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Submission from the Tax Justice Network Australia to the *Review of eligibility requirements for registration with the Tax Practitioners Board* consultation paper
12 August 2024

The Tax Justice Network Australia (TJN-Aus) welcomes the opportunity to make a submission on the *Review of eligibility requirements for registration with the Tax Practitioners Board* consultation paper.

2. 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 requirement expanded to include all partners or directors within the entity who supervise (or sign off on) tax services?

We believe that all partners and directors within the entity who supervise or sign off on tax services should be required to register. Such a requirement is likely to result in greater accountability of such people for the tax services and hence greater accountability of the entity itself.

3. Is the current recognised professional association framework (initial eligibility, ongoing eligibility and compliance framework) appropriate?

The existing framework is not adequate, as recognised professional associations have a conflict of interest in seeking to further the interests of their members that will usually mean opposing reforms and mandatory measures that would create more work for their members against the interest of creating a more ethical profession. Thus, the professional organisations are often more likely to look after the short-term financial interests of their members, through lower regulation and standards, than on creating an profession with higher ethical standards.

4. If not, what should that framework look like? For example, replaced with an enhanced prescribed disciplinary body regime?

The framework should require that a recognised professional association can demonstrate the ways it actively seeks to lift the ethical and professional standards of its members and

the profession as a whole. A 'fit-for-purpose' disciplinary body would be part of meeting such a requirement. However, the TJN-Aus sees it as very difficult for a profession to adequately discipline their members when they are dependent on membership fees from those members.

7. Do any of the proposed options, or combination of proposed options, provide a balanced and equitable method of embedding flexibility in the registration scheme?

We support both options to allow the TPB to have more flexibility in registering appropriately qualified and experienced people and accommodate people who take parental leave and career breaks.

8. 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 (Option 1)?

There will be a need to ensure that the TPB makes consistent decisions as it makes a case-by-case assessment so that as far as possible people with very similar circumstances get very similar outcomes. The confidence in the TPB will be reduced if decisions do not display a good level of consistency in who is able to be registered.

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

As outlined in the consultation paper, the fit and proper person test is not at the same standard as the fit and proper person tests applied by other regulators. Given the need for a high level of ethics from people providing tax services, the test needs to be brought up to the level of other regulators. Such a change should allow the TPB to consider any matter it considers relevant to the person being a fit and proper person to be a tax practitioner.

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

The TJN-Aus agrees that the TPB's fit and proper person requirement should consider conflicts of interest in a similar manner to the APRA's *Prudential Standard CPS 520* and whether the personal tax obligations of a tax practitioner are up to date.

19. Should the management of an individual's personal income tax affairs, and that of their associated entities, be a relevant consideration under the proposed conflicts of interest addition to the fit and proper person test?

We strongly support that the management of an individual's personal income tax affairs, and that of their associated entities, be a consideration in the fit and proper person test. If a tax practitioner cannot properly manage their own tax affairs, it raises legitimate concerns about their suitability to provide tax services to others.

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

We agree that it should be a requirement to disclose spent convictions, but the TPB should have internal procedures to not consider convictions for matters that would be irrelevant to the suitability of the person to provide tax services.

21. 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?

We believe the period of consideration should be increased from five years to 15 years. We believe that 15 years is long enough that the person may have changed their behaviour, and thus matters older than 15 years should be regarded as less relevant. We note, as per the consultation paper, that the TASA requires the TPB to consider certain events if they occurred in the previous five years (which we would increase to 15 years) but does not limit the TPB in considering events that occurred earlier.

27. 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?

The TJN-Aus supports legal practitioners who provide tax agent services to be registered with the TPB, so the TPB can provide oversight of such people and to create a level playing field for those providing tax agent services for fee or reward.

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Background on the 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