

PRACTICE STANDARD NO. 330

EXPERT REPORTS

FILE DOCUMENTATION STANDARDS AND RECOMMENDATIONS

1. An Expert Report is defined as **“any written communication other than a Valuation Report, containing a conclusion as to the quantum of financial gain/loss, or any conclusion of a financial nature in the context of litigation or a dispute, prepared by an Expert acting independently.”** An Expert Report does not include work product that is in the process of being completed that is provided to a client or knowledgeable third party in circumstances where each of the following conditions are met: (i) the work product is clearly marked as being in draft form and subject to change; (ii) the work product is issued for the purpose of obtaining comment, instruction, confirmation or other information required to complete the Expert Report; (iii) the Expert knows, or reasonably ought to know, that the intended reader(s) does not intend to rely on the work product or distribute the work product to a third party who may in turn rely on such work product; and (iv) the Expert has a reasonable expectation at the time the work product is provided that an Expert Report will be completed and issued in due course.
2. Where a Valuation Report forms part of an Expert Report, that Valuation Report must conform to Standards 110, 120 and 130.
3. At a minimum, file documentation for an Expert Report shall consist of the following items which are set out in bold characters. *“Recommendations”* are not mandatory but encouraged. *“Explanatory comments”* provide additional guidance in applying the specific provisions of the Standard.
4. **General Standards**
 - A. **Work performed in the course of an Expert Report engagement shall be documented and files shall be maintained in an organized manner.**
 - B. **The form and extent of working papers shall suit the circumstances and needs of the engagement for which they are prepared.**
 - C. **All documents and working papers evidencing the nature and extent of work performed shall be retained for a reasonable time following completion of the engagement.**
 - D. **The identities of the individual(s) performing the Expert Report engagement shall be documented.**

5. Specific Standards

- A. **A copy of the final issued Expert Report shall be retained on file.**
- B. **When the Expert has determined that an engagement letter is required, it shall be retained on file. When no engagement letter has been received, the Expert's file shall contain a summary of the nature and purpose of the mandate, including the nature of the instructions received from the person requesting the Expert Report.**
- C. **Summaries of key meetings, discussions and correspondence shall be retained on file.**
- D. **The Expert shall either retain on file, or have access to, information upon which he or she relied when conducting the engagement.** (*Recommendation:* The following documents should normally be retained on file or be summarized with the resulting summaries retained on file:
 - I. Any information that provides the Expert with a sufficient understanding of the subject of the Expert Report, such as any documentation including pleadings, agreements, contracts, letters of understanding, letters of intent and correspondence which bear on the subject of the Expert Report;
 - II. Information providing sufficient understanding of the nature of the dispute and the events giving rise to the claim;
 - III. Where applicable, information providing sufficient understanding of the economic context and industry outlook bearing on the individuals and/or business (es) central to the Expert Report calculation(s), taking into account the past, the present and the foreseeable future;
 - IV. Financial information relating to the dispute and/or claim. (Examples: financial statements, financial projections, forecast, tax returns, sales journals, etc.
- E. **The approach taken shall be documented along with the reasoning for its selection.** (*Explanatory comment:* this documentation standard will be met if this information is included in the Expert Report itself.)
- F. **The specific techniques used shall be documented along with the reasoning for their selection. Key areas considered and key assumptions made shall be documented. A copy of the calculations, including all necessary explanations and supporting documentation, shall be retained on file.** (*Explanatory comment:* this documentation standard will be met if this information is included in the Expert Report itself.)
- G. **Where the work of a specialist was relied upon, the conclusions arrived at by the specialist shall be documented and when a written opinion or report prepared by the specialist is obtained, a copy thereof shall be retained on file.**
- H. **When the Expert has determined that a client representations letter and/or a management representations letter is necessary, this (these) letter(s) shall be**

retained on file. When the representation letter(s) indicates that the client or management relied on a draft copy of the Expert Report in order to make its representations, this draft copy shall be retained on file. When no representations letter has been received, the Expert's file shall indicate why no such letter was obtained.

June 17, 2009