceptions which could lead to qualified audit opinions may arise due a wide variety of reasons in compliance engagements and to select only a few for inclusion in the proforma audit report may inadvertently place limitations on aspects upon which a Member in Public Practice can qualify his or her opinion. It is through member education and training that Members in Public Practice can be provided with examples of circumstances in which they may issue qualified audit opinions in respect of these compliance engagements. It should be noted that AUASB's ASAE 3100 also does not provide examples of exceptions.

Impacted Stakeholders

Members in Public Practice, Firms and Professional Bodies.

Recommendation

Due to the comments noted above, no changes are proposed in respect of APES 310.

3. Difficulties faced by Members when opening a Trust Account

Issue

A stakeholder noted that some Members had experienced difficulties in opening a Trust Account with the term 'Trust Account' in the title with their banks and were therefore unable to comply with the requirements of paragraph 5.1 of the Standard.

Analysis of Issue

The Australian Bankers Association (ABA) was consulted during the development process of APES 310 and the issues raised and recommendations provided by them were incorporated into the Standard. Whilst there are some challenges that Members need to overcome in opening Trust accounts, it is not considered impossible. The requirement to open a Trust Account to hold monies received in trust noted in paragraph 5.1 of APES 310 is not a new requirement and existed in the previous APS 10 *Trust Accounts* which was originally issued in 1997.

Impacted Stakeholders

Members in Public Practice, Firms and Professional Bodies.

Recommendation

No changes are proposed in respect of the requirements to open a Trust Account in paragraph 5.1 of APES 310. This issue will continue to be monitored.

4. Difficulties with the interpretation of the term 'Client' in the context of Client Bank Accounts

Issue

A stakeholder noted that the Standard uses the term 'Client' (rather than 'Clients') which may imply that a Member would need multiple Client Bank Accounts (one for each Client) rather than one account for all of their Client transactions in a manner similar to a Trust Account.

Analysis of Issue

Whilst transactions in 'trust' can be aggregated into one Trust Account, a Client Bank Account cannot operate in the same manner as it is a specific authority given by a Client to an accountant to operate that Client's bank account. Client Bank Account is defined in the Standard to mean 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.

Impacted Stakeholders

Members in Public Practice, Firms and Professional Bodies.

Recommendation

The above explanation should be sufficient to clarify matters and no amendments are proposed in respect of APES 310.

5. Time period for the disbursement of Client Monies

Issue

A stakeholder raised concern over the requirement in paragraph 6.10 of APES 310 to disburse Client Monies within 3 Business Days of receipt of instructions.

Analysis of Issue

Paragraph 6.10 requires a Member in Public Practice to disburse Client Monies within 3 Business Days of receipt of instructions in respect of the disbursement or in accordance with the Terms of Engagement. The receipt of instructions is typically obtained at the time of agreeing to the Terms of Engagement. For example, at the time of being engaged to prepare a tax return, the tax agent and the Client typically agree that a tax refund will be banked into the agent's Trust Account, a fee will be deducted and the balance will be transferred to the Client. In this instance, the receipt of instructions as a trigger for the 3 Business Days period is ineffective since it takes more than 3 Business Days before the funds are deposited in the Trust Account.

The stakeholder noted the following minimum requirements for a disbursement of funds to occur:

Receipt of the funds:

1. Receipt of information that permits identification of the funds to allow matching with the Client and to confirm that the correct amount has been received; and
2. Receipt of instructions from the Client in relation to the disbursement.

The time taken to satisfy the above requirements is normally in excess of 3 Business Days. Accordingly the stakeholder suggested that the 3 Business Days should be calculated from the point at which all relevant information is available to the Firm to make a disbursement. Hence, the stakeholder proposed that paragraph 6.10 should be reworded to remove the 'receipt of instructions' as the sole trigger for the 3 Business Days period.

APESB Technical Staff have drafted the following proposed amendments to address this issue:

6.10 When a Member in Public Practice has received funds and all of the required information to make a disbursement, the Member shall disburse Client Monies within 3 Business Days or in accordance with the Terms of Engagement.

6.11 The required information referred to in paragraph 6.10 may include, but are not limited to, receipt of information that permits identification of the funds to a particular Client and receipt of instructions from the Client in relation to the disbursement.

Impacted Stakeholders

Members in Public Practice, Firms and Professional Bodies.

Recommendation

It is recommended that in the manner described above, the existing paragraph 6.10 should be redrafted and a new paragraph 6.11 considered for inclusion when APES 310 is revised next.

6. Defined terms

Issue

The technical review identified that the Definitions section of APES 310 needs to be revised.

Analysis of Issue

The Definitions section in APES 310 requires revision due to amendments made to the IESBA's Code and subsequent changes made by APESB to APES 110 *Code of Ethics for Professional Accountants*.

Definitions to be revised

Auditing and Assurance Standards means:

- ~~(a)~~ the AUASB standards, as described in ASA 100 *Preamble to AUASB Standards*, ASA 101 *Preamble to Australian Auditing Standards* and the *Foreword to AUASB Pronouncements*, issued by the AUASB, and operative from the date specified in each standard; and
- ~~(b)~~ those standards issued by the AuASB which have not yet been revised and reissued (whether as standards or as guidance) by the AUASB, to the extent that they are not inconsistent with the AUASB standards.

Client means an individual, firm, entity or organisation to whom or to which Professional ~~Services~~ Activities are provided by a Member in Public Practice in respect of eEngagements of either a recurring or demand nature.

Member in Public Practice means a Member, irrespective of functional classification (e.g. audit, tax or consulting) in a Firm that provides Professional Services. ~~This~~ The term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable Professional Body.

Professional Services means ~~services requiring accountancy or related skills performed by a Member in Public Practice including accounting, auditing, taxation, management consulting and financial management services~~ Professional Activities performed for Clients.

Terms of Engagement means the terms and conditions that are agreed between the Client and the Member in Public Practice for the eEngagement.

Definitions to be added

Audit Engagement means a reasonable Assurance Engagement in which a Member in Public Practice expresses an opinion whether Financial Statements are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects.), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with Auditing and Assurance Standards. This includes a statutory audit, which is an audit required by legislation or other regulation.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Subsequent to the revision of the Definitions section, consequential editorial amendments may also be required to APES 310.

Impacted Stakeholders

Members in Public Practice, Firms and Professional Bodies.

Recommendation

The defined terms in APES 310 should be revised in a manner consistent with the Code and other APESB standards. It is recommended that these changes and any other consequential amendments be processed at the next revision of APES 310.