

Via email: [PwCResponse@Treasury.gov.au](mailto:PwCResponse@Treasury.gov.au)

Director  
Tax Agent Regulation Unit  
Personal, Indirect Tax and Charities Division  
Treasury  
Langton Cres  
PARKES ACT 2600

18 January 2024

Dear Sir/Madam

**Enhancing the Tax Practitioners Board's sanctions regime - Consultation paper, December 2023  
BDO Submission**

BDO refers to the invitation by Treasury to provide comments in relation to the Government's Consultation paper as referred to above, released in December.

Whilst we are predominantly aligned with the proposal to expand the Tax Practitioners Board's (TPB) sanctions regime, we have provided comments in relation to certain aspects of the document in the attached Appendix and encourage ongoing consultation with the tax agent community as the reforms progress. If you have any questions in relation to this submission please contact me via email: [Tim.Sandow@bdo.com.au](mailto:Tim.Sandow@bdo.com.au).

Yours faithfully

**BDO Services Pty Ltd**



Tim Sandow

Partner

[https://bdocomau.sharepoint.com/sites/BDOsydneyTax/National Tax/Q&R/Projects/FY 24/Respp to PwCplus/Submission to Treasury/240122BDO Treasury Submission TPB Sanctions.docx](https://bdocomau.sharepoint.com/sites/BDOsydneyTax/National%20Tax/Q&R/Projects/FY%2024/Resps%20to%20PwCplus/Submission%20to%20Treasury/240122BDO%20Treasury%20Submission%20TPB%20Sanctions.docx)

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## Appendix

### Enhancing the Tax Practitioners Board’s sanctions regime - Consultation paper, December 2023 BDO Submission

**Opening Statement:** BDO is predominantly aligned with the proposal, supporting the expansion of sanctions and penalties available to the TPB including the extension to unregistered practitioners and awaits their refinement. We hope for ongoing communication and consultation on the integration of these measures with both the existing Code and other reformative measures currently in progress. We provide responses below to some of the questions raised as applying to registered practitioners.

Question Ref.	Detail	Comment
	<b>Civil Penalties</b>	
7	<p>Would the proposed increase in civil penalties serve as an effective deterrent to protect consumers and prevent breaches of the code and the TASA more generally?</p> <p>Are the proposed penalties appropriately scaled to adequately address individuals, bodies corporate, trusts, partnerships and SGEs?</p>	<p>Yes.</p> <p>Yes. However, given the dramatic increase in the maximum amount of penalties, there is a need for clear objective guidelines to be established to ensure the appropriate application according to circumstance.</p>
	<b>Contingent and Interim Suspensions</b>	
16	<p>Given how significant suspensions are likely to be for registered tax practitioners, should interim suspensions be limited to certain behaviours?</p>	<p>Yes.</p> <p>We consider the availability of interim suspension pending a more formal determination an important mechanism to enabling swift protective action in appropriate circumstances. However, in view of the potential impact on not only the practitioner, but also their clients it should only be used in very limited circumstances. For example, where the outcome of deregistration or formal suspension is a matter of administration as opposed factual determination; or where the risk to the broader</p>

		<p>community far exceeds the potential impact on the practitioner and their clients.</p> <p>Distinguishing between the sole practitioner and other larger practices is likely to be appropriate.</p>
17	<p>Are there any risks as to whether an interim suspension may affect clients/taxpayers and are there any additional safeguards that can be put in place to mitigate these risks?</p>	<p>The reputational damage associated with interim suspension is not to be underestimated, as well as the potential risk through interruption of client service, impacting the client’s ongoing commercial activities and the satisfaction of client obligations to the revenue.</p> <p>As noted above, guidelines need to be developed incorporating illustrative examples; with potential variations distinguishing sole practitioners (or smaller practices) from others as appropriate. Suspension of a sole practitioner would have a dramatic effect on the practitioner’s clients as there are no default resources available to continue client service.</p>
18	<p>Are the safeguards proposed sufficient to protect tax practitioners?</p>	<p>Largely yes, however in terms of the time limit, 90 days is a long time, and confirmation at 60 days would be appropriate. Presumably once imposed the TPB will be empowered to withdraw at any time?</p> <p>Again, guidelines need to be developed to support the circumstances in which an extension beyond the 90 days is determined to be appropriate, to ensure the affected party is not subjected to deferral on the basis of administrative inefficiency. An extension might be appropriate for example, where a relevant court outcome is pending.</p>
	<p><b>Additional Consultation and Overall</b></p>	
21 and overall	<p>Does the proposed package strike the right balance in promoting integrity whilst protecting consumers and facilitating access to services?</p>	<p>There is a range of legislative and regulatory reform aimed at enhancing integrity within the tax profession currently in play. The measures extend well beyond the serious offender and will impact all players in the current market, bringing increased administrative burden and cost. It is important to ensure that sufficient care is taken in the planning and delivery of these measures so that:</p>

		<ul style="list-style-type: none"><li>I) The regulatory mechanisms put in place are in congruence, operating in a complimentary rather than duplicating manner.</li><li>II) That the administrative burden and optional penalties are appropriate in view of the significance of the mischief that was intended to be curtailed/prevented; and</li><li>III) The timeframes set for the roll-out of the regulations enable sufficient practical consultation in design, as well sufficient time for implementation.</li></ul> <p>Specifically in alignment with point II), in other components of the PwC Response packages it is proposed to extend the information published by the TPB on the Register regarding practitioner misconduct. Given the potential reputational damage of publication, we would submit that this should not be applied to all sanctions and be reserved for Higher Level Sanctions only.</p>
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