

ACCOUNTING PROFESSIONAL & ETHICAL STANDARDS BOARD LIMITED

**MINUTES OF THE 4th MEETING OF
APES 230 FINANCIAL ADVISORY SERVICES TASKFORCE**

24 November 2009 from 3:00 – 4:10pm

Teleconference

1. Present and Apologies

Present:

Mr. Channa Wijesinghe (Chairperson), Mr. Reece Agland, Mr. Robert M.C. Brown, Mr. Hugh Elvy, Ms. Suzanne Haddan, and Ms. Keddie Waller (Alternate for Mr. Michael Davison).

In Attendance:

Ms. Kate Spargo (Board Member) (until 3.42pm), Ms. Rozelle Azad, and Mr. Erik Hopp.

Apologies:

Mr. Harry Moyle.

2. Minutes of previous meeting

The minutes of the 3rd Financial Advisory Services Taskforce meeting held on 21 April 2009 were accepted with minor amendments.

3. Discussion on findings of the Parliamentary Joint Committee's (PJC) Inquiry into Financial Products and Services in Australia

The taskforce members discussed the findings of the PJC report and noted the following:

- whilst the findings of the PJC report appears to have been welcomed by stakeholders, there are some areas that could have been further developed;
- the PJC report highlights the importance of the concept of fiduciary duty and taskforce members acknowledged that this development is a significant issue. Moving forward fiduciary duty may need to be tested through the Courts in order to determine what it means and it will have significant practical implications;
- the taskforce noted that the concept of fiduciary duty will need to be carefully considered in the development of the proposed APES Standard.

4. Discussion on the initial draft APES 230 Financial Advisory Services

- The Chairperson led the discussion of an early draft scope/review document and discussed the approach taken to date to develop the proposed standard.
- The following key definitions were highlighted for the taskforce's consideration:
 - Financial Advisory Services
 - Financial Advice
 - Fiduciary
 - Discussion on "Fiduciary" raised the following points:
 - This should be the overriding principle of the proposed standard and there are potential legal ramifications which require careful consideration during the drafting process.
 - Fiduciary requires a higher level of professional obligation than "public interest".
 - Fee for Service
 - The following points were raised:
 - The definition should also state what Fee for Service does not include such as commissions and asset based percentage fees.
 - The definition needs to specifically address all clients, not merely new clients.
 - Independence
 - The taskforce noted that "Professional Independence" is the preferred term due to potential legal issues arising from the s923A of the *Corporations Act*
- Discussion was held in relation to whether there were any areas that have not been addressed by the draft standard. At this stage none were noted, however, the draft standard will be reviewed against the recommendations of the PJC Report and other existing Professional Standards.
- The APES Board has requested that an overview document of the proposed standard APES 230 to be presented to the Board. This overview document should summarise the key principles that will be covered in the proposed standard.

5. Other issues

- Taskforce members noted that given the significant interest in this proposed standard, it should be developed as soon as possible and that this should be a key priority for APESB in 2010.

6. Way forward

- APESB technical staff to draft an overview document that summarise the key principles of the proposed APES 230 and circulate it to the taskforce prior to the next taskforce meeting. It is proposed that taskforce representatives present this overview document to the APES Board at the February 2010 Board meeting.
- APESB technical staff to prepare a comparison table of the draft APES 230 comparing against existing Professional Standards and the findings/recommendations of the PJC report and circulate it to the taskforce in early 2010.

7. Close of meeting

The next meeting of the taskforce will be held in January 2010.