



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

19 August 2024

Director
Tax Agent Regulation Unit
Personal and Indirect Tax and Charities Division
The Treasury

via email: PwCResponse@treasury.gov.au

Dear Sir/Madam

Response to PwC – Tax Practitioners Board registration review

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to provide comments to the consultation paper on the review of eligibility requirements for registration with the Tax Practitioners Board.

The purpose of the ASBFEO is to contribute to making Australia the best place to start, grow and transform a business. One of our key functions is to advocate for small and family businesses, so that their distinctive needs are considered by the parliament, ministers, departments and regulators. While it is not in the ASBFEO's power to guarantee that every small business will be a success, it is our mission to make sure none fails because they didn't know about something that might have helped.

Given the diversity of types and sizes of firms in the tax practitioners' sector, it is important to consider the regulatory burden, whether intended or otherwise, that different policy options could impose on small firms and how this may affect their ability to compete. An example of a possible policy reform where the accounting profession considers proportionality to be particularly important is digital financial reporting.¹ While larger accounting practices that service listed companies may be well-placed to meet additional requirements, there would be a disproportionate cost on small practices servicing private companies, not-for-profits and charities. This means that a proportionate framework and/or transitional process is preferable to imposing one-size-fits-all requirements industry-wide.²

According to the Australian Taxation Office, approximately 96% of small business seek advice and services from a tax practitioner to help operate their businesses.³ Any unwarranted increase in compliance cost to tax practitioners is likely to have the unintended effect of reducing the supply or raising the cost of these services to small business clients, which in turn could hinder efforts to improve tax compliance. Put simply, increasing the regulatory burden on tax practitioners, particularly tax practitioners who service small business and are small businesses themselves, is

¹ Chartered Accountants Australia & New Zealand (CA ANZ), *Consultation response*, CA ANZ, June 2024, p. 28; CPA Australia, *CPA Australia submission on the Regulation of Accounting, Auditing and Consulting Firms in Australia – Consultation Paper*, CPA Australia, 5 July 2024.

² Chartered Accountants Australia & New Zealand (CA ANZ), *Consultation response*, CA ANZ, June 2024, p. 28; CPA Australia, *CPA Australia submission on the Regulation of Accounting, Auditing and Consulting Firms in Australia – Consultation Paper*, CPA Australia, 5 July 2024.

³ The Australian Taxation Office (ATO), *Latest estimate and trends*, ATO, October 2022, n.p.



likely to cause some to leave the industry (especially those who may be nearing retirement age) making it more difficult for small businesses to receive quality advice at an affordable price.

The ASBFEO notes that incorporating conflict-of-interest provisions into the fit-and-proper person requirement could have the unintended consequence of restricting entry to entities deemed to have an inherent conflict, rather than enabling a process by which conflicts can be appropriately managed. If the fit-and-proper-person requirement is adjusted to include conflict-of-interest provisions, the ASBFEO encourages the Treasury to take a nuanced approach. Such an approach should not necessarily rule out a person where a conflict may be properly managed through disclosure and taking appropriate steps.

Additionally, as conflict-of-interest and keeping up to date with personal tax affairs are existing obligations under the Code of Professional Conduct, the ASBFEO notes that this is an unnecessary duplication. There is a risk of further duplication if personal tax obligations are included in the fit-and-proper person requirement, as this would compel practitioners to report the same information twice.

Representations have been made to the ASBFEO that removing the recognised professional association pathway would increase the barriers to entry and worsen the current shortage of tax professionals. Professional bodies are observing a growing use of the recognised professional association pathway. The assumption that most entities who use this pathway would qualify under alternative pathways does not reflect the experience of professional bodies. If the recognised professional pathway is removed, then the ASBFEO recommends that the accreditation process be reviewed, and that grandfathering provisions be implemented for currently registered tax practitioners.

The ASBFEO supports encouraging individual tax practitioners to maintain contingency and succession plans to provide for continuity of services to clients in the event of significant or disruptive events, rather than incorporating a requirement into the Code. It is noteworthy that only one in four businesses have any sort of preparedness plan, and even fewer have one that has been created in recent times.

Trusted advisers can play an important role in directing small business clients to the useful information and significant preparedness tools available through many government agencies to support small businesses to protect themselves from common types of cyber or disruptive events and incidents. Many organisations and business support entities that have developed programs to support business preparedness and resilience are aware that most small and family businesses are not prepared to face a business crisis.

The ASBFEO's Small Business Natural Disaster Preparedness and Resilience Inquiry received some feedback that nationally consistent, yet customisable versions of available tools would be beneficial and alleviate confusion amongst the small and family business fraternity.⁴ These could be available as templates suitable for localisation, tailoring, or vanilla-labelled to support co-branding and distribution by local government, industry associations, chamber groups, and trusted advisers.

⁴ The Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Small Business Natural Disaster Preparedness and Resilience Inquiry*, ASBFEO, March 2022, p. 34



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If you require any further information, please do not hesitate to contact the ASBFEO Policy and Advocacy team via email at advocacy@asbfeo.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bruce Billson'.

The Hon Bruce Billson

Australian Small Business and Family Enterprise Ombudsman