

ACCOUNTING PROFESSIONAL & ETHICAL STANDARDS BOARD LIMITED

**APES 230 Financial Planning Services
3rd Taskforce Meeting, 2019**

MINUTES

**28 October 2019, Monday
4.00 p.m. – 4.50 p.m.**

Teleconference

1. Present and Apologies

Present:

Mr Channa Wijesinghe (Chairman), Ms Suzanne Haddan, Mr Robert Brown, Ms Vicki Stylianou, Mr Richard Webb, Ms Andrea Manson and Ms Bronny Speed (from 4.25pm).

Apologies

Ms Keddie Waller

In Attendance:

Ms Claire Mackay (Board Member), Ms Jacinta Hanrahan and Mr Jon Reid.

2. Proposed revisions to APES 230

The Chairman thanked taskforce members for their time and attendance. The Chairman outlined the purpose of the meeting was to consider the Draft CP 01/19 Consultation Paper: Review of APES 230 *Financial Planning Services* (Consultation Paper).

Analysis of the Government's Financial Services Royal Commission Road Map and APES 230

The Taskforce considered the analysis undertaken by Technical Staff on the Government's *Financial Services Royal Commission Implementation Road Map* and APES 230. The Taskforce noted that the analysis was comprehensive and had picked up all relevant issues. The Taskforce agreed to provide any further feedback on this analysis by 5 November 2019.

Draft CP 01/19 Consultation Paper: Review of APES 230 Financial Planning Services

Background and Commentary

The Taskforce considered the Draft Consultation Paper. The Taskforce discussed the history of APES 230 and its predecessor APS 12, which was issued in 2005. It was noted that APS 12 included guidance that financial planning advice should be on a fee for service basis, that APES 230 went through two separate Exposure Drafts before it was issued in 2013 with a preference for fees for service. The Taskforce also noted the significant developments in the industry including the Financial Services Royal Commission and establishment of the Financial Adviser Standards and Ethics Authority (FASEA).

The Taskforce agreed that the Consultation Paper should include further background and a greater focus on the journey of APES 230, including a timeline of its evolution and developments in the

financial services industry. The Taskforce also agreed that additional details about the objectives of APES 230 should be included in the Consultation Paper.

The Taskforce discussed the Fee for Service section in the Draft Consultation Paper. The Taskforce agreed that the discussion about Fee for Service in the Consultation Paper should:

- Refer to the history and development of APES 230, as this was the preferred approach in APS 12 and APES 230.
- Highlight that other developments, such as the misconduct identified by the Financial Services Royal Commission, abolition of grandfathered commissions, and proposed mortgage broking legislation, are trending towards a Fee for Service basis.
- Note the commencement of the FASEA Code on 1 January 2020, the FASEA Code Guidance issued on 18 October 2019 and the differences between standards 3 and 7 of the FASEA Code.

Proposed Questions in the Draft APES 230 Consultation Paper

The Taskforce considered the questions in the Draft Consultation Paper. The Taskforce agreed to include an additional question in respect of the definition of financial planning advice and the scope of APES 230 which not only captures services provided under an Australian Financial Services Licence but also services under an Australian Credit Licence and including direct property advice.

The Taskforce agreed to provide Technical Staff any additional feedback or questions for the APES 230 Consultation Paper by 5 November 2019.

Proposed Consultation Period to 1 March 2020

The Taskforce discussed the proposed consultation period for the APES 230 Consultation Paper being from late November 2019 to 1 March 2020, which allowed in excess of 3 months for stakeholder consultation, noting this includes the Christmas and New Year period.

No concerns were raised, however, Taskforce members agreed to notify Technical Staff by 5 November 2019 if they had any concerns regarding the proposed consultation period.

FASEA Code and Guidance

The Taskforce discussed the FASEA Code and the Guidance on the FASEA Code released on 18 October 2019, including in relation to standards 3 and 7 of the FASEA Code and examples included in the Guidance.

The Taskforce agreed that if APES 230 only allowed fee for service it would assist members to clarify their obligations. The Taskforce discussed the importance of any ban on commissions being cognisant of existing client arrangements/policies as ending such arrangements/policies may not be in the client's best interests, so mechanisms are required to enable commissions to be rebated.

The professional bodies noted they are currently consulting with their members on the application of the FASEA Code and would provide any relevant feedback to Technical Staff by mid November 2019.

3. Other matters for consideration

The Taskforce discussed the APES 230 consultation process on the basis that the consultation period ends on 1 March 2020, which would likely consist of:

- Technical Staff to analyse stakeholder comments during March 2020;
- Taskforce meeting to be convened possibly in third week of March 2020;

- Potentially subsequent Taskforce meetings held in April and/or May 2020; and
- APES 230 Exposure Draft to be taken to the June 2020 Board meeting for approval.

The Taskforce discussed the Treasury meeting held that day on the proposed FASEA Code monitoring body. The Taskforce noted that a consultation process will be undertaken with an exposure draft expected to be issued by mid 2020 with revised legislation in place by the end of 2020. The Taskforce agreed to monitor these developments closely.

The Taskforce also discussed the current focus of the government on deregulation and the review of the Tax Practitioners Board (in relation to the effectiveness of the relevant legislative and governance framework). The findings of this review are due on 31 October 2019. Treasury are also planning to consult on the proposed Compensation Scheme of Last Resort before the end of this year, with outcomes to be implemented in the next 12 months, but may be dated back to the start of the Australian Financial Complaints Authority (AFCA).

4. Way forward

The Taskforce agreed to the following way forward:

- Taskforce members to provide to Technical Staff by 5 November 2019 details of any:
 - additional feedback on the analysis of the Government's *Financial Services Royal Commission Implementation Road Map* and APES 230;
 - additional feedback or questions for the Consultation Paper; and
 - concerns regarding the proposed consultation period to 1 March 2020;
- Technical Staff to circulate an updated Draft Consultation Paper incorporating matters discussed at this meeting to Taskforce members by 8 November 2019;
- Professional bodies to provide any relevant feedback from members on the application of the FASEA Code to Technical Staff by mid November 2019;
- Technical Staff to seek approval from the Board at the November 2019 Board meeting to release:
 - the new APES 230 Consultation Paper for stakeholder consultation; and
 - the revised APES 230 (updated to address respondents' comments received on ED 04/19).

5. Close of Meeting

The meeting was closed at 4.50 p.m.