



Exposure Draft XX/19 Revision of APESB pronouncements

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1. Explanatory Memorandum to Exposure Draft XX/19 Revision of APESB pronouncements

1.1 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 impacts 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 XX/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.

1.2 Summary of APESB Pronouncements

This Exposure Draft comprises proposed amendments to the following 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> |

1.3 Key proposed amendments

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

(i) **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 **Appendix 1** for the summary of revisions to the 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 pronouncements in this Exposure Draft. These matters include:

- Updating pronouncements to remove reference to the Auditing Standards (AUSs) now 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; 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.

(iv) Effective date of pronouncements

The effective date in paragraph 1.2 of each Standard proposes that each applicable standard will be operative from 1 January 2020 and that earlier adoption of the standard is permitted.

(v) Updates to include interactive PDF features

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.

Appendix 2 provides a summary of the proposed revisions in Exposure Draft XX/19 not addressed in Appendix 1.

2. Request for comments on Exposure Draft

2.1 Commenting on this Exposure Draft

APESB invites stakeholders to provide comments on these proposed revisions to the pronouncements identified in ED XX/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 XX XXXXX 2019.**

Comments should be addressed to:

The Chairman
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 *Appendix 3* of the Exposure Draft), are supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on any matter. APESB regards both critical and supportive comments as essential to a balanced view of the proposed pronouncements.

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.

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

2.2 Obtaining a copy of this Exposure Draft

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

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

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

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

Appendix 1

Summary of proposed revisions 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 | Pronouncements | | |
|---|----------------|----------|----------|
| | APES 210 | APES 220 | APES 305 |
| Amendments to Definitions as per the restructured Code | | | |
| Assurance Engagement | ✓ | ✓ | |
| Code | ✓ | ✓ | ✓ |
| Member in Business | ✓ | ✓ | |
| Member in Public Practice | ✓ | ✓ | ✓ |
| Professional Activity | ✓ | ✓ | ✓ |
| Update cross-references to restructured Code | | | |
| 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 | | ✓ | |
| Paragraph made consistent with restructured Code | | | |
| Paragraph made consistent with restructured Code R1.4 | 1.7 | 1.6 | 1.6 |

Appendix 2

Summary of other proposed revisions in Exposure Draft

The table below provides a summary of the proposed revisions in the Exposure Draft and the impact on the existing pronouncements. Note that this summary does not include the revisions noted in Appendix 1 relating to the restructured Code.

| Summary of proposed amendments | 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) | | ✓ | |
| Appendix 1 | ✓ | ✓ | ✓ |
| Matters on the Issues Register | | | |
| 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 (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) | | | ✓ |
| Minor editorials | | | |
| Paragraph 1.1 | ✓ | | |
| Paragraph 1.5 | | ✓ | ✓ |
| Paragraph 1.6 | ✓ | | |
| Section 2, Introduction | ✓ | ✓ | ✓ |
| Definition of Firm | | | ✓ |
| Definition of Professional Standards | | | ✓ |
| Paragraph 3.6 | | | ✓ |

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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~~XXXXXX ~~2019~~

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| <i>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]</i> | |

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~~ 2015⁴. 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 \(SAEs\)* 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 ~~;~~

the guidance statements and other guidance publications, as defined in the *Foreword to AUASB Pronouncements*, issued by the AUASB ~~;~~ and

- ~~(a) 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 ~~;~~

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

- ~~(a) 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 ~~—Other for 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.

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-2015~~ 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~~ 20~~19~~~~20~~~~8~~ and supersedes APES 220 issued in ~~October~~ ~~July~~ 201~~8~~~~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, 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**.

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 **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**, **Members** shall observe and comply with their public interest obligations when they provide **Taxation Services**.

Integrity and professional behaviour

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

Objectivity

- 3.4 When providing **Taxation Services** **Members** shall be objective in accordance with ~~Subsection 1120~~ **Objectivity** of the **Code**. They shall maintain an impartial attitude and recommend options that meet the **Client's** or **Employer's** interests consistent with the requirements of the law.
- 3.5 A **Member** may act as an advocate for a **Client** or **Employer** when representing or assisting them before 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

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 **EngagementProfessional 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 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 PracticeBusiness** ~~(including employment relationships with Members in Public Practice)~~) or Section **360 Responding to Non-Compliance with Laws and Regulations** (for **Members in BusinessPublic 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 services 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~~ DecemberXXXXX 20189

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

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

Member in Public Practice means a Member, irrespective of functional classification (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 ~~S~~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;
 - (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 (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 form~~ [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

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

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

Conformity with International Pronouncements

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