

June 2015



Exposure Draft 02/15 Revision of APESB pronouncements

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1. Explanatory Memorandum to Exposure Draft 02/15 Revision of APESB pronouncements

1.1 Introduction

The aim of this Explanatory Memorandum is to provide stakeholders with the background, development process and rationale of Accounting Professional & Ethical Standards Board Limited's (APESB's) Exposure Draft 02/15 *Revision of APESB pronouncements* (the Exposure Draft) issued on 23 June 2015.

The majority of the proposed revisions to the APESB pronouncements identified in this Exposure Draft are due to amendments made to APES 110 *Code of Ethics for Professional Accountants* (2013) and are consequential or editorial in nature.

The Explanatory Memorandum has been prepared by Technical Staff of APESB and approved by the Board of Directors of APESB. The Explanatory Memorandum **does not** form part of the Exposure Draft and is not a substitute for reading it in full.

1.2 Summary of APESB Pronouncements

This Exposure Draft comprises proposed amendments to the following pronouncements:

Pronouncement	Name of professional standard/guidance note
APES 205	<i>Conformity with Accounting Standards</i>
APES 210	<i>Conformity with Auditing and Assurance Standards</i>
APES 220	<i>Taxation Services</i>
APES 305	<i>Terms of Engagement</i>
APES 325	<i>Risk Management for Firms</i>
APES 345	<i>Reporting on Prospective Financial Information prepared in connection with a Public Document</i>
APES GN 30	<i>Outsourced Services</i>
APES GN 40	<i>Ethical Conflicts in the Workplace – Considerations for Members in Business</i>

1.3 Key proposed amendments

The marked-up version of each pronouncement in the Exposure Draft (refer to **Appendix 3**) reflects the proposed changes incorporated into the existing pronouncement and addresses the following key matters:

(i) **Objectives**

In accordance with APESB's revised drafting conventions, an introductory objectives paragraph (paragraph 1.1) has now been developed and included in each of these pronouncements.

(ii) **Effective date of pronouncements**

The effective date in paragraph 1.2 proposes that each applicable standard will be operative from 1 January 2016 and that earlier adoption of the standard is permitted. The guidance notes will be effective from the date of issue.

(iii) **Revision of definitions due to amendments to APES 110 Code of Ethics for Professional Accountants (Code)**

In November 2013, APESB released amendments to the Australian Code to align it with amendments to the International Code issued by the *International Ethics Standards Board for Accountants* (IESBA). As part of the annual review process of the pronouncements identified in the Exposure Draft, APESB has determined to revise section 2 *Definitions* for each pronouncement to ensure consistency with the revised Code (refer to **Appendix 1 Summary of proposed revisions in section 2 Definitions**).

(iv) **Inclusion of an interpretation paragraph in section 1 Scope and application**

An interpretation paragraph has been included in section 1 *Scope and application* which clarifies the use of similar words which should have equal application (i.e. singular includes plural, one gender includes another and words importing persons includes corporations or organisations).

(v) **Impact of the merger of Institute of Chartered Accountants Australia (ICAA) with the New Zealand Institute of Chartered Accountants (NZICA)**

The Board noted that due to the merger of ICAA and NZICA, the definition of 'Professional Bodies' requires an amendment as the existing APESB pronouncements refer to ICAA which is now Chartered Accountants Australia and New Zealand (CA ANZ).

Members of the professional accounting bodies and other stakeholders should also note that, as specified in the *scope and application* of each pronouncement, the applicable APESB pronouncement is subject to laws and regulations of the applicable jurisdiction (whether it is Australia or another country). Furthermore where the Member is working in a foreign jurisdiction, the Member will also be subject to the laws and regulations of that jurisdiction which may have higher or different requirements than APESB pronouncements.

(vi) Change of terms in the title of APES 345

A stakeholder noted that the title of APES 345 only refers to a Disclosure Document. However, the definitions of both a Disclosure Document and Product Disclosure Statement are included in APES 345.

In addition, whilst APES 345 refers to a Disclosure Document, it is noted that APES 350 *Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document* refers to a Public Document. Since the defined term 'Public Document' in APES 350 encompasses a Disclosure Document, a Product Disclosure Statement and other related documentation, APESB has determined that it is appropriate for the scope of APES 345 to be the same as APES 350 since both standards are dealing with Public Documents.

Accordingly the term 'Disclosure Document' in the title of APES 345 has been replaced with 'Public Document' and consequential amendments were made to the text of the existing standard. As part of this review, APESB also revised the definition of 'Product Disclosure Statement' to ensure its consistency with APES 350.

(vii) Matters raised by respondents in APESB's Issues Register

APESB has also taken the opportunity to address minor editorial matters noted on the Issues Register in respect of these pronouncements.

Appendix 2 provides a summary of the proposed revisions in Exposure Draft 02/15.

2. Request for comments on Exposure Draft

2.1 Commenting on this Exposure Draft

APESB invites stakeholders to provide comments on these proposed revisions to the pronouncements identified in ED 02/15.

The proposals in this Exposure Draft may be modified in light of comments received before being issued in final form. **Comments are requested by 27 July 2015.**

Comments should be addressed to:

The Chairman
Accounting Professional & Ethical Standards Board Limited
Level 7, 600 Bourke Street
MELBOURNE VIC 3000
AUSTRALIA

APESB would prefer that respondents express a clear overall opinion on whether the revisions to the proposed pronouncements (refer to the marked-up version of each pronouncements in *Appendix 3* of the Exposure Draft), are supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on any matter. APESB regards both critical and supportive comments as essential to a balanced view of the proposed pronouncements.

Stakeholders are encouraged to provide their views and comments on the proposed revisions as well as whether there are any additional consequential impacts of these revisions that APESB needs to consider in its deliberations in finalising these revised pronouncements.

Respondents are asked to submit their comments electronically through the APESB website, using the link <http://www.apesb.org.au/apesb-exposure-drafts-open-for-comment>.

Please submit comments in both a PDF and Word file. All comments will be considered a matter of public record and will ultimately be posted on the website www.apesb.org.au.

APESB prefers that comments are submitted via its website. However, if there are technical difficulties, comments can also be sent to sub@apesb.org.au or mailed to the address noted above.

2.2 Obtaining a copy of this Exposure Draft

This Exposure Draft is available on the APESB website: www.apesb.org.au.

Alternatively, any individual or organisation may obtain one printed copy of this Exposure Draft without charge until **27 July 2015** by contacting:

Accounting Professional & Ethical Standards Board Limited
Level 7
600 Bourke Street
Melbourne Victoria 3000
Australia
E-mail: enquiries@apesb.org.au
Phone: (03) 9670 8911
Fax: (03) 9670 5611

Appendix 1

Summary of proposed revisions in section 2 *Definitions*

The summary provides an overview of the proposed revisions of the definitions in the existing pronouncements to primarily align it with APES 110 *Code of Ethics for Professional Accountants* (2013):

Amendments to Definitions as per the Code	Pronouncements							
	APES 205	APES 210	APES 220	APES 305	APES 325	APES 345	APES GN 30	APES GN 40
Acceptable Level	-	-	-	-	-	√	-	√
Applicable Financial Reporting Framework	√	-	-	-	-	-	-	-
Assurance Engagement	√	√	-	-	-	√	-	-
Auditing and Assurance Standards	-	√	-	-	-	-	-	-
Audit Engagement	√	-	-	-	-	-	-	-
Australian Financial Reporting Framework	√	-	-	-	-	-	-	-
Client	√	√	√	√	-	√	√	-
Engagement	√	-	-	-	-	-	-	-
Engagement Team	-	-	-	-	-	√	-	-
Financial Statements	√	-	-	-	-	-	-	-
Financial Interest	-	-	-	-	-	√	-	-
Firm	√	-	-	-	-	√	-	-
General Purpose Financial Statements	√	-	-	-	-	-	-	-
Independence	-	-	-	-	-	√	-	-
Member	√	√	√	√	-	-	√	√
Member in Business	-	-	√	-	-	-	-	-
Member in Public Practice	√	√	√	√	√	√	√	-
Network	-	-	-	-	√	-	-	-
Product Disclosure Statement	-	-	-	-	-	√	-	-
Professional Bodies	√	-	-	-	-	-	√	√
Professional Services	√	√	√	√	√	√	√	-
Professional Standards	-	√	-	√	-	√	-	-
Review Engagement	√	-	-	-	-	-	-	-
Reporting Service Engagement	-	-	-	-	-	√	-	-

Appendix 1

Summary of proposed revisions in section 2 *Definitions* (continued)

Amendments to Definitions	Pronouncements							
	APES 205	APES 210	APES 220	APES 305	APES 325	APES 345	APES GN 30	APES GN 40
Special Purpose Financial Statements	√	-	-	-	-	-	-	-
Those Charged with Governance	-	-	-	-	-	√	-	√

Additions to Definitions	Pronouncements							
	APES 205	APES 210	APES 220	APES 305	APES 325	APES 345	APES GN 30	APES GN 40
AUASB	-	-	-	-	-	√	-	-
Auditing and Assurance Standards	√	-	-	-	-	-	-	-
Client	-	-	-	-	√	-	-	-
Compliance Framework	√	-	-	-	-	-	-	-
Contingent Fee	-	-	-	-	-	√	-	-
External Expert	-	-	-	-	-	√	-	-
General Purpose Framework	√	-	-	-	-	-	-	-
Member	-	-	-	-	√	√	-	-
Network	-	-	-	-	-	√	-	-
Network Firm	-	-	-	-	-	√	-	-
Professional Activity	√	√	√	√	√	√	√	√
Professional Bodies	-	√	√	√	√	√	-	-
Public Document	-	-	-	-	-	√	-	-
Special Purpose Framework	√	-	-	-	-	-	-	-
Those Charged with Governance	√	-	-	-	-	-	-	-

The term 'Professional Services' has been deleted from Section 2 *Definitions* in APES GN 40.

Appendix 2

Summary of proposed revisions in Exposure Draft

The summary provides an overview of the proposed revisions in the Exposure Draft and how they impact the existing pronouncements:

Summary of proposed amendments	Pronouncements							
	APES 205	APES 210	APES 220	APES 305	APES 325	APES 345	APES GN 30	APES GN 40
Objectives paragraph 1.1 & effective date paragraph 1.2	√	√	√	√	√	√ [^]	√	√
Interpretation paragraph (section 1)	√	√	√	√	√	√	√	√
Amendment to title	-	-	-	-	-	√	-	-
Amendments to section 2 (refer Appendix 1)	√	√	√	√	√	√ [^]	√	√
Other minor editorials:								
Paragraph 1.3	√	√	√	-	-	-	-	-
Paragraph 1.4	-	-	-	-	√	-	-	-
Paragraph 1.8	-	-	-	-	-	-	-	√*
Paragraph 1.9	-	-	-	-	-	-	-	√
Paragraph 1.10	-	-	-	-	-	-	√	-
Paragraph 3.1	-	-	-	-	√	-	-	√
Paragraph 3.3	-	-	-	-	-	-	-	√*
Paragraph 3.4	-	-	-	-	-	-	-	√*
Paragraph 3.6	-	-	-	-	-	√	-	-
Paragraph 4.4	-	-	-	-	-	√ [^]	-	-
Paragraph 4.6	-	-	-	√	-	-	-	-
Paragraph 5.2	-	-	-	-	-	√	-	√*
Paragraph 5.4	-	-	√	-	-	-	-	-
Paragraph 5.6	√	-	-	-	-	-	-	-
Paragraph 6.2	√	-	-	-	√	-	-	√
Paragraph 6.3	-	-	-	-	-	-	-	√
Paragraph 7.2	-	-	-	-	-	-	-	√
Paragraph 8.2	-	-	-	-	-	√ [^]	-	-
Paragraph 8.3	-	-	-	-	-	√ [^]	-	-
Paragraph 9.2	-	-	-	-	-	√ [^]	-	-
Paragraph 10.1	-	-	-	-	-	-	-	√
Paragraph 12.1	-	-	-	-	-	-	-	√*

[^] Amendments due to the change of title of APES 345 and to be consistent with APES 350.

* Amendments due to the deletion of the previously defined term 'Professional Services' in APES GN 40.

Appendix 3

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Proposed Standard: APES 205 Conformity with Accounting Standards

[Supersedes APES 205 Conformity with Accounting Standards issued in December 2007]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

EXPOSURE DRAFT
ISSUED:

02/15
June 2015

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APES 205 Conformity with Accounting Standards

[Supersedes APES 205 Conformity with Accounting Standards issued in December 2007]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

REVISED: [Month/Year]

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Conformity with International Pronouncements

| [Appendix 1: Summary of revisions to the previous APES 205 \(Issued December 2007\)](#)

1. Scope and application

- 1.1 The primary objectives of APES 205 *Conformity with Accounting Standards* are to specify a Member's professional obligations when the Member prepares, presents, audits, reviews or compiles Financial Statements in respect of:
- fundamental ethical obligations;
 - a Member's obligation to take reasonable steps to ensure a Reporting Entity prepares General Purpose Financial Statements; and
 - a Member's obligations in respect of the disclosures in an entity's Special Purpose Financial Statements.
- 1.1.2 Accounting Professional & Ethical Standards Board Limited (APESB) issues professional standard APES 205 *Conformity with Accounting Standards (the Standard)*, which is effective from 1 January 2016 ~~01 July 2008~~ and supersedes APES 205 issued in December 2007. Earlier adoption of this Standard is permitted.
- 1.32 APES 205 sets the standards for Members involved with the preparation, presentation, audit, review or compilation of Financial Statements, which are either General Purpose Financial Statements or Special Purpose Financial Statements, of entities in the private and public sectors. The mandatory requirements of this Standard are in **bold-type (black lettering)**-type, preceded or followed by discussion or explanations in normal type (grey typelettering). APES 205 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply.
- 1.43 **Members in Australia shall follow the mandatory requirements of APES 205 when they prepare, present, audit, review or compile Financial Statements.**
- 1.54 **Members outside Australia shall comply with the financial reporting framework applicable to the relevant jurisdiction when they prepare, present, audit, review or compile Financial Statements. However, where the Financial Statements are prepared in accordance with the Australian Financial Reporting Framework, Members shall comply with the requirements of this Standard.**
- 1.65 **Members shall be familiar with relevant professional standards and guidance notes when performing professional work. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.76 The Standard does not detract from any responsibilities which may be imposed by law.
- 1.87 All references to accounting, auditing and professional standards are references to those provisions as amended from time to time.
- 1.98 In applying the requirements outlined in APES 205, Members should be guided not merely by the words but also by the spirit of the Standard and the Code.
- 1.10 In this Standard, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Standard:

AASB means the Australian statutory body called the Australian Accounting Standards Board that was established under section 226 of the *Australian Securities and Investments Commission Act 1989* and is continued in existence by section 261 of the *Australian Securities and Investments Commission Act 2001*.

Applicable Financial Reporting Framework means the financial reporting framework adopted by management and, where appropriate, those charged with governance in the preparation of the financial statements report that is acceptable in view of the nature of the entity and the objective of the financial report, or that is required by law or regulation.

The term *fair presentation framework* means a financial reporting framework that requires compliance with the requirements of the framework and:

- (a) Acknowledges explicitly or implicitly that, to achieve fair presentation of the financial report, it may be necessary for management to provide disclosures beyond those specifically required by the framework; or
- (b) Acknowledges explicitly that it may be necessary for management to depart from a requirement of the framework to achieve fair presentation of the financial report. Such departures are expected to be necessary only in extremely rare circumstances.

In the context of financial reporting, the term *Compliance Framework* means a financial reporting framework that requires compliance with the requirements of the applicable framework, but does not contain the acknowledgements in (a) or (b) above.

Assurance Engagement means an Engagement in which a ~~conclusion is expressed by a~~ Member in Public Practice expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

This ~~would include~~ an Engagement in accordance with the Framework for Assurance Engagements issued by the ~~Auditing and Assurance Standards Board (AUASB)~~ or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.

AUASB means the Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the *Australian Securities and Investments Commission Act 2001*.

Audit Engagement means ~~an a reasonable Assurance Engagement in which a Member in Public Practice expresses an opinion whether Financial Statements are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects), to provide a reasonable level of assurance that a financial report is free of material misstatement, such as an Engagement in accordance with an Applicable Financial Reporting Framework, such as an Engagement conducted in accordance with Australian a Auditing and Assurance sStandards. This includes a statutory audit, which is an audit required by legislation or other regulation, and other audits conducted for the purposes of the Corporations Act.~~

Auditing and Assurance Standards means:

- (a) the AUASB standards, as described in ASA 100 Preamble to AUASB Standards, ASA 101 Preamble to Australian Auditing Standards and the Foreword to AUASB Pronouncements, issued by the AUASB, and operative from the date specified in each standard; and
- (b) those standards issued by the AuASB which have not been revised and reissued (whether as standards or as guidance) by the AUASB, to the extent that they are not inconsistent with the AUASB standards.

Australian Accounting Standards means the Accounting Standards (including Australian Accounting Interpretations) promulgated by the AASB.

Australian Financial Reporting Framework means the framework that uses Australian Accounting Standards as the Applicable Financial Reporting Framework and is adopted by those charged with Governance when preparing Financial Statements.

Client means an individual, firm, entity or organisation to whom or to which Professional Services/Activities are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Compliance Framework means:

- (a) a financial reporting framework that requires compliance with the requirements of the applicable framework, but does not contain the acknowledgements in respect of a fair presentation framework (refer Applicable Financial Reporting Framework); or
- (b) a framework (not related to financial reporting) used by the entity, which is designed to ensure that the entity achieves compliance, and includes governance structures, programs, processes, systems, controls and procedures.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Financial Statements means a structured representation of historical financial information, including related notes, —which ordinarily includes explanatory notes,—intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can refer to a complete set of Financial Statements, but it can also refer to a single Financial Statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes. The requirements of the financial reporting framework determine the form and content of the Financial Statements and what constitutes a complete set of Financial Statements.

For the purposes of this Standard, financial report is considered to be an equivalent term to Financial Statements.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties, through ownership, management or other means;
- (c) An entity controlled by such parties, through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Framework means the *Framework for the preparation and presentation of financial statements* issued by the AASB.

General Purpose Financial Statements means a financial report prepared in accordance with a General Purpose Framework, those intended to meet the needs of users who are not in a position to require an entity to prepare reports tailored to their particular information needs.

General Purpose Framework means a financial reporting framework designed to meet the common financial information needs of a wide range of users. The financial reporting framework may be a fair presentation framework or a Compliance Framework.

Member means a member of a ~~p~~Professional ~~b~~Body that has adopted this Standard as applicable to their membership as defined by that ~~p~~Professional ~~b~~Body.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax, or consulting) in a Firm that provides Professional Services. ~~The~~ This term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable ~~p~~Professional ~~b~~Body.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Professional Bodies means the ~~Institute of Chartered Accountants in Australia, Chartered Accountants Australia and New Zealand~~, CPA Australia and the ~~National~~ Institute of Public Accountants.

Professional Services means ~~services requiring accountancy or related skills performed by a professional accountant including accounting, auditing, taxation, management consulting and financial management services~~ Professional Activities performed for Clients.

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable Professional Body.

Reporting Entity means an entity in respect of which it is reasonable to expect the existence of users who rely on the entity's General Purpose Financial Report for information that will be useful to them for making and evaluating decisions about the allocation of resources. A Reporting Entity can be a single entity or a group comprising a parent entity and all the entities it controls.

Review Engagement means an Assurance Engagement in which a Member in Public Practice ~~to express~~ expresses a conclusion ~~on~~ whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the attention of the Member ~~in Public Practice~~ that causes the Member to believe that the historical financial information is not prepared in all material respects in accordance with an Applicable Financial Reporting Framework, ~~such as which is~~ an Engagement conducted in accordance with Auditing and Assurance Standards applicable assurance standards on Review Engagements.

Special Purpose Financial Statements means a complete set of ~~f~~Financial ~~s~~Statements, including the related notes, and an assertion statement by those responsible for the financial report, prepared in accordance with a Special Purpose Framework. ~~other than General Purpose Financial Statements.~~ The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The requirements of the Applicable Financial Reporting Framework determine the format and content of a financial report prepared in accordance with a Special Purpose Framework.

Special Purpose Framework means a financial reporting framework designed to meet the financial information needs of specific users. The financial reporting framework may be a fair presentation framework or a Compliance Framework.

Statements of Accounting Concepts mean SAC 1 *Definition of Reporting Entity* and SAC 2 *Objective of General Purpose Financial Reporting* issued by the AASB.

Those Charged with Governance means the person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, Those Charged with Governance may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

3. Fundamental responsibilities of Members

Public interest

- 3.1 In accordance with Section 100.1 of the Code, Members shall observe and comply with their public interest obligations when they prepare, present, audit, review or compile Financial Statements.**

Professional competence and due care

- 3.2 In accordance with Section 130 *Professional Competence and Due Care* of the Code, a Member in Public Practice who is performing professional work based on an Applicable Financial Reporting Framework shall ensure that the Member or the Firm has the requisite professional knowledge and skill or shall engage a suitably qualified external person. If a Member in Public Practice is unable to engage a suitably qualified person when required, the Member shall decline the Engagement.**

4. Responsibilities of Members in respect of the Reporting Entity concept

- 4.1 Members should take all reasonable steps to apply the principles and guidance provided in the Statements of Accounting Concepts and the Framework when assessing whether an entity is a Reporting Entity.**
- 4.2 Statement of Accounting Concepts SAC 1 “Definition of Reporting Entity” provides guidance on circumstances in which an entity or economic entity should be identified as a Reporting Entity.**
- 4.3 Members who are involved in, or are responsible for, the preparation and/or presentation of Financial Statements of a Reporting Entity shall take all reasonable steps to ensure that the Reporting Entity prepares General Purpose Financial Statements.**

5. Responsibilities of Members in respect of General Purpose Financial Statements

- 5.1 Members shall take all reasonable steps to apply Australian Accounting Standards when they prepare and/or present General Purpose Financial Statements that purport to comply with the Australian Financial Reporting Framework.**
- 5.2 Where Members are unable to apply Australian Accounting Standards pursuant to paragraph 5.1, they shall take all reasonable steps to ensure that any departure from Australian Accounting Standards, the reasons for such departure, and its financial effects are properly disclosed and explained in the General Purpose Financial Statements.**
- 5.3 If legislation, ministerial directive or other government authority requires a departure from Australian Accounting Standards, a Member should disclose that fact in the General Purpose Financial Statements as a reason for the departure.**
- 5.4 Where a Member is unable to ensure proper disclosure of a departure from Australian Accounting Standards pursuant to paragraph 5.2, the Member should discuss the matter with the appropriate level of management of the relevant entity and document the results of these discussions.**
- 5.5 Members in Public Practice shall take all reasonable steps to ensure that Clients have complied with Australian Accounting Standards when they perform an Audit or Review Engagement or a compilation Engagement of General Purpose Financial Statements which purport to comply with the Australian Financial Reporting Framework.**

5.6 Where a Member in Public Practice is unable to ensure that a Client complies with Australian Accounting Standards pursuant to paragraph 5.5, the Member shall consider Australian ~~a~~Auditing ~~and Assurance~~ ~~s~~Standards applicable to Audit or Review Engagements or Professional Standards applicable to compilation Engagements.

6. Responsibilities of Members in respect of Special Purpose Financial Statements

6.1 Members who are involved in, or are responsible for, the preparation, presentation, audit, review or compilation of an entity's Special Purpose Financial Statements (except where the Special Purpose Financial Statements will be used solely for internal purposes) shall take all reasonable steps to ensure that the Special Purpose Financial Statements, and any associated audit report, review report or compilation report clearly identifies:

- (a) that the Financial Statements are Special Purpose Financial Statements;
- (b) the purpose for which the Special Purpose Financial Statements have been prepared; and
- (c) the significant accounting policies adopted in the preparation and presentation of the Special Purpose Financial Statements.

6.2 Where a Member in Public Practice is unable to ensure that a Client complies with an Applicable Financial Reporting Framework pursuant to paragraph 6.1, the Member shall consider Australian ~~a~~Auditing ~~and Assurance~~ ~~s~~Standards applicable to Audit or Review Engagements or Professional Standards applicable to compilation Engagements.

6.3 For all other Members, where the Member is unable to ensure that an entity complies with an Applicable Financial Reporting Framework pursuant to paragraph 6.1, the Member should discuss the matter with the appropriate level of management of the relevant entity and document the results of these discussions.

Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 205.

Appendix 1

Summary of revisions to the previous APES 205 (Issued in December 2007)

APES 205 *Conformity with Accounting Standards* was originally issued in December 2007. APES 205 has been revised by APESB in XX 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
<u>1.1</u>	<u>Added</u>
<u>1.2 – Paragraph 1.1 of existing APES 205 relocated</u>	<u>Amended</u>
<u>1.3 - Paragraph 1.2 of existing APES 205 relocated</u>	<u>Amended</u>
<u>1.10</u>	<u>Added</u>
<u>2 – Definition of Applicable Financial Reporting Framework</u>	<u>Amended</u>
<u>2 – Definition of Assurance Engagement</u>	<u>Amended</u>
<u>2 – Definition of Audit Engagement</u>	<u>Amended</u>
<u>2 – Definition of Auditing and Assurance Standards</u>	<u>Added</u>
<u>2 – Definition of Australian Financial Reporting Framework</u>	<u>Amended</u>
<u>2 – Definition of Client</u>	<u>Amended</u>
<u>2 – Definition of Compliance Framework</u>	<u>Added</u>
<u>2 – Definition of Engagement</u>	<u>Amended</u>
<u>2 – Definition of Financial Statements</u>	<u>Amended</u>
<u>2 – Definition of Firm</u>	<u>Amended</u>
<u>2 – Definition of General Purpose Financial Statements</u>	<u>Amended</u>
<u>2 – Definition of General Purpose Framework</u>	<u>Added</u>
<u>2 – Definition of Member</u>	<u>Amended</u>
<u>2 – Definition of Member in Public Practice</u>	<u>Amended</u>
<u>2 – Definition of Professional Activity</u>	<u>Added</u>
<u>2 – Definition of Professional Bodies</u>	<u>Amended</u>
<u>2 – Definition of Professional Services</u>	<u>Amended</u>
<u>2 – Definition of Review Engagement</u>	<u>Amended</u>
<u>2 – Definition of Special Purpose Financial Statements</u>	<u>Amended</u>
<u>2 – Definition of Special Purpose Framework</u>	<u>Added</u>
<u>2 – Definition of Those Charged with Governance</u>	<u>Added</u>
<u>5.6</u>	<u>Amended</u>
<u>6.2</u>	<u>Amended</u>
<u>Appendix 1</u>	<u>Added</u>

* Refer Technical Update 2015x

Proposed Standard: APES 210 Conformity with Auditing and Assurance Standards

[Supersedes APES 210 Conformity with Auditing and Assurance Standards issued in November 2011]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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02/15
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APES 210 Conformity with Auditing and Assurance Standards

[Supersedes APES 210 Conformity with Auditing and Assurance Standards issued in
November 2011]

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Accounting Professional & Ethical Standards Board Limited

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1. Scope and application

- 1.1 The primary objectives of APES 210 *Conformity with Auditing and Assurance Standards* are to specify a Member's professional obligations when the Member performs an Assurance Assignment or an Assurance Engagement in respect of:
- fundamental ethical obligations;
 - a Member's obligations to comply with applicable Independence requirements;
 - a Member's obligation to comply with Auditing and Assurance Standards; and
 - a Member's obligation to consider relevant Auditing and Assurance Guidance.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) issues professional standard APES 210 *Conformity with Auditing and Assurance Standards* (the Standard), which is effective from ~~the date of issue~~ 1 January 2016 and supersedes APES 210 issued in November 2011. Earlier adoption of this Standard is permitted.
- 1.23 APES 210 sets the standards for Members to comply with Auditing and Assurance Standards when they conduct Assurance Assignments or Assurance Engagements. The mandatory requirements of this Standard are in ~~bold~~ **bold-type (black lettering)**, preceded or followed by discussion or explanations in normal type (grey type lettering). APES 210 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply.
- 1.43 In undertaking work, including honorary work that is within the scope of an Assurance Engagement, a Member in Business is a Member in Public Practice for the purpose of this Standard.
- 1.54 **Members in Australia shall follow the mandatory requirements of APES 210.**
- 1.65 **Members outside of Australia shall follow the provisions of APES 210 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations in the country in which they are working.**
- 1.76 **Members shall be familiar with relevant Professional Standards and guidance notes. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.87 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.98 All references to Professional Standards are references to those provisions as amended from time to time.
- 1.109 In applying the requirements outlined in APES 210, Members should be guided not merely by the words but also by the spirit of the Standard and the Code.
- 1.11 In this Standard, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Standard:

Assurance Assignment means an Assignment in which a conclusion is expressed by a Member in Business designed to enhance the degree of confidence of the intended users about the outcome of the evaluation or measurement of a subject matter against criteria.

Assurance Engagement means an Engagement in which a Member in Public Practice expresses a conclusion ~~is expressed by a Member in Public Practice~~ designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

This includes an Engagement in accordance with the Framework for Assurance Engagements issued by the ~~Auditing and Assurance Standards Board (AUASB)~~ or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.

Assignment means an instruction, whether written or otherwise, by an employer to a Member in Business relating to the provision of services by a Member in Business. However, consultations with the employer prior to such instruction are not part of an Assignment.

AuASB means the Auditing and Assurance Standards Board which issued Australian auditing and assurance standards up to 30 June 2004, under the auspices of the Australian Accounting Research Foundation, a joint venture of CPA Australia and the Institute of Chartered Accountants in Australia.

AUASB means the Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the *Australian Securities and Investments Commission Act 2001*.

Auditing and Assurance Guidance means:

- (a) the guidance statements and other guidance publications, as defined in the *Foreword to AUASB Pronouncements*, issued by the AUASB; and
- (b) the auditing and assurance guidance statements and other guidance publications issued by the AuASB on behalf of CPA Australia and the Institute of Chartered Accountants in Australia.

Auditing and Assurance Standards means:

- (a) the AUASB standards, as described in *ASA 100 Preamble to AUASB Standards*, *ASA 101 Preamble to Australian Auditing Standards* and the *Foreword to AUASB Pronouncements*, issued by the AUASB, and operative from the date specified in each standard; and
- (b) those standards issued by the AuASB, which have not been revised and reissued (whether as standards or as guidance) by the AUASB, to the extent that they are not inconsistent with the AUASB standards.

Client means an individual, firm, entity or organisation to whom or to which Professional Services-Activities are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties, through ownership, management or other means;
- (c) An entity controlled by such parties, through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Member means a member of a ~~p~~Professional ~~b~~Body that has adopted this Standard as applicable to their membership, as defined by that ~~p~~Professional ~~b~~Body.

Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a Member contracted by such entities.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax, or consulting) in a Firm that provides Professional Services. ~~The-This~~ term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable ~~p~~Professional ~~b~~Body.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Professional Bodies means the Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

Professional Services means services requiring accountancy or related skills performed by a Member in Public Practice including accounting, auditing, taxation, management consulting and financial management services Professional Activities performed for Clients.

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable ~~p~~Professional ~~b~~Body.

3. Fundamental responsibilities of Members

Public interest

3.1 In accordance with Section 100 *Introduction and Fundamental Principles* of the Code, Members shall observe and comply with their public interest obligations when they perform an Assurance Assignment or an Assurance Engagement.

Independence

3.2 When engaged to perform an Assurance Engagement, a Member in Public Practice shall comply with Section 290 *Independence – Audit and Review Engagements* or Section 291 *Independence – Other Assurance Engagements* of the Code, as applicable.

Professional competence and due care

3.3 In accordance with Section 130 *Professional Competence and Due Care* of the Code, a Member in Public Practice who is performing an Assurance Engagement shall ensure that the Member or the Firm has the requisite professional knowledge and skill or shall engage a suitably qualified external person. If the Member is unable to engage a suitably qualified person when required, the Member shall decline the Engagement.

4. Auditing and Assurance Standards

4.1 Except for the circumstances described in paragraph 4.2, a Member shall comply with Auditing and Assurance Standards.

- 4.2 Where legislation or other government authority requires a departure from Auditing and Assurance Standards, a Member shall disclose that fact in the Member's report. In these circumstances, a Member shall not assert compliance with any of those standards in the Member's report.

5. Auditing and Assurance Guidance

- 5.1 A Member should follow relevant Auditing and Assurance Guidance.

Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 210.

Appendix 1

Summary of revisions to the previous APES 210 (Issued on 30 November 2011)

APES 210 *Conformity with Auditing and Assurance Standards* was originally issued on 30 September 2008 and subsequently revised on 30 November 2011. APES 210 has been revised by APESB in XX 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
<u>1.1</u>	<u>Added</u>
<u>1.2 – Paragraph 1.1 of existing APES 210 relocated</u>	<u>Amended</u>
<u>1.3 – Paragraph 1.2 of existing APES 210 relocated</u>	<u>Amended</u>
<u>1.11</u>	<u>Added</u>
<u>2 – Definition of Assurance Engagement</u>	<u>Amended</u>
<u>2 – Definition of Auditing and Assurance Standards</u>	<u>Amended</u>
<u>2 – Definition of Client</u>	<u>Amended</u>
<u>2 – Definition of Member</u>	<u>Amended</u>
<u>2 – Definition of Member in Public Practice</u>	<u>Amended</u>
<u>2 – Definition of Professional Activity</u>	<u>Added</u>
<u>2 – Definition of Professional Bodies</u>	<u>Added</u>
<u>2 – Definition of Professional Services</u>	<u>Amended</u>
<u>2 – Definition of Professional Standards</u>	<u>Amended</u>
<u>Appendix 1</u>	<u>Amended</u>

* Refer Technical Update 2015/x

Proposed Standard: APES 220 Taxation Services

[Supersedes APES 220 Taxation Services Issued in March 2011]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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APES 220 Taxation Services

[Supersedes APES 220 Taxation Services issued in March 2011]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

REVISED: [Month/Year]

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Conformity with International Pronouncements

*Appendix 1: Summary of revisions to the previous APES 220 (~~Issued October 2007~~
Issued March 2011)*

1. Scope and application

- 1.1 The primary objectives of APES 220 Taxation Services are to specify a Member's professional obligations when they perform a Taxation Service to a Client or Employer in respect of:
- fundamental ethical obligations;
 - preparation and lodgement of returns to Revenue Authorities;
 - association with tax schemes and arrangements;
 - dealing with estimates;
 - false and misleading information;
 - dealing with Client monies; and
 - documentation requirements.
- 1.42 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 220 *Taxation Services* (**the Standard**), which is effective from 1 January 2016 ~~May 2014~~ and supersedes APES 220 issued in March 2011. Earlier adoption of this Standard is permitted.
- 1.32 APES 220 sets the standards for Members in the provision of quality and ethical Taxation Services. The mandatory requirements of this Standard are in ~~bold~~ **bold-type (black lettering)**, preceded or followed by discussion or explanations in ~~grey-normal~~ grey-normal type (grey lettering). APES 220 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply.
- 1.43 **Members in Australia shall follow the mandatory requirements of APES 220 when they provide Taxation Services.**
- 1.54 **Members practising outside of Australia shall follow the provisions of APES 220 to the extent to which they are not prevented from so doing by specific requirements of local regulations and/or laws.**
- 1.65 **Members shall be familiar with relevant professional standards and guidance notes when providing Professional Services. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.76 The Standard is not intended to detract from any responsibilities which may be imposed by law.
- 1.87 All references to professional standards are references to those provisions as amended from time to time.
- 1.98 In applying the requirements outlined in APES 220, Members should be guided not merely by the words but also by the spirit of the Standard and the Code.
- 1.10 In this Standard, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Standard:

Client means an individual, ~~F~~firm, entity or organisation to whom or to which ~~Professional Activities Taxation Services~~ are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Employer within the context of this Standard means an entity or person that employs, engages or contracts a Member in Business.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties, through ownership, management or other means;
- (c) An entity controlled by such parties, through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Member means a member of a ~~p~~Professional ~~b~~Body that has adopted this Standard as applicable to their membership, as defined by that ~~p~~Professional ~~b~~Body.

Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or ~~p~~Professional ~~b~~Bodies, or a Member contracted by such entities.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax or consulting) in a Firm that provides Professional Services. ~~The This~~ term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable ~~p~~professional ~~b~~Body.

~~Professional Activity~~ means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

~~Professional Bodies~~ means the ~~Chartered Accountants Australia and New Zealand~~, CPA Australia and the Institute of Public Accountants.

~~Professional Services~~ means ~~services requiring accountancy or related skills performed by a professional accountant including accounting, auditing, taxation, management consulting and financial management services~~ Professional Activities performed for Clients.

Revenue Authorities include various levels of government authorities or similar institutions which have legislative powers to impose and/or collect taxes.

Taxation Law means a law and/or regulation of any level of government imposing a tax or otherwise dealing with tax, and includes any such laws and regulations that describe direct and indirect taxes, levies, surcharges, penalties or similar charges imposed by various levels of governments or similar institutions on economic transactions.

Taxation Services mean any services relating to ascertaining a Client's or Employer's tax liabilities or entitlements or satisfying their obligations under a Taxation Law, provided under circumstances where they can reasonably expect to rely on the services. This includes:

- preparation of a return, notice, statement, application or other document for lodgement with a Revenue Authority, and responding on behalf of a Client or Employer to requests for further information from a Revenue Authority;
- preparation of tax calculations to be used as the basis for the accounting entries in the financial statements;
- provision of tax planning and other tax advisory services; and
- assisting a Client or Employer in the resolution of tax disputes.

Writing means a mode of representing or reproducing words in a visible form, and includes words in an electronic format capable of being converted to printed text.

3. Fundamental responsibilities of Members

3.1 Members providing Taxation Services shall at all times safeguard the interests of their Client or Employer provided that such services are delivered in accordance with Section 100 *Introduction and Fundamental Principles* of the Code and relevant Taxation Law.

Public interest

3.2 In accordance with Section 100.1 of the Code, Members shall observe and comply with their public interest obligations when they provide Taxation Services.

Integrity and professional behaviour

3.3 In accordance with the fundamental principles of integrity and professional behaviour contained in the Code, Members providing Taxation Services shall ensure that their own personal tax obligations and those of any associated entities for which the Member is responsible are properly discharged.

Objectivity

3.4 When providing Taxation Services Members shall be objective in accordance with Section 120 *Objectivity* of the Code. They shall maintain an impartial attitude and recommend options that meet the Client's or Employer's interests consistent with the requirements of the law.

- 3.5 A Member may act as an advocate for a Client or Employer when representing or assisting them before certain tribunals. However, a Member acting in such a capacity before any court or tribunal should ensure that the Client or Employer is aware that the Member has an obligation not to mislead the court or tribunal and to safeguard his or her professional objectivity.

Confidentiality

- 3.6 **In accordance with Section 140 *Confidentiality* of the Code, a Member who acquires confidential information in the course of professional work for a Client or Employer shall not use that information for any purpose other than the proper performance of professional work for that Client or Employer.**
- 3.7 **Unless the Member has a legal obligation of disclosure, a Member shall not convey any information relating to a Client's or Employer's affairs to a third party without the Client's or Employer's permission.**
- 3.8 Where a Client has given a Member in Public Practice permission to disclose confidential information to a third party, it is preferable that this permission is in Writing. Where verbal permission is obtained, a contemporaneous note should be made and kept on file by the Member recording the relevant details of the Client's approval.
- 3.9 **Unless the Member has a legal obligation of disclosure, a Member shall not furnish to the Revenue Authorities any opinions or written advices of a third party who is acting in a specialist capacity on specific aspects of the Engagement, without the prior knowledge and express consent of that third party.**
- 3.10 **Where a Member provides confidential information in accordance with a legal obligation of disclosure, the Member shall notify the Client, Employer or relevant third party as soon as practical, provided that there is no legal prohibition against such notification.**

Professional competence and due care

- 3.11 **Members engaged in providing Taxation Services shall maintain professional competence and take due care in the performance of their work in accordance with Section 130 *Professional Competence and Due Care* of the Code.**
- 3.12 Competent Professional Service requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service. Due care imposes the obligation of acting diligently in accordance with applicable technical and professional standards when providing a Professional Service.
- 3.13 Members should therefore refrain from performing any services which they are not competent to carry out, unless expert advice and assistance is obtained to ensure that the services are performed to a standard agreed with the Client or Employer or as required by law.

- 3.14 A Member shall maintain open, frank and effective communications with a Client or Employer. In this regard:**
- (a) where appropriate having regard to the Member's agreed scope of work, a Member shall advise a Client or Employer of both the Member's and the Client's or Employer's rights, obligations and options available under the Taxation Law. A Member shall also advise the Client or Employer of their rights or options available under Taxation Law with respect to the seeking of a private ruling and the lodging of objections and appeals against adverse positions adopted by the Revenue Authorities; and**
 - (b) in the context of Taxation Services requested, a Member shall advise a Client or Employer on the application of the Taxation Law, including any possible penalties and other legal tax consequence, so as to allow the Client or Employer to make an informed decision of the course of action to be taken.**
- 3.15 A Member in Public Practice shall provide a Client with a statement in Writing that:**
- (a) the responsibility for the accuracy and completeness of the particulars and information provided by the Client rests with the Client;**
 - (b) any advice given to the Client is only an opinion based on the Member's knowledge of the Client's particular circumstances; and**
 - (c) a taxpayer has obligations under self assessment to keep full and proper records in order to facilitate the preparation of accurate returns.**
- 3.16 The communication of the matters in paragraph 3.15 to the Client in Writing need not be in the form of a letter. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.**
- 3.17 Where the application of the Taxation Law is not certain, a Member shall not represent to a Client or Employer that the results of a Taxation Service (such as the tax or other revenue returns which the Member prepares or assists in preparing, or the tax advice the Member offers), are beyond challenge.**
- 4. Preparation and lodgement of returns to Revenue Authorities**
- 4.1 A Member shall prepare and/or lodge returns and other relevant documents required to be lodged with a Revenue Authority in accordance with the information provided by a Client or Employer, their instructions and the relevant Taxation Law.**

4.2 Where appropriate a Member may accept a Client's or Employer's information, and is not responsible for its veracity. However, within the agreed scope of work a Member should obtain information which is sufficient to allow the Member to form a view as to the application of the law to that information and to be able to recommend the options available to the Client or Employer on how the information provided by them may be reflected in the relevant return or other document to be lodged. Where a Member reasonably believes that the information provided by the Client or Employer may be incomplete, false or misleading, the Member should have regard to the provisions of paragraph 7.3 of this Standard and the law.

4.3 **Where a Member in Public Practice provides a tax lodgement service to another party and a significant portion of the work associated with the revenue returns and other relevant documents is not performed under the supervision of the Member in Public Practice, the Member in Public Practice shall perform sufficient reviews of the revenue returns and other relevant documents in accordance with this Standard and the Code prior to lodgement of these revenue returns.**

5. Tax schemes and arrangements

5.1 The decision to enter into any tax scheme or arrangement will always be that of the Client or Employer.

5.2 **Where appropriate, having regard to the Member's agreed scope of work, a Member shall give the Client or Employer sufficient information to enable the Client or Employer to be fully informed of the details of the scheme or arrangement and its current and future ramifications including the risks and uncertainties, particularly in relation to possible changes in Taxation Law.**

5.3 **A Member shall not knowingly or recklessly be associated with any arrangement which involves documents or accounting entries that are intended to misrepresent a transaction or which depend upon lack of disclosure for its effectiveness.**

5.4 **△ Member shall not promote, or assist in the promotion of, or otherwise encourage any tax schemes or arrangements where the dominant purpose is to derive a tax benefit and it is not reasonably arguable that the tax benefit is available under Taxation Law. Accordingly, a Member shall not provide advice on such a scheme or arrangement to a Client or Employer other than to advise that in the Member's opinion it is not effective at law.**

5.5 Paragraph 5.4 does not preclude a Member from advising a Client or Employer on the resolution of such matters and providing other Taxation Services.

5.6 Provided that the provisions of paragraphs 5.3 and 5.4 do not apply, a Member may otherwise provide Taxation Services to a Client or Employer who has entered into a tax scheme or arrangement.

5.7 In respect of an entity that predominantly promotes tax schemes or arrangements, a Member shall not:

- **have any financial interest in such an entity; or**
- **render any Professional Service to such an entity where the Member knows that the Member's immediate or close family has a financial interest.**

6. Estimates

6.1 A Member shall not prepare or be associated with the preparation of returns or submissions to Revenue Authorities involving the use of estimates unless their use is generally accepted or under the circumstances it is impracticable to obtain exact data.

6.2 When estimates are used, a Member shall present them in such a manner as to avoid the implication of greater accuracy than in fact exists.

6.3 The Member shall consider whether the use of an estimate is reasonable in the particular circumstance. Where a Member has reason to believe an estimate is not reasonable the Member shall advise the Client or Employer of the risks and consequences of using the relevant estimate in the return or submission to be lodged with the Revenue Authorities.

7. False or misleading information

7.1 A Member shall not provide a Taxation Service to a Client or Employer if the Member finds that information on which the Taxation Service is to be based contains false or misleading information or omits material information and the Client or Employer is not prepared to appropriately amend it.

7.2 A Member shall not knowingly or recklessly make a statement or cause another to make a statement in or in connection with a Taxation Service that, by its content or by an omission, is false or misleading in a material manner.

7.3 Where a Member forms the view that a Taxation Service is based on false or misleading information or the omission of material information, the Member shall discuss the matter with the Client or Employer and advise them of the consequences if no action is taken.

7.4 Where a Member finds that a Client or Employer has filed returns or submissions in previous years (with which the Member may or may not have been associated) that contain materially false or misleading information or omit material information, the Member should discuss the matter with the Client or Employer and advise them of their responsibilities.

7.5 In the event of a Member subsequently becoming aware that information previously provided to a Revenue Authority by the Member, which the Member had no reason to believe at the time to be incorrect, is false or misleading, the Member should recommend that the Client or Employer make an appropriate disclosure or, alternatively, the Member should obtain authority from them to make the disclosure on their behalf.

7.6 A Member in Public Practice who

(a) knows that a Client or the Member on behalf of the Client has filed a return or submission materially understating a tax liability to a Revenue Authority, and

(b) finds the Client unwilling to correct such understatement,

shall consider the Firm's policies and procedures established in accordance with *Acceptance and Continuance of Client Relationships and Specific Engagements* of APES 320 *Quality Control for Firms* in determining whether to continue acting for the Client in a professional capacity.

7.7 Where a Member in Business is faced with similar circumstances, the Member is referred to Part C: *Members in Business* of the Code.

7.8 All references to false and misleading information in this section exclude information that is of an immaterial or inconsequential nature.

8. Professional engagement matters

8.1 A Member in Public Practice shall provide the Client with an appropriate statement in Writing outlining the relevant terms of the Engagement to provide the Taxation Service in accordance with APES 305 *Terms of Engagement*.

8.2 The provision of this statement to the Client in Writing need not be in the form of a letter. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.

8.3 A Member in Public Practice who is approached by a potential Client to undertake a Taxation Service shall comply with the requirements of Section 210 *Professional Appointment* of the Code.

8.4 A Member in Public Practice who has utilised the services of a third party in connection with the performance of a Taxation Service, such as a legal opinion to support the provision of taxation advice, shall not disclose the relevant opinion or the name of that third party without the prior consent of that party.

8.5 A Member consulting with others in relation to a Client's or Employer's affairs shall observe the requirements of Section 140 *Confidentiality* of the Code.

9. Client monies

- 9.1 A Member in Public Practice shall ensure prompt transmission of monies received on behalf of a Client from Revenue Authorities to the Client.**
- 9.2 A Member in Public Practice shall not use, withhold or otherwise appropriate tax refunds to settle the fees of the Member or for any other use in lieu of their transfer directly to the Client, unless agreed to by the Client in Writing.**
- 9.3 Where funds are to be banked by a Member in Public Practice on behalf of a Client, a Member shall use a separate bank account designated as a trust account and maintained in accordance with the requirements of the professional body to which the Member belongs.**

10. Professional fees

- 10.1 A Member in Public Practice providing Taxation Services shall be remunerated for such services by way of professional fees computed in accordance with Section 240 *Fees and other Types of Remuneration* of the Code.**

11. Documentation

- 11.1 A Member shall prepare working papers in accordance with this Standard that appropriately document the work performed, including aspects of the Taxation Service that have been provided in Writing in accordance with this Standard, and the basis on which, and the method by which, any calculations, determinations or estimates used in the provision of the Taxation Service have been made.**
- 11.2 A Member should adopt appropriate procedures for maintaining the confidentiality and safe custody of working papers and for retaining them for a period sufficient to meet the needs of the Member and in accordance with legal requirements of record retention.
- 11.3 Nothing in this Standard precludes the storage of documentation in appropriate electronic formats. Members contemplating the use of electronic storage should consider the legal implications of such forms of storage, which may vary by jurisdiction, and seek appropriate advice in this context.

Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 220.

Appendix 1

Summary of revisions to the previous APES 220 (Issued in ~~October 2007~~ March 2011)

APES 220 *Taxation Services* was originally issued in October 2007 ~~has been revised~~ by APESB and revised in March 2011. APES 220 has been revised by APESB in ~~XX~~ 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
<u>1.1</u>	<u>Added</u>
<u>1.2 – Paragraph 1.1 of existing APES 220 relocated</u>	<u>Amended</u>
<u>1.3 – Paragraph 1.2 of existing APES 220 relocated</u>	<u>Amended</u>
<u>1.10</u>	<u>Added</u>
<u>2 – Definition of Client</u>	<u>Amended</u>
<u>2 – Definition of Member</u>	<u>Amended</u>
<u>2 – Definition of Member in Business</u>	<u>Amended</u>
<u>2 – Definition of Member in Public Practice</u>	<u>Amended</u>
<u>2 – Definition of Professional Activity</u>	<u>Added</u>
<u>2 – Definition of Professional Bodies</u>	<u>Added</u>
<u>2 – Definition of Professional Services</u>	<u>Amended</u>
<u>5. 4</u>	<u>Amended</u>
<u>Appendix 1</u>	<u>Amended</u>

* Refer *Technical Update 2015/4*

Proposed Standard: APES 305 Terms of Engagement

[Supersedes APES 305 Terms of Engagement Issued in March 2013]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

EXPOSURE DRAFT
ISSUED:

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APES 305 Terms of Engagement

[Supersedes APES 305 Terms of Engagement issued in March 2013]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

REVISED: [Month/Year]

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Conformity with International Pronouncements

*Appendix 1: Summary of revisions to the previous APES 305 (Issued in ~~June 2009~~
March 2013)*

1. Scope and application

- 1.1 The primary objectives of APES 305 Terms of Engagement are to specify a Member in Public Practice's professional obligations in respect of:
- documenting and communicating the Terms of Engagement to a Client;
 - providing guidance to a Member on matters to be included in an Engagement Document;
 - providing guidance to a Member on when an Engagement Document should be reissued in respect of a recurring Engagement; and
 - to specify the Member's obligations in respect of limitation of liability schemes.
- 1.24 Accounting Professional & Ethical Standards Board Limited (APESB) issues APES 305 *Terms of Engagement (the Standard)*, which is effective for Engagements commencing on or after 1 ~~July 2013~~ January 2016 –and supersedes APES 305 *Terms of Engagement* issued in March 2013. ~~December 2007 and revised in June 2009~~. Earlier adoption of this Standard is permitted.
- 1.32 APES 305 sets the standards in respect of Terms of Engagement for Members in Public Practice in the provision of quality and ethical Professional Services to Clients. The mandatory requirements of this Standard are in **bold-type (black lettering)**, preceded or followed by discussion or explanations in normal type (grey lettering). In some instances there are specific standards applicable to Members in Public Practice issued by other standard setting bodies or specific requirements of statutes in respect of Terms of Engagement, for example ASA 210: *Terms of Audit Engagements* issued by the Auditing and Assurance Standards Board which governs audit Engagements. Compliance with these other standards or statutes should result in compliance with APES 305.
- 1.34 **Members in Public Practice in Australia shall follow the mandatory requirements of APES 305 when they provide Professional Services to Clients.**
- 1.54 **Members in Public Practice outside of Australia shall follow the provisions of APES 305 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.65 **Members in Public Practice shall be familiar with relevant Professional Standards and guidance notes when providing Professional Services. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.76 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.87 All references to Professional Standards, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.98 In applying APES 305 Members in Public Practice should be guided not merely by the words but also by the spirit of the Standard and the Code.
- 1.10 In this Standard, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Standard:

Client means an individual, firm, entity or organisation to whom or to which Professional ~~Activities~~Services are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Engagement Document means the document (i.e. letter, agreement or any other appropriate means) in which the Terms of Engagement are specified in a written form.

Firm means:

- (a) a sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) an entity that controls such parties, through ownership, management or other means;
- (c) an entity controlled by such parties, through ownership, management or other means; or
- (d) an Auditor-General's office or department.

Member means a member of a Pprofessional Bbody that has adopted this Standard as applicable to their membership, as defined by that Pprofessional Bbody.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax, or consulting) in a Firm that provides Professional Services. ~~The~~ This term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable pProfessional BBody.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Professional Bodies means the Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

~~**Professional Services** means services requiring accountancy or related skills performed by a professional accountant including accounting, auditing, taxation, management consulting and financial management services~~Professional Activities performed for Clients.

Professional Standards means all Standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable pProfessional BBody.

Terms of Engagement means the terms and conditions that are agreed between the Client and the Member in Public Practice for the Engagement.

3. Terms of Engagement for Professional Services

3.1 A Member in Public Practice shall document and communicate to the Client the Terms of Engagement.

3.2 The practice of documenting and communicating the Terms of Engagement should ensure that there is a clear understanding between the Client and the Member in Public Practice regarding the Terms of Engagement.

3.3 It is in the interests of both the Client and Member in Public Practice that the Member in Public Practice documents and communicates the Terms of Engagement, preferably before its commencement, to avoid misunderstandings with respect to the Engagement.

3.4 A Member in Public Practice shall document the Terms of Engagement in the Engagement Document.

3.5 The Terms of Engagement need not be in the form of a letter or agreement. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.

3.6 The objectives and scope of some Engagements are established by law. Documentation of the Terms of Engagement cannot reduce obligations imposed by law. Where the Engagement is undertaken under Statute a Member in Public Practice should refer to the applicable provisions of the law in the Engagement Document.

4. General contents of an Engagement Document

4.1 The following is a guide to matters that should, for most Engagements, be considered for inclusion in an Engagement Document. Engagement Documents will vary according to the nature of the Engagement and the terms of appointment of the Member in Public Practice. The matters referred to below in paragraphs 4.2 to 4.10 should therefore be varied to meet the individual requirements and circumstances of each Engagement.

4.2 *Purpose:* The Engagement Document should explain that its purpose is to set out and confirm the understanding of the Member in Public Practice of the Terms of Engagement.

4.3 *Objectives of the Engagement:* A brief summary of the objectives of the Engagement including reference to the fact that:

- (a) procedures to be performed will be limited exclusively to those related to the Engagement;
- (b) neither an audit nor a review will be conducted and, accordingly, no assurance will be expressed (if applicable); and
- (c) unless otherwise agreed, the Engagement cannot be relied upon to disclose irregularities, including fraud, other illegal acts and errors that may occur.

4.4 *Scope of the Engagement:* Pertinent details of such matters as:

- (a) time periods covered by the Engagement;
- (b) period of appointment and time schedules;
- (c) references to any legislation, Professional Standards, accounting or auditing and assurance standards that may be relevant to the Engagement;
- (d) any limitations on the conduct of the Engagement including scope limitations and limitations arising from legal or professional and ethical requirements;
- (e) Client operations or procedures to be included in the Engagement; and
- (f) details of information to be provided by the Client.

The Member in Public Practice should consider the implications of a recurring Engagement when documenting the details noted above.

4.5 *Engagement output:* Details of reports or other anticipated outputs, including:

- (a) expected timing;
- (b) the intended use and distribution of reports; and
- (c) the nature of any anticipated disclaimer or arrangement that limits the liability of the Member in Public Practice (appropriate limitation of liability clauses for Members in Public Practice participating in Professional Standards Legislation schemes) with respect to the Client or any other user of the results of the Engagement.

- 4.6 *Relative responsibilities:* Responsibilities agreed upon, detailing those acknowledged to be the responsibility of:
- (a) the Member in Public Practice, including reference to relevant confidentiality requirements and the impact of them on the quality review program of the relevant Professional Body to which the Member in Public Practice belongs;
 - (b) the Client, noting the fact that the Client is responsible for the completeness and accuracy of information supplied to the Member in Public Practice; and
 - (c) any third party.
- 4.7 *Involvement of other Members in Public Practice:* Where the work of another Member in Public Practice is to be used on some aspects of the Engagement, the details of this involvement should be documented in the Engagement Document.
- 4.8 *Fees and billing arrangements:* Reference to the basis of fees (e.g. time based billing, fixed price contracts, contingent fee arrangements or other similar agreement). Details of agreed upon billing schedules should also be included.
- 4.9 *Ownership of documents:* The Engagement Document should make clear who owns any documents produced as a result of the Engagement or provided by the Client for such a purpose including electronic data. If a Member in Public Practice has a policy of seeking to exercise a right of lien over such documents in the event of a dispute with the Client, this policy should be disclosed in the Engagement Document communicated to the Client including the process for dealing with disputes over the lien.
- 4.10 *Confirmation by the Client:* Request for a response from the Client confirming its understanding of the Terms of Engagement as outlined in the Engagement Document. It is preferable for this confirmation of Client acceptance of the Terms of Engagement to be obtained in a written form.

5. Recurring Engagements

- 5.1 In certain circumstances a Member in Public Practice will have to determine whether an Engagement is a recurring Engagement. A recurring Engagement generally exhibits the following features:
- unchanged Terms of Engagement under which the Professional Services are provided;
 - the same or similar Professional Service provided by the Member in each period;
 - defined or identifiable commencement and completion dates each time the Engagement is performed; and
 - performance of the Engagement is on a regular periodic basis as agreed with the Client, for example annually.
- 5.2 When determining the need to reissue or amend an Engagement Document for a recurring Engagement, a Member in Public Practice should consider the following factors:
- (a) any indication that the Client misunderstands the objectives and scope of the Engagement;
 - (b) any significant changes in the Engagement;
 - (c) any significant changes in the Professional Services to be provided or the Terms of Engagement;
 - (d) a recent change of Client management or ownership;
 - (e) a significant change in the nature or size of the Client's business;
 - (f) any significant changes to Professional Standards or applicable accounting or auditing and assurance standards; and

(g) any changes to legal or regulatory requirements.

6. Limitation of liability

6.1 A Member in Public Practice who is participating in a limitation of liability scheme shall be familiar with the relevant Professional Standards Legislation. A Member in Public Practice, who incorporates a limitation of liability provision in the Engagement Document, shall comply with the legislation and the relevant obligations (e.g. insurance, business assets, risk management, quality control etc.) imposed.

6.2 A Member in Public Practice who is a participant in a scheme under Professional Standards Legislation shall advise the Client that the Member's liability may be limited under the scheme.

Conformity with International Pronouncements

The International Ethics Standards Boards for Accountants (IESBA) has not issued a pronouncement equivalent to APES 305.

Appendix 1

Summary of revisions to the previous APES 305 (~~Revised June 2009~~ Issued in March 2013)

APES 305 *Terms of Engagement* was originally issued in December 2007 and revised in June 2009 and March 2013. APES 305 has been revised by APESB in ~~March 2013~~ XX 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
<u>1.1</u>	<u>Added</u>
<u>1.2 – Paragraph 1.1 of existing APES 305 relocated</u>	<u>Amended</u>
<u>1.10</u>	<u>Added</u>
<u>2 – Definition of Client</u>	<u>Amended</u>
<u>2 – Definition of Member</u>	<u>Amended</u>
<u>2 – Definition of Member in Public Practice</u>	<u>Amended</u>
<u>2 – Definition of Professional Activity</u>	<u>Added</u>
<u>2 – Definition of Professional Bodies</u>	<u>Added</u>
<u>2 – Definition of Professional Services</u>	<u>Amended</u>
<u>2 – Definition of Professional Standards</u>	<u>Amended</u>
<u>4.6</u>	<u>Amended</u>
<u>Appendix 1</u>	<u>Amended</u>

* Refer Technical Update 2015/xx

Proposed Standard: APES 325 Risk Management for Firms

[Supersedes APES 325 Risk Management for Firms issued in December 2011]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

EXPOSURE DRAFT **02/15**
ISSUED: June 2015

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APES 325 Risk Management for Firms

[Supersedes APES 325 Risk Management for Firms issued in December 2011]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

REVISED: [Month/Year]

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Conformity with International Pronouncements

| [Appendix 1: Summary of revisions to the previous APES 325 \(Issued December 2011\)](#)

1 Scope and application

1.1 The primary objectives of APES 325 *Risk Management for Firms* are to specify the mandatory obligations of a Firm to:

- establish and maintain a Risk Management Framework in order to identify, assess and manage key organisational risks;
- monitor the Firm's Risk Management Framework on an ongoing basis; and
- document the Firm's Risk Management Framework and to communicate its Risk Management policies and procedures to its Personnel.

~~1.24~~ Accounting Professional & Ethical Standards Board Limited (APESB) issues professional standard APES 325 *Risk Management for Firms* (**the Standard**). A Risk Management Framework in compliance with this Standard is required to be established by Firms by 1 January 2013. This Standard supersedes APES 325 issued in December 2011 and Firms are required to incorporate appropriate amendments to their Risk Management Frameworks by 1 January 2016. Earlier adoption of this Standard is permitted.

~~1.32~~ APES 325 sets the standards for Members in Public Practice to establish and maintain a Risk Management Framework in their Firms in respect of the provision of quality and ethical Professional Services. Members have a responsibility, whether as owner, Partner or employee, to ensure that the Firm implements the requirements of the Standard. The level of responsibility will depend on the position held by each Member in the Firm, but as a minimum all Members should participate in the Firm achieving the objectives of the Standard. The Standard adopts the Firm as the overarching entity which must implement the requirements of the Standard, but it is the Firm's Members in Public Practice who have responsibility to ensure this occurs.

~~1.43~~ The mandatory requirements of this Standard are in **~~bold~~ bold-type (black lettering)**, preceded or followed by discussion or explanation in normal type (~~grey~~ **type lettering**). APES 325 should be read in conjunction with other professional duties of Members in Public Practice, and any legal obligations that may apply.

~~1.54~~ **Members in Public Practice conducting the operations of a Firm in Australia shall follow the mandatory requirements of APES 325.**

~~1.65~~ **Members in Public Practice conducting the operations of a Firm outside Australia shall follow the provisions of APES 325 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**

~~1.76~~ **Members in Public Practice shall be familiar with relevant Professional Standards and guidance notes when providing Professional Services. All Members shall comply with the fundamental principles outlined in the Code.**

~~1.87~~ The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.

~~1.98~~ All references to Professional Standards, guidance notes and legislation are references to those provisions as amended from time to time.

~~1.109~~ In applying the requirements outlined in APES 325, Members in Public Practice should be guided not merely by the words but also by the spirit of the Standard and the Code.

1.11 In this Standard, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2 Definitions

For the purpose of this Standard:

Client means an individual, firm, entity or organisation to whom or to which Professional Activities are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Code means APES 110 Code of Ethics for Professional Accountants.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such an agreement are not part of an Engagement.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties through ownership, management or other means;
- (c) An entity controlled by such parties through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Member means a member of a Professional Body that has adopted this Standard as applicable to their membership as defined by that Professional Body.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax, or consulting) in a Firm that provides Professional Services. ~~The~~ This term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable Professional Body.

Monitoring means a process comprising ongoing consideration and evaluation of the Firm's Risk Management Framework designed to provide reasonable confidence that the Firm's Risk Management Framework is operating effectively.

Network means a larger structure:

~~(i)(a) That~~ is aimed at co-operation; and

~~(ii)(b) That~~ is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand name, or a significant part of professional resources.

Partner means any individual with authority to bind the Firm with respect to the performance of a Professional Services Engagement.

Personnel means Partners and Staff.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting and financial management.

Professional Bodies means the Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

Professional Services means ~~services requiring accountancy or related skills performed by a Member in Public Practice including accounting, auditing, taxation, management consulting and financial management services~~ Professional Activities performed for Clients.

Professional Standards means all standards issued by the Accounting Professional & Ethical Standards Board and all professional and ethical requirements of the applicable Professional Body.

Risk means the effect of uncertainty on objectives.

Risk Management means coordinated activities undertaken by a Firm, to direct and control the activities of the Firm with regard to Risk.

Risk Management Framework means the foundations¹ and organisational arrangements² for designing, implementing, Monitoring, reviewing and continually improving Risk Management throughout the Firm.

Staff means professionals, other than Partners, including any experts the Firm engages.

3 Objectives of a Risk Management Framework

- 3.1 An effective Risk Management Framework should assist a Firm to meet its overarching public interest obligations as well as its business objectives by:
- (a) Facilitating business continuity;
 - (b) Enabling quality and ethical services to be rendered to [eClients](#); and
 - (c) Protecting the reputation and credibility of the Firm.
- 3.2 The Risk Management Framework should consist of policies designed to achieve the objectives set out in paragraph 3.1 and procedures necessary to implement and monitor compliance with those policies. The Risk Management Framework should be an integral part of the Firm's overall strategic and operational policies and practices and should take account of the Firm's Risk appetite.
- 3.3 A Firm's quality control policies and procedures, developed in accordance with APES 320 *Quality Control for Firms*, should be embedded within the Risk Management Framework. This will facilitate a Firm complying with this standard and APES 320 and ensure consistency within the Firm's policies and procedures.
- 3.4 The requirements of the Standard are designed to enable a Firm to achieve the objectives stated in paragraph 3.1. The proper application of the requirements is therefore expected to provide a sufficient basis for the achievement of the objectives. However, because circumstances vary widely and all such circumstances cannot be anticipated, the Firm should consider whether there are particular matters or circumstances that require the Firm to establish policies and procedures in addition to those required by this Standard to meet the stated objectives.

4 Establishing and maintaining a Risk Management Framework for a Firm

- 4.1 **A Firm shall establish and maintain a Risk Management Framework taking into consideration its public interest obligations. The Firm shall periodically evaluate the design and effectiveness of the Risk Management Framework.**

¹ The foundations include the policy, objectives, mandate and commitment to manage Risk.

² The organisational arrangements include plans, relationships, accountabilities, resources, processes and activities.

- 4.2 The Firm's Risk Management Framework shall include policies and procedures that identify, assess and manage key organisational Risks, which may include:**
- (a) Governance Risks;**
 - (b) Business continuity Risks (including succession planning);**
 - (c) Business Risks;**
 - (d) Financial Risks;**
 - (e) Regulatory Risks;**
 - (f) Technology Risks;**
 - (g) Human resources Risks; and**
 - (h) Stakeholder Risks.**

Additional Risks specific to the Firm can be identified through the use of other relevant standards or guidance.

- 4.3** The nature and extent of the policies and procedures developed by a Firm to comply with this Standard will depend on various factors such as the size and operating characteristics of the Firm and whether it is part of a Network.
- 4.4 The Firm's chief executive officer (or equivalent) or, if appropriate, the Firm's managing board of Partners (or equivalent), shall take ultimate responsibility for the Firm's Risk Management Framework.**
- 4.5** The Firm's leadership and the examples it sets significantly influence the culture of the Firm. The adoption of an appropriate culture by a Firm is dependent on clear, consistent and frequent actions and messages from all levels within the Firm that emphasise the Firm's Risk Management policies and procedures.
- 4.6 A Firm shall ensure that the Personnel assigned responsibility for establishing and maintaining its Risk Management Framework in accordance with this Standard have the necessary skills, experience, commitment and authority.**
- 4.7** Firms may refer to the following documents for guidance:
- *AS/NZS ISO 31000:2009 Risk Management – Principles and guidelines* which provides useful guidance to develop a framework for Risk Management: and
 - For sole practitioners and small Firms, *Module 7: Risk Management* of the *Guide to Practice Management for Small and Medium-sized Practices* issued by the Small and Medium Practices Committee of the International Federation of Accountants.

5 Monitoring a Firm's Risk Management policies and procedures

- 5.1 A Firm shall establish a Monitoring process designed to provide reasonable confidence that the Risk Management policies and procedures relating to the Risk Management Framework are relevant, adequate and operating effectively and that instances of non-compliance with the Firm's Risk Management policies and procedures are detected.**
- 5.2 A Firm shall establish a process whereby instances of non-compliance with the Firm's Risk Management policies and procedures are brought to the attention of the Firm's leadership who shall take appropriate corrective action.**
- 5.3** A Firm's Monitoring process should include the requirements for the Firm:
- (a) To undertake a review of the Firm's Risk Management Framework on a regular basis; and**

- (b) To designate from within the Firm's leadership a person or persons with sufficient and appropriate experience and authority the responsibility for ensuring that such regular reviews of the Firm's Risk Management Framework occurs.

6 Documentation

6.1 A Firm shall document its Risk Management Framework.

6.2 The form and content of documentation of the Risk Management Framework for a Firm is a matter of judgment and depends on a number of factors, including:

- The number of Personnel and offices of the Firm; and
- The nature and complexity of the Firm's practice and the services provided.

6.3 A Firm shall document its Risk Management policies and procedures and communicate them to the Firm's Personnel.

6.4 Communication of Risk Management policies and procedures to a Firm's Personnel should include a description of the policies and procedures, the objectives they are designed to achieve, and a message that each individual has a personal responsibility for Risk Management and is required to comply with the policies and procedures. In recognition of the importance of obtaining feedback on the Firm's Risk Management Framework and policies and procedures, the Firm's Personnel should be encouraged to communicate their views and concerns on Risk Management matters.

6.5 The documentation of a Firm's Risk Management Framework should include:

- Procedures for identifying potential Risks;
- The Firm's Risk appetite;
- Risks identified;
- Procedures for assessing and managing Risks;
- Treatment of identified Risks;
- Documentation processes;
- Procedures for dealing with non-compliance;
- Training of Staff in relation to Risk Management; and
- Procedures for regularly reviewing the Risk Management Framework.

6.6 A Firm shall retain all relevant documentation for a sufficient time to permit those performing the Firm's Monitoring process to evaluate its compliance with its Risk Management Framework and to comply with applicable legal or regulatory requirements for record retention.

6.7 A Firm shall document all instances of non-compliance with the Firm's Risk Management policies and procedures detected through its Monitoring process and the actions taken by the Firm's leadership in respect of those instances of non-compliance.

Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 325.

Appendix 1

Summary of revisions to the previous APES 325 (Issued December 2011)

APES 325 Risk Management for Firms originally issued in December 2011 has been revised by APESB in XX 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
1.1	Added
1.2 – Paragraph 1.1 in existing APES 325 relocated	Amended
1.3 – Paragraph 1.2 in existing APES 325 relocated	Amended
1.4	Amended
1.11	Added
2 – Definition of Client	Added
2 – Definition of Member	Added
2 – Definition of Member in Public Practice	Amended
2 – Definition of Network	Amended
2 – Definition of Professional Activity	Added
2 – Definition of Professional Bodies	Added
2 – Definition of Professional Services	Amended
3.1	Amended
6.2	Amended
Appendix 1	Added

* Refer Technical Update 2015/xx

Proposed Standard: APES 345 Reporting on Prospective Financial Information prepared in connection with a ~~Disclosure~~ Public Document

[Supersedes APES 345 Reporting on Prospective Financial Information prepared in connection with a ~~Disclosure~~ Public Document issued in November 2008]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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APES 345 Reporting on Prospective Financial Information prepared in connection with a **Disclosure Public Document**

[Supersedes APES 345 Reporting on Prospective Financial Information prepared in connection with a **Disclosure Public Document** issued in November 2008]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

REVISED: [Month/Year]

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| [Conformity with International Pronouncements](#)

| [Appendix 1: Summary of revisions to the previous APES 345 \(Issued November 2008\)](#)

1. Scope and application

- 1.1 The primary objectives of APES 345 Reporting on Prospective Financial Information prepared in connection with a Public Document are to specify the professional obligations of a Member in Public Practice who performs a Reporting Service Engagement in respect of:
- fundamental ethical obligations;
 - the Member's obligation to comply with applicable Independence requirements;
 - the Member's obligation to consider relationships and the provision of other Professional Services that create threats to the Member's ability to comply with the fundamental principles;
 - mandating the reporting and documentation obligations;
 - communicating to Those Charged with Governance; and
 - the assessment of the impact of any litigation between the Client or its related entities and the Firm.
- 1.42 Accounting Professional & Ethical Standards Board Limited (APESB) issues professional standard APES 345 *Reporting on Prospective Financial Information prepared in connection with a ~~Disclosure~~ Public Document (the Standard)*, which is effective for Engagements commencing on or after 01 ~~July~~ January 2009~~2016~~ and supersedes APES 345 issued in November 2008. Earlier adoption of this Standard is permitted.
- 1.23 APES 345 sets the standards for Members in Public Practice in the provision of quality and ethical Professional Services in respect of Reporting Service Engagements. The mandatory requirements of this Standard are in **bold type (black lettering)**, preceded or followed by discussion or explanations in normal type (grey lettering). APES 345 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply.
- 1.34 **Members in Public Practice in Australia shall follow the mandatory requirements of APES 345 when they undertake Reporting Service Engagements for Clients.**
- 1.45 **Members in Public Practice practising outside of Australia shall follow the mandatory requirements of APES 345 to the extent to which they are not prevented from so doing by specific requirements of local regulations and/or laws in the country in which they are working.**
- 1.56 **Members in Public Practice shall be familiar with relevant Professional Standards and guidance notes when providing Professional Services. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.67 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.78 All references to Professional Standards are references to those provisions as amended from time to time.
- 1.98 In applying the requirements outlined in APES 345, Members in Public Practice should be guided not merely by the words but also by the spirit of the Standard and the Code.
- 1.109 The compilation of Prospective Financial Information does not, in itself, constitute a Reporting Service Engagement. APES 315 *Compilation of Financial Information* applies in these circumstances.

1.11 In this Standard, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Standard:

Acceptable Level means a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the Member at that time, that compliance with the fundamental principles is not compromised.

Assurance Engagement means an Engagement in which ~~a conclusion is expressed by~~ a Member in Public Practice expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

This includes an Engagement in accordance with the Framework for Assurance Engagements issued by the ~~Auditing and Assurance Standards Board (AUASB)~~ or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.

AUASB means the Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the Australian Securities and Investments Commission Act 2001.

Client means an individual, firm, entity or organisation to whom or to which Professional ~~Services Activities~~ are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Contingent Fee means a fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the Firm. A fee that is established by a court or other public authority is not a Contingent Fee.

Disclosure Document means a disclosure document as defined in the *Corporations Act 2001*.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Engagement Document means the document (i.e. letter, agreement or any other appropriate means) in which the Terms of Engagement are specified in a written form.

Engagement Partner means the Partner or other person in the Firm who is responsible for the Engagement and its performance, and for the report that is issued on behalf of the Firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body.

Engagement Period starts when the Firm accepts the Reporting Service Engagement and ends on the day the securities are allotted.

Engagement Team means all ~~personnel-Partners and staff~~ performing ~~an the~~ Engagement, ~~including any experts contracted and any individuals engaged~~ by the Firm ~~in connection with that Engagement~~ or a Network Firm who perform procedures on the Engagement. This excludes External Experts engaged by the Firm or a Network Firm.

External Expert means an individual (who is not a Partner or a member of the professional staff, including temporary staff, of the Firm or a Network Firm) or organisation possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the Member in obtaining sufficient appropriate evidence.

Financial Interest means an interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties, through ownership, management or other means;
- (c) An entity controlled by such parties, through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Independence means is:

- (a) Independence of mind – the state of mind that permits the ~~provision-expression of an opinion~~ a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism; ~~and~~.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party, ~~having knowledge of all relevant information, including any safeguards applied,~~ reasonably be likely to conclude, weighing all the specific facts and circumstances, that a Firm's, or a member of the Engagement Team's, integrity, objectivity or professional scepticism ~~had~~ has been compromised.

Member means a member of a Professional Body that has adopted this Standard as applicable to their membership, as defined by that Professional Body.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax, or consulting) in a Firm that provides Professional Services. ~~This~~ The term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable ~~P~~professional ~~B~~body.

Network means a larger structure:

- (a) That is aimed at co-operation; and
- (b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

Network Firm means a Firm or entity that belongs to a Network.

Partner means any individual with authority to bind the Firm with respect to the performance of an Engagement.

Product Disclosure Statement means a statement as defined in Part 7.9 Chapter 7 of the *Corporations Act 2001*.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Professional Bodies means the Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

Professional Services means ~~services requiring accountancy or related skills performed by a Member in Public Practice including accounting, auditing, taxation, management consulting and financial management services~~ Professional Activities performed for Clients.

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable ~~P~~professional ~~B~~body.

Prospective Financial Information means financial information of a predictive character based on assumptions about events that may occur in the future and on possible actions by an entity.

Prospectus means a prospectus as defined in the *Corporations Act 2001*.

Public Document means a Disclosure Document, Product Disclosure Statement or other documentation provided to shareholders, unit holders or holders of a relevant interest in an entity (or which is provided to management of an entity) in relation to a scheme of arrangement under Part 5.1 of the *Corporations Act 2001* or a takeover or compulsory acquisition under Chapter 6 of the *Corporations Act 2001*.

Reporting Service Engagement means an Engagement in which a Member in Public Practice prepares a report on or in connection with Prospective Financial Information where such Prospective Financial Information or part thereof and the related report are included in a ~~Disclosure-Public~~ Document.

Those Charged with Governance ~~includes those~~ means the person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the accountable for ensuring that the entity achieves its objectives, with regard to reliability of financial reporting, effectiveness and efficiency of operations, compliance with applicable laws, and reporting to interested parties. Those charged with governance include management only when it performs such functions process. For some entities in some jurisdictions, Those Charged with Governance may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

3. Fundamental responsibilities of Members in Public Practice

- 3.1** Members in Public Practice undertaking Reporting Service Engagements shall comply with Section 100 *Introduction and Fundamental Principles* of the Code and relevant legislation.
- 3.2** Members in Public Practice shall comply with Section 220 *Conflict of Interest* and Section 280 *Objectivity – All Services* in the Code

Public interest

- 3.3 In accordance with Section 100 *Introduction and Fundamental Principles* of the Code, Members in Public Practice shall observe and comply with their public interest obligations when they provide Professional Services in respect of Reporting Service Engagements.

Professional Independence

- 3.4 When engaged to perform a Reporting Service Engagement which requires Independence or purports to be independent, a Member in Public Practice shall comply with Independence as defined in this Standard.
- 3.5 A Member in Public Practice shall consider whether the circumstances of the Reporting Service Engagement make the Engagement an Assurance Engagement under the *Framework for Assurance Engagements* issued by the Auditing and Assurance Standards Board.
- 3.6 Where a Reporting Service Engagement is an Assurance Engagement, the Member in Public Practice shall comply with Section 290 *Independence – Audit and Review Assurance Engagements* or Section 291 *Independence – Other Assurance Engagements* of the Code, as applicable.
- 3.7 A Member in Public Practice shall not act as an advocate in respect of a Reporting Service Engagement which requires Independence or purports to be independent.

Professional competence and due care

- 3.8 Members in Public Practice performing Reporting Service Engagements shall maintain professional competence and take due care in the performance of their work in accordance with Section 130 *Professional Competence and Due Care* of the Code.
- 3.9 Where a Reporting Service Engagement requires the consideration of matters that are outside the professional expertise of the Member in Public Practice, the Member shall seek expert assistance or advice from a suitably qualified third party or decline the Reporting Service Engagement. Where the Member relies upon the advice of a third party, the Member shall disclose in the Member's report the name and qualifications of the third party and the area in the report where the third party advice has been obtained.
- 3.10 When planning to use the work of a suitably qualified third party, a Member in Public Practice shall assess the professional competence and objectivity of that third party and the appropriateness and adequacy of the work performed.
- 3.11 In undertaking a Reporting Service Engagement, a Member in Public Practice should consider the contents of any guidance in respect of such services issued by the professional accounting bodies and appropriate regulatory authorities.

Confidentiality

- 3.12 In accordance with Section 140 *Confidentiality* of the Code, a Member in Public Practice who acquires confidential information in the course of a Reporting Service Engagement for a Client shall not use that information for any purpose other than the proper performance of the Reporting Service Engagement for that Client.

3.13 Unless a Member in Public Practice has a legal obligation of disclosure, the Member shall not convey any information relating to a Client's affairs to a third party without the Client's permission.

3.14 Where a Client has given a Member in Public Practice permission to disclose confidential information to a third party, it is preferable that this permission is in writing. Where oral permission is obtained, a contemporaneous note should be made and kept on file by the Member recording the relevant details of the Client's approval.

3.15 Where a Member in Public Practice provides confidential information in accordance with a legal obligation of disclosure, the Member shall notify the Client or the relevant third party as soon as practicable, provided that there is no legal prohibition against such notification.

4. Professional Engagement and other matters

4.1 A Member in Public Practice shall document and communicate the Terms of Engagement to provide the Reporting Service Engagement in accordance with APES 305 *Terms of Engagement*.

4.2 A Member in Public Practice who is approached by a potential Client to undertake a Reporting Service Engagement shall comply with the requirements of Section 210 *Professional Appointment* of the Code.

4.3 A Member in Public Practice who has utilised the services of a suitably qualified third party in connection with the performance of the Reporting Service Engagement shall not disclose the opinion or the name of that third party without the prior consent of that party unless the Member has a legal obligation of disclosure.

4.4 A Member in Public Practice shall gather sufficient and appropriate evidence by such means as inspection, inquiry, computation and analysis to ensure that the conclusions, for which the Member is responsible, are properly supported. When determining the extent and quality of evidence necessary, the Member shall exercise professional judgement, considering the nature of the Reporting Service Engagement, Terms of the Engagement and the use to which the Disclosure-Public Document will be put.

5. Relationships that create threats to the fundamental principles

5.1 This section describes specific circumstances arising out of relationships with the Client, which may create threats to the fundamental principles in the Code. Consideration should always be given to what a reasonable and informed third party having knowledge of all relevant information, including safeguards applied, would reasonably conclude to be unacceptable. In situations when no safeguards are available to reduce the threat to an Acceptable Level, the only possible actions are to eliminate the activities or interest creating the threat, or refuse to accept or continue the Reporting Service Engagement.

- 5.2 Threats to the fundamental principles may be created by any of the following interests or relationships:
- Financial Interests;
 - Loans and guarantees;
 - Close business relationships with the Client;
 - Employment relationships with the Client; or
 - Family and personal relationships.

6. The provision of other Professional Services

- 6.1 The provision of other Professional Services by a Member in Public Practice to the Client may create threats to compliance with the fundamental principles in the Code. Consequently, it is necessary to evaluate the significance of any threat created by the provision of such Professional Services. In some cases it may be possible to eliminate or reduce such threats by applying safeguards. In other cases no safeguards may be available to reduce the threats to an Acceptable Level. In such a situation, either the Reporting Service Engagement or the other Professional Services should not be carried out. In this Standard “other Professional Services” comprise any Engagement in which a Member provides Professional Services to a Client other than pursuant to a Reporting Service Engagement.
- 6.2 **Prior to accepting an Engagement to provide other Professional Services, the Member in Public Practice shall consider and evaluate the significance of any threats identified. If the threats are other than insignificant, the Member shall consider and apply safeguards as necessary to reduce the threats to an Acceptable Level.**
- 6.3 **A Member in Public Practice shall refuse an Engagement to provide other Professional Services in circumstances where, the Engagement Partner responsible for the Reporting Service Engagement considers it probable that a reasonable and informed third party having knowledge of all relevant information including safeguards applied would regard the objectives of the Engagement to provide the other Professional Service, proposed to be undertaken during the Engagement Period, as being inconsistent with the objectives of the Reporting Service Engagement.**

7. Documentation

- 7.1 **A Member in Public Practice shall prepare working papers in accordance with this Standard that appropriately document the work performed, including aspects of the Engagement that have been provided in writing. The documentation prepared by the Member shall:**
- (a) **provide a sufficient and appropriate record of the procedures performed for the Reporting Service Engagement;**
 - (b) **identify the source of significant information the Member has used in the conduct of the Reporting Service Engagement; and**
 - (c) **demonstrate that the Reporting Service Engagement was carried out in accordance with this Standard and all other Professional Standards applicable to the Reporting Service Engagement, including policies and procedures established in accordance with APES 320 *Quality Control for Firms*, and any applicable ethical, legal and regulatory requirements.**

8. Reporting

- 8.1 A Member in Public Practice shall take all reasonable steps in accordance with the terms of Engagement to ensure that the Prospective Financial Information that is the subject of the Reporting Service Engagement does not contain false or misleading information, or omit material information.
- 8.2 A Member in Public Practice shall take all reasonable steps in accordance with the terms of Engagement, to ensure that the Disclosure-Public Document clearly states the basis(es) and key assumptions used in forecasting the Prospective Financial Information.
- 8.3 If, subsequent to the issue of a Disclosure-Public Document, the Member in Public Practice finds that information on which the Reporting Service Engagement is based contains false or misleading information or omits material information, the Member shall take all reasonable steps to ensure that the Client takes appropriate action to inform anyone who received the previously issued Disclosure-Public Document of the situation.
- 8.4 If the Member in Public Practice becomes aware that the Client has not taken appropriate action in terms of paragraph 8.3, the Member shall notify Those Charged with Governance of the Client.
- 8.5 If the Member in Public Practice becomes aware that Those Charged with Governance have not taken appropriate action in accordance with paragraph 8.4, the Member shall consider the Firm's policies and procedures established in accordance with *Acceptance and Continuance of Client Relationships and Specific Engagements* of APES 320 *Quality Control for Firms* in determining whether to continue acting for the Client in a professional capacity.
- 8.6 A Member in Public Practice shall not knowingly or recklessly make a statement or cause another to make a statement in or in connection with a Reporting Service Engagement that, by its content or by an omission, is false or misleading in a material manner.

9. Communication with Those Charged with Governance

- 9.1 The Member in Public Practice shall ensure that Those Charged with Governance of the Client, and any other persons or entities the Member is instructed to advise, are appropriately informed on a timely basis of all significant matters arising from the Reporting Service Engagement.
- 9.2 Matters communicated will generally include the key elements of the Member in Public Practice's consideration of significant matters such as:
- The principal threats, if any, to objectivity and Independence identified by the Member, including consideration of relationships between the Firm and the Client, its related entities and directors and any other entities directly involved in the transaction which is the subject of the Disclosure-Public Document;
 - Any safeguards adopted and the reasons why they are considered to be effective;
 - The overall assessment of threats and safeguards; and
 - Information about the general policies and processes within the Firm for maintaining objectivity and Independence.

10. Professional fees

- 10.1** A Member in Public Practice undertaking a Reporting Service Engagement shall be remunerated for such services by way of professional fees computed in accordance with Section 240 *Fees and other Types of Remuneration* of the Code.
- 10.2** A Member in Public Practice shall not enter into a Contingent Fee arrangement or receive a Contingent Fee for a Reporting Service Engagement requiring Independence or which purports to be independent.

11. Threatened and actual litigation

- 11.1** Where litigation between the Client or its related entities and the Firm, which is other than insignificant, is already in progress, or where the Member in Public Practice considers such litigation to be probable, the Member shall consider the Firm's policies and procedures established in accordance with *Acceptance and Continuance of Client Relationships and Specific Engagements* of APES 320 *Quality Control for Firms* in determining whether to continue acting for the Client in a professional capacity.

Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 345.

Appendix 1

Summary of revisions to the previous APES 345 (Issued November 2008)

APES 345 *Reporting on Prospective Financial Information prepared in connection with a Public Document* originally issued in November 2008 has been revised by APESB in XX 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
<u>1.1</u>	<u>Added</u>
<u>1.2 – Paragraph 1.1 in existing APES 345 relocated</u>	<u>Amended</u>
<u>1.11</u>	<u>Added</u>
<u>2 – Definition of Acceptable Level</u>	<u>Amended</u>
<u>2 – Definition of Assurance Engagement</u>	<u>Amended</u>
<u>2 – Definition of AUASB</u>	<u>Added</u>
<u>2 – Definition of Client</u>	<u>Amended</u>
<u>2 – Definition of Contingent Fee</u>	<u>Added</u>
<u>2 – Definition of Engagement Team</u>	<u>Amended</u>
<u>2 – Definition of External Expert</u>	<u>Added</u>
<u>2 – Definition of Financial Interest</u>	<u>Amended</u>
<u>2 – Definition of Firm</u>	<u>Amended</u>
<u>2 – Definition of Independence</u>	<u>Amended</u>
<u>2 – Definition of Member</u>	<u>Added</u>
<u>2 – Definition of Member in Public Practice</u>	<u>Amended</u>
<u>2 – Definition of Network</u>	<u>Added</u>
<u>2 – Definition of Network Firm</u>	<u>Added</u>
<u>2 – Definition of Product Disclosure Statement</u>	<u>Amended</u>
<u>2 – Definition of Professional Activity</u>	<u>Added</u>
<u>2 – Definition of Professional Bodies</u>	<u>Added</u>
<u>2 – Definition of Professional Services</u>	<u>Amended</u>
<u>2 – Definition of Professional Standards</u>	<u>Amended</u>
<u>2 – Definition of Public Document</u>	<u>Added</u>
<u>2 – Definition of Reporting Service Engagement</u>	<u>Amended</u>
<u>2 – Definition of Those Charged with Governance</u>	<u>Amended</u>
<u>4.4</u>	<u>Amended</u>
<u>3.6</u>	<u>Amended</u>
<u>5.2</u>	<u>Amended</u>
<u>8.2</u>	<u>Amended</u>
<u>8.3</u>	<u>Amended</u>
<u>9.2</u>	<u>Amended</u>
<u>Appendix 1</u>	<u>Added</u>

* Refer *Technical Update 2015/xx*

Proposed Guidance Note: APES GN 30 Outsourced Services

[Supersedes APES GN 30 Outsourced Services issued in March 2013]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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APES GN 30 Outsourced Services

[Supersedes APES GN 30 Outsourced Services issued in March 2013]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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Conformity with International Pronouncements

Appendix 1: Examples of Outsourced Services

Appendix 2: Subject matter that should be considered for inclusion in an Outsourcing Agreement

[Appendix 3: Summary of revisions to the previous APES GN 30 \(Issued in March 2013\)](#)

1. Scope and application

- 1.1 The primary objectives of APES GN 30 *Outsourced Services* are to provide guidance to a Member in Public Practice who is involved in providing or utilising an Outsourced Service in respect of:
- fundamental ethical obligations;
 - management of risks associated with the performance or utilisation of Outsourced Services;
 - matters to be included in service level agreements pertaining to Outsourced Services;
 - monitoring and management of the performance of the Outsourcing Agreement; and
 - documentation of policies and procedures.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) issues APES GN 30 *Outsourced Services* (the Guidance Note) which is effective from the date of issue and supersedes APES GN 30 issued in March 2013.
- 1.32 APES GN 30 provides guidance or suggestions to assist a Member in Public Practice who is providing or utilising Outsourced Services and does not prescribe or create any new professional requirements. The term “should” used throughout this Guidance Note is to be read in this context.
- 1.43 Members in Public Practice in Australia should follow the guidance in APES GN 30 when they provide or utilise Outsourced Services.
- 1.54 Members in Public Practice working outside of Australia should follow the guidance in APES GN 30 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.
- 1.65 The Guidance Note is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.76 For the purposes of this Guidance Note, an Engagement which is subject to ASA 600 *Special Considerations – Audits of a Group Financial Report (Including the Work of Component Auditors)* is not considered to be an Outsourced Service.
- 1.87 All references to Professional Standards and Guidance Notes are references to those provisions as amended from time to time.
- 1.98 Members in Public Practice should be familiar with relevant Professional Standards and Guidance Notes when providing Professional Services.
- 1.109 In applying the guidance outlined in APES GN 30, Members in Public Practice should be guided not merely by the words but also by the spirit of this Guidance Note and the Member’s professional obligation to comply with the requirements of the Code.
- 1.110 This Guidance Note is directed towards Members in Public Practice. However, Members in Business should apply this Guidance Note to the extent practicable when they provide or utilise Outsourced Services.
- 1.12 In this Guidance Note, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Guidance Note:

Acceptable Level means a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the Member at that time, that compliance with the fundamental principles is not compromised.

Client means an individual, firm, entity or organisation to whom or to which Professional ~~Services~~ **Activities** are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Cloud Computing means the use of computing resources that are delivered as a service over the internet. Cloud Computing entrusts remote services with a user's data, software and computation.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties through ownership, management or other means;
- (c) An entity controlled by such parties through ownership, management or other means;
or
- (d) An Auditor-General's office or department.

Material Business Activity means an activity of an entity or a Firm that has the potential, if disrupted, to significantly impact upon the quality, timeliness or scale of Professional Services offered by a Member in Public Practice or received by a Client. Whether a business activity is a Material Business Activity should be based on an assessment of the risks associated with the nature and size of the activity and the business activity's relevance to the Professional Service delivered to the Client. Material Business Activities exclude the internal activities of a Firm such as record storage or software application hosting where these internal activities merely support the Professional Services delivered to the Client.

Member means a member of a Professional Body that has adopted this Guidance Note as applicable to their ~~m~~Membership as defined by that Professional Body.

Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or Professional Bodies, or a Member contracted by such entities.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax or consulting) in a Firm that provides Professional Services. ~~The This~~ term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable Professional Body.

Network means a larger structure:

- (a) That is aimed at co-operation; and
- (b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

Network Firm means a Firm or entity that belongs to a Network.

Outsourcing means an activity where an entity or a Firm engages a party, on a continuing basis, to perform a business activity that is being, has been, or could be performed by that entity or Firm. Outsourcing can be from a Client to a Member in Public Practice or from a Member in Public Practice to another service provider to assist with the delivery of a Professional Service to a Client.

Outsourcing Agreement means the document (i.e. letter, agreement or any other appropriate means) in which the terms and conditions of an Outsourced Service are set out.

Outsourced Service means a service involved in Outsourcing a Material Business Activity to an Outsourced Service Provider.

Outsourced Service Provider means an entity including a person that is providing services in accordance with an Outsourcing Agreement. The Outsourced Service Provider may not be located in the same country as the Member in Public Practice or the Client and may not even be a Member.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Professional Bodies means the ~~Institute of Chartered Accountants in Australia~~ Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

Professional Services means Professional Activities performed for Clients ~~services requiring accountancy or related skills performed by a Member including accounting, auditing, taxation, management consulting and financial management services.~~

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable Professional Body.

Terms of Engagement means the terms and conditions that are agreed between the Client and the Member in Public Practice for the Engagement.

3. Fundamental Responsibilities of Members in Public Practice

Members providing or utilising Outsourced Services

- 3.1 The Code is the conceptual framework and foundation on which all APESB pronouncements are based. Compliance with and application of the Code is fundamental to the professional behaviour of all Members. Non-compliance with the Code can lead to disciplinary proceedings being initiated by the Professional Body to which the Member belongs.
- 3.2 The professional obligations and ethical requirements that all Members are required to comply with are based on the five fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour in the Code.

Members providing Outsourced Services

- 3.3 The provision of Outsourced Services may create threats to compliance with the fundamental principles of the Code as well as risks of non-compliance with applicable laws and regulations, for example, the *Privacy Act*. A Member in Public Practice providing an Outsourced Service should consider potential threats to the fundamental principles in accordance with Section 100 of the Code. Where threats cannot be eliminated or reduced to an Acceptable Level and the Member is considering resigning from an Engagement, then the Member is reminded to consider the legal and other implications of existing contractual arrangements

Members utilising Outsourced Services

- 3.4 A Member in Public Practice utilising Outsourced Services should evaluate the Member's ability to comply with Section 130 *Professional Competence and Due Care* of the Code.
- 3.5 A Member in Public Practice who is considering utilising Outsourced Services should take reasonable steps to determine that the Outsourced Service Provider has the required professional competence, skills, capacity, policies and procedures to conduct the Outsourced Services and to manage the risks associated with Outsourcing. As part of the risk management process, prior to sharing confidential information with an Outsourced Service Provider, the Member should evaluate the Outsourced Service Provider's controls to safeguard such information, including whether the Outsourced Service Provider has appropriate systems and procedures in place to prevent unauthorised access.
- 3.6 A Member in Public Practice who utilises an Outsourced Service Provider retains the primary responsibility to deliver the Professional Service in accordance with the Terms of Engagement with the Client and in compliance with the ethical requirements of the Code and applicable Professional Standards.
- 3.7 Where a Member in Public Practice utilises Outsourced Services, the Member should disclose to the Client the geographical location of the Outsourced Service Provider and the nature and extent to which Outsourced Services are used in the delivery of the Professional Service to the Client. These factors impact the amount of risk associated with the Outsource Service being delivered and the management of the confidential information of the Client. Where a Firm uses Outsourcing on a regular basis with a multitude of Clients, a standard form of disclosure may be used by the Firm.
- 3.8 The Member should consider obtaining written consent from the Client to use Outsourced Services. Appropriate forms of written consent from a Client include a signed Engagement Letter that incorporates details of the intended Outsourcing activities and acknowledgement of the acceptance of use of Outsourced Services.
- 3.9 The use of an Outsourced Service Provider may create threats to compliance with the fundamental principles of the Code as well as risks associated with non-compliance with applicable laws and regulations, for example, the *Privacy Act*. A Member in Public Practice should consider potential threats to the fundamental principles in accordance with Section 100 of the Code. Where threats cannot be eliminated or reduced to an Acceptable Level and the Member is considering resigning from an Engagement, then the Member is reminded to consider the legal and other implications of existing contractual arrangements.

4. Management of risks associated with Outsourced Services

Members providing Outsourced Services

- 4.1 A Member in Public Practice providing an Outsourced Service should develop and document an Outsourcing policy framework to effectively manage the risks associated with Outsourcing. Matters that may be addressed by this framework include:
- the approach to managing the business;
 - the approach to managing business, operational and other risks;
 - management of the administrative function;
 - maintenance of compliance with regulatory frameworks where relevant;
 - communication protocols;
 - procedures for maintenance of Client and third party confidentiality;
 - procedures for reporting to the Client; and
 - processes for review of work.

Members utilising Outsourced Services

- 4.2 A Member in Public Practice utilising Outsourced Services should develop and document an Outsourcing policy framework together with policies and procedures and communicate this framework to all relevant personnel of the Member's Firm. The framework could set out the Member's approach to utilising Outsourced Services and include the Member's approach to managing business, operational and other risks associated with the performance of the Outsourcing Agreement.
- 4.3 When a Member in Public Practice is considering using an Outsourced Service Provider, the Member should conduct appropriate due diligence prior to entering into any Outsourcing Agreement. Matters to be assessed in this context typically include:
- (a) the operating policies and procedures of the Outsourced Service Provider;
 - (b) whether the Outsourced Service Provider has sufficient staff with the necessary professional competencies and skills;
 - (c) the adequacy of contingency and business continuity plans of the Outsourced Service Provider;
 - (d) whether the information security measures adhere to applicable legal and regulatory obligations;
 - (e) whether the Outsourced Service Provider has appropriate quality control requirements in place in respect of the Outsourced Service that will enable the Member to comply with the Member's professional obligations in respect of APES 320 *Quality Control for Firms* and other applicable Professional Standards;
 - (f) whether the Member has sufficient comfort that file review and error correction processes are employed by the Outsource Service Provider;
 - (g) the communication skills of the Outsourced Service Provider and its personnel;
 - (h) whether the Outsourced Service Provider will perform the duties and responsibilities of the Outsourcing Agreement in a timely manner;
 - (i) how the Member is going to address the changes to the risk profile of the Material Business Activity that is the subject of the Outsourced Service; and
 - (j) the ability of the proposed Outsourced Service Provider to conduct the Outsourced Services on an ongoing basis.
- 4.4 A Member in Public Practice who utilises Outsourced Services should consider developing, documenting and periodically reviewing contingency plans to enable the Outsourced Services to be provided by an alternative Outsourced Service Provider or to be brought in-house, if required.

- 4.5 Outsourced Services may result in the day-to-day responsibility for certain activities moving to an Outsourced Service Provider. However, a Member in Public Practice who utilises such a service retains the responsibility to monitor the work that is performed by the Outsourced Service Provider and to perform sufficient reviews to assess whether the Professional Service provided complies with the Code and Professional Standards applicable to the Engagement.

5. Terms of the Outsourcing Agreement

- 5.1 A Member in Public Practice who is providing or utilising an Outsourced Service should document the Outsourcing arrangement taking into consideration the subject matter listed in Appendix 2 of this Guidance Note. The Member should also consider whether there are current contractual arrangements in place, and legal and other implications of existing contracts.

Members providing Outsourced Services

- 5.2 Pursuant to APES 305 *Terms of Engagement*, a Member in Public Practice is required to document and communicate the Terms of Engagement.
- 5.3 Where a Member in Public Practice provides Outsourced Services and the Member in turn subcontracts part of the Professional Service to another service provider, the Member should disclose details of these arrangements in the Outsourcing Agreement with the Client.

Members utilising Outsourced Services

- 5.4 A Member in Public Practice who utilises an Outsourced Service should agree and document the scope of the services with the Outsourced Service Provider.
- 5.5 A Member in Public Practice who utilises Outsourced Services should review the Outsourcing Agreement periodically to ensure it is kept up to date with changing business needs.

Insurance

Members providing Outsourced Services

- 5.6 A Member in Public Practice who provides Outsourced Services should review their professional indemnity insurance policy to assess whether adequate coverage exists for the Outsourced Services provided.

6. Performance of the Outsourcing Agreement

Members providing or utilising Outsourced Services

Transfer process and knowledge

- 6.1 The transition of services to be Outsourced has a number of risks associated with it. A Member in Public Practice providing or utilising Outsourced Services should manage the risks of transition and implementation by using appropriate project management skills and discipline. Where the Member does not have the professional expertise to manage the transition of processes and the required implementation support, the Member should seek assistance from a suitably qualified third party.

Monitor and manage performance

- 6.2 A Member in Public Practice providing or utilising Outsourced Services should consider whether the Member has sufficient resources to manage the risks and monitor the performance of the Outsourcing Agreement. The type and extent of resources will depend on the Material Business Activity that is Outsourced.
- 6.3 A Member in Public Practice providing or utilising Outsourced Services should obtain comfort that the day to day operations as well as issues that arise during the performance of the Outsourcing Agreement will be appropriately managed. Steps that may be undertaken include the establishment and documentation of appropriate corporate governance structures and processes.
- 6.4 A Member in Public Practice providing or utilising Outsourced Services should develop and document communication protocols between the Member and the Client or the Member and the Outsourced Service Provider, as applicable.
- 6.5 A Member in Public Practice providing or utilising Outsourced Services should use appropriate performance measures (which may be detailed in the Outsourcing Agreement) to monitor the performance of the Member or the Outsourced Service Provider, as applicable. The Member should consider the Outsourcing policy framework referred to in paragraph 4.1 when developing performance measures.
- 6.6 A Member in Public Practice providing or utilising Outsourced Services should review the work of the Member's personnel or the Outsourced Service Provider, as applicable, to:
- assess whether that the work has been completed in accordance with the Outsourcing Agreement;
 - establish that the objectives of the Engagement have been achieved;
 - assess whether the work has been performed in accordance with applicable Professional Standards, legal and regulatory requirements; and
 - assess whether the work performed has been appropriately documented and supports the conclusions reached.

The Member should review the work performed prior to submitting the work product to the Member's Client.

- 6.7 A Member in Public Practice who provides or utilises Outsourced Services should consider the manner in which information security and legal obligations that address matters of privacy and confidentiality will be managed during the Engagement.

Renew, renegotiate and terminate

- 6.8 A Member in Public Practice who provides or utilises Outsourced Services should apply both qualitative and quantitative performance measures when evaluating whether to renew, renegotiate or terminate the Outsourcing Agreement.
- 6.9 Where a Member in Public Practice plans to terminate an Outsourcing Agreement, the Member should consider planning the process to bring the activity back in-house or to transfer to another Outsourced Service Provider in a timely manner prior to the actual termination.

Client monies

- 6.10 Where a Member in Public Practice who provides or utilises Outsourced Services holds, disburses or receives Client monies or operates Client bank accounts the Member is required to comply with APES 310 *Dealing with Client Monies*.

7. Documentation

Members providing or utilising Outsourced Services

- 7.1 A Member in Public Practice who provides or utilises Outsourced Services should develop policies and procedures designed to monitor and manage the delivery of the Outsourced Service. Adherence to such policies and procedures may be documented by the Member as part of the risk management process.

Members providing Outsourced Services

- 7.2 A Member in Public Practice who provides Outsourced Services is required to have appropriate quality control requirements in place in accordance with APES 320 *Quality Control for Firms*.
- 7.3 A Member in Public Practice who provides Outsourced Services should prepare working papers that appropriately document the work performed, including aspects of the Outsourced Service that have been provided in writing.

Conformity with International Pronouncements

The International Ethics Standards Boards for Accountants (IESBA) has not issued a pronouncement equivalent to APES GN 30.

Appendix 1

Examples of Outsourced Services

This Appendix contains some examples to assist with the determination of whether a particular service is an Outsourced Service.

Members are cautioned that the determination of whether a particular service is an Outsourced Service is a matter to be judged based on the particular facts and circumstances of the Engagement. The examples contained in this Appendix are provided for illustrative purposes only and are not intended to be, and cannot be, all inclusive. The examples are not a substitute for reading the full text of APES GN 30 to determine whether the Member or another party is providing an Outsourced Service. In all of the examples presented below it is assumed that there are no unmentioned facts which would be relevant to the consideration as to whether the service provided is an Outsourced Service.

Example 1

A Member in Public Practice is a partner in a four partner Firm, which has a staff member taking parental leave for a period of 12 months. The Member's Firm enters into an agreement with the family company of the staff member to process Small and Medium Enterprises (SME) ledgers and complete draft income tax returns for some of the Firm's Clients. The arrangement covers approximately 35 Clients that the staff member served before taking parental leave. The Firm has approximately 800 SME Clients.

The Firm is Outsourcing this activity to the family company of the former staff member. The key issue is whether the Professional Services constitute a Material Business Activity. The Material Business Activity assessment should be performed from the Firm's and the Clients' perspectives.

This Outsourcing arrangement covers less than 5% of Firm's Clients and thus may not be a Material Business Activity from the Firm's perspective. However, it may be a Material Business Activity due to the unique circumstances of the Client. The Member should consider whether there is potential that if the Professional Service is not delivered, the Client's operations will be materially impacted. For example, if a substantial proportion of Professional Services provided to one Client is Outsourced then the Outsourcing arrangement may be a Material Business Activity from that Client's perspective and the Member should refer to the guidance in APES GN 30.

Example 2

A Member in Public Practice is a partner in a four partner Firm which has a staff member taking parental leave for a period of 12 months. The Member's Firm enters into an agreement with the family company of the staff member to process SME ledgers and complete draft income tax returns for some of the Firm's Clients. The arrangement covers approximately 35 Clients that the staff member served before taking parental leave, which amounts to approximately 10% of the Firm's professional fees. The Firm has approximately 800 SME Clients.

The Firm is Outsourcing this activity to the family company of the former staff member. The key issue is whether the Professional Services constitute a Material Business Activity. The Material Business Activity assessment should be performed by the Member in Public Practice from the Firm's and the Clients' perspectives.

The Outsourcing activity impacts on 10% of the Firm's revenue base and therefore may be considered a Material Business Activity from the Firm's perspective and thus the Member should refer to the guidance in APES GN 30.

Depending on the circumstances, it may also be considered a Material Business Activity from the Client's perspective.

Example 3

A Member in Public Practice is a partner in a three partner Firm. The Firm has approximately 1,200 SME Clients and 100 Self Managed Super Fund (SMSF) Clients. The Member enters into a contract with a specialist external SMSF administrator to prepare income tax returns and financial statements for 35 SMSF Clients.

The Firm is Outsourcing this activity to the specialist external SMSF administrator. The key issue is whether it is a Material Business Activity. The Material Business Activity assessment should be performed by the Member in Public Practice from the Firm's and the Clients' perspectives.

The Outsourcing arrangement covers less than 5% of Clients of the Firm thus may not be a Material Business Activity from the Firm's perspective as non-provision of the Professional service is unlikely to materially impact the scale of Professional Services offered by the Firm. However, it may still be considered a Material Business Activity from the Client's perspective depending on the circumstances of the individual Client. If the Outsourced Service being provided to a Client is material from that Client's perspective, then the Member should refer to the guidance in APES GN 30.

Example 4

A Member in Public Practice is a partner in a Firm based in Australia. The Member's Firm has entered into an agreement with a company in India to perform accounting work for the Australian Firm. In the coming year and going forward 80% of the SME accounting work of the Australian Firm is to be undertaken by the Indian company.

The Firm is Outsourcing a Material Business Activity to the Indian company. The Indian company is providing an Outsourced Service to the Firm and the Member should refer to the guidance in APES GN 30.

Example 5

A Member in Public Practice provides accounting services to medium-sized companies and transfers Client data into a general ledger system using Cloud Computing hosted by an external IT provider.

The Member is using an Outsourced Service Provider in respect of a Material Business Activity. Accordingly, this is an Outsourcing arrangement and the Member should refer to the guidance in APES GN 30.

Example 6

A Member in Public Practice provides accounting services to medium-sized companies operating in various industries. To perform this role for the relevant companies, the Member obtains company data from their bookkeepers. The Member has recently gained an understanding of Cloud Computing technology and has recommended to the bookkeepers to transfer the respective Clients on to Cloud Computing to make the accounting process more efficient.

The Member is merely recommending the benefits of Cloud Computing technology to the bookkeepers, which is different to providing an Outsourced Service in respect of a Material Business Activity. In these circumstances, it is unlikely that the Member needs to consider APES GN 30.

Example 7

A Member in Public Practice assists a large multi-national Firm with offices in Australia, New Zealand and Singapore to restructure its management reporting and accounting processes. To complete required procedures, the Australian Firm intends to utilise its Network Firms in New Zealand and Singapore to perform the Engagement.

The Member in Public Practice discloses to the Client that the Member will be using Network Firms based in New Zealand and Singapore to perform the Engagement.

Depending on the circumstances and nature of the Engagement (i.e. whether it is a Material Business Activity), the Member may need to consider the guidance in APES GN 30.

Example 8

A Member in Public Practice provides Professional Services to a number of Clients. The Member enters into a contract with an external information technology service provider for the provision of record storage, computer support and backup services. Where these activities are internal activities of the Firm, they are not considered to be Material Business Activities as defined by this Guidance Note.

Example 9

A Member in Public Practice conducts the audit of a group financial report of a large manufacturing company. The Member is the group engagement partner as defined by ASA 600 *Special Considerations – Audits of a Group Financial Report (Including the Work of Component Auditors)*. There are a number of subsidiaries in the group and to complete the audit, the Member plans to use component auditors to audit five of the ten subsidiaries of the group.

In these circumstances paragraph 1.6 of APES GN 30 applies and the Engagement is excluded from the scope of this Guidance Note.

Appendix 2

Subject matter that should be considered for inclusion in an Outsourcing Agreement

A Member in Public Practice who provides or utilises an Outsourced Service should negotiate and execute an Outsourcing Agreement that may include the following subject matter depending on the particular circumstances of the Outsourcing arrangement. When drafting such an agreement, only subject matter relevant to the particular arrangement should be included. Such subject matter may include:

- (a) the duration of the Outsourcing Agreement including commencement date, minimum and maximum terms and provisions for termination;
- (b) a description of the type and scope of Outsourced Services to be provided;
- (c) details of how the Outsourced Service will be performed;
- (d) details of how changes in service requests will be conducted;
- (e) representations and warranties;
- (f) the required service levels and performance requirements including:
 - contract termination and disengagement triggers;
 - contract reward and penalty considerations; and
 - business continuity, security and intellectual property break-up and recovery;
- (g) details of the initial transition process from the Member's operations to the Outsourced Service Provider, including actions and responsibilities of the parties in respect of the transition process;
- (h) the pricing model including payment terms and how changes that affect the execution of the process during the agreement will affect pricing;
- (i) the procedure for reimbursement of expenses;
- (j) ongoing management of confidentiality, privacy and security of information;
- (k) taxation obligations, including GST considerations;
- (l) the process for managing the ongoing relationship including qualitative and quantitative measures to monitor and review performance;
- (m) the nature of the information to be provided by the Member and the Outsourced Service Provider;
- (n) the terms of any limitation of liability to the effect that any subcontracting by the Outsourced Service Provider of the Outsourced Services should be the responsibility of the Outsourced Service Provider including liability for any failure on the part of any subcontractor;
- (o) audit and monitoring procedures;
- (p) a provision that allows the applicable Professional Body access to documentation and understanding of procedures related to the Outsourced Services;
- (q) the terms of file retention by the Outsourced Service Provider that are sufficient to meet the needs of the Member or as required by law or regulation;
- (r) any use of third party resources;
- (s) obligations of the parties to the Outsourcing Agreement;
- (t) details of reports or other anticipated outputs, including:
 - expected timing; and
 - intended use and distribution of reports;
- (u) accessibility by the Member to the Outsourced Service Provider's files;
- (v) the format, form and quantity of data, that is readable in printed or electronic form that is to be provided by the Outsourced Service Provider at the end of the Outsourcing Agreement;
- (w) ownership of documents and records;
- (x) the fact that the Outsourced Service Provider is responsible for the accuracy and completeness of the information supplied to the Member;
- (y) well-defined dispute resolution mechanisms including jurisdictional considerations;
- (z) procedures for changes in business structures and/or ownership structure;
- (aa) the use of external service providers (if any);
- (bb) details of liability and indemnity insurance;
- (cc) the conditions for terminating the Outsourcing Agreement such as:
 - the Outsourcing Agreement no longer makes economic sense;
 - poor service, non-performance or non-payment; or
 - a change in control or management at either of the parties to the Outsourcing Agreement.

Appendix 3

Summary of revisions to the previous APES GN 30 (Issued in March 2013)

APES GN 30 *Outsourced Services* was originally issued in March 2013. APES GN 30 has been revised by APESB in **XX** 2015. A summary of the revisions is given in the table below.

Table of revisions*

<u>Paragraph affected</u>	<u>How affected</u>
<u>1.1</u>	<u>Added</u>
<u>1.2 Paragraph 1.1 in existing APES GN 30 relocated</u>	<u>Amended</u>
<u>1.10 Paragraph 1.9 in existing APES GN 30 relocated</u>	<u>Amended</u>
<u>1.12</u>	<u>Added</u>
<u>2 – Definition of Client</u>	<u>Amended</u>
<u>2 – Definition of Member</u>	<u>Amended</u>
<u>2 – Definition of Member in Public Practice</u>	<u>Amended</u>
<u>2 – Definition of Professional Activity</u>	<u>Added</u>
<u>2 – Definition of Professional Bodies</u>	<u>Amended</u>
<u>2 – Definition of Professional Services</u>	<u>Amended</u>
<u>Appendix 3</u>	<u>Added</u>

* Refer Technical Update 2015/x

Proposed Guidance Note: APES GN 40 Ethical Conflicts in the Workplace – Considerations for Members in Business

[Supersedes APES GN 40 Ethical Conflicts in the Workplace – Considerations for Members in Business issued in March 2012]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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APES GN 40 Ethical Conflicts in the Workplace – Considerations for Members in Business

[Supersedes APES GN 40 Ethical Conflicts in the Workplace – Considerations for Members in Business issued in March 2012]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

REVISED: [Month /Year]

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Conformity with International Pronouncements

Acknowledgements

Bibliography: High-profile examples of poor ethical behaviour in the corporate world

[Appendix 1: Summary of revisions to the previous APES GN 40 \(Issued in March 2012\)](#)

1. Scope and application

1.1 The primary objectives of APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business* are to provide guidance to a Member in Business when dealing with ethical conflicts in the workplace in respect of:

- the application of the fundamental principles of the Code;
- applying the conceptual framework in the Code to evaluate and address ethical dilemmas encountered in the workplace;
- dealing with specific circumstances encountered in the workplace such as dealing with conflicts of interest, reporting of information, acting with sufficient expertise, financial interests and inducements; and
- matters to consider when considering whether to disclose confidential information of an Employer to a third party and legal obligations associated with whistleblowing.

~~4.1.1.2~~ Accounting Professional & Ethical Standards Board Limited (APESB) issues professional guidance note APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business* (the Guidance Note). This Guidance Note supersedes ~~GN 1 *Members in Business Guidance Statement*~~ APES GN 40 issued in March 2012.

~~1.32~~ APES GN 40 provides guidance to Members in Business on the application of the fundamental principles contained within *Part A: General Application* and *Part C: Members in Business* of APES 110 *Code of Ethics for Professional Accountants* (the Code). The Guidance Note provides examples for Members in Business of situations that require professional judgement in the application of the principles of the Code.

~~1.43~~ Members in Business working in Australia should follow the guidance in APES GN 40 when they provide services to their Employer.

~~1.54~~ Members in Business working outside of Australia should follow the guidance in APES GN 40 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.

~~1.65~~ The Guidance Note is not intended to detract from any responsibilities which may be imposed by law or regulation.

~~1.76~~ All references to Professional Standards and Guidance Notes are references to those provisions as amended from time to time.

~~1.87~~ Members in Business need to be familiar with relevant Professional Standards and Guidance Notes when ~~providing Professional Services~~ performing a Professional Activity.

~~1.98~~ In applying the guidance outlined in APES GN 40, Members in Business should be guided not merely by the words but also by the spirit of this Guidance Note and the Member's professional obligation to comply with the requirements of the Code.

1.10 In this Guidance Note, unless the contrary intention appears, words importing the singular include the plural and vice versa, words importing one gender include another gender, and words importing persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Guidance Note:

Acceptable Level means a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the Member at that time, that compliance with the fundamental principles is not compromised.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Employer within the context of this Guidance Note means an entity or person that employs, engages or contracts a Member in Business.

Member means a Member of a Professional Body that has adopted this Guidance Note as applicable to their Membership, as defined by that Professional Body.

Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or Professional Bodies, or a Member contracted by such entities.

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~~Professional Services~~ means services requiring accountancy or related skills performed by a Member including accounting, auditing, taxation, management consulting and financial management services.

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable Professional Body.

Those Charged with Governance means the person(s) or organisation(s) (for example a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, Those Charged with Governance may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

3. Fundamental responsibilities of Members in Business

3.1 The Code is the conceptual framework and foundation on which all APESB pronouncements are based. Compliance with and application of the Code is fundamental to the ~~professional-ethical~~ behaviour of Members in Business. Non-compliance with the Code can lead to disciplinary proceedings being initiated by the Professional Body to which the Member belongs.

3.2 Professional obligations and ethical requirements that Members in Business are required to comply with are based on the five fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour in the Code.

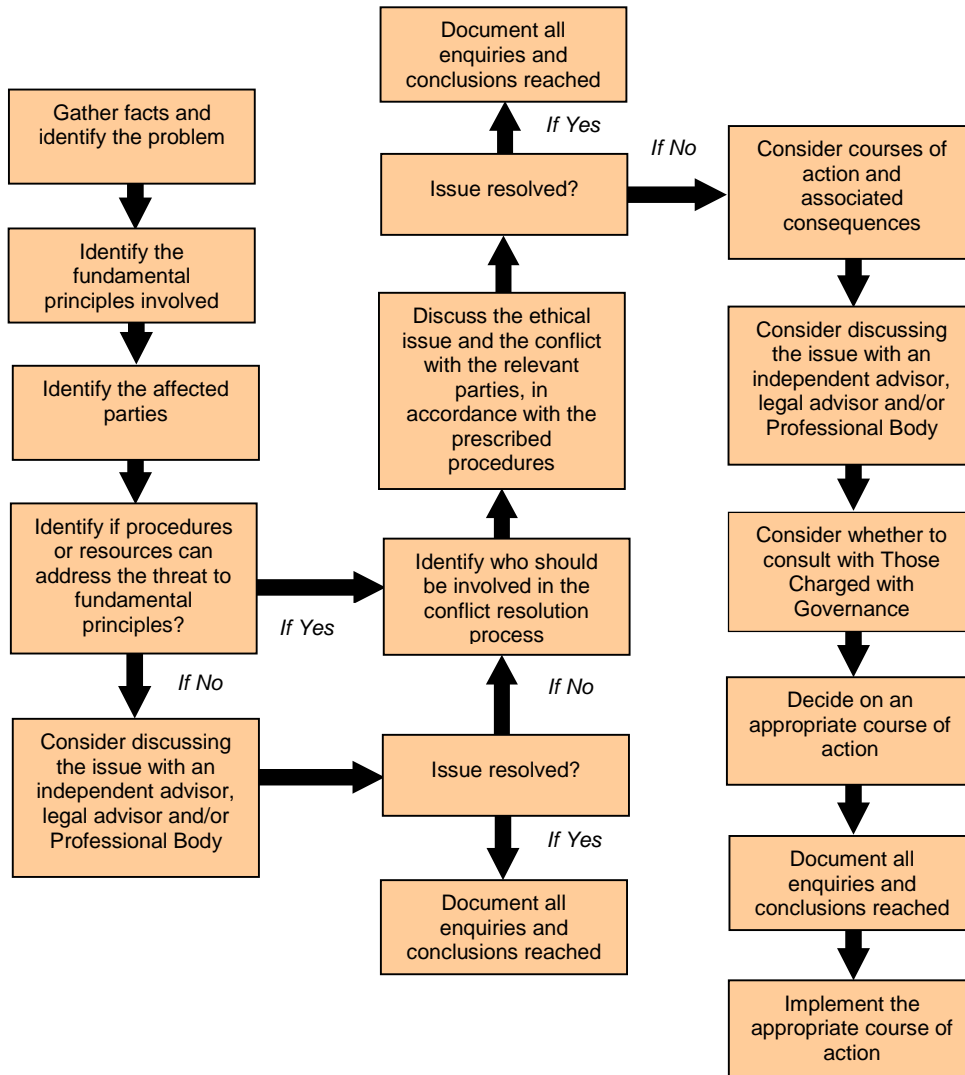
3.3 The term Professional ~~Services-Activity~~ is defined as an activity in the Code as services requiring accountancy or related skills performed by a Member including accounting, auditing, taxation, management consulting and financial management services. Whilst a number of these ~~services-activities~~ are typically performed by Members in Public Practice, ~~services-activities~~ performed by Members in Business for the Employer are also captured by the definition of Professional ~~ServicesActivity~~. Such ~~services-activities~~ typically include those performed by financial accountants, tax accountants, financial analysts, financial planners, management accountants, internal auditors and financial controllers.

- 3.4 A Member in Business who ~~provides~~performs a Professional ~~Services~~Activity is required to comply with *Part A – General Application of the Code* and *Part C – Members in Business* including Section 100 *Introduction and Fundamental Principles* and any relevant law or regulation. Part C is specific to Members in Business and describes the application of the fundamental principles to some of the more commonly encountered situations that may create threats to compliance with the fundamental principles.

4. Conceptual framework approach

- 4.1 Members in Business may encounter situations that give rise to threats to compliance with the fundamental principles. This Guidance Note uses the framework in the Code to assist Members to identify, evaluate and respond to threats to compliance with the fundamental principles. Members are required to implement safeguards to eliminate the threats or reduce them to an Acceptable Level so that compliance with the fundamental principles is not compromised. The Guidance Note provides a range of examples dealing with a variety of circumstances in which threats may arise and provides guidance on safeguards that may be adopted. Members should use the framework to address ethical issues arising from their work at an early stage to enable them to adopt appropriate safeguards which are suitable to the circumstance.
- 4.2 When considering situations that threaten compliance with the fundamental principles, Members in Business need to retain their objectivity and should use the following structured approach to ethical decision making:
- i. Gather the facts and identify the problem or threat;
 - ii. Identify the fundamental principles involved;
 - iii. Identify the affected parties;
 - iv. Determine whether established organisational procedures and conflict resolution resources exist to address the threat to compliance with the fundamental principles;
 - v. Identify the relevant parties who should be involved in the conflict resolution process;
 - vi. Discuss the ethical issue and the conflict with the relevant parties, and in accordance with the prescribed procedures evaluate the significance of the threats identified and safeguards available;
 - vii. Consider courses of action and associated consequences;
 - viii. Consider whether to consult confidentially with external advisers such as an independent adviser, legal advisor and/or the Professional Body to which the Member belongs;
 - ix. Consider whether to consult Those Charged with Governance;
 - x. Decide on an appropriate course of action;
 - xi. Document all enquiries and conclusions reached; and
 - xii. Implement the appropriate course of action. In the event that the Member believes that the threat to compliance with the fundamental principles has not been satisfactorily resolved, the Member should determine whether it is appropriate to resign.

The process to be followed as indicated above may vary with each particular circumstance and a flow diagram is set out below to provide guidance to a Member on how to arrive at an appropriate course of action:



- 4.3 When resolving an ethical issue, a Member in Business should document the substance of the issue and details of any discussions held and conclusions reached concerning that issue. The Member should take qualitative as well as quantitative factors into account when evaluating the significance of an ethical issue, and be alert to the fact that reassessment of the issue may need to occur on an ongoing basis. If, after exhausting all relevant possibilities, the ethical issue remains unresolved, the Member should, where possible, refuse to remain associated with the matter creating the conflict. The Member should determine whether, in the circumstances, it is appropriate to refuse to perform the duties in question or be associated with information the Member knows is misleading, or whether it is appropriate to resign altogether from the employing organisation.
- 4.4 The case studies in Section 13 illustrate the application of the fundamental principles and the types of safeguards that can be implemented. The case studies follow the structured approach noted above in analysing the relevant ethical considerations. These case studies are not intended to be, nor should they be interpreted as, an exhaustive list of all circumstances likely to be experienced by Members in Business that create threats to compliance with the fundamental principles of the Code. Consequently, it is not sufficient for Members to seek compliance in situations corresponding with these case studies. Members need to apply the principles of the Code to all situations facing them in which compliance with the fundamental principles of the Code are at risk.

5. Threats and safeguards

Threats

- 5.1 Compliance with the Code may be threatened by a broad range of circumstances and relationships. Any given circumstance may create more than one threat, and the threats that arise may affect compliance with more than one fundamental principle. A Member in Business is required to implement safeguards to eliminate the threats or reduce them to an Acceptable Level so that compliance with the fundamental principles is not compromised.
- 5.2 Threats to the fundamental principles are discussed in Part A – *General Application of the Code*. Threats fall into one or more of the following categories:
- (a) Self-interest – the threat that a financial or other interest will inappropriately influence the judgement or behaviour of a Member in Business;
 - (b) Self-review – the threat that a Member in Business will not appropriately evaluate the results of a previous judgement or ~~service~~ Professional Activity performed by the Member or another individual within the Employer, on which the Member in Business will rely when forming a judgement as part of providing a current ~~service~~ Professional Activity;
 - (c) Advocacy – the threat that a Member in Business will promote the Employer's position to the point that the Member's objectivity is compromised;
 - (d) Familiarity – the threat that due to a long or close relationship with the Employer, a Member in Business will be too sympathetic to the Employer's interests or will accept the Employer's view on certain matters without sufficient scrutiny; and
 - (e) Intimidation – the threat that a Member in Business will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the Member.

Safeguards

5.3 The Code classifies safeguards that may eliminate or reduce threats faced by Members in Business to an Acceptable Level into two broad categories:

- safeguards created by the profession, legislation or regulation; and
- safeguards in the work environment.

Examples of such safeguards are outlined in paragraphs 100.14 - 100.16 and 300.14 - 300.15 of the Code.

5.4 In addition to the categories above, safeguards may also be created by the Member in Business. Such safeguards may include but are not restricted to:

- keeping records of contentious issues and the action taken to resolve them;
- maintaining a broader perspective on how similar organisations function through establishing business relationships with other professionals; and
- using an independent advisor.

5.5 Discussion of ethical issues with the Professional Body to which the Member in Business belongs is strongly encouraged as the Professional Bodies are able to provide valuable advice in line with the behaviour expected of their Members and within the limits of acceptable practice and the law.

6. Overview of APES 110 PART C: Members in Business

6.1 APES 110 Part C illustrates how the conceptual framework contained in APES 110 Part A is to be applied by Members in Business.

6.2 APES 110 Part C Section 300 provides an overview of the various types of threats encountered by Members in Business in their work environment and appropriate safeguards that can be considered. In certain circumstances there may be no safeguards to reduce the threats to an Acceptable Level and the Member may need to consider refusing to perform the duties in question or resigning from the employing organisation (e.g. paragraphs 300.15, 320.67 and 330.4 of the Code).

6.3 APES 110 PART C Sections 310-350 specifies professional obligations of Members in Business in the following circumstances:

- Section 310 – ~~Potential Conflicts of Interest~~;
- Section 320 – Preparation and Reporting of Information;
- Section 330 – Acting with Sufficient Expertise;
- Section 340 – Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making; and
- Section 350 – Inducements.

7. Potential conflicts arising from responsibilities to the Employer

7.1 Potential conflicts may arise from the obligation of a Member in Business to comply with the fundamental principles of the Code whilst fulfilling responsibilities to the Employer. Ordinarily the Member is required to support the legitimate and ethical objectives established by the Employer and rules and procedures in support of those objectives. However, as a consequence of responsibilities to the Employer, the Member may be under pressure to act or behave in ways that could directly or indirectly threaten compliance with the fundamental principles of the Code.

7.2 Where potential conflicts arise, a Member in Business is required to comply with section 310 ~~Potential Conflicts of Interest~~ of the Code. Examples and the potential approaches to resolving such conflicts are shown in Case Studies 1 – 4.

8. Preparation and reporting of information to be used by internal and external parties

- 8.1 Members in Business are often involved in the preparation and reporting of information that may either be made public or used by others inside or outside the Employer. When preparing and reporting such information, Members are required to comply with section 320 *Preparation and Reporting of Information* of the Code.
- 8.2 A Member in Business is required to prepare or present information fairly, honestly and in accordance with relevant Professional Standards so that the information will be understood in its context. Threats to the Member's ability to do so may arise from pressure (intimidation or self-interest) to become associated with misleading information. Where the threats have been evaluated, safeguards such as those discussed in section 320 *Preparation and Reporting of Information* of the Code should be applied. Examples addressing the analysis of threats and application of safeguards are shown in Case Studies 5 - 9 and 20 - 21.

9. Member in Business's responsibility to Act with sufficient expertise

- 9.1 The fundamental principle of professional competence and due care requires that a Member in Business should only undertake tasks for which the Member has, or can obtain, sufficient specific training or experience. Members should not intentionally mislead Employers as to how much expertise or experience they have, nor should they fail to seek appropriate expert advice and assistance when required.
- 9.2 Where the ability of a Member in Business to perform duties with the appropriate degree of professional competence and due care is threatened by factors such as insufficient time, inadequate information, inadequate resources or insufficient knowledge, safeguards such as those in section 330 *Acting with Sufficient Expertise* of the Code should be applied. Examples addressing the need to act with sufficient expertise are provided in Case Study 10 and 19.

10. Financial interests of a Member in Business

- 10.1 Financial interests of a Member in Business or their immediate or close family members may give rise to threats to compliance with the fundamental principles of the Code. The Member is required to comply with section 340 *Financial Interests—[Compensation and Incentives Linked to Financial Reporting and Decision Making](#)* of the Code in such circumstances. The Code requires the Member to evaluate the significance of such a threat, and the appropriate safeguards to be applied. The Member should examine the nature of the financial interest which includes considerations such as the significance of the interest and whether it is direct or indirect, as well as the value of the interest. An example showing considerations which may be applied by Members where financial interests threaten compliance with the fundamental principles of the Code is provided in Case Study 11. An additional example of personal financial gain for a Member is provided in Case Study 13.

11. Inducements offered to a Member in Business

- 11.1 Inducements refer to both the receiving of offers and making offers.
- 11.2 A Member in Business or an immediate or close family member may be offered an inducement such as gifts, hospitality, preferential treatment and inappropriate appeals to friendship or loyalty. Alternatively, a Member may experience pressure to offer inducements to subordinate the judgement of another individual or organisation, influence a decision making process or obtain confidential information.

11.3 Where threats to the fundamental principles arise from inducements, the Member in Business is required to follow the principles and guidance in Section 350 *Inducements* of the Code. Examples showing approaches that can be adopted by the Member where inducements threaten compliance with the fundamental principles of the Code are provided in Case Studies 12 - 14 and 18.

12. Disclosure of information and whistleblowing

Disclosure of information

12.1 In accordance with Section 140 *Confidentiality* of the Code, a Member in Business who acquires confidential information in the course of ~~providing~~ performing a Professional ~~Service~~ Activity is prohibited from disclosing that information without proper and specific authority or unless there is a legal or professional right or duty to disclose it.

12.2 The *Privacy Act 1988* (Cth) (Privacy Act) prohibits the disclosure of personal information about an individual, other than in certain limited circumstances including circumstances where the individual has consented to the disclosure or the disclosure is required or authorised by or under law.

12.3 Whistleblower laws at Federal and State and Territory levels prohibit the disclosure of certain information obtained from and about a whistleblower unless such disclosure is required or authorised by such laws.

12.4 Examples of the disclosure of information that may in certain circumstances be required or authorised by the law include:

- reporting of suspected money laundering activities to AUSTRAC¹ in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
- where a Member in Business is authorised by the Member's Employer to receive whistleblower information, disclosure by the Member of such information to an authorised person under the *Corporations Act 2001* (Cth) (Corporations Act).

Protection of whistleblowers

12.5 Whistleblower laws in Australia provide whistleblowers with certain legal protection against liability for making certain disclosures and a specific process to follow when disclosing such information which may include, for example, information about a breach of the law by the business or persons in the business for or in which the whistleblower works. For example, under the Corporations Act whistleblowers will generally qualify for the protection if:

- the whistleblower is an officer, employee or contractor or employee of a contractor of the company ;
- the whistleblower first identifies themselves before making the disclosure (anonymous reports are not protected);
- the report is made by the whistleblower to a prescribed entity or person such as the Australian Securities and Investments Commission, a company auditor or member of an audit team conducting an audit of the company, a director, secretary or senior manager of the company or other person authorised by the company to receive such disclosure;
- the whistleblower had reasonable grounds to suspect that the information indicates that the company or an officer or employee of the company has or may have contravened a provision of the Corporations Act; and
- the report is made in good faith.

¹ AUSTRAC is Australia's anti-money laundering and counter-terrorism financing regulator and specialist financial intelligence unit

- 12.6 A Member in Business who is considering disclosing information about the Member's Employer or persons in the Employer's business in circumstances which would otherwise be a breach of the Member's professional obligation of confidentiality or statutory obligations is strongly advised to first obtain legal advice. Whistleblower laws establish the scope of the protection offered to the Member and the process which the Member is required to follow to obtain that protection. Where the Member needs further clarification or guidance concerning the Member's obligations under the Code, the Member should consult with the Member's Professional Body without disclosing confidential information.

Decision making process

- 12.7 Sometimes confidentiality, privacy and whistleblowing are the subject of internal business policies and procedures. In circumstances where a Member in Business is considering disclosing information, the Member should follow any relevant internal policies and procedures of the business which employs the Member. In addition to these requirements, where the Member is employed by a government entity or in the public sector, the Member is required to consider any public sector rules to which the Member is bound, prior to disclosing confidential information.
- 12.8 If the Employer does not have internal policies, procedures or rules that deal with the matter, a Member in Business should, amongst other things, consider the following when considering disclosing information about the Member's Employer or persons in the Employer's business in circumstances which would otherwise be a breach of their professional obligation of confidentiality:
- (a) Statutory constraints and obligations on disclosure including those contained in Federal and State and Territory privacy and whistleblower laws;
 - (b) Statutory protection for whistleblowers contained in Federal and State and Territory whistleblower laws;
 - (c) Whether the information relates to conduct which constitutes a breach of or an offence under any laws ;
 - (d) Whether members of the public are likely to be adversely affected by the disclosure or non-disclosure of the information;
 - (e) The gravity of the matter, such as the size and extent of likely financial loss;
 - (f) The possibility or likelihood of repetition;
 - (g) The reliability and quality of the information available;
 - (h) The reasons for the Employer's unwillingness to disclose matters to the relevant authority;
 - (i) When the Employer gives authorisation to disclose information, whether or not the interests of all parties, including third parties whose interests might be affected, could be harmed;
 - (j) Whether or not all the relevant information is known and has been substantiated. Where the situation involves unsubstantiated or incomplete information and conclusions, professional judgement should be applied to determine the appropriate type of disclosure to be made, if any. The Member requires a reasonable belief that wrongdoing has occurred, before disclosure can be made;
 - (k) The type of communication that is expected and to whom it is addressed. In particular, the Member should be satisfied that the parties to whom the communication is addressed are authorised recipients; and
 - (l) The possible implications of disclosure for the Member and the Member's reputation.
- 12.9 Examples that address whistleblowing are included in Case Studies 15 - 17.

Prohibited dealing with information

12.10 A Member in Business should be aware that there are laws which make it an offence for a person to take certain actions in respect of documents or related material that are, or are reasonably likely to be, required in evidence in legal proceedings (whether in progress or to be commenced in the future). These actions include for example, destroying, concealing or rendering the documents or material illegible, undecipherable or unidentifiable or authorising or permitting another to do so.² The Member is strongly advised to take care to ensure that the Member does not take any prohibited action in respect of such information.

² See for example the *Crimes Act 1958 (Vic)*

13. Case Studies

No	Title	Issues Discussed
1	Significant personal expenses claimed as company expenses	Potential conflicts
2	Council rates	Potential conflicts
3	Inappropriate small expense claim	Potential conflicts
4	Unlicensed software	Potential conflicts
5	Incorrect reporting of financial information	Preparation and reporting of information
6	Inappropriate capitalisation of research and development costs	Preparation and reporting of information
7	Inappropriate contractor claims	Preparation and reporting of information
8	Loss leaders or divisional failure?	Preparation and reporting of information
9	Satisfying the bank's lending criteria	Preparation and reporting of information/ Financial interests of a Member
10	Valuing share options	Acting with sufficient expertise
11	Personal financial interest in a proposal	Financial interests of a Member
12	Inducements for non-disclosure of information	Inducements
13	Earnings management	Financial interests of a Member/ Inducement
14	Tender bids	Inducement
15	Non-disclosure to auditors and corrupt business practices	Whistleblowing
16	Inappropriate expense claims lodged by the Chief Executive	Whistleblowing
17	Inappropriate recording of patient attendance at a doctors' medical practice	Whistleblowing
18	Insider information	Public Sector - Inducement
19	Demonstrating due diligence in a voluntary position	Public Sector - Acting with sufficient expertise
20	Potential breach of not-for-profit status	Charitable organisation - Preparation and reporting of information
21	Ignorance is no excuse	Preparation and reporting of information/ Acting with sufficient expertise

Introduction

Case Studies have been presented to illustrate the application of a structured approach to the resolution of ethical issues. Members in Business should read the Case Studies whilst referring to the conceptual framework approach in Section 4, to gain an understanding of the process that should be adopted when faced with ethical issues in the workplace. The Case Studies are not intended to be conclusive but rather provide a framework that leads Members to a course of action that is consistent with the principles and requirements of the Code and this Guidance Note.

These Case Studies are fictitious and any similarities to actual events or circumstances are merely coincidental.

The presentation of each Case Study follows the following pattern:

- Case outline: basic facts are described;
- Fundamental principles of the Code: those identified as the key principles in the Case Study;
- Ethical decision making approach: selected steps from the conceptual framework approach in the Code; and
- Suggested possible courses of action are discussed.

Case Study 1 – Significant personal expenses claimed as company expenses

Potential Conflicts

Case outline

Alex (Member in Business) is the finance manager of an organisation. Alex is concerned that the Chief Executive has been making frequent interstate trips to Perth and charging expenses to the company. The trips and the activities undertaken appear to have only partial relevance to the company's activities. Alex is aware of the fact that the Chief Executive recently moved from Perth and still has a number of close family members residing there.

Alex discusses the issue with the Chief Executive who explains that there is a verbal understanding with the Chairman of the company who is aware of the nature and purpose of the visits.

Fundamental principles of the Code

Integrity

Would processing the payments without an adequate explanation or supporting documentation be seen as being honest and fair?

Objectivity

How will the Member in Business demonstrate his objectivity, actual or perceived, in his dealings with the Chief Executive?

Professional competence and due care

How can allowing the expense payments to be processed without adequate explanation and supporting documentation be seen as acting with due skill, care and diligence?

Professional behaviour

How should the Member in Business proceed so as not to discredit himself? Would it be considered legal and acceptable to taxation authorities?

Ethical decision-making approach

Identify relevant facts

Has the Member in Business discussed the matter adequately to ensure the facts are correct? If so, is it possible to obtain support for the Chief Executive's understanding with the Chairman? Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Identify affected parties

Key affected parties are the Member in Business, the Chief Executive, the Chairman and the Board. Other possible affected parties are the accounts payable department, human resources, internal audit, Australian Tax Office, audit committee, employees, shareholders and financial backers.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Are there trusted colleagues with whom the Member in Business can discuss his position? When do the Board and audit committee need to become involved?

Discuss the ethical dilemma with relevant parties

Does further discussion need to take place with the Chief Executive? Do the discussions need to extend to the Chairman?

Consider possible course of action

The Member in Business can discuss the issue further with his direct manager who may be in a position such as the Chief Financial Officer (CFO). Discussion could focus on the Member in Business obtaining clarity on the arrangement which may lead to documentary evidence supporting the understanding with the Chairman. If the issue is not resolved, the CFO and Member in Business may consider requesting evidence from the Chief Executive together and can explain that it is required to conform to the company's policies and procedures. If an appropriate response is not received, the Member in Business and CFO can request a meeting with the Chief Executive and the Chairman to clarify the issue. Where this is not successful, additional discussions with the Board, internal audit, audit committee or the external auditors may be required. All enquiries and conclusions reached should be documented by the Member in Business. Where such documentation is maintained, the Member in Business needs to consider the legal ramifications of doing so.

The Member in Business may also consider the ethical conflict resolution processes of his Professional Body.

Case Study 2 – Council rates

Potential Conflicts

Case outline

Jane (Member in Business) has just been appointed as the new financial controller of XYZ Ltd after 12 months of job hunting. Her first task is to prepare the annual financial report for the year ended 30 June 20X1.

Although XYZ Ltd appears solvent, when reviewing the figures, Jane notes that the company is in quite a weak cash position. She also notices that based on her limited understanding of the business, there appears to be an unusually high accruals figure. On discussion with the Managing Director (MD) Jane finds that the balance relates to 4 years of unpaid council rates. Further discussions reveal that the company has not received a rates notice since the breakup of the council and rezoning of the company premises, 4 years ago.

Jane is concerned about this matter and discusses it further with the Managing Director who becomes annoyed. He does not consider this to be a significant issue due to the fact that it is the council's mistake and not the company's. The company has been recording the amount in accordance with accounting standards and he believes that is the extent of the company's obligation. He then goes on to make it clear that the company's interests should be put first, particularly when the issue impacts the business's cash flow. Further if the company were to pay 4 years of back rates, its cash flow position would be severely weakened which may lead to potential job losses.

Fundamental principles of the Code

Integrity

How does the Member in Business maintain her integrity when she is being asked to undertake a course of action which she clearly has doubts about?

Objectivity

How would the Member in Business maintain her objectivity given that her Employer is operating under difficult economic conditions and has the added pressure of possibly disagreeing with her boss whom she hardly knows?

Confidentiality

Is there any basis on which the Member in Business could make disclosures given the Employer obviously believes that the company's non-payment of rates is confidential information.

Professional behaviour

How does the Member in Business proceed in order to not discredit herself?

Ethical decision-making approach

Identify relevant facts

Are there any other reasons why the company has not received a bill for rates? Can the Member in Business continue to merely accrue an estimate for the rates bill for the year? If not, does she go back to the Managing Director and advise that the company should contact the local council and inform them of the situation? Is there a supportive environment for open discussion of practical dilemmas without a recriminatory or 'blame' culture?

Identify affected parties

Key affected parties are the Member in Business, the Managing Director, the other directors, the company's employees, the shareholders (if different from the directors), the local council and the general public.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures and applicable accounting standards.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom she can discuss her position? Is there anyone else within the company that the Member in Business should speak to regarding this matter? Are the other directors aware of this issue? Has the Member in Business discussed the matter with the Board?

Discuss the ethical dilemma with relevant parties

Do further discussions need to be held with the Managing Director or extend to other members of the Board?

Consider possible course of action

The Member in Business could try to use her interpersonal skills in a non-confrontational way to offer to find a solution to the underlying problem. She may consider explaining the potential consequences to the Managing Director if the error is discovered by the council. There may be interest or penalties imposed on the company which may impact on the company's good reputation. If at some future date there are plans to sell the company – any due diligence is likely to discover this non-payment of rates which could easily impact on a potential sale. Given all of this, the Member in Business could also highlight the need for the company to get legal advice on its obligations. The Member in Business could also ask the Managing Director to consider the company's moral obligation to the local community. All enquiries and conclusions reached should be documented by the Member in Business. Where such documentation is maintained, the Member in Business needs to consider the legal ramifications of doing so.

To resolve the problem, the Member in Business could suggest asking the local council to agree to a payment plan. It is unlikely that the council would want XYZ Ltd to go out of business potentially resulting in unemployment for a number of members of the community.

Case Study 3 – Inappropriate small expense claim

Potential Conflicts

Case outline

After several months of job searching, Jeremy (Member in Business) secured a position as a financial accountant with a sales company. The company is very small with only 12 employees, most of whom work in the sales area. Given the size of the company, there are very few formally documented policies and procedures in place. Two days before the completion of Jeremy's 3 month probationary period and formal performance review, Jeremy's supervisor, who is also a senior sales person, tells him that he incurred \$175 expense entertaining a client the previous evening. He requests a cheque reimbursement and submits receipts from a restaurant and bar to support the amount. At the end of the day,

the supervisor's wife comes to the office to meet her husband and drive him home. Jeremy overhears the wife talking to another employee about what a wonderful night she had last evening with her husband at dinner and at the bar.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook the information he overheard and maintain his integrity?

Objectivity

How will the Member in Business manage the conflict between integrity and his desire to secure his job at the company at the completion of his probationary period?

Professional behaviour

Can the Member in Business ignore the information acquired and still satisfy the principle of professional behaviour?

Ethical decision-making approach

Identify relevant facts

Does the Member in Business have all of the facts? Can he discuss the nature of the expense further with the supervisor? What is the Member in Business's specific role in relation to expense claims and reimbursement? Is there an internal process for querying and reviewing expense claims?

Identify affected parties

The key affected parties are the Member in Business and the supervisor. Other possible affected parties are the supervisor's wife, the Australian Tax Office and other employees and stakeholders of the company.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom he can discuss his position?

Discuss the ethical dilemma with relevant parties

Can further discussions be held with the supervisor to clarify the Member in Business's understanding? Does the Member in Business need to discuss the issue with anyone else in the company?

Consider possible course of action

The Member in Business may consider further discussions with the supervisor to clarify his understanding of the evening. He may approach such discussions in a non-confrontational manner and explain that he needs a complete understanding of the expense in order to appropriately classify it for financial reporting and taxation purposes. What client was entertained? Which account/product or service does this expense pertain to? If the Member in Business is unable to corroborate the expense claim he could highlight the implications of allowing inappropriate expense claims to continue such as Australian Tax Office investigations and potentially fines. Where this approach is unsuccessful the Member in Business may need to initiate discussions with another manager within the company to assist in resolution of the problem.

Case Study 4 – Unlicensed software

Potential Conflicts

Case outline

Jamie (Member in Business) is a young accountant with qualifications in accounting as well as in information technology. Jamie has recently been hired as an accounting assistant by a medium-sized retail company and is looking forward to the challenges the work force presents. On his first day at work, the financial controller hands Jamie a copy of Microsoft Office and asks him to install the software on 25 computers around the office. The financial controller states that the new software is required in order for Jamie to perform his accounting role. Jamie is about to commence the installation when he asks the financial controller if the company holds the licence for the software. The financial controller laughs and says Jamie has a lot to learn. He explains that the purchase of a licence would result in unnecessary expenditure with no added benefit to the company.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook the fact that the company does not have the appropriate licences to use the software and maintain his integrity?

Objectivity

How will the Member in Business manage the conflict between integrity and his desire to secure his job at the company at the completion of his probationary period?

Professional behaviour

How should the Member in Business proceed in order to comply with relevant laws and avoid any action that discredits the profession?

Ethical decision-making approach

Identify relevant facts

Can the Member in Business discuss the matter further with the financial controller?

Identify affected parties

The key affected parties are the Member in Business, Microsoft Corporation, the financial controller and the company.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures and applicable laws and regulations.

Consider who should be involved in resolution

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Is there someone else within the organisation with which the Member in Business can discuss his position?

Discuss the ethical dilemma with relevant parties

Can further discussions be held with the financial controller to explain the risks of breaching copyright? Does the Member in Business need to discuss the issue with anyone else in the company?

Consider possible course of action

The Member in Business may consider further discussions with the financial controller to highlight the importance of obtaining a licence for use of the product. The Member in Business could highlight advantages such as support from the software provider and the tax deductible nature of the expense.

Case Study 5 – Incorrect reporting of financial information

Preparation and Reporting of Information

Case outline

Robyn (Member in Business) is the financial accountant in a company and is preparing the quarterly accounts. Robyn's immediate manager is a very forceful, domineering individual and Robyn has accepted his views over the last two years on the level of work in progress. The manager has instructed Robyn to report a 100% increase in work in progress during the current quarter. The year-end draft financial statements show that the company has only just met its business plan financial targets.

New evidence subsequently becomes available to suggest that something is clearly wrong and the work in progress had not increased at anywhere near the rate advised by Robyn's manager.

Fundamental principles of the Code

Integrity

Can the Member in Business show that the accounts are true and fair without amending them?

Objectivity

Given the manager is a forceful and intimidating individual, how would the Member in Business maintain her objectivity?

Professional competence and due care

Have the draft accounts been prepared in accordance with reporting requirements including applicable accounting standards, laws and regulations, and Professional Standards?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself or the company?

Ethical decision-making approach

Identify relevant facts

Do other balances and analyses provide evidence that work in progress is incorrectly stated? For example, cost of sales analytical review, margin analysis and cash flows.

Identify affected parties

The Member in Business and her immediate manager are the key affected parties. Others that may be affected include other levels of management, recipient of the management accounts, users of the financial accounts, finance, purchasing, accounts payable, human resources, internal audit, audit committee, board, external auditors, shareholders, financial backers and the taxation office.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? The Member in Business may discuss the matter with her immediate line manager given the available evidence and possible consequences. Can the Member in Business discuss the matter with other affected parties such as the recipients of the management and financial accounts? What is the appropriate timing for such discussions?

Discuss the ethical dilemma with relevant parties

Does further discussion need to take place with the immediate manager? Do discussions need to extend to more senior levels of management?

Consider possible course of action

The Member in Business may corroborate the facts with other available documentation such as cost of sales calculations, previous stock counts and other financial information. The appropriate course of action such as undertaking a stock count can then be discussed with the Member in Business's immediate line manager. If the manager's response is not what the Member in Business considers appropriate, the matter may then be discussed with recipients of the management and financial accounts and the next level of management. Other steps could include, where appropriate, discussion with the senior management, internal audit, audit committee, the Board and external auditors.

In the case of a small business, the Member in Business may not have the ability to hold the detailed discussions suggested above. In this case, the main course of action would be to corroborate the facts and report in line with statutory requirements. The Member in Business may discuss the requirements with the line manager using facts as the basis for this discussion.

The Member in Business can also consider the ethical conflict resolution resources of her Professional Body. The Member in Business should also consider her employment options.

Case Study 6 – Inappropriate capitalisation of research and development costs

Preparation and Reporting of Information

Case outline

Nathan (Member in Business), the finance director of ABC Ltd, has become aware of a \$1.5million investment in relation to a research and development (R&D) project. This project has not been properly assessed and therefore its chances of success are unknown. The company's policy on R&D clearly states that such costs are capitalised and deferred only where it is reasonable to expect a successful outcome and an associated revenue stream - a policy that is consistent with the *Income Tax Assessment Act 1997* research and development provisions.

Nathan approaches his long time good friend, Doug, the project leader, about the costs incurred and receives a response that there is no problem because he will provide some numbers that will keep the auditors happy.

It is only 1 week before the financial year-end and writing off the \$1.5million at such a late stage would result in significant difficulties with the Board for Nathan. His relationship with Doug will also be impacted and he would be placed in a very precarious position with the Board.

Fundamental principles of the Code

Integrity

How does the Member in Business maintain his integrity with the project leader, the Board and the auditors? Can the Member in Business retain his integrity without bringing the matter to the Board's attention?

Objectivity

How does the Member in Business remain objective as to the true nature of the research and development expenditure and their appropriate accounting treatment considering the long term friendship with the project leader?

Professional behaviour

How does the Member in Business proceed in order to not discredit himself?

Professional competence and due care

Have the accounts been prepared in accordance with applicable accounting standards, laws and regulations, and Professional Standards?

Ethical decision-making approach

Identify relevant facts

Should the Member in Business discuss the matter further with the project leader prior to taking the matter to the Board? What information will the Member in Business disclose to the auditors?

Other points to consider include whether there is a supportive environment for open discussion of practical dilemmas or is there a recriminatory or 'blame' culture in the company? Is there a problem with the company's internal controls in relation to the correct treatment of expenditure on R&D? Have similar incidences occurred in the past? Is there any commercial pressure on the project leader to defer expenditure items inappropriately?

Identify affected parties

The main affected parties are the Member in Business, the project leader, the directors, the company's employees and the shareholders (if different from the directors), and the Australian Taxation Office.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Are there trusted colleagues with whom the Member in Business can discuss his position?

Discuss the ethical dilemma with relevant parties

Does further discussion need to take place with Doug? Do discussions need to be held with other levels of management and the Board?

Consider possible course of action

Commercial pressures on Doug may be forcing him to defer this expenditure. However, transparent reporting may require write-off of the \$1.5 million. Initially the Member in Business may need to have further discussions with Doug to obtain a more comprehensive understanding of the project and its current status. The Member in Business should explain to Doug the potential implications of inappropriate treatment of the \$1.5 million. Such implications would include a qualified audit report and its impact on the company. In addition, capitalisation of the costs is inconsistent with the requirements of the *Income Tax Assessment Act 1997* research and development provisions. This may lead to penalties and other negative consequences under the Act. If this approach fails then the Member in Business will have to approach senior management, the Chief Executive or the Board and explain the situation and work through how this issue can be resolved. The Member in Business could consider highlighting the expense as an exceptional item in order to provide a true and fair view.

Case Study 7 – Inappropriate contractor claims

Preparation and Reporting of Information

Case outline

William (Member in Business) is employed as the financial accountant in a medium-sized engineering firm. The firm specialises in the development and design of steel frames and pumps used to purify oil. Due to the fluctuation in demand the company maintains only a small permanent workforce with at times, up to 65% of the labour provided by external contractors.

William developed an innovative accounting system that analysed project costs against the work done and in doing so, found a significant fraud in contractor claims at the company. He incorporated the variances into his monthly report and approached the engineering manager with his findings. The engineering manager was clearly agitated by William's findings. He stated that William's job was to pay employees and creditors, meet statutory requirements, and that project reporting was the responsibility of project cost engineers.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook his findings and maintain his integrity?

Objectivity

Knowing that something may be wrong, how can the Member in Business maintain his objectivity?

Confidentiality

Does the Member in Business have a legal or professional right or duty to disclose the information acquired? What whistleblowing obligations and protection does the Member in Business have?

Professional behaviour

How should the Member in Business proceed in order to comply with relevant laws and regulations and avoid any action that discredits the profession?

Professional competence and due care

Is the Member in Business able to check that his findings are correct?

Ethical decision –making approach

Identify relevant facts

Does the Member in Business have all of the facts? Is the new accounting system he developed performing a correct analysis? Can the results of the system be substantiated in an alternative way? Are there are other costs associated with employing contractors that may not have been taken into consideration (costs such as relocation costs)? Can the Member in Business discuss the matter further with the engineering manager or other recipients of his monthly report? What are the potential factors that would influence the engineering manager to conceal fraud in contractor claims?

Identify affected parties

The key affected parties are the Member in Business, the contractors, the engineering manager and the company itself. Other possible affected parties include the Australian Tax Office.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures.

Consider who should be involved in resolution

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom the Member can discuss his position?

Discuss the ethical dilemma with relevant parties

Can further discussions be held with the engineering manager? Do discussions need to be held directly with the contractors in question?

Consider possible course of action

The Member in Business should explain to the engineering manager the requirement to substantiate the alleged fraudulent claim and that the matter is to be investigated. The Member in Business may consider approaching the contractor in question with his findings and request supporting documentation for excess money paid. He would also then need to approach the relevant project cost engineer with the outcome so that the project can be appropriately costed. The Member in Business would also need to consider the fraudulent implications that arise from deceitful billing practices and determine whether any further sort of legal or other action is required. All enquiries and conclusions reached should be documented by the Member in Business. Where such documentation is maintained, the Member in Business needs to consider the legal ramifications of doing so. The Member in Business should consider reporting the outcomes to Those Charged with Governance.

Case Study 8 – Loss leaders or divisional failure?

Preparation and Reporting of Information

Case outline

Rebecca (Member in Business) is the accountant for the processed foods division of a manufacturing company. Rebecca's role involves the preparation of financial reports determined by corporate management to assist in the assessment of the team's performance. When preparing the regular financial reports Rebecca noticed some products appeared to have experienced lower sales in the last quarter. With further analysis she found that there were a significant number of products that had been sold at a net financial loss with some sold at below prime cost.

The company structure means that Rebecca reports to the divisional manager as opposed to the head office Chief Financial Officer (CFO). On reporting her results the divisional manager was agitated and advised Rebecca that her financial reports are not acceptable and inconsistent with general commercial practice. The manager then performed his own analysis of the division's products and concluded that all products were sold at positive margins. He did not provide Rebecca with any details of his study.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook her findings and maintain her integrity?

Objectivity

Knowing that something may be wrong, how can the Member in Business maintain her objectivity?

Professional behaviour

How should the Member in Business proceed?

Professional competence and due care

Is the Member in Business able to check that her findings are correct?

Ethical decision –making approach

Identify relevant facts

Does the Member in Business have all of the facts? Does she need to consider other issues such as the overall profitability of the division and the necessity to produce complementary items to support profit leaders? Can the Member in Business discuss the matter further with the divisional manager?

Identify affected parties

The key affected parties are the Member in Business, the divisional manager and the company itself.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures.

Consider who should be involved in resolution

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom she can discuss her position?

Discuss the ethical dilemma with relevant parties

Can further discussions be held with the divisional manager? Do discussions need to be held with the head office CFO?

Consider possible course of action

The Member in Business may consider discussing the matter further with the divisional manager. She may approach the issue in a non-confrontational way by requesting that the manager provide her with feedback on what she did not consider as part of her analysis. Alternatively the Member in Business may approach the head office CFO directly to discuss the issue. All enquiries and conclusions reached should be documented by the Member in Business. The Member in Business should also ensure that she maintains a copy of her analysis.

Case Study 9 – Satisfying the bank's lending criteria

Preparation and Reporting of Information/Financial interests of a Member

Case outline

Sandra (Member in Business) is the Chief Financial Officer (CFO) of a large manufacturing company. It is November and the Chief Executive has just returned from a meeting with the company's bankers and calls Sandra into her office to discuss the results of negotiations. The Chief Executive explains that the company requires a significant capital injection in order to modernise its manufacturing equipment. This will enable the company to secure a large ongoing order from China which will result in all employees of the company receiving sizeable Christmas bonuses.

The Chief Executive explains to Sandra that the lending criteria of the bank require that the company demonstrate an adequate current and strong projected cash flow as well as a profitability level that will enable repayments of the loan to be made from an early date. The Chief Executive has told the bank that the company is in a strong position. However, Sandra knows that the company will not satisfy the bank's criteria. The Chief Executive has promised that Sandra (CFO) will deliver a financial report to the bank within 3 business days. The Chief Executive tells Sandra that it is up to her to decide the contents of the report.

Fundamental principles of the Code

Integrity

How does the Member in Business maintain her integrity with the Chief Executive and the bank?

Objectivity

How does the Member in Business remain objective as to the reporting on the company's financial status considering the pressure to misstate the accounts?

Professional behaviour

How does the Member in Business proceed in order to not discredit herself?

Ethical decision-making approach

Identify relevant facts

Can the Member in Business retain her integrity without reporting false information to the bank? Should the Member in Business discuss the matter further with the Chief Executive prior to presenting her report? What information will the Member in Business disclose to the bank?

Identify affected parties

The main affected parties are the Member in Business, the bank, the Chief Executive and the company's employees and the shareholders.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Are there trusted colleagues with whom the Member in Business can discuss her position? The Member in Business should consider whether to consult confidentially with external advisers such as the Professional Body to which she belongs and whether to consult Those Charged with Governance.

Discuss the ethical dilemma with relevant parties

Does further discussion need to take place with the Chief Executive? Do discussions need to be held directly with the bank?

Consider possible course of action

Commercial pressures and the potential for personal financial gain by the Member in Business may encourage her to produce a report that satisfies the bank's criteria however this would be materially misrepresenting the company's position, which would mean that she would be in breach of the Code if they prepared or were associated with it. To produce such a report may actually jeopardise future borrowing activities of the company with this and other banks. The Member in Business may have additional discussions with the Chief Executive to explain the future implications of providing a report to the bank which misrepresents the company's position.

Case Study 10 – Valuing share options

Acting with Sufficient Expertise

Case outline

Olivia's Employer has requested that she (Member in Business) perform a valuation of share options. Olivia is not comfortable with the work as she does not have the required expertise to value options, and is uncertain about what to say to her Employer.

Fundamental principles of the Code

Professional competence and due care

Does the Member in Business have the necessary skills and experience to undertake the work?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself or the company?

Ethical decision-making approach

Identify relevant facts

Can the Member in Business demonstrate her lack of expertise in this area and the potential impact on the company and offer alternatives? Consider the objective and time scale for the valuation in planning the next steps.

Identify affected parties

The Member in Business and the Employer are the key affected parties. Other parties that may be affected include the auditors, employees, human resources, shareholders and financial backers.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies, procedures and guidelines, accounting standards, best practices, applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Are there trusted colleagues with whom the Member in Business can discuss her position?

Discuss the ethical dilemma with relevant parties

Does further discussion need to take place with the Member in Business's manager? At what point will the Member in Business consider involving the next level of management?

Consider possible course of action

The Member in Business may consider discussing her concern about the lack of knowledge to value share options with her immediate manager. The Member in Business could suggest clearly defining the scope of the project and a course of action for addressing issues such as lack of knowledge or expertise. An appropriate course may be for example, employing a person with the necessary expertise. The focus during the discussion should be on the potential consequences to the business. The Member in Business could explain that employing a person with the necessary expertise does not affect her own obligation to ensure that the work is conducted in accordance with applicable accounting standards, laws and regulations. If the Member in Business does not consider her manager's reaction to be satisfactory, it may be appropriate to discuss the matter with the next level of management. If this response is not satisfactory, the Member in Business may need to involve internal audit, the audit committee and/or investment committee or the Board. Note that the substance of all discussions held, who was involved, what conclusions were reached and why, and her involvement should all be documented by the Member in Business. When doing so, the Member in Business may need to consider whether there are legal implications of maintaining such documentation in compliance with relevant laws and regulations.

The Member in Business could also consider the ethical conflict resolution resources of her Professional Body.

Case Study 11 – Personal financial interest in a proposal

Financial Interests

Case outline

Stella (Member in Business) has been appointed finance director of a public company which has difficulties attracting and retaining skilled staff. Stella's first task from the Board is to develop a benefits package to assist the company in overcoming this problem. Her own entitlement to benefits will also be in accordance with the new scheme. Based on extensive research and analysis, Stella concludes that in order to achieve the Board's objective, a significant increase in the whole range of benefits is required.

Fundamental principles of the Code

Integrity

In view of the Member in Business's personal interest, how will she ensure that her honesty remains unquestionable?

Objectivity

How will the Member in Business remain unbiased, and consider only the relevant facts, despite her personal interest in the benefits package?

Professional competence and due care

Does the Member in Business have all the necessary skills to draw up such a package?

Professional behaviour

How should the Member in Business proceed so as not to discredit her behaviour?

Ethical decision-making approach

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practices, applicable laws and regulations. Is the information used for assessing the potential new benefits package independent? Who else has been involved in the proposal for the new benefits package?

Identify affected parties

The Member in Business and the Board are the key affected parties. Others that may be affected include employees, human resources, shareholders and financial backers.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom she can discuss her position? Has the Member in Business discussed the matter with the Board and/or human resources?

Discuss the ethical dilemma with relevant parties

Do further discussions need to take place with the Board or the directors individually prior to undertaking the task?

Consider possible course of action

Prior to explaining the findings to the Board, it may be advisable that the Member in Business informs the Board how she approached the project and who else was involved in the process (such as human resources). The Member in Business may find it helpful to document the substance of all discussions held, who was involved, what conclusions were reached and why, including her involvement. When maintaining such documentation, the Member in Business may need to consider the legal implications of doing so. When it is time to propose the new benefits package, the Member in Business may need to declare her conflict of interest. Findings may need to be presented to the Board by human resources or another independent party.

Case Study 12 – Inducements for non-disclosure of information

Inducement

Case outline

John (Member in Business) has been with his current employer for 8 months. However, things have not turned out well and he is moving on. John has significant concerns about the business conduct of the company, and believes there may be issues that require disclosure to the auditors or the regulator. A compromise agreement is currently being negotiated in which John will not receive a settlement if he reports any concerns, whereas if he agrees to a gagging clause then there will be a substantial payoff.

Fundamental principles of the Code

Integrity

What does the Member in Business need to do to demonstrate his integrity? How far does the Member in Business need to go?

Objectivity

How will the Member in Business manage the conflict between financial benefit and integrity?

Confidentiality

Is there any basis on which the Member in Business could make disclosures?

Ethical decision-making approach

Identify relevant facts

Are the Member in Business's concerns based on facts and does he have relevant facts to back his concerns? Are all the facts available or only a selection? Can the rest be established? Identifying the relevant facts could include understanding any requirements of legislation to make disclosures, and any protection that the Member in Business may seek from relevant legislation. Have any steps already been taken to try to resolve the Member in Business's concerns? Have these steps been documented?

Identify affected parties

The Member in Business and the Employer are the key affected parties. Other parties that may be affected are the regulator, auditor and the public, as well as Member in Business's family.

Determine whether a procedure of conflict resolution exists within the organisation

Given the nature of the dilemma, there may not be an internal conflict resolution process available. The Member in Business can also consider the ethical conflict resolution resources of his Professional Body.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom he can discuss his position? Can the Member in Business speak with his Employer about his concerns? Has the Member in Business made full disclosures to his solicitor, and received advice? Has the Member in Business discussed the matter with his family? Are there any external organisations that the Member in Business can contact such as public authorities?

Discuss the ethical dilemma with relevant parties

Do any additional discussions need to be held with the Member in Business's current Employer?

Consider possible course of action

There are two issues that need to be resolved:

1. How to address the matters of concern; and
2. How to achieve a satisfactory financial settlement.

Given the nature of the dilemma, the Member in Business may need to take advice early and often. The Member in Business may need to establish whether the facts support his concerns. If so, he may need to decide if there is a basis for disclosure and if so, what the value and consequences of that disclosure might be for the Member in Business and his family, the Employer, the industry and the profession. If the evidence available is considered sufficient, the Member in Business may resist the gagging clause, and argue for the concerns raised to be documented and considered by Those Charged with Governance of the company. The Member in Business should always ensure his family is aware of his concerns and actions, and their implications, without revealing confidential information.

The Member in Business may find it helpful to document the substance of all discussions held, who was involved, the conclusions reached and why, including his involvement. When doing so, legal implications of maintaining such documentation in compliance with relevant laws and regulations may need to be considered by the Member in Business.

Case Study 13 – Earnings management

Financial Interest of a Member/Inducement

Case outline

Phil (Member in Business) has been the accountant for a family business for a few years. The business has recently encountered some operating difficulties and associated financial difficulties. Subsequently a bank and a venture capitalist have invested and acquired over 35% of the company's shares. However, no board seats have been made available to the purchasers. The ongoing support of the bank and venture capitalist are dependent on the company's performance figures.

The Managing Director tells Phil that if he produces the 'right' figures he will receive a significant Christmas bonus and a 1% share option. The company is secretive, and as little information as possible is being given to the auditors and the investors.

Phil is preparing the quarterly management accounts and on review of the balances, believes that some figures are being 'massaged'. Phil has tentatively raised his concerns with the father and son Chairman and Chief Executive. Phil is then told that if he pursues the matter or fails to produce the 'right' figures, his bonus and share options will be forfeited.

Key fundamental principles and duties

Integrity

It is possible to support the business without being involved in reporting potentially misleading information?

Objectivity

How can the Member in Business avoid his professional judgement being influenced by the financial interest resulting from the bonus?

Professional behaviour

How will the Member in Business manage relationships with the affected parties?

Ethical decision-making approach

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, applicable laws and regulations. The facts need to be double checked with a focus on significant figures in the accounts and their underlying assumptions. The Member in Business should consider whether the nature of the family business and its apparent secrecy means that he is not in possession of material facts.

Identify affected parties

The Member in Business, the family business, professional advisers, bankers and venture capitalists are the key affected parties. Others that may be affected are the Member in Business's own family and the profession.

Consider who should be involved in the conflict resolution process

Consider who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Are there trusted colleagues or friends with whom the Member in Business can discuss his position? Can the Member in Business's Professional Body provide advice and provide assistance?

Discuss the ethical dilemma with relevant parties

Do further discussions need to take place with the Chairman and the Chief Executive?

Consider possible course of action

The Member in Business may approach the Chairman and Chief Executive and explain the long term implications of reporting inaccurate figures. He could focus discussions on the need to address the underlying business issues and the best way to address them to increase the long-term value of the company. Prior to having this discussion, the Member in Business may prepare realistic figures for presentation and explain the importance of presenting these for the company and his professional standing.

During the resolution process, Member in Business may find it helpful to document the substance of all discussions held, who was involved, what conclusions were reached and why, and his involvement. Note that the legal implications of maintaining such documentation in compliance with relevant laws and regulations may need to be considered. The Member in Business may also need to consider his employment options.

Case Study 14 – Tender bids

Inducement

Case outline

Paula (Member in Business) is a recently qualified professional accountant working in the accounting department of a property investment firm. The company is selling a piece of land and has stipulated that bids have to be submitted via email by 5pm of a specified date. All tender bids are to be considered as confidential and Paula is the initial point of contact for the tender bids. A few tender bids have been received prior to the deadline but not as many as initially anticipated.

At 4:30pm Paula receives a call from an anonymous prospective buyer who informs Paula that he is willing to pay a premium of 20% above the highest bid received by 4:55pm, provided he is informed beforehand of the highest bid received. The caller explains that in this way, all parties benefit. A higher fee is received for the land, the buyer does not have to make an unnecessarily high bid and Paula will be rewarded by the buyer for her hard work. He continues to explain that this type of activity is common in this industry and implies without naming names that other more senior personnel within the firm have taken advantage of these very generous financial terms in the past and would expect Paula to do the same.

Key fundamental principles and duties

Integrity

Can the Member in Business retain her integrity if she distorts the tender process? How does the Member in Business deal with the caller's allegations about more senior personnel within her company?

Objectivity

The Member in Business needs to consider the interest of all of the other parties involved in the tender process.

Confidentiality

How could one justify divulging confidential information to the callers in the interest of maximising the selling price of the land?

Professional behaviour

How does the Member in Business ensure that she handles the client's allegations sensitively and professionally? Particularly given that the Member in Business has no knowledge of the accuracy of the allegations made by the caller?

Ethical decision-making approach

Identify relevant facts

Consider any further information the Member in Business may require to make a decision including consulting with relevant stakeholders of the company who may have a perspective on the tender process.

Identify affected parties

Key affected parties are the Member in Business, the caller, the directors and staff at the property investment firm, the bank, other creditors and other prospective buyers.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies, procedures and guidelines, best practices, applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Consider who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? The first issue is does the Member in Business immediately raise this with her manager before the caller phones back? Secondly, when the caller does phone back does the Member in Business transfer the call to her manager, does she get her manager to listen in to the conversation or does she merely deal with the caller?

Discuss the ethical dilemma with relevant parties

Does the Member in Business need to hold discussions with her manager or senior management of the company?

Consider possible course of action

From the given information, the company may benefit financially if the information is divulged. However, this is not certain as a late bid from another prospective buyer may yet be received prior to the deadline. The Member in Business needs to ensure that a fair tender process is held despite the short-term commercial pressure. The Member in Business also needs to ensure that any actions taken are within the confines of the law. The Member in Business may need to disclose the receiving of the call and the content of the discussion to Those Charged with Governance.

Case Study 15 – Non-Disclosure to auditors and corrupt business practices

Whistleblowing

Case outline

Sarah (Member in Business) is newly employed as an accounting systems manager and recently heard a rumour that the company recently paid a bribe to win overseas work. She has also noticed that the company culture appears to be that everyone has an attitude of getting away with as much as possible. Sarah goes to make her morning cup of coffee where she overhears a discussion with a divisional accountant about the fact that certain information had not been disclosed to the auditors. Sarah has not yet developed a strong working relationship with her line manager and as yet is not sure that her line manager will be supportive of her comments and desire to explore the accuracy of statements made.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook the divisional accountant's comments, her impressions of organisational culture and the bribe allegedly paid to the overseas company and still demonstrate integrity?

Objectivity

Knowing that something may be wrong, how can the Member in Business maintain her objectivity?

Confidentiality

On what basis could or should the Member in Business make disclosures?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself or the company?

Ethical decision-making approach

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practices, applicable laws and regulations. Can the facts be corroborated with documentation or discussion with relevant parties? If proven would the conduct constitute a breach of any laws and if so, which ones? Is there an internal process for whistleblowing? Has the Member in Business taken the appropriate steps to understand her legal rights and responsibilities?

Identify affected parties

The Member in Business, the divisional accountant, the employee raising allegations about the bribe, the line manager and the auditor are the key affected parties. Other parties that may be affected are the company's other employees and where present, internal audit, the audit committee, the board, shareholders and financial backers.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? Do any confidentiality, privacy or whistleblower constraints prevent or restrict their involvement? What is the appropriate timing of their involvement? Has the Member in Business considered contacting her Professional Body for advice and guidance? Does the Member in Business have trusted colleagues with whom she can discuss her position? At what point will the Member in Business consider involving her line manager, the next level of management, the Board and the audit committee?

Discuss the ethical dilemma with relevant parties

Do further discussions with the divisional accountant need to take place? Similarly, do additional discussions need to be held with the employee raising bribery allegations?

Consider possible course of action

The Member in Business may consider checking the facts and discussing the matter with her immediate line manager. If the Member in Business feels that the response from the line manager is not satisfactory, the next step may be to discuss the matter further with the next level of management, internal audit, the audit committee or the Board.

The Member in Business's suspicions or rumours of criminal or corrupt activity are not sufficient for her to form a reasonable basis that wrongdoing has occurred. However, if there is evidence of wrongdoing, the Member in Business may contact her Professional Body (subject to confidentiality, privacy and whistleblower obligations) and consider obtaining legal advice. During the resolution process, it may be helpful to document the Member in Business's involvement in the resolution of the matter, the substance of all discussions held, the names of others involved, the decisions made by her and the basis for those decisions. When doing so, the Member in Business always needs to keep the legal considerations in mind.

Case Study 16 – Inappropriate expense claims lodged by the Chief Executive

Whistleblowing

Case outline

Crystal (Member in Business), the financial controller of the Australian division of an international company was reviewing the expense claims of senior management when she became aware of a claim from the Chief Executive Officer that was contrary to local tax laws. On further investigation, she found that this was not an isolated incident and claims of a similar nature added up to a significant amount. All claims were approved by the same international manager.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook the Chief Executive Officer's expense claim and maintain her integrity?

Objectivity

Knowing that something may be wrong, how can the Member in Business maintain her objectivity?

Confidentiality

On what basis could or should the Member in Business make disclosures?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself or the company?

Professional competence and due care

How can allowing the expense payments to be processed when they are contrary to local tax laws be seen as acting with due skill, care and diligence?

Ethical decision –making approach

Identify relevant facts

Does the Member in Business have all of the facts? Can the Member in Business discuss the matter further with the international manager that approved the expenses? If proven would the conduct constitute a breach of any laws and if so, which ones? Does the company have an internal process for whistle blowing? What steps has the Member in Business taken to understand her legal rights and responsibilities?

Identify affected parties

The key affected parties are the Member in Business and the Chief Executive Officer. Other possible affected parties are the Australian Tax Office, human resources, the Board and/or audit committee and other employees.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies and procedures, applicable accounting standards, best practice and applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? Do any confidentiality, privacy or whistleblower constraints prevent or restrict their involvement? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom she can discuss her position? Has the Member in Business discussed the matter with local management and/or human resources?

Discuss the ethical dilemma with relevant parties

Can further discussions be held with the international manager? Do discussions need to be held with the local senior management?

Consider possible course of action

The Member in Business may consider contacting the international manager who approved the expenses to clarify her understanding of the transactions. The Member in Business may consider quantifying the impact of the claims made by the Chief Executive from a taxation perspective and explain the problem to the international manager using this as a basis. The Member in Business could also then highlight the local implications of allowing such claims to continue. Implications may include fines from the Australian Taxation Office and unfavourable publicity to the company. Depending on the response received, the Member in Business may need to consider the likelihood of further assistance being provided by the international manager in relation to this wrongdoing and the impact that this may have on her actions. Enquiries of this nature, together with the details of the parties involved and reasons for any conclusions reached, should be documented by the Member in Business. The Member in Business may also consider raising the matter with the audit committee, once she has substantiated her belief that wrongdoing has occurred.

Case Study 17 – Inappropriate recording of patient attendance at a doctors' medical practice

Whistleblowing

Case outline

Rita (Member in Business) has recently returned to the workforce following maternity leave. She is employed as a part-time accountant for a local medical practice, reporting to a practice manager who is responsible for a number of doctors working together. In her second week on the job Rita noticed that one of the doctors appeared to treat more patients than were recorded in the electronic waiting room system used to manage patient attendance. It is the practice's policy that all doctors contribute to the practice half of their income earned from attending patients. Rita approached the doctor who suggested it was merely an oversight and that he would instruct the practice manager to update the records by the end of the week. At the end of the week Rita noticed that the patient attendance records had not been updated so she proceeded to update them herself. On Rita's return to work the following week, she noticed that the entries she made had been erased. When she approached the doctor about this, he snapped that her job was merely to record payments and expenses and any "business" matters were best left to those with the understanding of how to run a business. Rita has serious concerns about the doctor's actions in omitting to record patient attendances correctly.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook the doctor's actions and maintain her integrity?

Objectivity

Knowing that something may be wrong, how can the Member in Business maintain her objectivity?

Confidentiality

On what basis could or should the Member in Business make disclosures?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself?

Professional competence and due care

How can omission of patient attendance and therefore the costs and associated revenue be seen as acting with due skill, care and diligence?

Ethical decision-making approach

Identify relevant facts

Does the Member in Business have all of the facts? Is this merely a once-off or an ongoing practice by this doctor? Can she discuss the matter further with the doctor? If proven would the conduct constitute a breach of any laws and if so, which ones? Does the practice have an internal process for whistleblowing? What steps has the Member in Business taken to understand her legal rights and responsibilities? Has the Member in Business considered the application of Privacy laws to the handling of sensitive information within the personal health records of these patients and when and how these records can be amended?

Identify affected parties

The key affected parties are the Member in Business, the doctor concerned, other doctors of the practice and the patients whose records are not accurate. Other possible affected parties are the Australian Tax Office and Medicare.

Determine whether a procedure of conflict resolution exists within the organisation

Given the size of the practice, there may not be formal documented policies available. However, there may be a doctor who has the allocated responsibility for addressing staff issues.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? Do any confidentiality, privacy or whistleblower constraints prevent or restrict their involvement? What is the appropriate timing of their involvement? Does the Member in Business have trusted colleagues with whom she can discuss her position? Has the Member in Business discussed the matter with any of the other doctors?

Discuss the ethical dilemma with relevant parties

Can further discussions be held with the deceitful doctor? Do discussions need to be held with other doctors? Should she escalate matters given the doctor's previous brusque behaviour?

Consider possible course of action

The Member in Business may consider further discussions with the doctor concerned to clarify her understanding of the situation. Prior to discussions, the Member in Business may consider quantifying the impact of the doctor's behaviour and the likely impact over time. She may then decide to observe what happens over a longer period of time. All enquiries and conclusions reached may need to be documented by the Member in Business and when doing so, the Member in Business needs to be aware of the associated legal implications.

Case Study 18 – Insider information

Public Sector – Inducement

Case outline

Sally (Member in Business) is the head of internal audit in a public sector organisation which is about to tender for the contract for the internal audit service. She has been in her position for the duration of a five-year contract.

A new member of her team has been recruited in the normal course, from the department responsible for reviewing the tender contract. The new team member is employed in internal audit as a support administrator. Although he was not involved with the tender process, his former colleague and friend in the tendering department is responsible for the tender specification document and the evaluation process.

Sally's new employee had sight of some of the requirements and has offered to share with her information that may be of use when preparing the tender. However, this information is confidential and should not be seen by any of the tendering parties.

It will be an open tender process for both external and internal providers. Bids from external providers are being encouraged. The evaluation process has been designed with this in mind.

If the contract is awarded externally, Sally, as the head of internal audit, will be unsure of her personal position in the organisation.

Sally understands the use of any insider knowledge of the tendering process would be inappropriate when preparing the tender proposal, but she feels she would have a better chance of success if she used this confidential information.

Key fundamental principles and duties

Integrity

How can the Member in Business demonstrate integrity despite the influence of the information available to her?

Objectivity

How can the Member in Business maintain her objectivity?

Confidentiality

How should the Member in Business act to maintain confidentiality?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself?

Professional competence and due care

How can the Member in Business proceed in order to be seen as acting with due skill, care and diligence?

Ethical decision-making approach

Identify relevant facts

What are the risk factors here? What pressures is the Member in Business feeling to breach confidentiality principles? The Member in Business has a self-interest threat since her employment position with the company is uncertain if the internal audit contract is awarded to an external provider. The opportunity is present as a new member of her team has access to information that may better her chances. Having this information would compromise the probity of the tender process and increase the Member in Business's chances to the detriment of a fair and honest tender process.

Identify affected parties

The Member in Business, Employer and providers involved in the tender bid are the key affected parties.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies, procedures and guidelines, best practices, applicable laws and regulations.

Consider who should be involved in the conflict resolution process

Who should be involved in the resolution of this matter and for what reason? What is the appropriate timing of their involvement? Are there trusted colleagues with whom the Member in Business can discuss her position?

Discuss the ethical dilemma with relevant parties

Should further discussion take place with the Member in Business's Professional Body?

Consider possible course of action

The Member in Business may consider disclosing this threat to the tendering department as well as any information she may already have received on the tender. The Member in Business could then discuss with her new team member from the tendering department the principles which would be compromised should she access this confidential information from the tender requirements and how it is her professional duty to follow these principles. She could also prevent the team member or his friend from providing her with any further confidential information on the tender. The Member in Business could consider discussing her concerns with Those Charged with Governance to determine why the contract tender has also gone to external providers and what that could potentially mean for her position with the company should an external party be appointed. The Member in Business could also examine her other employment options as a worst case scenario.

Case Study 19 – Demonstrating due diligence in an honorary position

Public Sector – Acting with Sufficient Expertise

Case outline

Tammy (Member in Business) has been appointed as a member of a School Board on a voluntary basis. She has also been appointed to the finance and buildings committee that awards building contracts. The membership of this committee includes a number of individuals with private sector experience and local businessmen. One is a local builder who has been a board member for a number of years and is well respected in the community and by the Board.

At Tammy's first meeting, the committee considers a report from the head teacher about the condition of the school hall and sets out a scheme of remedial building works with estimated costs. After discussion of the scheme, and recognising the need to move quickly if the work is to be carried out during the summer vacation, the board member who is the local builder offers to do the work at a competitive price and the other board members on the committee are minded to accept the offer.

However, although the offer has been made, the board members are not considering the use of a formal tender process or making any reference to governance arrangements that could exist for tenders. Tammy is concerned about the committee being unable to demonstrate reasonable decision making, stewardship of public money, and potential reputational risk.

Key fundamental principles and duties

Integrity

Can the Member in Business maintain her integrity without advising the committee of the need to demonstrate a proper decision-making process that would support any contracts awarded?

Objectivity

The information provided to her could result in the Member in Business saying nothing. How can she avoid the temptation to agree to the apparently easy solution and instead maintain objectivity?

Confidentiality

On what basis could or should the Member in Business make disclosures?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself? Does this matter in cases where the employment is voluntary?

Professional competence and due care

How can the Member in Business demonstrate she is acting with due skill, care and diligence?

Ethical decision-making approach

Identify relevant facts

Does a voluntary position affect the level of professionalism that one must demonstrate? The Member in Business is new in her role and it can be assumed she is relatively unfamiliar with the policies, procedures and requirements of the School Board. On the surface it appears that the board member who is the builder seems to be the best person to perform the required works. Since the timeframe is short, using the builder board member's company could potentially facilitate the timely completion of the project, but only by bypassing tendering steps that maintain the probity of the process. Can the Member in Business act responsibly knowing that the tendering process would not stand up to outside scrutiny and considering that the project is dealing with public funds?

Identify affected parties

The key affected parties are the Member in Business, the School Board, parents, children, staff and other community stakeholders involved with the school.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies, procedures and guidelines, best practices, applicable laws and regulations.

Consider who should be involved in resolution

Are there trusted colleagues or friends with whom the Member in Business can discuss her position? Can the Member in Business's Professional Body provide advice and provide assistance?

Discuss the ethical dilemma with relevant parties

Since the Member in Business sits on the School Board, would it be appropriate for her to discuss this with the finance and building committee members? Should she also discuss this with the Board? Should she consider consulting outside of the School Board?

Consider possible course of action

The Member in Business could bring the matter up before the finance and buildings committee and explain that, although it appears that the builder board member is the best candidate with a competitive bid, acceptance without following a proper tender process could be inappropriate. She could recommend that they follow a tendering process that is in accordance with good practice guidelines to explicitly demonstrate to the community a proper decision-making process that would support any contracts awarded. She may also need to explain to the board members that following a proper decision-making process would protect the committee members and the School Board from any potential reputational risk that the school did not properly award contracts, especially as it is funded by public money.

Case Study 20 – Potential breach of not-for-profit status

Charitable Organisations – Preparation and Reporting of Information

Case outline

Robert (Member in Business) is the Chief Financial Officer for a charitable organisation and has recently been informed by its auditor that preliminary analysis performed on the accounts indicates the organisation may have surpassed a legislative threshold for income from its commercial activities. It is uncertain how this came about, however it could potentially affect the organisation's tax exempt status with the Australian Taxation Office (ATO) as a registered charity. Robert has brought this matter to the attention of the Chief Executive who has expressed her fears of potential staff layoffs or a reduction in services occurring should there be penalties from the ATO or if the organisation loses its tax exempt status. Then the idea comes to her that the matter should be quietly managed in-house and that it should not be disclosed to the ATO since it was only an oversight in the current year.

Key fundamental principles and duties

Integrity

Can the Member in Business be involved in this decision and maintain his integrity? Is there a 'common sense' argument for not disclosing this unintentional slip to the authorities?

Objectivity

Can the Member in Business remain objective when deciding how to resolve this matter since his future position with the organisation may be at risk?

Confidentiality

On what basis could or should the Member in Business make disclosures?

Professional behaviour

How should the Member in Business proceed so as not to discredit himself?

Professional competence and due care

How can the Member in Business demonstrate he is acting with due skill, care and diligence?

Ethical decision-making approach

Identify relevant facts

The matter has yet to be analysed to ensure that preliminary findings are substantiated. The Member in Business should consider the alternatives. Is there any ethical discretion available in making a decision on this matter? Do the facts of the matter overrule any motives or intentions of the organisation when determining the tax implications? Would knowing the responsible party or their intentions affect the Member in Business's objectivity?

Identify affected parties

The key affected parties are the Member in Business, the auditor, the Employer, the management and staff, and the ATO.

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies, procedures and guidelines, best practices, applicable laws and regulations.

Consider who should be involved in resolution

Are there trusted colleagues or friends with whom the Member in Business can discuss his position? Can the Member in Business's Professional Body provide advice and provide assistance?

Discuss the ethical dilemma with relevant parties

Since the matter has already been discussed with the Chief Executive, should the Member in Business consider discussion with Those Charged with Governance?

Consider possible course of action

The Member in Business could investigate the auditor's findings in the first instance to determine whether there is any merit to the auditor's preliminary analysis. Should the auditor's findings be substantiated, the Member in Business may find it helpful to document the matter thoroughly and then consider whether to consult with internal or external taxation experts on how to approach the matter. The Member in Business may need to consider whether there is any legitimate means to deal with the matter and what long term repercussions would be on his professional reputation and on the organisation's reputation and future should they follow the Chief Executive's suggested solution and not disclose the matter to the ATO and its Australian Charities and Not-For-Profits Commission. Legitimate alternatives could be sought to limit the organisation's exposure to potential tax penalties or loss of charitable status. The Member in Business may find it useful to make inquiries on the ATO's powers to give relief in the event of loss of charitable status. Immediate contact with the ATO may be warranted in cases where timeliness of notification is a factor in the severity of the ruling by the authorities.

Case Study 21 – Ignorance is no excuse

Preparation and Reporting of Information/Acting with Sufficient Expertise

Case outline

Jill (Member in Business) is a long standing non-executive director for a large publicly listed property management group. The company has been taking advantage of readily available funds through short-term credit and rapidly increasing its portfolio of investment properties. Although this short-term debt has been easily converted into longer term less risky debt in the past, the tightening of the credit market due to a global financial crisis has left a large amount of debt which needs to be refinanced in the short term. Jill has reviewed the draft financial statements and notices that the split between current and non-current debt appears not to reflect this position. Jill makes inquiries of the Chief Financial Officer (CFO) whereupon she receives the response that the accounts have been reviewed by the CFO, the finance team, and preliminary sign-off has been obtained from the company auditor.

Key fundamental principles and duties

Integrity

Can the Member in Business overlook the available information and maintain her integrity?

Objectivity

Can the Member in Business rely on management and the auditor's judgement and remain objective when deciding how to resolve this matter since she is aware of differences?

Professional behaviour

How should the Member in Business proceed so as not to discredit herself?

Professional competence and due care

How can the Member in Business demonstrate she is acting with due skill, care and diligence? Should the Member in Business ask herself why her analysis is different to that of the others? How does the Member in Business ensure that a proper decision-making process is applied? How does she demonstrate the appropriate level of professional judgement?

Ethical decision-making approach

Identify relevant facts

Can the Member in Business rely on management and the company auditor without taking reasonable actions to understand the underlying information in the financial statements? The Member in Business is aware that significant events have taken place that are not disclosed in the accounts. What level of inquiry is required by non-executive directors of management in order to discharge their responsibilities?

Identify affected parties

The key affected parties are the Member in Business, the CFO, the company auditor, the Employer, the shareholders, and the securities regulator(s).

Determine whether a procedure of conflict resolution exists within the organisation

Consider the company's policies, procedures and guidelines, accounting standards, best practices, applicable laws and regulations.

Consider who should be involved in resolution

Are there trusted colleagues or friends with whom the Member in Business can discuss her position? Can the Member in Business's Professional Body provide advice and assistance? Is the Member in Business able to discuss the matter with a board member?

Discuss the ethical dilemma with relevant parties

Should the Member in Business raise this with the Board?

Consider possible course of action

The Member in Business may need to consider her professional and legal obligations in this matter and could perform further analysis to determine whether the split between current and non-current debt in the accounts is appropriate. If further review of the accounts indicates that the current/non-current split is not consistent with a true and fair view, then the Member in Business may need to make inquiries of the CFO and the auditor and then raise the matter as soon as possible with the Board. The Member in Business may find it helpful to document the matter thoroughly and may need to disclose her findings to the Board.

Conformity with International Pronouncements

The International Ethics Standards Boards for Accountants (IESBA) has not issued a pronouncement equivalent to APES GN 40.

Acknowledgements

APESB gratefully acknowledges the publications listed below which provided insights into ethical issues faced by Members in Business and development of this Guidance Note. Further, some of the cases in this Guidance Note are based on scenarios described in these publications:

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High-profile examples of poor ethical behaviour in the corporate world

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Appendix 1

Summary of revisions to the previous APES GN 40 (Issued in March 2012)

APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business* was originally issued in March 2012. APES GN 40 has been revised by APESB in **XX** 2015. A summary of the revisions is given in the table below.

Table of revisions*

Paragraph affected	How affected
1.1	Added
1.2 – Paragraph 1.1 of existing APES GN 40 relocated	Amended
1.8 – Paragraph 1.7 of existing APES GN 40 relocated	Amended
1.9 - Paragraph 1.8 of existing APES GN 40 relocated	Amended
1.10	Added
2 – Definition of Acceptable Level	Amended
2 – Definition of Member	Amended
2 - Definition of Professional Activity	Added
2 – Definition of Professional Bodies	Amended
2 – Definition of Professional Services	Deleted
2 – Definition of Those Charged with Governance	Amended
3.1	Amended
3.3	Amended
3.4	Amended
5.2	Amended
6.2	Amended
6.3	Amended
7.2	Amended
10.1	Amended
12.1	Amended
Appendix 1	Added

* [Refer Technical Update 2015](#)