

MW Forensic is a newsletter prepared on an ad hoc basis covering topical issues in the areas of business valuations and forensic accounting.

Draft APES 215 – Forensic Accounting Services

Professional & Ethical Standards Board (APESB) sets professional and ethical standards which apply to the members of the three professional accounting bodies (The Institute of Chartered Accountants in Australia, CPA Australia and the National Institute of Accountants). Accountants who are members of these bodies must comply with standards approved by the APESB.

On 3 June 2008 the APESB invited comments on Draft APES 215. Several accountants, accounting firms and Police departments responded by the closing date of 29 August 2008.

In December 2002, the ICAA and CPA Australia issued APS 11 – Statement of Forensic Accounting Standards and GN 2 – Forensic Accounting.

The proposed APES 215 will replace these documents.

Draft APES 215 outlines mandatory requirements and guidance to members who provide forensic accounting services. It will apply to members in public practice, business and government.

It is intended that the Standard will be operative from 1 July 2009.

It states Forensic Accounting Services covers:

- *Expert Witness Services – where the member expresses an opinion to a Court based on the member's specialised knowledge in respect of issues concerning liability, damages, account of profits or assessing a claim under an insurance policy.*
- *Lay Witness Services – where the member gives evidence not as an expert.*
- *Consulting Expert Services – where a member acts as an arbitrator, mediator, referee or provides advice to the legal representative of the client or employer.*
- *Investigation Services – where a member performs, advises or assists with an investigation for a client or employer in connection with allegations of illegal, unethical or otherwise improper conduct.*

The Draft Standard covers:

- *Fundamental responsibilities of members – public interest obligations, professional independence, professional competence and due care, procedural fairness and compliance with laws and confidentiality*
- *Professional Engagement matters – communicate the terms of engagement.*

- *Expert Witness Services – paramount duty to the Court which overrides any duty to client or employer, duty to assist the Court on matters relevant to the member's area of expertise in an objective and unbiased manner and make it clear to the Court when a particular question or issue falls outside the member's expertise.*
- *Report of the Expert shall, subject to legal requirements, communicate:*
 - *Instructions received*
 - *Any limitation on the scope of work performed*
 - *Details of member's relevant training, study and experience*
 - *Any relationships with the parties*
 - *The extent, if any, reliant on the work of others*
 - *The member's opinion*
 - *Facts relied upon and assumed facts*
 - *Reasoning for opinion and explanation why method was adopted*
 - *Sources of information relied upon*
 - *Any restrictions on the use of the report*
- *Consulting Services – member's duty is to client or employer. If the service leads to Expert Witness Service then the member shall comply with duty to Court, etc.*
- *Investigative Services – member's duty is to client or employer. If the service leads to Expert Witness Service then member shall comply with duty to Court, etc.*
- *False or Misleading Information and Changes in Opinion – if a member becomes aware that an opinion expressed by the member is based on false or misleading information or omits material information, then the member should immediately inform the legal representative of the client or employer of the basis or omission and also consider whether it is necessary to issue a supplementary report.*
- *Quality Control – a member should comply with APES 320 Quality Control of Firms and should prepare working papers that appropriately document the work performed.*
- *Professional Fees – a member should not enter into a contingency fee arrangement for Expert Witness Services or other Forensic Accounting Service which requires independence or purports to be independent.*

A copy of the draft APES 215 can be obtained at:
www.apesb.org.au

APES 225 – Valuation Services

The APESB issued professional standard APES 225 Valuation Services in July 2008.

It effective for Valuation Engagements or Assignments commencing on or after 1 January 2009.

Again, a copy of the standard can be obtained at: www.apesb.org.au

The standard sets out defined terminology and refers to three types of valuation services.

It states that a Valuation Service means a service provided by a member to a client or employer in performance of a:

- Valuation Engagement
- Limited Scope Valuation Engagement or
- Calculation Engagement.

Valuation Engagement refers to an engagement or assignment to perform a Valuation and provide a Valuation Report where the member determines an estimate of value of:

- A business
- Business ownership interest
- Security
- Intangible asset

using one or more Valuation Methods and Valuation Procedures.

Limited Scope Valuation Engagement refers to an engagement or assignment to perform a Valuation and provide a Valuation Report where the scope of work is limited or restricted. Also referred to as “indicative valuation” engagement.

Calculation Engagement refers to an engagement or assignment to perform a Valuation and provide a Valuation Report where the member and the client or employer agree on the specific Valuation Approaches and Methods that the member will use and the extent of the Valuation Procedures the member will perform to estimate the value of a business, business ownership interest, security or intangible asset. It generally does not include all of the Valuation Procedures required for a Valuation Engagement.

Valuation Procedures refer to the act, manner and technique of performing the steps of a Valuation Method.

Valuation Method(s) means, within Valuation Approaches, a specific way(s) to determine an estimate of value of a business, business ownership interest, security or intangible asset.

Valuation Approach(es) means a general way(s) of determining an estimate of value of a business, business ownership interest, security or intangible asset using one or more Valuation Methods.

Valuation Report is a written or oral communication by the member containing a Conclusion of Value or a Calculated Value.

Conclusion of Value means an estimate, either a single amount or a range, of value of a business, business ownership interest, security or intangible asset from a Valuation Engagement or a Limited Scope Valuation Engagement.

Calculated Value is an estimate of value from a Calculation Engagement. Again, it can be either a single amount or range.

Key points of the standard include:

- Professional Independence
 - *in providing a Valuation Service, a member shall not act as an advocate in respect of a Valuation Service which requires independence or purports to be independent.*
- Professional Competence & Care
 - *in providing a Valuation Service, a member shall maintain professional competence and take due care.*
- Confidentiality
 - *in providing a Valuation Service, a member must respect the confidentiality of information acquired in the course of his or her work and must not disclose any such information to a third party without specific authority or unless there is a legal duty to disclose it.*
- Professional Engagement and other Matters
 - *A member must ensure that there is a clear understanding between the client and the member regarding the terms of engagement to provide a Valuation Service.*
 - *A member shall gather sufficient and appropriate evidence by such means as inspection, inquiry, computation and analysis to ensure that the Valuation Report and the conclusions therein are properly supported.*
- Reporting a member in public practice preparing a Valuation Report in respect of a Valuation Service, should communicate in the report:
 - *The name of the engaging party.*
 - *A description of the business, business ownership interest, security or intangible asset being valued.*
 - *The date at which the valuation has been determined, date the Valuation Report has been issued.*
 - *The purpose for which the Valuation Report has been prepared.*
 - *The name and qualifications of the members responsible for the Valuation.*

- *The scope of the Valuation, including any limitations or restrictions.*
 - *The basis of the Valuation.*
 - *A statement whether the Valuation was acting by the member acting independently or not.*
 - *The Valuation Approaches adopted and how they have been applied.*
 - *The specific information on which the member has relied and the extent to which it has been reviewed.*
 - *A description of the material assumptions applied in the valuation and the basis for those assumptions.*
 - *A Conclusion of Value or Calculated Value (depending on type of Valuation Service).*
 - *All qualifications that materially affect the Conclusion of Value or Calculated Value.*
 - *For a Limited Scope Valuation Engagement, a statement that if a Valuation Engagement had been performed the results may have been different.*
 - *For a Calculation Engagement, a statement that if a Valuation Engagement had been performed the results may have been different.*
 - *Where a member has prepared a Valuation Report that requires independence or purports to be independent, a statement that the compensation to be paid to the member is not contingent on the conclusion, content or future use of the Valuation Report.*
 - *A statement that the Valuation Report was conducted in accordance with APES 225.*
- Professional Fees
 - *A member in public practice shall not enter into a contingent fee arrangement for a Valuation Service which requires independence or purports to be independent.*
 - Valuation Terminology
 - *When issuing a Valuation Report, a member shall clearly define the Valuation Terminology used.*
 - *In providing a Valuation Service, members are encouraged to adopt the definitions set out in the International Glossary of Business Valuation Terms which are included in the valuation standards of the American Institute of CPAs and the Canadian Institute of Chartered Business Valuators.*

Our Valuation Reports post 1 January 2009 will encompass the new terminology as set out above.

APES 225 does not refer to specific valuation methodology which should be considered.

This is unlike ASIC Regulatory Guide – 111 where it specifically states (in regard to valuation methodology) that:

“It is generally appropriate for an expert to consider using the following methodologies:

- a) *the discounted cash flow method and the estimated realisable value of any surplus assets;*
- b) *the application of earnings multiples (appropriate to the business or industry in which the entity operates) to the estimated future maintainable earnings or cash flows of the entity, added to the estimated realisable value of surplus assets;*
- c) *the amount that would be available to for distribution to security holders on an orderly realisation of assets;*
- d) *the quoted price for listed securities, when there is a liquid and active market and allowing for the fact that the quoted price may not reflect their value, should 100% of the securities be available for sale.*
- e) *any recent genuine offers received by the target for any business units or assets as a basis for valuation for those business units or assets. (111.53)*

These technical aspects are likely to be included in future valuation standards issued by the APESB.

In addition to the above, a member in public practice should consider including the following information in a Valuation Report, as appropriate:

- *A description of other Valuation Approaches and Valuation Methods considered and the reasons why they were not considered relevant for the Valuation.*
- *Sufficient details of the Valuation Calculations to allow a reader to understand how the member determined the Conclusion of Value or Calculated Value.*
- *A summary of relevant financial information*
- *A summary of the relevant industry.*

Congratulations

We congratulate Gerard Lim of this firm on his recent successful completion of the Graduate Diploma in Investment & Finance course run by FINSIA.



Munday Wilkinson

Chartered & Forensic Accountants



Munday Wilkinson

Our Aim

Munday Wilkinson is a boutique business valuation and forensic accounting firm established in June 2000.

We offer the legal profession, and others, a quality, personalised, time efficient and cost effective service.

All our professional staff are subscribed members of the Business Valuation and Forensic Accounting Special Interest Groups of the Institute of Chartered Accountants in Australia.

Our Services

We are well experienced in:

- Business, Share and Other Equity Valuations
- Quantification of Economic Loss
- Loss of Earnings Assessments /Reviews
- Family Law – Single Expert Reports, review of Single Expert Reports, investigations, advising on tax and refinancing issues for proposed settlements
- Fraud Reviews and Financial Investigations
- Due Diligence reviews
- Professional Negligence matters concerning accountants, tax advisors, auditors and directors
- Compulsory Acquisitions – claims assistance
- Due Diligence Services
- Expert Determinations
- Expert Witness Services

We can provide forensic accounting services for a wide variety of dispute related matters from the small to the large.

Further Information

If you would like further information regarding this newsletter or our services, please contact Russell Munday, Bruce Wilkinson, Paul Spence or Gerard Lim at:

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