



Wednesday, 14 August 2024

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

By email: pwcreponse@treasury.gov.au

Dear ██████████

Submission on Review of the eligibility for registration consultation paper

Chartered Accountants Australia and New Zealand (CA ANZ) welcomes the opportunity to provide our comments on the *Review of the eligibility requirements for registration with the Tax Practitioners Board (TPB)* consultation paper (the consultation paper).

Consultation is important

CA ANZ appreciates the extension of the short consultation period of 3 weeks by a week, particularly as the consultation period coincided with school holidays and the release of a controversial legislative determination that affects tax practitioners. Development of good policy and law require consultation papers to have sufficient response times.

Big picture questions require big picture responses that discuss the overall direction. Next steps should include detailed consultation papers that deal with the next level of policy design that is associated with an overall policy direction. Once that level of policy design has been considered, consultation about exposure draft legislation should follow. All levels of consultation require appropriate response periods so that industry bodies can consult effectively with their membership who are impacted by these measures.

Patchwork of changes

Simple, clear rules provide the best guidance for compliance. Greater consideration of the interaction between the various new and emerging initiatives is needed. In relation to the registration of tax professionals, it would be an appropriate time to pause and reflect on how changes that are already being implemented affect the profession as the number of duplicate and overlapping provisions is causing concern.

Need to take account of developments after the James review

Many of the issues in this consultation paper stem from recommendations from the Independent Review of the Tax Practitioners Board (“the James Review”) that was finalised on 31 October 2019. Since the James review there have been substantial changes to the TASA which includes the code of conduct (“the Code”).

For example, governance arrangements are now explicitly part of the Code. Significant breaches of the Code need to be self-reported, and peer reported to the TPB within 30 days and non-compliance with these obligations can result in substantial penalties. The TPB is now obtaining almost real time information about significant breaches of the Code and can commence investigations and impose sanctions.

Sanctions such as termination or a refusal to register by the TPB will result in an entity becoming a disqualified entity and thus unable to work without TPB approval. In the 2022-23 October budget the TPB received \$30.4 million to enable the rollout of an expanded compliance programme and is expected to shortly obtain a wider range of sanction powers.

Weakening of due process

The existing self-reporting requirements in section 30-35(1)(a) of the TASA apply to ANY breach of the registration requirements and may result in the TPB deregistering an entity. A refusal to register a tax practitioner will result in an entity becoming a disqualified entity – that is unemployable in any capacity in the tax profession without the TPB’s approval, and the refusal to register will be published on the TPB website for a period of 5 years.

Putting Code requirements of governance, conflicts of interest and personal tax obligations in the annual registration requirements removes the need for a TPB investigation and may result in either a rejected registration / renewal, or a termination, which immediately disqualifies an entity from providing tax services.

An administrator should not be able to remove the registration of a tax practitioner without procedural fairness and natural justice.

Let us bear firmly in mind that removing registration removes the ability to work in the field of tax. This can be a harsh outcome which is why the Government is currently considering granting the TPB the ability to obtain enforceable undertakings, a greater range of administrative penalties and clarifying TPB orders.

Threshold for breach reporting is undermined

It is appropriate that the breach reporting provisions apply to “significant breaches”, as those are the breaches which could cause harm to consumers and the tax system. The registration requirements do not have such a threshold.

The registration requirements have traditionally been well-defined serious objective events such as convictions for serious offences, dishonesty, fraud, bankruptcy, and external administration. Subjective views regarding governance and conflicts of interest do not fit neatly into the existing registration eligibility framework.

If these registration changes are implemented, then the self and peer breach reporting mechanism will be rendered redundant.

Consumers outcomes adversely affected

The consultation posits that greater registration requirements will increase consumer protection. It is not clear how lowering the threshold from significant breach to minor breaches/omissions and increasing red tape on practitioners, especially small practitioners will improve consumer outcomes.

The increased funding and the ability of the TPB to receive breach reporting notifications has significantly increased its ability to ‘police’ tax practitioners. The TPB can undertake random audits and investigate tax practitioners as a result of information provided by the ATO. These alternative options have a lower compliance burden and are better targeted.

The risk of overregulation without appropriate natural justice is much higher than the perceived benefits of consumer protection.

Recognised professional association (RPA) pathway

CA ANZ does not support the removal of RPA pathway. The strength of CA ANZ’s governance systems allow it to be recognised by the Tertiary Education and Quality Standards Agency ([TEQSA](#)), the Professional Standards Councils ([PSC](#)) and the International Federation of Accountants ([IFAC](#)). All these bodies are independent of CA ANZ and review CA ANZ’s governance and oversight procedures.

CA ANZ’s educational requirements are robust and result in a TEQSA post graduate qualification level 8 which is higher than level 5 which the TPB currently requires. In the latest letter renewing CA ANZ’s TEQSA registration, TEQSA has commended “CA ANZ for the high calibre of its application and supporting materials which demonstrate a sustained commitment to self-assurance practices. TEQSA also commends CA ANZ for its thorough, systematic, and transparent responses to the recommendations from the Winchester governance review, the Professional Conduct Framework Review and the Cowdroy Review. These have strengthened CA ANZ’s institutional quality assurance frameworks and give TEQSA confidence that CA ANZ will continue to meet its regulatory obligations, including the Threshold Standards.”

CA ANZ is also one of the founding members of the Global Accounting Alliance (GAA). This alliance benchmarks membership based on the recognition of each other's educational competencies and qualifying programs so that our Members can enjoy membership rights with professional accounting organisations in the world's leading capital markets in the UK, Ireland, South Africa, Hong Kong, Canada and the USA.

The RPA pathway is being increasingly utilised. The removal of the RPA pathway would increase the barriers to entry and worsen the current shortage of tax professionals.

The consultation paper's assumption that most people who use this pathway would qualify under alternative pathways is not reflective of CA ANZ's experience. There are long-standing issues concerning the secondary qualifications component of other academic pathways which are not addressed in this consultation paper which means that registration under academic pathways is not always possible and there is a greater reliance on the RPA pathway. A review of the accreditation system is needed before considering the abolition of the RPA pathway.

If this proposal proceeds, then the intent to grandfather all existing registrants under the RPA pathway is welcomed.

Our response to the specific questions raised in the consultation paper are attached. CA ANZ would welcome the opportunity to discuss this submission in detail with Treasury. Should you like to arrange such a discussion please contact Susan Franks, Australian Leader – Tax and Financial Services at susan.franks@charteredaccountantsanz.com

Sincerely,

Simon Grant FCA
Group Executive
Advocacy and International

Susan Franks CA
Australian Leader
Tax and Financial Services

Responses to questions

Strengthening registration requirements for companies and partnerships

Will the inclusion of governance requirements in registration criteria for companies and partnerships help to meet the objectives of the TASA of maintaining integrity of the tax system and providing adequate professional and ethical safeguards to consumers?

No. It creates confusion by duplicating existing rules, rendering redundant the breach reporting rules, and taking away natural justice procedures. See cover letter for further details.

Is the current policy setting requiring entities to only demonstrate that they have a 'sufficient number' of individually registered tax practitioners appropriate? Should the number or ratio of individually registered tax practitioners be prescribed, or the number expanded to include all partners or directors within the entity who provide tax services?

The existing requirement is sufficient and flexible. It should not be made prescriptive.

The best approach is to allow flexibility for each tax practice to determine the number of individuals that is 'sufficient' for their practice to ensure adequate supervisory arrangements are put in place to provide services competently. This approach has regard to the fact that tax practices come in all sizes, forms and varieties, with differing types of tax service offerings, different levels of complexity, different locations in Australia, different types of clients and markets, and different staffing and resourcing arrangements. Flexibility in implementing supervisory arrangements and ensuring quality management is essential.

The TPB currently scrutinises registrations and renewals, on a case-by-case basis, which should be retained. The TPB's long-standing guidance on supervisory arrangements¹ does not specify minimum quotas or ratios, which has allowed for appropriate safeguards to be developed for small, medium and large size firms. We recommend that the TPB consider updating its guidance to include current best practice examples that it has experienced.

¹ TPB(l) 36/2021 Supervisory arrangements under the [Tax Agent Services Act 2009](#)

Reviewing professional association accreditation and registration pathways

CA ANZ does not support removal of the 'Professional association membership' pathway for registration. It is heavily relied upon by both tax agents and BAS agents across the profession and should not be removed until the considerable issues with the other existing pathways are resolved. CA ANZ recommends that the accreditation system be reviewed.

The consultation paper throws doubt on the effectiveness of professional associations in upholding the profession and ethical standards for its voting members. During the year ended 30 June 2023 CA ANZ conducted 488 practice quality reviews (which were reported to the Financial Reporting Council (for audit firms) and the Professional Standards Council) and imposed 225 sanctions - more sanctions than both the TPB and Company Auditors Disciplinary Board that have the support of the Australian taxpayer behind them.

Further, CA ANZ continuously improves and strengthens its role in the monitoring and enhancement of Chartered Accountants. For example, CA ANZ has:

- tripled the mandatory ethics CPD to six verifiable hours per triennium and are investing in complimentary and paid ethics training resources for members.
- had by-Law changes, approved by a Member vote in October 2023, which includes a fivefold increase in the maximum fine for firm events to \$250,000
- increased members' understanding and awareness of their duties and obligations through our magazine Acuity, website, social media channels and webinars;
- reframed regulatory engagement with large firms
- increased fines for firm events;
- Created stronger investigative powers for CA ANZ's independent Professional Conduct Committee; and
- Obtained the power to investigate members who have since left the profession.

The strength of CA ANZ's governance systems allow it to be recognised by the Tertiary Education and Quality Standards Agency ([TEQSA](#)) the Professional Standards Council ([PSC](#)) and the International Federation of Accountants ([IFAC](#)). All these bodies are independent of CA ANZ and review CA ANZ's governance and oversight procedures.

- The PSC, and the councils in other states and territories, are independent statutory bodies established under professional standards legislation (PSL) to facilitate, approve and supervise professional standards schemes (Schemes) of occupational associations. CA ANZ has had a Schemes approved by the PSC since 1997. When the PSC approves a Scheme, a regulatory relationship between the PSC and the association is established. The PSC oversees the association's regulation of its members. For a Scheme to be approved under the PSL, occupational associations

such as CA ANZ are required to demonstrate a high commitment to professional standards and consumer protection and implement comprehensive risk management strategies. As part of the periodic re-application process the PSC reassesses the associations fitness to continue to manage and operate a Scheme. This includes assessing [governance structures](#). CA ANZ has recently had its [scheme extended to July 2025](#) and is currently in the process of re-applying for a scheme to operate from 2025 to 2030.

- TEQSA is Australia’s independent national quality assurance and regulatory agency for higher education. CA ANZ has met the high governance standards required under Australia’s legislated Higher Education Standards Framework (Threshold Standards) 2021 that is regulated by TEQSA and is an [approved Australian higher education provider in the category of Institute of Higher Education](#). CA ANZ members who are undertaking the CA Program pathway gain recognition as a CA graduate with a Graduate Diploma of Chartered Accounting (GradDipCA).

In the latest letter renewing CA ANZ’s TEQSA registration, TEQSA has commended “CA ANZ for the high calibre of its application and supporting materials which demonstrate a sustained commitment to self-assurance practices. TEQSA also commends CA ANZ for its thorough, systematic, and transparent responses to the recommendations from the Winchester governance review, the Professional Conduct Framework Review and the Cowdroy Review. These have strengthened CA ANZ’s institutional quality assurance frameworks and give TEQSA confidence that CA ANZ will continue to meet its regulatory obligations, including the Threshold Standards.” (See appendix A for the full letter)

- CA ANZ is one of the founding Professional Accounting Organisation (PAO) [members](#) of the IFAC. IFAC [membership requirements](#) “include being a resilient PAO—with strong governance, operations and financial viability—and supporting international standards’ adoption and implementation, as well as quality assurance and investigation and discipline systems”. In 2023, as part of our ongoing membership obligations we provided our compliance assessment against IFAC’s Statements of Membership Obligations (**SMOs**), these include Quality Assurance, Investigation and Discipline, Ethics and Education. IFAC has confirmed that it considers [CA ANZ to be a well-functioning and high performing professional accounting organisation](#) in terms of fulfilment of their SMOs.
- CA ANZ is also one of the founding members of the Global Accounting Alliance (GAA). This alliance benchmarks membership based on the recognition of each other’s educational competencies and qualifying programs so that our Members can enjoy membership rights with professional accounting organisations in the world’s leading capital markets in the UK, Ireland, South Africa, Hong Kong, Canada and the USA.

- CA ANZ is a founding member of the ASX Corporate Governance Council that developed the Corporate Governance Principles and Recommendations (**ASX Principles**), which apply to entities listed on the Australian Securities Exchange. CA ANZ has voluntarily adopted the ASX Principles and has applied them to its own governance arrangements where it is relevant and appropriate to do so. Our [2023 Corporate Governance Statement](#) was approved by the CA ANZ Board on 14 September 2023.
- From our [Annual Report for 30 June 2023](#), it is evident that CA ANZ is a mature professional association with sufficient financial resources for its operations and comprehensive governance controls in place.

The consultation paper argues for the removal of the RPA pathway on the basis that:

- The TPB currently has limited regulatory tools to oversee RPAs and does not charge a fee for RPA recognition yet may be perceived by the public as regulating RPAs. This could easily be fixed by providing resources to the TPB to support its role in accrediting RPAs (section 20-10 of the TASA).

- RPAs are not required to report wrongdoing to the TPB.

The consultation paper notes that there is a pathway for RPAs to become Prescribed Disciplinary Bodies (PDBs) and the TPB can share information with a PDB. The exact requirements of how to become a PDB are currently unknown.

Currently neither a RPA nor PDB have whistleblower protection in relation to any disclosures that they may make to the TPB. This is an area that seems to be under development and as such should not be used as an excuse to eliminate the RPA pathway.

- There could be a conflict between RPAs acting in the interests of their members and effectively regulating their members.

CA ANZ's regulatory record and accreditation by various regulatory bodies outlined earlier in this response shows that this has not been the case.

- To ensure the TPB is not captured by industry bodies.

It is not clear how an organisation such as the TPB that holds the power to recognise an industry body yet receives no fee for that recognition would be captured by an industry body.

- Minimal educational requirements would be enhanced

Whether this would be achieved depends on the RPA. CA ANZ educational requirements are robust and result in a TEQSA post graduate qualification level 8 which is higher than level 5 which the TPB currently requires.

Is the current RPA framework (initial eligibility, ongoing eligibility and compliance framework) appropriate?

The current RPA pathway needs a review of its accreditation system.

If not, what should that framework look like? For example, replaced with an enhanced PDB regime?

No information is included in the consultation paper about an enhanced PDB regime. Thus, it is impossible to comment upon this.

How should tax practitioners who are currently registered under the voting member pathway be treated if RPA pathway was to be removed?

The proposed grandfathering rules are welcomed.

Broadening TPB's ability to accept alternative forms of 'relevant experience'

Do you agree that the current 'relevant experience' settings are set at an appropriate level for both tax agents and BAS agents? If not, what changes to these settings should be made and why?

CA ANZ agrees with Treasury that the amount of relevant experience required has been set at an appropriate level but that there does need to be some more flexibility for individual circumstances.

Do any of the proposed options, or combination of proposed options, provide a balanced and equitable method of embedding flexibility in the registration regime? Are there any other alternative options which provide a more balanced method of providing additional flexibility?

Treasury proposes that the TPB be given the ability to consider exceptions on a case-by-case basis and/or increase the period in which the individual can obtain relevant experience. CA ANZ supports the TPB having both as they address different circumstances.

Do you perceive any problems or have any concerns with providing the TPB the ability to consider exceptions to the 'relevant experience' criteria on a case-by-case basis?

CA ANZ is pleased that the consultation paper acknowledges that experience gained overseas could be accommodated by this proposed change. Ensuring that global tax talent can be appropriately utilised and integrated into the Australian tax system, particularly at a time of shortages of accountants, is increasingly important as the government pursues its international tax reform agenda. An increasingly mobile and remote workforce is also making this an important issue.

In relation to simulated work experience programs, do you believe the cap of 20 per cent provides sufficient flexibility without compromising the quality of tax practitioner services that would be provided? If not, what would be a more appropriate percentage and why?

CA ANZ supports reconsideration of the 15% cap.

Do you believe that the introduction of an alternative, longer time period to obtain 'relevant experience' would provide sufficient flexibility to account for special circumstances? What levels of relevant experience are appropriate alternatives for each registration pathway?

Allowing the period of relevant experience for Item 203 to be either 2 years out of 5 years or 4 years out of 8 years is welcomed. Parental leave, ill health, and caring responsibilities can remove people from the formal workforce for substantial periods.

However, it is questionable whether this is enough. Many people work part time. Whilst they are working part time, they are still required (rightly) to maintain their continuing professional development to ensure that they are up to date. So, they are meeting the education requirements of a full-time person but only being credited with relevant experience of a part time person. There may need to be more flexibility in this proposal.

Example: Sarah, a female tax agent takes three periods of maternity leave to have and care for her babies and toddlers. She takes 3 x 6 months off work to have and raise her 3 children, plus returns to work part time. Sarah maintains her knowledge by regular reading and going to CPD events. Because of the very high and onerous *experience* and *timeframe* requirements under Item 206 - being 8 years out of the past 10 years – it is very difficult to meet this requirement. Despite Sarah having 11 full time years of experience early on in her career, those years start to drop off as the part time and/or career break years increase and cannot be counted in the past 10 years. Her reading and other CPD does not assist with contributing to 'relevant experience.' In the year after having her third child, Sarah needs to renew her registration under Item 206, but has only approx. 7 years full time relevant experience in the past 10 years.

There is no mention in the paper about what extended time frame would apply for Item 206. However, potentially, 12 years in the past 15 years.

An alternate way of increasing the time frame, without adding to the years of required experience, could be to give the TPB a discretion to consider and count full time years of experience of a tax agent where there is a history of considerable experience that falls out of the 10-year window of relevant experience and the career break relates to parental leave or some other compelling reason. For example, wording to the effect that, for the purposes of Item 206, the Board has a discretion to substitute up to 3 years during the past 10 years in which the applicant has taken leave from providing tax agent services, with the corresponding number of years (up to 3 prior years) of full time relevant experience immediately preceding, in determining whether the applicant meets the 8 years out of the past 10 years relevant experience requirement.

Should the definition of 'relevant experience' for registration purposes be broadened (or, contracted)? If so, why?

The TPB website already suggests that in house tax experience and experience as an academic are covered by relevant experience. More formal detailed TPB guidance on this term may help clarify to applicants what is included.

Primary qualifications settings

Do you agree that the current primary qualification requirements are struck at a level that remains fit for purpose? If not, why not and what changes do you believe are required?

CA ANZ agrees with Treasury that the current primary qualification settings are broadly appropriate.

Do you agree that short-form credentials should not be included within the primary qualification settings? If not, how should they be included?

CA ANZ does not see any need for micro-credentials to be accepted by the TPB as a form of primary qualification. It is recognised that many primary qualifications can be made up of several micro-credentials but ultimately the primary qualification required for TPB registration needs to be the diploma, degree or postgraduate award itself. Micro-credentials should continue to be accepted by the TPB to meet the secondary qualifications in Taxation Law, Commercial Law and Basic Accounting theory.

Are there any unintended consequences, benefits or issues that should be considered in granting the TPB additional flexibility to accept short-form credentials?

Not applicable.

‘Fit and proper person’ in the TASA context

The ‘fit and proper person’ (FPP) test for individuals should not be amended by adding the conflict-of-interest declaration process, governance obligations or personal tax obligations for the same reasons outlined earlier regarding adding governance rules in registration requirements for companies and partnerships. Any incorporation of existing Code obligations into the FPP test, would now create duplicated but inconsistent requirements to self-report a breach to the Board.

Striking the right balance between consumer protection and ensuring that tax practitioners doing the right thing do not face unreasonable barriers to registration also requires taking into account the wider reforms to the TASA that are underway, such as the expanded sanction powers that are to be conferred on the TPB.

Is the fit and proper test currently fit for purpose? If not, what needs to be included in this test?

The current fit and proper test is fit for purpose. It is based on common law and considers specific known events such as convictions and bankruptcy which are objective, substantial and would directly affect a person's ability/competency to be a tax practitioner.

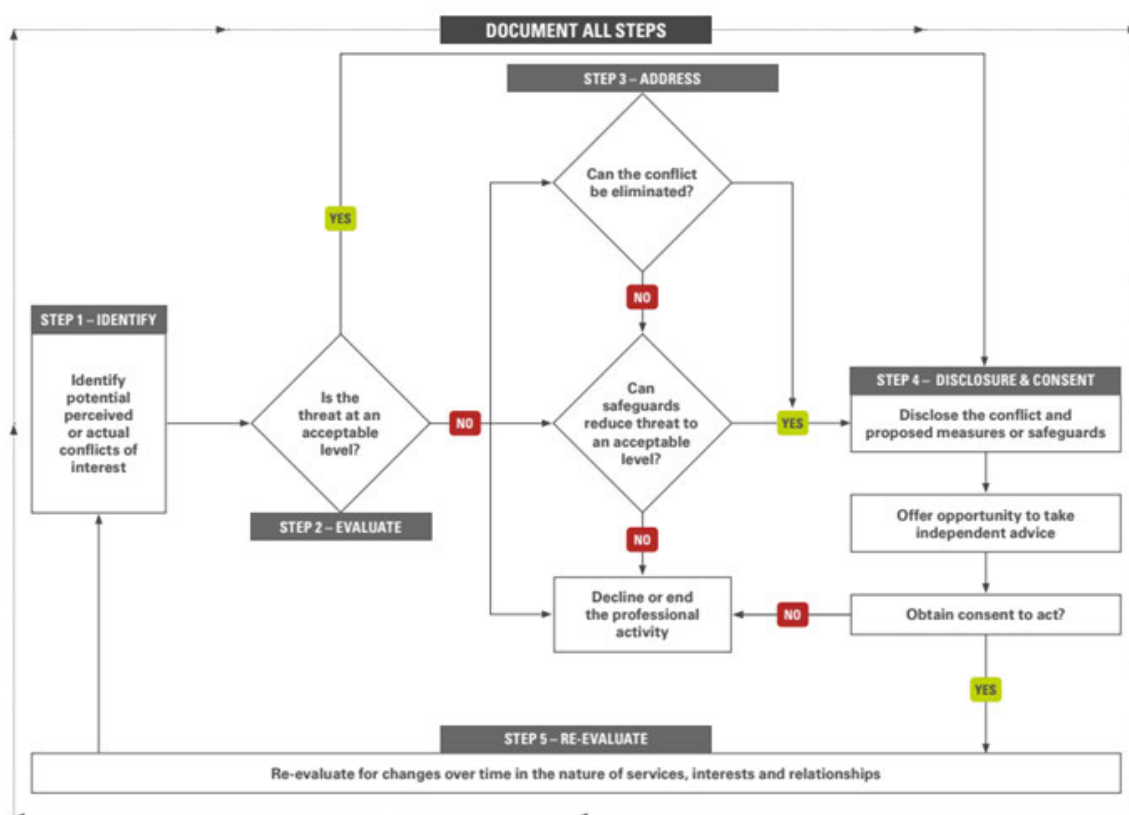
Should the matter of conflicts of interest be incorporated into the fit and proper person requirement?

No for the reasons set out in the cover letter – this is already covered by Code item 5.

What considerations or requirements should be included in the TPB's conflict of interest test? Are APRA's and ASIC's conflict of interest considerations appropriate for the TPB to model their conflict-of-interest requirements?

CA ANZ cautions against importing regulatory concepts and definitions created for the financial services industry into tax agent regime as the nature and structure of the two industries is very different. The likelihood of a conflict interest is much higher in the financial services industry given the arrangements and the use of commission as remuneration.

Section 310 of APES 110 code of Ethics for Professional Accountants (including Independence Standards) (APES 110), which CA ANZ's membership must adhere to, provides guidance about how to manage conflicts of interest, in fact paragraph R310.4 specifically states "A member in public practice shall not allow a conflict of interest to compromise professional or business judgement". [CA ANZ's Conflicts of Interest Guide](#) was published in 2021 to assist members understand and comply with their conflicts of interest obligations. The diagram below from that guide shows the steps required of members to identify, evaluate, address and resolve a conflict of interest.



Should the management of an individual's personal income tax affairs, and that of their associated entities, be a relevant statutory consideration under the fit and proper person requirement?

No for the reasons provided in the cover letter.

In addition, a tax practitioner may not have effective knowledge or control over an associate (for example a spouse or fellow partner) and may not know let alone be able to influence the lodgement of a tax return. The behaviours of associates do not necessarily impact a tax practitioner's ability to provide appropriate tax services.

Should disclosure of spent convictions in applications for registration be mandatory?

This matter requires much greater consideration. Generally spent convictions limit the impact of criminal convictions for relatively minor offences once the offender completes a period of crime-free behaviour. A consultation paper that provides greater justification about why and how spent convictions should be disclosed is required.

Do you believe the TPB should be required to consider the events listed in subsection 20-15(b) from within a different period of time? Should this be a longer or shorter period, or regardless of when the events occurred?

CA ANZ agrees with Treasury that the existing 5-year period is appropriate. It also aligns with publishing period for sanctions and findings in the TPB register.

Other proposals for consideration

Should the Code be amended to require individual tax practitioners to establish and maintain a contingency/succession plans to ensure there is continuity of services to clients in the event of a significant disruptive event?

No. Contingency plans are important, but they should be included in guidance rather than the Code. Including them in the Code could result in the absence of such a plan being a significant Code breach that requires self-reporting to the TPB.

CA ANZ members are required to adhere to APES standards and should already have contingency and succession plans. APES 360 paragraph 6.6 requires a firm (which includes sole traders) to document its succession plan as part of its Risk Management Framework. APES 360 paragraph 4.2 requires a Firm's Risk Management Framework to include policies and procedures that identify, assess and manage key organisational Risks, which may include: (a) Governance Risks; (b) Business continuity Risks (including succession planning); (c) Business Risks; (d) Financial Risks; (e) Regulatory Risks; (f) Technology Risks (including cyber security); (g) Human resources Risks; and (h) Stakeholder Risks.

Should the TASA be amended to give the TPB greater flexibility to accept other qualifications outside the traditional tax practitioner course of study?

No. CA ANZ does not support allowing the TPB to consider qualifications outside the traditional tax practitioner courses of study as it is a reasonable expectation that those registered to provide tax agent services have the required knowledge and skills to do so.

Graduates from non-traditional courses of study have many opportunities and pathways available to them through existing professional and academic programmes to adequately prepare them for providing tax agent services before they apply to the TPB for registration.

Should the TASA be amended to capture existing and emerging tax intermediaries?

Digital service providers (DSPs) are rapidly becoming indispensable to the provision of tax services. A consultation paper that considers the current and future role of DSPs in the tax system is needed urgently as the Australian Taxation Office's vision of taxation administration 3.0 (which envisages that seamless, integrated, and automated systems will allow data to flow from the IT systems of taxpayers to the ATO) by 2030 is rapidly approaching.

Provided that conveyancers continue to transmit information to the ATO (for example under the foreign resident capital gains withhold regime) and do not provide tax advice, then there is no reason for them to be brought into the TASA. The same would apply to sharing economy platforms.

Should the TASA be amended to capture in-house tax advisers such as employees or secondees? If so, which classes of in-house advisers should be required to register with the TPB?

No. The TASA is meant to be for consumer protection. In-house tax advisers and secondees do not have clients, they have an employer (generally a large corporate). Entities which are large enough to have in-house tax advisers also have public officers who manage risk – including tax risk. Generally where there is a contentious tax matter, the public officer will obtain external advice. The ATO actively reviews the risk profiles of such entities and allocates compliance resources based on those risk ratings. The current tax gap for large entities is low. It is unclear how further regulation would improve compliance in this area.

Should the TASA be amended to require legal practitioners who provide tax agent services, as defined in section 90-10 of the TASA, for a fee or reward, to be registered with the TPB?

To date, CA ANZ's view on the regulation of legal practitioners who provide tax advice has been in line with the legislative approach whereby legal practitioners are carved out from needing to register, except to the extent that they are preparing or lodging returns with the Commissioner (a trust or deceased estate as trustee or *legal personal representative). This seemed to be fair and appropriate in order to avoid duplicated regulation which is inefficient and an unnecessary burden where regulation of the services is already taking place by another regulatory body.

However, the recent introduction of a whole host of specific, onerous TASA reforms that will apply only to registered tax practitioners and will not apply to legal practitioners has given CA ANZ cause to reflect and reconsider our view. There is now an un-level playing field between professional accountants who must register and comply with the TASA and legal professionals who are not subject to the same rules and regulatory environment when providing their tax services to the public. These TASA rules include a very broad Disqualified entities regime, a Breach reporting regime requiring self and peer-reporting to the TPB (and

to associations of a peer), a substantially expanded Code of conduct implemented by the new Code Determination 2024 containing a new duty to 'dob-in' a client to the ATO for material errors or omissions, proposed changes to the registration eligibility criteria (with far-reaching consequences), and enhanced TPB sanction powers yet to be seen, consulted on and implemented.

This disparity of obligations between those practitioners who are subject to the TASA and those who are permitted to operate outside its scope is now so significant that the legal practitioners carve-out can no longer be taken for granted. It should be reviewed and reconsidered to ensure that the object of the TASA is being met in relation to legal tax services, and to ensure that there is equity, fairness and a level-playing field between professionals who compete in the market for the provision of tax services to the public.



Ms Ainslie van Onselen
Chief Executive Officer
Chartered Accountants Australia and New Zealand

By email to: ainslie.vanonselen@charteredaccountantsanz.com

Dear Ms van Onselen,

Decision Notice – Renewal of Registration

We are pleased to advise that on 8 May 2024, TEQSA renewed the registration of Chartered Accountants Australia and New Zealand (CA ANZ) in the category of Institute of Higher Education for a period of seven years until 8 May 2031.

We have taken this action under section 36 of the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

The decision to renew the registration of CA ANZ has been made on the basis TEQSA is satisfied that CA ANZ continues to meet the provisions of the *Higher Education Standards Framework (Threshold Standards) 2021* for registration in the Institute of Higher Education category.

We commend CA ANZ for the high calibre of its application and supporting materials which demonstrate a sustained commitment to self-assurance practices. TEQSA also commends CA ANZ for its thorough, systematic, and transparent responses to the recommendations from the Winchester governance review, the Professional Conduct Framework Review and the Cowdroy Review. These have strengthened CA ANZ's institutional quality assurance frameworks and give TEQSA confidence that CA ANZ will continue to meet its regulatory obligations, including the Threshold Standards.

Observations

TEQSA makes the following observations to assist CA ANZ in the ongoing review and improvement of CA ANZ's operations. We recommend that CA ANZ:

- Continue monitoring its student to staff ratio and possible adverse effects on the quality of its higher education courses and take action to mitigate any adverse effects where necessary.
- Continue developing its approach to internal goal setting, including performance monitoring against quantifiable measures.

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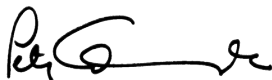
Public Report

TEQSA will issue a public report of this decision on the National Register (<https://www.teqsa.gov.au/national-register>). The public report will include the provider name, the decision made by TEQSA, and the reason for the decision.

If you have any questions regarding this advice, please do not hesitate to contact Dr Camille Robinson (Senior Assessment Manager) at camille.robinson@teqsa.gov.au or on 03 8306 2420.

We would like to thank you for the cooperation received from CA ANZ throughout the application and assessment process. We also look forward to TEQSA continuing a cooperative relationship with CA ANZ into the future.

Yours sincerely,



Emeritus Professor Peter Coaldrake AO

Chief Commissioner

9 May 2024

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