

Exposure Draft 04/23: Proposed amendments to APES 310 Client Monies

Review of Submissions - Specific Comments
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Note: General comments relating to Exposure Draft 04/23 are addressed in a separate table. This table excludes minor editorial changes.

Item No.	Paragraph No. in ED	Respondent	Respondents' Comments	Change made to standard?
1.	Specific Comment	CA ANZ	<p>Appendix 1</p> <p>Responses to Request for Specific Comments</p> <p>“Taking into account public interest considerations and the need for professional accountants in public practice to have robust processes to safeguard third-party assets, APESB is seeking respondents’ specific comments and feedback as to whether they have experienced any practice issues in complying with the requirements of this standard, such as opening a trust account or the operation of client bank accounts. APESB is also seeking stakeholder comments on existing mechanisms or processes that may facilitate or hinder the operation of this standard.”¹</p> <p>We acknowledge that financial technology has reduced the need for many public practitioners to operate trust accounts, however a significant proportion of members continue to operate trust accounts due to the types of services they offer to their clients. Members of CA ANZ have experienced practical and public interest issues complying with some requirements of APES 310.</p> <p>¹ ED 04/23 Client Monies issued by the APESB</p>	No
2.	Specific Comment	IPA	<p>Request for Specific Comments</p> <p>IPA public practitioners have continued to experience difficulty opening trust accounts. Our members have been directed to use the APESB Information Sheet <i>Professional Accountants and Trust Accounts</i> and associated template letter <i>Request to open a Trust Account</i> but often that does not overcome the issues raised at the branch level of the financial institution concerned. Particular issues encountered include:</p> <ul style="list-style-type: none"> • A lack of understanding that professional accountants that choose to directly handle client monies must do so via a trust account in accordance with APES 310. Financial institutions more commonly understand the need for solicitors and real estate agents to have trust accounts. 	Yes

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			<ul style="list-style-type: none"> • Some financial institution branches have been found to guide accountants to open a separate transaction account, that is not a trust account, often insisting that trust accounts are not available for accountants. • Some financial institution branches insist that the inclusion of the words “trust account” in the account name of the account is not required or cannot be facilitated. • The above issues are sometimes exacerbated in areas where options to seek an alternative financial institution are limited and it is not possible to open a trust account online. <p>It is fair to say over recent years there has been a general decline in the use of trust accounts by many practitioners. Some of that decline may relate to administrative costs outweighing the benefits of maintaining a trust account and/or the above issues encountered.</p>	
3.	1.2	IPA	<p>IPA also supports the proposal that the amendments will be effective for engagements commencing on or after 1 April 2024, with earlier adoption permitted.</p>	No
4.	5.1	CA ANZ	<p>1. Obtaining a complying trust account from a financial institution.</p> <p><i>1a) Our members continue to report difficulties or an inability to open a bank account containing the term ‘Trust Account’ as required by paragraph 5.1 of the extant APES 310.</i></p> <p>There is inconsistency throughout the banking sector in the application of regulations applying to who can open a trust account. Our members report that the ability to open a trust account with their preferred financial institution can vary between complete refusal to acceptance which can often depend on the location or branch where the account is held. This has caused confusion to members and uncertainty regarding the consequences when non-compliance with the Standard is out of the member’s control.</p> <p>We, and we understand the other professional bodies, have consulted with leading financial institutions to determine the ability and appetite for them to offer a financial product that complies with the Standard. Without a legislative imperative, financial institutions are reluctant to offer such a product.</p> <p>We have been advised that financial institutions can only open an account including the phrase “Trust Account” where there is a legislative requirement to operate a trust account. Examples of professions where there is a legislative imperative to operate a trust account include solicitors, real estate agents, conveyancers, and some other state-based entities such as collections agents (QLD) and settlement agents (WA). APES 310 is not a legislative instrument and therefore does not satisfy eligibility requirements to open a trust account.</p>	Yes, the new proposed para 5.2

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			In the absence of legislation requiring professional accountants to hold a trust account, CA ANZ recommends that the Standard be amended to remove the requirement for the term 'trust account' to be included in the title of the client monies bank account. An alternative may be a requirement to name the account in a manner that clearly differentiates it from the practice's other operating accounts.	
5.	5.1	CPAA	<p>ATTACHMENT</p> <p>Practical issues being experienced when seeking to comply with APES 310 Client Monies</p> <p><u>Opening a Trust Account</u></p> <p>Paragraph 5.1 of APES 310 <i>Client Monies</i> (APES 310) requires a <i>Member in Public Practice</i> to open a <i>Trust Account</i> at a <i>Financial Institution</i> in the name of the <i>Member</i> or the <i>Member's Firm</i> and include the term '<i>Trust Account</i>' in the title.</p> <p>The eligibility requirements of many APRA regulated <i>Financial Institutions</i> require that the Member of the professional association must be required by law to open a statutory trust account and include the term 'Trust Account' in its title. As there is no existing legal requirement for professional accountants to establish a <i>Trust Account</i>, they face ongoing challenges to comply with this requirement.</p> <p>CPA Australia recommends that APES 310 is amended to remove the specific obligation in paragraph 5.1 to include the term 'Trust Account' in the title of the account and rather permit members to use an alternative naming convention that clearly differentiates the account from the firm's other operating accounts.</p>	Yes, new proposed para 5.2
6.	5.3	CA ANZ	<p><i>1b) We have been informed by our members that it is exceptionally difficult to open a bank account which excludes a right of set off as required by paragraph 5.3 of the extant APES 310.</i></p> <p>Our members report that they have encountered difficulties in obtaining a client monies bank account that excludes a right of set-off against other practice accounts held by the same financial institution. An account with a right of set-off increases risk to the public interest as the bank may be entitled to offset overdrawn accounts against other accounts held by the practice that are in credit, such as the client monies account. The only option available to members in these circumstances is to attempt to open an account at a financial institution where no practice accounts are held.</p>	Yes, new proposed para 5.5

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			Where it is not possible to exclude a right of set-off when opening or operating a client monies account, CA ANZ recommends that the Standard require the account used for client monies to be held at a financial institution other than the institution that holds the business/practice operating accounts.	
7.	5.3	CPAA	Paragraph 5.3 also requires a <i>Member in Public Practice</i> to ensure the <i>Trust Account</i> does not have a set-off arrangement, which is an important obligation to protect client monies. However, we understand that this is a common condition for bank accounts and as a result, it can be a challenge to open an account without this condition. To address this risk, APES 310 could be amended to require a <i>Member in Public Practice</i> to open an account for the purposes of handling client monies with a financial institution where no other firm accounts are held.	Yes, new proposed para 5.5
8.	7.3	CA ANZ	<p>When a professional accountant undertakes an engagement to co-authorise banking transactions for a client, this engagement will be completed in accordance with the terms and conditions agreed between the client and accountant. The client is expected to apply their risk appetite to the selection of the accountant, the manner in which they conduct their banking transactions and the controls they require to be in place at their organisation and at their accountant's practice. Engaging the accountant to co-authorise transactions may be deemed by clients as an important internal control for their business. This is not due to the requirements of APES 310 but simply because the accountant is external to management.</p> <p>To reduce familiarity threats or the risk of complacency in the approval of transactions by the client, CA ANZ recommends that more appropriate management of any residual risk to the public interest may be achieved through:</p> <ul style="list-style-type: none"> • Disclosure in the engagement letter of the associated risks of joint or sole client authorisation of transactions prepared by the professional accountant and the client's responsibilities in reducing these risks to an acceptable level. • Recognition of, and processes to address these risks be included in the professional accountant's risk management manual in compliance with APES 325 <i>Risk Management for Firms</i>. Risk management processes may include external review of transactions should the client deem it necessary. • Varying the Standard so that obtaining assurance may be a risk management response rather than requiring a limited assurance engagement be completed. • Amending the application material at paragraph 7.3 to reflect the above recommendations. 	No

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9.	7.5	CA ANZ	<p>2. Public Interest Considerations when transacting client monies.</p> <p><i>2a) Our members who co-authorise transactions in a Client Bank Account with the client, have raised concerns regarding the public interest benefit of obtaining a limited assurance report in accordance with paragraph 7.3. of the extant APES 310</i></p> <p>Our members report that increasingly, they are declining to act as a co-signatory for authorising client transactions. This is due to the costs associated with obtaining assurance in accordance with the Standard. APES 310 requires these costs to be met by the professional accountant.²</p> <p>CA ANZ recommends that application material be included at paragraph 7.5 to clearly indicate that while the cost of any assurance engagement shall be borne by the member in public practice, these costs may be recouped via an appropriate overhead allocation rate.</p> <p>² APES 310 paragraph 7.5</p>	No
10.	7.3 and 7.5	CPAA	<p><u>Requirement for a Limited Assurance Engagement for co -authorised transactions in a Client Bank Account</u></p> <p>Paragraph 7.3 requires a <i>Member in Public Practice</i> who can only co-authorise transactions in a <i>Client Bank Account</i> in conjunction with the <i>Client</i> to engage an <u><i>Auditor of Client Monies</i></u> to perform a <i>Limited Assurance Engagement</i>.</p> <p>This practice can be an important risk control for some Clients in managing their business's finances, as the Member is external to the management of the business. However, we are concerned that the costs associated with the <i>Limited Assurance Engagement</i>, which paragraph 7.5 requires the <i>Member</i> to bear, may result in Members declining these engagements.</p> <p>To address this issue, but still manage the risks associated with these engagements, we believe the following could be considered as alternatives to requiring a <i>Limited Assurance Engagement</i>:</p> <ul style="list-style-type: none"> • requiring the <i>Member in Public Practice</i> to detail the processes for the Firm to address associated risks in their Risk Management Framework (APES 325 <i>Risk Management for Firms</i>) noting this may include an external review at the request of the Client, and • specific disclosure in the engagement letter of the risks of co-authorised transactions and the responsibilities of the Client to reduce these risks to an acceptable level. 	No

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RESPONDENTS

1	CA ANZ	Chartered Accountants Australia and New Zealand
2	CPAA	CPA Australia Ltd
3	IPA	Institute of Public Accountants