

AGENDA PAPER

Item Number: 16
Date of Meeting: 23 September 2022
Subject: Project update on APES 215 *Forensic Accounting Services*

Action required For discussion For noting For information

Purpose

To provide the Board with a project update on APES 215 *Forensic Accounting Services* (APES 215).

Background

At the June 2021 Board meeting, Technical Staff provided a brief history of the development of APES 215 and a project proposal to update the standard, which was approved by the Board ([Agenda Item 7](#)).

The project proposal stemmed from ASIC's request to amend specific examples in APES 215 relating to evidence adduced to the court under section 50 of the *Evidence Act 1995* (Evidence Act) (Proof of voluminous or complex documents) and to consider other aspects of the Standard.

An update on APES 215 was provided at the September 2021 Board meeting ([Agenda Item 8](#)) on:

- an APES 215 working party meeting on 23 July 2021; and
- a meeting on 20 August 2021 between APES 215 working party members, John Wallace, ASIC Senior Executive Leader of Specialist Services, Kathleen Clough, ASIC Senior Manager of Forensic Accounting Services (FAS) and Vicky Argitis, Head of the Criminal Division of ASIC's Chief Legal Office.

A further update was provided at the June 2022 Board meeting ([Agenda Item 8](#)) on:

- additional information and recommendations received from ASIC;
- an APES 215 working party meeting with APESB Board member, Brian Morris, APES 215 Taskforce members Owain Stone and Brendan Halligan and Technical Staff on 20 May 2022 to consider ASIC's recommendations; and
- Technical Staff's initial responses to ASIC's recommendations.

Matters for Consideration

APES Taskforce Meeting

An APES 215 Taskforce meeting was convened on 15 August 2022 to consider ASIC's recommendations and a preliminary draft Exposure Draft of APES 215, including proposed amendments to address ASIC's concerns and quality management conforming amendments.

Technical Staff also provided Taskforce members with a draft technology survey relating to using AI and Digital Technology in forensic accounting services and sought Taskforce members' feedback. Agenda Item 19 of this Board meeting provides a Technology update.

Draft Minutes from the Taskforce meeting are attached at Agenda Item 16(a).

Preliminary Draft ED Key Proposed Amendments

Technical Staff amended the preliminary draft Exposure Draft for APES 215 after the Taskforce meeting (attached at Agenda Item 16(b)), which includes the following key proposed amendments at this stage:

- Addition of paragraph 1.8 to clarify that Forensic Accounting Services other than Expert Witness Services must comply with the requirements in APES 215 except Section 5;
- References to Appendix 1 in the definitions of Expert Witness Service, Lay Witness Service and Other Evidence and references to Appendices 2 and 3 in the definition of Forensic Accounting Services;
- Amendments to the definition of Lay Witness Service to note that such services do not require the Member to use the Member's specialised knowledge derived from the Member's training, study or experience;
- Quality Management conforming amendments to paragraphs 1.1, 7.1 and 7.2;
- New paragraph 3.14 that where there is an expectation that the Member's Report will disclose the Member's specialised knowledge derived from training, study or experience, then the Member must perform the service as an Expert Witness Service;
- Amendments to Appendix 1 to better differentiate between observed facts and scientific facts, with the latter based on the Member's specialised knowledge derived from the Member's training, study or experience;
- Amendments to Appendix 2 to highlight that Expert Witness Services must comply with all the requirements in APES 215, whereas Forensic Accounting Services other than Expert Witness Services must comply with the requirements of the Standard other than Section 5;
- Amendments to examples 6 and 10 of Appendix 3 to remove references to 'summary' to ensure that these examples are not considered to represent summaries adduced under Section 50 of the Evidence Act;
- Amendments to example 7 of Appendix 3 to include an example where Section 50 of the Evidence Act may and may not apply; and
- Amendments to example 21 of Appendix 3 so that the example relates to a lay witness and not a Lay Witness Service as defined in APES 215.

Technical Staff provided the updated preliminary draft ED to Taskforce members on 8 September 2022 and requested feedback by 16 September 2022. A verbal update will be provided at the Board meeting on any substantive comments or issues raised by Taskforce members.

Meeting with ASIC

APESB Board member, Brian Morris, APES 215 Taskforce members, Owain Stone and Brendan Halligan and Technical Staff are scheduled to meet with ASIC Personnel on 20 September 2022. A verbal update of the meeting will be provided at the Board meeting.

Way Forward

Technical Staff propose to:

- respond to ASIC's request and recommendations in writing;
- analyse the responses to APESB's Technology Survey relating to APES 215; and
- prepare an APES 215 Exposure Draft to be considered at a future Board meeting.

Recommendations

The Board note Technical Staff's project update on APES 215.

Materials presented

Agenda Item 16(a) Draft Minutes of APES 215 Taskforce Meeting 15 August 2022
Agenda Item 16(b) Preliminary Draft Exposure Draft for APES 215

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