

13 December 2019

### **APESB issues revised APES 230 *Financial Planning Services***

Accounting Professional & Ethical Standards Board Limited (APESB) today announced the issue of the revised APES 230 *Financial Planning Services* (APES 230) to replace the existing APES 230 (Issued April 2013).

The key changes in the revised APES 230 consist of:

- Revisions to reflect the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*, issued in November 2018;
- A change from a biennial to annual requirement to obtain written consent to continue to charge and collect fees on a percentage basis; and
- Removal of Section 12 *Transitional provisions* as all provisions of APES 230 are now in effect.

Please refer to Appendix 1 of this technical update for details of all the revisions. The revised APES 230 will be effective from 1 July 2020. Earlier adoption of this standard is permitted.

APESB has incorporated the following interactive PDF features within the revised APES 230:

- Bookmark tab section for contents page;
- Dynamic links to sections and paragraphs;
- Pop-up definitions upon mouse rollover for defined terms; and
- Links to external websites.

The revised standard is available from APESB's website: [www.apesb.org.au](http://www.apesb.org.au)

– ENDS –

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## Appendix 1

### Revision to APES 230 (Issued April 2013)

Accounting Professional & Ethical Standards Board Limited (APESB) has approved the following revisions to APES 230 *Financial Planning Services* which was originally issued in April 2013 (extant APES 230).

Paragraph Reference	Revisions
1.1	<p>The objectives of APES 230 <i>Financial Planning Services</i> are to specify a Member's professional and ethical obligations in respect of:</p> <ul style="list-style-type: none"> <li>• fundamental responsibilities when the Member performs a Financial Planning Service for a Client or employer;</li> <li>• compliance with applicable Professional Independence requirements;</li> <li>• terms of the engagement;</li> <li>• the basis and reporting of Financial Planning Advice;</li> <li>• remuneration of the Member including professional fees, Third Party Payments and Soft Dollar Benefits; and</li> <li>• documentation and quality control.</li> </ul>
1.24	<p>Accounting Professional &amp; Ethical Standards Board Limited (APESB) issues has revised professional standard APES 230 <i>Financial Planning Services</i> (<b>the Standard</b>), which, apart from the transitional provisions in paragraph 12, is effective from 1 July 2014 2020. This Standard and supersedes <del>APS 12 Statement of Financial Advisory Services</del> APES 230 issued in April 2013. Earlier adoption of this Standard is permitted.</p>
1.32	<p>APES 230 sets the standards for Members in the provision of quality and ethical Financial Planning Services. The mandatory requirements of this Standard are in <b>bold-type (black lettering)</b>, preceded or followed by discussion or explanations in normal type (<del>grey lettering</del>). APES 230 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply.</p>
1.43	<p><i>[Paragraph 1.3 of extant APES 230 remains unchanged, but has been renumbered as paragraph 1.4].</i></p>
1.54	<p><b>Members practising outside of Australia shall follow the mandatory requirements of APES 230 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.</b></p>
1.65	<p><b>Members shall <del>be familiar</del> comply with relevant other applicable Professional Standards and <del>be familiar with relevant</del> guidance notes when providing professional services Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.</b></p>
1.76	<p><i>[Paragraph 1.6 of extant APES 230 remains unchanged, but has been renumbered as paragraph 1.7].</i></p>
1.87	<p>All references to Professional Standards, guidance notes and legislation are references to those provisions as amended from time to time.</p>
1.98	<p>In applying the requirements outlined in APES 230, Members should be guided not merely by the words but also by the spirit of <del>the</del> <u>this</u> Standard and the Code.</p>

Paragraph Reference	Revisions
1.10	<u>In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.</u>
2	<u>Defined terms are shown in the body of the Standard in title case.</u> For the purpose of this Standard:
2	<del><b>Acceptable Level</b> means a level at which a Member using the reasonable and informed third party test would be likely to conclude, weighing all the specific facts and circumstances available to that the Member at that time, that compliance</del> <u>complies</u> with the fundamental principles <del>is not compromised.</del>
2	<b>Australian Credit Licence (ACL)</b> means a licence that authorises the licensee to engage in particular credit activities as defined in the <i>National Consumer Credit Protection Act 2009</i> .
2	<b>Australian Financial Services Licence (AFSL)</b> means a licence to provide financial services under Chapter 7 of the <i>Corporations Act 2001</i> .
2	<b>Australian Financial Services Licensee</b> means a person or entity who holds an Australian Financial Services Licence (AFSL).
2	<del><b>Client</b> for the purposes of this Standard</del> means a natural person (whether the person operates as a sole trader or through a partnership, corporation or trust which the person controls) to whom <u>or to which</u> Financial Planning Services are provided by a Member <u>in respect of engagements of either a recurring or demand nature.</u>
2	<b>Code</b> means APES 110 <i>Code of Ethics for Professional Accountants (including Independence Standards)</i> .
2	<b>Commissions</b> means all monetary amounts received by a Member or Firm other than from a Client in respect of the placement or retention of the Client's funds or purchases or sales of financial or risk products. Commissions includes trailing commissions and income and amounts received from an Australian Financial Services Licensee, product provider or other party.
2	<b>Financial Planning Advice</b> means advice in respect of a Client's personal financial affairs specifically related to wealth management, retirement planning, estate planning, risk management and related advice, including:  (a) advice on financial products such as shares, managed funds, superannuation, master funds, wrap accounts, margin lending facilities and life insurance carried out pursuant to an Australian Financial Services Licence (AFSL);  (b) advice and dealing in financial products as defined in section 766C of the <i>Corporations Act 2001</i> ;  (c) advice and services related to the procurement of loans and other borrowing arrangements, including credit activities provided pursuant to an Australian Credit Licence (ACL); and  (d) other advice such as taxation, real estate and non-product related advice on financial strategies or structures provided as part of the advice under (a) – (c).

Paragraph Reference	Revisions
2	<b>Financial Services and Credit Guide</b> means a <del>f</del> Financial <del>s</del> Services <del>g</del> Guide combined with a credit guide in a single document as defined in the <i>Corporations Act 2001</i> .
2	<b>Firm</b> means: (a) A sole practitioner, partnership, corporation or other entity of professional accountants; (b) An entity that controls such parties, through ownership, management or other means; (c) An entity controlled by such parties, through ownership, management or other means; or (d) An Auditor-General's office or department.
2	<b>Member</b> means a <del>M</del> member of a Professional Body that has adopted this Standard as applicable to their membership, as defined by that Professional Body.
2	<b>Member in Business</b> means a Member <del>employed or engaged</del> <u>working in an executive or non-executive capacity in such areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory bodies or professional bodies, or a Member contracted by such entities who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer.</u>
2	<b>Member in Public Practice</b> means a Member, irrespective of functional classification ( <del>e.g. for example,</del> audit, tax or consulting) in a Firm that provides <del>p</del> Professional <del>s</del> Services. <del>The</del> <u>This</u> term is also used to refer to a Firm of Members in Public Practice and means a practice entity <u>and a participant in that practice entity</u> as defined by the applicable Professional Body.
2	<b>Professional Activity</b> means <u>an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, tax, management consulting, and financial management.</u>
2	<b>Professional Bodies</b> means <del>the Institute of Chartered Accountants in Australia and New Zealand,</del> CPA Australia and the Institute of Public Accountants.
2	<b>Professional Independence</b> means <u>comprises:</u> (a) Independence of mind - the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, <u>thereby</u> allowing an individual to act with integrity, and exercise objectivity and professional scepticism; <del>and</del> . (b) Independence in appearance - the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, <del>weighing all the specific facts and circumstances,</del> that a Firm's, or a Member of the <u>an</u> engagement team's <u>member's</u> , integrity, objectivity or professional scepticism has been compromised.
<u>2</u>	<b>Professional Services</b> means <u>Professional Activities performed for Clients.</u>
2	<b>Professional Standards</b> means all standards issued by <del>the</del> Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable Professional Body.

Paragraph Reference	Revisions
2	<b><i>Third Party Payments</i></b> means all amounts received by a Member from parties other than the Client to whom a Financial Planning Service is provided as a result of providing that service. Third Party Payments include Commissions, production bonuses, remuneration based on sales volumes, remuneration benefits received for the sale of in-house financial products or other like payments from financial product providers. Third Party Payments excludes non-recurring fixed referral fees received by a Member as a result of referring a Client to another service/product provider provided that they are not Commissions and are disclosed to the Client by the Member.
2	<b><u>Writing</u></b> means a mode of representing or reproducing words in a visible form and includes words in an electronic format capable of being converted to printed text.
3.1	<b>A Member providing a Financial Planning Service shall comply with <del>Section 100 Introduction and Fundamental Principles Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework</del> of the Code and relevant laws and regulations.</b>
3.2	<b><del>In acting in the public interest accordance with Section 100 Complying with the Code of the Code,</del> a Member shall observe and comply with the Code <u>Member's public interest obligations</u> when the Member provides <u>providing</u> a Financial Planning Service.</b>
3.3	<b>A Member providing a Financial Planning Service shall comply with <del>Subsection 110 111</del> <u>Integrity</u> of the Code.</b>
3.4	<b>A Member providing a Financial Planning Service shall be objective in accordance with <del>Subsection 120 112</del> <u>Objectivity</u> of the Code.</b>
3.5	<b>A Member in Public Practice shall comply with <del>Section 220 310 Conflicts of Interest and Section 280 Objectivity – All Services</del> of the Code.</b>
3.7	<b>A Member providing a Financial Planning Service shall maintain professional competence, take due care and act in a timely manner in the performance of the Member's work in accordance with <del>Subsection 130 113</del> <u>Professional Competence and Due Care</u> of the Code.</b>
3.8	<b>Where a Financial Planning Service requires the consideration of matters that are outside the professional expertise of a Member, the Member shall seek expert assistance or advice from a suitably qualified third party, or decline to provide the service. Where the Member relies on the advice of a third party, the Member shall disclose in any reports, or other relevant communications, the name and qualifications of the third party and the areas in which third party advice has been obtained.</b>
3.9	<b>When planning to use the work of a suitably qualified third party, a Member shall assess the professional competence and objectivity of that third party, document the terms of engagement of the third party, and assess the appropriateness and reasonableness of the work performed and the fees charged.</b>
3.11	<b><del>In accordance with Section 140 Confidentiality of the Code,</del> a <u>A</u> Member who acquires confidential information in the course of a Financial Planning Service shall <del>not use that information for any purpose other than the proper performance of that service</del> <u>comply with Subsection 114 Confidentiality</u> of the Code.</b>

Paragraph Reference	Revisions
3.12	<b>Unless a Member has a legal, <u>regulatory or professional</u> obligation of disclosure, the Member shall not convey any information relating to a Client's affairs to a third party without the Client's permission.</b>
3.13	For the purposes of paragraph 3.12, an Australian Financial Service Licensee or Australian <del>C</del> redit <del>L</del> icensee whom the Member represents is not considered to be a third party.
3.14	Where a Client has given a Member permission to disclose confidential information to a third party, it is preferable that this permission is in <del>w</del> Writing. Where oral permission is obtained, a contemporaneous note should be made and kept on file by the Member recording the relevant details of the Client's approval.
3.15	<b>Where a Member provides confidential information in accordance with a legal, <u>regulatory or professional</u> obligation of disclosure, the Member shall notify the Client, or relevant third party as soon as practicable, provided that there is no legal prohibition against such notification.</b>
3.16	An example of confidential information that may in certain circumstances be required or authorised by law to be disclosed is the reporting of suspected money laundering activities to AUSTRAC in accordance with the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> ( <i>Cth</i> ).
3.17	<b>A Member in Public Practice who is approached by a potential Client to undertake a Financial Planning Service shall comply with Section <del>240</del> <u>320 Professional Appointments</u> of the Code.</b>
3.18	<b>A Member in Public Practice who provides Financial Planning Services shall comply with <del>Subsection 250 Marketing Professional Services</del> <u>115 Professional Behaviour</u> of the Code.</b>
4.1	<b>When engaged to provide a Financial Planning Service, a Member shall comply with Professional Independence as defined in this Standard and, where applicable, shall comply with the independence requirements contained in laws or regulations, such as the <i>Corporations Act 2001</i>.</b>
5.2	<p><b>Before commencing a Financial Planning Service, a Member shall disclose <del>in a written form</del> to a Client or a prospective Client the following terms of engagement <u>in Writing</u>, and obtain the Client's <del>written agreement</del> <u>in Writing</u> to such terms:</b></p> <ul style="list-style-type: none"> <li><b>(a) the identity of the person or the entity responsible for providing the Financial Planning Service;</b></li> <li><b>(b) the nature and scope of Financial Planning Services to be provided or offered including any limitations of scope;</b></li> <li><b>(c) significant factors that affect or may affect the Member's ability to provide the Financial Planning Service to the Client on an objective and independent basis;</b></li> <li><b>(d) the details of the professional fees, including the basis on which the fees are determined and the services covered by the fees;</b></li> <li><b>(e) information about any actual, potential or perceived conflicts of interest that have the potential to affect the Member's ability to act in the Best Interests of the Client;</b></li> <li><b>(f) where the Member has adopted safeguards to eliminate or</b></li> </ul>

Paragraph Reference	Revisions
	<p>reduce to an Acceptable Level any identified conflicts of interest or other threats to the Member's ability to comply with the fundamental principles of the Code, information about the nature of those safeguards and an explanation of the reasons why the Member considers those safeguards to be effective;</p> <p>(g) the need for the Member to obtain the Client's <del>written</del> Informed Consent <u>in Writing</u>, where the Member is to be remunerated for a Financial Planning Service in accordance with paragraphs 8.2(b) or 9.2(b); and</p> <p>(h) information about the nature and extent of any interests, associations or relationships, including family, contractual or agency relationships, whether of a financial nature or otherwise, that have the potential to affect the Member's ability to act in the Best Interests of the Client.</p>
6.4	<p>A Member who is providing Financial Planning Advice shall inform the Client of all significant assumptions and their sensitivities that are reasonably expected to impact upon the Financial Planning Advice. The Member shall agree with the Client, to the extent practicable, all significant assumptions and their sensitivities that impact upon the advice taking into consideration the Client's relevant circumstances. The Member shall document the significant assumptions used to prepare the advice.</p>
6.8	<p>Subject to the terms of engagement and the scope of work, a Member in Public Practice who provides Financial Planning Advice shall report <del>in a written form</del> to the Client <u>in Writing</u>:</p> <p>(a) the name of the party engaging the Member;</p> <p>(b) the date of the report;</p> <p>(c) the purpose of the Financial Planning Advice;</p> <p>(d) the name and qualifications of the Member(s) responsible for the Financial Planning Advice;</p> <p>(e) the scope of the Financial Planning Advice, including any limitations or restrictions;</p> <p>(f) the basis of the Financial Planning Advice, including all significant assumptions on which the Financial Planning Advice is based;</p> <p>(g) the specific information on which the Member has relied and the extent to which it has been reviewed by the Member;</p> <p>(h) the reasons why the Financial Planning Advice is considered to be in the Best Interests of the Client;</p> <p>(i) the amount of the fee received or receivable by the Member, either from the Client or a third party, for the Financial Planning Advice; and</p> <p>(j) that the Financial Planning Advice was provided in accordance with this Standard.</p>
7.1	<p>A Member in Public Practice who holds, receives or disburses Client monies, or operates a Client's bank account(s) shall comply with APES 310 <del>Dealing with Client Monies</del>.</p>
7.2	<p>A Member in Business who holds, receives or disburses Client monies, or operates a Client's bank account(s) should comply with Part A of APES 310 <del>Dealing with Client Monies</del> to the extent practicable.</p>

Paragraph Reference	Revisions
<u>7.5</u>	<b><u>A Member who encounters or becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations when providing Financial Planning Services shall comply with Section 260 Responding to Non-Compliance with Laws and Regulations (for Members in Business) or Section 360 Responding to Non-Compliance with Laws and Regulations (for Members in Public Practice) of the Code.</u></b>
8.2	<p>Where a Member in Public Practice provides a Financial Planning Service to a Client, the Member shall eliminate or reduce to an Acceptable Level the threats to the fundamental principles of the Code described in paragraph 8.1 by either:</p> <ul style="list-style-type: none"> <li>(a) the Member charging a professional fee on a Fee for Service basis; or</li> <li>(b) where the Member charges a professional fee solely determined or based on a percentage of the value of the Client's assets or funds under management<sup>1</sup>, the Member; <ul style="list-style-type: none"> <li>(i) obtaining, prior to the commencement of the Financial Planning Service, <del>written</del> Informed Consent <u>in Writing</u> from the Client to charge and collect the professional fee on a percentage basis;</li> <li>(ii) disclosing on an annual basis to the Client the amount collected for the Financial Planning Service and providing an explanation for any significant variation from previously advised fees; and</li> <li>(iii) obtaining thereafter on <del>at least a biennial</del> <u>an annual</u> basis <del>written</del> consent <u>in Writing</u> from the Client to continue to charge and collect the professional fee on a percentage basis.</li> </ul> </li> </ul>
8.4	<p>If a Member in Public Practice proposes to make a material change to the basis upon which the Member charges professional fees, the Member shall notify the Client and obtain the Client's <del>written</del> consent <u>in Writing</u> to the amended terms in accordance with APES 305 <i>Terms of Engagement</i>.</p>
9.2	<p>Where a Member in Public Practice provides a Financial Planning Service to a Client, the Member shall eliminate or reduce to an Acceptable Level the threats to the fundamental principles of the Code described in paragraph 9.1 by either:</p> <ul style="list-style-type: none"> <li>(a) the Member charging a professional fee on a Fee for Service basis; or</li> <li>(b) where the Member is to be remunerated by Third Party Payments<sup>2</sup>, the Member; <ul style="list-style-type: none"> <li>(i) obtaining, prior to the commencement of the Financial Planning Service, <del>written</del> Informed Consent <u>in Writing</u> from the Client for the receipt of these Third Party Payments;</li> <li>(ii) disclosing to the Client three comparative quotes, where available, in respect of Financial Planning Advice on new contracts for life insurance and other risk products and the procurement of new loans;</li> <li>(iii) disclosing on an annual basis to the Client the amount or estimated amount of Third Party Payments to be received for the Financial Planning Service;</li> <li>(iv) disclosing on an annual basis to the Client the amount of</li> </ul> </li> </ul>



Paragraph Reference	Revisions
	<p>the Third Party Payments received for the Financial Planning Service; and</p> <p>(v) where applicable, disclosing to the Client the impact of any proposed changes to existing life insurance, other risk contracts and loans including the impact on Third Party Payments received or receivable by the Member as a result of recommending changes to these contracts and loans.</p>
9.5	With the Client's knowledge and agreement, a Member in Public Practice may accept a payment of all or part of the professional fee for Financial Planning Services provided to the Client from a party associated with the Client. Such parties may include family members and associated entities.
10.1	<p>The receipt by a Member in Public Practice of Soft Dollar Benefits in respect of a Financial Planning Service creates threats of self-interest and/or advocacy which impact on the Member's ability to comply with the following fundamental principles of the Code:</p> <ul style="list-style-type: none"> <li>• Integrity;</li> <li>• Objectivity; and</li> <li>• Professional competence and due care.</li> </ul>
10.3	<i>[Paragraph 10.3 contains editorial amendments to replace the bullet point listing in the extant standard with an alpha listing]</i>
11.1	<p><b>A Member shall prepare working papers in accordance with this Standard that document the work performed, including aspects of the Financial Planning Services that have been provided in wWriting. The documentation prepared by the Member shall:</b></p> <p><b>(a) provide a sufficient and appropriate record of the procedures performed for the Financial Planning Services;</b></p> <p><b>(b) evidence that the work undertaken provides a reasonable basis for the Financial Planning Advice, including any recommendations accompanying the Financial Planning Advice;</b></p> <p><b>(c) demonstrate that the Financial Planning Services were carried out in accordance with this Standard and other applicable Professional Standards, and ethical, legal and regulatory requirements; and</b></p> <p><b>(d) evidence all relevant information concerning the Member's professional relationship with the Client, including:</b></p> <p style="padding-left: 20px;"><b>(i) sufficient information to evidence that the Member has acted in the Best Interests of the Client; and</b></p> <p style="padding-left: 20px;"><b>(ii) information about how the Member has disclosed and addressed any threats or conflicts of interest arising in the course of the Client relationship or the Financial Planning Services.</b></p>
<del>12.</del>	<del>Transitional provisions</del>
12.1	<del>The requirements of paragraphs 8 and 9 in respect of professional fees and Third Party Payments are effective from 1 July 2015.</del>
Appendix 1	<b>Summary of revisions to the previous APES 230 (Issued in April 2013) – Added</b>