

Review of Submissions – Specific Comments
Exposure Draft 07/22: Proposed Standard APES 215 Forensic Accounting Services

Note: General comments relating to Exposure Draft 07/22 are addressed in a separate table. This table excludes minor editorial changes.

Item No.	Paragraph No. in ED	Respondent	Respondents' Comments	Change made to standard?
1	Specific Comment 1	CA ANZ	<p>Request for Specific comments</p> <ul style="list-style-type: none"> <i>The use of Artificial Intelligence (AI) or digital technology in Forensic Accounting Services</i> <p>CA ANZ has no comment.</p>	No
2	Specific Comment 1	CPAA	<p>3. APESB's Technology Project – request for examples or cases of recent or emerging technologies that accountants use in forensic accounting services and how this might impact APES 215</p> <p>Recommendations:</p> <p>CPA Australia recommends that given the very recent and rapid engagement globally with language AI tools such as ChatGPT, that the use of such technology in the provision of advice, reports, or opinions by providers of forensic accounting services be considered.</p> <p>In particular, the following matters should be considered:</p> <ul style="list-style-type: none"> whether accountants should be required to declare whether advice or evidence they provide has been prepared or informed in whole or in part by AI whether engagement letters will require a declaration as the use or potential use of language AI tools and/or knowledge data repository AI tools whether members may be in breach of privacy and intellectual property laws by using AI tools in the provision of advice to their clients other matters, including considering whether clients may by-pass accountants and risk obtaining their own advice by AI, potentially looking for assurance of said 'advice' from their accountant <p>Responses to specific questions asked in the ED are included in the Attachment to this letter.</p>	No

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3	Specific Comment 1	CPAA	<p style="text-align: right;">Attachment</p> <p style="text-align: center;">Requests for Specific Comments</p> <p>The responses below should be read in conjunction with, and should consider, the observations made in the covering letter. However, these responses are restricted to the specific questions being asked.</p> <p>Request for Specific Comment 1 – Describe an example(s) or use case(s) of how AI or digital technology is used in forensic accounting services, including where applicable:</p> <p>(a) the type of technology used (for example, data analytics, artificial intelligence including supervised or unsupervised machine learning, autonomous and intelligent systems, cloud services, robotic process automation, cybersecurity, blockchain or the internet of things);</p> <p>(b) the aspects of the services the technology undertakes and the accountants' role in the use of the technology (such as how the accountant interacts or interfaces with the technology and/or how the accountant impacts or provides inputs to the technology and/or how the accountant uses and/or interprets the outputs of the technology);</p> <p>(c) the opportunities or benefits of using the technology in the services;</p> <p>(d) the risks or concerns of using the technology in the services; and</p> <p>(e) any ethical considerations or concerns about using the technology in the services.</p> <p>No comment</p>	No
4	Specific Comment 2	CA ANZ	<ul style="list-style-type: none"> Aspects of APES 215 that may require revision or development to address the use of AI or digital technology. <p>The recent proposed technology-related revisions to the Code of Ethics for Professional Accountants (“the Code”) considers the effects of AI and digital technologies on all services provided by professional accountants. It may be beneficial if APES 215 refers users to these provisions in the Code once they become operative.</p>	Yes Section 4 heading Para. 4.2 Proposed para. 4.3
5	Specific Comment 2	CPAA	<p>Request for Specific Comment 2 – Are there any aspects of APES 215 that you believe require revision or development of additional professional obligations to address the use of AI or digital technology in forensic accounting services (either relating to your response to Request for Specific Comment 1 or more generally in relation to the use of AI or digital technology)? Please provide reasons and justification for your response.</p>	No

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			<p>Pursuant to APES 215 Para 5.6(c) – (n), Members are required to clearly communicate specific things in any Report. In the explanatory material that follows the Report requirements, the standard could mention whether members need to clearly document and disclose their use of AI or digital technologies in their Forensic Accounting Services and any implications on the Report of such use.</p> <p>In the explanatory material accompanying the Para. 7.3 of APES 215, the standard could clarify that Member's may utilise AI or digital technologies in determining and documenting 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.</p> <p>The definition of Professional Activity, which forms the basis of the definitions of Expert Witness Services, Lay Witness Services, Consulting Expert Services, and Investigation Services, is sufficiently broad to include activities involving AI and digital technologies. However, for the avoidance of doubt, additional examples of forensic accounting services set out in Appendix 3 could include the use of such technologies.</p> <p>Appendix 1 could include examples to assist a Member in determining whether a matter is a fact, an assumption or an opinion for the purposes of APES 215 where the fact, assumption and/or opinion has been informed in whole or in part by AI and digital technologies.</p>	
6	1.1, 7.1 and 7.2	CPAA	<p>2. Quality Management Conforming Amendments – to ensure APES 215 remains consistent with the reissued APES 320 and where applicable AUASB Quality management Standards</p> <p><u>Recommendations:</u></p> <p>CPA Australia supports the proposed quality management-related conforming amendments at paragraphs 1.1, 7.1 and 7.2.</p>	No
7	1.2	IPA	IPA also supports the proposal that the amendments are to become effective as of 1 October 2023, with earlier adoption permitted.	No
8	1.8	CPAA	<ul style="list-style-type: none"> The 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; CPA Australia supports this clarification for the avoidance of any confusion. 	No

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9	1.8	Deloitte	<p><u>Paragraph 1.8</u></p> <p>The addition of proposed paragraph 1.8 is somewhat confusing given the extant provision in paragraph 1.4. We suggest instead that paragraph 1.4 be amended to provide clarity that a Member only needs to comply with Section 5 when they provide Expert Witness Services.</p> <p>This could be achieved by including the wording “to the extent applicable” in paragraph 1.4.</p> <p>Alternatively, paragraph 1.4 could be amended for clarity to state:</p> <p><i>“Members in Australia shall follow the mandatory requirements of APES 215 when they provide a Forensic Accounting Service which is an Expert Witness Service. Members in Australia shall follow the mandatory requirements of APES 215, except for Section 5, when they provide a Forensic Accounting Service which is not an Expert Witness Service.”</i></p> <p>Failing that, we suggest the order of paragraphs 1.7 and 1.8 is reversed.</p>	Yes Paras. 1.4 & 1.8
10	2. Definitions	CA ANZ	It may also be useful for the definitions to include what constitutes expert evidence.	No
11	2. Definitions	CPAA	<ul style="list-style-type: none"> 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; CPA Australia supports connecting the definitions of each type of service to Appendix 1 for clarity. <p>However, CPA Australia notes that ‘Expert evidence’ is not defined for the purposes of the standard. CPA Australia recommends this term and the term ‘evidence’ both be defined for the purposes of the standard. If the meaning of ‘evidence’ for the purposes of the standard is intended to be limited to facts, assumptions and opinions as set out in Appendix 1, this should be explicit. Alternatively, if the meaning of ‘evidence’ for the purpose of the standard is intended to be broader than facts, assumptions, and opinions, this also should be clarified explicitly. In either case, the standard needs to clarify whether evidence informed in whole or in part by AI and other digital technologies is considered to be ‘evidence’ for the purposes of the standard.</p> <p>CPA Australia further recommends that Appendix 1 should clarify that the examples of facts, assumptions, and opinions are all types of evidence provided by both Expert and Lay witnesses. For example, clarity should be provided about whether ‘expert evidence’ is intended to be evidence provided by a Member based on the Member’s specialised knowledge derived from their training, study or experience in accounting or of a kind limited to the types of evidence set out in Appendix 1.</p>	No

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			<p>Alternatively, clarification should be made if 'expert evidence' is intended to be any evidence provided as part of an Expert Witness Service provided by an expert witness? We note the explanation in the Appendix 2 decision tree needs to align with any definition.</p> <p>Finally, there seems to be a difference between 'Lay evidence' and 'Other evidence' based on the definition of the latter. However this is not clear. This matter becomes confusing in the examples set out in Appendix 3. CPA Australia recommends that these two definitions be reconsidered for clarity.</p> <ul style="list-style-type: none"> 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; CPA Australia supports this clarification for the avoidance of any confusion. <p>CPA Australia observes that 'Expert Witness' 'Investigation Service' and 'Lay Witness Service' makes reference to the Member, but 'Consulting Service' does not. We suggest this is added for clarity and consistency. Alternatively, the definition of 'Forensic Accounting Services' could be clarified that it must be carried out by a Member.</p> <p>We further note that the definition of 'Consulting Service' does not refer to a service in relation to an investigation, but the explanation in the Appendix 2 decision tree suggests it does. CPA Australia recommends that definition of Consulting Service align with Appendix 2.</p>	
12	2. Definitions	Deloitte	<p><u>Definitions of Expert Witness and Lay Witness</u></p> <p>APES 215 provides, in summary, that an Expert Witness Service involves the use of specialised knowledge based on training, study or experience to provide an opinion or Other Evidence, and a Lay Witness Service does not require the use of specialised knowledge to give evidence. It further gives the example, in Appendix 3, that an individual who is subpoenaed to provide a factual witness statement, and is subsequently asked to apply expertise, is providing an Expert Witness Service under APES 215.</p> <p>This definition and examples could be interpreted to suggest that if a Member, who is an individual within a Firm, is asked to appear as a fact witness to describe Professional Services provided to a Client, for example, previous audit services, then they may be performing an Expert Witness Service under APES 215 by providing factual evidence about work they performed, as well as the judgements they made based on specialised knowledge.</p> <p>As APES 110 paragraph R607.9 prohibits the Firm or an individual within a Firm, to act as an expert witness for an Audit Client that is a Public Interest Entity, this could have the unintended consequence of prohibiting an</p>	No

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			<p>individual from the Firm from providing factual evidence for an Audit Client that is a Public Interest Entity (PIE) about Professional Services that have been performed.</p> <p>We ask that the Board consider clarifying in the standard or in guidance that this is not the intention and consider an approach consistent with APES 110 paragraph 607.7 A2 which provides that “A <i>threat to independence is not created when an individual, in relation to a matter that involves an audit client, acts as a witness of fact and in the course of doing so provides an opinion within the individual’s area of expertise in response to a question asked in the course of giving factual evidence.</i>”</p>	
13	3.14	CA ANZ	<p>General Comments</p> <p>For the purposes of clarity, it would be beneficial if proposed amended paragraph 3.14 was drafted to reflect what is contained in the definitions for ‘Reports’. Members have expressed concern that this paragraph creates, or could create, an expectation with clients that any report prepared by an experienced forensic accountant is an Expert Witness Service. As the term ‘report’ is commonly used by accountants, it being a defined term may be overlooked.</p>	No
14	3.14	CPAA	<ul style="list-style-type: none"> The addition of paragraph 3.14 to provide that if a Member’s Report to communicate evidence refers to the Member’s specialised knowledge and/or training, study, or experience, then the Member must perform the service as an Expert Witness Service; CPA Australia supports this addition for the avoidance of any confusion. <p>CPA Australia further recommends that ‘Member’s Report’ be defined per its use in 3.14. Para. 3.14 could be rephrased ‘report provided by a Member...’ for clarification.</p>	No
15	3.14	Deloitte	<p><u>Paragraph 3.14 - Reference to Specialised Knowledge, Training, Study or Experience</u></p> <p>We are concerned the inclusion of paragraph 3.14 in its current form will lead to a broader range of Forensic Accounting Services being deemed to be Expert Witness Services than we believe may have been intended.</p> <p>Proposed paragraph 3.14 provides that a Member must perform a service as an Expert Witness Service where there is an expectation that “a Member’s report will refer to the Member’s specialised knowledge and/or the Member’s training, study or experience”. We have concerns with this paragraph for the following reasons:</p> <ul style="list-style-type: none"> If the paragraph is drafted as is intended, it appears to be based on the assumption that when a Member is performing a Forensic Accounting Service other than an Expert Witness Service, there is no circumstance where it would be appropriate or required for that Member to make reference in their 	No

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			<p>Report to their specialised knowledge and/or training, study or experience - therefore, by extension, the only time a Member would include reference to their specialised knowledge and/or training, study or experience in a Report is when they are providing an Expert Witness Service. We are of the view that there are many circumstances in practice where a Member performing an Investigation or a Consulting Expert Service would identify their professional qualifications, and do not consider that merely including a professional qualification in a report should result in the Member having to treat the engagement as an Expert Witness Service.</p> <ul style="list-style-type: none"> • Paragraph 3.14 uses the words “...the Member’s specialised knowledge and/or the Member’s training, study or experience”. The use of the term “or” casts a wider net than the definition of Expert Witness that primarily involves the use of specialised knowledge. It also means a reference to any of the Member’s training, study, or experience will be treated as an Expert Witness service, which, in our view, is too broad. • As noted above, due to the prohibition in APES 110 on acting as an expert witness for an Audit Client that is a PIE, the proposed paragraph may have the unintended consequence of prohibiting a Member from providing a permissible Forensic Accounting Service to a PIE Audit Client, purely because the report mentions their specialised knowledge, training, study or experience, and it is therefore deemed an Expert Witness Service. • In addition, Appendix 1 refers to observed facts and scientific facts and provides the observation by a land valuer of the presentation of a property as an example of observed facts. In this example, if the land valuer prepared a report as the presentation of the property and included their qualification after their name, this would be considered an Expert Witness Service under the current construct of paragraph 3.14. <p>Assuming the intention is to capture those circumstances where a Member is engaged to perform a witness engagement and will prepare a report utilising their specialised knowledge and/or the Member’s training, study or experience, but nonetheless considers it to be a Lay Witness engagement (and hence not required to comply with Section 5), we suggest the proposed paragraph 3.14 is amended as follows:</p> <p><i>3.14. Where a Member is engaged to give evidence in a Proceeding which is not limited solely to lay observations and there is an expectation that the Member will prepare a Report utilising their specialised knowledge and/or the Member’s training, study or experience and that the Report will refer to the Member’s specialised knowledge and/or the Member’s training, study or experience with the intention that, the Member shall perform the service that is the subject of the Report as an Expert Witness Service for the purposes of this Standard.</i></p>	

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			Alternatively, we request proposed paragraph 3.14 be deleted.	
16	3.14	EY	<p>However, we would like to bring to the attention of the APESB our concerns surrounding the interaction between APES 215 and the <i>Amendments to the Non-Assurance Services provisions of APES 110 Code of Ethics for Professional Accountants (including Independence Standards)</i> (APES 110) released in December 2022. Specifically, section R607.9 of these amendments prohibits firms from acting as an expert witness for PIE audit clients.</p> <p>Further, section 3.14 of the proposed APES 215 <i>Forensic Accounting Services</i> requires reports that include a statement on the Member's specialised knowledge, training, study or experience to be considered an Expert Witness Service.</p> <p>We are therefore concerned that an unintended consequence of this provision might arise. In an event where a report provided as part of a professional service, that was never intended to be used as part of an Expert Witness Service is subsequently used in legal proceedings, and that report contains a statement on the credentials or qualifications of the author, this might then give rise to an Expert Witness Service retroactively being considered a contravention of section R607.9 of APES 110.</p> <p>As an example, where a firm is engaged by a PIE audit client to provide a valuation report in line with subsection 603 of APES 110 and with APES 225 <i>Valuation Services</i>, and such a statement is included either in the report itself or in a covering letter intended to be read in conjunction with the report. In a further example, the valuer could be asked to provide details of their qualifications or experience to support the PIE audit client in the relevant legal proceeding, without performing any additional work.</p> <p>EY therefore requests the Board and technical staff consider an additional guidance paragraph, technical staff Q&A document, or an additional scenario under Appendix 3 to APES 215, to clarify that services to provide reports made under the requirements of a separate APESB pronouncement are not captured by these provisions.</p>	No
17	7.1	CA ANZ	Amended paragraph 7.1 indicates that a forensic accounting service may be included as an assurance or related service. Given the implications in terms of complying with the quality management standards, more guidance or examples are needed on when a forensic accounting service may be considered an assurance or related service.	No

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18	Appendix 1	CPAA	<ul style="list-style-type: none"> Amendments to Appendix 1 to better differentiate between observed facts and scientific facts, where the latter is based on the Member's specialised knowledge derived from the Member's training, study, or experience; CPA Australia supports this addition for the avoidance of any confusion. <p>We recognise the word 'expertise' is used in Appendix 1. CPA Australia suggests the phrase 'specialised knowledge derived from their training, study, or experience in accounting' be used in its place unless it is required to differentiate from the expertise required of an 'expert witness service'. The addition of a definition of 'expert evidence' may resolve this issue.</p>	No
19	Appendix 2	CPAA	<ul style="list-style-type: none"> 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; CPA Australia supports these additions for the avoidance of any confusion. 	No
20	Appendix 3	CPAA	<ul style="list-style-type: none"> Amendments to the definition of Other Evidence and Examples 6 and 10 of Appendix 3 to remove references to 'summary' so as not to inadvertently confuse this with a summary presented under Section 50 of the Evidence Act; CPA Australia supports these amendments for the avoidance of any confusion. Amendments to Example 7 of Appendix 3 to include an example where evidence presented under Section 50 of the Evidence Act may and may not be a Lay Witness Service and that where the Member's Report refers to specialised knowledge and/or training, study or experience it is an Expert Witness Service; CPA Australia supports these amendments for the avoidance of any confusion. 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. CPA Australia supports these amendments for the avoidance of any confusion. 	No
21	Appendix 3	Deloitte	<p><u>Appendix 3</u></p> <p>The definition of Expert Witness and paragraph 3.14 refer to a Member's <i>specialised knowledge and/or the Member's training, study or experience</i>, whereas Appendix 3 Table Item 7 and Example 7 refers to "<i>specialised knowledge and/or the Member's training, study or experience in accounting</i>". This may lead to confusion among Members on whether to treat a service as an Expert Witness Service, based on the disclosure of accounting credentials, or whether the disclosure in a report of other non-accounting credentials would also require a service to be treated as an Expert Witness Service.</p>	No

RESPONDENTS

1	CA ANZ	Chartered Accountants Australia & New Zealand
2	CPAA	CPA Australia
3	Deloitte	Deloitte Touche Tohmatsu
4	EY	Ernst & Young
5	IPA	Institute of Public Accountants