

AGENDA PAPER

Item Number: 5
Date of Meeting: 6 March 2020
Subject: Project Proposal – Whistleblowing

Action Required For Discussion For Noting For Information

Purpose

To obtain the Board’s approval to commence a project on whistleblowing and its interaction with APESB pronouncements.

Background

In 2019, new Federal whistleblower legislation was enacted (via the *Treasury Laws Amendment (Enhancing Whistleblowers Protections) Bill 2018*). The legislation broadened the existing protections and remedies for corporate and financial sector whistleblowers in the *Corporations Act 2001* and extended protection to whistleblowers regarding breaches of the tax law or misconduct relating to an entity’s tax affairs (via the *Taxation Administration Act 1953*). The legislation became effective from 1 July 2019. This includes a requirement for all public companies, large proprietary companies and corporate trustees of APRA-regulated superannuation entities to have a whistleblower policy (and supporting procedures) in place from 1 January 2020.

As part of the restructuring project in 2018 and 2019, APESB updated the following pronouncements to refer to the new whistleblowing protections including:

- APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code);
- APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business*; and
- APES GN 41 *Management Representations*.

In February 2020, the Professional Standards department of Chartered Accountants Australia and New Zealand (CA ANZ) approached APESB to request assistance with the interaction of the confidentiality provisions in the Code with the new whistleblowing legislation, especially whether it is a breach of the confidentiality provisions in the Code if a member reports using whistleblower protections.

CA ANZ have noted a significant increase in the number of enquiries from members relating to whistleblowing since the legislation has become effective, in particular from tax agents who were previously prohibited from whistleblowing under tax-specific legislation.

Consideration of issues

The aim of the project is to review the new whistleblowing protections, consider how these protections interact with the current APESB pronouncements and determine if APESB needs to issue specific requirements or guidance in relation to the whistleblowing protections.

The project is proposed to commence in April 2020 with a completion timeframe of twelve to eighteen months.

Refer to Agenda Item 5(a) for the detailed proposed project plan on whistleblowing.

Staff Recommendation

The Board approve the project proposal to commence a project on whistleblowing and its interaction with APESB pronouncements.

Material Presented

Agenda Item 5(a) Project Proposal: Whistleblowing

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Date 24 February 2020