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**Submission from the Tax Justice Network Australia to the
consultation on the Response to PwC – Tax Agent Services (Code
of Professional Conduct) Determination 2023
19 January 2024**

The Tax Justice Network Australia (TJN-Aus) welcomes the opportunity to comment on the *Tax Agent Services (Code of Professional Conduct) Determination 2023*. We support the Determination and strongly support it proceeding to implementation as drafted.

The behaviour exposed by the misuse of confidential information by PwC tax partners and staff¹ demonstrated that the current principle-based Code of Professional Conduct is not explicit enough, and the amendments are needed to ensure registered tax agents and BAS agents understand their ethical obligations explicitly. As evidence of the lack of understanding of the ethical standards expected in actual conduct, Mr Chenoweth from *The Australian Financial Review* told the International Consortium of Investigative Journalists, in the context of the PwC in Luxembourg working with the Luxembourg tax authorities to slash the tax contributions of their multinational corporate clients to almost nothing:²

In Australia, PwC was assuring me that they'd never get involved in tax avoidance advice, they'd never try to influence the tax office, that their habit of embedding PwC staff to work at Treasury at PwC's expense while they paid their salaries, was just part of the firm's public-spiritedness. What their quote was: "There was no conflict of interest in providing advice to the tax office whilst also providing professional advice to clients."

Tom Seymour, the head of tax at PwC, in April 2015 told the Senate Economics Committee at the inquiry into corporate tax avoidance: "I have the utmost faith in the ethical standards of the people we employ. And I think we have a great contribution to make to how we make Australia's tax laws work better."³ Sitting beside him was Peter Collins. In the words of Mr Chenoweth, "that kind of says it all about the ability to say one thing in public, and in private to do exactly the reverse."⁴

¹ See for example Carman Molina Acosta, "Behind the scenes of the PwC tax leak scandal with Neil Chenoweth", *International Consortium of Investigative Journalists*, 24 October 2023.

² Ibid.

³ Ibid.

⁴ Ibid.

The Ziggy Switkowski review of PwC highlighted the need for section 10 of the Determination for members of the tax profession to work collectively to hold each other accountable with fit-for-purpose processes and structures. The Switkowski review found that the partnership's oversight board "lacked sufficient independence from the CEO and senior leaders of the firm."⁵ The review said the board lacked genuine power and, in some cases, had been regarded as "ceremonial" or "toothless", and the protection of partner interests trumped its intended role.⁶

Mr Switkowski found that at PwC:⁷

The aggressive growth agenda overshadowed and occurred at the expense of the firm's values and purpose. The focus on "whatever it takes" seems, at times, to have contributed to integrity failures – some partners did the wrong thing, while others failed to do the right thing by overlooking or minimising the significance of questionable behaviours.

The review found a general hesitancy for staff at PwC "to be prepared to hold others to account."⁸

Disappointingly, the focus of the review of PwC was on the "restoration of trust", which seems to be motivated towards allowing the partnership to restore its profits. We believe the focus should have been on ensuring the highest ethical standards are implemented across PwC. The review's focus only strengthens our view that the measures contained in the Determination are needed across the tax practitioner industry.

Tax practitioners already acting ethically per the Code of Professional Conduct will likely only have to undertake minor adjustments in their processes and practices to comply with the requirements in the Determination.

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⁵ Eric Johnson, "PwC Tax scandal: Why the \$1bn Project Kookaburra failed to fly", *The Australian Business Review*, 13 October 2023, <https://www.theaustralian.com.au/business/companies/pwc-tax-scandal-new-boss-is-drowning-in-a-flawed-partnership/news-story/4ccd50495c20c313d5af7ad6ad6f09ef>

⁶ Ibid.

⁷ Ziggy Switkowski, "Review of Governance, Culture and Accountability at PwC Australia", August 2023, 4.

⁸ Ibid., 6.

Background on the Tax Justice Network and Tax Justice Network Australia

The Tax Justice Network (TJN) is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels.

The Tax Justice Network believes our tax and financial systems are our most powerful tools for creating a just society that gives equal weight to the needs of everyone. But under pressure from corporate giants and the super-rich, our governments have programmed these systems to prioritise the wealthiest over everybody else, wiring financial secrecy and tax havens into the core of our global economy. This fuels inequality, fosters corruption and undermines democracy. We work to repair these injustices by inspiring and equipping people and governments to reprogram their tax and financial systems.

The Tax Justice Network Australia (TJN-Aus) is the Australian arm of TJN.

In Australia, the current members of TJN-Aus are:

- ActionAid Australia
- Aid/Watch
- Anglican Overseas Aid
- Australian Council for International Development (ACFID)
- Australian Council of Social Service (ACOSS)
- Australian Council of Trade Unions (ACTU)
- Australian Education Union (AEU)
- Australian Manufacturing Workers Union (AMWU)
- Australian Nursing & Midwifery Federation (ANMF)
- Australian Services Union (ASU)
- Australian Workers Union, Victorian Branch (AWU)
- Baptist World Aid
- Caritas Australia
- Centre for International Corporate Tax Accountability & Research (CICTAR)
- Community and Public Service Union (CPSU)
- Electrical Trades Union, Victorian Branch (ETU)
- Evatt Foundation
- Friends of the Earth (FoE)
- GetUp!
- Greenpeace Australia Pacific
- International Transport Workers Federation (ITF)
- Jubilee Australia
- Maritime Union of Australia (MUA)
- National Tertiary Education Union (NTEU)
- New South Wales Nurses and Midwives' Association (NSWMWA)
- Oaktree Foundation
- Oxfam Australia
- Publish What You Pay Australia
- Save Our Schools
- SEARCH Foundation
- SJ around the Bay
- TEAR Australia
- The Australia Institute
- Union Aid Abroad – APHEDA
- United Workers' Union (UWU)
- Uniting Church in Australia, Synod of Victoria and Tasmania
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia