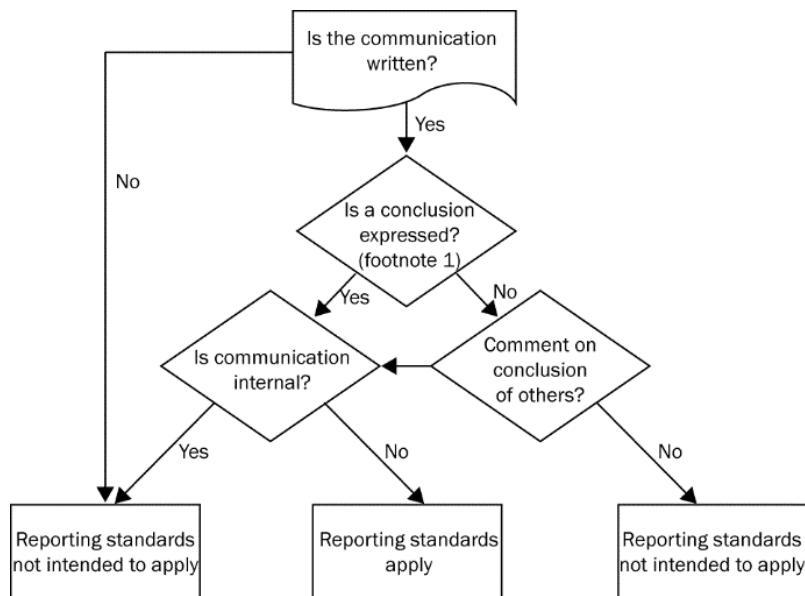




PRACTICE BULLETIN NO. 5

GUIDANCE AS TO WHEN COMMUNICATIONS ARE NOT VALUATION, ADVISORY, EXPERT OR LIMITED CRITIQUE REPORTS

1. Standard No. 110 applies to Valuation Reports, Standard No. 210 applies to Advisory Reports, Standard No. 310 applies to Expert Reports, and Standard No. 410 applies to Limited Critique Reports. Members are required to comply with Reporting Standard Nos. 110, 210 and 310 when issuing written communications as to their conclusion of value, of financial gain/loss or of a financial nature in the context of litigation and Reporting Standard No. 410 when issuing communications containing comments on conclusions of value, of financial gain/loss, or of a financial nature of others.
2. Members are often asked to assist, advise or consult on matters that are other than those contemplated by Standard Nos. 110, 210, 310 and 410. The purpose of this Practice Bulletin is to assist in a determination as to whether a particular communication is of a nature such that the reporting standards are not intended to apply. In this regard, it considers communications that (i) do not express a conclusion or (ii) are intended solely for internal use. This Practice Bulletin can be summarized by the following decision tree.



1. An essential component to which the Practice Standards are intended to apply, is the application of professional judgement.

COMMUNICATIONS THAT DO NOT EXPRESS A CONCLUSION

3. This Practice Bulletin provides assistance in identifying some circumstances in which communications provided by Members do not result in the expression of a conclusion of value, of financial gain/loss or of a financial nature in the context of litigation and therefore for which Standard Nos. 110, 210 and 310 do not apply.
4. An essential component of conclusions expressed in Valuation/Advisory/Expert Reports is the use of professional judgement. Circumstances where a Member is not required to apply professional judgement are situations to which the Practice Standards are not intended to apply.
5. In circumstances where the Member has determined that the communication does not express a conclusion as contemplated by Standard Nos. 110, 210, or 310 and that such Practice Standards are not applicable, the Member should take care to ensure that the communication is not likely to appear to a reader to be a report that has been prepared in compliance with Standard Nos. 110, 210 or 310.
6. It is generally desirable to include a statement in the communication to the effect that it is the Member's assessment that the Practice Standards do not apply to the communication and the Practice Standards have therefore not been followed, such as "This communication does not express a conclusion and is not a report as defined by the Practice Standards of The Canadian Institute of Chartered Business Valuators". However, in the context of some communications such a statement may not be practical or appropriate.
7. Some examples of communications that may not express a conclusion include:
 - a. Communication in the context of pricing strategy, planning and negotiation;
 - b. Illustrative pricing analyses for presentation to a prospective client in the context of a mergers and acquisitions assignment;
 - c. Communication of valuation theory, approaches or methodologies; and
 - d. Communication in the nature of general advice which might include advice in respect of strategy, approach or illustrative scenarios in the context of litigation or a dispute.
8. In situations where a Member is unable to make a clear determination as to whether or not a written communication contains the expression of a conclusion as contemplated by the Practice Standards, it is advisable for the Member to assume that a conclusion is being expressed and that the reporting standards apply to the particular communication. Independence, or lack of independence, is not an attribute that is relevant in a determination of whether or not a communication contains a conclusion.

Internal Communications

9. In addition to communications that do not express the conclusion of the Member, there are other circumstances where professional judgement may be applied but for which the reporting requirements of the Practice Standards are reasonably not intended to apply. These circumstances are limited to communications intended solely for internal use. The term “internal communications” is intended to mean communications that are intended for distribution and use solely within the same organization to which the Member belongs or is employed. For greater certainty, communications with clients or their representatives should not be considered to be internal for the purposes of this Practice Bulletin. While internal communications may express a conclusion or comment on the conclusions of others that is based on professional judgement, the internal nature of the relationship makes it potentially unnecessary for the Member to prepare the communication in a manner that complies with the reporting requirements of Standard Nos. 110, 210, 310 or 410. In these circumstances it would be reasonable for the Member to conclude that, based on their professional judgement, it is not necessary for the communication to comply with the reporting requirements of the Practice Standards.

Written Communications

10. This Practice Bulletin deals with written communications. A written communication includes all forms of written communication regardless of the medium used and, for greater certainty, includes electronic media such as e-mail or documents transmitted by such means. Oral communications are not intended to be subject to Standards Nos. 110, 210, 310 or 410.

Purpose and Intent

11. This Practice Bulletin is not intended to suggest that it is appropriate for a Member to choose not to follow the Practice Standards based on other considerations, including matters such as time or fee constraints. **A Member may not choose to not follow the requirements of the Practice Standards when they are appropriate.** In this regard, nothing in this Practice Bulletin should be construed to allow a Member to “opt out” of the Practice Standards or the minimum required reporting requirements set out therein. Rather, the purpose of this Practice Bulletin is to assist the Member in a consideration as to the factors to be taken into account in making a determination that the Standards do not apply in a particular limited circumstance. While such matters are a question of professional judgement, a failure to comply with applicable reporting standards is a breach of the Code of Ethics.

December 4, 2009