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Submission – Review of the TPB Discussion Paper – July 2019

ICB Opening Comments

The Institute of Certified Bookkeepers has conducted consultation with its Membership, its Advisory Board and also its Board of Directors in providing this response. We have consulted with various associations in the Agent community and specifically support the submission to be provided by CPA & CAANZ.

The discussion paper appears to address only some of the items raised by the previous submissions to the review. The discussion paper does not appear to be a comprehensive coverage of all matters of the review. We make ourselves available for further consultation into matters that may be included in the final report.

We specifically request that the final report, as a result of this review process, should NOT be considered the end of the consultation process.

We are concerned that the discussion paper leaves the impression that the TPB is seeking to obtain significantly enhanced power without a framework for consultation and collaboration. These powers also appear to be directed to policing those who register as Agents. We are concerned that the ATO & TPB have concentrated on provisions to enhance powers and penalties on registered Agents who have breached requirements. While this is part of the remit of the TPB we are concerned that the TPB has not adequately encompassed that its role is to ensure all tax service providers are properly identified and brought into the registration regime. The TPB should be properly equipped and capable to detect and take action in respect to unregistered tax service providers.

The discussion paper and our response below emphasises that for the TASA regime to be effective, that the TPB must be properly funded and also properly capable to perform its various functions.

Context of the paper

“potential reforms to the regulation of tax practitioners in Australia and ...effectiveness of the TPB and the operation of (TASA)”

We refer you to our original submission.

We herein respond to the Discussion paper and the questions posed therein.

The Paper

Opening comments

Independence

We challenge comments around “The first interim matter....whilst the TPB was to be independent its administration was to be part of the Australian Taxation Office (ATO).”

As a party involved in the consultation and discussions with Treasury in the formation of the 2009 legislation it was not considered or represented that the TPB was to be “part of” the ATO.

We support latter comments in the paper proposing FMA Act independence whilst ATO continue providing a shared services administration to the TPB.

Safe Harbour

The paper seems to take the safe harbour discussion into areas of proposing a penalty regime that shares the liability, the fault and the penalties between a taxpayer and their agent. We do not accept the proposal.

Safe Harbour protects both the Agent and the taxpayer from the fault of the other and creates an environment that encourages the tax expert (the Agent) to assist the business.

We support the existing safe harbour principles.

We seek a separate approach in discussion of the development of a penalty regime that may apply to registered Agents.

Fit for Purpose

We challenge the concept that the agent would be seen to be “those who mediate the relationship”. Subject to the intention of the word mediate, we remain with the concept proposed in our first submission:

The ATO role is revenue collector and administrator of the Tax system.

The TP (Tax Practitioner) interprets the ATO requirements and applies them to individual taxpayer circumstances on behalf of the taxpayer.

The Taxpayer needs to comply with the tax requirements and pay due taxes.

The TPB acts as an independent registrar and behaviour regulator over the role of the TP. The TPB does not have a role in relation to tax collection and therefore has a different perspective on the competence and requirements of the TP who may at times be working

for a taxpayer with a different interpretation of the Tax requirements than applied by the ATO.

To mediate implies that the Agent is in part acting for and on behalf of the Government and the ATO as regulator. Without a wholesale change in the nature of the relationship, this is not the case. The Agent is of assistance to the Taxpayer.

1. Introduction / Background

“..the TPB, TASA and TASR have not only a role in protecting consumers but in also upholding the integrity of the tax profession”, noting the latter concept “the integrity of the tax system” has many parties involved of which the role of the TPB maybe a contributing influence. We do not believe it is a primary objective of the TPB to be the regulator that upholds “the integrity of the tax system”. The TPB should be ensuring the integrity of the tax profession.

1.12 The purpose of the TASA when discussed was to create a framework that allowed the registration of “Agents” who could provide a specified range of services i.e. in terms of BAS Agents the specified GST, AS, PAYG duties etc.

We challenge whether the structure of the TASA “Agent” communities has achieved the purpose. We propose that the TASA should enable the registration of Agents to perform duties in which they are appropriately qualified, experienced and competent. This is NOT achieved with the current registration pathways and administration of the TASA.

1.13 Educational requirements for BAS Agents: The education and experience level were determined following consideration of the requirements of a person who would be providing BAS Agent services. It was NOT a concession or compromise. It was not a consideration of an education level that is described appropriately by use of the term “were less demanding”. An acknowledgement that the formal qualification level was prescribed at a different level would be more appropriate.

1.14 The concept that “the TPB was empowered to impose conditions on registration limiting the scope of the services agents could provide” is no longer appropriate and the review of the TASA should enable the registration of Agents in their areas of specialisation or in the areas they are “appropriately qualified, experienced and competent”. We provide a structure below.

1.19 the range of sanctions is no longer appropriate for the TPB to effectively administer the regime for the purpose of the TASA.

1.21ff “administrative support” to the Board would be appropriate whereas the ATO provision of all funding, personnel, management and administration is inappropriate.

1.38ff Whole of Government approach to intermediaries

We support the concept that the TASA could support a regime whereby those appropriate registered Agents are considered creditable intermediaries from a Whole of Government perspective. This should be further investigated.

1.39 the concept of “capability review” of the TPB personnel in order for it to achieve its purpose is supported.

2. Whole of Government interactions

It appears appropriate to review the Privacy provisions and the Information exchange principles of the TPB with other agencies to enable an effective administration.

Noting the purpose of the TPB is not to be the same purpose as the ATO.

3. TPB Governance

We support option “3.22.3”. Independent with shared services.

The first option is not a valid method to achieve the purposes of the regime and the second appears to be an expensive method of achieving the same outcomes that option 3 will achieve.

We support the concepts expressed in relation to independence in paragraphs 3.23 to 3.30.

In particular we believe the senior executive of the TPB should be appointed by the Board or the relevant Minister based on the appropriate skills required to perform the position.

Membership of the Board

As submitted previously we believe that the TASA should ensure the members of the Board are also fit for purpose and possess the appropriate expertise and skills required to properly oversee the regime. The concept of a TPB that incorporates principles of peer to peer oversight and review is encouraged.

3.39 In order to support the concept of “a member of the Board with relevant information technology expertise and perhaps some experience with introducing innovation and change to work practices” is only acceptable if it is part of the discussion of all the attributes and skills required of the Board.

Object of the TASA

The concepts proposed that the TASA should ensure “the integrity of the tax system” requires significant context and explanation. It would not be its primary purpose, but it could be a concept that supports the purpose.

Existing provisions include the concept of “for a fee or other reward”: The inclusion of these words have resulted in an unnecessary hinderance in achieving and even in explaining the purpose of the TASA. If defined “tax” services are being provided by one person to another then they need to be regulated and accordingly the provider of those services registered. To allow an exclusion in that services are provided but not “for a fee or reward” has created confusion.

4. Community Awareness

TPB Visibility

The TPB should be provided with the capacity to become more visible to both Agents, practitioners whom have not registered and the Community.

Public Register

The purpose and requirements of the Public Register should be further evolved.

The TPB have acted in a very restricted manner in relation to their capacity or willingness to provide information or to restrict the display of information when requested.

An issue of considerable concern to sole trader Agents whose only physical address is the disclosure of their private residence. Some Agents have sought their address to be removed from display which has required the obtaining of a Post Office box.

The concept of disclosure of the “controlling minds” or the supervising individuals appears correct.

5. Registration, education and qualifications

We do not believe the current framework is appropriate for either BAS Agents nor tax Agents.

A new approach should be

1. An agreed level of (formal) qualification that provides the necessary foundation learning outcomes of knowledge, skill and approach to form the basis of the professional.
2. Specified learnings which provide the required skill and knowledge in the areas of service provision by the Agent, the specialisations.
3. A compulsory “Agent in Practice” course covering the skills and processes required to be an Agent in practice i.e. interacting with the ATO, Quality Assurance processes Supervision and Control, understanding and application of the TASA.
4. Experience in the areas of service provision.

Following registration, the Agent should then be subject to

5. Continuing Professional Education requirements within the areas of services that they provide.
6. Periodic re-accreditation, or alternative quality assurance processes to ensure current knowledge provided in a competent manner.

Specialists (as opposed to conditional)

An Agent should be qualified and periodically re-accredited in the areas of tax services that they seek to provide. i.e. an individual tax return preparer should be re-accredited in their knowledge and application of laws to preparing individual tax returns, a BAS preparer should be accredited in the processes of preparing a BAS, an advisor in GST should be re-accredited in the areas of GST. An agent may not provide services in areas that they are not accredited.

The TPB should be properly capable of establishing this registration system, in conjunction with consultation framework and each registration prescribed through a Legislative Instrument.

The current process and form for “Statements of Relevant Experience” requires a review including a different approach to properly assessing ongoing relevant experience and ongoing currency of knowledge. The current assessment, including matters such as how many returns are lodged, is not appropriate. Statements of Relevant Experience being signed by a previous employer (and in some instances by an employer without any expertise in tax services) is too heavily relied upon.

We note that standards will not be lifted by a simple reshuffling or uplift in the formal qualification levels of any of the Agent communities.

The learning outcomes of any stipulated qualification must be assessed with the view of achieving the “the necessary learning outcomes of knowledge, skill and approach to form the basis of the professional”. (refer #1 above)

Industry provided practical “learnings which provide the required skill and knowledge in the areas of service provision by the Agent” (refer #2 above) are also required.

To lift the “standard” of professional, the qualifications and accreditation must be relevant to the profession, the industry and the services being delivered.

The generic nature of some areas of qualifications cause extensive time being consumed by areas of study that are not relevant to the aspiring Agent.

We believe the future of the tax profession, Agents, the TASA regime and the integrity of the tax system will be better served by a reconsideration of the Registration requirements.

We believe the TPB should include personnel with the required expertise and experience in the education system or alternative the TPB should be empowered to utilise the services of external experts to assist in the assessment of and stipulation of learning outcomes.

We believe the TPB should also be equipped with the capability and ability to assess the providers of education that is being relied on for the purpose of registration as an Agent. We are concerned with the expertise and capability of some of the education providers.

Scenario

For the purpose of clarity: we propose a model whereby an aspiring BAS Agent should

1. Obtain their primary foundation knowledge through the Cert IV Bookkeeping and Accounting
2. Obtain additional industry based training on the areas of tax services they seek to provide ie GST, PAYGW, BAS Completion, TPAR
3. Achieve accreditation in line with the concept of a “BAS Agent in Practice” course.
4. A period of appropriate supervised experience by a registered Agent providing those services, obtained while achieving items 1 to 3 above.
5. CPE requirements assessed each 3 years
6. Re-accreditation as to the currency of knowledge and skills in each of the areas of tax services they provide

That agent would be identified on the public register as to the tax services they are permitted to provide. The agent is only permitted to and encouraged to advertise the specialty areas they are registered to provide services. Agents should disclose their agent number.

5.5 We read the paper and subsequent discussions to be stating that “lifting of educational requirements” to be a proposal of simply changing the formal qualification that would apply to the different Agent communities. This is strongly opposed.

5.6 There is no logic to an Annual registration. The change stated is strongly opposed. Triple the payment processing costs, triple the administration.

The current system of 3 year renewals with an annual declaration is achieving the purpose.

Preliminary View (reaction)

We agree that there is a need for the relevant experience requirements to reflect the modern landscape.

We recommend that the relevant experience or qualification requirements are more flexible and adaptable but also any change is subject to a required public consultation. Consider a Legislative Instrument environment.

Consultation points

5.1 as above

5.2 Relevant Experience for registration should require a period of being supervised in the area the person is seeking registration. The period will be “specialty” dependent.

The ongoing relevant experience requirement should be aligned with the CPE requirements and re-accreditation model to be developed.

5.3 Yes but within a required public consultation framework, consider Legislative Instrument.

5.4 Yes, subject to a quality assurance requirement for appropriate supervision and control requirements applicable to the entity. (size and scale dependent)

5.5 No.

5.6 No. The base level or foundation level of education required to be a Tax Agent should be determined and then the appropriate level of diploma or degree established.

The learning outcomes for the different areas of knowledge should determine the correct level of education for the areas of practice, which should be in addition to the Foundation qualification.

5.7 No. There is no basis for an increase to diploma level for BAS Agents. The foundation knowledge required by the BAS Agents (as currently defined) are able to be properly incorporated in the current Cert IV as prescribed. However, we note and are concerned at the vastly different standards of delivery of the Cert IV and would seek some further investigation into how the TASA could ensure appropriate educational system delivery of the required learning outcomes.

Consider the establishment or acceptance of industry provided assessment at the conclusion of the formal education.

Additional comment

We note that the requirement for an Agent to submit their renewal 30 days before the expiry and the recent strict adherence to this provision by the TPB seems both unnecessary and onerous.

Tax Intermediaries

A few points of clarification in your statements of current position:

- Payroll service providers have always been included in the stated definition of BAS Agents and should have always been registered. It has been a conservative view that has allowed some parties to remain outside the registered agent regime. This has been in part due to the education requirements to become registered being totally inappropriate for a person wishing to be a Payroll Service Provider only.
- Specialist tax services should be enabled by an appropriate education and experience regime.
- 5.16.1 is an interesting articulation of history. Typically, the providers of software into the tax agent space has been by unregistered software companies who may or may not have access to persons who are registered as agents. Digital Service Providers are simply software companies whom have put up their hand to be inside the ATO information loop. Some have embraced the Operational Framework requirements of the ATO in order to have access to ATO lodgment facilities or information retrieval access on behalf of a registered Agent who uses their software.

We disagree with the views of the TPB as outlined in 5.19, especially the 5.19.3 “de minimis” concept. The concepts of registration require further discussion.

5.23 We note that Digital Service Providers are not just seeking access to the ATO's portals and the inclusion of this statement in the paper significantly understates the role most Agent or ATO interaction software is now performing.

Tax return preparation software leads the user into applying the tax law and completing the form in order to pass the ATO validations and submit the information on behalf of the taxpayer.

Software company support knowledge base fact sheets and also their support centres provide have a tendency to provide advice on how to apply the tax laws and how to complete forms for correct lodgment. We are concerned that these services are in fact Agent services and are definitely part of the fees paid to the company.

5.28 significantly understates the role DSPs provide solutions and assistance to businesses and agents in determining the correct application of tax laws to a taxpayer's circumstances.

Please note that Software is being provided direct to Businesses to assist them with their preparation and lodgment of forms with the ATO.

We believe an appropriate registration should be in place that ensures appropriate knowledge, competence and requirements are being met. An appropriate level of supervision and control of the services provided by their teams is required. An appropriate application of the code of conduct to the provision of such services by DSPs is required.

Fit and proper person

5.34 The views of the TPB and necessity to "strengthen" these requirements does in our view require further clarification. The existing conflict of interest requirements as outlined in the code provide sufficient guidance and obligation. It is within the existing purview of the TPB to provide further explanation.

The TPB already has the remit to monitor and manage the personal tax obligations of agents.

We remain unconvinced that the five-year period requires extension.

We support an ability for the board to issue compliance requirements following an appropriate public consultation program and Legislative Instrument process.

Tax Clinics

The paper endorses the provision in relation to "fee or reward" which we request be reviewed and reconsidered.

We do not support the exemption of the Tax Clinics from registration. They are providing tax services, they are receiving funding in order to provide those services. We do support an appropriately structured registration to bring such clinics into the registered agent regime. The supervision and control requirements should apply.

6. Code of Conduct

The statement of the Code of Conduct in the Act provides credible authority for the behaviour of Agents. We support the retention of the Code in the Act.

We support a structure that enable the TPB through regulation or Legislative Instrument to further develop the Code of conduct or its application following public consultation.

Legal Professional Privilege

We support the development of an appropriate environment of LPP for Agents.

7. Sanctions

We support the concept that the current “Sanctions” available to the TPB are no longer appropriate for the regime as applied to registered Agents and also as available for prosecution of those that should be registered or are providing Agent services whilst unregistered.

We are very concerned that the paper ad in particular the TPB appears to concentrate on applying sanctions to registered Agents and not emphasising the need to have an appropriate sanction regime for those that should be registered but have not.

We support more “visible action taken against egregious tax practitioners” but specifically we call for capacity to take visible action against unregistered service providers.

We support that the range of sanctions and penalties that the TPB may impost to deal with misconduct should be reconsidered.

The TPB should be adequately resourced to enforce the requirement to be registered and take action against those who are not whilst should be.

7.24 The ability to cease an investigation of the TPB by the registered agent ceasing their registration must be addressed. We would expect that the regime should have been able to be applied to any such agent who had been providing services as an Agent although now unregistered.

7.25 “close associates” must also be addressed

Preliminary views

7.27 Is supported BUT the increase in capacity must also be about the regime in total and including the capacity to discover and take action against unregistered service providers.

7.28 is supported but only with an appropriate public consultation regime possibly through Legislative Instruments to ensure appropriate consultation with others in the profession is obtained in the formation of any reform.

7.29.1 QA audits need to be considered in line with the requirements and activities of the Professional Associations. We also believe Quality Assurance or review of process and competence can be achieved in a number of different manners including profession (industry)

based assessments. The concept of a Quality Assurance review should not be limited to existing audit techniques.

7.29.2 enforceable undertakings are prima facie supported, noting it must be able to be imposed on unregistered service providers.

2.29.3 Interim suspensions are prima facie supported

7.29.4 External Intervention requires further development before it can be considered

7.29.5 transparency of unregistered agents through a register is only the beginning of actions that should be available to the TPB. Further work is required on this suggestion.

7.29.6 Deregistered Agents action is prima facie supported

7.29.7 Administrative sanctions and infringement notices – not supported as stated.

- The TPB should have such a regime, properly prescribed, for taking action against service providers who are not registered but should be.
- We express caution with the concepts expressed of “rapidly impose” and “take quick action” to issue infringement notices. A due process must still be applied before the issuing of any such infringement notice, including a right of response by the alleged infringing party.
- Breaches of the code of conduct must be considered knowing the differing views on the action and behaviour. Whilst we support the development of an infringement regime to be available to the TPB we require appropriate process and safeguards. We note the various other regulators who have such ability are subject to considerable review and appeal processes. Many other regulators now have other regulators (i.e. the IGTo over the ATO, the ASBFE over the ATO etc) in a constant state of review of their administration of their penalty regime.
- A “challenge” of an infringement notice must not in the first instance be required to be taken to Court. The cost of initiating and conducting such an action upon most agents is prohibitive.
- A compensation system must also be established for recompense to the Agent who incurs loss by the infringement process but is subsequently found to not be at fault.

7.29.8 Permanent disbarment is prima facie supported subject to a due process and appeals process being established.

7.30 We challenge the concept that it is a fault of the system as designed that the TPB takes “on average 41 weeks to action an ATO deferral and come to a decision”. We challenge whether that is a process issue of approach by the TPB.

7.31 We support the review and provision of adequate resources for the compliance actions of the TPB for both unregistered and registered agents.

Consultation points

7.2 The TPB should seek information before formally commencing an investigation however the Agent should be able to refuse a request but knowing the consequence of the request becoming a demand. A less costly information gathering and review option should be investigated.

8. Unregistered Agents

Refer the above comments in section 7.

8.14 controlling minds concept is prima facie supported

8.15 the prohibition of employing etc a suspended or disbarred person is prima facie supported if "...based on the factual circumstances of each case"

8.16 is prima facie supported

8.17 is prima facie supported

8.18 is prima facie supported

We remain concerned that insufficient consideration is provided in this discussion paper as to the ability of the TPB to initiate, discover, investigate and take action against service providers who are unregistered. We support development of the regime in this regard.

9. Safe Harbour

The Safe Harbour regime as currently prescribed and in operation creates a necessary and valid system of placing an obligation on the taxpayer to provide all necessary information to enable the true and correct application of the law and completion of forms to be lodged.

It also provides an obligation on the agent to obtain and utilise that information and apply the law appropriately.

The Agent should be subject to the requirements of the Code of Conduct and its impact on applying their Services subject to the standards required of that Code. A Penalty or infringement regime as discussed above, could be applied to any concern over the Agent meeting the standards and behaviour required in that Code.

The Agent should not be subject to a TPB or TASA or ATO prescribed sharing of the tax penalties. If the taxpayer has concerns over the advice or performance of the Agent which has resulted in that taxpayer incurring penalties and costs, then the taxpayer has existing rights of action against the Agent.

The concept expressed by the ATO at paragraph 9.15 should only be in line with the concepts above in section 7 and not a sharing of the ATO imposed administrative penalties.

We do not support the removal of safe harbour.

We do not support the sharing of penalties. The Penalty regime to be applied to taxpayers should be applied based on well established practices and processes of applying penalties to those applicable taxpayers.

The establishment of the separate infringement or penalty regime to agents or unregistered service providers, as described elsewhere is supported.

Preliminary views

9.24 is prima facie supported

9.25 not supported as described elsewhere

9.26 prima facie has some merit to be discussed further

9.27 is not supported in the manner it has been expressed, in particular “This seems a much more direct way of addressing the issue than the current avenue which requires a taxpayer to sue their agent....”

10 Tax Financial Advisers

We support the concept that any provider of tax services should be registered, however

We also support the reduction in regulatory overlap.

Accordingly, we support that the TASA should empower the TPB to work in conjunction with other regulators to ensure a streamlined whole of government approach to the regulation.

We do not support the “de minimis” test concept.

We would propose that a single registration system but an application of the TASA code of conduct and requirements to be applied to the TFA community would be appropriate. They should not be exempted from adherence to the TASA code requirements if they are providing tax services.

We support further development of the proposal outlined in option 4. We refer you to the submission from CPA & CAANZ in relation to this matter.

11 Relationship with the Professional Associations

11.12 Supported in concept

11.13 We support the TPB and the professional associations working closely together. We envisage that the professional associations will be well placed to provide some of the educational learning outcomes proposed earlier, specifically the “Agent in practice” course or tax specialty area training and accreditation.

The concept of “Allowing the TPB to be able to approve programs.....help to apply a consistent approach” is of major concern. The TPB setting the “consistent approach” could only be in conjunction with the associations and if the TPB possessed sufficient capacity and expertise to be involved in such a process.

The concept of the TPB approving programs is prima facie supported but the concept requires significant development and agreement.

11.14 If the professional bodies or their members are to be granted “pathways” or other “advantages” then we believe there is a role for the TPB to have requirements and oversight of some aspects of the applicable professional body. Such “recognised” associations should be meeting an appropriate level of standards. This concept should be further evolved.

We do not support a “co-regulatory” concept on the basis expressed in the paper. The role of the associations is not to be the regulator of the TASA, noting that we do believe the TPB could leverage off quality assurance review processes of the professional bodies.

11.15 We believe it should be the role of the TPB as the regulator of Tax Practitioners to be the code monitoring body. The role of the TPB as regulator is and should be different to that of the Professional Bodies, however we note the TPB may seek to leverage off the expertise of the professional bodies in relation to quality assurance processes, quality assurance reviews, principles of the application of the TASA to Agents in practice and discipline matters.

Consultation Points

11.2 The TPB should be the regulator of the Tax Practitioners ensuring that those providing tax services are registered and meet the requirements of the Code including being properly qualified, with a professional approach and process. The TPB should be ensuring the integrity of the tax practitioners.

The Associations assist the Tax Practitioners to meet their professional requirements including those of the TASA and the TPB.

The Associations should be stakeholders and members of the consultation framework imposed upon the TPB as it seeks to apply the provisions of the TASA. Specifically including consultation in relation to Legislative Instruments or other “documents” issued by the TPB in order to apply the TASA.

11.4 This concept does not appear to be discussed elsewhere in the paper.

Subject to further discussion we believe that there could be a model for the TPB to leverage off the work of the professional bodies in providing certainty as to the tax practitioner having met their CPD requirement, their specialty education and their skill re-accreditation.

12. Future Landscape

12.2 The paper recognises the change occurring and then comments that such may “...reduce the need for tax practitioner services”. We contest this concept in that the changes in technology and approach should change the process and may change the mechanism. It may also change the person that is being relied upon for ensuring that the tax laws are properly applied to a taxpayer’s circumstance.

This reinforces that the TPB must be aware of the role of technology and be the regulator of technology that is providing the application of tax law to a taxpayer’s circumstances.

The TPB must have enhance capability to achieve this function.

12.13 & 12.16 A future looking TPB is encouraged. The future TASA should provide a framework for the TPB to collaborate and propose changes. This does not imply that the TPB should be granted regulation making power.

12.15 We do not support the Code being moved to the Regulations. We do support the TPB taking a constructive approach to issue more compliance guidelines that have the authority provided by the Act, supported by regulation and implemented by Legislative Instrument where appropriate.

12.17 We do not believe that this review, as expressed in this discussion paper, has enabled the identification of risks and issues

12.18 We do not believe this paper expresses any consideration of emerging technologies on tax practitioners. We have not seen in this paper or in the consultations an understanding of the role that technology is playing in the profession nor what role it may play in the future.

12.19 The matters of “data breaches” and “know your client requirements” are not required to be added to the Code specifically as they are already implied in a wide reading of the Code provisions and the TPB could easily provide a compliance requirement in relation to these matters as part of its application of the Code to practitioners.

Consultation Points

12.2 The definition of “tax agent services” could be further reviewed to specifically include all providers of tax services where tax services are the understanding and application of the tax laws to a taxpayers circumstances, the provision of assistance to a taxpayer to meet their obligations under a tax law, the provision of certainty to a taxpayer etc.

The definition needs to remove the concept (limitation) of “for fee or reward” as any provider of tax services to a third party should be required to meet the obligations of the TASA.

The future TASA regime should enable a framework whereby the TPB, following an appropriate consultation and consideration is able to encompass any emerging service delivery model.

12.3 We support that the TASA must encompass delivery of tax services to a taxpayer that is required to comply with an Australian tax provision/s from anywhere by a person who may not be resident in Australia. Any person, anywhere that is representing a taxpayer to the ATO in any manner must be registered with the TPB and subject to the provisions of the TASA. Clearly more work required on the globalisation of tax services.

12.4 the concept of the “new disciplinary body” should be further discussed and considered.

We welcome an opportunity to further discuss any aspect of the review

We believe this review is warranted and should provide a framework to enhance the application of the TASA and to support a contemporary system for current agents and the future of the tax profession. The TASA should provide protection of the consumer through the requirement for all tax service providers to be identified, registered and then regulated to comply with the professional requirements.

Please contact us to discuss or clarify any aspect of the concepts presented herein.

Yours faithfully



Matthew Addison

Executive Chair (ICB) & Government Liaison