

Mr Nick Westerink
Individuals and Indirect Tax Division
Treasury
Australian Government
Langton Crescent
PARKES ACT 2600

By email: TPBreview@treasury.gov.au

Dear Mr Westerink

**Submission in response to the Review of the Tax Practitioners Board Discussion Paper,
August 2019**

The Professional Standards Councils welcome the opportunity to make a submission to the Government's independent review into the effectiveness of the Tax Practitioners Board and the *Tax Agent Services Act 2009*.

Our interest is particularly focused on opportunities identified in the Discussion Paper to improve the efficiency of the regulatory system through better co-ordination and 'fit for purpose' arrangements between regulators and co-regulatory professional bodies. Accordingly, this submission will primarily address consultation points 11.2 on what role the TPB and professional bodies should have and 11.3 on how these roles can be better supported including through information sharing.

We believe that properly supervised, professional bodies can regulate their members to lift and enforce standards of competence and conduct to ensure tax practitioners operate with integrity and serve the public interest. The Councils are independent statutory bodies established under professional standards legislation for approving and supervising the operation of professional standards schemes. Councils have approved and supervise 17 occupational associations that operate schemes, collectively covering more than 73,000 professionals including tax practitioner members of the accounting professional bodies: Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

We note the preliminary view expressed in the Discussion Paper that the TPB should cease to be a regulator of the professional bodies and this would then allow the professional bodies to take on a co-regulatory function. We note also the preliminary view that a similar scheme to that used by ASIC and FASEA of having code monitoring bodies to assist with regulating financial planners might also be appropriate for tax practitioners. We respectfully suggest that to be effective, any such co-regulatory function should be operated within the existing professional standards framework with a consumer protection focus.

The Councils submit that better co-ordination with, and potentially reliance upon, the professional standards framework would deliver significant benefits, either as a complementary and reinforcing element of the existing regulatory regime or as a reliable alternative to TPB regulation of professional bodies. It presents opportunities to reduce duplication of registration and compliance requirements with their attendant costs across multiple regulators, enhance practitioner accountability and enforcement mechanisms, remove undesirable complexity and introduce the benefits of a proactive and continuous improvement approach to setting and raising professional standards.

There is the potential to recognise the Councils approval and supervision of professional bodies with a scheme, which include requirements for monitoring and enforcing insurance standards, entry standards and qualifications, continuing professional development, compliance with codes of ethics and practices, complaints and disciplinary processes and sanctions, and occupational risk management.

The way the professional standards framework operates is that Councils approve and regulate schemes administered by professional associations for the benefit of their members. In return for the association regulating and monitoring the conduct of its members, those members have the benefit of a liability cap. It is the Councils' function to oversee the performance of the association in the regulation of its members. It is a form of self-regulation in which the self-regulating association is held to account by the Councils, at the risk of its members losing the benefit of the liability cap if the association fails properly to regulate its members. This would fit neatly into a TPB regime under which the professional bodies take on a co-regulatory function. For example, a TPB could delegate control and monitoring of a practitioner's CPD obligation to any association which has an approved scheme of which the practitioner is a member. The Councils would then, in the ordinary course of its existing statutory role, oversee the association's performance of that control and monitoring function. This would reduce the workload of the TPB, involve the professional association in and hold it accountable for the regulation of its members and reduce red tape.

We support the preliminary view expressed in the Discussion Paper that would allow for expanded exchange of official information between the TPB and professional bodies, as well as the ATO and other regulators. With the Councils' inclusion in the proposed expanded exchange of information, sharing and referral arrangements can be better facilitated for the professional bodies and for the Councils' approval and supervision of their schemes. With improved information and data, professional bodies' co-regulatory function would be supported not only in terms of compliance and enforcement, but also in their ability to proactively identify trends and underlying causes to determine methods of improving future conduct and practice and drive better risk management strategies in their professional practice.

As the Discussion Paper notes, there is a need to continuously review and update professional standards systems to effectively regulate the evolving tax practitioner profession. We believe that recognising professional bodies regulating their members under schemes supervised by the Councils offers a regulatory approach that can remain

responsive to community expectations and emerging risks and wider developments over time.

Further information about the Councils' role and the national system of professional standards regulation is available at www.psc.gov.au. The Councils' regulatory agency, the Professional Standards Authority, is available to discuss this submission and how we may be of further assistance to the independent review. [REDACTED]

Yours sincerely

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Roxane Marcelle-Shaw
Chief Executive Officer
on behalf of the Professional Standards Councils

06 September 2019

