

31 July 2019

APESB issues revised APES 215 *Forensic Accounting Services*

Accounting Professional & Ethical Standards Board Limited (APESB) today announced the issue of the revised APES 215 *Forensic Accounting Services* (APES 215) to replace the existing APES 215 (Issued December 2015).

The key changes in the revised APES 215 consist of new or amended professional obligations in relation to:

- Revisions to reflect the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*, issued in November 2018;
- Incorporating references to both laws and regulations to be consistent with other pronouncements;
- Adding provisions to require Members to comply with the NOCLAR provisions of the Code; and
- Consistency of drafting of the professional requirement to issue an Engagement Document to communicate the Terms of Engagement.

Please refer to Appendix 1 of this technical update for details of all the revisions. The revised APES 215 will be effective for Forensic Accounting Services commencing on or after 1 January 2020 with early adoption permitted.

APESB has incorporated the following interactive PDF features within the revised APES 215:

- Bookmark tab section for contents page;
- Dynamic links to sections and paragraphs;
- Pop-up definitions upon mouse rollover for defined terms; and
- Links to external websites.

The revised standard is available from APESB's website: www.apesb.org.au

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Appendix 1

Revision to APES 215 (Issued December 2015)

Accounting Professional & Ethical Standards Board Limited (APESB) has approved the following revisions to APES 215 *Forensic Accounting Services* which was originally issued in December 2008 and revised in December 2013 and December 2015.

Paragraph Reference	Revisions
1.1	<p>The objective of APES 215 <i>Forensic Accounting Services</i> is to specify a Member's professional and ethical obligations in respect of:</p> <ul style="list-style-type: none"> • the provision of a Forensic Accounting Service to a Client or Employer; • the types of Engagements or Assignments 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	<p>Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 215 <i>Forensic Accounting Services</i> (the Standard), which is effective for Engagements or Assignments commencing on or after 1 April 2016 January 2020 and supersedes APES 215 issued in December 2013 2015. Earlier adoption of this Standard is permitted.</p>
1.6	<p>Where a Professional Activity which, when it commenced was not a Forensic Accounting Service, later becomes such a Forensic Accounting Service, the Member shall comply with the requirements of this Standard from that time onwards.</p>
1.7	<p>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 Section 5 of this Standard from that time onwards.</p>
1.8	<p>Members shall be familiar comply with relevant other applicable Professional Standards and be familiar with relevant guidance notes when providing Forensic Accounting Services performing Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.</p>
2	<p><u>Defined terms are shown in the body of the Standard in title case.</u></p> <p>For the purpose of this Standard:</p>
2	<p><i>Client</i> 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.</p>
2	<p><i>Code</i> means APES 110 <i>Code of Ethics for Professional Accountants (including Independence Standards)</i>.</p>

Paragraph Reference	Revisions
2	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, <u>a</u> mediator, <u>a</u> member of a professional tribunal, <u>an</u> expert in an expert determination, <u>a</u> referee or in a similar role.
2	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 <u>Writing</u> .
2	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 Professional 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, <u>all</u> 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, <u>not all</u> expert evidence is opinion evidence. Expert evidence may be opinion or Other Evidence.
2	Independence is <u>comprises</u> : (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.
2	Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas <u>working in areas such as</u> commerce, industry, service, the public sector, education, the not-for-profit sector, <u>or in</u> regulatory bodies or professional bodies, or a Member contracted by such entities. who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer.
2	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.
2	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 <u>an</u> Employer make an assessment as to whether a matter should be brought before a Court.
2	Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Paragraph Reference	Revisions
<u>2</u>	<u>Writing</u> 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.
3.1	A Member providing a Forensic Accounting Service shall comply with Section 100 Introduction and Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework of the Code and with relevant laws and regulations.
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 Section 140 Subsection 111 Integrity and Section 120 Subsection 112 Objectivity of the Code.
3.4	Members in Public Practice shall comply with Section 310 220 Conflicts of Interest and Section 280 Objectivity—All Services of the Code.
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 – Other for Assurance Engagements Other than Audit and Review Engagements of the Code, as applicable of the Code.
3.9	<p>If a Member in Public Practice is asked to provide a Professional Service to a Client where:</p> <p>(a) the Member or the Member's Firm is providing or has provided an Expert Witness Service to the Client; or</p> <p>(b) the Member or the Member's Firm is providing or has provided an Expert Witness Service to a different Client,</p> <p>and the proposed Professional Service is related to the Expert Witness Service, and the Member determines that a reasonable and informed third party¹ 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.</p>
<u>Footnote 1</u>	<u>The term 'reasonable and informed third party' is explained in paragraph 120.5 A4 of the Code.</u>
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 Section 130 Subsection 113 Professional Competence and Due Care of the Code.
3.14	In accordance with Section 330 230 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

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	level of expertise or experience possessed, nor shall a Member fail to seek appropriate expert advice and assistance when required.
3.17	In accordance with Section 140 Confidentiality of the Code, a 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.
4.1	A Member in Public Practice shall document and communicate the Terms of Engagement to <u>provide a Forensic Accounting Service to a Client in an Engagement Document</u> 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 210 <u>320 Professional Appointments</u> of the Code.
5.1	<p>If a Member in Public Practice is asked to provide an Expert Witness Service to a Client where:</p> <p>(a) the Member or the Member's Firm is providing or has provided another Professional Service to the Client; or</p> <p>(b) the Member or the Member's Firm is providing or has provided another Professional Service to a different Client,</p> <p>and the proposed Expert Witness Service is related to the other Professional Service, and the Member determines that a reasonable and informed third party² 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.</p>
<u>Footnote 2</u>	<u>The term 'reasonable and informed third party' is explained in paragraph 120.5 A4 of the Code.</u>
5.2	<p>Subject to paragraph 5.3, if a Member in Business is asked to provide an Expert Witness Service to the Member's Employer where:</p> <p>(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</p> <p>(b) the Member's Employer has an interest in the outcome of the Proceedings (whether as a party or otherwise),</p> <p>and the Member determines that a reasonable and informed third party³ 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</p>

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	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.
Footnote 3	<u>The term 'reasonable and informed third party' is explained in paragraph 120.5 A4 of the Code.</u>
5.6	<p>Subject to any legal requirements or restrictions, a Member providing an Expert Witness Service shall clearly communicate in any Report:</p> <ul style="list-style-type: none"> (a) the instructions received, whether oral or written <u>in Writing</u>; (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; (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: <ul style="list-style-type: none"> (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

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	<p>the preparation of the Report;</p> <p>(o) any restrictions on the use of the Report; and</p> <p>(p) a statement that the Expert Witness Service was conducted in accordance with this Standard.</p>
6.3	<p><u>Where a Member encounters or becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations (NOCLAR) when performing a Forensic Accounting Service, 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.</u></p>
6.4	<p><u>A Member providing a Forensic Accounting Service may be dealing with a suspected or actual illegal activity that is likely to be within the scope of the NOCLAR provisions of the Code as set out in Section 260 for Members in Business and Section 360 for Members in Public Practice. In these circumstances, it is more than likely that the Member and the Client or Employer, as applicable, are applying some or all of the processes and procedures described in the applicable NOCLAR response framework. However, the Member should still consider the Member's obligations under the relevant NOCLAR provisions in the Code and determine whether or not further action by the Member is required.</u></p>
7.2	<p>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:</p> <p>(a) Leadership responsibilities for quality within the Employer;</p> <p>(b) Ethical requirements;</p> <p>(c) Human resources;</p> <p>(d) Assignment performance; and</p> <p>(e) Monitoring.</p>
8.1	<p>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 240 330 Fees and Other Types of Remuneration of the Code.</p>
Appendix 1	<p>Facts, assumptions, and opinions – amended (minor editorials)</p>
Appendix 2	<p>Decision tree to determine the type of Forensic Accounting Service – amended (minor editorials)</p>
Appendix 3	<p>Examples of Forensic Accounting Services – amended (minor editorials)</p>
Appendix 4	<p>Summary of revisions to the previous APES 215 (Issued December 2015) - amended</p>