27 February 2023

Chief Executive Officer
Accounting Professional and Ethical
Standards Board Limited (APESB)
Level 11
99 William Street
Melbourne Victoria 3000

By email: sub@apesb.org.au

Dear Channa,

Exposure Draft, Proposed Standard APES 215 Forensic Accounting Services

CPA Australia represents the diverse interests of more than 170,000 members working in over 100 jurisdictions and regions. We make this submission on behalf of our members and in the broader public interest.

Overall, CPA Australia supports the APESB's proposed Proposed Standard APES 215 Forensic Accounting Services (APES 215) issued December 2022.

We make the following general observations and comments for consideration by the APESB. These observations and comment have been informed by feedback from, and discussion with, several of our members who specialise in providing forensic accounting services.

1. Amendments to Definitions and Examples in APES 215

> **Recommendations**:
>
> CPA Australia supports the proposed amendments to various definitions and examples in APES 215 as set out in the Exposure Draft.
>
> - 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.**
> - 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.**
>
>   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.

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. 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.

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**.

- 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**.

  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.

  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**.

- 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**.

  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.

- 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**.

  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.

- 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**.
- 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**.

2. **Quality Management Conforming Amendments – to ensure APES 215 remains consistent with the reissued APES 320 and where applicable AUASB Quality management Standards**

> **Recommendations**:
>
> **CPA Australia supports the proposed quality management-related conforming amendments at paragraphs 1.1, 7.1 and 7.2**.

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**

> **Recommendations**:
>
> **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**.
>
> In particular, the following matters should be considered:
>
> - 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

Responses to specific questions asked in the ED are included in the **Attachment** to this letter.

If you have any queries about this submission, please don't hesitate to contact Ms. Melissa Read, Senior Manager, Professional Standards, Professional Standards and Business Support on melissa.read@cpaaustralia.com.au or +61 (0) 481 476 275.

Yours sincerely,
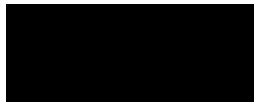
Dr Gary Pflugrath
Executive General Manager
Policy and Advocacy

Requests for Specific Comments

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.

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**:

  (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);

  (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);

  (c)   the opportunities or benefits of using the technology in the services;

  (d)   the risks or concerns of using the technology in the services; and

  (e)   any ethical considerations or concerns about using the technology in the services.

No comment

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**.

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.
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.
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.
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.