

AGENDA PAPER

Item Number: 9
Date of Meeting: 26 June 2024
Subject: Update on revisions to APES 310 *Client Monies*

Action required For discussion For noting For information

Purpose

To update the Board on the project to revise APES 310 *Client Monies* (APES 310).

Background

APESB issued the original APES 310 Dealing with Client Monies in December 2010. It was based on APS 10 *Trust Accounts*, which was originally issued in June 1997 by the Australian Society of Certified Practising Accountants (now CPA Australia) and the Institute of Chartered Accountants in Australia (now CA ANZ) and Joint Guidance Note GN 3 *Operation of Trust Accounts*, issued by CPA Australia and the Institute of Chartered Accountants in Australia (now CA ANZ) in December 2003.

APES 310 was revised in 2013 and 2018 (when the standard was renamed to Client Monies). The current version of APES 310 *Client Monies* (APES 310) was released in November 2019 and incorporates revisions to align with the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code).

In 2021, the Issues Register was updated to include matters raised by a professional body about some Members in Public Practice experiencing difficulties in establishing bank accounts complying with APES 310 requirements as the trust accounts are not considered statutory trust accounts, the bank account terms do not exclude the right of set-off, and the bank account name will not include the word 'trust'. APESB had determined to conduct a post-implementation review (PIR) during the current strategic period to obtain practitioners' feedback on the challenges they face in complying with the requirements of APES 310.

At the May 2023 Board Meeting ([Agenda Item 9](#)), the Board approved the release of [ED 04/23](#), which proposed revisions to APES 310 to revise the definition of assurance engagement and to incorporate quality management-related conforming amendments. The exposure draft also included a request for specific comments on whether Members have experienced issues applying the requirements in APES 310. The comment period for the exposure draft closed on 18 August 2023.

APESB received three submissions on ED 04/23 from three professional accounting bodies, who generally supported the proposed amendments.

At the November 2023 Board Meeting ([Agenda Item 9](#)), the Board considered the outcome of the exposure draft due process and the concerns raised by respondents about the challenges professional accountants are facing when trying to comply with certain requirements in APES 310 Client Monies (APES 310). The Board discussed the following:

- proposed new requirement in paragraph 5.2, which provides an exception to paragraph 5.1 to allow the use of the term 'Client Account' instead of 'Trust Account' in the title of the Trust Account to address a common concern raised by the respondents.

The Board noted that the professional bodies have agreed to write a letter to the major banks to determine if the alternative wording is a viable option and to explore other potential solutions to address the issues accountants face when trying to open a trust account.

- requirement for a limited assurance engagement for co-authorised client bank transactions and the risks for the client and the accountants when acting as co-signatories. The Board noted the Technical staff position that the external independent review performed on those transactions acts as a safeguard, particularly given recent misconduct cases in the profession.

The Board requested that Technical Staff undertake further research on whether the requirement of limited assurance is an appropriate safeguard for co-signed client banking transactions.

Matters for Consideration

Technical Staff have noted the following developments relevant to APES 310 for the Board's consideration.

Professional Bodies' engagement with the Big 4 Banks

At the November 2023 Board meeting, the professional accounting bodies agreed to engage with the Big Four Banks in Australia regarding the ability of members to open and operate a Trust Account that complies with the requirements of APES 310.

At the March 2024 Board Meeting, Chartered Accountants Australia and New Zealand (CA ANZ) advised that they had met with representatives from the National Australia Bank (NAB) regarding the opening of Trust Accounts by Members. NAB had stated that they offer accounting firms the ability to set up 'Controlled Monies Accounts' in line with the APES 310 standards via two methods:

- For medium to large accounting firms, there is a bulk account opening service, which can be offered by the Relationship Manager.
- Customers can visit any NAB branch to request a 'Client Monies' account.

Technical Staff understand that CA ANZ has continued to engage with NAB about the product offerings available to accountants and is close to finalising guidance for their members about the NAB products.

Technical staff will continue to liaise with the professional bodies regarding their engagement with the Big Four Banks and consider any potential impacts on APES 310.

Proposed revisions to the New Zealand PS 2 *Client Monies*

In February 2024, the New Zealand Regulatory Board of New Zealand Institute of Chartered Accountants (NZICA) released an [exposure draft](#) to update PS-2 *Client Monies*.

The key proposals include:

- A new overarching requirement that expressly requires all members who control the money of others to safeguard that money, use that money only for the purpose for which the money was provided, and be ready to account for that money.
- A new requirement that members whose activities do not come within the scope of PS-2 but who otherwise control the money of others comply, as far as practicable, with the spirit and intent of the standard (elevated from guidance material in existing PS-2).
- Defined terms that have been modernised and future-proofed, including:
 - adding an overarching definition of “client monies activities” that specifically includes situations where a member in public practice controls client monies but does not receive or hold the money themselves.
 - narrowing the “fees paid in advance” exclusion from the definition of “client monies”.
 - clarifying that direct debit authorities come within the ambit of PS-2.
- A new requirement that reflects members’ responsibility to act in the public interest, consistent with the Code of Ethics.
- A new requirement that members consider, document and discuss with the client any practical alternatives to the proposed client monies activities before agreeing to perform those activities.
- Sections that address the operation of trust accounts and client bank accounts separately.
- Remove the ability to pay private or practice monies relating to real estate or investment transactions into a trust account.
- Additional internal control procedures, including:
 - A new requirement and application material regarding taking reasonable steps to ensure no receipt of client monies without client authority.
 - More prescriptive requirements and application material regarding client monies that are not being held electronically.
 - New requirements and application material regarding authorised signing authorities on trust accounts.
 - A modified requirement to provide monthly statements unless the client specifies in writing an alternative period.
 - New requirements and application material regarding authorised signing authorities on client bank accounts.
- New requirements and application material regarding components of the firm’s system of quality management, including prescribed monitoring activities and record retention timeframes.

The changes proposed in the exposure draft are intended to update existing PS-2 so that it is consistent:

- with the most recent version of the NZICA Code of Ethics;
- with modern banking practices, including the removal of cheques by New Zealand banks;
- with New Zealand laws and regulations, including the Anti-money Laundering and Counter Financing of Terrorism Act 2009 and new regimes introduced by amendments to the Financial Market Conduct Act 2013 by the Financial Services Legislation Amendment Act 2019; and
- As far as practicable, the requirements for members of CA ANZ who are residents outside New Zealand are as set by APES 310: Client Monies issued by the Australian Accounting Professional & Ethical Standards Board (APESB).

The comment period for the exposure draft closed on 7 May 2024.

On 14 May 2024, APESB Technical Staff met with NZICA staff to discuss the proposed changes to PS- 2. The discussion focused on the alignment of provisions between PS-2 and APES 310 and discussions of differences between the two standards. It was discussed that generally, the standards are aligned, but there are some differences in the scope of the transactions captured when dealing with client monies, as noted below, and the approach undertaken in relation to assurance engagements over client monies activities.

One key aspect of the discussion was the scope of the client monies activities and the relevant internal controls required to be in place for co-authorising transactions in a client bank account. NZICA's exposure draft encourages Members to consider the risks and costs of undertaking client monies activities and whether there are practical alternatives that should be implemented rather than establishing a trust account or a client bank account. Based on this approach, the exposure draft proposes that handling client monies goes beyond the accountant being physically involved in transacting client transfers. For example, the new proposed provision 2.6 A2 states:

2.6A2 Examples of situations referred to in paragraph R2.6 include where the member in public practice has client authority to facilitate tax transfers or to direct a payroll intermediary to exercise its authority to access a client bank account to pay wages to the client's staff.

APES 310 does not include any guidance relating to activities that the member does not physically transact.

APESB Technical Staff and NZICA staff also discussed the well-established processes in each country with regard to the review processes for client monies activities. In NZ (PS-2), the oversight of client monies is considered as part of the review of the quality management system, with any issues being reported to NZICA. At that point, NZICA may request an audit to be performed. This contrasts with APES 310 requirements, where an annual assurance engagement is required to be performed. Technical Staff discussed the difficulty in changing established positions, including the public perception that may be created by lowering extant requirements.

NZICA staff indicated they had received a large number of responses to their exposure draft, which they will review shortly. They expect to take the proposed revised PS-2 to their Board for approval at either the July or September 2024 Board Meeting.

Way forward

APESB Technical Staff will continue to liaise with the professional accounting bodies regarding their engagement with the Big Four Banks in Australia. Staff will also continue to liaise with the outcome of the exposure draft process for PS-2 in New Zealand to determine if there are additional matters that require consideration by the APESB Board regarding the revision of APES 310.

Updates on these matters, as well as the proposed revised APES 310, will be presented to the Board at the September 2024 Board meeting.

Staff Recommendation

The Board note the update on the project to revise APES 310 *Client Monies*.

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