

ACCOUNTING PROFESSIONAL & ETHICAL STANDARDS BOARD LIMITED

**APES 230 Financial Planning Services
2nd Taskforce Meeting, 2019**

MINUTES

**3 September 2019, Tuesday
2.30 p.m. – 3.32 p.m.**

Teleconference

1. Present and Apologies

Present:

Mr Channa Wijesinghe (Chairman), Ms Suzanne Haddan, Mr Robert Brown, Ms Bronny Speed, Ms Keddie Waller and Mr Andrew Best.

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 suggested amendments to APES 230 *Financial Planning Services* (APES 230) including how to deal with the changing nature of laws and regulations in Financial Services given government initiatives to implement the recommendations of the Hayne Royal Commission.

Definition of Australian Financial Services Licensee

The Taskforce considered the proposed definition for Australian Financial Services Licensee, being “a person or entity who holds an Australian Financial Services Licence,” which was drafted based on a definition in section 761A of the *Corporations Act 2001*. The Taskforce agreed to the definition as proposed.

The Taskforce also suggested that the acronyms for Australian Financial Services Licence (AFSL) and Australian Credit Licence (ACL) could be included in the respective definitions as most readers would be familiar with these acronyms. Technical Staff agreed to include this as an amendment in the proposed exposure draft on APES 230.

Amendments to capture the changing nature of laws and regulations

The Taskforce discussed the current uncertain legislative and regulatory environment in the financial planning services industry and how to reflect this in APES 230, including the proposal to amend paragraphs 8.2 and 9.2 to include a reference to the provisions applying ‘subject to relevant laws and regulations’ and to delete paragraph 9.4.

The Taskforce noted that paragraph 1.7 of APES 230 makes it clear that the standard is subject to laws and regulations. The Taskforce was of the view that while the suggested amendments to refer to laws and regulations would emphasise this fact for members, in the overall context; this is already stated in the scope and application and therefore the proposed amendments were not necessary.

Current status of the proposed APES 230 Exposure Draft

The Chairman advised that a draft revised APES 230 was presented to the Board at the June 2019 Board meeting, which incorporated amendments to align with the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (restructured Code) and other APESB pronouncements. The restructured Code becomes effective 1 January 2020.

The Chairman noted that APES 230 is the only standard which has not yet been issued for exposure to align it to the restructured Code. The Taskforce discussed the APESB's due process, the required steps and general timing that would be needed to revise a standard.

Hayne Royal Commission and FASEA Code

The Taskforce discussed the current legislative and regulatory environment in the financial planning services industry, including the Government's *Financial Services Royal Commission Implementation Road Map* and the various levels of regulation including the commencement of the Financial Adviser Standards and Ethics Authority's (FASEA) *Code of Ethics* (FASEA Code) on 1 January 2020. The Taskforce also considered how the changing regulation is affecting the number of Members providing financial planning services and the fact that a lot of financial advisers are leaving the industry.

The Taskforce discussed the FASEA Code, the establishment of monitoring bodies and that there was some uncertainty as to how the FASEA Code will be implemented and monitored.

Implications for APES 230

Based on the discussion about the changing nature of laws and regulations, the Taskforce agreed that APES 230 should mandate a higher standard than the law. The majority of the Taskforce was of the view that the current environment provides a great opportunity to move towards only allowing fees for service, which is in the consumers best interest.

The Taskforce discussed the regulation of mortgage brokers, noting that they do not fall under the remit of FASEA and it was important to consider this in any future changes to APES 230 to ensure members who are mortgage brokers are covered. There was also a discussion about the increase in facilities/systems to enable the practice of financial planners rebating clients for commissions received and the ability for commissions to offset fees.

The Taskforce agreed that there was a great opportunity to add value to the profession and to encourage and support members in the financial planning industry, for example through the development of tools, templates (such as Pro-forma engagement letters) and guidance.

The Taskforce discussed the educational role of the professional bodies and their ability to assist members concerning the changing laws around commissions. However, the Taskforce also believes there is scope to include practical templates as appendices to APES 230. The Taskforce discussed the possible collaboration between the APESB and the professional bodies in relation to preparing templates and resources for Members relating to financial planning services.

The Taskforce agreed that the current priority for the APESB was to issue an exposure draft for APES 230 for stakeholder consultation on the revisions to align with the restructured Code. The Taskforce agreed that the version of APES 230 presented at the June 2019 Board meeting should be used as the basis of the exposure draft, including the amendments to the definitions as discussed earlier in the meeting.

The Taskforce was of a view that it would be important to then undertake a broader consultation with stakeholders in respect of any additional future changes to be made to APES 230, to take members on this journey and to assist them in transitioning to a Fee for Service approach.

It was noted that APESB issued a consultation paper on APES 230 in 2017 covering some of these issues. The Taskforce agreed that APESB Technical Staff should develop a new consultation paper based on the current environment and taking into consideration the 2017 consultation. The draft consultation paper is to be circulated to the Taskforce for review with a further Taskforce meeting to be held in late October 2019. This approach would allow for the Board to consider a draft of the proposed APES 230 Consultation Paper at the November 2019 Board meeting.

3. Other matters for consideration

The Taskforce agreed that the discussion at Agenda Item 2 meant that the items listed in the agenda to discuss as part of Agenda Item 3 did not need to be discussed in further detail now. These matters will be considered as part of the consultation paper to be considered by the Taskforce in October.

Other Matters

The Taskforce discussed the Institute of Public Accountants' Pronouncement 11. The IPA nominee raised concerns as to whether the proposed revisions to APES 230 would add value to members or whether it would duplicate or add a layer of unnecessary regulation.

4. Way forward

Technical Staff will:

- seek approval at the 10 October 2019 Board meeting to release an exposure draft for the revised APES 230 (incorporating restructured Code changes and updates to the definitions detailed above);
- draft a consultation paper on APES 230 for circulation to Taskforce members in October 2019;
- convene a further Taskforce meeting in late October 2019 to discuss and agree on the content of the proposed APES 230 consultation paper;
- seek approval from the Board at the November 2019 Board meeting to release:
 - the new APES 230 consultation paper; and
 - the revised APES 230 (updated to address respondents' comments received on the exposure draft); and
- undertake stakeholder consultation on the broader amendments to APES 230.

5. Close of Meeting

The meeting was closed at 3.32 p.m.