

AGENDA PAPER

Item Number: 6
Date of Meeting: 23 March 2010
Subject: Update on Proposed Standard APES 230 *Financial Advisory Services*

<input checked="" type="checkbox"/>	Action Required	<input type="checkbox"/>	For Information Only
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Purpose

- To provide an update to the Board on the progress of the APES 230 *Financial Advisory Services* project; and
- Obtain the Board's approval on the proposed principles to be incorporated in to the proposed standard APES 230 *Financial Advisory Services*.

Background

The professional bodies submitted a project proposal to develop a proposed pronouncement to replace the current APS 12 *Statement of Financial Advisory Services* in August 2007. The Board established the APES 230 *Financial Advisory Services* Taskforce to develop the proposed standard and engaged June Smith of Argyle Partners to prepare a Consultation Paper to inform the development of the proposed standard. APESB released the Consultation Paper *Review of Miscellaneous Professional Statement APS 12: Statement of Financial Advisory Services* in October 2008 for public comment for a period of 3 months. APESB received five submissions from professional bodies, firms and members and the respondents comments were considered at the May 2009 Board meeting.

In February 2009 the Parliamentary Joint Committee (PJC) on Corporations and Financial Services initiated an inquiry in *Financial Products and Services* in Australia to inquire into the issues associated with financial product and services provider collapses that occurred in 2007-08. In August 2009 APESB made a submission to this inquiry and also made representations to the PJC inquiry. The PJC inquiry issued its report in November 2009.

Project Status

The APES 230 *Financial Advisory Services* Taskforce has held three meetings in the last quarter and the taskforce has identified the broad principles that should be used in developing a *Financial Advisory Services* standard to replace the existing APS 12. These principles are set out in the attached agenda paper *Proposed Principles to be addressed in APES 230 Financial Advisory Services* and represent the Taskforce's views on the following matters:

- the scope of the project and the need to cover all Members who provide *Financial Advisory Services*;

- potential key definitions;
- references to the fundamental principles of APES 110 *Code of Ethics for Professional Accountants*;
- a potential structure and coverage for the proposed APES 230;
- Requirements applicable to all Members:
 - Fiduciary relationships;
 - Disclosure to Clients and Prospective Clients;
 - Engagement performance;
 - Remuneration;
 - Client information, Client Monies and other Client property;
 - Use of assumptions to develop Financial Advice;
 - Incorrect or misleading information;
 - Non-cash alternative remuneration;
 - Quality Control/Documentation; and
 - Estimates and projections.
- Requirements applicable to Members in Public Practice:
 - Professional Engagement matters; and
 - Professional Independence.
- Requirements applicable to Members in Business.

March 2010 Update

The proposed principles document was presented at the February 2010 Board meeting to seek the Board's preliminary views. The principles document has been revised for the Board's comments. The key changes are:

- Linking the definitions of *Australian Financial Services Licence, Authorised Representative, Financial Service* and *Statement of Advice* to the relevant sections of the *Corporations Act 2001*.
- Addition of the definitions of *Australian Credit Licence* and *Credit Representative* and linking them back to the new *National Consumer Credit Protection Act 2009*.
- A principles based definition of *Fee for Services* is provided as option B for the Board's consideration.
- Other minor editorials as discussed at the February 2010 Board meeting.

As requested by the Board, the taskforce reconsidered the importance of the Fiduciary concept in Financial Advisory Services. The taskforce considered the issue and firmly believes that the Fiduciary concept must be included in the proposed APES 230 *Financial Advisory Services* standard.

Technical Staff have undertaken high level desk research on the Fiduciary concept and the material identified to date is attached for the Board's information.

Material Presented

- Proposed Principles to be addressed in APES 230 *Financial Advisory Services*;
- Minutes of Taskforce meeting held on 28th January 2010; and
- High level desk research on the Fiduciary concept and its application to Financial Advisory Services.

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Date: 15 March 2010