



Principles and Conflicts

I was intrigued to hear and read some of the opposition to the Accounting Professional & Ethical Standards Board's Proposed Standard on Financial Planning Services, APES 230, during the period that the APESB was accepting public submissions. One could have concluded that the FPA must be operating under a completely different set of principles to that being proposed in APES 230.

I thought it may be illuminating to compare the "Fundamental responsibilities" listed in APES 230 with the "Principles" in the FPA Code of Ethics:

FPA Code of Conduct: Principles	APES 230: Fundamental Responsibilities
1. Client First	Public Interest
2. Integrity	Integrity
3. Objectivity	Objectivity and conflicts of interest
4. Fairness	Best interests of the client
5. Professionalism	Professional competence and due care
6. Competence	Confidentiality
7. Confidentiality	Professional appointments
8. Diligence	Marketing

As you can see, there is not much difference at all. It appears that APES 230 has included some additional responsibilities at the end (Professional appointments and Marketing) but these matters are addressed explicitly in FPA Practice Standards 1 and 7 respectively.

So what is the source of the opposition to APES 230? It seems to me that the most controversial principle that is in dispute is that of conflict of interest. I don't think that it is coincidence that "conflict of interest" is explicitly included in the APESB's 3rd responsibility and does not appear explicitly in the list of the FPA principles.

That's not to say that the FPA's Code is silent on conflicts. The wording of Principle 2 includes the need to "manage conflicts". The wording of Principle 4 refers to the "disclosure of material conflicts of interest". And therein lies the source of the opposition to APES 230....



In Section 8 (Professional Fees) and Section 9 (Third Party Payments and Soft Dollar Benefits) APES 230 clearly identifies two practices which “create the threat of self-interest”:

1. “Charging a client a professional fee based on the value of the client’s assets or funds under management (or changes in such values)”
2. “The receipt by a Member....of Third Party Payments” (which includes commissions)

Lest there be any doubt about the APESB’s stance on either of these points, APES 230 goes on to say that each of these practices “impacts the Member’s ability to comply” with the fundamental responsibilities of Integrity, Objectivity and Professional competence. And for readers who wish to cling to a defence of “disclosure” or an ability to “manage the conflict” APES 230 is very clear when it states that “no safeguards can reduce the threat of self-interest to an Acceptable Level”.

So where do you stand on this fundamental matter of principle?

I think that both fees expressed as % of FUM and payments of commission represent material conflicts of interest. What do you think? And if you agree with me, in terms of the FPA Code, to what extent are you disclosing that conflict of interest to your clients?

I also think that the perception of self-interest associated with both is difficult to manage and so they are best avoided. What do you think?

These are the best of times to differentiate your principles of Integrity, Objectivity and Fairness and commit to the professional practices espoused in APES 230.

(Conflict of interest disclosure: My sister is a member of the APESB. She has had no involvement in the writing of this article).