

February 2019



## **Exposure Draft 01/19 Revision of APESB pronouncements**

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## A. Explanatory Memorandum to Exposure Draft 01/19 *Revision of APESB pronouncements*

### Introduction

In November 2018, APESB released the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code). The restructured Code features significant revisions which impact the entire suite of APESB pronouncements. The pronouncements listed below have been revised to update cross-references to the Code and to ensure consistency of definitions.

The aim of this Explanatory Memorandum is to provide stakeholders with the background, development process and rationale for Exposure Draft 01/19 *Revision of APESB pronouncements* (the Exposure Draft) issued on **XXXXX 2019**.

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.

### Summary of APESB Pronouncements

This Exposure Draft comprises proposed amendments to the following pronouncements, grouped into related topics where possible:

Pronouncement	Name of pronouncement	Part of Explanatory memorandum
<b>Part 1: General Pronouncements</b>		
APES 210	<i>Conformity with Auditing and Assurance Standards</i>	<b>Part 1 and Appendix 1</b>
APES 220	<i>Taxation Services</i>	
APES 305	<i>Terms of Engagement</i>	
<b>Part 2: Forensic and Valuation Services related Pronouncements</b>		
APES 215	<i>Forensic Accounting Services</i>	<b>Part 2 and Appendix 2</b>
APES 225	<i>Valuation Services</i>	
APES GN 20	<i>Scope and Extent of Work for Valuation Services</i>	
APES GN 21	<i>Valuation Services for Financial Reporting</i>	
<b>Part 3: Transaction advisory services related Pronouncements</b>		
APES 345	<i>Reporting on Prospective Financial Information prepared in connection with a Public Document</i>	<b>Part 3 and Appendix 3</b>
APES 350	<i>Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document</i>	
APES GN 31	<i>Professional and Ethical Considerations relating to Low Doc Offering Sign-offs</i>	

## Key proposed amendments

The marked-up version of each pronouncement in the Exposure Draft (refer to **Appendices 1, 2 and 3**) reflects the proposed changes for the following key matters:

- (i) Revisions to reflect the restructured Code.
- (ii) Matters raised by respondents in APESB's Issues Register.
- (iii) Matters noted through reviews of pronouncements by APESB Technical Staff.
- (iv) Inclusion of references to Non-compliance with Laws and Regulations (NOCLAR).

The specific details of the proposed changes for each pronouncement are set out in Parts 1 to 3 of this Explanatory Memorandum.

### Interactive PDF features

APESB are incorporating updates to include interactive PDF features within all of its pronouncements.

The restructured Code PDF now includes the following features:

- Bookmark Tab section for Table of Contents;
- Dynamic links to Sections and paragraphs;
- Pop-up definitions upon mouse rollover for defined terms; and
- Links to external websites.

APESB is proposing to include these features in the revised versions of the pronouncements in this Exposure Draft. To prepare for this, APESB Technical Staff have shaded all defined terms in blue in this Exposure Draft.

### Effective Date

The effective date for all of the revised pronouncements will be 1 January 2020 (to align with the effective date of the new restructured Code of Ethics for Professional)

This is marked up in each Standard in paragraph 1.2 proposing that the revised standard will be operative from 1 January 2020 and that earlier adoption of the standard is permitted.

Guidance notes are effective from the date of issue.

## B. Request for comments on Exposure Draft

### Commenting on this Exposure Draft

APESB invites stakeholders to provide comments on these proposed revisions to the pronouncements identified in ED 01/19.

The proposals in this Exposure Draft may be modified in light of comments received before being issued in final form. **Comments are requested by 18 April 2019.**

Comments should be addressed to:

Chief Executive Officer  
Accounting Professional & Ethical Standards Board Limited  
Level 11, 99 William Street  
Melbourne, Victoria 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 Appendices 1 to 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.

### Request for Specific Comments

APESB is seeking respondents' specific comments and feedback on whether the existing provisions in these standards require amendments due to the use of digital technology and artificial intelligence.

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](http://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](mailto:sub@apesb.org.au) or mailed to the address noted above.

### Obtaining a copy of this Exposure Draft

This Exposure Draft is available on the APESB website: [www.apesb.org.au](http://www.apesb.org.au).

Alternatively, any individual or organisation may obtain one printed copy of this Exposure Draft without charge until **18 April 2019** by contacting:

Accounting Professional & Ethical Standards Board Limited  
Level 11, 99 William Street  
Melbourne Victoria 3000  
Australia

E-mail: [enquiries@apesb.org.au](mailto:enquiries@apesb.org.au)  
Phone: (03) 9670 8911  
Fax: (03) 9670 5611

## PART 1: GENERAL PRONOUNCEMENTS

Part 1 of the explanatory memorandum focuses on the following three pronouncements (grouped as the general pronouncements):

Pronouncement	Name of professional standard
APES 210	<i>Conformity with Auditing and Assurance Standards</i>
APES 220	<i>Taxation Services</i>
APES 305	<i>Terms of Engagement</i>

### 1.1 Key proposed amendments

The marked-up version of each pronouncement in the Exposure Draft (refer to **Appendix 1**) reflects the proposed changes incorporated into the existing pronouncement and addresses the following key matters:

#### (i) **Revisions to reflect the restructured Code**

In November 2018, APESB released the restructured Code to align it with the restructure to the International Code undertaken by the International Ethics Standards Board for Accountants (IESBA).

APESB has commenced a project to revise all of its current pronouncements to update any cross-references to the Code and ensure consistency of definitions and obligations across the Code and all APESB Pronouncements. Refer to **section 1.2** for a table which summaries the revisions to the general pronouncements in this part of the Exposure Draft in relation to the restructured Code.

#### (ii) **Matters raised by respondents in APESB's Issues Register**

APESB has also taken the opportunity to address matters that have been noted on the Issues Register in respect of the general pronouncements in this Exposure Draft. These matters include:

- Updating pronouncements to remove reference to the superseded Auditing Standards (AUSs) that have now been replaced by ASAs (APES 210);
- Defining the term 'writing' to clarify the format in which confirmation of engagement terms by a Client should be received (APES 305);
- Including references to regulations to capture legal requirements which may not be set out specifically in legislation, for example, the Financial Services Guide (APES 305);
- Providing guidance that the Terms of Engagement should refer to Member's obligations in relation to actual or suspected non-compliance with laws and regulations (APES 305); and
- Revising the guidance on disclosure of fees and billing arrangements in the Terms of Engagement to include the calculation method and referral fees and commissions (APES 305).

#### (iii) **Matters noted through review of pronouncement by APESB Technical Staff**

In reviewing these pronouncements APESB Technical Staff noted the following matters to be addressed in this revision:

- Include a sentence in APES 305 relating to the need to consider the Standard in conjunction with other professional duties and legal obligations. This is to ensure consistency with other APESB pronouncements;
- Provide guidance in APES 210 on the limited circumstances where legislation or other government authority requires a departure from Auditing and Assurance Standards;

- Update the references and requirements in relation to Professional Standard Schemes (previously limited liability schemes) in APES 305; and
- Replace the term 'Engagement' with 'Professional Activities in paragraph 3.11 of APES 220 to reflect that this paragraph is relevant for both Members in Public Practice and Members in Business.

**Section 1.2** sets out a table which summaries the proposed revisions to the general pronouncements in Exposure Draft 01/19 not addressed in Section 1.1.

## 1.2 Table of proposed revisions to reflect the restructured Code

The table below provides a summary of the proposed revisions to the pronouncements in this Exposure Draft to align the definitions and relevant cross-references to the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* issued in November 2018.

Revisions to reflect the restructured Code	General pronouncements		
	APES 210	APES 220	APES 305
<b>Amendments to definitions to align with the restructured Code</b>			
Assurance Engagement	✓	✓	
Code	✓	✓	✓
Member in Business	✓	✓	
Member in Public Practice	✓	✓	✓
Professional Activity	✓	✓	✓
<b>Update cross-references to restructured Code</b>			
Paragraph 3.1	✓	✓	
Paragraph 3.2	✓	✓	
Paragraph 3.3	✓		
Paragraph 3.4		✓	
Paragraph 3.6		✓	
Paragraph 3.7		✓	
Paragraph 3.8		✓	
Paragraph 3.13		✓	
Paragraph 7.7		✓	
Paragraph 7.8		✓	
Paragraph 8.3		✓	
Paragraph 8.5		✓	
Paragraph 10.1		✓	
<b>Paragraph made consistent with restructured Code</b>			
Paragraph made consistent with restructured Code R1.4	1.7	1.6	1.6

### 1.3 Table of other proposed revisions to the general pronouncements

The table below provides a summary of the proposed revisions to the general pronouncements in the Exposure Draft and the impact on the existing pronouncements. Note that this summary does not include the revisions noted in Section 1.2 relating to the restructured Code.

Summary of proposed amendments	General pronouncements		
	APES 210	APES 220	APES 305
Effective date (paragraph 1.2)	✓	✓	✓
Consider Standard with other professional duties and legal obligations (paragraph 1.3)			✓
Professional Activities used to clarify scope of paragraph applies to both Members in Public Practice and Members in Business (paragraph 3.11)		✓	
Guidance on the limited circumstances where legislation requires a departure from Auditing and Assurance Standards (paragraph 4.3)	✓		
Update the section on limited liability schemes to reflect current legislation and regulations (Section 6)			✓
Appendix 1 [not included]	✓	✓	✓
<b>Matters on the Issues Register</b>			
All AUSs have now been replaced by ASAs			
- Removal of AuASB definition (Section 2)	✓		
- Amendment to definition of Auditing and Assurance Guidance (Section 2)	✓		
- Amendment to definition of Auditing and Assurance Standards (Section 2)	✓		
Clarification of term 'written form'			
- Addition of the definition of Writing (Section 2)			✓
- Editorial amendment (definition of Engagement Document)			✓
- Editorial amendment (paragraph 4.10)			✓
Reference to regulations to capture legal requirements (paragraph 4.4)			✓
Reference to NOCLAR requirements (paragraph 4.6)			✓
Clarification to guidance on fees and billing arrangements (paragraph 4.8)			✓
<b>Minor editorials</b>			
Paragraph 1.1	✓		
Paragraph 1.5		✓	✓
Paragraph 1.6	✓	✓	✓
Section 2, Introduction	✓	✓	✓
Definition of Firm			✓
Definition of Professional Standards			✓



Summary of proposed amendments	General pronouncements		
	APES 210	APES 220	APES 305
<b>Minor editorials</b>			
Paragraph 3.1		✓	
Paragraph 3.2		✓	
Paragraph 3.3		✓	
Paragraph 3.4		✓	
Paragraph 3.6			✓
Paragraph 3.10		✓	

**Appendix 1**

**APESB General Pronouncements in ED 01/19**

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# APES 210 Conformity with Auditing and Assurance Standards

[Supersedes APES 210 Conformity with Auditing and Assurance Standards issued in ~~November October 2015~~2014]

~~Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited~~

REVISED: ~~October 2015~~XXXXXXXX 2019

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### *Conformity with International Pronouncements*

Appendix 1: Summary of revisions to the previous APES 210 (Issued ~~on 30~~ in October 2015 ~~November 2014~~) [[Not included as the summary of revisions is set out in the Explanatory Memorandum for this exposure draft](#)]

## 1. Scope and application

- 1.1 The objectives of APES 210 *Conformity with Auditing and Assurance Standards* are to specify a **Member's** professional and ethical obligations in respect of:
- fundamental responsibilities when the **Member** performs an **Assurance Assignment** or an **Assurance Engagement**;
  - compliance with applicable **Independence** requirements;
  - compliance with **Auditing and Assurance Standards**; and
  - considerations of relevant **Auditing and Assurance Guidance**.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 210 *Conformity with Auditing and Assurance Standards* (**the Standard**), which is effective from 1 January ~~2016~~ **2020** and supersedes APES 210 issued in ~~November-October~~ **2015**<sup>4</sup>. Earlier adoption of this **Standard** is permitted.
- 1.3 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-type**, preceded or followed by discussion or explanations in normal type. APES 210 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 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**.
- 1.5 **Members in Australia shall follow the mandatory requirements of APES 210.**
- 1.6 **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.~~**
- 1.7 **Members shall comply with other applicable Professional Standards and be familiar with relevant ~~Professional Standards and~~ guidance notes when performing Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.8 The **Standard** is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.9 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.10 In applying the requirements outlined in APES 210, **Members** should be guided not merely by the words but also by the spirit of this **Standard** and the **Code**.
- 1.11 In this **Standard**, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

For the purpose of this Standard:

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

**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** aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).

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

(For guidance on Assurance Engagements, see the *Framework for Assurance Engagements* issued by the AUASB. The *Framework for Assurance Engagements* describes the elements and objectives of an Assurance Engagement and identifies engagements to which Australian Auditing Standards (ASAs), *Standards on Review Engagements* (ASREs) and *Standards on Assurance Engagements* (ASAEs) apply.)

~~**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 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* (including Independence Standards).

**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 **Professional Body** that has adopted this **Standard** as applicable to their membership, as defined by that **Professional Body**.

~~**Member in Business** means a Member working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer. 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. for example~~, audit, tax or consulting) in a **Firm** that provides **Professional Services**. 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**.

**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 Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **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**.

### 3. Fundamental responsibilities of Members

#### Public interest

- 3.1 In accordance with Section 100 ~~Introduction Complying with the Code~~ and Section 110 ~~The 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 Part 4A Independence for- Audit and Review Engagements~~ or ~~Section 291 Part 4B Independence —Otherfor Assurance Engagements~~ **Other than Audit and Review Engagements** of the **Code**, as applicable.

## Professional competence and due care

- 3.3 In accordance with **Subsection 130-113 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.

4.3 The limited circumstances in which paragraph 4.2 is likely to have applicability is in respect of Assurance Engagements performed by an Auditor-General's office or department.

## 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.



# APES 220 Taxation Services

[Supersedes APES 220 Taxation Services issued in ~~October-2016~~July 2018]

~~Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited~~

REVISED: July ~~XXXX~~2018

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### *Conformity with International Pronouncements*

*Appendix 1: Summary of revisions to the previous APES 220 (Issued in ~~October 2015~~ [July 2018](#)) [Not included as the summary of revisions is set out in the explanatory memorandum for this exposure draft]*

## 1. Scope and application

- 1.1 The objectives of APES 220 *Taxation Services* are to specify a **Member's** professional and ethical obligations in respect of:
- fundamental responsibilities when the **Member** performs a **Taxation Service** for a **Client** or **Employer**;
  - preparation and lodgement of returns to **Revenue Authorities**;
  - association with tax schemes and arrangements;
  - the use of estimates;
  - false and misleading information;
  - professional **Engagement** matters;
  - **Client Monies**;
  - professional fees; and
  - documentation.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 220 *Taxation Services* (**the Standard**), which is effective from 1 ~~October~~ ~~March~~ ~~January~~ 2019/2018 and supersedes APES 220 issued in ~~October–July~~ 2018/5. Earlier adoption of this Standard is permitted.
- 1.3 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-type**, preceded or followed by discussion or explanations in normal type. APES 220 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 **Members in Australia shall follow the mandatory requirements of APES 220 when they provide Taxation Services.**
- 1.5 **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 laws and/or regulations.**
- 1.6 **Members shall comply with other applicable ~~be familiar with relevant~~ Professional Standards and be familiar with relevant guidance notes when performing Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.7 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.8 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.9 In applying the requirements outlined in APES 220, **Members** should be guided not merely by the words but also by the spirit of this Standard and the **Code**.
- 1.10 In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

[Defined terms are shown in the body of the Standard in title case.](#)

For the purpose of this Standard:

**Assurance Engagement** means an [Engagement](#) in which a [Member in Public Practice](#) aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).

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

[\(For guidance on Assurance Engagements, see the \*Framework for Assurance Engagements\* issued by the AUASB. The \*Framework for Assurance Engagements\* describes the elements and objectives of an Assurance Engagement and identifies engagements to which \*Australian Auditing Standards \(ASAs\)\*, \*Standards on Review Engagements \(ASREs\)\* and \*Standards on Assurance Engagements \(ASAEs\)\* apply.\)](#)

**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 Activities](#) are provided by a [Member in Public Practice](#) in respect of [Engagements](#) of either a recurring or demand nature.

**Client Monies** means any monies (in whatever form) coming into the control of a [Member in Public Practice](#) or any of the [Member's](#) personnel which are the property of a [Client](#) and includes monies to which the [Member](#) or the [Member's](#) personnel have no present entitlement.

**Code** means APES 110 *Code of Ethics for Professional Accountants* [\(including Independence Standards\)](#).

**Employer** 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 [Professional Body](#) that has adopted this Standard as applicable to their membership, as defined by that [Professional Body](#).

**Member in Business** [means a Member working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, director \(executive or non-executive\), owner-manager or volunteer.](#)

~~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. for example, audit, tax or consulting) in a **Firm** that provides **Professional Services**. 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**.

**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 Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **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**.

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

**Taxation Law** means 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** means any **Professional Activities** performed by a **Member** 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 **Professional Activities**. This includes:

- (a) 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 the **Revenue Authority's** requests for further information;
- (b) preparation of tax calculations to be used as the basis for the accounting entries in the financial statements;
- (c) provision of tax planning and other tax advisory services; and
- (d) assisting a **Client** or **Employer** in the resolution of tax disputes.

**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.

**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 **A 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 Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework** of the **Code** and relevant law, including applicable **Taxation Law**.

#### Public interest

- 3.2 In accordance with Section 100 **Introduction Complying with the Code and Section 110 The Fundamental Principles** of the **Code**, **a Members** shall observe and comply with their **Member's** 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**, **a 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** **a Members** shall be objective in accordance with **Subsection 1120 Objectivity** of the **Code**. ~~They~~ **A Member** 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 the courts or 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.
- 3.6 If a conflict of interest arises due to the **Member** being asked to act as an advocate for a **Client** or **Employer** before a court or tribunal in respect of **Professional Activities** the **Member** provided, the **Member** shall comply with **Section 100 Introduction and Fundamental Principles Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework** and Section 2120 **Conflicts of Interest** ~~[(for Members in Public Practice Business (including employment relationships of Members in Public Practice))]~~ or Section 310 **Conflicts of Interest** (for **Members in Business Public Practice**) of the **Code**.

#### Independence obligations

- 3.7 When a **Member in Public Practice** is providing **Taxation Services** to a **Client** and the **Member's Firm** is also engaged to conduct an **Assurance Engagement** for the same **Client**, the **Member** shall comply with **Section 290 Part 4A Independence for Audit and Review Engagements (for audit Engagements)** or **Section 291 Part 4B Independence for Other Assurance Engagements (for other than Audit and Review Assurance Engagements)** of the **Code**, as applicable.

## Confidentiality

- 3.8 A **Member** who acquires confidential information in the course of performing a **Taxation Service** for a **Client** or **Employer** shall comply with **Subsection 1140 Confidentiality** of the **Code**.
- 3.9 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.
- 3.10 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-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.
- 3.11 Unless the **Member** has a legal obligation of disclosure, a **Member** shall not furnish to the **Revenue Authorities** any opinions or written advice of a third party who is acting in a specialist capacity on specific aspects of the **Engagement Professional Activity**, without the prior knowledge and express consent of that third party.
- 3.12 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

- 3.13 **Members** engaged in providing **Taxation Services** shall maintain professional competence and take due care in the performance of ~~their~~ **the Member's** work in accordance with **Subsection 1130 Professional Competence and Due Care** of the **Code**.
- 3.14 Competent **Taxation Service** requires the exercise of sound judgement in applying professional knowledge and skill in the performance of such **Professional Activities**. Due care imposes the obligation of acting diligently in accordance with applicable technical and **Professional Standards** when providing a **Taxation Service**.
- 3.15 **Members** should, therefore, refrain from performing any **Taxation Services** which they are not competent to carry out unless expert advice and assistance are obtained to ensure that the **Professional Activities** are performed to a standard agreed with the **Client** or **Employer** or as required by law.
- 3.16 If applicable to the **Engagement**, a **Member** should obtain an understanding of relevant foreign laws and regulations sufficient to enable the provision of competent **Taxation Services**. Where the **Member** does not have the necessary knowledge of the foreign laws and regulations, they should engage the services of an expert to ensure the **Professional Activities** are performed to the required standard.
- 3.17 A **Member** shall maintain open, frank and effective communications with a **Client** or **Employer**. In this regard:
- (a) where appropriate, in the context of 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.

**3.18 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.

3.19 The communication of the matters in paragraph 3.18 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.

**3.20 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 documents 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, the Member 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 A **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 If a **Member** is uncertain that a tax scheme or arrangement is of the type set out in paragraph 5.4, the **Member** should consider:
- (a) consulting with the **Client**, **Employer**, or **Those Charged with Governance**, as applicable;
  - (b) if necessary, consulting with an in-house legal counsel or obtaining independent legal advice;
  - (c) if necessary, and with the **Client** or **Employer's** consent, consulting with the applicable **Revenue Authority**; and
  - (d) documenting the substance of the tax scheme or arrangements and key matters considered by the **Member** in assessing whether the tax scheme or arrangement is not of the type set out in paragraph 5.4.
- 5.6 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**.
- 5.7 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.
- 5.8 In respect of an entity that predominantly promotes tax schemes or arrangements, a **Member** shall not:
- (a) have any financial interest in such an entity; or
  - (b) 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 A **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 ~~2G~~ – *Members in Business (including employment relationships of Members in Public Practice)* of the **Code**.

7.8 A **Member** who encounters or becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations when providing **Taxation Services** shall comply with Section ~~26025~~ *Responding to Non-Compliance with Laws and Regulations* (for **Members in Public Practice**~~Business (including employment relationships with Members in Public Practice))~~) or Section 360 *Responding to Non-Compliance with Laws and Regulations* (for **Members in Business**~~Public Practice~~) of the **Code**.

7.9 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 **24320 Professional Appointments** 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 **Subsection 1140 Confidentiality** of the **Code**.

8.6 A **Member in Public Practice** should consider the guidance in APES GN 30 *Outsourced Services* if the **Member** engages or outsources to a third party, either components or all aspects of, the **Taxation Service** performed for the **Client**.

## 9. Client Monies

9.1 A **Member in Public Practice** shall ensure prompt transmission of **Client Monies** received on behalf of a **Client** from **Revenue Authorities** to the **Client** in accordance with the requirements of APES 310 *Client Monies*.

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 APES 310 *Client Monies*.

## 10. Professional fees

10.1 A **Member in Public Practice** providing **Taxation Services** shall be remunerated for such **Professional sServices** by way of professional fees computed in accordance with Section **24330 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 and privacy.
- 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. **Members** should consider security and privacy risks over information stored electronically and adopt appropriate measures (such as the implementation of IT security controls including up-to-date security software) to address such risks.

### ***Conformity with International Pronouncements***

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

# APES 305 Terms of Engagement

[Supersedes APES 305 Terms of Engagement issued in ~~March 2013~~ October 2015]

~~Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited~~

REVISED: October 2015 ~~XXXXX~~ 2019

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*Conformity with International Pronouncements*

*Appendix 1: Summary of revisions to the previous APES 305 (Issued in ~~March 2013~~ [October 2015](#)) [Not included as the summary of revisions is set out in the explanatory memorandum for this exposure draft]*

## 1. Scope and application

- 1.1 The objectives of APES 305 *Terms of Engagement* are to specify a **Member in Public Practice's** professional and ethical obligations in respect of:
- documentation and communication of the **Terms of Engagement** to a **Client**;
  - matters to be included in an **Engagement Document**;
  - circumstances in which an **Engagement Document** should be reissued in respect of a recurring **Engagement**; and
  - limitation of liability schemes.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 305 *Terms of Engagement* (**the Standard**), which is effective for **Engagements** commencing on or after 1 January ~~2016~~**2020** and supersedes APES 305 *Terms of Engagement* issued in ~~March 2013~~**October 2015**. Earlier adoption of this Standard is permitted.
- 1.3 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**, preceded or followed by discussion or explanations in normal type. APES 305 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply. 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 *Agreeing the 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.
- 1.4 **Members in Public Practice in Australia shall follow the mandatory requirements of APES 305 when they provide Professional Services to Clients.**
- 1.5 **Members in Public Practice practising 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.**
- 1.6 **Members in Public Practice shall comply with other applicable ~~be familiar with relevant~~ **Professional Standards** and be familiar with relevant ~~guidance notes~~ **when providing Professional Services. All Members shall comply with the fundamental principles outlined in the Code.****
- 1.7 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.8 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.9 In applying the requirements outlined in APES 305, **Members in Public Practice** should be guided not merely by the words but also by the spirit of this Standard and the **Code**.
- 1.10 In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

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* (including Independence Standards).

**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) **Aa** sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) **Aa**n entity that controls such parties, through ownership, management or other means;
- (c) **Aa**n entity controlled by such parties, through ownership, management or other means; or
- (d) **Aa**n 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 (for example e-g, audit, tax or consulting) in a **Firm** that provides **Professional Services**. 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**.

**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 Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **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**.

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

**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. 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, **regulations**, **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, and the Member's obligations on responding to actual or suspected Non-Compliance with Laws and Regulations (NOCLAR);
- (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 and calculation of fees (for example, e.g. time based billing, fixed price contracts, referral fees and commissions, 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~~ [Writing](#).

## 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 Professional Standards schemes

- 6.1 **A Member in Public Practice** who is participating in a **Professional Standards scheme that limitation of liability scheme shall be familiar** comply with the relevant Professional Standards Legislation and applicable regulations of the Professional Body. ~~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 disclose to the **Client** that the **Member's** liability may be limited under the scheme in accordance with the disclosure requirements in applicable laws and/or regulations.

### ***Conformity with International Pronouncements***

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

## PART 2: FORENSIC AND VALUATION SERVICES RELATED PRONOUNCEMENTS

Part 2 of the explanatory memorandum focuses on the following four pronouncements (grouped as the forensic and valuation services related pronouncements):

Pronouncement	Name of pronouncement
APES 215	<i>Forensic Accounting Services</i>
APES 225	<i>Valuation Services</i>
APES GN 20	<i>Scope and Extent of Work for Valuation Services</i>
APES GN 21	<i>Valuation Services for Financial Reporting</i>

### 2.1 Key proposed amendments

The marked-up version of each pronouncement in the Exposure Draft (refer to **Appendix 2**) reflects the proposed changes incorporated into the existing pronouncement and addresses the following key matters:

#### (i) Revisions to reflect the restructured Code

In November 2018, APESB released the restructured Code to align it with the restructure to the International Code undertaken by the International Ethics Standards Board for Accountants (IESBA).

Refer to **Section 2.2** for the summary of revisions to the forensic and valuation services pronouncements in this Exposure Draft in relation to the restructured Code.

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

APESB has also taken the opportunity to address matters that have been noted on the Issues Register in respect of the forensic and valuation services pronouncements in this Exposure Draft. These matters include:

- Including references to both laws and regulations to be consistent with other pronouncements (APES 215);
- Adding provisions to require Members to comply with the NOCLAR provisions of the Code (APES 215 paragraph 6.3);
- Updating the guidance in Appendix 1 of APES 225 to note that the examples do not specifically address whether a Member should hold an Australian Financial Services License (AFSL) to provide the relevant Valuation Service as this will depend on the laws and regulations that are applicable to the Valuation Service;
- Disclosing the objectives for the pronouncement in paragraph 1.1 (APES GN 20);
- Updating APES GN 20 (paragraph 1.3) to include cross-references to APES 225 and APES GN 21; and
- Adding interpretation paragraphs about the use of similar words having equal application and being guided by the words and the spirit of the guidance note and the Code (to be consistent with other pronouncements) in APES GN 20.

**(iii) Matters noted through review of pronouncement by APESB Technical Staff**

In reviewing these pronouncements APESB Technical Staff noted the following matters to be addressed in this revision:

- Updating paragraph 4.9 in APES 225 to consider the implications of NOCLAR provisions of the Code;
- Clarifying the need to issue an Engagement Document to communicate the Terms of Engagement when providing Forensic Accounting Services (APES 215) in paragraph 4.1;
- An inclusion of a footnote under section 1 *Scope and application* in GN 20, referring to the meaning of the term 'should';
- An inclusion of an application guidance in GN 20 and GN 21 that Members should be guided not merely by the words but also the spirit of the Guidance Note and the Members' professional obligation to comply with the requirements of the Code; and

**Section 2.3** provides a summary of the proposed revisions in Exposure Draft 01/19 not addressed in Section 2.2.

## 2.2 Table of proposed revisions to reflect the restructured Code

The table below provides a summary of the proposed revisions to the pronouncements in this Exposure Draft to align the definitions and relevant cross-references to the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* issued in November 2018.

Revisions to reflect the restructured Code	Forensic and valuation services pronouncements			
	APES 215	APES 225	APES GN 20	APES GN 21
<b>Amendments to Definitions as per the restructured Code</b>				
Code	✓	✓		
Independence	✓	✓		
Member in Business	✓	✓		
Member in Public Practice	✓	✓		
Professional Activity	✓	✓		
<b>Update cross-references to restructured Code</b>				
Paragraph 3.1	✓	✓		✓
Paragraph 3.2	✓	✓		
Paragraph 3.3	✓	✓		
Paragraph 3.4	✓			
Paragraph 3.6		✓		
Paragraph 3.8	✓			
Paragraph 3.10		✓		
Paragraph 3.12	✓			
Paragraph 3.14	✓			
Paragraph 3.17	✓			
Paragraph 4.2	✓			
Paragraph 4.3		✓		
Paragraph 8.1	✓	✓		
<b>Paragraph made consistent with restructured Code</b>				
Paragraph made consistent with restructured Code R1.4	1.8	1.6		
<b>Amendments to align with the enhanced conceptual framework approach to addressing threats</b>				
Paragraph 3.9	✓			
Paragraph 5.1	✓			
Paragraph 5.2	✓			

## 2.3 Table of other proposed revisions to the general pronouncements

The table below provides a summary of the proposed revisions to the forensic and valuation services pronouncements in the Exposure Draft and the impact on the existing pronouncements. Note that this summary does not include the revisions noted in Section 2.2 relating to the restructured Code.

Summary of proposed amendments	Forensic and valuation services pronouncements			
	APES 215	APES 225	APES GN 20	APES GN 21
Effective date (paragraph 1.2)	✓	✓	✓	✓
Definition of Writing included to improve technological neutrality of standard	✓	✓		
Clarify requirement in relation to communicating the Terms of Engagement in an Engagement Document (paragraph 4.1)	✓			
Provide cross-reference to relevant guidance note (paragraphs 4.6 and 5.6)		✓		
Updating external references in Appendix 1	✓			
Appendix 1 [not included]				✓
Appendix 2 [not included]		✓	✓	
Appendix 4 [not included]	✓			
<b>Matters on the Issues Register</b>				
Include objective of pronouncement (paragraph 1.1)			✓	
Include cross-references to APES 225 and APES GN 21 (paragraph 1.3)			✓	
Include application paragraph on being guided by the words and the spirit of the Code			1.4	1.5
Interpretation paragraph on similar words having equal application (paragraph 1.5)			✓	
Reference to laws expanded to include regulations (paragraph 3.1)	✓	✓		
Reference to NOCLAR requirements	6.3	4.9		
Clarification that the examples do not specifically consider whether an AFSL should be held by the Member to provide the Valuation Service (Appendix 1)		✓		
<b>Minor editorials</b>				
Paragraph 1.4				✓
Paragraph 1.7	✓			
Section 2, Introduction	✓	✓	✓	✓
Definition of Client	✓			
Definition of Writing		✓		
Definition of Engagement Document	✓	✓		

Summary of proposed amendments	Forensic and valuation services pronouncements			
	APES 215	APES 225	APES GN 20	APES GN 21
Definition of Expert Witness	✓			
<b>Minor editorials</b>				
Definition of Premise of Value		✓		
Definition of Writing		✓		
Paragraph 3.3			✓	
Paragraph 3.4		✓	✓	
Paragraph 3.7		✓		
Paragraph 3.12		✓		
Paragraph 3.18	✓			
Paragraph 4.1		✓		✓
Paragraph 4.2				✓
Paragraph 4.3				✓
Paragraph 4.4			✓	✓
Paragraph 4.5			✓	
Paragraph 4.7		✓		
Paragraph 5.1		✓		✓
Paragraph 5.2		✓		✓
Paragraph 5.3				✓
Paragraph 5.4				✓
Paragraph 5.6	✓			
Paragraph 5.7				✓
Paragraph 5.8				✓
Paragraph 5.9				✓
Paragraph 5.10				✓
Paragraph 7.2	✓	✓		
Appendix 1	✓	✓	✓	
Appendix 3	✓			



**Appendix 2**  
**APESB Forensic and Valuation Services related Pronouncements**  
**in ED 01/19**

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# APES 215 Forensic Accounting Services

[Supersedes APES 215 Forensic Accounting Services issued in December ~~2013~~2015]

~~Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited~~

REVISED: ~~December 2015~~ **XXXX 2019**

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<i><u>[Not included as the summary of revisions is set out in the Explanatory Memorandum for this exposure draft.]</u></i>	

## 1. Scope and application

- 1.1 The objective of APES 215 *Forensic Accounting Services* is to specify a **Member's** professional and ethical obligations in respect of:
- the provision of a **Forensic Accounting Service** to a **Client** or **Employer**;
  - the types of **Engagement** or **Assignment** that are a **Forensic Accounting Service**;
  - applicable **Independence** requirements;
  - relationships and the provision of other **Professional Activities** that create threats to compliance with the fundamental principles;
  - the obligations of a **Member** who provides an **Expert Witness Service** and the required disclosures in the **Member's Report**; and
  - applicable quality control and documentation obligations.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 215 *Forensic Accounting Services* (the **Standard**), which is effective for **Engagements** or **Assignments** commencing on or after 1 ~~April~~ **January 2016–2020** and supersedes APES 215 issued in December ~~2013~~**2015**. Earlier adoption of this Standard is permitted.
- 1.3 APES 215 sets the standards for **Members** in the provision of quality and ethical **Forensic Accounting Services**. The mandatory requirements of this Standard are in **bold-type**, preceded or followed by discussion or explanations in normal type. APES 215 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 **Members in Australia shall follow the mandatory requirements of APES 215 when they provide Forensic Accounting Services.**
- 1.5 **Members outside of Australia shall follow the mandatory requirements of APES 215 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.6 Where a **Professional Activity** which, when it commenced was not a **Forensic Accounting Service**, later becomes such a service, the **Member** shall comply with the requirements of this Standard from that time onwards.
- 1.7 Where a **Member** is undertaking a **Forensic Accounting Service**, other than an **Expert Witness Service**, which later becomes an **Expert Witness Service**, the **Member** shall comply with the requirements of ~~s~~**Section 5** of this Standard from that time onwards.
- 1.8 **Members shall comply with other applicable Professional Standards and be familiar with relevant ~~Professional Standards and~~ guidance notes when providing Forensic Accounting Services. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.9 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.10 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.11 In applying the requirements outlined in APES 215, **Members** should be guided not merely by the words but also by the spirit of the Standard and the **Code**.

- 1.12 In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

For the purpose of this Standard:

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

**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* (including Independence Standards).

**Consulting Expert** means a **Member** who has been engaged or assigned to provide a **Consulting Expert Service**.

**Consulting Expert Service** means a **Professional Activity** provided in the context of **Proceedings**, other than an **Expert Witness Service**, a **Lay Witness Service** or an **Investigation Service**. It includes acting as an adviser, an arbitrator, mediator, member of a professional tribunal, expert in an expert determination, referee or in a similar role.

**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.

**Court** means any body described as such and all other bodies exercising judicial or quasi-judicial functions and includes professional disciplinary tribunals, industrial and administrative tribunals, statutory or parliamentary investigations and inquiries, royal commissions, arbitrations and mediations.

**Employer** 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.

**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~~ **Writing**.

**Expert Witness** means a **Member** who has been engaged, assigned or otherwise obligated to provide an **Expert Witness Service**. As an Expert Witness, the **Member** may express opinions or provide **Other Evidence** to the **Court** based on the **Member's** specialised knowledge derived from the **Member's** training, study or experience on matters such as whether technical or **p**Professional **s**Standards have been breached, the amount of damages, the amount of an account of profits, or the amount of a claim under an insurance policy. Generally all opinion evidence is expert evidence if it is wholly or substantially based on the specialised knowledge derived from the **Member's** training, study or experience, however not all expert evidence is opinion evidence. Expert evidence may be opinion or **Other Evidence**.

**Expert Witness Service** means a **Professional Activity** provided in the context of **Proceedings** to give expert evidence in a **Report** or, in certain circumstances, orally.

**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.

**Forensic Accounting Services** means [Expert Witness Services](#), [Lay Witness Services](#), [Consulting Expert Services](#) and [Investigation Services](#).

**Independence** ~~is~~ comprises:

- (a) Independence of mind - the state of mind that permits the expression of 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.
- (b) Independence in appearance - the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude ~~-, weighing all the specific facts and circumstances,~~ that a [Firm's](#), or a [Member's](#) integrity, objectivity or professional scepticism has been compromised.

**Investigation Service** means a [Professional Activity](#) to perform, advise on, or assist with an investigation, whether in the context of [Proceedings](#), or in connection with allegations of, or concerns regarding conduct that may be illegal, unethical or otherwise improper in respect of which the [Member](#) has a reasonable expectation that the matter will be brought before a [Court](#).

**Lay Witness** means a [Member](#) who has been engaged, assigned or otherwise obligated to provide a [Lay Witness Service](#).

**Lay Witness Service** means a [Professional Activity](#) provided in the context of [Proceedings](#) to provide evidence other than expert evidence, whether orally or in the form of a [Report](#) or both. This service involves the [Member](#) giving evidence on matters within the [Member's](#) professional knowledge that are directly observed or perceived by the [Member](#).

**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 Business** means a Member working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer. ~~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 (for example, ~~e.g.~~ audit, tax or consulting) in a [Firm](#) that provides [Professional Services](#). 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](#).

**Other Evidence** means evidence which does not provide an opinion, but which requires the application of the [Expert Witness's](#) specialised knowledge derived from the [Expert Witness's](#) training, study or experience. An example might be where a [Member](#) provides a summary of the sales, by month, by product, by geography, based on the information contained within a series of invoices and a general ledger. Whilst it may be a matter of fact as to what sales were made, the extraction and summary of this information is facilitated by the [Member's](#) specialised knowledge. Another example requiring specialised knowledge might be where a [Member](#) sets out the accounting standards that are relevant to particular types of transactions without actually expressing an opinion as to whether the actual treatment is in line with those standards.

**Proceedings** means a matter before a **Court**, a matter which the **Member** has a reasonable expectation will be brought before a **Court** or a matter in which the **Member** is undertaking **Professional Activities** to help a **Client** or **Employer** make an assessment as to whether a matter should be brought before a **Court**.

**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 Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **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**.

**Report** means a written report, affidavit or written statement that is for the purpose of communicating expert evidence or lay evidence in **Court**.

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

**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 A **Member** providing a **Forensic Accounting Service** shall comply with Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework~~Section 100 Introduction and Fundamental Principles~~ of the **Code** and with relevant laws and regulations.

#### Public interest

3.2 In accordance with Section 100 ~~Introduction and Fundamental Principles~~ Complying with the Code of the **Code**, a **Member** shall observe and comply with the **Member's** public interest obligations when providing a **Forensic Accounting Service**.

3.3 When engaged to perform a **Forensic Accounting Service**, a **Member** shall be and be seen to be free of any interest which may be regarded as being incompatible with the fundamental principles of Subsection 1110 Integrity and Subsection 11220 Objectivity of the **Code**.

3.4 **Members in Public Practice** shall comply with Section 310220 Conflicts of Interest~~and Section 280 Objectivity—All Services~~ of the **Code**.

3.5 When a **Member** is requested to perform an **Expert Witness Service** and the **Member** or the **Member's Firm** has previously provided a **Forensic Accounting Service** other than an **Expert Witness Service**, the **Member** shall consider whether the **Member** is able to perform the **Expert Witness Service** in an objective manner.

#### Professional Independence

3.6 When a **Member in Public Practice** is engaged to provide a **Forensic Accounting Service** which requires **Independence** or when the **Member** purports to be independent in providing a **Forensic Accounting Service**, the **Member** shall comply with **Independence** as defined in this Standard.

- 3.7 A **Member in Public Practice** shall determine whether the circumstances of the **Forensic Accounting Service** make the **Engagement** an assurance **Engagement** under the *Framework for Assurance Engagements* issued by the Auditing and Assurance Standards Board (AUASB).
- 3.8 Where a **Forensic Accounting Service** is an assurance **Engagement**, the **Member in Public Practice** shall comply with ~~Section 290~~**Part 4A Independence** ~~for Audit and Review Engagements~~ or ~~Section 291~~**Part 4B Independence** ~~for Other Assurance Engagements other than Audit and Review Engagements~~, ~~as applicable~~ of the **Code**, as applicable.
- 3.9 If a **Member in Public Practice** is asked to provide a **Professional Service** to a **Client** where:
- (a) the **Member** or the **Member's Firm** is providing or has provided an **Expert Witness Service** to the **Client**; or
  - (b) the **Member** or the **Member's Firm** is providing or has provided an **Expert Witness Service** to a different **Client**,
- and the proposed **Professional Service** is related to the **Expert Witness Service**, and the **Member** determines that a reasonable and informed third party<sup>1</sup> ~~having knowledge of all the relevant information, including safeguards applied~~, would regard the objectives of the proposed **Professional Service** to be undertaken as being inconsistent with the objectives of the **Expert Witness Service**, then the **Member** shall decline the **Engagement** or the relevant part thereof.
- 3.10 There is no requirement, at law, that an **Expert Witness** be free of any relationship with parties to **Proceedings**. For example, there is no legal prohibition on a **Member in Public Practice** acting as an **Expert Witness** for a **Client** for whom the **Member** provides other **Professional Services**.
- 3.11 A **Member** who is providing an **Expert Witness Service** shall disclose all matters in the **Member's Report** that would assist the **Court** to assess the degree of the **Member's Independence**.

### Professional competence and due care

- 3.12 A **Member** providing a **Forensic Accounting Service** shall maintain professional competence and take due care in the performance of the **Member's** work in accordance with **Subsection 1130 Professional Competence and Due Care** of the **Code**.
- 3.13 **Forensic Accounting Services** generally require a **Member** to have specialised knowledge derived from the **Member's** training, study or experience. Before accepting an **Engagement** or **Assignment** to provide a **Forensic Accounting Service**, a **Member** should exercise professional judgement to determine if the **Member** is competent to provide the requested **Forensic Accounting Service** having regard to the specialised knowledge derived from the **Member's** training, study or experience.
- 3.14 In accordance with **Section 2330 Acting with Sufficient Expertise** of the **Code**, a **Member in Business** shall only undertake **Assignments** for which the **Member** has, or can obtain, sufficient training or expertise and shall not intentionally mislead an **Employer** as to the level of expertise or experience possessed, nor shall a **Member** fail to seek appropriate expert advice and assistance when required.
- 3.15 Where a **Forensic Accounting Service** or part thereof requires the consideration of matters that are outside a **Member in Public Practice's** professional expertise, the **Member** shall seek expert assistance or advice from a suitably qualified third party on

<sup>1</sup> [The term 'reasonable and informed third party' is explained in paragraph 120.5 A4 of the Code.](#)



those matters or decline all, or that part of, the **Forensic Accounting Service**. Where the **Member** relies upon the advice of a third party, the **Member** shall disclose in any **Report** issued by the **Member** the name and qualifications of the third party and the area in the **Report** where the third party advice has been obtained.

- 3.16 Where a **Member** performs a **Forensic Accounting Service** that involves acting as an investigator or as a decision-maker (as might be the case for certain **Consulting Expert Services**, such as acting as an arbitrator, mediator or referee), the **Member** may be required to observe some or all of the rules of procedural fairness (which collectively are referred to as “natural justice”). If a **Member** is not certain of the **Member’s** legal obligations then the **Member** should consider taking legal advice.

## Confidentiality

- 3.17 ~~In accordance with Subsection 1140 Confidentiality of the Code, a **Member** who acquires confidential information in the course of performing a **Forensic Accounting Service** for a **Client** or **Employer** shall comply with Subsection 114 Confidentiality of the Code, not use that information for any purpose other than the proper performance of the professional work for that **Client** or **Employer**.~~

- 3.18 Subject to legislative requirements, where a **Client** or **Employer** has given a **Member** permission to disclose confidential information to a third party, it is preferable that this permission is in ~~w~~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** or **Employer’s** permission.

## 4. Professional Engagement matters

- 4.1 A **Member in Public Practice** shall document and communicate the **Terms of Engagement** to provide a **Forensic Accounting Service** to a **Client** in an **Engagement Document** 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 **Forensic Accounting Service** shall comply with Section ~~32240~~ *Professional Appointments* of the **Code**.

## 5. Expert Witness Services

- 5.1 If a **Member in Public Practice** is asked to provide an **Expert Witness Service** to a **Client** where:
- (a) the **Member** or the **Member’s Firm** is providing or has provided another **Professional Service** to the **Client**; or
  - (b) the **Member** or the **Member’s Firm** is providing or has provided another **Professional Service** to a different **Client**,

and the proposed **Expert Witness Service** is related to the other **Professional Service**, and the **Member** determines that a reasonable and informed third party<sup>2</sup> ~~having knowledge of all the relevant information, including safeguards applied,~~ would regard the objectives of the proposed **Expert Witness Service** to be undertaken as giving rise to a conflict with the objectives of the other **Professional Service**, then the **Member** shall decline the **Engagement** or the relevant part thereof.

- 5.2 Subject to paragraph 5.3, if a **Member in Business** is asked to provide an **Expert Witness Service** to the **Member’s Employer** where:

<sup>2</sup> The term ‘reasonable and informed third party’ is explained in paragraph 120.5 A4 of the **Code**.

- (a) the **Member** or another employee of the **Member's Employer** has provided, or is providing, another service to the **Employer** which is related to the proposed **Expert Witness Service**; or
- (b) the **Member's Employer** has an interest in the outcome of the **Proceedings** (whether as a party or otherwise),

and the **Member** determines that a reasonable and informed third party<sup>3</sup> ~~having knowledge of all the relevant information, including safeguards applied,~~ would regard the objectives of the proposed **Expert Witness Service** to be undertaken as giving rise to a conflict with the objectives of the other service, or if the **Member's** objectivity is impaired as a result of the **Employer's** interest in the outcome of the **Proceedings**, then the **Member** shall decline the **Assignment** or the relevant part thereof.

5.3 Paragraph 5.2 does not apply to a **Member in Business** who is employed by a government agency, where that agency has a statutory function of regulation, investigation, or law enforcement.

5.4 A **Member** who is acting as an **Expert Witness** shall comply with the following:

- (a) the paramount duty to the **Court** which overrides any duty to the **Client** or **Employer**;
- (b) a duty to assist the **Court** on matters relevant to the **Member's** area of expertise in an objective and unbiased manner;
- (c) a duty not to be an advocate for a party; and
- (d) a duty to make it clear to the **Court** when a particular question or issue falls outside the **Member's** expertise.

5.5 A **Member** who is acting as an **Expert Witness** should comply with evidentiary and procedural requirements relating to **Expert Witnesses**.

## The Report of an Expert Witness

5.6 Subject to any legal requirements or restrictions, a **Member** providing an **Expert Witness Service** shall clearly communicate in any **Report**:

- (a) the instructions received, whether oral or ~~written~~ in Writing;
- (b) any limitations on the scope of work performed;
- (c) a statement of the **Member's** training, study or experience that are relevant to the matters on which the **Member** is providing expert evidence;
- (d) whether any of the opinions, findings or conclusions of the **Member** are not based wholly or substantially on the **Member's** specialised knowledge derived from training, study or experience;
- (e) the relationships, if any, the **Member** or the **Member's Firm** or the **Member's Employer** has with any of the parties to the **Proceedings** (including any of the matters referred to in paragraphs 3.9, 5.1, or 5.2) that may create a threat or a perceived threat to the **Member's** obligation to comply with the fundamental principles of the **Code** or the **Member's** paramount duty to the **Court**, and any appropriate safeguards implemented;
- (f) the extent, if any, of reliance by the **Member** on the work of others;
- (g) the opinions formed, or **Other Evidence** given, by the **Member**;
- (h) whether an opinion or **Other Evidence** is provisional rather than concluded, and, if so, the reasons why a concluded opinion or concluded **Other Evidence** has not been provided;

<sup>3</sup> [The term 'reasonable and informed third party' is explained in paragraph 120.5 A4 of the Code.](#)

- (i) the significant facts upon which the opinions or **Other Evidence** are based;
- (j) the significant assumptions upon which the opinions or **Other Evidence** are based and the following matters in respect of each significant assumption:
  - (i) whether the **Member** was instructed to make the assumption or whether the **Member** chose to make the assumption; and
  - (ii) if the **Member** chose to make the assumption, then the reason why the **Member** made that choice;
- (k) if the **Member** considers that an opinion or **Other Evidence** may be misleading because a significant assumption is likely to mislead, then a statement to that effect and an explanation of why the assumption is likely to mislead;
- (l) where applicable, that the **Member's** opinion or **Other Evidence** is based upon another person's report;
- (m) the reasoning by which the **Member** formed the opinions or arrived at the **Other Evidence**, including an explanation of any method employed and the reasons why that method was chosen;
- (n) a list of all documents and sources of information relied upon in the preparation of the **Report**;
- (o) any restrictions on the use of the **Report**; and
- (p) a statement that the **Expert Witness Service** was conducted in accordance with this Standard.

5.7 In providing an **Expert Witness Service**, a **Member** should consider whether APES 225 *Valuation Services* is applicable to the **Engagement** or **Assignment**. APES 225 requires, amongst other things, that a **Member** make certain disclosures in a **Report**.

5.8 If a **Member** is not certain whether a matter is a significant assumption or an opinion, the **Member** should consult the legal representative of the **Member's Client** or **Employer**.

5.9 Working papers document the work performed by the **Member** and the process by which the **Member** arrived at an opinion or **Other Evidence** that may or may not be used in a **Report**. A working paper is not considered a **Report** unless it was specifically designed to communicate expert evidence to the **Court**.

## 6. False or misleading information and changes in opinion

6.1 A **Member** shall not knowingly or recklessly make a statement or cause another to make a statement in or in connection with a **Forensic Accounting Service** that, by its content or by an omission, is false or misleading.

6.2 If a **Member** who was engaged or assigned to provide an **Expert Witness Service** becomes aware that an opinion expressed or **Other Evidence** given by the **Member** in a **Report** or in oral evidence was based on information that was false, misleading or contained material omissions and that situation has not been subsequently disclosed in a **Report** or in oral testimony, the **Member** shall promptly inform, as appropriate, the legal representative of the **Client**, the **Employer** or the **Court** of the situation. The **Member** shall also consider whether it is necessary to issue a supplementary **Report**.

6.3 Where a **Member** encounters or becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations when performing a **Forensic Accounting Service** which is not within the scope of work the **Member** is engaged or assigned to perform, the **Member** shall comply with Section 260 *Responding to Non-Compliance with Laws and Regulations* (for **Members in Business**) or Section 360 *Responding to Non-Compliance with Laws and Regulations* (for **Members in Public Practice**) of the Code.

## 7. Quality control

- 7.1 A **Member in Public Practice** shall comply with the requirements of APES 320 *Quality Control for Firms*.
- 7.2 A **Member in Business** who undertakes a **Forensic Accounting Service** should utilise a system of quality control that includes appropriate policies and procedures dealing with elements of quality control including but not limited to:
- (a) **L**eadership responsibilities for quality within the **Employer**;
  - (b) **E**thical requirements;
  - (c) **H**uman resources;
  - (d) **A**ssignment performance; and
  - (e) **M**onitoring.
- 7.3 A **Member** performing a **Forensic Accounting Service** shall prepare working papers that appropriately document the work performed, including the basis on which, and the method by which, any calculations, determinations or estimates used in the provision of the **Forensic Accounting Service** have been made.
- 7.4 A **Member** should be aware that working papers generated as part of undertaking a **Forensic Accounting Service** may be required to be furnished to other parties or the Court as evidence. Where appropriate, a **Member** should maintain the chain of custody, including origin, possession and disposition of documents and other material, particularly originals, relevant to the **Engagement** or **Assignment**.

## 8. Professional fees

- 8.1 A **Member in Public Practice** providing a **Forensic Accounting Service** shall be remunerated for such **Professional Service** by way of professional fees computed in accordance with Section **33240 Fees and Other Types of Remuneration** of the **Code**.
- 8.2 A **Member in Public Practice** shall not enter into a **Contingent Fee** arrangement or receive a **Contingent Fee** for:
- (a) an **Expert Witness Service**; or
  - (b) a **Forensic Accounting Service**, other than an **Expert Witness Service**, that requires **Independence** or where the **Member** purports to be independent.
- 8.3 A **Member in Business** shall not enter into a contingent remuneration arrangement or receive contingent remuneration for an **Expert Witness Service**.

### ***Conformity with International Pronouncements***

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 215.

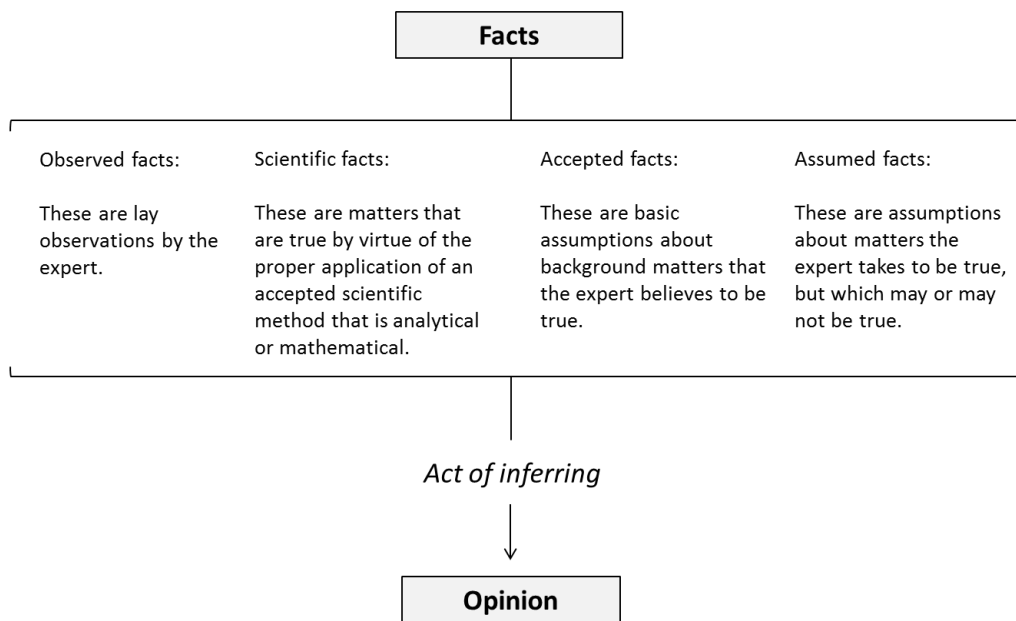
## Appendix 1

### Facts, assumptions, and opinions

This Appendix contains some examples to assist a *Member* determine whether a matter is a fact, an assumption or an opinion for the purposes of APES 215. *Members* are cautioned that the determination of whether a matter is a fact, an assumption or an opinion under this Standard is a matter of professional judgement, based on the particular facts and circumstances. The examples contained in this Appendix are provided for illustrative purposes only. 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 a matter is a fact, an assumption or an opinion.

#### Classification of facts for expert evidence

An opinion is an inference drawn from facts. In the context of expert evidence, facts may be classified as observed, scientific, accepted, or assumed.<sup>4</sup>



Observed facts and scientific facts are both based on observations by the expert witness. They differ in that observed facts are lay observations but scientific facts are expert observations.

Observed facts are lay observations because they are based on perceptions by the expert witness using one or more of the five senses, but are not based on the application of the expert witness's expertise. An example would be the observation by a land valuer of the presentation of a property.

On the other hand, scientific facts are based on the expertise of the expert witness but do not involve any significant degree of expert judgement. It has been said that scientific facts are true by virtue of the proper application of an accepted scientific method that is analytical or mathematical. An example might be a complex financial calculation by a *Member* that is based on the application of specialised knowledge but that does not amount to an opinion. This would occur where the results of the calculation flow mathematically or analytically without requiring inferences or questions of judgement if the underlying financial records are proved and if the calculation is done correctly.

Under APES 215, both observed facts and scientific facts are facts.

<sup>4</sup> See *ASIC v Rich* [2005] NSWSC 149 and, in particular, paragraphs 186, 187, 260 to 263, and 270 to 272. See also chapter 15 *Opinion* of J. D. Heydon, *Cross on Evidence*, 911<sup>th</sup> edition, LexisNexis Australia, 2017.

Accepted facts and assumed facts both involve assumptions.

Accepted facts are basic assumptions about background matters that the expert believes are true. An example would be a basic assumption about the workings of the market economy. Another example would be a basic assumption about the dating of information or the provenance of documents.

On the other hand, assumed facts are assumptions about matters that may or may not be true but which the expert witness assumes are true for the purpose of forming his or her opinion. An example, in a contractual dispute involving a claim for lost profits, would be an assumption about the selling price of a product but for the alleged breach of contract. If the expert witness's opinion depends upon accepted facts or assumed facts then those facts must be proved or admitted in order for the expert witness's opinion to be given weight.

Under APES 215, both accepted facts and assumed facts are assumptions, although whether any particular accepted fact or assumed fact is a *significant* assumption will depend on the circumstances.

### Examples

1. The **Member** has been asked to calculate the cost of goods sold expense for a period based on balances for opening stock, purchases and closing stock that have already been agreed by the parties. In calculating the expense, the Member applies specialised knowledge derived from the **Member's** training, study or experience using a well-accepted method which is not controversial (i.e. that cost of goods sold expense is equal to opening stock plus purchases less closing stock). However, the calculation does not require the **Member** to apply any significant degree of expert judgement. In this case, the figure calculated by the **Member** is a fact rather than an opinion (i.e. because it is in the nature of a scientific fact). On the other hand, if the **Member** were instructed to assume a figure for the cost of goods sold expense then that would be an assumption.
2. The **Member** has been asked to quantify the lost profits that would have been earned by a business but for a breach of duty. Among other things, this may require the **Member** to choose a figure for the sales revenue that the business would have earned but for the breach of duty. The question of what would have happened to sales revenue but for the breach requires the **Member** to consider a situation that is hypothetical rather than real and which, therefore, cannot be a question of fact. If in assessing the figure for sales revenue the **Member** applies specialised knowledge derived from the **Member's** training, study or experience and a significant degree of expert judgement then the **Member** will be expressing an opinion. On the other hand, if the **Member** were instructed to assume a figure for the sales revenue then that would be an assumption.
3. The **Member** uses the Capital Asset Pricing Model (CAPM) to determine a discount rate for the valuation of a business using the discounted cash flow method. The **Member** must choose a figure for the beta, which is an input to the CAPM. In the normal course, the **Member** will choose a beta after having gathered relevant information and having performed relevant analyses. In assessing the figure for beta the **Member** will apply specialised knowledge derived from the **Member's** training, study or experience and a significant degree of expert judgement. Therefore, the **Member** will be expressing an opinion. On the other hand, if the **Member** were instructed to assume a figure for the beta then that would be an assumption.

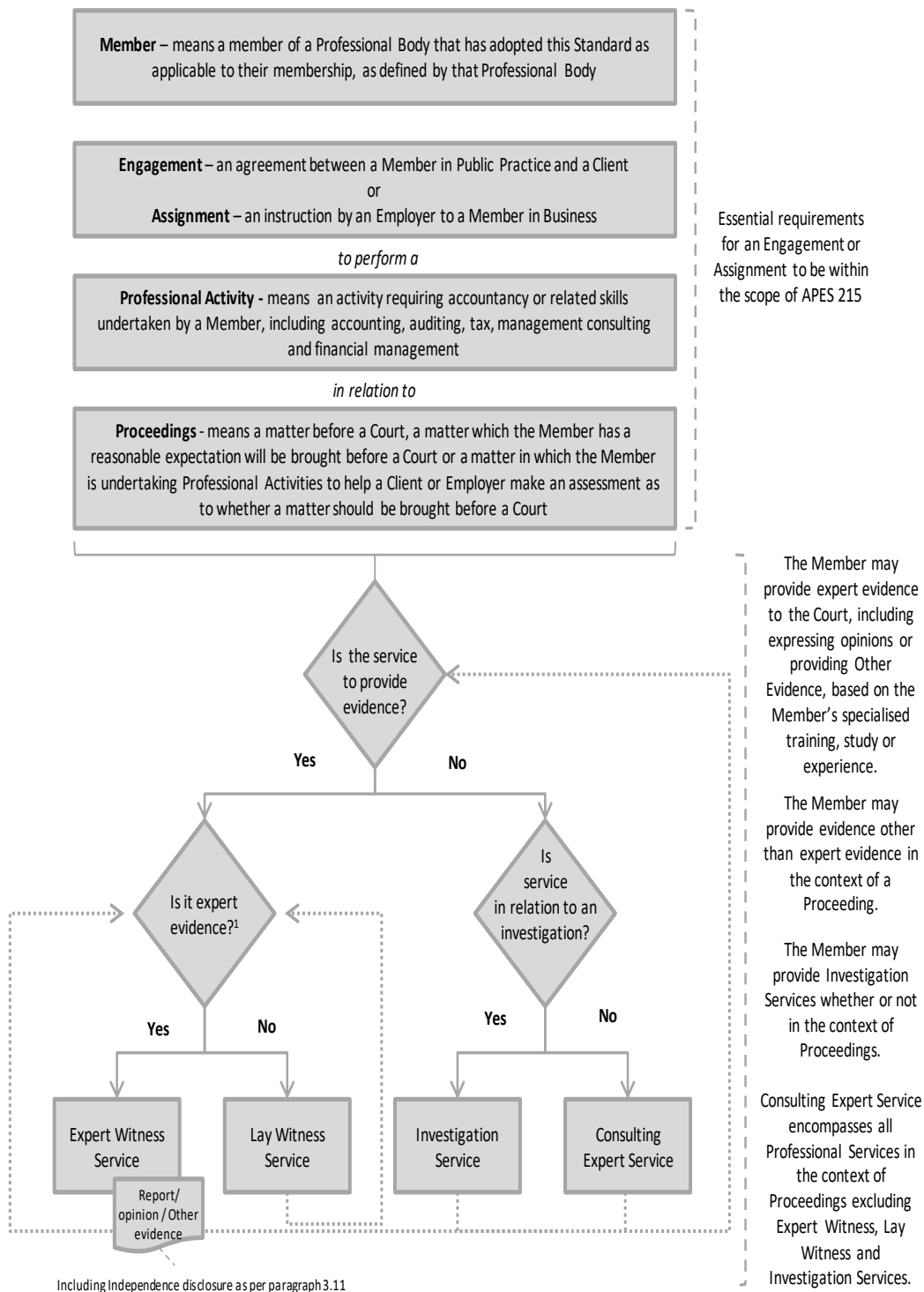
## Appendix 2

### Decision Tree to determine the type of Forensic Accounting Service

This Appendix contains a decision tree schematic to assist or determine whether a particular service is a [Forensic Accounting Service](#) for the purposes of APES 215 and, if so, whether the [Engagement](#) or [Assignment](#) is an [Expert Witness](#), [Lay Witness](#), [Consulting Expert](#) or [Investigation Service](#). Each type of [Forensic Accounting Service](#) carries professional obligations specific to its purpose and therefore it is important for [Members](#) to make this determination.

[Members](#) are cautioned that the determination of whether a particular service is a [Forensic Accounting Service](#) under this Standard is a matter of professional judgement, based on the particular facts and circumstances.

The critical determination is whether a particular [Forensic Accounting Service](#) is an [Expert Witness Service](#). Subsequently whether evidence is deemed admissible by the [Court](#) is a matter for the [Court](#). However, this is likely to happen after the [Forensic Accounting Service](#) has been wholly or substantially provided by the [Member](#). The important step is for the [Member](#) to assess, both initially and during the [Engagement](#) or [Assignment](#), whether it is a [Forensic Accounting Service](#) and, if so, which one. If the [Member](#) determines that it is an [Expert Witness Service](#), a subsequent decision to not admit the evidence from that [Expert Witness Service](#) does not change the nature of the [Forensic Accounting Service](#). It is the intention to give expert evidence that is relevant and in turn creates the obligation for a [Member](#) to comply with the requirements of this Standard.



<sup>1</sup> Whether or not evidence is accepted as expert evidence is an after the fact matter. A Member must comply with the Standard in anticipation that evidence will be treated as expert evidence.



## Appendix 3

### Examples of Forensic Accounting Services

This Appendix analyses some examples to assist a *Member* determine the type of *Forensic Accounting Services* provided by a *Member* for the purposes of APES 215.

*Members* are cautioned that the determination of the type of *Forensic Accounting Service* provided by a *Member* under this Standard is a matter of professional judgement, based on the particular facts and circumstances. 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 215 and applying the Standard to the particular circumstances to determine the type of *Forensic Accounting Service* provided by a *Member*. In all of the examples presented below it is assumed that there are no unmentioned facts which would be relevant to the consideration by a Member to determine the type of *Forensic Accounting Service*.

No	Nature	Conclusion
1	Participation in a professional tribunal	<b>Consulting Expert</b>
2	Dispute mediator	<b>Consulting Expert</b>
3	Adviser to investigation by law enforcement/regulatory agency	<b>Consulting Expert</b> (unless the <i>Member</i> is or is likely to provide an opinion or <i>Other Evidence</i> to the <i>Court</i> )
4	Prepare a <i>Report</i> for a company in a dispute	<b>Expert Witness</b>
5	Prepare a <i>Report</i> for a regulatory body on a listed company's compliance with accounting standards	<b>Expert Witness</b>
6	<i>Member</i> employed by/engaged by a law enforcement/regulatory body to provide a summary of complex transactions for <i>Proceedings</i>	<b>Expert Witness</b>
7	<i>Member</i> employed by/engaged by a law enforcement/regulatory body to provide a summary of a flow of funds for <i>Proceedings</i>	<b>Expert Witness</b>
8	<i>Member</i> employed by a company under investigation subpoenaed to provide a factual witness statement	<b>Lay Witness</b>
9	<i>Member</i> employed by a company under investigation subpoenaed to provide a factual witness statement and subsequently asked to apply expertise	<b>Expert Witness</b>
10	<i>Member</i> employed by a company under investigation subpoenaed to provide an opinion on the appropriate accounting for a chart of transactions	<b>Expert Witness</b>
11	<i>Insurance Claim</i> - Provision of loss adjusting services requiring accounting skills	<b>Consulting Expert</b> (unless the <i>Member</i> is or is likely to provide an opinion or <i>Other Evidence</i> to the <i>Court</i> )
12	<i>Insurance Claim</i> - Provision of advice requiring accounting skills	<b>Consulting Expert</b> (unless the <i>Member</i> is or is likely to provide an opinion or <i>Other Evidence</i> to the <i>Court</i> )
13	<i>Member</i> requested to determine amount of restitution or payment on a fraud or compensation matter	<b>Consulting Expert</b> (unless the <i>Member</i> is or is likely to provide an opinion or <i>Other Evidence</i> to the <i>Court</i> )
14	<i>Family Law</i> – Appointed by the <i>Court</i> to provide a <i>Report</i> including opinion evidence	<b>Expert Witness</b>

No	Nature	Conclusion
15	<i>Family Law</i> – Engaged to provide consulting advice related to another accounting expert's opinion	<b>Consulting Expert</b> (unless the Member is or is likely to provide an opinion or Other Evidence to the Court)
16	<i>Family Law</i> – Engaged, as a neutral party, to mediate between two accounting experts who have provided expert opinions to the Court	<b>Consulting Expert</b>
17	Member employed by a company investigating a potential criminal offence or civil matter	<b>Investigation Service</b> (unless the Member is or is likely to provide an opinion or Other Evidence to the Court)
18	Member requested to testify facts of purchases made on construction project account	<b>Lay Witness</b> -(unless the Member is or is likely to provide an opinion or Other Evidence to the Court)
19	Member requested to provide an affidavit in respect of processes the Member undertook as part of a forensic investigation, specifically in relation to the collection and securing of computer forensic evidence	<b>Lay Witness</b> (unless the Member is or is likely to provide an opinion or Other Evidence to the Court)
20	Member requested to give evidence in relation to the Member's observations of a staff member who has been charged with theft of company equipment/ property	<b>Lay Witness</b>
21	Member requested to give evidence in relation to observations of a motor vehicle accident in which the Member was involved	<b>Lay Witness</b>
22	Member employed by a revenue authority undertaking an investigation into a taxpayer's affairs	<b>Expert Witness</b>
23	Member is employed by a regulatory agency tasked with the review of a trust account in which alleged irregularities have occurred	<b>Expert Witness</b>

### Example 1 Participation in a professional tribunal

**Facts:** The Member has been asked to be a member of a professional tribunal handling a disciplinary matter involving an auditor. Professional tribunals typically include disciplinary bodies of the Professional Bodies and statutory boards involved in the review of auditors and liquidators. As a member of the professional tribunal, the tribunal will be relying on the Member's specialised knowledge derived from the Member's training, study or experience in providing informed input to allow the tribunal to determine the issues to be raised and decided upon before the tribunal.

**Analysis:** **Consulting Expert** – the Member is using the Member's specialised knowledge derived from the Member's training, study or experience in accounting to provide assistance in respect of a Proceeding, but is not giving evidence (expert or lay) in the Proceedings. The Member has been chosen to be a tribunal member in part because of the Member's specialised knowledge derived from the Member's training, study or experience.

### Example 2 Dispute mediator

**Facts:** The Member has been asked to be a mediator in a dispute between two parties over lost profits that would have been earned by a business but for a breach of duty. As a mediator, the Member will be neutral and impartial and will assist the parties identify the issues, such as the accounting treatment of transactions,

consider options and negotiate solutions. The parties must reach their own agreement and the mediator will not make any decisions about the dispute.

*Analysis: Consulting Expert* – the Member is using the Member's specialised knowledge derived from the Member's training, study or experience in accounting to provide assistance to mediate the Proceeding, but is not giving evidence (expert or lay) in the Proceedings. The Member has been chosen to be the mediator in this matter in part because of the Member's specialised knowledge derived from the Member's training, study or experience in accounting.

### **Example 3 Adviser to investigation by law enforcement/regulatory agency**

*Facts:* The Member has been asked to be an adviser to an investigation being conducted by a law enforcement/regulatory agency. The Member's specialised knowledge derived from the Member's training, study or experience in accounting will be used in providing advice (written and/or oral) to members of the investigation team on accounting issues and transactions that are, or are intended to be, investigated. The Member can act as an adviser to the investigation even when Proceedings are contemplated or have commenced. It is not envisaged that the Member will be required to provide evidence and/or a report in the Proceedings (if any) arising from the investigation.

*Analysis: Consulting Expert* – the Member is using the Member's specialised knowledge derived from the Member's training, study or experience in accounting to provide assistance to the investigation, but is not giving evidence (expert or lay) in the Proceedings. The Member has been chosen to assist in the investigation in part because of the Member's specialised knowledge derived from the Member's training, study or experience in accounting.

However, if during this process, it is decided that the Member either is, or is likely, to give expert evidence (an opinion or Other Evidence) in this matter, then it would become an Expert Witness Service from that time. Where, during the conduct of an Engagement, the scope of work changes significantly, a Member in Public Practice should amend and reissue the Terms of Engagement, particularly where it will result in an Expert Witness Service.

### **Example 4 Prepare a Report for a company in a dispute**

*Facts:* The Member has been asked by a company involved in a dispute, or the company's legal advisers, to prepare a Report to quantify the lost profits that would have been earned by a business but for a breach of duty or a breach of contract. It is highly likely that the Report will be produced in Court in relation to legal action that is contemplated or has been commenced by the company. It is also highly likely that the Member will have to give evidence in the Court about matters covered in the Report. The Member's specialised knowledge derived from the Member's training, study or experience in accounting will be used in assessing the issues in dispute and preparing the Report. The Report will express opinions about the lost profits that would have been earned by a business but for a breach of duty.

*Analysis: Expert Witness* – the Member is using the Member's specialised knowledge derived from the Member's training, study or experience in accounting to provide assistance to the Court through the provision of written and/or oral evidence. As it is not lay evidence (i.e. the Member is not simply describing what the Member observed or did), it is considered expert evidence (whether or not it involves the expression of opinions).

**Example 5 Prepare a Report for a regulatory body on a listed company's compliance with accounting standards**

*Facts:* The **Member** has been asked by a regulatory body to prepare a **Report** on whether certain accounting standards have been complied with by a listed company. The **Report** will be produced in **Court** in relation to legal action that has been commenced by the regulatory body against directors of the company. It is also highly likely that the **Member** will have to give evidence in **Court** about matters covered in the **Report**. The **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting will be used in assessing the accounting standards in issue and preparing the **Report**. The **Report** will express opinions about the accounting standards that were used and whether the accounting standards were or were not complied with.

*Analysis: Expert Witness* – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the **Court** through the provision of written and/or oral evidence. It is not lay evidence as the **Member** is expressing opinions on a matter in which the **Member** has specialised knowledge derived from the **Member's** specialist training, knowledge and experience.

**Example 6 Member employed by/engaged by a law enforcement/ regulatory body to provide a summary of complex transactions for Proceedings**

*Facts:* The **Member** is employed by a law enforcement/regulatory body and has been asked to prepare a chart or summary that summarises a number of complex transactions and related accounting journals and ledger entries. The chart or summary will be produced by the **Member** in **Court** in relation to legal action that has been commenced by the law enforcement/regulatory body. The chart or summary is likely to aid the comprehension of material that is to be produced for the **Court**. The **Member** offers no opinions in the chart or summary that has been prepared.

*Analysis: Expert Witness* – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the **Court**, through the chart/summary of transactions. As it is not lay evidence (i.e. the **Member** is not simply describing what the **Member** observed or did), it is considered expert evidence (even though it may not involve the expression of opinions).

**Example 7 Member employed by/engaged by a law enforcement/ regulatory body to provide a summary of a flow of funds for Proceedings**

*Facts:* The **Member** is employed by a law enforcement/regulatory body and has been asked to prepare a chart or summary that summarises the flow of funds/money through various bank accounts and trace the use of these funds/money. The chart or summary will be produced by the **Member** in **Court** in relation to legal action that has been commenced by the law enforcement/regulatory body. The chart or summary is likely to aid the comprehension of material that is to be produced for the **Court**. The **Member** offers no opinions in the chart or summary.

*Analysis: Expert Witness* – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the **Court**, through the chart/summary of transactions. As it is not lay evidence (i.e. the **Member** is not simply describing what the **Member** observed or did), it is considered expert evidence (even though it may not involve the expression of opinions).

**Example 8 Member employed by a company under investigation subpoenaed to provide a factual witness statement**

*Facts:* The **Member** is or was employed by a company that has been the subject of an investigation by a law enforcement/regulatory body which has subsequently asked or subpoenaed the **Member** to provide a witness statement covering the **Member's** involvement in and observations of specific transactions and activities of the company without drawing on the **Member's** specialised knowledge derived from the **Member's** training, study or experience.

*Analysis:* **Lay Witness** – the **Member** is not using the **Member's** specialised knowledge derived from the **Member's** training, study or experience to provide assistance to the law enforcement/regulatory body, and hence to the **Court**, through the **Member's** observations made. As the **Member** is simply describing what the **Member** observed or did, it is not considered expert evidence.

**Example 9 Member employed by a company under investigation subpoenaed to provide a factual witness statement and subsequently asked to apply expertise**

*Facts:* The **Member** is or was employed by a company that has been the subject of an investigation by a law enforcement/regulatory body which has subsequently asked or subpoenaed the **Member** to provide a witness statement covering the **Member's** involvement in and observations of specific accounting transactions and activities of the company without drawing on the **Member's** specialised knowledge derived from the **Member's** training, study or experience. Upon examination during the **Court** proceedings the **Member** is asked to provide an opinion to aid the **Court** in understanding accounting records presented as evidence.

*Analysis:* **Expert Witness** – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the **Court**, in support of the **Member's** observations made. Since the **Member** has subsequently been asked to provide an opinion on a matter in which the **Member** has specialised knowledge derived from the **Member's** training, study or experience, it is not lay evidence.

When the **Member** is asked to provide an opinion or **Other Evidence** in **Court** proceedings, then it would become an **Expert Witness Service** from that time.

**Example 10 Member employed by a company under investigation subpoenaed to provide an opinion on the appropriate accounting for a chart of transactions**

*Facts:* Similar facts to Example 8, but the **Member** is required to give the **Member's** opinions on what the reasons for the transactions were and/or whether they were in accordance with generally accepted accounting practice.

*Analysis:* **Expert Witness** – the **Member** is using specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the law enforcement/regulatory body, and hence to the **Court**, through the chart/summary of transactions. As it is not lay evidence (i.e. the **Member** is not simply describing what the **Member** observed or did), it is considered expert evidence (even though it may not involve the expression of opinions).

**Example 11 Insurance Claim – Provision of loss adjusting services requiring accounting skills**

*Facts:* The **Member** is assigned to provide loss adjusting services in respect of an insurance claim that involve use of the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting. The **Member** is to assess the claim value with respect to both material damage and business interruption in accordance with the insurance policy.

*Analysis: Consulting Expert* – the **Member** is using specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to one party in the matter (i.e. the insurance company or the insured), but is not (at least initially) engaged to give evidence (expert or lay) in the **Proceedings**. It is to be presumed that the **Member** has been chosen to assist because of the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting.

However, if during this process, it is decided that the **Member** either is, or is likely to be asked, to provide an opinion or **Other Evidence** to the **Court** in the matter, then it would become an **Expert Witness Service** from that time. Where, during the conduct of an **Engagement**, the scope of work changes significantly, a **Member in Public Practice** should amend and reissue the **Terms of Engagement**, particularly where it will result in an **Expert Witness Service**.

### **Example 12 Insurance Claim – Provision of advice requiring accounting skills**

*Facts:* The **Member** has been asked to determine the appropriate amount of compensation a claimant is entitled to under an income protection (or similar) insurance policy or statutory scheme. The **Member's** specialised knowledge derived from the **Member's** training, study or experience will be used in providing advice (written and/or oral) to the **Employer**, statutory agency or insurance company on the claimant's entitlements. It is not envisaged that the **Member** will be required to provide evidence and/or a report to the **Court** in the **Proceedings** (if any) arising from the assessment.

*Analysis: Consulting Expert* – the **Member** is using specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the investigation, but is not giving evidence (expert or lay) in the **Proceedings**. It is to be presumed that the **Member** has been chosen to undertake the assessment in part because of the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting.

However, if during this process, it is decided that the **Member** either is, or is likely, to give an opinion or **Other Evidence** in this matter then it would become an **Expert Witness Service** from that time. Where, during the conduct of an **Engagement**, the scope of work changes significantly, a **Member in Public Practice** should amend and reissue the **Terms of Engagement**, particularly where it will result in an **Expert Witness Service**.

### **Example 13 Member requested to determine amount of restitution or payment on a fraud or compensation matter**

*Facts:* The **Member** has been asked to determine the amount of restitution or overpayment in a fraud or compensation matter based on the evidence obtained up until that time. The **Member's** specialised knowledge derived from the **Member's** training, study or experience will be used in providing advice (written and/or oral) to members of the investigation team on the amount of restitution or overpayment. It is not envisaged that the **Member** will be required to provide evidence and/or a report to the **Court** in the **Proceedings** (if any) arising from the review/assessment.

*Analysis: Consulting Expert* – the **Member** is using specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to the investigation, but is not giving evidence (expert or lay) in the **Proceedings**. It is to be presumed that the **Member** has been chosen to undertake the assessment in part because of the specialised knowledge derived from the **Member's** training, study or experience in accounting.

However, if during this process, it is decided that the **Member** either is, or is likely, to give an opinion or **Other Evidence** in this matter then it would become an **Expert Witness Service** from that time. Where, during the conduct of an **Engagement**, the scope of work changes significantly, a **Member in Public Practice** should amend and reissue the **Terms of Engagement**, particularly where it will result in an **Expert Witness Service**.

**Example 14 Family Law – Appointed by the Court to provide a Report including opinion evidence**

*Facts:* The **Member** is appointed by the **Court** following representations by the parties' solicitors to provide a **Report** for both parties to the dispute including opinion evidence on valuation and accounting matters.

*Analysis:* **Expert Witness** – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience to provide a written **Report** as a joint expert to the **Court**. It is not lay evidence as the **Member** is expressing opinions and/or providing **Other Evidence** on a matter or matters in which the **Member** has specialised knowledge derived from the **Member's** training, study or experience.

**Example 15 Family Law – Engaged to provide consulting advice related to another accounting expert's opinion**

*Facts:* The **Member** is asked by one of the parties to a matrimonial dispute to provide consulting advice (as a "shadow") in relation to another accounting expert's opinion. When asked, the **Member** is not expected to file a report giving the **Member's** opinion to the **Court**, but merely to assist the instructing party and their solicitor.

*Analysis:* **Consulting Expert** – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to one party to the dispute, but is not giving evidence (expert or lay) in the **Proceedings**. The **Member** has been chosen to assist because of the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting.

However, if during this process, it is decided that the **Member** either is, or is likely, to be asked to provide an opinion or **Other Evidence** to the **Court** in the matter, then it would become an **Expert Witness Service** from that time. Where, during the conduct of an **Engagement**, the scope of work changes significantly, a **Member in Public Practice** should amend and reissue the **Terms of Engagement**, particularly where it will result in an **Expert Witness Service**.

**Example 16 Family Law – Engaged, as a neutral party, to mediate between two accounting experts who have provided expert opinions to the Court**

*Facts:* The **Member** is asked by the solicitors for both parties to a matrimonial dispute to mediate between two accounting experts who have provided expert opinions on the valuation of business assets with the parties to the dispute present at the mediation. As a mediator the **Member** will be neutral and impartial and will assist the parties identify the issues between the two expert valuers, consider options and negotiate solutions. The parties must reach their own agreement and the mediator will not make any decisions about the dispute.

*Analysis:* **Consulting Expert** – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to provide assistance to mediate the **Proceedings**, but is not giving evidence (expert or lay) in the **Proceedings**. The **Member** has been chosen to be the mediator in this matter in part because of the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting.

**Example 17 Member employed by a company investigating a potential criminal offence or civil matter**

*Facts:* The **Member** is asked by the **Member's Employer** to undertake or assist in investigating a potential criminal offence or civil matter with the intention of identifying the facts, determine the financial implications/overpayment/amount inappropriately obtained and ultimately assisting the **Employer** to

understand the situation and make a fully informed decision on what action should be taken. It is not envisaged that the Member will be required to provide evidence and/or a Report to the Court in the Proceedings (if any) arising from the investigation.

**Analysis: Investigation Service** – the Member is using specialised knowledge derived from the Member's training, study or experience in accounting in the investigations to assist the Employer in understanding the matter and assist in determining what action should be taken, but is not giving evidence (expert or lay) in the Proceedings. The Member has been chosen to investigate this matter in part because of the Member's specialised knowledge derived from the Member's training, study or experience in accounting.

However, if during this process, it is decided that the Member either is, or is likely to be asked, to provide an opinion or Other Evidence to the Court in the matter, then it would become an Expert Witness Service from that time.

**Example 18 Member requested to testify facts of purchases made on construction project account**

**Facts:** The Member is employed as a project accountant on a construction project. The Member has been asked by the Member's Employer to appear in Court to provide a statement on the total amount of purchases made on account for a recently completed construction project which is in legal dispute. The Member's participation is restricted to providing a factual representation of the purchases processed by the Member in the project accounting ledger and the fact that the Member observed the construction project in progress. It is not envisaged that the Member will be required to provide an opinion and/or Other Evidence and/or provide a Report to the Court in the Proceedings. The terminology used in the Member's statement is expressed in a manner that the Court can understand without technical accounting assistance.

**Analysis: Lay Witness** – the Member is not using specialised knowledge derived from the Member's training, study or experience in accounting in the statement to assist the Court in understanding the matter and assist in determining what action should be taken, and is not giving expert evidence in the Proceedings. The Member has been chosen to participate in this matter only due to the Member's employment on the project team.

However, if during this process, it is decided that the Member either is, or is likely, to be asked to provide an opinion or Other Evidence in Court proceedings, then it would become an Expert Witness Service from that time.

**Example 19 Member requested to provide an affidavit in respect of processes the Member undertook as part of a forensic investigation, specifically in relation to the collection and securing of computer forensic evidence**

**Facts:** A Member has been engaged to assist with the identification, collection and secure storage of electronic evidence held by an organisation. The Member provides an affidavit/statement detailing the actions and steps taken to perform the above Engagement or Assignment. The Member has been subpoenaed to Court to give this evidence.

**Analysis: Lay Witness** – the Member is not using the Member's specialised knowledge derived from the Member's training, study or experience in accounting in the statement to assist the Court in understanding the matter nor is the Member assisting the Court in determining what action should be taken. The Member has been chosen to participate in this matter only because of the Member's skills in electronic evidence retrieval, without any analysis or examination of the underlying evidence collected.

However, if at any stage during this process, it is decided that the Member either is, or is likely to have the additional responsibility of providing an opinion or Other Evidence in relation to the summarising or charting of that evidence collected using specialised knowledge derived from the Member's training, study or experience then it would become an Expert Witness Service from that time. Where, during the conduct of



an **Engagement**, the scope of work changes significantly, a **Member in Public Practice** should amend and reissue the **Terms of Engagement**, particularly where it will result in an **Expert Witness Service**.

**Example 20 Member requested to give evidence in relation to the Member's observations of a staff member who has been charged with theft of company equipment/property**

*Facts:* The **Member** is employed as an accountant by an accounting **Firm**. The **Member** was present when another staff member allegedly took a laptop, mobile phone and other company equipment from the office to their home and was involved in some discussion surrounding the alleged theft with the staff member who has been charged. The **Member** has provided a witness statement/affidavit about the **Member's** observations and discussions with the accused and has been subpoenaed to **Court** to provide evidence about this matter. The **Member's** participation is restricted to providing a factual account of the **Member's** observations and discussions leading up to and after the alleged theft.

*Analysis: Lay Witness* – the **Member** is not using specialised knowledge derived from the **Member's** training, study or experience in accounting in the statement/affidavit to assist the **Court** in understanding the matter nor is the **Member** assisting the **Court** in determining what action should be taken. The **Member** has been chosen to participate in this matter solely because of what the **Member** had witnessed.

**Example 21 Member requested to give evidence in relation to observations of a motor vehicle accident in which the Member was involved**

*Facts:* The **Member** is employed as an accountant and was involved in a motor vehicle accident where the **Member** was driving a vehicle and was not at fault for the accident. The at fault driver has been charged with criminal offences as a result of the motor vehicle accident. The **Member** has provided a witness statement/affidavit setting out the **Member's** observations and knowledge of the circumstances surrounding the motor vehicle accident. The **Member** has been subpoenaed to **Court** to give this evidence.

*Analysis: Lay Witness* – the **Member** is not using specialised knowledge derived from the **Member's** training, study or experience in accounting in the statement/affidavit to assist the **Court** in understanding the matter nor is the **Member** assisting the **Court** in determining what action should be taken. The **Member** has been chosen to participate in this matter only because of the **Member's** involvement in the motor vehicle accident and what the **Member** had witnessed.

**Example 22 Member employed by a revenue authority undertaking an investigation into a taxpayer's affairs**

*Facts:* The **Member** is employed by a government revenue authority and is undertaking a review of a taxpayer's affairs in connection with a **Proceeding**, and with a view to providing a **Report** on the findings to the **Court**. The work is likely to result in an assessment or amended assessment for the taxpayer as there are alleged breaches of the applicable tax legislation.

*Analysis: Expert Witness* – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting and taxation knowledge to formulate the **Report** and the conclusions contained therein to the **Court**. In this situation, the **Member** will be expressing an opinion or providing **Other Evidence** about the interpretation of the relevant legislation, its application to the factual findings concerning specific items of the review and whether the alleged breaches result in an unidentified liability (or overpayment). It is not lay evidence as the **Member** is expressing opinions and/or providing **Other Evidence** on matters in which the **Member** has specialised knowledge derived from the **Member's** training, study or experience.

**Example 23 Member is employed by a regulatory agency tasked with the review of a trust account in which alleged irregularities have occurred**

*Facts:* The **Member** is employed in a regulatory agency and is undertaking a review of a trust account in which alleged irregularities have occurred. The **Member** is tasked with performing a review and providing a **Report** on the findings to the **Court**.

*Analysis:* **Expert Witness** – the **Member** is using the **Member's** specialised knowledge derived from the **Member's** training, study or experience in accounting to formulate the **Report** to the **Court**. It is not lay evidence, as the **Member** will be expressing opinions and/or providing **Other Evidence** on matters in which the **Member** has specialised knowledge derived from the **Member's** training, study or experience.

# APES 225 Valuation Services

[Supersedes APES 225 Valuation Services issued in ~~December 2016~~ March 2018]

Prepared and issued by  
~~Accounting Professional & Ethical Standards Board Limited~~

REVISED: ~~March 2018~~ XXXX 2019

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*Appendix 1: Schematic and Examples*

*Appendix 2: Summary of revisions to the previous APES 225 (Issued in ~~December 2015~~ March 2018)  
[Not included as the summary of revisions is set out in the Explanatory Memorandum for this exposure draft.]*

## 1. Scope and application

- 1.1 The objective of APES 225 *Valuation Services* is to specify a **Member's** professional and ethical obligations in respect of:
- the provision of a **Valuation Service** to a **Client** or **Employer**;
  - the types of **Engagement** or **Assignment** that are a **Valuation Service**;
  - matters a **Member in Public Practice** must address in the **Terms of Engagement**;
  - matters to be disclosed in a **Valuation Report**; and
  - quality control and documentation requirements.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 225 *Valuation Services* (**the Standard**), which is effective for **Valuation Engagements** or **Assignments** commencing on or after 1 ~~July 2018~~ **January 2020** and supersedes APES 225 issued in ~~December-March 2018~~. Earlier adoption of this Standard is permitted.
- 1.3 APES 225 sets the standards for **Members** in the provision of quality and ethical **Valuation Services**. The mandatory requirements of this Standard are in **bold-type**, preceded or followed by discussion or explanations in normal type. APES 225 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 **Members in Australia shall follow the mandatory requirements of APES 225 when they provide Valuation Services.**
- 1.5 **Members outside of Australia shall follow the mandatory requirements of APES 225 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.6 **Members shall comply with other applicable Professional Standards and be familiar with relevant ~~Professional Standards and~~ guidance notes when providing **Professional ServicesActivities**. All **Members** shall comply with the fundamental principles outlined in the **Code**.**
- 1.7 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.8 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.9 In applying the requirements outlined in APES 225, **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 otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

For the purpose of this Standard:

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

**Calculated Value** means an estimate of value of a business, business ownership interest, security or intangible asset that results from a **Calculation Engagement**. A Calculated Value may either be a single amount or a range.

**Calculation Engagement** means an **Engagement** or **Assignment** to perform a **Valuation** and provide a **Valuation Report** where the **Member** and the **Client** or **Employer** agree on the **Valuation Approaches**, **Valuation Methods** and **Valuation Procedures** the **Member** will employ. A Calculation Engagement generally does not include all of the **Valuation Procedures** required for a **Valuation Engagement** or a **Limited Scope Valuation Engagement**.

**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* (including Independence Standards).

**Conclusion of Value** means an estimate of value of a business, business ownership interest, security or intangible asset that results from a **Valuation Engagement** or a **Limited Scope Valuation Engagement**. A Conclusion of Value may either be a single amount or a range.

**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.

**Employer** 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**.

**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~~ Writing.

**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** ~~is~~ comprises:

- (a) **Independence** of mind - the state of mind that permits the expression of 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.
- (b) **Independence** in appearance - the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, ~~weighing all the specific facts and circumstances,~~ that a **Firm's**, or an ~~member of the Engagement~~ member's, integrity, objectivity or professional scepticism has been compromised.

**Limited Scope Valuation Engagement** means an [Engagement](#) or [Assignment](#) to perform a [Valuation](#) and provide a [Valuation Report](#) where the scope of work is limited or restricted. The scope of work is limited or restricted where the [Member](#) is not free, as the [Member](#) would be but for the limitation or restriction, to employ the [Valuation Approaches](#), [Valuation Methods](#) and [Valuation Procedures](#) that a reasonable and informed third party would perform taking into consideration all the specific facts and circumstances of the [Engagement](#) or [Assignment](#) available to the [Member](#) at that time, and it is reasonable to expect that the effect of the limitation or restriction on the estimate of value is material. A limitation or restriction may be imposed by the [Client](#) or [Employer](#) or it may arise from other sources or circumstances. A limitation or restriction may be present and known at the outset of the [Engagement](#) or [Assignment](#) or may arise or become known during the course of a [Valuation Engagement](#). A [Limited Scope Valuation Engagement](#) may also be referred to as a “restricted-scope valuation engagement” or an “indicative valuation engagement”.

**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 Business** ~~means a Member working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer. 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 (~~for example, e.g.~~ audit, tax or consulting) in a [Firm](#) that provides [Professional Services](#). 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](#).

**Premise of Value** means an assumption regarding the most likely set of transactional circumstances that may be applicable to the subject valuation, ~~for example, e.g.~~ going concern or liquidation.

**Professional Activity** means an activity requiring accountancy or related skills undertaken by a [Member](#), including accounting, auditing, tax~~ation~~, management consulting, and financial management.

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

**Professional Services** means [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](#).

**Terms of Engagement** means the terms and conditions that are agreed between the [Client](#) and the [Member](#) in [Public Practice](#) for the [Engagement](#).

**Valuation** means the act or process of determining an estimate of value of a business, business ownership interest, security or intangible asset by applying [Valuation Approaches](#), [Valuation Methods](#) and [Valuation Procedures](#). A Valuation does not involve the verification of information in respect of the business, business ownership interest, security or intangible asset being valued.

**Valuation Approach(es)** means a general way(s) of determining an estimate of value of a business, business ownership interest, security, or intangible asset using one or more [Valuation Methods](#).

**Valuation Engagement** means an [Engagement](#) or [Assignment](#) to perform a [Valuation](#) and provide a [Valuation Report](#) where the [Member](#) is free to employ the [Valuation Approaches](#), [Valuation Methods](#), and [Valuation Procedures](#) that a reasonable and informed third party would perform taking into consideration all

the specific facts and circumstances of the **Engagement** or **Assignment** available to the **Member** at that time. Where a **Member** has entered into a Valuation Engagement but during the course of performing the Valuation Engagement the **Member** becomes aware of a limitation or restriction that, if it had been known at the time the **Engagement** or **Assignment** was entered into, would have made the **Engagement** or **Assignment** a **Limited Scope Valuation Engagement** then the Valuation Engagement will become a **Limited Scope Valuation Engagement**.

**Valuation Method(s)** means, within **Valuation Approaches**, a specific way(s) to determine an estimate of value of a business, business ownership interest, security or intangible asset.

**Valuation Procedures** means the act, manner and technique of performing the steps of a **Valuation Method**.

**Valuation Report** means any written or oral communication by the **Member** containing a **Conclusion of Value** or a **Calculated Value**.

**Valuation Service** means a service provided by a **Member** to a **Client** or **Employer** in performance of a **Valuation Engagement**, **Limited Scope Valuation Engagement** or a **Calculation Engagement**.

**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 A **Member** providing a **Valuation Service** shall comply with ~~Section Part 100 Introduction Complying with the Code, and Fundamental Principles and Conceptual Framework~~ of the **Code** and relevant laws and regulations.
- 3.2 **Members in Public Practice** shall comply with ~~Section 22310 Conflicts of Interest and Section 112280 Objectivity – All Services~~ of the **Code**.

#### Public interest

- 3.3 In accordance with Section 100 ~~Introduction and Fundamental Principles Complying with the Code~~ of the **Code**, a **Member** shall observe and comply with the **Member's** public interest obligations when providing a **Valuation Service**.

#### Professional Independence

- 3.4 When ~~a Member in Public Practice is~~ engaged to perform a **Valuation Service** which requires **Independence** or purports to be independent, the **Member** ~~in Public Practice~~ shall comply with **Independence** as defined in this Standard.
- 3.5 A **Member in Public Practice** shall not act as an advocate in respect of a **Valuation Service** which requires **Independence** or purports to be independent.

#### Professional competence and due care

- 3.6 A **Member** providing a **Valuation Service** shall maintain professional competence and take due care in the performance of the **Member's** work in accordance with ~~Subsection 1130 Professional Competence and Due Care~~ of the **Code**.
- 3.7 Where a **Valuation Service** or part thereof requires the consideration of matters that are outside a **Member's** professional expertise, the **Member** shall seek expert assistance or advice from a suitably qualified third party on those matters outside of the **Member's**



professional expertise or decline the **Valuation Service**. The **Member** shall disclose in any **Valuation Report** or other relevant communications the extent of the reliance upon the advice of such a third party.

- 3.8 When planning to use the work of a suitably qualified third party, a **Member** shall assess the professional competence and objectivity of the third party, the engagement terms of the third party, and on completion the appropriateness and reasonableness of the work performed.
- 3.9 In undertaking a **Valuation Service**, a **Member** should consider the contents of any guidance in respect of **Valuation** matters issued by the **Professional Bodies** and appropriate regulatory authorities.

## Confidentiality

- 3.10 ~~In accordance with Subsection 1140 Confidentiality of the Code, a~~ **Member** who acquires confidential information in the course of performing a **Valuation Service** for a **Client** or **Employer** shall comply with Subsection 114 Confidentiality of the Code, ~~not use that information for any purpose other than the proper performance of the Valuation Service for that Client or Employer.~~
- 3.11 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.
- 3.12 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 ~~w~~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.
- 3.13 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 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 a Valuation Service to ~~the~~ a **Client** in an **Engagement Document** ~~the Terms of Engagement to provide the Valuation Service~~ in accordance with APES 305 *Terms of Engagement*.
- 4.2 A **Member in Public Practice** shall include the following in the **Engagement Document**:
- (a) a statement as to which type of **Engagement** the **Member** has been engaged to perform (if that has been determined at the date of the **Engagement Document**);
  - (b) the definitions of a **Valuation Engagement**, a **Limited Scope Valuation Engagement** and a **Calculation Engagement**;
  - (c) for a **Valuation Engagement**, a statement that if the **Member** becomes aware during the course of performing the **Valuation** of a limitation or restriction that could have a material impact on the estimate of value, then the **Engagement** will become a **Limited Scope Valuation Engagement**;
  - (d) for a **Calculation Engagement**, a statement as to which **Valuation Approaches**, **Valuation Methods** and **Valuation Procedures** the **Member** has been engaged to perform;

- (e) for a **Valuation Service** which requires **Independence** or purports to be independent, a statement confirming the **Member's Independence** and the **Member's** compliance with the **Independence** requirements of this Standard; and
  - (f) a statement that the **Valuation Service** will be conducted in accordance with this Standard.
- 4.3 A **Member in Public Practice** who is approached by a potential **Client** to undertake a **Valuation Service** shall comply with the requirements of Section **24320 Professional Appointments of the Code**.
- 4.4 A **Member in Public Practice** who has engaged the services of a third party in connection with the performance of a **Valuation Service**, such as a valuer of property, plant and equipment, 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.
- 4.5 A **Member** shall gather sufficient and appropriate evidence by such means as inspection, inquiry, computation and analysis to provide reasonable grounds that the **Valuation Report** and the conclusions therein are properly supported. When determining the extent and quality of evidence necessary the **Member** shall exercise professional judgement, considering the nature of the **Valuation**, the type of **Valuation Service** and the use to which the **Valuation Report** will be put.
- 4.6 Members are referred to APES GN 20 *Scope and Extent of Work for Valuation Services for guidance in determining the scope and extent of work that may be appropriate for the type of Valuation Service being provided.*
- 4.67 Subject to the **Terms of Engagement** and paragraph 3.11, a **Member in Public Practice** who has relied on information provided by the **Client**, its management, or a third party, should consider requesting ~~a written~~ representation **in Writing** from the relevant party that:
- (a) the relevant party has reviewed the draft **Valuation Report** or extract thereof;
  - (b) the facts upon which the draft **Valuation Report** or extract thereof is based are correct and no material, relevant facts have been omitted;
  - (c) the historical financial information upon which the draft **Valuation Report** or extract thereof is based is complete, accurate, and reliable;
  - (d) the assumptions upon which the draft **Valuation Report** or extract thereof is based are reasonable; and
  - (e) there are no other matters, in the opinion of the **Client**, its management or a third party, which should be brought to the **Member's** attention.
- 4.78 Where a **Member** relies on a representation made by a relevant party, the **Member** is making an assumption that the matter represented is true, unless the **Member** has independently gathered sufficient and appropriate evidence to provide reasonable grounds that the matter represented is supported.
- 4.89 Where a Member becomes aware of instances of non-compliance with laws and regulations when performing a Valuation Service, the Member shall comply with Section 260 Responding to Non-Compliance with Laws and Regulations (for Members in Business (including employment relationships of Members in Public Practice)) or Section 360 Responding to Non-Compliance with Laws and Regulations (for Members in Public Practice) of the Code.**

## 5. Reporting

- 5.1 Generally when a **Member in Public Practice** provides a **Valuation Service**, the **Member** should prepare a written **Valuation Report**. However, this Standard recognises that a **Member** may issue a **Valuation Report** orally where instructed to do so by the **Member's Client** or where there are circumstances that would justify issuing a **Valuation Report** orally rather than in ~~w~~Writing.
- 5.2 Where a **Member in Public Practice** prepares a ~~written~~ **Valuation Report** in Writing in respect of a **Valuation Service**, the **Valuation Report** shall clearly communicate:
- (a) The name of the party engaging the **Member**;
  - (b) A description of the business, business ownership interest, security or intangible asset being valued;
  - (c) The date at which the value has been determined;
  - (d) The date on which the **Valuation Report** has been issued;
  - (e) The purpose for which the **Valuation Report** has been prepared;
  - (f) The name and qualifications of the **Member(s)** responsible for the **Valuation**;
  - (g) The scope of the **Valuation**, including any limitations or restrictions;
  - (h) The standard of value used in the **Valuation** and its definition;
  - (i) The **Premise of Value** adopted in the **Valuation** (~~e-g-for example,~~ going concern premise or liquidation premise);
  - (j) Whether the **Valuation** was undertaken by the **Member** acting independently or not;
  - (k) The **Valuation Approach(es)**, **Valuation Method(s)** and **Valuation Procedures** adopted in determining the estimate of value and a description of how they were applied;
  - (l) The specific information on which the **Member** has relied and the extent to which it has been reviewed (~~e-g-for example,~~ the documents reviewed, the individuals interviewed, the facilities visited, the reports of other experts relied upon, and management representations);
  - (m) A description of the material assumptions applied in the **Valuation** and the basis for those assumptions;
  - (n) A **Conclusion of Value** for a **Valuation Engagement** or a **Limited Scope Valuation Engagement**, or a **Calculated Value** for a **Calculation Engagement**;
  - (o) All qualifications that materially affect the **Conclusion of Value** or **Calculated Value**;
  - (p) For a **Limited Scope Valuation Engagement**, that if a **Valuation Engagement** had been performed the results may have been different;
  - (q) For a **Calculation Engagement**, that if a **Valuation Engagement** had been performed the results may have been different;
  - (r) Where a **Member** has prepared a **Valuation Report** requiring **Independence** or purporting to be independent, that the compensation to be paid to the **Member** is not contingent on the conclusion, content or future use of the **Valuation Report**; and
  - (s) That the **Valuation Service** was conducted in accordance with this Standard.
- 5.3 Where a **Member in Public Practice** communicates the **Valuation Report** orally, the **Member** shall communicate the elements noted in paragraph 5.2, as appropriate in the circumstances, and document the oral communication, the reasons for issuing an oral report and the work performed in accordance with this Standard and the **Firm's** policies and procedures

established under *Documentation of the system of quality control of APES 320 Quality Control for Firms*.

5.4 In addition to the minimum requirements of a **Valuation Report** set out in paragraph 5.2, the **Member in Public Practice** shall consider including the following information in a **Valuation Report**, as appropriate:

- (a) A description of other **Valuation Approaches** or **Valuation Methods** considered and the reasons why they were not considered relevant for the **Valuation**;
- (b) Sufficient details of the **Valuation** calculations to allow a reader to understand how the **Member** determined the **Conclusion of Value** or **Calculated Value**;
- (c) A summary of relevant financial information; and
- (d) A summary of the relevant industry.

5.5 A **Member in Business** who undertakes a **Valuation Service** should prepare a **Valuation Report** taking into consideration the requirements and guidance of paragraphs 5.1 to 5.4 of this Standard, as appropriate, and to the extent practicable.

[5.6 Members are referred to APES GN 21 \*Valuation Services for Financial Reporting\* for guidance on matters to be disclosed in a Valuation Report when providing a Valuation Service for Financial Reporting.](#)

## 6. Documentation

6.1 A **Member** performing a **Valuation Service** shall prepare working papers that appropriately document the work performed, including the basis on which, and the method by which, any calculations, determinations or estimates used in the provision of the **Valuation Service** have been made.

## 7. Use of a glossary of business valuation terms

7.1 When issuing a **Valuation Report**, a **Member** shall clearly define the **Valuation** terms used.

7.2 **Members** are encouraged to use, as far as practicable, terms that are in general use for **Valuation Services**. **Members** are referred to the *International Glossary of Business Valuation Terms* which are included in the valuation standards of the American Institute of Certified Public Accountants and the Canadian Institute of Chartered Business Valuators.

## 8. Professional fees

8.1 A **Member in Public Practice** providing **Valuation Services** shall be remunerated for such **Professional Services** by way of professional fees computed in accordance with Section **24330 Fees and Other Types of Remuneration** of the **Code**.

8.2 A **Member in Public Practice** shall not enter into a **Contingent Fee** arrangement or receive a **Contingent Fee** for a **Valuation Service** which requires **Independence** or purports to be independent.

### ***Conformity with International Pronouncements***

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 225.

## Appendix 1

### Schematic and Examples

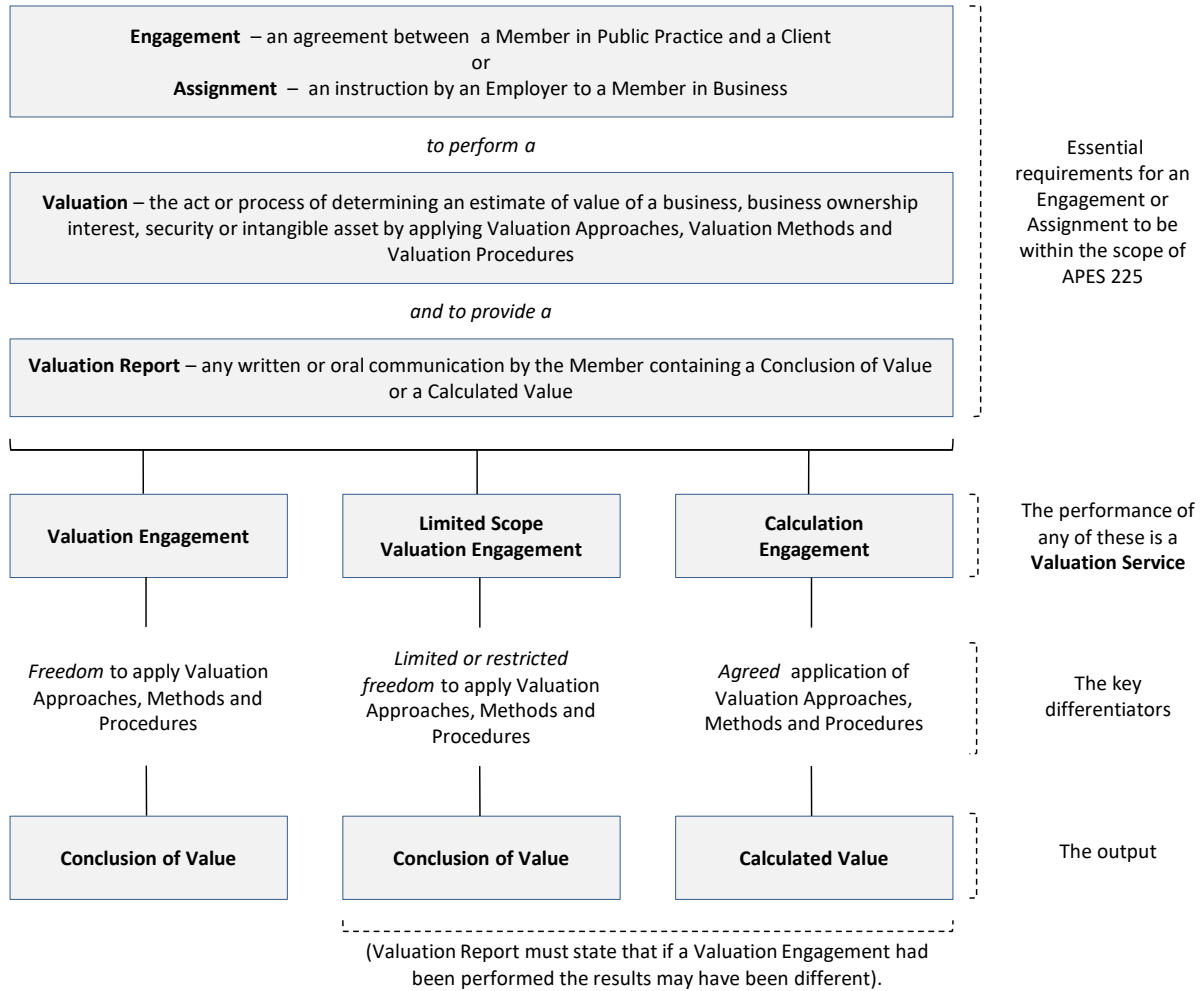
*This Appendix contains a schematic and some examples to assist or determine whether a particular service is a [Valuation Service](#) for the purposes of APES 225 and, if so, whether the [Engagement](#) or [Assignment](#) is a [Valuation Engagement](#), [Limited Scope Valuation Engagement](#), or [Calculation Engagement](#).*

*Members are cautioned that the determination of whether a particular service is a [Valuation Service](#) under this Standard is a matter to be judged based on the particular facts and circumstances. 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 225 and applying the Standard to the particular circumstances to determine whether the [Member](#) is providing a [Valuation 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 a [Valuation Service](#).*

*Members should also consider whether they need to hold an [Australian Financial Services License \(AFSL\)](#) to be able to perform the relevant [Valuation Service](#). This is a matter for the Member to determine in accordance with applicable laws and regulations. The examples in this Appendix do not address this matter as the focus is on determining the type of [Valuation Services](#) in accordance with this Standard.*

### Schematic

The following schematic provides an overview of what constitutes a **Valuation Service** and what differentiates the three types of **Engagement** or **Assignment**.



## Examples

No	Title	Conclusion
1	Valuation of equity for capital gains tax	Valuation Engagement
2	Valuation of equity where industry not analysed	Limited Scope Valuation Engagement
3	Valuation Engagement becomes Limited Scope Valuation Engagement	Limited Scope Valuation Engagement
4	Valuation of equity for capital gains tax where Valuation date is eight years ago and information lost	Limited Scope Valuation Engagement
5	Valuation of equity for capital gains tax where records are sparse	Valuation Engagement
6	Valuation of equity for capital gains tax with limited time	Limited Scope Valuation Engagement
7	Valuation of shareholding for capital gains tax with assumption on the value of all equity	Limited Scope Valuation Engagement
8	Valuation of shareholding for capital gains tax with assumptions on the value of all equity and percentage discounts for the lack of control and marketability	Calculation Engagement
9	Valuation of Employer's intangible assets for tax consolidation	Valuation Engagement
10	Valuation of intellectual property for a Client	Valuation Engagement
11	Limited scope Valuation for mergers and acquisitions advice	Limited Scope Valuation Engagement
12	Estimate of price for advice on sale of a company	Not a Valuation Service
13	Limited scope Valuation of Employer's business for potential sale	Limited Scope Valuation Engagement
14	Limited scope Valuation for estate planning advice	Limited Scope Valuation Engagement
15	Valuation assumptions for estate planning advice	Not a Valuation Service
16	Independent expert report for takeover offer	Valuation Engagement
17	Independent expert report for scheme of arrangement	Valuation Engagement
18	Independent expert report for the compulsory acquisition of securities	Valuation Engagement
19	Audit procedures on Valuation assertions	Not a Valuation Service
20	Audit procedures on Client's Valuations	Not a Valuation Service
21	Limited scope Valuation of Employer's business	Limited Scope Valuation Engagement
22	Opinion as receiver and manager on realisable value of business	Not a Valuation Service
23	Opinion as expert witness on lost profits	Not a Valuation Service
24	Opinion as expert witness on value of business	Valuation Engagement



### **Example 1 Valuation of equity for capital gains tax**

*Facts:* A **Member in Public Practice** is engaged to perform a **Valuation** as at today's date of the issued share capital of a company for the purpose of capital gains tax and to provide a written report to the **Client**. There is no restriction or limitation placed on the **Member** in choosing the appropriate procedures or approach to use.

*Analysis:* This is a **Valuation Service**. The **Member** has been engaged to perform a **Valuation** and to provide a **Valuation Report**, which constitutes a **Valuation Engagement**.

### **Example 2 Valuation of equity where industry not analysed**

*Facts:* The facts are the same as for Example 1 except that the scope of work is limited in that the **Member** is instructed not to perform any analysis of the industry within which the business of the company operates. In the absence of this instruction the **Member** would have considered it appropriate to perform an analysis of the industry. The lack of analysis on the industry would reasonably be considered to have a material impact on the estimate of value.

*Analysis:* This is a **Valuation Service**. The **Member** has been engaged to perform a **Valuation** where the scope of work is limited or restricted, and to provide a **Valuation Report**, which constitutes a **Limited Scope Valuation Engagement**.

### **Example 3 Valuation Engagement becomes Limited Scope Valuation Engagement**

*Facts:* The facts are the same as for Example 1 except that after agreeing the **Terms of Engagement**, which provides for a **Valuation Engagement**, during the course of performing the **Valuation** the **Member** becomes aware of a limitation. The **Member** intended to value the equity in the company using the income approach and for that purpose intended to estimate the company's expected future cash flows. The **Member** made relevant enquiries of the **Client** for the purpose of estimating the expected future cash flows. However, the **Client** decided not to respond to the **Member's** enquiries but instead instructed the **Member** to adopt the **Client's** existing forecast of cash flows so as to contain professional costs.

*Analysis:* This is a **Valuation Service**. The **Member** was initially engaged to perform a **Valuation** and to provide a **Valuation Report**, which constitutes a **Valuation Engagement**. The **Client's** subsequent instruction to adopt the **Client's** existing forecast of cash flows amounts to a limitation on the scope of work because it restricts the **Member's** freedom to employ the **Valuation Procedures** that are reasonable and appropriate taking into consideration all relevant facts and circumstances of the **Engagement** and the instruction could have a material impact on the estimate of value. Accordingly, from that moment the **Engagement** ceased to be a **Valuation Engagement** and became a **Limited Scope Valuation Engagement**.

### **Example 4 Valuation of equity for capital gains tax where Valuation date is eight years ago and information lost**

*Facts:* The facts are the same as for Example 1 except that the valuation date is eight years ago and there is less information available now due to the subsequent destruction of many documents in accordance with the company's document retention policy and the departure of key staff. Despite this, there are some relevant documents, including financial statements for the three years up to the valuation date. The relative lack of information means that the **Member** is not able to choose the **Valuation Approaches** and **Valuation Methods** that the **Member** would otherwise consider appropriate, and is not able to apply **Valuation Procedures** to the extent to which the **Member** would otherwise consider appropriate.

*Analysis:* This is a [Valuation Service](#). The [Member](#) has been engaged to perform a [Valuation](#) and provide a [Valuation Report](#). A hypothetical seller and a hypothetical buyer standing at the valuation date eight years ago would have had more information available to them than the [Member](#) has now for the purpose of performing a Valuation at a date eight years ago. The scope of work is limited or restricted because the relative lack of information restricts the [Member's](#) freedom to choose and apply [Valuation Approaches](#), [Valuation Methods](#) and [Valuation Procedures](#). Accordingly, the [Engagement](#) is a [Limited Scope Valuation Engagement](#).

#### **Example 5 Valuation of equity for capital gains tax where records are sparse**

*Facts:* The facts are the same as for Example 1 except that the company maintains records that are very sparse (albeit compliant with legal requirements).

*Analysis:* This is a [Valuation Service](#). The [Member](#) has been engaged to perform a [Valuation](#) and provide a [Valuation Report](#). The sparse nature of the company's records does not amount to a limitation or restriction on scope because a hypothetical seller and a hypothetical buyer do not have any better information available to them. The fact of the sparse records is a characteristic of the company being valued and, therefore, is something that will be reflected in the estimate of value. The [Engagement](#) is a [Valuation Engagement](#).

#### **Example 6 Valuation of equity for capital gains tax with limited time**

*Facts:* The facts are the same as for Example 1 except that the [Member](#) is required to deliver a [Valuation Report](#) within a period of time that is too short to allow the [Member](#) to perform all of the [Valuation Procedures](#) that the [Member](#) otherwise considers appropriate.

*Analysis:* This is a [Valuation Service](#). The [Member](#) has been engaged to perform a [Valuation](#) and provide a [Valuation Report](#). The scope of work is limited or restricted because the short timeframe restricts the [Member's](#) freedom to choose and apply [Valuation Procedures](#). Hence the [Engagement](#) is a [Limited Scope Valuation Engagement](#).

#### **Example 7 Valuation of shareholding for capital gains tax with assumption on the value of all equity**

*Facts:* A [Member in Public Practice](#) is engaged to perform a [Valuation](#) of a shareholding in a company for the purpose of capital gains tax and to provide a written report to the [Client](#). The [Member](#) is instructed to assume a particular figure for the value of all of the issued share capital of the company.

*Analysis:* This is a [Valuation Service](#). The [Member](#) has been engaged to perform a [Valuation](#) and provide a [Valuation Report](#) where the scope of work is limited or restricted in that the [Member](#) is instructed to assume the value of all of the issued share capital. Otherwise the [Member](#) is free to apply the [Valuation Approaches](#), [Valuation Methods](#) and [Valuation Procedures](#) the [Member](#) considers appropriate in determining an estimate of value of the shareholding. This freedom means the engagement is not a [Calculation Engagement](#). The [Engagement](#) is a [Limited Scope Valuation Engagement](#) because the scope of work is limited or restricted.

#### **Example 8 Valuation of shareholding for capital gains tax with assumptions on the value of all equity and percentage discounts for the lack of control and marketability**

*Facts:* The facts are the same as for Example 7 except that in addition to being instructed to assume a particular figure for the value of all of the issued share capital of the company, the [Member](#) is instructed to assume particular percentage discounts for the lack of control and marketability associated with the shareholding.

*Analysis:* This is a **Valuation Service**. The **Member** has been engaged to perform a **Valuation** and provide a **Valuation Report** where the scope of work is limited or restricted in that the **Member** is instructed to assume the value of all of the issued share capital and to assume certain percentage discounts for the lack of control and marketability associated with the shareholding. The **Engagement** is a **Calculation Engagement** because the **Member** and the **Client** have agreed the **Valuation Approaches**, **Valuation Methods** and **Valuation Procedures** the **Member** will apply, thereby eliminating the **Member's** freedom to choose. The performance of the **Calculation Engagement** is a **Valuation Service**.

### **Example 9 Valuation of Employer's intangible assets for tax consolidation**

*Facts:* A **Member in Business** is assigned by the **Member's Employer** to perform a **Valuation** of the intangible assets of a company acquired by the **Employer** for the purpose of tax consolidation and to provide a written report to the **Employer**.

*Analysis:* This is a **Valuation Service**. The **Member** has been engaged to perform a **Valuation** and to provide a **Valuation Report**, which constitutes a **Valuation Engagement**.

### **Example 10 Valuation of intellectual property for a Client**

*Facts:* A **Member in Public Practice** is engaged to perform a **Valuation** of the intellectual property of a **Client**, which the **Client** uses internationally. There is no restriction or limitation placed on the **Member** in terms of choosing the appropriate **Valuation Approaches**, **Valuation Methods**, and **Valuation Procedures** to perform the **Valuation**. The **Member** considers that the extent to which the intellectual property is protected by law in the countries in which it is used is material to the **Valuation**. The **Client** has informed the **Member** that it has not obtained legal advice to determine the strength of its legal rights over the intellectual property in each jurisdiction. The **Client** has instructed the **Member** to assume that the **Client** has legally enforceable rights in each jurisdiction.

*Analysis:* This is a **Valuation Service**. The **Member in Public Practice** has been engaged to perform a **Valuation** and to provide a **Valuation Report**. The **Member** is free to employ the **Valuation Approaches**, **Valuation Methods**, and **Valuation Procedures** the **Member** deems appropriate. Accordingly, this is a **Valuation Engagement**. However, the **Valuation Report** must disclose the material assumption the **Member** is instructed to make regarding the status of the legal rights over the intellectual property.

### **Example 11 Limited scope Valuation for mergers and acquisitions advice**

*Facts:* A **Member in Public Practice** is engaged to provide mergers and acquisitions advice to a **Client** contemplating a potential acquisition of a business. Part of the instructions includes performing an indicative **Valuation** of the target business and providing an oral **Valuation Report**.

*Analysis:* This is a **Valuation Service** to the extent of the indicative **Valuation**. The **Member** has been engaged to perform an indicative **Valuation** and to provide a **Valuation Report**, which constitutes a **Limited Scope Valuation Engagement**.

### **Example 12 Estimate of price for advice on sale of a company**

*Facts:* A **Member in Public Practice** is engaged to provide advice and assistance with respect to the sale of a company. As part of the sale process the **Member** is asked to provide generic valuation statistics and parameters relevant to the industry in which the company operates.

*Analysis:* This is not a [Valuation Service](#). Even if some [Valuation Procedures](#) are conducted the [Member](#) has not been engaged to perform a [Valuation](#) or to provide a [Valuation Report](#). The [Member](#) has been engaged to provide ancillary services related to the sale of a company.

### **Example 13 Limited scope Valuation of Employer’s business for potential sale**

*Facts:* A [Member in Business](#) is assigned by the [Member’s Employer](#) to perform an indicative [Valuation](#) of a business owned by the [Employer](#) for the purpose of its potential sale and to provide an oral report to the [Employer](#).

*Analysis:* This is a [Valuation Service](#). The [Member](#) has been assigned to perform a [Limited Scope Valuation](#) and to provide a [Valuation Report](#) to the [Member’s Employer](#), which constitutes a [Limited Scope Valuation Engagement](#).

### **Example 14 Limited scope Valuation for estate planning advice**

*Facts:* A [Member in Public Practice](#) is engaged to provide estate planning advice. As a required input to providing that advice, the [Member](#) performs an indicative [Valuation](#) of a business and provides an oral [Valuation Report](#) to the [Client](#).

*Analysis:* This is a [Valuation Service](#) to the extent of performing the indicative [Valuation](#) of the business and providing the [Valuation Report](#), which constitutes a [Limited Scope Valuation Engagement](#).

### **Example 15 Valuation assumptions for estate planning advice**

*Facts:* A [Member in Public Practice](#) is engaged to provide tax advice in respect of an estate planning [Engagement](#). As part of the estate planning process, the [Member](#) provides assumptions of values of the assets to assess the potential tax consequences. The [Member](#) is not involved in determining the value of the estate.

*Analysis:* This is not a [Valuation Service](#). Even if some [Valuation Procedures](#) are conducted the [Member](#) has not been engaged to perform a [Valuation](#) or to provide a [Valuation Report](#). The [Member](#) has been engaged to provide tax advice in respect of estate planning.

### **Example 16 Independent expert report for takeover offer**

*Facts:* A [Member in Public Practice](#) is engaged by a [Client](#) who is the target of a takeover offer to prepare an independent expert report on whether the takeover offer is “fair and reasonable”. As noted in paragraph RG 111.11 of ASIC’s Regulatory Guide 111 “[Content of Expert Reports](#)”, an offer is “fair” if “the value of the offer price or consideration is equal to or greater than the value of the securities the subject of the offer”. The [Member](#) will perform a [Valuation](#) of the securities for the purpose of assessing if the offer is “fair”. In accordance with section 640 of the *Corporations Act 2001*, the independent expert’s report will accompany the target’s statement that will be sent to the shareholders of the [Client](#).

*Analysis:* This is a [Valuation Service](#) to the extent of performing the [Valuation](#) of the securities and providing the [Valuation Report](#). Although the [Member](#) has been engaged to express an opinion on whether the takeover offer is “fair and reasonable”, the accepted meaning of “fair” (as stated in ASIC’s Regulatory Guide 111) clearly implies that a [Valuation](#) is to be performed. Thus the [Member](#) has been engaged, in part, to perform a [Valuation](#) and to provide a [Valuation Report](#), which constitutes a [Valuation Engagement](#).

**Example 17 Independent expert report for scheme of arrangement**

*Facts:* A **Member in Public Practice** is engaged by a **Client** who is the target of a friendly takeover to be achieved by way of a scheme of arrangement, to prepare an expert's report on whether a scheme of arrangement is "in the best interest of the members of the company" in accordance with clause 8303 of Schedule 8 of the Corporations Regulations 2001. As noted in paragraph RG 111.19 of ASIC's Regulatory Guide 111 *Content of Expert Reports*, in such a case the expert is expected to provide an opinion as to whether the proposal is "fair and reasonable" as that phrase is understood for the purpose of section 640 of the *Corporations Act 2001*. The **Member** will perform a **Valuation** of the securities for the purpose of assessing if the offer is "fair". The expert's report will, if the court directs, accompany the explanatory statement and notice of meeting sent to shareholders of the company.

*Analysis:* This is a **Valuation Service** to the extent of performing the **Valuation** of the securities and providing the **Valuation Report**. Although the **Member** has been engaged to express an opinion on whether the proposal is "in the best interests of the members of the company", accepted practice (as stated in ASIC's Regulatory Guide 111) implies that a **Valuation** is to be performed. Thus the **Member** has been engaged, in part, to perform a **Valuation** and to provide a **Valuation Report**, which constitutes a **Valuation Engagement**.

**Example 18 Independent expert report for the compulsory acquisition of securities**

*Facts:* A **Member in Public Practice** is engaged by a **Client** who has acquired 90% of the securities of a particular class of a company and wishes to issue a notice to acquire compulsorily the balance of the securities. The **Member** is engaged to provide an expert's report under section 667A of the *Corporations Act 2001* on whether "the terms proposed in the notice give a fair value for the securities concerned". In accordance with section 664C, a copy of the expert's report will be sent to each holder of securities.

*Analysis:* This is a **Valuation Service**. The **Member** has been engaged to perform a **Valuation** and to provide a **Valuation Report**, which constitutes a **Valuation Engagement**.

**Example 19 Audit procedures on Valuation assertions**

*Facts:* A **Member in Public Practice** is engaged to perform an audit. The **Member** will perform procedures to test the valuation assertions (as ~~defined-described~~ in Australian Auditing Standard ASA 500 *Audit Evidence*) of the financial statement balances as part of the audit **Engagement**. The results of these procedures will be documented in the **Member's** working papers and will not be communicated to the **Client**.

*Analysis:* This is not a **Valuation Service**. The **Member** has not been engaged to perform a **Valuation** or to provide a **Valuation Report**. The **Member** has been engaged to perform an audit and the procedures to test the valuation assertions (as ~~defined-described~~ in the Auditing Standards) are only performed as part of the audit **Engagement**.

**Example 20 Audit procedures on Client's Valuations**

*Facts:* A **Member in Public Practice** is engaged to perform an audit. The **Member** will audit/review the valuation models or calculations prepared by the **Client** to test assets (including goodwill) for impairment as part of the **Member's** audit procedures in accordance with Auditing Standards. The procedures performed will be documented in the **Member's** working papers and will not be communicated to the **Client**.

*Analysis:* This is not a **Valuation Service**. The **Member** has not been engaged to perform a **Valuation** or to provide a **Valuation Report**. The **Member** has been engaged to perform an audit and the procedures to test impairment are only performed as part of the audit **Engagement**.

### **Example 21 Limited scope Valuation of Employer's business**

*Facts:* A **Member in Business** is assigned to perform an indicative **Valuation** of the business of the **Employer** as part of the **Employer's** procedures in respect of testing assets (including goodwill) for impairment for financial reporting purposes.

*Analysis:* This is a **Valuation Service**. The **Member** has been assigned to perform an indicative **Valuation** and to provide a **Valuation Report** which constitutes a **Limited Scope Valuation Engagement**.

### **Example 22 Opinion as receiver and manager on realisable value of business**

*Facts:* A **Member in Public Practice** is engaged by a secured creditor as a receiver and manager of the assets and undertaking of a company. In reporting to the **Client** the **Member** expresses an opinion on the amount that might be realised from the sale of the company's business.

*Analysis:* This is not a **Valuation Service**. Even if some **Valuation Procedures** are conducted the **Member** does not perform a **Valuation** and is not engaged to provide a **Valuation Report**. The **Member** has been engaged to perform an insolvency service and the opinion was expressed as part of performing that service.

### **Example 23 Opinion as expert witness on lost profits**

*Facts:* A **Member in Public Practice** is engaged to act as an expert witness in litigation and to express an opinion on the quantum of damages suffered by the plaintiff as a result of an alleged wrong-doing by the defendant. The **Member** is instructed that the damages are to be determined by reference to lost profits and that the court must award damages as a once-off lump sum. In performing this task, the **Member**:

- (a) will calculate the lost profits caused by the alleged wrong-doing by comparing the profits that the plaintiff would have earned but for the alleged wrong-doing with the profits that the plaintiff will earn given the alleged wrong-doing; and
- (b) will calculate the present value of those lost profits.

The **Member** will provide a written report and may later give oral evidence at the court hearing.

*Analysis:* This is not a **Valuation Service** because the **Member** has not been engaged to perform a **Valuation** (i.e. the **Member** has not been engaged to determine an estimate of value of a business, business ownership interest, security or intangible asset).

### **Example 24 Opinion as expert witness on value of business**

*Facts:* A **Member in Public Practice** is engaged to act as an expert witness in litigation and to express an opinion on the quantum of damages suffered by the plaintiff as a result of an alleged breach of contract by the defendant. The **Member** is instructed that the damages are to be determined by reference to the value of the plaintiff's business before the alleged breach of contract and the **Member** is instructed to express an opinion on that value. The **Member** will provide a written report and may later give oral evidence at the court hearing.

*Analysis:* This is a **Valuation Service** because the **Member** has been engaged to perform a **Valuation** and to provide a **Valuation Report** which constitutes a **Valuation Engagement**. It is a **Valuation** because the **Member** has been engaged to determine an estimate of value of a business by applying **Valuation Approaches**, **Valuation Methods** and **Valuation Procedures**.

# APES GN 20 Scope and Extent of Work for Valuation Services

[Supersedes APES GN 20 Scope and Extent of Work for Valuation Services issued in December 2013]

Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited

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<u>Appendix 2: Summary of revisions to the previous GN 20 (Issued in December 2013)</u> <u>[Not included as the summary of revisions is set out in the Explanatory Memorandum for this Exposure Draft.]</u>		



## 1. Scope and application

- 1.1 ~~Accounting Professional & Ethical Standards Board Limited (APESB) issues~~ The objective of APES GN 20 Scope and Extent of Work for Valuation Services ~~((the Guidance Note). APES GN 20) is to provide~~s guidance to assist **Members** on the application of APES 225 *Valuation Services* ([APES 225](#)) in determining the scope and extent of work that, depending on the particular circumstances, may be appropriate for the three types of **Valuation Service** defined in section 2 of APES 225. This Guidance Note does not prescribe or create any mandatory requirements.
- 1.2 ~~Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional Guidance Note APES GN 20 Scope and Extent of Work for Valuation Services (the Guidance Note) which is effective from the date of issue, and supersedes APES GN 20 issued in December 2013.~~
- 1.3 **Members** using this Guidance Note should refer to:
- (a) ~~APESB's Due process and working procedures for the development and review of APESB pronouncements~~ ([APESB's Due Process document](#));
  - (b) ~~APES 225 for the mandatory requirements when Members provide Valuation Services; and~~
  - (c) ~~APES GN 21 Valuation Services for Financial Reporting (APES GN 21) for guidance on the application of APES 225 in respect of the provision of a Valuation Service for Financial Reporting to a Client or Employer, the scope of work to be performed and matters to be disclosed in a Valuation Report.~~
- ~~The APESB's Due process document provides the meaning of the term 'should' used in this Guidance Note<sup>5</sup>.~~
- 1.4 ~~In applying the guidance outlined in APES GN 20, Members should be guided not merely by the words but also by the spirit of this Guidance Note and the Members' professional obligation to comply with the requirements of the Code.~~
- 1.5 ~~In this Guidance Note, unless otherwise specified, words in the singular include the plural and vice versa, and words referring to persons include corporations or organisations, whether incorporated or not.~~

## 2. Definitions

~~Defined terms are shown in the body of the Guidance Note in title case.~~

For the purpose of this Guidance Note, all definitions are consistent with APES 225 *Valuation Services*.

## 3. Scope and extent of work for Valuation Services

- 3.1 When performing a **Valuation Service**, a **Member** is required by paragraph 4.5 of APES 225 to gather sufficient and appropriate evidence by such means as inspection, inquiry, computation and analysis to provide reasonable grounds that a **Valuation Report** and the conclusions therein are properly supported. In determining the extent and quality of evidence, the **Member** is required to exercise professional judgement considering the nature of the **Valuation**, the type of **Valuation Service**, and the use to which the **Valuation Report** will be put. The following general guidance is

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<sup>5</sup> ~~See~~Refer to APESB's Due Process document, Section 5 Drafting Approach, Paragraph 5.2(f).

to assist the **Member** in exercising professional judgement in determining the extent and quality of evidence to be obtained in respect of the type of **Valuation Service** to be performed.

Type of Valuation Service	Extent of <del>W</del> work	Extent of evidence obtained
<b>Valuation Engagement</b>	Limited to extensive use of <b>Valuation Approaches, Valuation Methods and Valuation Procedures</b> .	Evidence obtained for significant matters.
<b>Limited Scope Valuation Engagement</b>	Minimal to limited use of <b>Valuation Approaches, Valuation Methods and Valuation Procedures</b> .	Limited evidence obtained for significant matters.
<b>Calculation Engagement</b>	No to minimal use of <b>Valuation Approaches, Valuation Methods and Valuation Procedures</b> .	Little or no evidence obtained for significant matters.

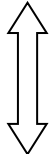
### Extent of work

3.2 A **Valuation** under APES 225 may be of a business, business ownership interest, security, or intangible asset. For convenience, the guidance in this section is based on the assumption that the **Valuation** is of a business, business ownership interest, or equity security.

3.3 To assist a **Member** to exercise professional judgement in respect of the extent of work for the applicable **Valuation Service**, a **Member** may find it helpful to consider the following four areas when performing the **Valuation Service**, subject to the terms of the **Engagement** or **Assignment** agreed with the **Client** or **Employer**:

- (i) The external environment in which the entity operates;
- (ii) Entity-specific, non-financial information (e.g., for example, entity's operating structure and lifecycle stage);
- (iii) Entity-specific, financial information (e.g., for example, historical and future orientated financial statements); and
- (iv) Valuation context and assessments (e.g., for example, selection and application of **Valuation Approaches, Valuation Methods and Valuation Procedures**).

3.4 In determining the extent of work to be undertaken in each of these four areas, **Members** should use their expertise and professional judgement. The following table provides guidance to **Members** on the extent of work that might be undertaken in each of the four areas, depending on the type of **Valuation Service**, the availability of evidence, and subject to the terms of the **Engagement** or **Assignment** agreed with **Client** or **Employer**. The table is only provided to illustrate a typical continuum of scope of work for different types of **Valuation Service** and is not intended to be prescriptive of the work that needs to be undertaken in any particular **Valuation Service**. Moreover, there are situations where the work performed for a **Limited Scope Valuation Engagement** is greater than for a **Valuation Engagement** or the work performed for a **Valuation Engagement** is less in one situation than in another due to the unavailability of evidence. Refer to examples in the Appendix on determining the extent of work to be undertaken.

Type of Valuation Service	External environment of the entity	Entity specific non-financial information	Entity specific financial information	Valuation context & assessments
Valuation Engagement	Limited to extensive	Limited to extensive	Limited to extensive	Limited to extensive  None to minimal
Limited Scope Valuation Engagement	Minimal to limited	Minimal to limited	Minimal to limited	
Calculation Engagement	None to minimal	None to minimal	None to minimal	

### Extent of evidence obtained

- 3.5 Where a Member is performing a Valuation Engagement, generally the Member will obtain evidence that is sufficient and appropriate to provide reasonable grounds that the Valuation Report and the conclusions therein are properly supported. This will include evidence on those matters that might reasonably be expected to have a significant impact on the Conclusion of Value for that Engagement.
- 3.6 Where a Member is performing a Limited Scope Valuation Engagement, generally the Member will obtain less evidence in respect of some significant matters relevant to the Conclusion of Value for that Engagement than for a Valuation Engagement, because the scope of work is limited or restricted either by the Client or the Employer or due to the circumstances of the Engagement or availability of information.
- 3.7 Where a Member is performing a Calculation Engagement, generally the Member will obtain less or no evidence in some of the areas referred to in paragraph 3.3 to determine a Calculated Value than for a Valuation Engagement or a Limited Scope Valuation Engagement, because the Client or Employer does not require all the Valuation Procedures that might be required for those Engagements.

## 4. Selecting the type of Valuation Service

- 4.1 The Client or Employer is responsible for determining which type of Valuation Service to commission. In making that determination, the Client or Employer may wish to consider the relative expected benefits, costs and risks of each type of Valuation Service.
- 4.2 The benefits, costs and risks of each type of Valuation Service might differ because, for any given set of circumstances, the scope of work of each of the three types of Valuation Service could vary. This might arise because in a Valuation Engagement the Member is free to apply the Valuation Approaches, Valuation Methods and Valuation Procedures the Member considers to be appropriate, while in a Limited Scope Valuation Engagement the Member is limited or restricted in that freedom, and in a Calculation Engagement the Member has no freedom and must apply the Valuation Approaches, Valuation Methods and Valuation Procedures that have been agreed with the Client or Employer. As a result, it is generally the case that the scope of work of a Limited Scope Valuation Engagement is more limited than that of a Valuation Engagement, and that the scope of work of a Calculation Engagement is more limited than that of a Limited Scope Valuation Engagement. Furthermore, for any particular Limited Scope Valuation Engagement, the scope of work might change without the Engagement ceasing to be a Limited Scope Valuation Engagement, if the nature and extent of the limitations were changed.

- 4.3 Depending on the circumstances, the principal benefits to a **Client** or **Employer** of a limited scope of work might include:
- (a) a reduced burden to provide the **Member** with information or access to management;
  - (b) a shorter period for the completion of the **Valuation Service**; and
  - (c) lower professional fees.
- 4.4 Depending on the circumstances, the principal costs and risks to a **Client** or **Employer** of a limited scope of work might include:
- (a) the risk that a limited scope of work might be less suitable, or unsuitable, for the purpose for which the **Valuation Service** was commissioned;
  - (b) the risk that if a scope of work that was less limited or not limited had been performed the ~~Valuation Conclusion~~**Conclusion of Value or Calculated Value** might have been different; and
  - (c) the costs that might arise if either of the above mentioned risks were to materialise.
- 4.5 Where a **Client** or **Employer** is determining the type of **Valuation Service** to be commissioned and instructs or assigns the **Member** to assist the **Client** or **Employer** in better understanding the risk that a limited scope of work might be less suitable, or unsuitable, for the purpose for which the **Valuation Service** is to be commissioned, the **Member** should consider discussing the following matters with the **Client** or **Employer**:
- (a) *Extent of reliance* – Generally, the greater the extent of reliance on the **Conclusion of Value** or **Calculated Value** the more likely it is that a scope of work that is relatively less limited or not limited will be suitable. For example, in a market transaction, a **Client** may seek only a general indication of value because the market of buyers has been satisfactorily canvassed and the price of a transaction will ultimately be the result of negotiation or auction. In these circumstances a limited scope of work will generally be suitable. In contrast, if an agreement on the price for a transaction is being entered into based only on the **Conclusion of Value** or **Calculated Value**, then it will generally be suitable if the scope of work is relatively less limited or not limited.
  - (b) *Significance of the matter to the Client or Employer* – Generally, the more significant the **Conclusion of Value** or **Calculated Value** is to the **Client** or **Employer** and the higher the degree of risk that it might be challenged, the more likely it is that a scope of work that is relatively less limited or not limited will be suitable.
  - (c) *Preliminary nature of the matter* – In the course of an extended matter, a limited scope of work may be suitable for the purpose of the **Client** or **Employer** making a preliminary or interim assessment.
  - (d) *Number of users of the Valuation Report* – Generally, if the **Valuation Report** will be provided to a high number of users and it would be reasonable to assume that some of those users may not understand the effect of any major limitations on scope, then a scope of work that is relatively less limited or -not limited will be suitable.
  - (e) *Public availability* – Generally, if the **Valuation Report** will be disclosed, or referred to, in a public document and it would be reasonable to assume that some of the intended users may not understand the effect of any major limitations on scope, then a scope of work that is relatively less limited or not limited will be suitable.
- 4.6 The above mentioned matters are illustrative but not exhaustive. They are not prescriptive of the type of **Valuation Service** that may be appropriate in any particular circumstances.

### ***Conformity with International Pronouncements***

The International Ethics Standard Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES GN 20.

### ***Acknowledgement of the Canadian Institute of Chartered Business Valuators***

APESB gratefully acknowledges the publication of the Canadian Institute of Chartered Business Valuators (CICBV) listed below which provided the basis for the development of this Guidance Note. Components of the CICBV publication have been reproduced with the kind permission of the CICBV with variations made to suit the Australian context and APES 225 *Valuation Services*.

*Practice Bulletin Number 3: Guidance on Types of Valuation Reports*  
*Canadian Institute of Chartered Business Valuators, September 2012*

## Appendix 1: Illustrative Examples

*This Appendix contains some examples to assist Members determine the scope and extent of work for a Valuation Service.*

*Members are cautioned that the determination of the scope of work for a Valuation Service in accordance with APES 225 is a matter to be judged based on the particular facts and circumstances. 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 225 and APES GN 20 and applying the pronouncements to the particular circumstances. In all of the examples presented below it is assumed that there are no unmentioned facts which would be relevant to the determination of the scope and extent of work for a Valuation Service.*

### Example 1: Valuation of a minority interest in equity for capital gains tax without access to the company

*Facts:* A Member in Public Practice is engaged by a Client who holds a minority interest in the issued share capital of a company to perform a Valuation as at today's date of that minority interest, for the purpose of capital gains tax and to provide a written report to the Client. There is no restriction or limitation placed on the Member in choosing the appropriate Valuation Procedures or Valuation Approach to use. Neither the Client nor the Member has access to the management and the books and records of the company. The Member has access to the annual reports, minutes of general meetings, and other documents provided by the company to the Client as a shareholder.

*Analysis:* If the Member did have access to the company (i.e., to its management and to its books and records) then, depending on the circumstances, the Member might consider:

- holding discussions with management about the nature and history of, and outlook for, the company's business;
- obtaining and reviewing any management accounts and reports and asking for details of any assumptions underlying them and the basis of their preparation;
- obtaining and reviewing any strategic or business plans;
- obtaining and reviewing any forecasts or budgets and asking for details of any assumptions underlying them;
- obtaining details of any revenues, expenses, assets, or liabilities that the Member considers relevant;
- obtaining details of any borrowings;
- obtaining and reviewing any crucial contracts;
- obtaining information on any revenues and expenses reported in the financial statements that management considers to be non-recurring, abnormal, or on non-commercial terms; and
- asking for any other information that the Member considers, in the circumstances, to be relevant to the valuation.

However, in this example this information is not available to the Member because the Member does not have access to the company. The fact that the extent and quality of the information available to the Member is less than would be the case if the Member did have access does not mean that the Engagement is a Limited Scope Valuation Engagement. That is because the Member remains free to employ the Valuation Approaches, Valuation Methods and Valuation Procedures that a reasonable and informed third party would perform taking into consideration all the specific facts and circumstances of the Engagement available to the Member at the time – and those specific facts and circumstances include the fact that as a minority

shareholder, the **Client's** ownership interest (being the subject matter of the **Valuation**) does not entitle the **Client** to the access and privileges described above.

*Conclusion:* This is a **Valuation Service**. The **Member** has been engaged to perform a **Valuation**, without any restriction or limitation placed on the **Member** by the **Client**, and to provide a **Valuation Report**, which constitutes a **Valuation Engagement**.

### **Example 2: Relationship between ~~Valuation~~ Conclusions of Value in a Limited Scope Valuation Engagement and in a Valuation Engagement**

*Facts:* A **Member in Public Practice** is approached by a **Client** who wishes to obtain a **Valuation** of a portfolio of patents for financial reporting and tax purposes. The **Member's** report will be provided to the **Client's** auditors and to the Australian Taxation Office. The **Member** is not a tax agent or an auditor. The **Client** wishes to minimise the cost of the **Valuation** and to that end is willing for the **Member** to limit the amount of work that the **Member** would otherwise do and for the **Engagement** to be a **Limited Scope Valuation Engagement** instead of a **Valuation Engagement**. The **Member** explains to the **Client** that if the **Member** were instead to perform a **Valuation Engagement** then the ~~Conclusion~~ Valuation of Value Conclusion, which will be in the form of a range of values, might be different. The **Client** says that it is willing to proceed with a **Limited Scope Valuation Engagement** because it understands that the range of values that the **Member** would determine in a **Limited Scope Valuation Engagement** is simply wider than that which the **Member** would determine in a **Valuation Engagement**.

*Analysis:* The **Client** understands that the ~~Valuation~~ Conclusion of Value might be different under a **Limited Scope Valuation Engagement** than under a **Valuation Engagement**. However, the **Client** appears to assume that the range of values that would result from a **Valuation Engagement** would fall within the range of values that would result from a **Limited Scope Valuation Engagement**. Whether this would be the case will depend on the facts and often it will not be possible to predict without performing the additional work involved in a **Valuation Engagement**. Hence, while it is possible that the range of values under a **Limited Scope Valuation Engagement** would fall within the range under a **Valuation Engagement**, it is also possible that it would not or that there would only be a partial overlap.

*Conclusion:* In light of the **Client's** apparent misunderstanding and assuming that the nature of the limitations on scope are such that it is not possible to predict whether the range of values that would result from a **Limited Scope Valuation Engagement** would fall within the range that would result from a **Valuation Engagement**, either fully, partially, or at all, the **Member** should inform the **Client** of that fact before an **Engagement** is entered into so that the **Client** is able to make an informed choice.

### **Example 3: Choosing between different types of Valuation Engagements**

*Facts:* The facts are the same as for Example 2 except that (a) the **Client** understands that in the circumstances it is not possible to predict whether the range of values that would result from a **Limited Scope Valuation Engagement** would fall within the range that would result from a **Valuation Engagement**, either fully, partially, or at all; and (b) the **Client** asks the **Member** whether it should commission a **Limited Scope Valuation Engagement** or a **Valuation Engagement**.

*Analysis:* It is the **Client's** responsibility, not the **Member's**, to determine which type of **Engagement** should be commissioned. Many matters may be relevant to that determination and the **Member** may be able to assist the **Client** in understanding some of them. For example, the **Member** could assist the **Client** to understand how the two types of **Engagement** might involve different costs as well as different burdens on the **Client** from requests for information or access to management. The **Member** could also assist the **Client** to understand that because the ~~Valuation~~ Conclusion of Value in a **Limited Scope Valuation Engagement** might be different from the ~~Valuation~~ Conclusion of Value in a **Valuation Engagement**, commissioning a **Limited Scope Valuation Engagement** carries an additional degree of risk. Whether that risk is acceptable to the **Client** will depend on the circumstances, including the **Client's** tolerance for risk and how much weight

the **Client** places on the perceived benefits such as lower cost and burdens. In the circumstances of this example, the determination may also depend on the attitude of the **Client's** auditors and of the Australian Taxation Office to a **Limited Scope Valuation Engagement** as well as on any relevant law or regulations.

*Conclusion:* The **Member** should inform the **Client** that it is the **Client's** responsibility, not the **Member's**, to determine which type of **Engagement** (i.e., **Valuation Engagement** or **Limited Scope Valuation Engagement**) should be commissioned in the circumstances. The **Member** could also inform the **Client** that the **Member** may assist the **Client** to understand some of the matters that may be relevant to that determination.

#### **Example 4: Extent of evidence**

*Facts:* A **Member in Public Practice** is engaged by a **Client** to perform a **Valuation** of a business, and provide a **Valuation Report**, for the purpose of the **Client's** negotiations with a third party for the sale of the business. The **Valuation Report** will not be provided to that third party. The **Client** instructs the **Member** to use the discounted cash flow method of valuation. But for that instruction, the **Member** would have used the capitalised earnings method of valuation. The **Member** will need more information to perform the **Valuation** using the discounted cash flow method than the **Member** would have needed to perform the **Valuation** using the capitalised earnings method. The additional information will include, amongst other things, long-term cash flow forecasts for the business.

*Analysis:* The **Member** is not free to use the **Valuation Method** that the **Member** believes a reasonable and informed third party would use taking into consideration all the specific facts and circumstances of the **Engagement**.

*Conclusion:* The **Engagement** is a **Limited Scope Valuation Engagement**, notwithstanding that the **Member** will do more work than would be required for a **Valuation Engagement**. It is a **Limited Scope Valuation Engagement**, due to the restriction placed on the **Member** on the **Valuation Method** to be used.



# APES GN 21 Valuation Services for Financial Reporting

[Supersedes APES GN 21 Valuation Services for Financial Reporting issued in July 2016]

~~Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited~~

ISSUED: ~~July 2016~~ **XXXXXX** ~~2019~~

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### *Conformity with International Pronouncements*

*Appendix 1: Summary of revisions to the previous APES GN 21 (Issued in July 2016)*

*[Not included as the summary of revisions is set out in the Explanatory Memorandum for this exposure draft.]*

## 1. Scope and application

1.1 The objective of APES GN 21 *Valuation Services for Financial Reporting* is to provide guidance on the application of APES 225 *Valuation Services* (APES 225) in relation to a Member's professional and ethical obligations in respect of:

- the provision of a [Valuation Service for Financial Reporting](#) to a [Client](#) or [Employer](#);
- the scope of work to be performed; and
- matters to be disclosed in a [Valuation Report](#).

1.2 Accounting Professional & Ethical Standards Board Limited (APESB) ~~issues~~ has revised professional guidance note APES GN 21 *Valuation Services for Financial Reporting* (the Guidance Note) which is effective from the date of issue and supersedes APES GN 21 issued in July 2016.

1.3 APES GN 21 provides guidance to assist [Members](#) on the application of APES 225 to [Valuation Services](#) conducted in respect of financial reporting. This Guidance Note does not prescribe or create any mandatory requirements or consider the requirements of applicable [Australian Accounting Standards](#).

1.4 Members using this Guidance Note should refer to:

(a) ~~APESB's~~ *Due process and working procedures for the development and review of APESB pronouncements* (APESB's Due process document);

(b) ~~to~~ APES 225 for the mandatory requirements when [Members](#) provide [Valuation Services](#); and

(c) ~~to~~ APES GN 20 *Scope and Extent of Work for Valuation Services* (APES GN 20) for guidance on the application of APES 225 in determining the scope and extent of work that, depending on the particular circumstances, may be appropriate for the three types of [Valuation Services](#) defined in section 2 *Definitions* of APES 225.

~~The APESB's~~ Due process document provides the meaning of the term 'should' used in this Guidance Note.<sup>6</sup>

1.5 In applying the guidance outlined in APES GN 21, Members 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.

1.65 In this Guidance Note, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Guidance Note in title case.

In addition to the definitions contained in APES 225, for the purposes of this Guidance Note:

**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*.

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<sup>6</sup> See APESB's Due process document, Section 5 Drafting Approach, Paragraph 5.2(f).

**Australian Accounting Standards** means the Accounting Standards (including Australian Accounting Interpretations) promulgated by the [AASB](#).

**Cash-Generating Unit** means the smallest identifiable group of assets that generates cash inflows that are largely independent of the cash inflows from other assets or groups of assets, as defined in AASB 136 *Impairment of Assets*.

**Equity Instrument** means a contract that evidences a residual interest in the assets of an entity after deducting all of its liabilities, as defined in AASB 2 *Share-based Payment*.

**Grant Date** means the date at which the entity and another party (including an employee) agree to a share-based payment arrangement, as defined in AASB 2 *Share-based Payment*.

**Market Conditions** means a performance condition upon which the exercise price, vesting or exercisability of an [Equity Instrument](#) depends that is related to the market price (or value) of the entity's [Equity Instruments](#), as defined in AASB 2 *Share-based Payment*.

**Measurement Date** means the date at which the fair value of the [Equity Instruments](#) granted is measured, as defined in AASB 2 *Share-based Payment*.

**Reload Feature** means a feature that provides for an automatic grant of additional share options whenever the option holder exercises previously granted options using the entity's shares, rather than cash, to satisfy the exercise price, as defined in AASB 2 *Share-based Payment*.

**Valuation Service for Financial Reporting** means a [Valuation Service](#) performed for the purpose of estimating a value of an asset, liability and/or equity for financial reporting purposes in accordance with [Australian Accounting Standards](#). Examples of different accounting purposes include measurement of the value of an asset or liability for inclusion on the statement of financial position, allocation of the purchase price of an acquired business, impairment testing, lease classification and [Valuation](#) inputs to the calculation of depreciation charges in the statement of profit or loss.

**Vesting Condition** means a condition that determines whether the entity receives the services that entitle the counterparty to receive cash, other assets or [Equity Instruments](#) of the entity, under a share-based payment arrangement, as defined in AASB 2 *Share-based Payment*.

### 3. Fundamental responsibilities of Members

3.1 [Members](#) are required by ~~s~~Section 3 *Fundamental responsibilities of Members* in APES 225 to comply with the following mandatory professional obligations of the [Code](#) when performing a [Valuation Service](#):

- ~~Section 100 — Introduction and Fundamental Principles;~~
- ~~Section 130 — Professional Competence and Due Care;~~
- ~~Section 140 — Confidentiality;~~
- ~~Section 220 — Conflicts of Interest; and~~
- ~~Section 280 — Objectivity — All Services.~~
- Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework; and
- Section 310 Conflicts of Interest.

## 4. Scope of Valuation Services for Financial Reporting

- 4.1 **Members** are required to refer to **sSection 4 Professional Engagement and other matters** of APES 225 when determining the scope of work to be performed in respect of a **Valuation Service for Financial Reporting**. Matters to be addressed in the scope of work include identifying the applicable **Australian Accounting Standards** and the specific purpose for which the **Valuation Service** is required.
- 4.2 A **Member in Public Practice** should refer to **sSection 3 Scope and extent of work for Valuation Services** and **sSection 4 Selecting the type of Valuation Service** of APES GN 20 when assisting the **Client** to determine the scope of the **Valuation Service** to be undertaken and whether it is appropriate for the circumstances.
- 4.3 Subject to the **Terms of Engagement** and depending on the **Valuation Service** being performed, a **Member in Public Practice** is required to refer to the mandatory professional and ethical requirements in **sSection 3 Fundamental responsibilities of Members** of APES 225 when planning the extent of work for a **Valuation Service for Financial Reporting**.
- 4.4 Subject to the **Terms of Engagement**, where a **Member in Public Practice** is providing a **Valuation Service for Financial Reporting** in respect of a **Valuation Engagement**, the matters the **Member** may consider include obtaining sufficient understanding of the:
- (a) subject matter of the **Valuation Service**, by reviewing relevant documentation which include agreements, contracts, letters of understanding, letters of intent and correspondence;
  - (b) applicable **Australian Accounting Standards**;
  - (c) characteristics, economic conditions, industry, underlying business operations and historical/forecast financial information related to the interest being valued; and
  - (d) regulatory issues that may impact the **Valuation Service**.

## 5. Reporting and Disclosures for Valuation Services for Financial Reporting

- 5.1 **Members** are required by **sSection 5 Reporting** of APES 225 to comply with the mandatory reporting and disclosures of a **Valuation Report** when providing a **Valuation Service**.
- 5.2 The content and disclosures of a **Valuation Report** should communicate sufficiently to a user (e.g. **Client**, auditor or regulator) the basis of the **Valuation (e.g. for example, subject matter, rationale and basis of assumptions or inputs in the Valuation Method)** and enable the user to assess the reasonableness of the **Conclusion of Value** or **Calculated Value**.
- 5.3 A **Member** providing a **Valuation Service for Financial Reporting** should consider disclosing the following:
- (a) Applicable **Australian Accounting Standards** pursuant to which the **Valuation Report** is prepared;
  - (b) Definition of value used and related explanations to clarify the definition of value (if applicable, a statement that the definition of value used may not be equivalent to other definitions of value as commonly used in other business **Valuation** situations); and
  - (c) Source or basis of key facts and/or assumptions made in arriving at the **Conclusion of Value** or **Calculated Value**.

## Business combinations

- 5.4 Subject to paragraph 5.1, a **Member** should consider disclosing the following matters, amongst other things, when providing a **Valuation Report** in respect of a business combination:
- (a) Identity of the acquiring entity;
  - (b) Effective **Measurement Date**;
  - (c) Nature and amount of the purchase consideration;
  - (d) Definition of key **Valuation** terms<sup>7</sup> used in performing the **Valuation Service**;
  - (e) **Valuation Methods** considered and reasons for selecting the particular **Valuation Method**; and
  - (f) Significant or key assumptions and the basis for such assumptions in the **Valuation** of the assets acquired and/or liabilities assumed. Such assumptions may include, but are not limited to:
    - (i) economic life;
    - (ii) revenue growth and business expenses;
    - (iii) customer retention and attrition;
    - (iv) technological change and migration;
    - (v) contract renewal;
    - (vi) tax amortisation benefits in respect of tangible and/or intangible assets;
    - (vii) market-participant and/or buyer-specific assumptions and related adjustments, analysis and/or impact on the **Valuation**;
    - (viii) contributory asset charges;
    - (ix) discount rates; and
    - (x) royalty rates.
- 5.5 Where a **Member** has valued the purchase consideration, the **Member** is required by paragraph 5.2 of APES 225 to disclose the basis of the **Valuation**, **Valuation Approaches** and **Valuation Methods** used.
- 5.6 Where a **Member** was involved in identification of the assets acquired and/or liabilities assumed, the **Member** should consider disclosing the basis for the identification.

## Impairment of goodwill and intangible assets

- 5.7 Subject to paragraph 5.1, a **Member** should consider disclosing the following matters, amongst other things, when providing a **Valuation Report** in respect of impairment of goodwill or intangible assets:
- (a) **Cash-Generating Units** and/or assets which are the subject of the **Valuation Report**;
  - (b) Impairment test date;
  - (c) Carrying value of the assets and/or reporting units;
  - (d) Definition of key **Valuation** terms<sup>8</sup> used in performing the **Valuation Service**;

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<sup>7</sup> **Members** are encouraged to use as far as practicable terms that are in general use for **Valuation Services**. **Members** are referred to the [International Glossary of Business Valuation Terms](#) which are included in the valuation standards of the [American Institute of Certified Public Accountants](#) and the [Canadian Institute of Chartered Business Valuators](#).

<sup>8</sup> **Members** are encouraged to use as far as practicable terms that are in general use for **Valuation Services**. **Members** are referred to the [International Glossary of Business Valuation Terms](#) which are included in the valuation standards of the [American Institute of Certified Public Accountants](#) and the [Canadian Institute of Chartered Business Valuators](#).

- (e) **Valuation Methods** considered and reasons for selecting the particular **Valuation Method**; and
- (f) Significant or key assumptions and the basis for such assumptions in the **Valuation** of the **Cash-Generating Units** and/or intangible assets. Such assumptions may include, but are not limited to:
  - (i) economic life;
  - (ii) revenue growth and business expenses;
  - (iii) customer retention or attrition;
  - (iv) technological change and migration;
  - (v) contract renewal;
  - (vi) cost of capital;
  - (vii) terminal value;
  - (viii) tax amortisation benefits in respect of tangible and/or intangible assets;
  - (ix) market-participant and/or buyer-specific assumptions and related adjustments, analysis and/or impact on the Valuation analysis;
  - (x) contributory asset charges;
  - (xi) an analysis of the aggregate value of the **Cash-Generating Unit(s)** and/or discount/premium to market capitalisation; and
  - (xii) the basis upon which assets are grouped for the purposes of performing an impairment test when determining the value or assessing the impairment.

### Share-based payment

- 5.8 Subject to paragraph 5.1, a **Member** should consider disclosing the following matters, amongst other things, when providing a **Valuation Report** in respect of share-based payments:
- (a) **Equity Instruments** which are the subject of the **Valuation Report** including the terms of issue, exercise prices (where applicable) and **Vesting Conditions**;
  - (b) **Valuation date** or **Measurement Date**, including reference to the **Grant Date** of the **Equity Instruments**;
  - (c) **Premise of Value** adopted for the **Valuation**;
  - (d) Terms of issue conditions included in the **Valuation** (e.g., **Market Conditions**) and excluded from the **Valuation** (e.g., non-market **Vesting Conditions** or **Reload Features**);
  - (e) **Valuation Method(s)**, model(s) and reasons for selecting the **Valuation Method** or model (e.g., Black-Scholes-Merton, Binomial or Monte Carlo); and
  - (f) Significant or key assumptions and the basis for such assumptions in the **Valuation** of the share-based payments. Such assumptions may include, but are not limited to:
    - (i) discounts applicable on post-vesting **Conditions** of the shares;
    - (ii) dividends expected on the **Equity Instrument**;
    - (iii) effective life of the option, having regard to both the contractual life of the option and the propensity for early exercise for non-European options, including allowance for the behaviour of different cohorts of **Equity Instrument** holders;
    - (iv) expected volatility of the share price;
    - (v) risk-free interest rate for the life of the **Equity Instrument**;
    - (vi) market price of the underlying **Equity Instrument**;

- (vii) other factors allowed for by knowledgeable, willing market participants; and
- (viii) dilution effects relating to the issue of the share-based payments.

## Financial instruments

5.9 Subject to paragraph 5.1, a **Member** should consider disclosing the following matters, amongst other things, when providing a **Valuation Report** in respect of financial instruments:

- (a) Instruments which are the subject of the **Valuation Report**, including value and relevant terms of issue;
- (b) **Valuation date** or **Measurement Date**;
- (c) **Premise of Value** adopted for the **Valuation Report** (e.g., fair value);
- (d) Fair value hierarchy (i.e., quoted price in an active market, or use of a **Valuation Method**);
- (e) Where a **Valuation Method** is used:
  - (i) the rationale and evidence for the **Member's** choice of the **Valuation Method** (e.g. for **example**, representative of current market practice);
  - (ii) the extent to which the **Member** has calibrated the **Valuation Method** by comparison to quoted market prices of other **Equity Instruments** using equivalent inputs to those used for the subject security; and
  - (iii) significant or key assumptions and the basis for such assumptions, including but not limited to:
    - discount rates;
    - credit risk;
    - foreign exchange rates;
    - commodity prices;
    - equity prices;
    - volatility;
    - prepayment or surrender risk; and
    - servicing costs.

## Superannuation entities

5.10 Subject to paragraph 5.1, a **Member** should consider disclosing the following matters, amongst other things, when providing a **Valuation Report** in respect of assets held in superannuation entities:

- (a) Ownership structure, co-investors and the rights of the owner that influence the value;
- (b) Effective **Measurement-Valuation Date**;
- (c) **Valuation Methods** considered and reasons for selecting the particular **Valuation Method**;
- (d) Significant or key assumptions and the basis for selecting such assumptions in the **Valuation** of the assets acquired and/or liabilities assumed;
- (e) The level of work undertaken by the **Member** with respect to the significant or key assumptions; and
- (f) If the **Member** has relied on data, tools or information provided by a manager of the asset, the work undertaken by the **Member** to ensure they are satisfied with the data, tools or information.



### ***Conformity with International Pronouncements***

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES GN 21.

## PART 3: TRANSACTION ADVISORY SERVICES RELATED PRONOUNCEMENTS

Pronouncement	Name of pronouncement
APES 345	<i>Reporting on Prospective Financial Information prepared in connection with a Public Document</i>
APES 350	<i>Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document</i>
APES GN 31	<i>Professional and Ethical Considerations relating to Low Doc Offering Sign-offs</i>

### 3.1 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) Revisions to reflect the restructured Code

In November 2018, APESB released the restructured Code to align it with the restructure to the International Code undertaken by the International Ethics Standards Board for Accountants (IESBA).

Refer to **Section 3.2** for the summary of revisions to the transaction advisory services related pronouncements in this Exposure Draft in relation to the restructured Code.

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

APESB has also taken the opportunity to address matters that have been noted on the Issues Register in respect of the transaction advisory services related pronouncements in this Exposure Draft. These matters include:

- Updating pronouncements to remove reference to the Auditing Standards (AUSs) now replaced by ASAs (APES 350);
- Defining the term 'writing' to enhance the technological neutrality of the standards (APES 350); and
- Addressing noted editorial amendments in APES 345.

#### (iii) Matters noted through review of pronouncement by APESB Technical Staff

In reviewing the transaction advisory services related pronouncements APESB Technical Staff noted the following matters to be addressed in this revision:

- Amending the template Materiality Letter in Appendix 2 of APES 350 to reflect the recently amended definition of materiality issued by the Australian Accounting Standards Board (AASB).

**Section 3.3** provides a summary of the proposed revisions in Exposure Draft 01/19 not addressed in Section 3.2.

### 3.2 Table of proposed revisions to reflect the restructured Code

The table below provides a summary of the proposed revisions to the pronouncements in this Exposure Draft to align the definitions and relevant cross-references to the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* issued in November 2018.

Revisions to reflect the restructured Code	Transaction advisory services related pronouncements		
	APES 345	APES 350	APES GN 31
<b>Amendments to Definitions as per the restructured Code</b>			
Acceptable Level	✓	✓	
Assurance Client		✓	
Assurance Engagement	✓	✓	
Audit Engagement		✓	
Code	✓	✓	
Independence	✓	✓	
Member in Public Practice	✓	✓	
Professional Activity	✓	✓	
<b>Update cross-references to restructured Code</b>			
Paragraph 3.1	✓	✓	
Paragraph 3.2	✓	✓	
Paragraph 3.3	✓	✓	✓
Paragraph 3.4		✓	
Paragraph 3.6	✓	✓	
Paragraph 3.8	✓		
Paragraph 3.12	✓	✓	
Paragraph 3.13		✓	
Paragraph 3.18		✓	
Paragraph 4.2	✓		
Paragraph 8.1		✓	
Paragraph 10.1	✓		
<b>Paragraph made consistent with restructured Code</b>			
Paragraph made consistent with restructured Code R1.4	1.7	1.7	
<b>Amendments to align with the enhanced conceptual framework approach to addressing threats</b>			
Paragraph 3.5		✓	
Paragraph 3.6		✓	
Paragraph 5.1	✓		
Paragraph 6.1	✓		

Revisions to reflect the restructured Code	Transaction advisory services related pronouncements		
	APES 345	APES 350	APES GN 31
<b>Amendments to align with the enhanced conceptual framework approach to addressing threats</b>			
Paragraph 6.2	✓		
Paragraph 6.3	✓		
Paragraph 9.2	✓		

### 3.3 Table of other proposed revisions to the general pronouncements

The table below provides a summary of the proposed revisions to the transaction advisory services related pronouncements in the Exposure Draft and the impact on the existing pronouncements. Note that this summary does not include the revisions noted in Section 3.2 relating to the restructured Code.

Summary of proposed amendments	Transaction advisory services related pronouncements		
	APES 345	APES 350	APES GN 31
Effective date (paragraph 1.2)	✓	✓	✓
Amend the objective paragraph to include the guidance on the roles a Member may undertake when participating or reporting to a Due Diligence Committee (paragraph 1.1)		✓	
Provide cross-reference to relevant guidance note (paragraph 1.6)		✓	
Addition of the definition of Terms of Engagement	✓		
Requirement to assess the work of a third party amended to be consistent with other standards (paragraph 3.10)	✓		
References to Terms of Engagements revised to be consistent across the suite of APESB pronouncements (paragraph 4.1)	✓		
Reference to NOCLAR requirements	8.7	5.4	
Materiality Letter template updated for revised definition of Materiality (Appendix 2)		✓	
Appendix 1 [not included]	✓		
Appendix 2 [not included]			✓
Appendix 4 [not included]		✓	
<b>Matters on the Issues Register</b>			
All AUSs have now been replaced by ASAs			
- Removal of AuASB definition (Section 2)		✓	
- Amendment to definition of Auditing and Assurance Standards (Section 2)		✓	
Clarification of term 'written form'			
- Addition of the definition of Writing (Section 2)	✓	✓	
- Editorial amendment (definition of Engagement Document)	✓	✓	
- Editorial amendment (paragraph 3.14)	✓		
- Editorial amendment (paragraph 3.19)		✓	
- Editorial amendment (paragraph 6.1)		✓	
- Editorial amendment (paragraph 7.1)	✓		
Editorial amendment to remove duplicated word (paragraph 8.5)	✓		
<b>Minor editorials</b>			
Paragraph 1.3		✓	✓
Paragraph 1.4			✓
Paragraph 1.5	✓	✓	

Summary of proposed amendments	Transaction advisory services related pronouncements		
	APES 345	APES 350	APES GN 31
<b>Minor editorials</b>			
Paragraph 1.6	✓	✓	
Paragraph 1.7		✓	
Paragraph 1.9		✓	
Paragraph 1.11		✓	
Section 2, Introduction	✓	✓	✓
Definition of Cleansing Notice			✓
Definition of DDC Observer		✓	
Definition of Due Diligence Committee		✓	
Definition of Due Diligence Sign-off		✓	
Definition of Engagement Team		✓	
Definition of Low Doc Offering			✓
Definition of Managerial Employee		✓	
Definition of Member		✓	
Definition of Network	✓	✓	
Definition of New Circumstances Statement		✓	
Definition of Other Specific Information		✓	
Definition of Placement			✓
Definition of Professional Standards		✓	
Definition of Rights Issue			✓
Paragraph 3.4	✓		
Paragraph 3.5	✓		
Paragraph 3.9		✓	
Paragraph 3.10		✓	
Paragraph 3.11	✓		
Paragraph 3.14		✓	
Paragraph 4.2		✓	
Paragraph 4.3	✓	✓	✓
Paragraph 4.4	✓		
Paragraph 4.5		✓	
Paragraph 5.1		✓	
Paragraph 5.2		✓	
<b>Minor editorials</b>			

Summary of proposed amendments	Transaction advisory services related pronouncements		
	APES 345	APES 350	APES GN 31
Paragraph 5.3		✓	
Paragraph 5.5		✓	
Paragraph 5.6		✓	
Paragraph 5.7		✓	✓
Paragraph 5.8			✓
Paragraph 5.9		✓	
Paragraph 5.10		✓	
Paragraph 5.11		✓	
Paragraph 5.12		✓	
Paragraph 5.13		✓	
Paragraph 5.14		✓	
Paragraph 5.15		✓	
Paragraph 5.16		✓	
Paragraph 5.17		✓	
Paragraph 5.18		✓	
Paragraph 5.19		✓	
Paragraph 5.20		✓	
Paragraph 5.21		✓	
Paragraph 7.1		✓	
Paragraph 7.2		✓	
Paragraph 7.3		✓	
Paragraph 7.4		✓	
Paragraph 7.5		✓	
Paragraph 7.6		✓	
Paragraph 7.9		✓	
Paragraph 7.11		✓	
Paragraph 7.12		✓	
Paragraph 10.2	✓		
Appendix 1		✓	
Appendix 3		✓	

### Appendix 3

## APESB Transaction advisory services related Pronouncements in ED 01/19

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

[Supersedes APES 345 Reporting on Prospective Financial Information prepared in connection with a Disclosure Document issued in November 2008 and APES 345 Reporting on Prospective Financial Information prepared in connection with a Public Document issued in October 2015]

~~Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited~~

REVISED: ~~October 2015~~ XXXXXX 2019

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*Conformity with International Pronouncements*

*Appendix 1: Summary of revisions to the previous APES 345 (Issued in ~~November~~  
~~2008~~October 2015)  
[Not included as the summary of revisions is set out in the Explanatory Memorandum  
for this exposure draft]*

## 1. Scope and application

- 1.1 The objectives of APES 345 *Reporting on Prospective Financial Information prepared in connection with a Public Document* are to specify a **Member in Public Practice's** professional and ethical obligations in respect of:
- fundamental responsibilities of the **Member** who performs a **Reporting Service Engagement**;
  - compliance with applicable **Independence** requirements;
  - consideration of relationships and the provision of other **Professional Services** that create threats to the **Member's** ability to comply with the fundamental principles;
  - reporting and documentation;
  - communication with **Those Charged with Governance**; and
  - the impact of any litigation between the **Client** or its related entities and the **Firm**.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 345 *Reporting on Prospective Financial Information prepared in connection with a Public Document (the Standard)*, which is effective for Engagements commencing on or after 01 January ~~2016~~2020 and supersedes APES 345 issued in ~~November 2008~~October 2015. Earlier adoption of this Standard is permitted.
- 1.3 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**, preceded or followed by discussion or explanations in normal type. APES 345 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 **Members in Public Practice in Australia shall follow the mandatory requirements of APES 345 when they undertake Reporting Service Engagements for Clients.**
- 1.5 **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~~and/or regulations.**
- 1.6 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.
- 1.67 **Members in Public Practice shall comply with other applicable Professional Standards and 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.**
- 1.78 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.89 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.910 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 this Standard and the **Code**.

~~1.105 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 otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

For the purpose of this Standard:

**Acceptable Level** means a level at which a **Member in Public Practice using the** reasonable and informed third party **test** would ~~be likely to conclude, weighing all the specific facts and circumstances available to the Member in Public Practice at that time, that the Member complies~~ with the fundamental principles ~~is not compromised~~.

**Assurance Engagement** means an **Engagement** in which a **Member in Public Practice** aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).

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

(For guidance on Assurance Engagements, see the *Framework for Assurance Engagements* issued by the AUASB. The *Framework for Assurance Engagements* describes the elements and objectives of an Assurance Engagement and identifies engagements to which *Australian Auditing Standards (ASAs)*, *Standards on Review Engagements (ASREs)* and *Standards on Assurance Engagements (ASAEs)* apply.)

**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 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* (including *Independence Standards*).

**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~~ Writing.

**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 **Partners** and staff performing the **Engagement**, and any individuals engaged by the **Firm** 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** ~~is~~ comprises:

- (a) Independence of mind – the state of mind that permits the expression of 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.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would 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 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. for example,~~ audit, tax or consulting) in a **Firm** that provides **Professional Services**. 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**.

**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 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 Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **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**.

**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 **Public Document**.

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

**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.

**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 in Public Practice

3.1 **A Members in Public Practice** undertaking **a Reporting Service Engagements** shall comply with ~~Section 100 Introduction and Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework~~ of the **Code** and relevant ~~legislation~~ **laws and regulations**.

3.2 **Members in Public Practice** shall comply with Section ~~22310 Conflicts of Interest and Section 280 Objectivity-All Services in of~~ the **Code**.

#### Public interest

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

## Professional Independence

- 3.4 When **a Member in Public Practice** is engaged to perform a **Reporting Service Engagement** which requires **Independence** or purports to be independent, ~~the~~ **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 ~~AUASB—Auditing and Assurance Standards Board~~.
- 3.6 Where a **Reporting Service Engagement** is an **Assurance Engagement**, the **Member in Public Practice** shall comply with ~~Part 4A Section 290 Independence for— Audit and Review Engagements or Part 4B Section 291 Independence for—Other Assurance Engagements other than Audit and Review 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 **Subsection 1130 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 ~~the~~ **that** third party, the engagement terms of the third party, and on completion 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 Bodies** and appropriate regulatory authorities.

## Confidentiality

- 3.12 ~~A Member in Public Practice who acquires confidential information in the course of performing a Reporting Service Engagement for a Client shall comply with Subsection 114 Confidentiality of the Code. 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~~**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 to a Client in an Engagement Document** 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 ~~213~~**20 Professional Appointments** 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**, ~~the~~**Terms of the Engagement** and the use to which the **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~~**where the threats are not at** ~~to~~ an Acceptable Level, the only possible actions are to eliminate the activities or interest creating the threat, **apply safeguards, where available and capable of being applied,** 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~~ whether such a threat created by the provision of such Professional Services is at an Acceptable Level. ~~If the threats are not at an Acceptable Level, the Member shall address the threats by eliminating them or reducing them to an Acceptable Level by:~~

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an Acceptable Level; or
- (c) Declining or ending the specific Professional Activity (for example, ~~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 in relation~~ 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 whether any threats to compliance with the fundamental principles in the Code are created.~~the significance of any threats identified~~. If the threats identified are not at an Acceptable Level~~other than insignificant~~, the Member shall eliminate or consider and apply safeguards as necessary to reduce the threats to an Acceptable Level by:**

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an Acceptable Level; or
- (c) Declining or ending the specific Professional Activity (for example, either the Reporting Service Engagement or the other Professional Services should not be carried out).

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 ~~w~~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 **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 **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 **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 ~~action~~ 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.
- ~~8.7 A **Member in Public Practice** who becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations when providing a **Reporting Service Engagement** shall comply with Section 360 *Responding to Non-Compliance with Laws and Regulations of the Code*.~~

## 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 Public Document;
- ~~Any safeguards adopted and the reasons why they are considered to be effective;~~
- ~~The overall assessment of threats to compliance with the fundamental principles and safeguards;~~
- ~~The approach adopted, if any, in ensuring threats are at an Acceptable Level;~~ 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 Professional Services by way of professional fees computed in accordance with Section **24330 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 which requires 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.

# APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document

[Supersedes APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document ~~issued in December 2009 and subsequently amended in March 2011 and revised in August 2015~~]

REVISED: August 2015 ~~XXXX~~ 2019

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## 1. Scope and application

- 1.1 The ~~primary~~ objectives of APES 350 *Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document* are to specify a **Member in Public Practice's** professional and ethical responsibilities when providing **Professional Services** to a **Client** which consist of participating in and/or reporting to a **Due Diligence Committee** as a **DDC Member**, **DDC Observer** or **Reporting Person** in connection with a **Public Document**, in respect of:
- fundamental responsibilities;
  - the requirements to take reasonable steps to ensure that the **Members'** responsibilities specified in the **Due Diligence Planning Memorandum** are consistent with those set out in the **Engagement Document**; and
  - the circumstances in which a **Due Diligence Sign-Off**, a **Materiality Letter** or a **New Circumstances Statement** can be issued, the matters to be included therein and to provide guidance on the form of the reports.

[A Member in Public Practice may provide Professional Services to a Client in connection with a Due Diligence Committee in the role of a:](#)

- [DDC Member;](#)
- [DDC Member and Reporting Person;](#)
- [DDC Observer;](#)
- [DDC Observer and Reporting Person;](#)
- [Reporting Person.](#)

[These roles are defined in Section 2 and discussed in paragraph 5.1.](#)

- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 350 *Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document (the Standard)*, which is effective for **Engagements** commencing on or after 1 ~~October 2015~~**January 2020** and supersedes APES 350 issued in ~~March 2014~~**August 2015**. Earlier adoption of this Standard is permitted.
- 1.3 APES 350 sets the standards for **Members in Public Practice** in the provision of quality and ethical **Professional Services** to a **Client** which comprise participating in and/or reporting to a **Due Diligence Committee**, as a **DDC Member**, **DDC Observer** or **Reporting Person** in connection with a **Public Document**. The mandatory requirements of this Standard are in **bold-type**, preceded or followed by discussion or explanations in normal type. APES 350 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 **Members in Public Practice** in Australia shall follow the mandatory requirements of APES 350 when they provide **Professional Services** to a **Client**, which comprise participating in and/or reporting to a **Due Diligence Committee** as a **DDC Member**, **DDC Observer** or **Reporting Person** in connection with a **Public Document** issued in Australia. Where the transaction to which the **Public Document** relates is to be undertaken in whole or in part in a jurisdiction other than Australia or where the laws and/or regulations of a jurisdiction other than Australia apply to the **Public Document**, **Members** shall follow this Standard, except to the extent that this would cause a **Member** to breach the laws and/or regulations of such other jurisdiction.
- 1.5 **Members in Public Practice** practising outside of Australia shall follow the mandatory requirements of ~~this Standard~~**APES 350** to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.

- 1.610 The Standard should be applied to the extent practicable where a Member in Public Practice provides Professional Services to a Client which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with an Engagement which is not in connection with a Public Document. For example, a Low Doc Offering may be one such circumstance and Members are referred to APES GN 31 Professional and Ethical Considerations relating to Low Doc Offering Sign-offs for guidance.
- 1.76 **Members in Public Practice shall comply with other applicable Professional Standards and 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 350, Members in Public Practice should be guided not merely by the words but also by the spirit of this Standard and the Code.
- ~~1.11 A Member in Public Practice may provide Professional Services to a Client in connection with a Due Diligence Committee in the role of a:~~
- ~~• DDC Member;~~
  - ~~• DDC Member and Reporting Person;~~
  - ~~• DDC Observer;~~
  - ~~• DDC Observer and Reporting Person;~~
  - ~~• Reporting Person.~~
- ~~These roles are defined in paragraph 2 and discussed in paragraph 5.1.~~
- 1.112 In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

For the purpose of this Standard:

**Acceptable Level** means a level at which a Member in Public Practice using the reasonable and informed third party test would ~~be likely to conclude that, weighing all the specific facts and circumstances available to the Member complies in Public Practice at that time, that compliance with the fundamental principles of the Code is not compromised.~~

**Assurance Client** means the responsible party that is the person (or persons) who:

- (a) In a direct reporting Engagement, is responsible for the subject matter; or
- (b) In an assertion-based Engagement, is responsible for the subject matter information and may-might be responsible for the subject matter.

**Assurance Engagement** means an **Engagement** in which a **Member in Public Practice** aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).

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

*(For guidance on Assurance Engagements, see the *Framework for Assurance Engagements* issued by the AUASB. The *Framework for Assurance Engagements* describes the elements and objectives of an Assurance Engagement and identifies engagements to which *Australian Auditing Standards (ASAs)*, *Standards on Review Engagements (ASREs)* and *Standards on Assurance Engagements (ASAEs)* apply.)*

**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 Client** means an entity in respect of which a **Firm** conducts an **Audit Engagement**. When the **Client** is a **Listed Entity**, Audit Client will always include its related entities. When the Audit Client is not a **Listed Entity**, Audit Client includes those related entities over which the **Client** has direct or indirect control.

**Audit Engagement** means a reasonable ~~a~~**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), in accordance with an applicable financial reporting framework, such as an **Engagement** conducted in accordance with **Auditing and Assurance Standards**. This includes a statutory audit, which is an audit required by legislation or other regulation—~~such as the *Corporations Act 2001*.~~

**Auditing and Assurance Standards** means:

~~(a) the AUASB Standards, as defined-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.~~

~~**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 and the~~

~~**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*.~~

**Australian Financial Services Licence** means a licence to provide financial services under Chapter 7 of the *Corporations Act 2001*.

**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* *(including Independence Standards)*.

**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.



**DDC Member** means a [Member in Public Practice](#) who is engaged by a [Client](#) to provide [Professional Services](#) as a member of a [Due Diligence Committee](#) and who will participate in the [Due Diligence Committee's](#) decisions, sign all the collective reports and other documents issued by the [Due Diligence Committee](#) and in most instances will prepare a [Due Diligence Sign-Off](#).

**DDC Observer** means a [Member in Public Practice](#) who is engaged by a [Client](#) to provide [Professional Services](#) as an observer to a [Due Diligence Committee](#) but who will not participate as a [DDC Member](#) and will not sign or be a party to any collective reports or documents issued by the [Due Diligence Committee](#). As an observer a [Member](#) will:

- attend one or more meetings of the [Due Diligence Committee](#) but not undertake any due diligence enquiries or have reporting obligations to the [Client](#) or to the [Due Diligence Committee](#); or
- attend one or more meetings of the [Due Diligence Committee](#) and undertake due diligence enquiries in relation to [Financial Information](#) and/or [Other Specific Information](#) and provide a report to the [Client](#) and/or the [Due Diligence Committee](#). In certain circumstances, depending on factors such as timing and the scope of the [Engagement](#), the [Member](#) may prepare a [Due Diligence Sign-Off](#) and a [New Circumstances Statement](#).

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

**Due Diligence Committee** means a committee established by [Those Charged with Governance](#) of a [Client](#) to co-ordinate and assist with the due diligence process to be undertaken by the [Client](#) in relation to a [Public Document](#).

**Due Diligence Planning Memorandum** means the document prepared on behalf of a [Client](#) and signed by members of its [Due Diligence Committee](#) which sets out the due diligence process and reporting responsibilities. This document also specifies the respective individual and collective responsibilities of the participants in the due diligence process, including those of the members of the [Due Diligence Committee](#).

**Due Diligence Sign-Off** means the letter or other appropriate written communication issued by a [DDC Member](#) or in certain cases a [DDC Observer](#) in connection with a [Public Document](#) when reporting to a [Client](#) and its [Due Diligence Committee](#) on the conclusions arising from the procedures conducted by a [DDC Member](#) or [DDC Observer](#) on [Financial Information](#) and/or [Other Specific Information](#). (A form of [Due Diligence Sign-Off](#) which complies with the requirements of this Standard is set out in Appendix 1).

**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 [Writing-a-written-form](#).

**Engagement Team** means all [Partners](#) and staff performing the [Engagement](#), and any individuals engaged by the [Firm](#) or a [Network Firm](#) who perform procedures on the [Engagement](#). This excludes [External Experts](#) engaged by the [Firm](#) or [by](#) 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 Information** means historical, pro forma or prospective financial information or some combination of these as specified in the [Engagement Document](#).

**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** ~~is~~ comprises:

- (a) Independence of mind – the state of mind that permits the expression of 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.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party, ~~would be likely to conclude, weighing all the specific facts and circumstances,~~ that a Firm's, or ~~an member of the Engagement Team's~~ member's, integrity, objectivity or professional scepticism has been compromised.

**Listed Entity** means an entity whose shares, stock or debt are quoted or listed on a recognised stock exchange, or are marketed under the regulations of a recognised stock exchange or other equivalent body.

Low Doc Offering means a security offering by a Listed Entity where the securities can be offered for sale or issue without a Public Document.<sup>9</sup> The capital raising may be a stand-alone transaction, in conjunction with an acquisition or for refinancing.

**Managerial Employee** means an employee who acts in a managerial capacity within the structure of ~~the a~~ Firm, including providing oversight, in the provision of services to Clients.

**Materiality Letter** means the letter or other appropriate written communication issued by a Member in Public Practice to a Client and its Due Diligence Committee that provides materiality guidance prepared with reference to applicable Auditing and Assurance Standards.

**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-for example,~~ audit, tax, or consulting) in a Firm that provides Professional Services. 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.

**New Circumstances Statement** means the letter or other document issued by a Member in Public Practice who is a DDC Observer, subsequent to the issue of a Due Diligence Sign-Off, which states whether, based on procedures conducted by the DDC Observer, anything has come to the DDC Observer's attention that causes the DDC Observer to believe that the Due Diligence Sign-Off requires amendment.

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<sup>9</sup> As per sections 708AA and 1012DAA of the Corporations Act 2001.

**Other Specific Information** means specifically identified information, other than **Financial Information**, in a **Public Document**, which has been the subject of procedures performed by a **Member in Public Practice** as specified in the **Engagement Document**. Examples include specific tax-related information, environmental matters, and information technology matters.

**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 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 Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **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**.

**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 Person** means a **Member in Public Practice** who is engaged by a **Client** to provide **Professional Services** and report to the **Client** and its **Due Diligence Committee** on a specific issue or area of enquiry, which has been identified by the **Client** or the **Due Diligence Committee**. A Reporting Person may also be a **DDC Member** or **DDC Observer**.

**Subject Matter Information** means the outcome of the evaluation or measurement of a subject matter. It is the subject matter information about which the **Member in Public Practice** gathers sufficient appropriate evidence to provide a reasonable basis for expressing a conclusion in the **Member's** report.

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

**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.

**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 in Public Practice

- 3.1 A **Member in Public Practice** providing **Professional Services** to a **Client** which comprise participating in and/or reporting to a **Due Diligence Committee** as a **DDC Member**, **DDC Observer** or **Reporting Person** in connection with a **Public Document** shall comply with

~~Section 100 Introduction and Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework~~ of the Code and relevant laws and regulations.

- 3.2 A Member in Public Practice ~~providing Professional Services to a Client which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with a Public Document~~ shall comply with Section 310~~220 Conflicts of Interest and Section 280 Objectivity – All Services~~ of the Code.

#### Public interest

- 3.3 In accordance with Section 100 ~~Complying with the Code~~~~Introduction and Fundamental Principles~~ of the Code, a Member in Public Practice shall observe and comply with the Member's public interest obligations when the Member provides Professional Services to a Client which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with a Public Document.

#### Professional appointments

- 3.4 A Member in Public Practice who is invited by a Client or potential Client to provide Professional Services which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with a Public Document shall comply with the requirements of Section ~~320~~~~210 Professional Appointments~~ of the Code.

3.5 A Member in Public Practice who is invited by a Client or potential Client to provide Professional Services which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with a Public Document shall determine whether there are threats to the Member's ability to comply with the fundamental principles of the Code prior to accepting the Engagement. Where the Member determines that there is a threat to the Member's ability to comply with the fundamental principles of the Code, the Member shall ~~apply appropriate safeguards to eliminate the threat or reduce it to an Acceptable Level. Where appropriate safeguards are not available to reduce the threat to an Acceptable Level, the Member shall decline the Engagement or the relevant part thereof.~~ address the threat by eliminating the threat or reducing it to an Acceptable Level by:

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an Acceptable Level; or
- (c) Declining or ending the specific Professional Activity.

3.6 A Member in Public Practice who is invited by an Assurance Client to provide Professional Services which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with a Public Document shall consider ~~Section 290~~~~Part 4A Independence –for Audit and Review Engagements or Section 291~~~~Part 4B Independence for –Other Assurance Engagements other than Audit or Review Engagements~~ of the Code, as applicable, to determine whether the proposed Professional Services create threats to the Member's Independence. Where the Member determines that there is a threat to the Member's Independence, the Member shall ~~apply appropriate safeguards to eliminate the threat or reduce it to an Acceptable Level. Where appropriate safeguards are not available to reduce the threat to an Acceptable Level, the Member shall decline the Engagement or the relevant part thereof.~~ address the threat by eliminating the threat or reducing it to an Acceptable Level. The Member shall do so by:

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an Acceptable Level; or
- (c) Declining or ending the specific Professional Activity.

3.7 A Member in Public Practice who is invited by an Audit Client to provide Professional Services which comprise participating in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person in connection with a Public Document shall comply with the applicable independence requirements of the *Corporations Act 2001*.

3.8 When considering the appropriateness of accepting a role as a DDC Member, DDC Observer or Reporting Person, a Member in Public Practice should consider matters such as:

- (a) the responsibilities of the role;
- (b) the circumstances and context of the role, including the proposed transaction to which the Public Document relates, the proposed timetable for the due diligence process, the availability of information and any limitations on the scope of the Professional Services to be provided. (This would usually be outlined in the Due Diligence Planning Memorandum);
- (c) relevant experience and expertise of the other members of the Due Diligence Committee and other participants in the due diligence process, as membership of the Due Diligence Committee will generally create a relationship of cross reliance;
- (d) whether providing the Professional Services would require the Member to hold an Australian Financial Services Licence; and
- (e) where the Member's Firm or a Network Firm is the statutory auditor of a Listed Entity or disclosing entity in Australia or a foreign jurisdiction, whether independence obligations, in addition to the requirements of the Code, preclude the Member from accepting a role as a DDC Member, DDC Observer or Reporting Person, or limit the scope of the role the Member may perform.

3.9 If a Member in Public Practice is not certain about the legal implications of performing the role of a DDC Member, DDC Observer or Reporting Person, the Member should consider seeking legal advice.

### Professional Independence

3.10 When a Member in Public Practice is engaged to provide a Professional Service to a Client which requires Independence, ~~a the Member in Public Practice~~ shall comply with Independence as defined in this Standard.

3.11 A Member in Public Practice shall consider whether an Engagement, or a specific element of an Engagement, is an Assurance Engagement under the *Framework for Assurance Engagements* issued by the AUASB.

3.12 ~~Where the~~When an Engagement or a specific element of an Engagement is an Assurance Engagement, the Member in Public Practice shall comply with ~~Section 290~~Part 4A Independence ~~for Audit and Review Engagements~~ or Section 291Part 4B Independence ~~Otherfor Assurance Engagements other than Audit or Review Engagements~~ of the Code, as applicable.

### Professional competence and due care

- 3.13 A **Member in Public Practice** performing **Professional Services** shall maintain professional competence and take due care in the performance of the **Member's** work in accordance with **Subsection 113430 Professional Competence and Due Care of the Code**.
- 3.14 Where a **Member in Public Practice** has agreed to provide a **Due Diligence Sign-Off** in respect of **Financial Information** and/or **Other Specific Information** that requires the consideration of matters that are outside the professional expertise of the **Member**, the **Member** shall seek expert assistance or advice from a suitably qualified third party or decline the **Engagement**. Where the **Member** relies upon the advice of a third party in connection with a **Due Diligence Sign-Off** or other reports, the **Member** shall disclose in the **Member's Due Diligence Sign-Off** or other reports the name and qualifications of the third party and the subject matter on which the third party advice has been obtained.
- 3.15 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.
- 3.16 A **Due Diligence Committee** will usually include or be assisted by advisers to the **Client**, including the **Client's** legal adviser. A **Member in Public Practice** who reports to a **Due Diligence Committee** is generally entitled to rely on the advice and opinions of those advisers. Accordingly, paragraphs 3.14 and 3.15 are not intended to require a **Member** to obtain separate advice on matters for which another adviser to or member of the **Due Diligence Committee** is responsible.
- 3.17 In performing a **Professional Service**, a **Member in Public Practice** should consider any guidance in respect of such services issued by the **Professional Bodies** and appropriate regulatory authorities.

## Confidentiality

- 3.18 ~~A Member in Public Practice who acquires confidential information in the course of performing a Professional Service for a Client shall comply with Subsection 114 Confidentiality of the Code. In accordance with Section 140 Confidentiality of the Code, a Member in Public Practice who acquires confidential information in the course of professional work for a Client shall not use that information for any purpose other than the proper performance of the professional work for that Client.~~
- 3.19 Where a **Member in Public Practice** provides **Professional Services** to a **Client** which comprise participating in and/or reporting to a **Due Diligence Committee**, the proper performance of the work will generally require the **Member** to disclose confidential information of the **Client** to the **Due Diligence Committee**, subject to any overriding restrictions on disclosure of information (including those commonly referred to as ethical wall arrangements). Unless the **Member** has a legal obligation of disclosure, the **Member** should not disclose any information relating to the **Client's** affairs to a party, other than to a **DDC Member**, **DDC Observer** or **Reporting Person**, without obtaining the **Client's** prior ~~written~~ permission in Writing.

## 4. Professional Engagement and other matters

- 4.1 A **Member in Public Practice** shall document and communicate the **Terms of Engagement** to a **Client** in accordance with APES 305 **Terms of Engagement** and this Standard.
- 4.2 The **Terms of Engagement** prepared by a **Member in Public Practice** should specify:
- (a) whether an investigating accountant's report or other report will be provided for inclusion in the **Public Document**, and if so, the **Financial Information** and/or **Other Specific Information** that will be the subject of the report and the nature and extent of assurance (if any) to be provided;

- (b) where the Member will have a role in relation to the Due Diligence Committee, the nature of the role including whether the Member will be a DDC Member, a DDC Observer or a Reporting Person;
- (c) the tasks to be undertaken by the Member in connection with the Public Document including the scope of work on the Financial Information and/or Other Specific Information upon which any Due Diligence Sign-off is to be provided; and
- (d) whether the Member will prepare a Due Diligence Sign-off and the proposed form of such sign-off.

**4.3 Where a Due Diligence Planning Memorandum assigns responsibilities to a Member in Public Practice that extend beyond those agreed in the Engagement Document, the Member shall:**

- (a) advise the Client, and if acceptable to both the Member and the Client, either amend and re-issue the Engagement Document or issue an addendum to the Engagement Document to reflect the additional responsibilities; or
- (b) where those additional responsibilities conflict with, or are prohibited by, this Standard, or are not acceptable to the Member:
  - advise the Client and its Due Diligence Committee of the Member's responsibilities outlined in the Engagement Document and/or this Standard; and
  - take all reasonable steps to have the Due Diligence Planning Memorandum amended so that it does not assign responsibilities to the Member that conflict with, or are prohibited by, this Standard or are beyond those agreed in the Engagement Document or addendum thereto.

**4.4 Where, after taking the steps outlined in paragraph 4.3, the Due Diligence Planning Memorandum still includes responsibilities that conflict with, or are prohibited by this Standard, the Member in Public Practice shall decline the Engagement to participate in, and/or report to, the Due Diligence Committee.**

**4.5 A Member in Public Practice should take all reasonable steps to ensure that the Public Document and other documents associated with the due diligence process (such as the Due Diligence Planning Memorandum) do not describe the role of the Member in a manner that may imply that the Member has:**

- (a) undertaken procedures with respect to;
- (b) accepted responsibility for;
- (c) approved the disclosure of; or
- (d) reported upon

matters or information in the Public Document or other associated documents beyond what was agreed in the Engagement Document.

**Materiality guidance**

**4.6 Where a Member in Public Practice agrees to provide materiality guidance, which a Client and its Due Diligence Committee will consider for application to the due diligence process in relation to a Public Document, the Member shall comply with applicable Auditing and Assurance Standards.**

**4.7 The materiality guidance provided by the Member in Public Practice should only set out the quantitative matters to be considered by the Client and the Due Diligence Committee and indicate that decisions as to quantitative and qualitative considerations concerning materiality in relation to**

a specific potential or proposed disclosure are the responsibility of the **Client** after consideration by its **Due Diligence Committee**.

- 4.8 **A Member in Public Practice who is engaged to provide materiality guidance to a Client and its Due Diligence Committee shall issue a Materiality Letter to the Client and the Due Diligence Committee.**

*A form of Materiality Letter is set out in Appendix 2.*

## 5 Roles and obligations of a Member in Public Practice in a due diligence process in connection with a Public Document

5.1 A **Member in Public Practice** may be asked to undertake a variety of roles in relation to a due diligence process in connection with a **Public Document** as:

- (a) a **DDC Member** which typically includes:
- i) attending meetings of the **Due Diligence Committee**;
  - ii) considering information presented to the **Due Diligence Committee**;
  - iii) participating in decisions of the **Due Diligence Committee**;
  - iv) reading and commenting on drafts of the **Public Document**;
  - v) performing procedures specified in an **Engagement Document** and preparing a **Due Diligence Sign-Off**; and
  - vi) signing the **Due Diligence Committee's** report, and its new circumstances sign-off to **Those Charged with Governance** of the **Client**.
- (b) a **DDC Observer** which may include some or all of:
- i) attending a few or all meetings of the **Due Diligence Committee**;
  - ii) performing procedures specified in an **Engagement Document** and preparing a **Due Diligence Sign-Off**; and
  - iii) preparing a **New Circumstances Statement**.
- (c) a **Reporting Person** reporting to the **Client** and its **Due Diligence Committee** on the results of procedures specified in an **Engagement Document**.

A **Member in Public Practice** may also be asked to undertake **Professional Services** for, and provide a report to, a **Client** on **Financial Information** and/or **Other Specific Information** relevant to a **Public Document**, without being a **DDC Member**, **DDC Observer** or **Reporting Person**.

Examples of such reports (which could alternatively be prepared as a **Reporting Person**) are:

- an assurance report applying relevant **Auditing and Assurance Standards** on specific **Financial Information** (usually known as an investigating accountant's report); and
- a tax report on the taxation implications for shareholders of a transaction contemplated in the **Public Document**;

either of which may or may not be prepared for inclusion in the **Public Document**.

- 5.2 **A Member in Public Practice who accepts an Engagement to provide a Due Diligence Sign-Off or other reports to a Due Diligence Committee, whether as a DDC Member, DDC Observer, or Reporting Person, shall specify in the Due Diligence Sign-Off or other reports**



the **Financial Information** and/or **Other Specific Information** in or relevant to the **Public Document** that the **Member** has performed procedures on, and the nature of those procedures.

5.3 Based on the work performed a **Member in Public Practice** may report in a **Due Diligence Sign-Off** that the **Member** is not aware of:

- (a) the specified **Financial Information** and/or **Other Specific Information** being misleading or deceptive (including by omission) in the form and context in which they appear in the **Public Document**; and
- (b) the due diligence enquiries set out in the **Due Diligence Planning Memorandum** adopted by the **Due Diligence Committee** as they relate to the **Financial Information** and/or **Other Specific Information** not constituting all enquiries which are reasonable in the circumstances so far as the **Financial Information** and/or **Other Specific Information** are concerned.

**5.4 A Member in Public Practice who becomes aware of instances of non-compliance with laws and regulations when providing Professional Services shall comply with Section 360 Responding to Non-Compliance with Laws and Regulations of the Code.**

**5.54 A Member in Public Practice who accepts an Engagement to report to a Due Diligence Committee, whether as a DDC Member, DDC Observer or a Reporting Person shall not report or advise on matters outside the Member's area of expertise.**

5.65 Paragraph 5.54 precludes a **Member in Public Practice** from providing an opinion on:

- (a) whether the **Financial Information** and/or **Other Specific Information** disclosed in a **Public Document** is sufficient and appropriate to satisfy the relevant disclosure requirements of the *Corporations Act 2001*, for example those set out in Division 4 of Part 6D.2. These are matters requiring the collective consideration of all of the members of the **Due Diligence Committee**, and are reported on in the **Due Diligence Committee's** report; or
- (b) whether the **Client** has complied with other legal obligations such as continuous disclosure obligations.

5.76 Paragraph 5.54 does not preclude a **Firm** from providing legal advice and reporting in relation to a **Public Document** if the **Firm** has **Partners** and **Managerial Employees** who are suitably qualified lawyers.

**5.87 A Member in Public Practice shall sign a report to Those Charged with Governance on:**

- (a) information in a **Public Document** of a general nature relating to financial, accounting, tax or any other matters; or
- (b) the content of the **Public Document** as a whole; or
- (c) the due diligence process in relation to (a) and (b),

**only as a DDC Member and where that report is a report of the Due Diligence Committee which is approved and signed concurrently by the other members of the Due Diligence Committee.**

5.98 The matters set out in paragraph 5.87 should be considered by the **Due Diligence Committee** using the collective knowledge and expertise of the committee as a whole. A **Member in Public Practice** will not have the requisite knowledge or expertise to make determinations in relation to, or report on, those matters independently of other **Due Diligence Committee** members. Paragraph 5.87 (a) does not preclude a **Member** acting as a **Reporting Person** from providing **Professional Services** in respect of the range of potential tax implications for shareholders/unit holders that may need to be described in the **Public Document**.

- 5.109** A Member in Public Practice providing Professional Services to a Client which comprise participation in and/or reporting to a Due Diligence Committee as a DDC Member, DDC Observer or Reporting Person shall bring to the attention of the Client and/or its Due Diligence Committee any significant concerns relating to the matters set out in paragraph 5.87 which come to the attention of the Member in performing the work set out in the Member's Terms of Engagement. However, a Member shall not report otherwise on the matters set out in paragraph 5.87 as to do so would contravene the requirements in that paragraph.
- 5.1140** A Member in Public Practice who accepts an Engagement to provide a Due Diligence Sign-Off in relation to Financial Information shall not prepare the Financial Information which is the subject of the Due Diligence Sign-Off or any extracts, summaries or analysis thereof provided elsewhere in the Public Document.
- ~~5.1244~~ Paragraph 5.1140 does not preclude a Member in Public Practice from reviewing or commenting on drafts of the Public Document for the purpose of alerting the Client and the Due Diligence Committee to matters that may affect the Member's ability to provide the Due Diligence Sign-Off, and, if the Member is a DDC Member, for the purposes of fulfilling the Member's duties as a DDC Member.
- 5.1342** Where a Member in Public Practice accepts an Engagement to assist a Client or its Due Diligence Committee in any verification process in relation to information in the Public Document (other than disclosures and information relating to taxation law), the Member shall agree the specific procedures to be undertaken with the Client to provide such assistance.
- ~~5.1443~~ A Member in Public Practice should only provide verification assistance in relation to information in the Public Document (other than disclosures and information relating to taxation law) by performing an agreed-upon procedures Engagement. A Member should not accept responsibility for the verification of information in a Public Document (other than disclosures and information relating to taxation law). Those Charged with Governance of the Client are responsible for the inclusion of the Financial Information and Other Specific Information in the Public Document and are best placed to know whether there is new or additional information that might affect its proper verification.
- 5.1544** Where a Member in Public Practice accepts an Engagement to verify or assist a Client or its Due Diligence Committee with the verification of disclosures and information relating to taxation law, the Member shall exercise professional judgement in determining the nature, timing and scope of the procedures taking into consideration the Terms of Engagement.
- 5.1645** Where a Member in Public Practice is a DDC Observer and has been requested to provide a Due Diligence Sign-Off, the Member shall consider the scope of any procedures the Member has agreed to perform in relation to the due diligence process in connection with the Public Document, and assess whether the scope of the procedures will enable the Member to provide a Due Diligence Sign-Off.
- ~~5.1746~~ The scope of the role and responsibilities of a Member in Public Practice as a DDC Observer should be specified in the Engagement Document. The role should also be described in the Due Diligence Planning Memorandum and should be consistent with that specified in the Engagement Document. As a DDC Observer, the Member is not a party to the Due Diligence Planning Memorandum or the Due Diligence Committee's report to the Client.

**5.1817** A **Member in Public Practice** who performs an **Assurance Engagement** in connection with a **Public Document** shall comply with **Auditing and Assurance Standards** in accordance with APES 210 *Conformity with Auditing and Assurance Standards*.

**5.1918** A **Member in Public Practice** who performs a valuation service in connection with a **Public Document** shall comply with APES 225 *Valuation Services*.

**5.2019** A **Member in Public Practice** who performs a taxation service in connection with a **Public Document** shall comply with APES 220 *Taxation Services*.

**5.2120** A **Member in Public Practice** who performs **Professional Services** in connection with a **Public Document** that includes prospective financial information shall comply with APES 345 *Reporting on Prospective Financial Information prepared in connection with a Public Document*.

## 6. Documentation

6.1 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 **wWriting**. The documentation prepared by the **Member** shall:

- (a) provide a sufficient and appropriate record of the procedures performed for the **Engagement**;
- (b) identify the source of significant information the **Member** has used in the conduct of the **Engagement**; and
- (c) demonstrate that the **Engagement** was carried out in accordance with this Standard and all other **Professional Standards** applicable to the **Engagement**, including policies and procedures established in accordance with APES 320 *Quality Control for Firms*, and any applicable ethical, legal and regulatory requirements.

## 7. Reporting

7.1 Before a **Member in Public Practice** provides a **Due Diligence Sign-Off** to a **Client** and its **Due Diligence Committee**, the **Member** shall:

- (a) assess whether the scope of procedures undertaken in relation to the **Financial Information** and/or **Other Specific Information** is sufficient and appropriate for that purpose;
- (b) consider the impact of any limitations on the scope of work; and
- (c) ascertain that all material matters in relation to the **Financial Information** and/or **Other Specific Information** which arose during the course of the **Member's** work have been addressed by the **Client** or its **Due Diligence Committee**.

7.2 Where the procedures undertaken in relation to the **Financial Information** and/or **Other Specific Information** only comprise a limited level of enquiry and/or the procedures were undertaken pursuant to another **Engagement** completed in the past, a **Member in Public Practice** shall not issue a **Due Diligence Sign-Off** containing the conclusions referred to in paragraph 7.3(k).

7.3 Where the requirements of paragraph 7.1 have been met and a **Member in Public Practice** provides a **Due Diligence Sign-Off**, it shall contain the following:

- (a) the name of the party or parties engaging the **Member**;

- (b) any other addressees of the **Due Diligence Sign-Off** (typically being the other members of the **Due Diligence Committee**);
- (c) the date on which the **Due Diligence Sign-Off** has been issued;
- (d) the purpose for which the **Due Diligence Sign-Off** has been prepared, including the **Public Document** and proposed transaction to which it relates;
- (e) whether the **Member** has prepared the **Due Diligence Sign-Off** in the capacity of a **DDC Member** or **DDC Observer**;
- (f) a statement that the **Professional Services** were conducted and the **Due Diligence Sign-Off** was prepared in accordance with this **Standard**;
- (g) the **Financial Information** and/or **Other Specific Information** disclosed in the **Public Document** in relation to which the **Member** has undertaken procedures to which the **Due Diligence Sign-Off** relates;
- (h) the scope of work performed in relation to the **Financial Information** and/or **Other Specific Information** to which the **Due Diligence Sign-Off** relates;
- (i) any limitations on the scope of work performed;
- (j) the basis on which the statements in the **Due Diligence Sign-Off** are made, including specific reference to:
  - (i) the scope of work performed;
  - (ii) the materiality guidelines adopted by the **Due Diligence Committee**; and
  - (iii) the extent, if any, of reliance by the **Member** on the work of others;
- (k) the conclusions of the **Member** in the form of negative statements as to whether having performed the scope of work, the **Member** has become aware of anything to cause the **Member** to believe that:
  - (i) the **Financial Information** and/or **Other Specific Information** [as presented in identified sections of the **Public Document**] is misleading or deceptive (including by omission) in the form and context in which it appears; and
  - (ii) the due diligence enquiries set out in the **Due Diligence Planning Memorandum** adopted by the **Due Diligence Committee** as they relate to the **Financial Information** and/or **Other Specific Information** do not constitute all inquiries which are reasonable in the circumstances so far as the **Financial Information** and/or **Other Specific Information** is concerned;
- (l) the significant assumptions upon which the conclusions of the **Member** are based;
- (m) all qualifications to the conclusions of the **Member**; and
- (n) any restrictions on the use and distribution of the **Due Diligence Sign-Off**.

*A form of **Due Diligence Sign-Off** which complies with the requirements of this **Standard** is set out in Appendix 1. **Members in Public Practice** should note that this form of **Due Diligence Sign-Off** may require amendment if the **Due Diligence Sign-Off** is prepared by a **Member** as a **DDC Observer**.*

**7.4** Where a **Member in Public Practice** is asked to provide a **Due Diligence Sign-Off** in respect of a **Public Document** which has not been finalised, the **Member** shall consider:

- (a) any amendments to the **Due Diligence Sign-Off** which may be required to reflect that the **Public Document** has not been finalised; and
- (b) the information which has not been finalised in the draft **Public Document**,

**to ensure that any sign-off provided at that time is appropriate.**

7.5 A substantially complete draft of a **Public Document** is often used as a confidential and restricted briefing document to seek the support of potential investors for the proposed transaction. In this situation, a **Member in Public Practice** may be requested to provide a **Due Diligence Sign-Off** in relation to the draft **Public Document** or to advise whether the **Member** would be able to provide a **Due Diligence Sign-Off** in relation to the draft **Public Document** if the **Member** was requested to do so at that time. In providing any such **Due Diligence Sign-Off** or providing any such advice, the **Member** should clearly state:

- (i) any assumptions or qualifications relevant to the provision of the **Due Diligence Sign-Off** or the advice;
- (ii) the specific draft or version number of the **Public Document** to which the **Due Diligence Sign-Off** or the advice relates; and
- (iii) that the **Due Diligence Sign-Off** or the advice is subject to change as a result of events which occur or information which comes to the **Member's** attention between the date of the provision of the **Due Diligence Sign-Off** or the advice in relation to the draft **Public Document** and the date of the provision of any subsequent or final **Due Diligence Sign-Offs** in relation to the **Public Document**.

7.6 Where a **Member in Public Practice** is requested to provide to a **Client** and/or its **Due Diligence Committee** written status reports or interim reports in respect of specific work discussed in the **Engagement Document** (for example, by way of a draft report, an oral presentation and/or by way of contributions to issues registers) or requested to provide on an interim basis detailed findings, the **Member** should include an appropriate disclaimer stating that such reports are provided for "information only" and are not suitable for reliance by the **Client**, the **Due Diligence Committee** or any other person.

7.7 Where a **Client** or its **Due Diligence Committee** requests a **Member in Public Practice** to make available to the **Due Diligence Committee** a previous report provided by the **Member** to the **Client**, or a report on work that is being undertaken by the **Member** for the **Client** for a purpose other than the transaction to which a **Public Document** relates (for example, a report on internal controls of the **Client**, or on acquisition due diligence procedures undertaken in relation to a business to be acquired by the **Client**), the **Member** should consider whether or not and on what basis such report(s) may be made available to the **Due Diligence Committee**, having regard to relevant factors, including:

- (a) whether the information in the report (or on which it is based) remains current;
- (b) whether the **Member's** approach to materiality in preparing the report was consistent with the materiality guidelines adopted by the **Due Diligence Committee**;
- (c) the relevance of the report to the due diligence enquiries being undertaken by the **Due Diligence Committee**;
- (d) the level of testing done on source information relied on by the **Member** in preparing the report; and
- (e) whether **Client** consent has been obtained.

7.8 **Where a **Member in Public Practice** is requested to provide consent to being named in a **Public Document**, or to the inclusion of the **Member's** report in the **Public Document**, the **Member** shall, prior to providing the consent, obtain the final draft of the **Public Document** to ensure that the form and context in which the **Member's** name and/or report appears is appropriate.**

- 7.9 If requested, a **Member in Public Practice** shall only provide a **New Circumstances Statement** where the **Member** is a **DDC Observer** and has already provided a **Due Diligence Sign-Off** in relation to the **Public Document**.
- 7.10 A **Member in Public Practice** who is a **DDC Member** shall not provide a **New Circumstances Statement**.
- 7.11 A **Member in Public Practice** who is a **DDC Member** does not issue a **New Circumstances Statement** as the **Member** has the ability to sign the **Due Diligence Committee's** new circumstances sign-off to **Those Charged with Governance** of the **Client** where the sign-off is approved and signed concurrently by the other members of the **Due Diligence Committee**.
- 7.12 A **Member in Public Practice** shall ensure that a **New Circumstances Statement** does not:
- (a) result in any extension of the scope or subject matter of the **Due Diligence Sign-Off** and only relates to the **Financial Information** and/or the **Other Specific Information** specified in the **Due Diligence Sign-Off**; or
  - (b) contravene the requirements of paragraph 5.78.

*A form of **New Circumstances Statement** which complies with the requirements of this Standard is set out in Appendix 3.*

- 7.13 In accordance with the terms of a **Due Diligence Planning Memorandum** and/or relevant legislation, a **Member in Public Practice** shall bring to the attention of a **Client** and/or its **Due Diligence Committee** any material new circumstances relevant to a **Public Document** of which the **Member** becomes aware subsequent to the issue of the **Public Document**.
- 7.14 The period to which any obligation referred to in paragraph 7.13 applies will usually be set out in the **Due Diligence Planning Memorandum** or relevant legislation.

## 8. Professional fees

- 8.1 A **Member in Public Practice** who performs **Professional Services** comprising participating in and/or reporting to a **Due Diligence Committee** as a **DDC Member**, **DDC Observer** or **Reporting Person** in connection with a **Public Document**, shall be remunerated for such services by way of professional fees computed in accordance with Section ~~330240~~ **Fees and Other Types of Remuneration** of the **Code**.
- 8.2 A **Member in Public Practice** shall not enter into a **Contingent Fee** arrangement or receive a **Contingent Fee** for a **Professional Service** which requires **Independence** or which purports to be independent.

### **Conformity with International Pronouncements**

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 350.

## APPENDIX 1

### Due Diligence Sign-Off

[insert date]

The Due Diligence Committee,  
each of its members and their representatives

Board of Directors  
[insert name of the Client]  
[insert address]

Dear Sirs,

**[insert subject]**

This Due Diligence Sign-Off is provided to you in relation to the [describe Public Document] to be issued by [insert Client] on [insert date] in connection with [insert details of proposed transaction] (Offer/Transaction), and the work undertaken by us as a [DDC Member/DDC Observer] pursuant to our Engagement Document with [Client] dated [insert date] (the Engagement Document).

Our services have been conducted and this Due Diligence Sign-Off has been prepared in accordance with APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document.

#### 1. Introduction

We refer to the following financial information relating to the Client that is disclosed in the [describe Public Document]:

- (a) [specify relevant historical financial information on which the Member has performed a review] for [insert period] as disclosed in Section [insert];
- (b) [specify relevant pro forma historical information on which the Member has performed a review] for [insert period] as disclosed in Section [insert];
- (c) [specify relevant forecast financial information, if any on which the Member has performed a review] for [insert period] as disclosed in Section [insert],

(collectively **Financial Information**). [Note: –the definition of Financial Information should, where appropriate, be consistent with that used in any investigating accountant’s report being provided by the Member in Public Practice]

[The [other] information that is disclosed in the [describe Public Document], and to which this Due Diligence Sign-Off relates comprises the following:

- (d) [specify information which has been the subject of procedures specified in the Engagement Document] disclosed in section [insert section number/name] of the [describe Public Document];
- (e) [insert as required]

(collectively **Other Specific Information**).]

## 2. Scope of Work

As agreed with [*Client*] in the *Engagement Document*, in connection with the [*describe Public Document*] we have:

- (a) [participated as a member of and been a *Reporting Person* to] [attended as an observer meetings of] the *Due Diligence Committee (DDC)* that has been established by the [*Client*] for the purposes of coordinating due diligence investigations as set out in the *Due Diligence Planning Memorandum (DDPM)* in connection with the [*describe Public Document*];
- (b) prepared materiality guidance in a letter dated [*insert date*] for consideration by the [*Client*] and the DDC;
- (c) conducted a review, in accordance with [ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* or ASAE 3450 *Assurance Engagements involving Corporate Fundraisings and/or Prospective Financial Information* or other standards as appropriate], of the *Financial Information* furnished to us by the [*Client*];
- (d) [assisted the *Client* in its verification of certain statements in the [*describe Public Document*] by performing the procedures set out in [*insert – eg “Appendix 2” or “the Engagement Document”*] as agreed by the *Client (Agreed-Upon Procedures)* in accordance with ASRS 4400 *Agreed-Upon Procedures Engagements to Report Factual Findings*];
- (e) [prepared an investigating accountant's report (if applicable) on the *Financial Information* for inclusion in the [*describe Public Document*]];
- (f) [prepared a letter on the tax implications of the proposed Offer/Transaction for Australian tax residents (if applicable) for inclusion in the [*describe Public Document*]]; and
- (g) [*insert scope of work in relation to Other Specific Information being information which was not subject to the procedures in (d) above.*]

[*Note: this is an example scope only, and should be tailored to reflect the agreed scope of the ~~p~~Professional sServices*]

### Scope limitations

[*insert scope limitations as relevant. For example, any limitations in access to financial records, key management personnel or information relating to a particular issue or particular accounting standard. See example limitation below for Agreed-Upon Procedures work. Particular scope limitations may need to be inserted in relation to paragraph (c) in order to comply with Auditing and Assurance Standards applying applicable to review engagements*]

The work referred to in paragraph (d) above was undertaken in accordance with Australian Auditing Standards applicable to Agreed-Upon Procedures *Engagements*. The responsibility for determining the adequacy or otherwise of the Agreed-Upon Procedures is that of the directors of the *Client*. That work did not constitute an audit or review in accordance with Australian Auditing Standards and consequently no assurance or audit opinion or review statement is expressed. Had we performed additional procedures or had we performed an audit in accordance with Australian Auditing Standards or a review in accordance with Australian Auditing Standards applicable to review engagements, other matters might have come to our attention that would have been reported to you.

## 3. Findings – Agreed-Upon Procedures

[*insert factual findings arising from Agreed-Upon Procedures, including any exceptions noted*]



#### 4. Basis for Review Statement

The statement in section 5 (**Review Statement**) is made on the basis of:

- (a) the procedures and other activities performed by us as described in section 2(c);
- (b) the materiality criteria adopted by the **Client** and the DDC; and
- (c) the assumptions and qualifications set out in this letter.

In making the Review Statement we only hold ourselves out as having expertise as [designation of applicable professional body]. We disclaim any skills or expertise in any other capacity.

#### 5. Review Statement

Based on our review of the **Financial Information**, which is not an audit engagement in accordance with Australian **Auditing and Assurance Standards**, and applying the materiality criteria adopted by the DDC, nothing has come to our attention that causes us to believe that:

- (a) the **Financial Information** is misleading or deceptive (including by omission) in the form and context in which it appears; or
- (b) the due diligence enquiries set out in the DDPM adopted by the DDC as they relate to the **Financial Information** do not constitute all enquiries which are reasonable in the circumstances so far as the **Financial Information** is concerned.

All matters in relation to the **Financial Information** which arose during the course of our work have been addressed by management of the [**Client**] or the DDC and, accordingly, there are no outstanding issues in relation to the **Financial Information** identified as part of our work which require the attention of the [**Client**] and the DDC.

#### 6. Other Specific Information

[Insert appropriate statements and the basis for those statements, in relation to the **Other Specific Information** referred to in 2(g), if applicable.]

#### 7. Assumptions

In making the Review Statement in this **Due Diligence Sign-Off**, we have assumed that:

- (a) the representations made and the information (including responses to questions and questionnaires) provided by directors, officers, personnel and agents of the **Client**, other members of the DDC, and other persons reporting to the DDC, have been complete, true and accurate in all respects and were not misleading or deceptive;
- (b) all persons who were interviewed, questioned or sent questionnaires were competent to answer all questions put to them, made complete and accurate disclosures in all matters and that there were no other persons who should have been interviewed, questioned or sent questionnaires in relation to the matters the subject of those questions;
- (c) there were no relevant documents or information other than those which were disclosed, or provided by or on behalf of the **Client** to us which are relevant to the **Financial Information**;
- (d) the report of [*insert name of third party expert*] dated [*insert date*] concerning [*insert*] [*note: qualifications of third party expert to be described*] is accurate and complete;

- (e) all corporate records and other documents examined by us are genuine, complete, up-to-date and accurate and, without limitation, any minutes of the meetings of the **Client** examined by us correctly record the business of, and resolutions passed at, any such meeting and no relevant corporate records have been withheld from us (whether deliberately or inadvertently);
- (f) all factual matters stated in any document provided to us are true and accurate; and
- (g) the [*describe Public Document*] [*insert date and final document version number*] will be lodged with the Australian Securities and Investment Commission.

Nothing has come to our attention that causes us to believe that these assumptions are not reasonable. We have not taken any steps to validate these assumptions other than as may be specified in our scope of work in section 2.

## 8. Qualifications

Our Statements in this **Due Diligence Sign-Off** are subject to the following qualifications:

- (a) we have no responsibility to update this **Due Diligence Sign-Off** for events and circumstances occurring after the date of this **Due Diligence Sign-Off**, other than as required under the terms of the **Engagement Document**;
- (b) insofar as consideration of Australian accounting standards and other mandatory professional reporting requirements [and Australian tax laws] impact or formed part of our scope of work, in making the Statement in section 5 we have had regard to such Australian requirements as are in place as at 9am on the date of this letter;
- (c) we make no statement, and express no opinion, on any matter such as legal matters requiring skills or expertise other than of an [accounting] [and/or] [Australian taxation] nature;
- (d) the Statement in section 5 of this **Due Diligence Sign-Off** relates only to the **Financial Information** and does not relate to any additional statements in or concerning the [*describe Public Document*] that may be made by any person or any other conduct that any person may engage in concerning the [*describe Public Document*];
- (e) the Statement in section 5 of this **Due Diligence Sign-Off** is limited to the knowledge of those partners, directors and employees of [*insert Firm*] who have provided the services [to **Client**] referred to in this letter, and we have made no enquiries of any [other] partner, director or employee of [*insert Firm*], or any of its related entities, who may have knowledge of matters relevant to the [*describe Public Document*] [through the provision of services to other **Clients** of [*insert Firm*], or whose knowledge may not be applied because of any ethical walls arrangements implemented in relation to our engagement by [**Client**] on this matter; and
- (f) [We have relied on the accuracy and completeness of the report of [*insert name of third party expert*] dated [*insert date*] concerning [*insert*]. [*note: qualifications of third party expert to be described*].

## 9. Recipients of this Due Diligence Sign-Off

This **Due Diligence Sign-Off** is given solely for the benefit of:

- (a) the **Client** and its representatives on the DDC;
- (b) the directors of the **Client**; and
- (c) each other member of the DDC and their representatives in their respective capacities as such, (together referred to as the **Recipients**).

This [Due Diligence Sign-Off](#) is not intended for general circulation or publication and may not, without our prior written consent in each specific instance:

- (a) be disclosed except to persons who, in the ordinary course of a Recipient's business have access to their papers and records and on the basis that such person will make no further disclosure of it and are not entitled to rely on it for any purpose;
- (b) be filed with a government or other agency, or be quoted or referred to in any public document or domain; or
- (c) be reproduced or used for any other purpose,

except as required by law, regulation or the rules of any Stock Exchange or government body or in connection with any enquiry conducted by a regulatory body or in the enforcement of the rights of, or in defence of any actual or potential claim against, a Recipient.

We do not accept any responsibility for any losses whatsoever occasioned by any Recipient or by any other party as a result of the circulation, reproduction or use of this [Due Diligence Sign-Off](#) contrary to the above paragraph.

Yours faithfully

[Member or Firm](#)

## APPENDIX 2

### Materiality Letter

The [Due Diligence Committee](#), each of its members and their representatives

Board of Directors  
[Insert name of issuer]  
[Insert address of issuer]

[Date]

Dear [ ]

Materiality guidance in relation to due diligence process of [Issuer]'s [Public Document](#)

We refer to our [Engagement](#) letter with [ ] dated [ ].

The purpose of this letter is to set out guidance with respect to the quantitative materiality thresholds for consideration by [Client and/or Issuer] and the [Due Diligence Committee](#) (“DDC”) for the [**Prospectus /Product Disclosure Statement/Bidder Statement/Target Statement/Explanatory Memorandum /Cleansing Notice or other Public Document**] proposed to be issued in connection with [*describe proposed transaction*] (the “**Public Document**”) by [Issuer].

Decisions on materiality in relation to specific, potential or proposed disclosures are the responsibility of [Client] after consideration by the DDC. This letter contains specific guidance in relation to the quantitative factors of materiality. However, it does not contain any specific guidance in relation to the qualitative factors of materiality which by definition will be unique to the matter being considered.

#### *Relevance of materiality guidelines*

The guidance contained within this letter is based on requirements and guidance available in Australian Accounting Standards, [AUASB Standards](#) and [AUASB Guidance Statements](#), and may not necessarily be directly applicable to all circumstances which may arise in relation to the [Public Document](#).

Also, in the event of an alleged deficiency in the [Public Document](#) due to an alleged misleading or deceptive statement or omission or otherwise, the relevance or application of the concept of materiality may depend on the law that is alleged to have been breached, the available defences and the nature of the legal proceedings (i.e., criminal or civil). We recommend [Client and/or Issuer] seek legal advice on the extent to which materiality may or may not be relevant to the [Public Document](#) due diligence process in this instance.

Requirements and Application and Other Explanatory Material (“guidance”) on applying the concept of materiality in the planning and performing of an audit of historical financial information is contained in The *Framework for the Preparation and Presentation of Financial Statements* (as identified in AASB 1048 *Interpretation of Standards* issued by the Australian Accounting Standards Board) (“the Framework”), Accounting Standard AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors* as amended (“AASB 108”) and Auditing Standard ASA 320 *Materiality in Planning and Performing an Audit* (“ASA 320”).

The Framework states that:

~~“Information is material if omitting it its omission or misstating it misstatement could influence the economic decisions that of users make taken on the basis of the financial information about a specific reporting entity statements. In other words, Materiality is an entity-specific aspect of relevance based on the nature or magnitude, or both, of the items to which the information relates in the context of an individual entity’s financial report. depends on the size of the item or error judged in the particular circumstances of its omission or misstatement. Consequently, it is not possible to specify a uniform quantitative threshold for Thus, materiality or predetermine what could be material in a particular situation. provides a threshold or cut-off point rather than being a primary qualitative characteristic which information must have if it is to be useful.”~~

Similarly AASB 108 states that:

~~“Information is material if omitting, Omissions or misstatements or obscuring it of items are material if they could reasonably be expected to, individually or collectively, influence the economic decisions that the primary users of general purpose financial statements make on the basis of the financial statements, which provide financial information about a specific reporting entity.”-Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor.”~~

In relation to applying materiality to pro forma adjustments to historical ~~f~~Financial ~~i~~nformation, the following pronouncements have been considered:

- ASAE 3000 Assurance Engagements Other than Audits or Reviews of Historical Financial Information;
- ASAE 3420 Assurance Engagements to Report on the Compilation of Pro Forma Historical Financial Information included in a Prospectus or other Document<sup>10</sup>;
- ASAE 3450 Assurance Engagements involving Corporate Fundraisings and/or Prospective Financial Information<sup>11</sup>; and
- Section 728 of the Corporations Act 2001 (“the Act”) which determines that an offence has occurred if a misleading or deceptive statement, omission or new circumstance is materially adverse from the point of view of an investor<sup>12</sup>,

with the provisions of the Act overriding the requirements of applicable AUASB Standards and AUASB Guidance Statements should they conflict or yield a different result<sup>13</sup>.

The requirements and guidance contained in ASA 320 applies to historical ~~f~~Financial ~~i~~nformation. A Due Diligence Committee dealing with prospective ~~f~~Financial ~~i~~nformation may refer to ASA 320 for guidance when establishing materiality thresholds.

<sup>10</sup> [ASAE 3420](#) became effective on 1 July 2013.

<sup>11</sup> [ASAE 3450](#) became effective on 1 July 2013, replacing AGS 1062 Reporting in Connection with Proposed Fundraisings and [AUS 804 The Audit of Prospective Financial Information](#).

<sup>12</sup> There is no definition of “materiality” or “materially adverse” in the [Corporations Act 2001 \(Cwth\)](#). Given the absence of a legislative definition of materiality, it is generally accepted practice in Australia to consider the accounting definition of materiality in Accounting Standard [AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors](#).

<sup>13</sup> [If the [Public Document](#) is a Cleansing Notice, it may be desirable to include the following wording since S728 applies only to [Disclosure Documents](#).]

[[Section \[708AA/1012DAA\] of the Act](#) refers to the notion of “material” under subsection 11, which states that the Cleansing Notice to be lodged with the [Australian Securities Exchange](#) is defective if the Cleansing Notice is false or misleading in a material particular; or if the notice has omitted from it a matter or thing, the omission of which renders the notice misleading in a material respect. Given the similarities in references to the concept of materiality being applied to a misleading statement/particular or omission in both sections [\[708AA/1012DAA\]](#) and [728, ASAE 3450](#) is considered a useful source of guidance with regard to materiality where an offer is made under section [\[708AA/1012DAA\]](#).]

There is a relationship between materiality and risk. That is, the higher the risk of a statement being misleading or deceptive, or of an omission, the lower the materiality level. The DDC should take this relationship into account when determining the nature, timing and extent of due diligence procedures. The DDC should make a preliminary assessment of materiality to establish an appropriate quantitative materiality level to plan due diligence procedures.

#### *Quantitative factors*

Quantitative thresholds used as guidance for determining the materiality of the amount of an item or an aggregate of items are, of necessity, drawn at arbitrary levels. When establishing a preliminary quantitative materiality level, consideration needs to be given to:

- the reliability of management information;
- any factors which may indicate deviations from normal activities; and
- qualitative factors.

A percentage is ordinarily applied to a chosen benchmark as a starting point in determining materiality. When identifying an appropriate benchmark, regard is normally given to factors such as the elements of the **Financial Information**, items users are likely to focus on, the nature of the entity, its life cycle, industry and economic environment, the size of the entity, ownership and financing and the relative volatility of the benchmark. For uncorrected misstatements that are below the materiality level, an assessment is required of whether the cumulative result of these misstatements could have a material effect.

ASA 320 does not contain requirements that specify how to determine quantitative materiality thresholds, as their determination is a matter of professional judgement. The Framework adopts a similar approach to ASA 320 and explains the role of materiality in making judgements in the preparation and presentation of financial statements.

In determining materiality both qualitative and quantitative factors need to be considered together and in particular circumstances, either the nature or the amount of an item or aggregate of items could be the determining factor.

The following guidance may be considered when determining materiality in relation to financial statements:

- an amount which is equal to or greater than 10% of the appropriate base amount may be presumed to be material unless there is evidence, or convincing argument, to the contrary; and
- an amount which is equal to or less than 5% of the appropriate base amount may be presumed not to be material unless there is evidence, or convincing argument, to the contrary.

As the above represents an aggregate materiality threshold the due diligence process should seek to identify individual matters or items that could have a material effect in aggregate. To facilitate this, the DDC should consider adopting an appropriate threshold for individual items to be identified and collected to assess whether in aggregate they may be material. General practice is to identify and collect individual items in a range of X% to Y% of the aggregate materiality threshold.

This quantitative methodology is in addition to, but not a substitute for, any qualitative assessment. When considering financial statements as a whole materiality is typically considered as a percentage of an appropriate base amount depending on the particular circumstances of the business and the potential users of its financial statements. This may be:

- (a) the amount of an item or an aggregate of items relating to the statement of financial position compared with the more appropriate of:
  - (i) recorded amount of equity; and
  - (ii) the appropriate asset or liability class total; or
- (b) the amount of an item or an aggregate of items relating to the statement of comprehensive income compared with the more appropriate of the:
  - (i) profit or loss and the appropriate income or expense amount for the current reporting period; and
  - (ii) average profit or loss and the average of the appropriate income or expense amounts for a number of reporting periods (including the current reporting period); or
- (c) the amount of an item or an aggregate of items relating to the statement of cash flows compared with the more appropriate of the:
  - (i) net cash provided by or used in the operating, investing, financing or other activities as appropriate, for the current reporting period; and
  - (ii) average net cash provided by or used in the operating, investing, financing or other activities as appropriate, for a number of reporting periods (including the current reporting period).

Clearly trends in key operating performance measures are as important as the absolute numbers.

Materiality is a matter of professional judgement influenced by the characteristics of the entity and the perceptions as to who are, or are likely to be, the users of the financial report and their information needs. Materiality judgements can only be properly made by those who have the facts. It is within this context that the quantitative threshold guidelines noted above should be used.

*Recommendations on quantitative materiality thresholds*

Our recommendations on quantitative materiality thresholds to be adopted by the [Due Diligence Committee](#) are as follows:

*Financial performance and cash flows*

The process of due diligence should seek to identify, in respect of the financial performance and operating cash flows, misstatements in excess of \$[ ] on the *[net profit/profit before tax/EBITDA]* of *[Issuer]*. This level represents approximately [ ]% of the *[average] [net profit/profit before tax/EBITDA]* of *[Issuer]* for the year[s] *[ended/ending] [insert date]-20XX*.

To ensure due consideration is given to individual items affecting the income statement and cash flow statement, which may aggregate to \$[ ], all individual items greater than \$[ ] should be identified for consideration.

*Balance Sheet*

The process of due diligence in respect of the balance sheet should seek to identify a misstatement of *[Issuer]'s* balance sheet or net assets of more than \$[ ]. This level represents approximately X% of [the appropriate base] as at *[insert date]-20XX*.

To ensure due consideration is given to individual items affecting the balance sheet, which may aggregate to \$[ ], all individual items greater than \$[ ] should be identified for consideration. These are items which are expected to affect the balance sheet only.

The quantitative materiality recommendations in this letter are provided as a guide only as recommendations covering every possible scenario, event or matter cannot be made. The overriding consideration in relation to each matter should be whether:

- the omission of the matter from the [Public Document](#); or
- a misleading disclosure in relation to the matter,

would be likely to be considered to render the [Public Document](#) deficient in light of the legal disclosure requirements relevant to the [Public Document](#).

Yours faithfully

[Member](#) or [Firm](#)



## APPENDIX 3

### New Circumstances Statement

*[insert date]*

The **Due Diligence Committee**,  
each of its members and their representatives

Board of Directors  
*[insert name of the Client]*  
*[insert address]*

Dear Sirs,

***[insert subject]***

This **New Circumstances Statement** is provided to you in relation to the *[describe Public Document]* issued by *[insert Client]* on *[insert date]* in connection with *[insert details of proposed transaction]* (**Offer/Transaction**), and pursuant to our **Engagement Document** with *[Client]* dated *[insert date]* (the **Engagement Document**).

The procedures set out below have been conducted and this **New Circumstances Statement** has been prepared in accordance with APES 350 *Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document*.

This **New Circumstances Statement** should be read together with, and in the context of, our **Due Diligence Sign-Off** dated *[insert date]* (the **Due Diligence Sign-Off**).

#### 1. Scope of Work

In connection with the *[describe Public Document]* we have performed the following procedures subsequent to the issue of our **Due Diligence Sign-Off**:

*[set out procedures undertaken]*

#### 2. Basis for Statement

The statement in section 3 is made on the basis of:

- (a) the procedures performed by us as described in section 1;
- (b) the materiality criteria adopted by the **Client** and the **Due Diligence Committee** (DDC); and
- (c) the assumptions and qualifications set out in our **Due Diligence Sign-Off** which are equally applicable to and incorporated by reference in this **New Circumstances Statement**.

In making the Statement in section 3, we only hold ourselves out as having expertise as *[designation of applicable professional body]*. We disclaim any skills or expertise in any other capacity.

### 3. Statement

Based on our performance of the procedures set out in section 1, which does not constitute either an audit or a review in accordance with Australian [Auditing and Assurance Standards](#), and applying the materiality criteria adopted by the DDC, no material new information or circumstance in relation to the [Financial Information](#) as defined in our [Due Diligence Sign-Off](#) has come to our attention that causes us to believe that, had we known of such matters as at the date of our [Due Diligence Sign-Off](#), we would have amended that [Due Diligence Sign-Off](#).

### 4. Recipients of this New Circumstances Statement

This [New Circumstances Statement](#) is given solely for the benefit of:

- (a) the [Client](#) and its representatives on the DDC;
- (b) the directors of the [Client](#); and
- (c) each member of the DDC and their representatives in their respective capacities as such,

(together referred to as the **Recipients**).

This [New Circumstances Statement](#) is not intended for general circulation or publication and may not, without our prior written consent in each specific instance:

- (a) be disclosed except to persons who, in the ordinary course of a Recipient's business have access to their papers and records and on the basis that such person will make no further disclosure of it and are not entitled to rely on it for any purpose;
- (b) be filed with a government or other agency, or be quoted or referred to in any public document or domain; or
- (c) be reproduced or used for any other purpose,

except as required by law, regulation or the rules of any Stock Exchange or government body or in connection with any enquiry conducted by a regulatory body or in the enforcement of the rights of, or in defence of any actual or potential claim against, a Recipient.

We do not accept any responsibility for any losses whatsoever occasioned by any Recipient or by any other party as a result of the circulation, reproduction or use of this [New Circumstances Statement](#) contrary to the above paragraph.

Yours faithfully

[Member or Firm](#)

# APES GN 31 Professional and Ethical Considerations relating to Low Doc Offering Sign-offs

[Supersedes APES GN 31 Professional and Ethical Considerations relating to Low Doc Offering Sign-offs issued in September 2017]

Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited

ISSUED: September 2017 **XXXX** 2019

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*Conformity with International Pronouncements*

*Appendix 1: Illustrative Examples*

*Appendix 2: Summary of revisions to the previous APES GN 31 (Issued September 2017)*  
*[Not included as the summary of revisions is set out in the Explanatory Memorandum for this exposure draft]*

## 1. Scope and application

- 1.1 The objective of APES GN 31 *Professional and Ethical Considerations relating to Low Doc Offering Sign-offs* is to provide guidance on the professional and ethical obligations of a [Member in Public Practice](#) in relation to [Low Doc Offering Engagements](#) and [Low Doc Offering Sign-offs](#).
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) ~~issues~~ has revised professional Guidance Note APES GN 31 *Professional and Ethical Considerations relating to Low Doc Offering Sign-offs* (the Guidance Note) which is effective from the date of issue, and supersedes APES GN 31 issued in September 2017.
- 1.3 APES GN 31 provides guidance to assist [Members in Public Practice](#) to determine whether or not it is appropriate to provide a [Low Doc Offering Sign-off](#) in relation to a [Low Doc Offering Engagement](#), taking into consideration the applicable requirements of APES 350 *Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document* (APES 350).<sup>14</sup> This Guidance Note does not prescribe or create any mandatory requirements.
- 1.4 [Members in Public Practice](#) using this Guidance Note should refer to:
- a) [APESB's Due process and working procedures for the development and review of APESB pronouncements](#) (APESB's Due Process document); and
  - b) [APES 350](#).
- ~~The APESB's Due Process document provides the meaning of the term 'should' used in this Guidance Note~~<sup>15</sup>.
- 1.5 In applying the guidance outlined in APES GN 31, [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](#).
- 1.6 In this Guidance Note, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms, including terms defined in APES 350, are shown in the body of the Guidance Note in title case.

In addition to the definitions contained in APES 350, for the purpose of this Guidance Note:

**Cleansing Notice** means a notice issued by a [Listed Entity](#) in conjunction with the announcement of a [Rights Issue](#) or [Placement](#).<sup>16</sup> The Cleansing Notice confirms that the market has all the information the [Listed Entity](#) would be obliged to release under the continuous disclosure requirements, including information on incomplete proposals or negotiations.

**Low Doc Offering** means a security offering by a [Listed Entity](#) where the securities can be offered for sale or issue without a [Public Document](#).<sup>17</sup> The capital raising may be a stand-alone transaction, in conjunction with an acquisition or for refinancing.

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<sup>14</sup> [APES 350, paragraph 1.610](#), specifies that the "Standard should be applied to the extent practicable where a [Member in Public Practice](#) provides [Professional Services](#) to a [Client](#) which comprise participating in and/or reporting to a [Due Diligence Committee](#) as a [DDC Member](#), [DDC Observer](#) or [Reporting Person](#) in connection with an [Engagement](#) which is not in connection with a [Public Document](#)."

<sup>15</sup> See [APESB's Due Process Document: Section 5 Drafting Approach. Paragraph 5.2\(f\)](#).

<sup>16</sup> Refer to [Corporations Act 2001 sections 708, 708AA and 1012DAA](#).

<sup>17</sup> As per [sections 708AA and 1012DAA of the Corporations Act 2001](#).

**Low Doc Offering Document** means a document, that is not a [Public Document](#), prepared and issued in relation to a [Low Doc Offering](#). A Low Doc Offering Document generally contains limited financial and other information and may take the form of an investor presentation-style document.

**Low Doc Offering Sign-off** means a due diligence sign-off issued by a [DDC Member](#) or a [DDC Observer](#), as defined in APES 350, in connection with a [Low Doc Offering Document](#). A Low Doc Offering Sign-off is issued by a [Member in Public Practice](#) in connection with a [Low Doc Offering Engagement](#), when reporting to a [Client](#) on the conclusions arising from the procedures conducted on the [Financial Information](#) and/or other specific information included in the [Low Doc Offering Document](#).

**Placement** means an allotment of securities made directly from an entity to investors in respect of capital raising.<sup>18</sup>

**Rights Issue** means a privilege granted to shareholders to buy new shares in the same company.<sup>19</sup>

### 3. Fundamental responsibilities of Members in Public Practice

- 3.1 The [Code](#) is the conceptual framework and foundation upon which all APESB pronouncements are based. Compliance with and application of the [Code](#) is fundamental to the ethical behaviour of [Members in Public Practice](#). Non-compliance with the [Code](#) can lead to disciplinary procedures being initiated by the [Professional Body](#) to which the [Member in Public Practice](#) belongs.
- 3.2 Professional obligations and ethical requirements that [Members in Public Practice](#) 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 A [Member in Public Practice](#) who performs a [Professional Activity](#), including providing a [Low Doc Offering Sign-off](#), is required to comply with [Part A-1 Complying with the Code, Fundamental Principles and Conceptual Framework](#)~~[General Application of the Code](#)~~ and [Part 3B – Members in Public Practice](#) of the [Code](#), and applicable laws or regulations.

### 4. Low Doc Offerings

- 4.1 [Low Doc Offerings](#) are generally undertaken by [Listed Entities](#) in connection with a [Rights Issue](#) or [Placement](#)<sup>20</sup> and a [Cleansing Notice](#) is issued at the time the [Low Doc Offering](#) is announced.
- 4.2 [Low Doc Offerings](#) are typically undertaken in a limited time frame and there are no specific requirements established by legislation or regulation in relation to the relevant disclosure documents or the due diligence process to be followed in respect of the issue of shares.
- 4.3 For the purpose of this Guidance Note, a [Low Doc Offering Engagement](#) is considered to be an [Engagement](#) to which paragraph 1.649 of APES 350 applies and where many of the elements of an [APES 350-Engagement to which APES 350 is applicable](#) are present.
- 4.4 The determination by a [Member in Public Practice](#) of whether to issue a [Low Doc Offering Sign-off](#) is a matter of professional judgement, based on the particular facts and circumstances of a [Low Doc Offering Engagement](#).

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<sup>18</sup> This definition is consistent with the equivalent definition in the [Australian Securities Exchange \(ASX\) Glossary](#).

<sup>19</sup> This definition is consistent with the equivalent definition in the [Australian Securities Exchange \(ASX\) Glossary](#).

<sup>20</sup> Refer to [Corporations Act 2001 sections 708, 708AA and 1012DAA](#).

## 5. Roles and responsibilities of a Member in Public Practice in relation to Low Doc Offerings

- 5.1 The roles and responsibilities of a [Member in Public Practice](#) in connection with a [Low Doc Offering](#) can vary depending on the specific circumstances of the [Engagement](#).
- 5.2 A [Member in Public Practice](#) may be asked to provide [Professional Services](#) as a due diligence committee member, observer or reporting person for a [Low Doc Offering Engagement](#). Requirements and guidance on these roles in connection with a Public Document are set out in APES 350. A [Member in Public Practice](#) is required to consider these requirements and guidance when undertaking similar roles in relation to a [Low Doc Offering Engagement](#).
- 5.3 A [Member in Public Practice](#) or [Firm](#) may be asked to provide a [Low Doc Offering Sign-off](#) to a [Client](#) and its due diligence committee.
- 5.4 A [Member in Public Practice](#) is required to exercise professional judgement in assessing whether it is appropriate, based on the specific circumstances of the [Engagement](#), to provide a [Low Doc Offering Sign-off](#).
- 5.5 When a [Low Doc Offering Engagement](#) has similarities with an [Engagement](#) in connection with a [Public Document](#) conducted in accordance with APES 350, particularly in respect of the processes and the [Member in Public Practice's](#) role in the [Engagement](#), it is more likely that the [Member](#) will have a reasonable basis to provide a [Low Doc Offering Sign-off](#).

### Engagement circumstances that may enable the issue of a Low Doc Offering Sign-off

- 5.6 A [Member in Public Practice](#) or [Firm](#) should only issue a [Low Doc Offering Sign-off](#) if the following [Engagement](#) circumstances are present in relation to a [Low Doc Offering Engagement](#):
- a) review procedures can be performed and a review conclusion can be provided on the [Financial Information](#) or other specific information in the [Low Doc Offering Document](#) in accordance with ASAE 3450 *Assurance Engagements involving Corporate Fundraisings and/or Prospective Financial Information* (ASAE 3450) or similar standards on [Assurance Engagements](#);
  - b) there is a due diligence process being undertaken by the [Client](#) or its due diligence committee comprising experienced management and/or [Board](#) representation and receiving input from advisers with the appropriate expertise (either as members/observers and/or reporting persons);
  - c) sufficient time, resources and expertise have been allocated to the due diligence process by the [Client](#), the [Client's](#) other advisers, and the [Member in Public Practice](#) or [Firm](#); and
  - d) the [Member in Public Practice](#) or [Firm](#) has assessed that the financial systems and processes at the [Client](#) and target entity are able to provide accurate and reliable Financial Information.
- 5.7 The circumstance referred to in paragraph 5.6(a) may generally include:
- a) ~~the~~ the historical [Financial Information](#) underlying the [Financial Information](#) on which the [Low Doc Offering Sign-off](#) is to be provided has been recently (or concurrently) subject to audit or review by the same [Firm](#) or another [Firm](#).
  - b) ~~the~~ the [Client](#) allowing for sufficient time, budget and resources for the [Firm](#) to perform the required review procedures in accordance with ASAE 3450.

## Engagement circumstances that may preclude the issue of a Low Doc Offering Sign-off

- 5.8 Engagement circumstances that either individually or in combination may preclude a **Member in Public Practice** from issuing a **Low Doc Offering Sign-off** include:
- a) The **Financial Information** to be included in the **Low Doc Offering Document** is not prepared in accordance with an applicable financial reporting framework and/or the **Member in Public Practice** is not in a position to provide a conclusion in accordance with ASAE 3450 or other similar standards on **Assurance Engagements**.
  - b) The urgency with which the **Client** wants to raise additional equity through a **Low Doc Offering** is such that the offer is made in an unduly short time frame (for example, a matter of days rather than weeks) and the due diligence process, including the involvement of and participation by the **Client's** management, directors, any other advisers, and/or the **Member in Public Practice**, is restricted by that time frame.
  - c) The time frame dictates and/or the **Client** specifies that the **Member in Public Practice** is to only perform a limited scope of work, such as limited specific due diligence enquiries or agreed-upon procedures undertaken in accordance with ASRS 4400 *Agreed-Upon Procedures Engagements to Report Factual Findings*.
  - d) Financial disclosures in the **Low Doc Offering Document** are limited in form (for example, a small number of non-GAAP measures or ratios) and a **Member in Public Practice** is unable to provide a review conclusion in accordance with ASAE 3450.
- 5.9 The list of **Engagement** circumstances in paragraphs 5.6 and 5.8 are not exhaustive and there may be other **Engagement** circumstances a **Member in Public Practice** should consider when deciding whether it is appropriate to issue a **Low Doc Offering Sign-off**.

## 6. Reporting

- 6.1 A **Member in Public Practice** should consider the requirements and guidance on due diligence sign-offs set out in APES 350 when preparing a **Low Doc Offering Sign-off** to the extent practicable.

## 7. Documentation

- 7.1 A **Member in Public Practice** is required to comply with the requirements of APES 320 *Quality Control for Firms*. A **Member** should prepare working papers that appropriately document the work performed and conclusions reached in the provision of a **Low Doc Offering Engagement**.

## Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES GN 31.



## Appendix 1: Illustrative Examples

*This Appendix contains some examples that set out various scenarios of [Low Doc Offerings](#) and considers [Engagement](#) circumstances that are appropriate for, as well as circumstances that would preclude, the issue of a [Low Doc Offering Sign-off](#).*

*Members in Public Practice are cautioned that the determination of whether to issue a [Low Doc Offering Sign-off](#) is a matter of professional judgement, based on the particular facts and circumstances of a [Low Doc Offering Engagement](#). These examples are provided for illustrative purposes only and are not intended to be, and cannot be, all inclusive. In all of the examples presented below, it is assumed that there are no unmentioned facts that are relevant to the consideration as to whether a [Low Doc Offering Sign-off](#) can be issued.*

### Example 1

#### **Facts**

An [Audit Client](#) is undertaking a [Rights Issue](#) shortly after the issuance of the audit report in relation to its financial statements. The [Audit Client](#) has established a due diligence process. The [Audit Client](#) also has appropriate financial systems and processes in place to provide accurate and reliable [Financial Information](#). The [Member in Public Practice](#) is engaged to perform review procedures in accordance with ASAE 3450 in respect of the pro forma [Financial Information](#). The [Member](#) believes they will be able to complete the required procedures within the time frame required by the [Audit Client](#).

#### **Analysis**

In this circumstance, the [Firm](#) has recently audited the [Financial Information](#) and has been engaged to perform review procedures in accordance with ASAE 3450. There is a due diligence process in place and the [Member in Public Practice](#) has been allocated sufficient time and resources to complete the required procedures.

#### **Conclusion**

As the [Member in Public Practice](#) is able to issue a review conclusion in accordance with ASAE 3450, and there is an adequate due diligence process, in this instance, the [Member](#) is able to provide a [Low Doc Offering Sign-off](#) in relation to the pro forma [Financial Information](#).

### Example 2

#### **Facts**

An [Audit Client](#) is undertaking a [Rights Issue](#) shortly after the issuance of the audit report in relation to its financial statements. The [Audit Client](#) has established a due diligence process. The [Audit Client](#) also has appropriate financial systems and processes in place to provide accurate and reliable [Financial Information](#). The [Audit Client](#) has determined that it does not require the [Member in Public Practice](#) to perform a review of its pro forma [Financial Information](#) in accordance with assurance standards, and instead engages the [Member](#) to perform certain limited agreed-upon procedures. The [Member](#) believes they will be able to complete the required procedures within the time frame specified by the [Audit Client](#).

#### **Analysis**

In this circumstance, although the [Firm](#) has recently audited the [Financial Information](#) of the [Audit Client](#), it has been engaged to perform agreed-upon procedures in respect of the pro forma [Financial Information](#). While a due diligence process has been established, and there is sufficient time and resources to complete required procedures, review procedures are not being performed in this instance.

### **Conclusion**

As the **Member in Public Practice** has only been engaged to perform agreed-upon procedures, and has not been requested to issue a review conclusion in accordance with ASAE 3450, in this instance, the **Member** is not able to provide a **Low Doc Offering Sign-off** in relation to the pro forma **Financial Information**.

### **Example 3**

#### **Facts**

An **Audit Client** is proposing to raise capital through a **Low Doc Offering** to specifically finance the proposed acquisition of a target entity based in another jurisdiction. The **Audit Client** has established a due diligence process and engaged a **Member in Public Practice** based in Australia. A different **Firm** based in the other jurisdiction has been engaged to undertake an acquisition due diligence **Engagement** in relation to the target entity, which applies the generally accepted accounting principles of the other jurisdiction in preparing its **Financial Information**. The **Audit Client** applies Australian accounting standards in preparing its **Financial Information**.

The target entity's **Financial Information** is to be incorporated into the merged group's pro forma **Financial Information**. It is material to the merged group's pro forma **Financial Information**. However, the **Member in Public Practice** does not have access to the books and records of the target entity. The **Member** is unable to perform review procedures on the target entity's **Financial Information** in accordance with ASAE 3450. The **Member** has been allocated sufficient time to complete the required procedures within the period specified by the **Audit Client**.

#### **Analysis**

There is a due diligence process in place and the **Member in Public Practice** has been allocated sufficient time and resources to complete the required procedures. However, the **Member** does not have access to the books and records of the target entity. The target entity's **Financial Information** will form part of, and is material to, the merged entity's pro forma merged **Financial Information**. While the **Member** may be in a position to perform review procedures over the **Audit Client**, it is unable to do so in respect of the target entity's **Financial Information** in accordance with ASAE 3450.

### **Conclusion**

As the **Member in Public Practice** has not been engaged to perform review procedures in respect of the target entity, it is unable to issue a review conclusion in accordance with ASAE 3450. In this instance, the **Member** is not able to provide a **Low Doc Offering Sign-off** in relation to the merged group's pro forma **Financial Information**.

### **Example 4**

#### **Facts**

A **Client** is undertaking a **Rights Issue** and **Placement** to fund an acquisition. The **Member in Public Practice** is requested to perform a review of certain forecast **Financial Information** in accordance with ASAE 3450 and prepare a **Low Doc Offering Sign-off**. While the capital raising will occur through a low doc process, the **Client** is implementing a rigorous due diligence process in connection with the proposed disclosures. The **Client** has appropriate financial systems and processes in place to provide accurate and reliable **Financial Information**. The timetable for the low doc process is sufficient to enable the performance of the necessary review procedures and the gathering of sufficient evidence. The nature of the **Client's** business is based on long-term contracts which facilitate the efficient gathering of supporting evidence for the majority of key forecast assumptions.

#### **Analysis**

The **Member in Public Practice** has been engaged to perform a review **Engagement** in respect of the forecast **Financial Information** in accordance with ASAE 3450. The **Client** has implemented a due

diligence process which includes providing adequate time and resources to enable the **Member** to perform the necessary review procedures.

**Conclusion**

As the **Member in Public Practice** has been engaged to, and is able to, issue a review conclusion in accordance with ASAE 3450, and there is an adequate due diligence process, in this instance the **Member** is able to provide a **Low Doc Offering Sign-off** in relation to the forecast **Financial Information**.

**Example 5**

**Facts**

The **Client** is undertaking a **Rights Issue** and **Placement** to fund an acquisition. The **Client** has established a due diligence process. The **Client** has engaged the **Member in Public Practice** to undertake acquisition due diligence procedures in relation to the target entity. The **Member** believes they will be able to complete the required procedures within the time frame specified by the **Client**. However, the **Client** subsequently decided to raise additional capital to finance the acquisition, and did not engage the **Member** to perform additional review procedures in accordance with ASAE 3450 in relation to the target entity's **Financial Information**.

**Analysis**

The **Client** has implemented a due diligence process and has allocated adequate time and resources to that process. However, while the **Member** may be in a position to perform review procedures over its **Client's Financial Information**, it has not been engaged to perform a review in accordance with ASAE 3450 in respect of the target entity's **Financial Information** for the additional capital raising.

**Conclusion**

As the **Member in Public Practice** has not been engaged to perform a review in accordance with ASAE 3450 on the target entity's **Financial Information** for the additional capital raising, in this instance the **Member** is not able to provide a **Low Doc Offering Sign-off** in relation to the **Financial Information** of the target or merged entity.