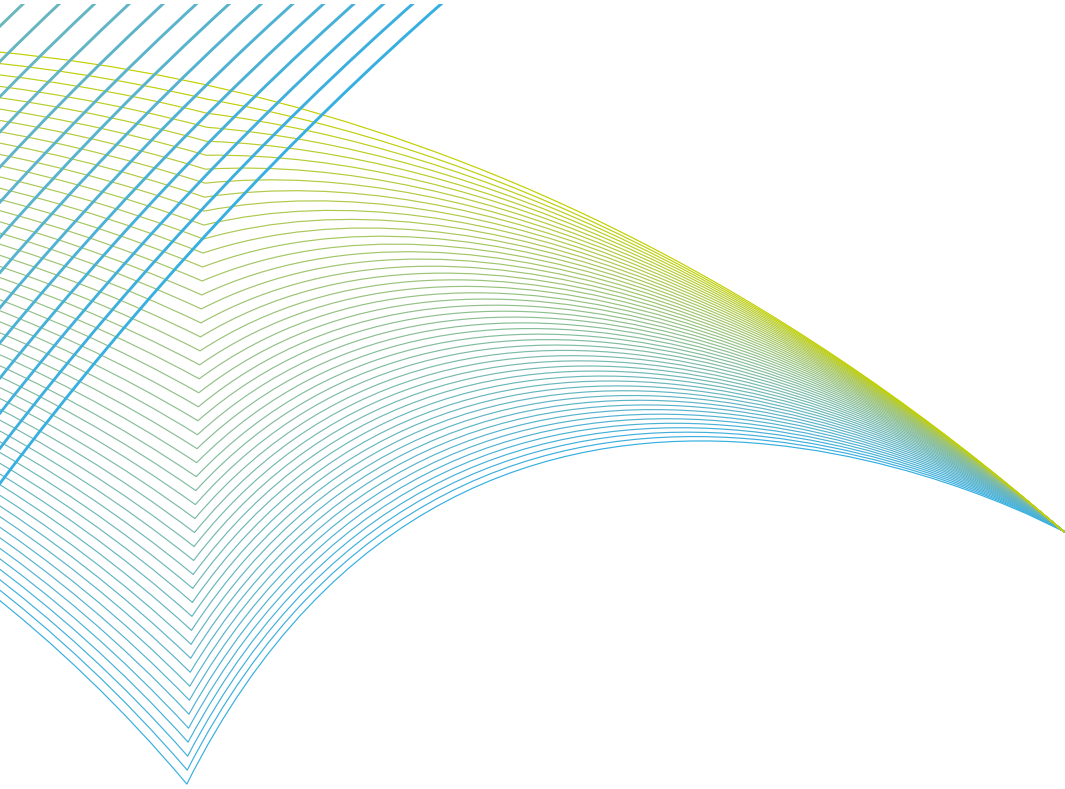




Australian Government



TAX  
PRACTITIONERS  
BOARD



TAX PRACTITIONERS BOARD

# ANNUAL REPORT

2018-19

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**Australian Government**



**TAX  
PRACTITIONERS  
BOARD**

The Hon Michael Sukkar MP  
Assistant Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Minister

In accordance with subsection 60–130(1) of the *Tax Agent Services Act 2009*, I present this report on the operations of the Tax Practitioners Board in the financial year 2018–19.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Klug'.

**Ian Klug**  
Chair, Tax Practitioners Board

2 October 2019

# CONTENTS

<b>01</b>	<b>Year in review</b> .....	<b>2</b>
<b>02</b>	<b>About the Tax Practitioners Board</b> .....	<b>8</b>
	Functions .....	9
	Board members .....	10
	Committees .....	14
	Organisation .....	15
<b>03</b>	<b>Annual performance statement</b> .....	<b>22</b>
	Purpose and performance measures .....	22
	<b>Strategic objective 1</b>	
	Protect all consumers of tax practitioner services .....	25
	<b>Strategic objective 2</b>	
	Maintain, protect and enhance the integrity of the registered tax profession .....	35
	<b>Strategic objective 3</b>	
	Promote the TPB as an independent, efficient and effective regulator .....	50
<b>04</b>	<b>Financial operations</b> .....	<b>60</b>
	Expenditure .....	60
	Purchasing and consultancies .....	63
	Cost recovery .....	63

<b>05</b>	<b>Appendixes</b> .....	<b>66</b>
	<b>Appendix A</b>	
	Guidance papers released in 2018–19 .....	66
	<b>Appendix B</b>	
	Recognised professional associations at 30 June 2019 .....	68
	<b>Appendix C</b>	
	Administrative review litigation finalised in 2018–19 .....	69
	<b>Appendix D</b>	
	Cases reviewed under the <i>Tax Agent Services Act 2009</i> in 2018–19 .....	70
	<b>List of abbreviations</b> .....	<b>71</b>
	<b>List of requirements</b> .....	<b>72</b>
	<b>Index</b> .....	<b>78</b>

## TABLES

<b>Table 1</b> Board committees at 30 June 2019 .....	14
<b>Table 2</b> Ongoing and non-ongoing employees by location at 30 June 2019 .....	16
<b>Table 3</b> Employees by functional areas at 30 June 2019.....	17
<b>Table 4</b> Employees by classification and gender at 30 June 2019 .....	17
<b>Table 5</b> TPB objectives and Regulator Performance Framework key performance indicators .....	20
<b>Table 6</b> Application processing service standards results, 2018–19.....	26
<b>Table 7</b> Investigations and sanctions related to annual declarations, 2017–18 and 2018–19.....	28
<b>Table 8</b> Registration cancellations, 2018–19 .....	29
<b>Table 9</b> Sources of complaints and referrals, 2017–18 and 2018–19 .....	40
<b>Table 10</b> Case finalisation service standards results – registered entities, 2017–18 and 2018–19 .....	42
<b>Table 11</b> Sanctions and compliance outcomes, 2017–18 and 2018–19 .....	42
<b>Table 12</b> Case finalisation service standards results – unregistered entities, 2018–19 .....	47
<b>Table 13</b> Actual expenses, 2017–18 and 2018–19 .....	60
<b>Table 14</b> Direct expenditure by cost centre, 2018–19 .....	62
<b>Table 15</b> Revenue received, 2017–18 and 2018–19.....	63

## FIGURES

<b>Figure 1</b> Organisational structure .....	15
<b>Figure 2</b> Purpose, strategic objectives and priorities .....	23
<b>Figure 3</b> Business activity statement agents, tax agents and tax (financial) advisers.....	25
<b>Figure 4</b> Telephone calls, emails and letters .....	26
<b>Figure 5</b> Website monthly visits .....	31
<b>Figure 6</b> Communications highlights.....	32
<b>Figure 7</b> TPB Register searches .....	34
<b>Figure 8</b> Webinars .....	36

# 01

**Year in review**



# YEAR IN REVIEW

I am pleased to present the 2018–19 annual report for the Tax Practitioners Board (TPB).

I thank our previous Chair, Ian R Taylor, for his dedication to the progression of the TPB and our objectives. During the year, we welcomed new Board member Debra Anderson, who joins us with a wealth of experience in Australia's tax system as a tax agent and former business activity statement (BAS) agent.

The past year has involved many changes to our organisation and our practices, including my appointment as Chair, changes to the composition of the Board, the appointment of a new Secretary and CEO, Michael O'Neill, and several external examinations of our business. Together, these changes have enabled us to refocus on the future and reset our strategies and goals, mindful of a rapidly changing environment.

Key events during 2018–19 are detailed below, together with an analysis of the key challenges faced and the successes achieved during this time.

## Strategic focus

The objectives of the TPB are to:

- protect the public, including consumers of tax services
- support members of the tax profession, which upholds high standards of professional and ethical behaviour
- strengthen the TPB as an efficient and effective regulator.

Since the introduction of the *Tax Agent Services Act 2009* (TASA), the TPB has focused on effectively and efficiently achieving its goals of protecting the public and supporting the tax profession. In the current, rapidly changing environment the TPB is moving to keep pace with public expectations through stronger regulation and better consumer protection.

In 2018–19, the Board endorsed five new strategies, focusing on:

- acting on misconduct
- shaping and influencing law and policy
- strengthening capability
- supporting the legal and ethical standards of the profession
- supporting consumers.

The strategies are still in the process of implementation; however, some early signs of success are evident in our key achievements for the year.

## Key achievements

The TPB regulates the tax profession in a fair, consistent and practical way and is constantly reviewing its practices to ensure the integrity of the profession. In addition to our regular program of registrations, review and investigations, we have implemented new programs and strategies which are highlighted below.

### Compliance

In 2018–19, the TPB investigations program had a dedicated focus on identifying and investigating the tax practitioners posing the highest risks to the integrity of the profession and to the tax system.

Our compliance program recognises that many tax practitioners provide excellent service in compliance with the law, collectively assisting almost 10 million Australian taxpayers to meet their various tax obligations. By transforming to a strategy that focuses on high-risk practitioner behaviour, we have been supporting those agents who continue to act with integrity. Similarly, we are committed to action against unregistered agents, especially those that are driving tax avoidance or evasion.

In 2018–19, we launched a strategy to address the outstanding tax obligations of almost 8,000 tax practitioners. The Code of Professional Conduct (Code) under the TASA requires practitioners to be up to date with their tax obligations. Using data analytics, the TPB identified over \$114 million in outstanding debt owed by tax practitioners to the Australian Taxation Office (ATO), and over 10,000 outstanding lodgements of tax documents. Our strategy to target tax professionals with outstanding obligations and debt, with support from the ATO and professional associations, reduced outstanding debt by around \$37 million and secured over 6,600 lodgements.

The TPB also established a compliance program to assess how tax practitioners comply with the TPB's policy on continuing professional education (CPE) and maintain the knowledge and skills relevant to the services which they are registered to provide. The program resulted in 530 audits being conducted, which led to 83 practitioners being cautioned about meeting their obligations. Eight formal investigations led to formal sanctions, including suspensions.

Our compliance program recognises that many tax practitioners provide excellent service, collectively assisting almost

**10 million** Australian taxpayers to meet their various tax obligations

Our strategy, with support from the ATO and professional associations, reduced outstanding debt by around

**\$37 million** and secured over **6,600 lodgements**

Since we have improved intelligence sharing and transparency with the ATO, delegated powers to staff and simplified investigative procedures, our investigations have become more robust in targeting the highest risks. In 2018–19, this resulted in an increase of more than 200% in the number of practitioners whose registration was terminated.

## Communication

We recognise the wide range of stakeholders involved in our industry, including practitioners and their associations, government, the public, and partner agencies, including the ATO and the Australian Securities and Investments Commission (ASIC). Our continued focus is on engaging with our stakeholders to understand their views and to share our perspectives. This includes providing practitioner guidance via seminars or webinars, and sharing key messages online and via media channels. This process supports the community's awareness of the TPB and confidence in the integrity of the system.

## Technology

Like all parts of the economy, the tax system is modernising through digital services. This includes new software for taxpayers and business, linked to tax practitioner systems, and increasingly linked to ATO systems. Single Touch Payroll services are now available to all employers to digitise many payroll services.

Similarly, we are updating our systems to improve stakeholder services, especially registration, annual declarations, proof of identity and website services.

In order to improve the TPB's efficiency and effectiveness, we are renewing our internal systems, linking intelligence, registration, complaint resolution, investigations, litigation, and reporting to stakeholders.

The TPB has developed a data analytics capability to better understand its environment, the tax practitioner population, and key risks and opportunities in the system. This capability incorporates intelligence obtained from other agencies and through complaints, in order to identify highest risk practitioners and activities.

**TPB investigations have become more robust in targeting the highest risks – in 2018–19, this resulted in an increase of more than**

**200%**

**in the number of practitioners whose registration was terminated**

## Challenges and opportunities

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) has issued a report on the future of the tax profession, identifying environmental changes such as digital transformation and globalisation of tax services. The TPB's strategic thinking is consistent with the recommendations of the IGTO.

Following the release of the report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, the TPB is developing strategies to provide improved governance and guidance that is consistent with the recommendations of the report. Some key issues raised by the commission and relevant to the TPB include the need for:

- appropriate attention to risk management, including patterns and trends arising from complaints
- the exercising of appropriate rigour by regulators – for example, 'why not litigate?' is a position that has been taken by ASIC
- closer collaboration and information sharing between co-regulators.

The TPB is also adapting to the changing economic regulatory environment. For example, the recently established Financial Adviser Standards and Ethics Authority (FASEA) has set new standards of education and experience for financial advisors, some 20,000 of whom are tax (financial) advisers registered with the TPB. The TPB needs to build closer collaboration with ASIC, FASEA and code of ethics compliance-monitoring bodies to improve services, reduce red tape and manage the regulatory burden.

We are fostering greater collaboration with the ATO, while maintaining the independence of the TPB. Tax gap estimates by the ATO indicate a role by some practitioners in driving tax avoidance or overclaiming work-related expenses. Other intelligence, from the Black Economy Taskforce, has identified some promoters of tax exploitation schemes who are tax practitioners, including some who have been involved in designing phoenix schemes.

Given these challenges and our increased focus on dealing with unregistered and high-risk practitioner behaviour, our capacity to effectively achieve our regulatory objective will be limited by our existing funding and is an area of ongoing concern.

## Review of the *Tax Agent Services Act 2009*

On 5 March 2019, we welcomed the Australian Government's announcement of an independent review of the effectiveness of the TPB and the TASA to ensure that tax agent services are provided to the public in accordance with appropriate professional and ethical standards.

Led by Keith James, the review of the TPB/TASA provides an excellent opportunity for the TPB to review and reform its objectives and powers to better meet its responsibilities to the public, to tax professionals operating with integrity and to the tax system more generally.

On 1 August 2019, the review discussion paper was released, seeking further stakeholder feedback. We continue to advocate reforms to enhance the integrity of the tax profession and therefore the tax system, including enhanced TPB powers to investigate and sanction practitioners, and additional penalties to deter egregious conduct by practitioners.

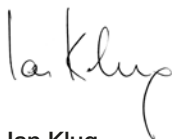
With the government expected to consider the review's report in October, we want to foster a collaborative environment between the TPB and the ATO to take best advantage of the opportunity for reform. The TPB is working with the review to build on the progress and transformation we have undergone this year. Further support – through legislative change, investigatory and administrative powers and improved regulatory relationships – will further our ability to better serve as an effective and efficient regulator. We look forward to working with the government to implement their decisions on the recommendations of the final report.

## The year ahead

In the year ahead, we will implement our new strategy and fulfil our priorities and goals as outlined in our 2019–20 corporate plan. We have a renewed emphasis on our culture and a commitment to our people to ensure that they are provided with the right values and tools to fulfil their roles.

We will focus on improving as a regulatory body and implementing the recommendations of the TPB/TASA review as agreed to by government, in the best way possible for the public, the tax profession and, therefore, the tax system.

We will deliver strong compliance results like those that we saw this year as a result of our renewed efforts as a regulator. It is our intention to continue to work as a proactive, risk-based regulatory body, and we will work with our stakeholders and regulatory peers to continue to serve and improve the integrity of the tax system.



**Ian Klug**

Chair, Tax Practitioners Board

# 02

## About the Tax Practitioners Board

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# ABOUT THE TAX PRACTITIONERS BOARD

The Tax Practitioners Board (TPB) is the Australian Government body responsible for the registration and regulation of tax practitioners: tax agents, BAS agents and tax (financial) advisers. Currently, more than 78,000 tax practitioners are registered with the TPB.

The TPB seeks to protect the public, including consumers of tax services, by regulating tax practitioners in a fair, consistent and practical way, thereby strengthening the integrity of the tax profession.

The TPB also plays a vital role in ensuring the integrity of the tax system more broadly. The ATO's most recent statistics indicate that registered tax practitioners lodged 71% of all income tax returns, including 94% of business returns, in 2016–17.

The TPB is an independent statutory body created under the TASA and composed of Board members appointed by the responsible minister. In 2018–19, the Board had eight members, including the Chair, all of whom were part time. The Board members have significant qualifications and experience in tax practice, law or commerce.

The Board reports to the Minister and is supported by staff made available by the Commissioner of Taxation, including the Secretary to the TPB, who is responsible for the people, resources and day-to-day operations of the organisation. The Board is responsible for setting the strategic direction of the TPB and for making disciplinary decisions and applying sanctions in appropriate cases. Collectively, the Board and staff are referred to as the TPB.

We regularly liaise with and rely on our stakeholders and partners, including peak industry bodies and professional associations, to achieve our goals.

## Functions

Under the TASA, the TPB's functions include:

- administering the registration system for tax practitioners – individuals and entities that provide tax services – namely, tax agents, BAS agents and tax (financial) advisers
- administering the Code of Professional Conduct
- issuing guidance on relevant matters to support practitioners
- investigating conduct that may breach the TASA, including Code non-compliance, conduct that results in a tax practitioner no longer meeting the 'fit and proper person' requirement for registration, or breaches of the civil penalty provisions
- applying administrative sanctions for Code non-compliance
- seeking Federal Court of Australia civil penalty orders in response to breaches by registered tax practitioners and entities that should be registered but are not.

The Board delegates routine decision-making (not subject to appeal) to the TPB Secretary, who authorises TPB staff to act on the Secretary's behalf while retaining full responsibility and maintaining decision-making quality assurance.

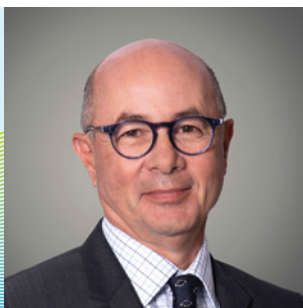
As part of its regulatory role, the TPB can seek civil penalties through the Federal Court for improper conduct by registered tax practitioners and unregistered entities. For example, civil penalties may apply where an unregistered entity advertises tax agent services or provides tax agent services for a fee or other reward, or where a registered tax or BAS agent knowingly or recklessly makes false or misleading statements to the Commissioner of Taxation.

Board decisions, including administrative sanctions, can generally be appealed to the Administrative Appeals Tribunal (AAT) and the Federal Court.

## Board members

At 30 June 2019, the members of the Board were Ian Klug (Chair), Debra Anderson, Julie Berry, Peter de Cure, Jim Hawson, Julianne Jaques, Greg Lewis and Ria Sotiropoulos. The brief biographies in this chapter provide details of their qualifications and experience.

In February 2019, at the conclusion of Ian R Taylor's second term, Ian Klug was appointed Chair, and Debra Anderson joined the Board.



### Ian Klug (Chair)

Ian is a Fellow of Chartered Accountants Australia and New Zealand and a Fellow of the Australian Institute of Company Directors. He is Chairman of Place Design Group, an international planning and design company, and of The Water and Carbon Group. He is on the board of the Brisbane Festival and chairs the finance committee, and is one of the founding directors of the Brisbane Portrait Prize. His previous roles include Chairman of Brisbane Marketing, partner at Pitcher Partners, Chairman of Queensland Artworkers Alliance, and a director of Tennis Queensland and councillor of Tennis Australia. Ian was awarded an Australian Sports Medal in 2000 and made a Member of the Order of Australia in 2017. He has a Bachelor of Arts and a Bachelor of Commerce from the University of Queensland.

Ian was appointed to the Board in December 2015 and appointed as Chair in February 2019.



### Debra Anderson

Debra is a registered tax practitioner with extensive experience as a BAS agent and tax agent. She is a Fellow of the Institute of Public Accountants and a member of the Australian Institute of Company Directors and the National Tax and Accountants' Association. She specialises in tax and technology for small business, has a Master of Business Administration and has worked extensively with the ATO on matters relating to tax practitioners and small business.

Debra was appointed to the Board in February 2019.



### Julie Berry

Julie is a registered tax (financial) adviser and a certified financial planner who has practised as a financial planner for more than 29 years. Julie is Chair of Unite Advisory – a member firm of CountPlus – and Chair of the New South Wales Mid North Coast chapter of the Financial Planning Association of Australia (FPA). Julie has previously served as both Chair and a board member of the FPA, and is a life member of the FPA and recipient of the Money Management Lifetime Achievement award. Julie is also a board member of the Future2 Foundation. She is a Graduate of the Australian Institute of Company Directors.

Julie was appointed to the Board in December 2015 and reappointed in July 2017.



### Peter de Cure

Peter is a professional non-executive director. His experience in tax matters has developed over a 25-year career as a tax partner with KPMG, and as a registered tax agent for 16 years. Peter is a Fellow of the Australian Institute of Company Directors and a Fellow of Chartered Accountants Australia and New Zealand.

He is Chairman of the Australian–American Fulbright Commission, Deputy Chairman and Treasurer of Royal Flying Doctor Service Central Operations, and Chairman of Gifford Hill Joint Venture and Gifford Hill Pty Ltd. Peter is a director of Accord Property Holdings Pty Ltd, the Accord Property Development Fund and Variety: the children's charity, and an advisory board member of Tim Adams Wines and Peter Cochrane Transport. Peter holds a Bachelor of Economics from the University of Adelaide.

Peter was appointed to the Board in July 2017.



### Jim Hawson

Jim is a registered tax agent and a Fellow of CPA Australia. He works with small and medium-sized enterprises as a consultant and as a board member and is a non-executive director of Shellfish Culture Ltd and Hobart Friendly Society Dispensary Ltd. Jim began his career at the ATO, before joining Hobart accountancy firm Garity Hurd and Partners in 1987. Jim joined the national accounting firm Investor Group as a principal in 2003 and was a member of the Tasmanian management team until his retirement in 2015. Jim holds a Bachelor of Commerce from the University of Tasmania.

Jim was appointed to the Board in December 2015 and reappointed in February 2019.



### Julianne Jaques

Julianne is a barrister specialising in taxation, and has been a tax adviser for more than 25 years. She is a chartered accountant, chartered tax adviser and Tax Bar Association member. Formerly an accountant with Coopers & Lybrand and a solicitor with Freehills, Julianne was also an adviser to the federal government during the GST and business tax reforms of 1999 to 2001. Julianne holds a Bachelor of Economics and Bachelor of Laws from Monash University, and a Doctorate of Juridical Science from the University of Melbourne. She is also a member of the Independent Parliamentary Expenses Authority and the Board of Taxation.

Julianne was appointed to the Board in December 2015 and reappointed in February 2019.



## Greg Lewis

Greg is a chartered accountant and chartered tax adviser. He began his career as a graduate at KPMG, then moved to Ernst & Young, where he was promoted to the position of principal in the tax division. After returning to KPMG as a partner, Greg went on to become a consultant in tax at the law firm Minter Ellison. He has been a company director and chairman of various organisations, both public and private. He was Managing Director of specialist industrial fittings manufacturer Bayside Benders Pty Ltd, supplying the civil, electrical and telecommunications industries. He is a committee member of Bellarine Bayside Coastal Management, and an executive committee member of the Blairgowrie Yacht Squadron. He is a consultant to private companies on a wide range of technical and strategic matters. Greg holds a Bachelor of Economics and a Masters in Taxation.

Greg was appointed to the Board in December 2015 and reappointed in February 2019. Greg served as Acting Chair of the Board for periods in 2016, 2017 and 2019.



## Ria Sotiropoulos

Ria is an experienced tax barrister at the Victorian Bar who has practised in tax law for 20 years, including as a barrister for the past 11 years. As a solicitor at large law firms (Clayton Utz and Arnold Bloch Leibler) and a senior tax consultant at large accounting firms (Ernst & Young and Deloitte), she gained broad and extensive tax experience advising clients ranging from large multinationals to high-net-wealth individuals on complex tax issues. Ria is a chartered tax adviser, a member of the United Nations Subcommittee on Dispute Avoidance and Resolution, a committee member of the Tax Bar Association, and a member of the International Fiscal Association. Ria participates in international tax meetings and forums with global tax leaders, advisers and policy-makers on current and emerging international tax issues. Ria holds a Bachelor of Science, a Bachelor of Laws and a Master of Laws (Hons).

Ria was appointed to the Board in July 2017.

## Committees

The TASA empowers the Board to form committees with delegated authority to make certain decisions. The committee structure enables the Board to make timely decisions efficiently, particularly on routine matters such as registration applications. Table 1 lists the committees active at 30 June 2019. The Board is also assisted by consultative committees and forums, such as the Consultative forum and the Financial adviser forum.

**Table 1: Board committees at 30 June 2019**

Type/responsibility	Name
Governance	Audit and risk committee
Policy and consultative	Professional practice committee
Operations	Recognised professional associations committee
	Reviewable applications decisions committee (registration exceptions)
	Board conduct committee

Under the TASA, decisions that may be subject to AAT appeal may be delegated only to committees composed of at least three Board members (and only Board members).

Decisions that may be subject to appeal include those that:

- reject registration applications
- impose conditions on registrations
- suspend or terminate registration (or apply other sanctions)
- extend investigation periods
- decline to accredit an association as a recognised tax agent, BAS agent or tax (financial) adviser association.

The Board has the capacity to appoint non-Board members, including people not on the Board's staff, as members of some committees. This enables the Board to get expert advice or assistance as required.

## Organisation

Figure 1 shows the organisational structure of the TPB at 30 June 2019.

At 30 June 2019 the TPB workforce comprised 133 ongoing and non-ongoing staff; this may be compared to 130 ongoing and non-ongoing staff at 30 June 2018. Due to significant structural changes to the TPB, a direct comparison of staff across functional areas is not readily available.

**Figure 1: Organisational structure**



## Executive

The Board is responsible for the strategic direction and performance of the TPB and makes disciplinary decisions and applies sanctions in appropriate cases.

The Secretary and CEO is responsible for managing TPB operations, resources and corporate governance in line with the Board's decisions.



Michael O'Neill, Secretary and CEO

Michael O'Neill was appointed Secretary and CEO of the TPB in August 2018. A tax lawyer with extensive public service experience, Michael joined the TPB from the ATO, where he was Chief Risk Officer, having previously held senior leadership positions in investigations, advice, litigation and law reform. He also has experience in private practice. Michael holds a Master of Laws from the University of Sydney.

Since his appointment in August 2018, Michael has facilitated significant structural changes to the organisation to support the new strategies adopted by the Board.

## Workforce

At 30 June 2019, the TPB workforce comprised 133 ongoing and non-ongoing staff, a small increase compared to 130 ongoing and non-ongoing staff at 30 June 2018. Non-ongoing employees are engaged for a specific term or task.

Tables 2 to 4 reflect our staffing levels at 30 June 2019. The ATO annual report provides the TPB's staffing figures for formal reporting purposes, as the ATO is our accountable authority and all staff are provided to the TPB by the Commissioner under the TASA.

In 2018–19, TPB staff were located in Brisbane, Canberra, Newcastle and Sydney and in Melbourne.

**Table 2: Ongoing and non-ongoing employees by location at 30 June 2019**

Region	Employees
Australian Capital Territory (Canberra)	14
New South Wales (Sydney and Newcastle)	68 <sup>1</sup>
Queensland (Brisbane)	21
Victoria (Melbourne)	30 <sup>2</sup>
<b>Total</b>	<b>133</b>

1. Comprising 66 employees in Sydney and two in Newcastle.

2. Comprising 18 employees in Box Hill, six in the central business district and six in Moonee Ponds.

**Table 3: Employees by functional areas at 30 June 2019**

Functional area	Employees
Client Services	31
Investigations and Enforcement	55
Corporate Services	16
Legal Unit	14
Technology Team	10
Policy and Legislation	7
<b>Total</b>	<b>133</b>

**Table 4: Employees by classification and gender at 30 June 2019**

Classification	Full time		Part time		Total
	Female	Male	Female	Male	
Senior Executive Service Band 2	–	1	–	–	<b>1</b>
Executive Level 2H	1	1	–	–	<b>2</b>
Executive Level 2	2	3	–	1	<b>6</b>
Executive Level 1	10	9	3	–	<b>22</b>
Australian Public Service (APS) 6	15	13	7	–	<b>35</b>
APS 5	10	8	1	–	<b>19</b>
APS 4	13	12	5	1	<b>31</b>
APS 3	8	5	3	1	<b>17</b>
<b>Total</b>	<b>59</b>	<b>52</b>	<b>19</b>	<b>3</b>	<b>133</b>

**Note:** Includes ongoing and non-ongoing staff numbers as per the pay report of 30 June 2019.

## Culture

Our culture supports an empowered and professional workforce who are innovative, committed and resilient. We understand that our success depends on strong and trusted leadership, as we shift our focus from a process-oriented environment to support our people to develop broader and deeper skills aligned to our evolving environment.

We are developing the TPB People Program, focusing on ensuring the wellbeing of our people, providing clear vision and direction, future-proofing our staff's capabilities, assisting our people to transition through change, and providing opportunities for professional and personal growth.

The TPB recognises that one of our greatest assets is the diversity that our staff bring to the organisation.

The recent Australian Public Service employee census indicates that 38% of our staff were born overseas, 33% speak a language other than English at home, and 56% are female. It is also important that the TPB is reflective of the Australian community we serve. The TPB supports diversity in all its staff, and currently employs one staff member that identifies as Indigenous and two that have identified as having disability. We proudly support and encourage this diversity: 94% of our staff responded that people in their workgroups are accepting of people from diverse backgrounds. By embracing our differences, we support everyone to realise their full potential. Building an inclusive workplace promotes improved productivity, greater creativity and innovation, higher employee wellbeing and engagement, and reduced employee turnover.

The principle of reasonable adjustment is applied within the TPB. Reasonable adjustments are modifications to a job, or changes to the workplace, that allow a person with disability to perform the inherent requirements of the job.

Of our staff who  
took part in the  
employee census

**38%**

were born overseas,

**33%**

speak a language  
other than English  
at home, and

**56%**

are female

## Legislative framework

The TPB administers the:

- *Tax Agent Services Act 2009* (TASA), which sets out the powers and functions of the TPB for the registration and regulation of tax agents, BAS agents and tax (financial) advisers
- *Tax Agent Services Regulations 2009* (TASR), which set out the broad requirements for registration, applicable fees, and the provisions for recognising professional associations
- *Tax Laws Amendment (2013 Measures No. 3) Act 2013*, which creates a regulatory framework for tax (financial) advice services, including the transitional provisions for registration as a tax (financial) adviser
- *Tax Agent Services (Specified BAS Services) Instrument 2016*, which declares certain services to be BAS services
- *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009*, which deals with consequential and transitional matters arising from the TASA's enactment.

The legislation is available at [www.legislation.gov.au](http://www.legislation.gov.au).

While the TPB operates with statutory independence and reports directly on its operations to the Minister, the TPB's funding is derived through ATO program funding under the Treasury portfolio, and the TPB is assisted by Australian Public Service employees made available by the Commissioner of Taxation.

## Reporting framework

For the purposes of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the Commissioner of Taxation is the accountable authority for the ATO entity, which includes the TPB.

The TPB's corporate plan and annual report (incorporating the annual performance statement) are submitted to the Minister, the Department of the Treasury and the Department of Finance.

The work of the TPB constitutes Program 1.2: Tax Practitioners Board of the ATO, as defined in the Treasury Portfolio Budget Statements 2018–19.

The annual performance statement included in this annual report reflects the TPB's performance against the deliverables and performance criteria set out in the Treasury Portfolio Budget Statements and the *Tax Practitioners Board Corporate Plan 2018–19*.

## Regulator Performance Framework

The Australian Government’s Regulator Performance Framework assesses one aspect of regulatory performance (minimisation of regulatory burden) and focuses on administering regulation (not regulatory policy-making).

A key purpose of the framework is to increase the transparency and accountability of Commonwealth regulators. Commonwealth regulators are required to report annually (through self-assessment) on how they are performing against the following six key performance indicators (KPIs):

1. Regulators do not unnecessarily impede the efficient operation of regulated entities.
2. Communication with regulated entities is clear, targeted and effective.
3. Actions undertaken by regulators are proportionate to the risk being managed.
4. Compliance and monitoring approaches are streamlined and coordinated.
5. Regulators are open and transparent in their dealings with regulated entities.
6. Regulators actively contribute to the continuous improvement of regulatory frameworks.

The TPB has developed a range of measures and metrics against each of the KPIs, which have been externally validated through a consultative forum composed of representatives from relevant stakeholder professional associations, and published on the TPB website.

Table 5 demonstrates how the strategic goals in the corporate plan are mapped to the Regulator Performance Framework KPIs.

**Table 5: TPB objectives and Regulator Performance Framework key performance indicators**

Strategic objectives <sup>1</sup>	KPI 1	KPI 2	KPI 3	KPI 4	KPI 5	KPI 6
Protect all consumers of tax practitioner services		✓	✓	✓		
Maintain, protect and enhance the integrity of the registered tax practitioner profession	✓	✓	✓	✓		
Promote the TPB as an efficient and effective regulator	✓				✓	✓

KPI = key performance indicator

1. Set out in the *Tax Practitioners Board Corporate Plan 2018–19*.

# 03

## Annual performance statement

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# ANNUAL PERFORMANCE STATEMENT

For the purposes of the PGPA Act, the TPB is part of the listed entity known as the ATO. As the accountable authority of the ATO, the Commissioner of Taxation is responsible for providing an annual report that complies with the requirements of the Public Governance, Performance and Accountability Rule 2014.

As an independent statutory body, the TPB provides an annual performance statement in line with section 16F of the Public Governance, Performance and Accountability Rule 2014, and presents it to the Commissioner.

In this annual performance statement, the TPB reports on its performance against the criteria set out for ATO Program 1.2: Tax Practitioners Board in the Treasury Portfolio Budget Statements, and the measures set out in the *Tax Practitioners Board Corporate Plan 2018–19*.

## Purpose and performance measures

The TPB's purpose as set out in the *Tax Practitioners Board Corporate Plan 2018–19* corresponds to our role as set out under ATO Program 1.2 in the Treasury Portfolio Budget Statements 2018–19:

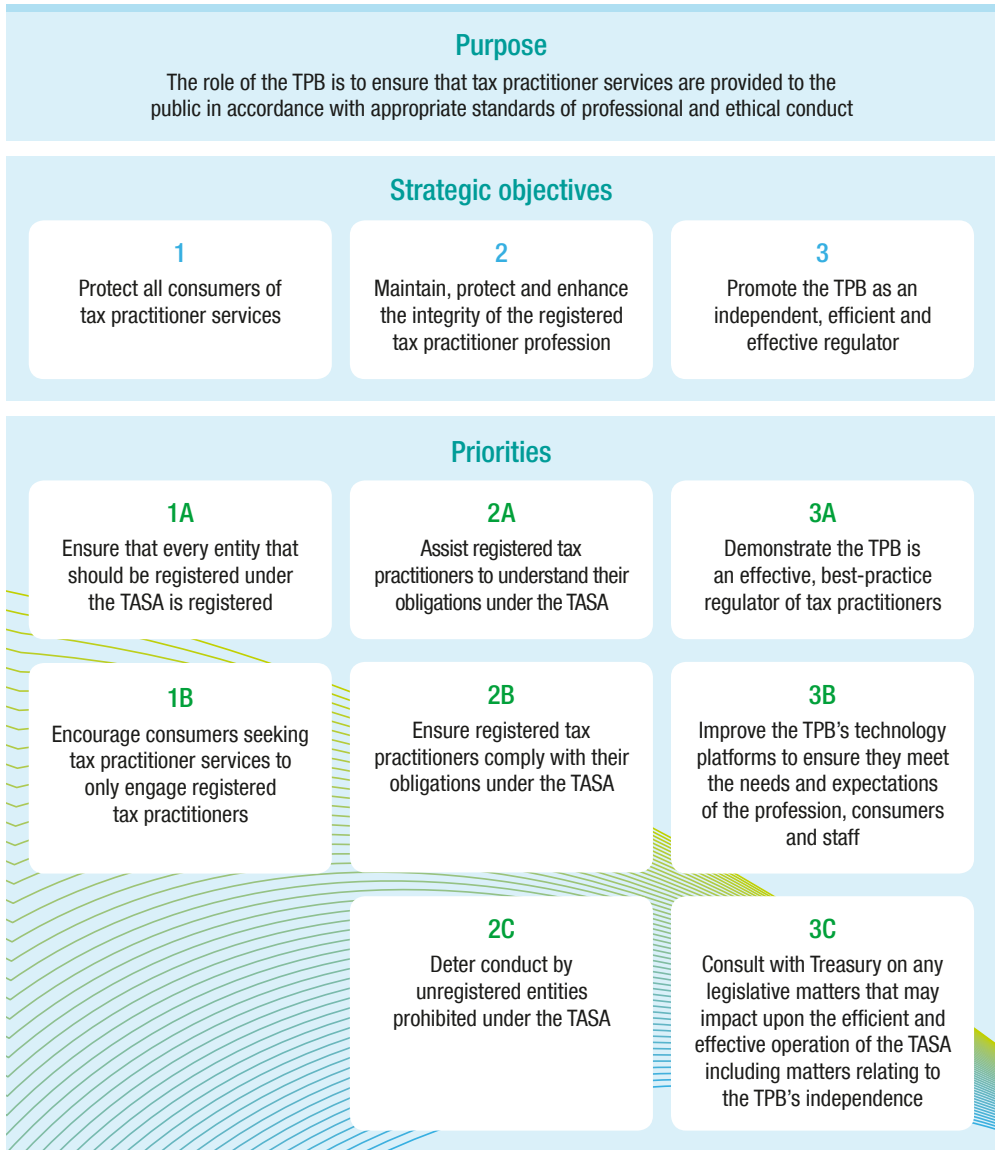
*The TPB's role is to ensure that tax practitioner services are provided to the public in accordance with appropriate standards of professional and ethical conduct.*

The corporate plan outlines three strategic objectives to fulfil our purpose:

1. Protect all consumers of tax practitioner services
2. Maintain, protect and enhance the integrity of the registered tax practitioner profession
3. Promote the TPB as an independent, efficient and effective regulator.

Figure 2 shows the identified priorities for each strategic objective.

**Figure 2: Purpose, strategic objectives and priorities**



TASA = Tax Agent Services Act 2009

This annual performance statement reports on our results against the performance measures for our strategic objectives and priorities in 2018–19, as detailed on pages 12–17 in the corporate plan. Throughout, we have used a ‘traffic light’ system for reporting against each measure, using the symbols below.

- Results achieved
- Results achieved within 10% margin
- Results not achieved within 10% margin

## ADDITIONAL COMMENTARY

### Reporting approach

As highlighted in the Chair’s message on the year in review, 2018–19 was a period of change for the regulatory environment and for the TPB, including a shift in thinking on our strategic priorities and our measures of success.

While reporting against the planned performance measures of the 2018–19 corporate plan, as required under the PGPA Act, we will also provide additional commentary on our performance that reflects our revised view on the effectiveness of our actions as a regulator, in the interests of full accountability to government and the community.

## STRATEGIC OBJECTIVE 1

# Protect all consumers of tax practitioner services

## PRIORITY 1A

Ensure that every entity that should be registered under the TASA is registered

### CORE ACTIVITY 1.1

Register tax practitioners in accordance with eligibility requirements under TASA

Performance criterion	Result
Meet published service standards for processing registration applications	●
Majority of feedback on the registration process is positive	●

#### Meet published service standards for processing registration applications

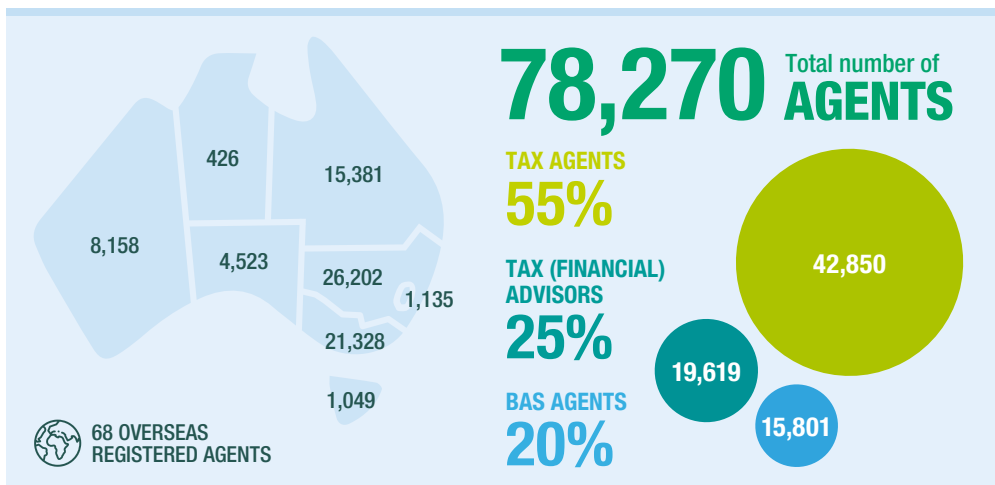
Tax practitioner registration ensures that practitioners have the qualifications and experience required to provide tax agent services; meet the 'fit and proper person' requirements of the TASA; and have appropriate professional indemnity insurance cover to protect the public, including consumers.

All registered tax practitioners must renew their registration every three years and complete an annual declaration in the interim years, to demonstrate and provide assurance that they meet the ongoing registration requirements.

In 2018–19, we processed 5,291 new registrations, 18,358 renewals and 49,753 annual declarations. Processing new applications in a timely manner is a priority for the TPB, to ensure that applicants can commence their business as soon as possible.

At 30 June 2019, a total of 78,270 tax practitioners were registered with the TPB, comprising 42,850 tax agents, 15,801 BAS agents and 19,619 tax (financial) advisers, as shown in Figure 3.

**Figure 3: Business activity statement agents, tax agents and tax (financial) advisers**



The service standard for processing applications was met, as shown in Table 6.

**Table 6: Application processing service standards results, 2018–19**

Service standard	Performance
80% of registration applications processed within 30 days of receiving a complete application	88%
95% of registration applications processed within 60 days of receiving a complete application	99%

**Figure 4: Telephone calls, emails and letters**



To support the timely processing of applications, we answered 49,442 telephone calls and received 22,168 emails and letters, as shown in Figure 4.

We provide a range of advice to assist registrants with their compliance responsibilities. A dedicated telephony team was introduced in 2018–19, and we look forward to continuously supporting our clients even better in 2019–20.

### Majority of feedback on the registration process is positive

Throughout the year, our service standards were exceeded, and we were satisfied with the level of positive feedback on the registration process.

In October 2018, we launched a suite of new online services to improve the tax practitioner’s experience of interacting with the TPB. These services included new online forms for applying for and renewing registrations and making annual declarations.

Incorporated into the new registration application and annual declaration forms is a one-off proof of identity process. This process helps to protect the individual tax practitioner’s identity and aligns our processes with Australian Government digital standards. In addition, we introduced two-factor authentication requirements at the point of registration and when changing a password. At 30 June 2019, 3,340 new tax practitioners and 31,325 existing tax practitioners had completed the new proof of identity processes.

To measure client satisfaction with the registrations process and the new services, between 1 October 2018 and 30 June 2019 we invited users to complete a survey after their registration. A total of 455 practitioners submitted the survey and, although it was a relatively small sample, the results demonstrated a statistically significant improvement in satisfaction levels.

Of the 455 practitioners who participated in the survey:

- 11% were able to complete their application within 15 minutes
- 51% were able to complete the form in one attempt, an improvement on 43% in 2017–18.

Overall, there was a small (but statistically significant) reduction in application completion time compared to 2017–18, with a 20% increase in the proportion of respondents taking under 36 minutes.

The survey feedback on the first period of use of the online services gives us the opportunity to identify improvements in time taken to complete the form, identify benefits of pre-populating TPB data into our forms, and benchmark areas for ongoing improvement.

#### ADDITIONAL COMMENTARY

### Registration of rogue unregistered advisers

While satisfied with our registration performance for this priority, we have an increasing focus on rogue unregistered advisers. As mentioned in the discussion paper for the review of the TPB/TASA, 'The IGTO notes in his report that a risk for the TPB is that new technology enables more people to provide unregistered tax agent services'.

Some of those advisers falsely hold themselves out to be registered practitioners. Others have previously been registered with the TPB, but were terminated because of breaches of the law or the ethical standards set out in the Code of Professional Conduct.

We are concerned about all rogue unregistered advisers who may expose their clients to tax audits and penalties for false claims, misappropriate funds belonging to clients, and carry no insurance coverage. The TPB will work with the ATO and law enforcement agencies to address rogue advisers, including by applying to the Federal Court for pecuniary penalties, and seeking criminal prosecutions in the worst cases.

As part of the review of the TPB/TASA, it is hoped that additional funding and appropriate legislative change will enhance the TPB's effectiveness in regulating rogue unregistered advisers and collaborating with other agencies, including the ATO, the Australian Securities and Investments Commission and law enforcement agencies.

#### CORE ACTIVITY 1.2

Take action to ensure tax practitioners continue to meet eligibility requirements

Performance criterion	Result
Outcomes of Annual Declaration process, including surrenders, reflect appropriate termination of registered tax practitioners where they cease to meet eligibility requirements	●
Outcomes from renewal process reflect that practitioners who cease to meet eligibility requirements are no longer registered	●

### **Outcomes of Annual Declaration process, including surrenders, reflect appropriate termination of registered tax practitioners where they cease to meet eligibility requirements**

Annual declarations provide confirmation that registered practitioners are fully compliant with their legal and ethical obligations, and help to protect members of the public who use tax practitioner services. Annual declarations also provide valuable intelligence to the TPB so that we can address high-risk behaviours that would otherwise undermine public confidence in the tax profession.

Failure to submit a registration renewal or annual declaration by the due date may result in a sanction, including suspension or termination of registration. Sanctions make it clear that tax practitioners, in positions of trust in the community, must comply with their ethical and legal requirements and lodge their annual declarations honestly and in a timely manner.

In 2018–19, the TPB received 49,707 annual declarations and investigated 516 practitioners. Collectively, those 516 practitioners had 594 sanctions applied, as detailed in Table 7. The sanctions included 24 terminations, 22 of which were for the non-lodgement of an annual declaration.

**Table 7: Investigations and sanctions related to annual declarations, 2017–18 and 2018–19**

<b>Decision</b>	<b>2017–18</b>	<b>2018–19</b>
Termination	24	24
Written caution	182	487
Suspension	0	2
Imposition of order	81	81
<b>Total</b>	<b>287</b>	<b>594</b>

**Note:** More than one sanction can be imposed on a practitioner.

### **Outcomes from renewal process reflect that practitioners who cease to meet eligibility requirements are no longer registered**

The TPB continues to work closely with recognised professional associations to ensure that members submit their registration renewals or annual declarations on time.

During the year, the TPB ceased 4,334 registrations. The reasons for cessation are detailed in Table 8. The reasons highlight a strong balance between our annual declaration process and our ongoing investigations and risk management activities, which are designed to ensure that only those practitioners that should be registered, are registered.

**Table 8: Registration cancellations, 2018–19**

Reason	Business activity statement agents	Tax agents	Tax (financial) advisers	Total
Administrative closure of branch	–	214	–	<b>214</b>
Company ceased to exist	7	19	8	<b>34</b>
No longer met registration requirements	4	33	184	<b>221</b>
Registration was surrendered	470	739	910	<b>2,119</b>
Death	9	68	7	<b>84</b>
Failed to renew	533	1,017	65	<b>1,615</b>
Failed to comply with the Code of Professional Conduct	5	23	4	<b>32</b>
Renewal was refused	–	13	2	<b>15</b>
<b>Total</b>	<b>1,028</b>	<b>2,126</b>	<b>1,180</b>	<b>4,334</b>

Where the TPB has doubts as to whether a registration renewal application meets the requirements of the TASA, the application is not immediately approved, and further enquiries are conducted so that consideration can be given to whether the application should be accepted or rejected. In 2018–19, the TPB completed 10 investigations which led to the rejection of registration renewal applications.

#### CASE STUDY

### Significant personal tax obligations

The Board considered the renewal application of a registered tax agent and decided to reject the application on the basis that the applicant did not meet the requirement that he be a fit and proper person, noting that:

- The agent had substantial outstanding personal tax obligations, including \$1 million in outstanding tax debts, and no payment arrangement in place with the ATO.
- The agent's outstanding tax debts had accrued over a substantial period of time.
- The agent had not lodged any objections to the ATO's assessment of his outstanding tax debts.
- The ATO had initiated debt recovery proceedings against the agent in the Supreme Court of New South Wales.

## CASE STUDY

### Not a fit and proper person

The Board considered the renewal application of a registered tax agent and decided to reject the application on the basis that the applicant did not meet the requirement that he be a fit and proper person, noting that:

- As the sole director, supervising tax agent and controlling mind of a previously registered tax agent company, the agent had failed to ensure that the company complied with its obligations as a (then) registered tax practitioner under the Code of Professional Conduct.
- The agent had allowed the company to lodge a number of income tax returns and business activity statements without prior authority from the client.
- The agent had allowed the company to fail to account to its clients for the total tax refunds resulting from the lodged income tax returns and business activity statements.
- The agent had become an undischarged bankrupt.
- The agent had not provided the Board with evidence that he had maintained professional indemnity insurance since his previous policy had expired.

## PRIORITY 1B

### Encourage consumers seeking tax practitioner services to only engage registered tax practitioners

#### CORE ACTIVITY 1.1

Register tax practitioners in accordance with eligibility requirements under TASA

Performance criterion	Result
Majority of feedback on usefulness of TPB website content, communications and education initiatives is positive	●
Quality assurance processes demonstrate that mandatory eligibility requirements are appropriately checked and confirmed before majority of applications are approved	●

## Majority of feedback on usefulness of TPB website content, communications and education initiatives is positive

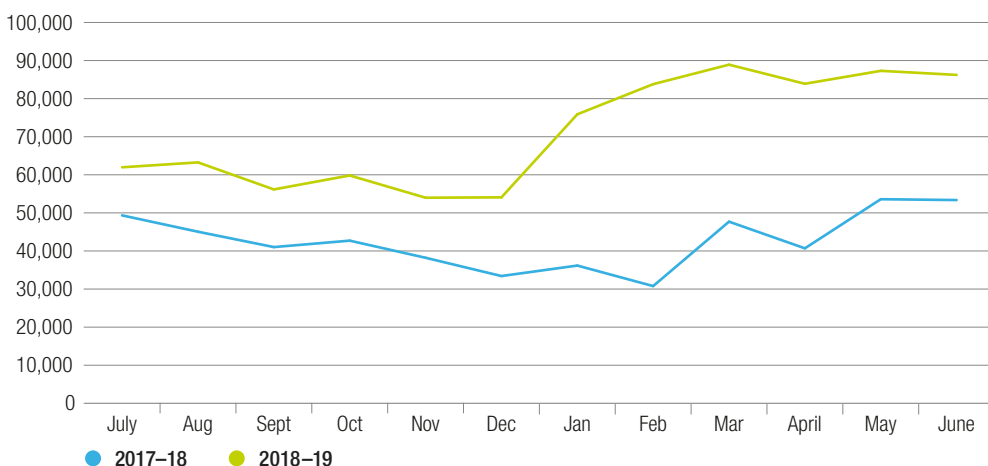
Our ongoing efforts to ensure that the suite of TPB communications products meets the needs of tax practitioners and the public continued in 2018–19, through surveys, evaluations and analysis of the content accessed by stakeholders.

### Website

A marked increase in TPB website visits indicated that this communications channel is an increasingly popular way for stakeholders, including practitioners researching their ongoing registration requirements, to access information relating to the TPB.

Statistics show significant increases of approximately 75% in the number of visitors and 41% in page views compared to 2017–18. This was largely driven by the roll-out of new online services, and the increased compliance focus of the TPB, generating traffic to the relevant content on the website. Figure 5 shows monthly results for the past two reporting periods.

**Figure 5: Website monthly visits**



**Note:** November 2018 figure is an approximation based on the previous four months figures.

### Social media

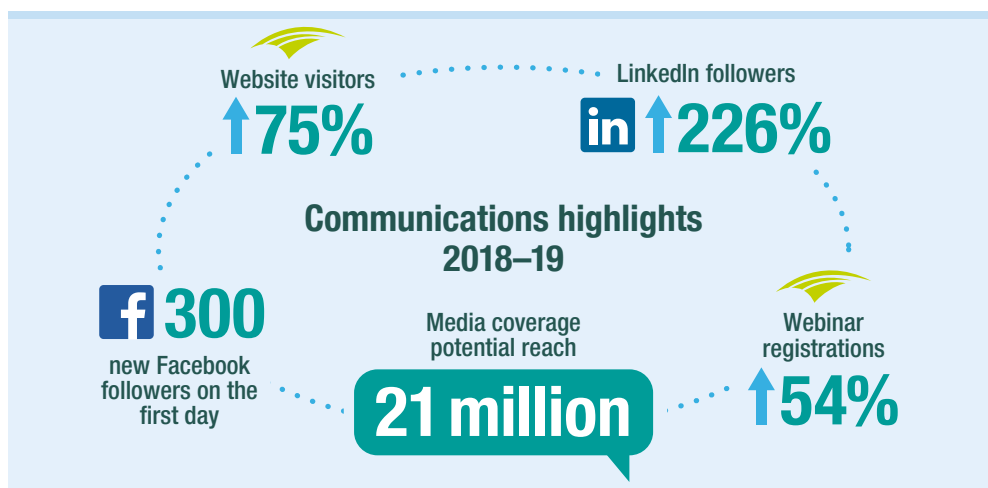
We have improved our social media presence to better connect with stakeholders, especially tax practitioners, as shown in Figure 6. For example, LinkedIn has proven very popular among tax practitioners: the number of followers increased by 226%, from just over 4,000 in 2017–18 to 13,307 in 2018–19. During 2018–19, sharing by followers resulted in TPB messages generating 508,807 impressions on LinkedIn accounts, more than double the number for 2017–18.

Use of our Twitter page also grew in 2018–19; however, consistent with industry trends, that growth was not as significant as the growth on LinkedIn. While our number of followers on Twitter increased by 10%, the number of impressions increased by 36%, in comparison with 2017–18. We will continue to utilise Twitter and consider ways to increase its reach and following, but do not anticipate significant growth in this channel relative to LinkedIn.

The TPB YouTube channel houses the recordings of TPB webinars and promotional videos. To raise the profile of this library of content, the channel was promoted throughout 2018–19 via webinars, *TPB eNews* and social media channels. As a result, the number of YouTube subscribers increased by 279% and the number of views increased by 118%, which equated to over 23,000 individual views.

In the lead-up to tax time 2019, the TPB launched a Facebook page to engage with consumers and tax practitioners and share important consumer messaging.

**Figure 6: Communications highlights**



**Quality assurance processes demonstrate that mandatory eligibility requirements are appropriately checked and confirmed before majority of applications are approved**

Quality assurance reviews are conducted to ensure that the appropriate checks are undertaken on new registrations to confirm that applicants meet the registration requirements. Quality assurance also ensures that, once registered, the tax practitioner continues to meet their ongoing registration requirements, such as CPE (individuals only), professional indemnity insurance, fit and proper person requirements and tax obligations.

The TPB’s internal quality assurance process affirmed the application of TPB policies and procedures. Of the applications for new registrations and renewals that were selected for quality assurance review, 94% reached the necessary rating of ‘achieved’ or higher.

**CORE ACTIVITY 1.3**

Maintain a public register of registered and deregistered practitioners

Performance criterion	Result
Regular consumer awareness messaging	●
Number of media releases regarding unregistered conduct	●
Public register is available 99% of the time	●

### **Regular consumer awareness messaging**

In 2018–19, we initiated our first dedicated consumer communications strategy to further strengthen our corporate goal of consumer protection. The strategy supports educating the public regarding the benefits of using registered tax practitioners, and the risks associated with not doing so.

The strategy and its activities and tactics were developed throughout 2018–19 and will be delivered largely during tax time, from July to October, in 2019. At this time next year, we will have a better understanding of how our consumer awareness messaging is performing.

However, we did undertake some activities to implement the strategy prior to tax time. We worked closely with the ATO and the Migration Agents Registration Authority to incorporate consumer protection messaging about using a registered tax practitioner into their communications, especially for at-risk audiences such as culturally and linguistically diverse audiences, including new migrants. Also in preparation for tax time 2019, we launched a Facebook page to engage with consumers and tax practitioners and share important consumer messaging.

### **Number of media releases regarding unregistered conduct**

In March 2019, the TPB published a media release highlighting the case of an unregistered tax agent, Kent Hacker, who was ordered by the Federal Court to stop providing tax services. This was the only case heard in the Federal Court regarding unregistered conduct.

This case and the subsequent media release enabled the TPB to communicate its key messages about the risks of using an unregistered agent.

Significant positive media coverage was leveraged by the TPB through the publication of 18 media releases on a range of topics, including compliance, Board appointments, and the IGTO report *The Future of the Tax Profession*.

Of the 18 media releases, 12 focused on compliance initiatives and outcomes, generating broad mainstream and industry media coverage. Three of the compliance media releases were about the ATO and TPB debt and lodgement campaign described in the 'In focus' article on page 44.

Extensive media coverage of the debt and lodgement campaign in December 2018 was a key factor in driving tax practitioner awareness of the initiative. A TPB media release launched the campaign and the resulting widespread media coverage had a total potential audience reach of close to 700,000 readers. This led to a measurable reduction in tax practitioners' personal tax obligations within the first two months of the campaign.

Overall, the potential audience reach of total TPB-related media coverage was more than 21 million readers and the coverage generated through TPB media release distribution was more than 7 million.

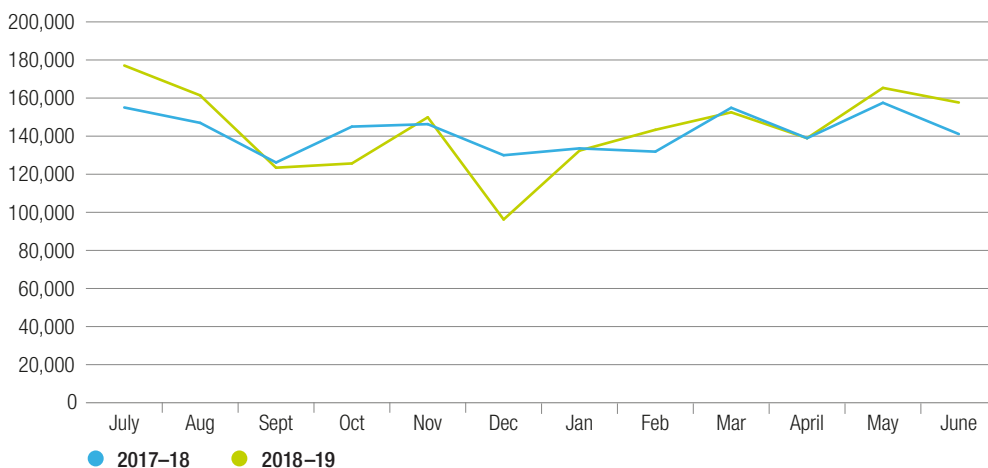
### Public register is available 99% of the time

The public register provides an online interface to verify the registration status of a tax practitioner. Members of the public can search the register for registered practitioners, using filters such as first name, last name, business name, practitioner number or suburb. It is intended that users of practitioner services are able to check the status of their preferred practitioner quickly and easily, to protect themselves from engaging rogue unregistered advisers.

Following considerable investment in the functionality and speed of the public register, the register was available for use 99.5% of the year in 2018–19, exceeding our performance target of 99%. More than 1.7 million searches were conducted, which is consistent with the result in 2017–18, as shown in Figure 7.

A full dataset of the TPB Register is available to download from [data.gov.au](https://data.gov.au) and the register is available on the TPB website.

**Figure 7: TPB Register searches**



**Note:** November 2018 figure is an approximation based on the previous four months figures.

## STRATEGIC OBJECTIVE 2

# Maintain, protect and enhance the integrity of the registered tax profession

## PRIORITY 2A

### Assist registered tax practitioners to understand their obligations under the TASA

#### CORE ACTIVITY 2.1

Educate tax practitioners to understand their obligations under the TASA

Performance criterion	Result
Regular publication of information sheets and other guidance material, and eNews for tax practitioner subscribers	●
Attendance rates and feedback reflects satisfaction with Outreach events, speaking engagements and webinars	●
Feedback reflects satisfaction with communication and consultation by the TPB	●

#### Regular publication of information sheets and other guidance material, and eNews for tax practitioner subscribers

The TPB assists tax practitioners to understand their obligations under the TASA through a variety of channels, such as information sheets and guidance material published on [www.tpb.gov.au](http://www.tpb.gov.au), our program of webinars, a regular e-newsletter, social media, and attendance at speaking events.

#### Guidance materials

In 2018–19, the TPB provided practical guidance to help tax practitioners and other key stakeholders to understand their obligations under the TASA and the Code.

In December 2018, a new guidance product was published. The product is an information sheet to assist all registered tax practitioners to understand their obligations under Code Item 2, which requires that a registered tax practitioner must comply with the tax law in the conduct of their personal affairs. The release of the information sheet coincided with the announcement of the TPB's new compliance strategy calling on registered tax practitioners to settle their outstanding tax obligations.

We updated three existing guidance products during the year:

- The explanatory paper dealing with professional indemnity insurance was updated, partly to provide additional information on cyber insurance.
- The information sheet on payroll service providers and digital service providers was updated to reflect tax practitioner interaction with Single Touch Payroll.
- The information sheet on taking 'reasonable care' to ascertain a client's state of affairs was updated to include new examples.

We also commenced a review of the TPB's policy and guidance material, to ensure that it continues to be current and fit for purpose. Feedback about the TPB's suite of information products has been sought from tax practitioners, TPB staff, the consultative forum and the financial adviser forum, and the review will progress in 2019–20.

Although it was initiated by the TPB prior to the finalisation of the IGTO's *The Future of the Tax Profession* report, the review will also assist us in addressing Recommendation 6.1 of that report. Recommendation 6.1 is 'that the TPB, in consultation with recognised professional associations, undertake research to determine if its policies and procedures appropriately cater for all tax professionals within its jurisdiction, including tax (financial) advisers'.

The guidance material published and reviewed by the TPB during 2018–19 is listed at Appendix A.

### eNewsletter

Twelve editions of the online newsletter *TPB eNews* were issued to around 60,000 tax practitioners in 2018–19, providing recipients with guidance and key information about the TPB and ongoing registration requirements.

We conducted a reader's survey, which showed areas where we are doing well and identified some areas of improvement to inform our new approach to *TPB eNews*, planned for 2019–20.

Of those subscribers who responded to the survey, in June 2019, 77% reported that they read most editions; 80% found the articles relevant, 88% were satisfied with *TPB eNews* overall, and 97% found the content informative.

### Board approved courses

To meet the qualification requirements for registration, individual applicants may be required to undertake Board approved courses that cover areas of Australian tax law, commercial law and accountancy relevant to their registration. During the year, the Board received 20 applications for Board approved course approvals; 18 were approved and two are in progress. Course details are on the TPB website.

## Attendance rates and feedback reflects satisfaction with Outreach events, speaking engagements and webinars

### Webinars

During 2018–19, we ran 22 webinars and achieved a significant increase in registrations for our webinar program. The number of registrations increased by 54%, from approximately 13,000 to more than 20,000.

Of the 4,215 participants who responded to post-webinar evaluation surveys, 96% were satisfied with the event and 94% reported that their knowledge had improved as a result of their participation.

Figure 8: Webinars



We added nine new topics to the program during the year, based on feedback from practitioners and emerging issues. Our most popular webinars were on work-related expenses, key focus areas for the TPB and ATO, cyber security, and privacy and confidentiality.

We are confident that our webinar program is meeting the needs of our practitioner audience and look forward to releasing more content in 2019–20 to educate and assist tax practitioners.

### Outreach events and speaking engagements

The TPB attends speaking events in our efforts to educate and guide practitioners. We are invited to make presentations at industry and professional association events and the ATO's Open Forums events.

In 2018–19, the TPB made presentations at 17 industry and professional body conferences, on topics related to registration requirements and the Code, including specific areas of interest such as CPE requirements, taking reasonable care, and supervision and control. We also regularly made presentations on compliance issues such as work-related expenses, unregistered service providers and our review of CPE records.

The TPB was invited to engage with tax practitioners at 38 ATO Open Forums around Australia. Feedback from the ATO and our presenters indicates that tax practitioners find these opportunities to interact with the TPB face-to-face – to listen to perspectives, answer queries and share the views of the TPB – extremely valuable.

### Feedback reflects satisfaction with communication and consultation by the TPB

The TPB invested in a significant amount of stakeholder engagement during 2018–19, in order to better understand practitioners and the public, to improve our services and to target improper conduct.

Several times each year, we conduct consultation sessions with leaders of relevant professional associations, including tax agents, BAS agents and tax (financial) advisers. These forums provide valuable input into the TPB's understanding of the operating environment, key risks and opportunities, and concerns of practitioners. This reflects our continued commitment to consult and work with key stakeholders, particularly tax practitioners, to ensure that their experiences inform the TPB's decision-making and operations.

Our consultative forum provides a major service by giving feedback on the TPB's overall effectiveness. Under the Regulator Performance Framework, the TPB conducts a self-assessment of its performance to be provided to government. The draft assessment is first provided to the members of our consultative forum for their evaluation, feedback and changes, to ensure an accurate and robust assessment. This process is part of our continuous improvement strategy.

The consultative forum met three times during 2018–19. A number of major issues were discussed, such as:

- the TPB’s registration process and communication, including the annual declaration process for registered tax practitioners and recognised associations
- the TPB’s compliance approach and activity, including CPE reviews and the tax practitioner debt and lodgement strategy
- regulatory reach (including in relation to conveyancers, tax clinics, FASEA requirements and whistleblowers) and assessment metrics for the Regulator Performance Framework
- professional practice and other topical issues, in areas including Single Touch Payroll, professional indemnity insurance and cyber insurance, reasonable care obligations under the Code, and the cost recovery implementation statement.

Communiqués are sent to association representatives after each forum meeting to enable them to distribute key messages to their members. Information is also published on the TPB website. The TPB uses forum outcomes to refine its guidance materials and plan and manage its work program.

## PRIORITY 2B

### Ensure registered tax practitioners comply with their obligations under the TASA

#### CORE ACTIVITY 2.2

Investigate registered tax practitioner conduct that breaches the TASA and impose sanctions where appropriate

Performance criterion	Result
Statistics demonstrate that matters are progressed in accordance with TPB’s risk matrix	●
Quality assurance and quality control processes demonstrate that complaint handling aligns with TPB’s policies and procedures	●
Majority of cases finalised within published service standard timeframes	●
Majority of case outcomes unvaried when reviewed by the Inspector General of Taxation	●

### **Statistics demonstrate that matters are progressed in accordance with TPB's risk matrix**

In 2018–19, the TPB investigations program had a dedicated focus on identifying and investigating the tax practitioners posing the highest risks to the tax system. This involved streamlining our investigations strategy and processes, and improving our understanding of data through analysis, intelligence and risk assessment.

Our enforcement strategy first involves complaint resolution, encouraging the parties to seek resolution between themselves where appropriate. We also monitor patterns and trends associated with complaints, having regard to a broader understanding of the facts and circumstances surrounding a practitioner.

For example, some relatively minor complaints may give insight into systemic and high-risk behaviour of a practitioner or of a rogue unregistered adviser. In other cases, a complaint that seems serious initially may be better understood as a breakdown in communication between the client and their otherwise trusted practitioner.

More serious referrals or complaints, and risks otherwise detected by the TPB, are subjected to preliminary enquiries to better assess the matter. If the preliminary enquiry suggests that it is warranted, we undertake an investigation.

High-risk matters are those in which the allegation is likely to result in a sanction affecting registration (suspension/termination) or may lead to civil proceedings. These cases are escalated directly to the TPB's Investigations and Enforcement team for preliminary enquiries or an immediate investigation. During 2018–19, we finalised 68 cases classified as high risk.

In any of these circumstances, the TPB seeks to be transparent and open in dealings between the parties. Importantly, practitioners always have the opportunity to put their side of the argument – an important element in procedural fairness.

The only exception to full transparency arises in the circumstances where the complainant wishes to be anonymous. Increasingly, this may include cases that have come to the TPB under whistleblower reforms.

## ADDITIONAL COMMENTARY

### Investigative powers

While we are pleased that our enforcement strategy is more streamlined and targeted to address higher risks, we qualify our performance in this area, having regard to several factors:

- The TPB's capacity and capability to conduct complex investigations are limited.
- In the most complex cases, the TPB is reliant on close cooperation with partner agencies such as the ATO and the Australian Securities and Investments Commission. These agencies have their own priorities and strategies which may not always closely align with ours.
- The TPB's powers of investigation, and the sanctions available if a breach is determined, are relatively limited, sometimes impeding effectiveness or efficiency.
- The TPB's conformance with our service standards related to the timeliness of complaint handling and investigations has been patchy.

**The TPB's powers of investigation, and the sanctions available if a breach is determined, are relatively limited, sometimes impeding effectiveness or efficiency**

#### Quality assurance and quality control processes demonstrate that complaint handling aligns with TPB's policies and procedures

Table 9 summarises the sources of complaints received by the TPB in 2017–18 and 2018–19.

**Table 9: Sources of complaints and referrals, 2017–18 and 2018–19**

Source	2017–18	2018–19
Public	1,023	1,110
Registered agent	125	154
Australian Taxation Office	120	196
Other	260	514
<b>Total</b>	<b>1,528</b>	<b>1,974</b>

There was a recognisable shift in referrals from the ATO: 196 matters were sent to the TPB in 2018–19, a 63% increase compared to 120 matters in the previous year.

This fostered joint compliance action between the TPB and the ATO, focusing on sharing intelligence, aligning investigation strategies, incorporating data analytics into case management, and utilising communications to improve community confidence in the tax profession and the integrity of the tax system.

A major driver behind these referrals was ATO audit work conducted in relation to excessive claims for work-related expenses made by practitioners on behalf of their clients. Increasingly, the TPB is proactive in undertaking these cases with the ATO, to ensure that practitioners are properly sanctioned for legal and ethical breaches.

The ATO referred **196 matters** to the TPB in 2018–19, a **63%** increase compared to **120 matters** in the previous year

#### CASE STUDY

### Agents overclaiming expenses on behalf of clients

An individual agent and his partnership had their registrations terminated by the TPB for overclaiming expenses on behalf of their clients.

The ATO identified the behaviour through its compliance activities and conveyed its concerns to the TPB for further action.

The TPB found that the individual agent and partnership had breached the Code of Professional Conduct that applies to all registered tax agents, by failing to provide tax agent services competently.

This included showing intentional disregard for tax law and advice from the ATO and repeatedly making claims without substantiation or merit on behalf of clients.

#### CASE STUDY

### Joint investigation with the ATO

After receiving 19 consumer complaints that two registered tax agents, who offered their services online, had not passed 2017–18 tax refunds on to their clients, the TPB launched a joint investigation with the ATO.

As part of the strategy, state-based police authorities were alerted to the conduct so that further action could be taken.

The collaboration between the regulators led to the immediate removal of electronic access to ATO systems and the prompt termination of the registration of the two tax agents.

### Majority of cases finalised within published service standard timeframes

The TPB reviewed 5,490 cases under provisions of the TASA in 2018–19, as detailed in Appendix D. This was an increase of 83% compared to the total of 3,006 cases reviewed in 2017–18. While managing a significant increase in complaints and referrals, the TPB was able to deliver quality outcomes, with some impact on service standard performance, as shown in Table 10.

**Table 10: Case finalisation service standards results – registered entities, 2017–18 and 2018–19**

Service standard	2017–18	2018–19
98% of complaints acknowledged within three days	91%	91%
98% of complaints progressed to review within five days	100%	98%
80% of cases completed within 150 days	77%	71%
90% of cases completed within 210 days	77%	72%

Overall, the TPB achieved strong outcomes, with 749 sanctions delivered – a marked increase from our 2017–18 result of 287 sanctions, as shown in Table 11. Of particular note is the large increase in the number of practitioners having their registration terminated, which rose by 208% to 74 terminations.

Overall, the TPB achieved strong outcomes, with **749 sanctions** delivered – a marked increase from our 2017–18 result of **287 sanctions**

**Table 11: Sanctions and compliance outcomes, 2017–18 and 2018–19**

Decision	2017–18	2018–19
Termination	24	74
Suspension	–	10
Renewal application rejected	–	10
Imposition of an order	81	114
Written caution	182	540
Federal Court referral	–	1
<b>Total</b>	<b>287</b>	<b>749</b>

**Note:** More than one sanction can be imposed for a case finalised against a tax practitioner.

## CASE STUDY

### *Gould and Tax Practitioners Board [2019] AATA 1056*

In December 2018, the TPB found that Vanda Gould ceased to meet the fit and proper person requirements in the law, and terminated his registration with the maximum five-year exclusion period. The decision was based on relevant factors including findings highly critical of Mr Gould in a decision of the Federal Court of Australia (*Hua Wang Bank Berhad v Commissioner of Taxation* [2014] FCA 1392).

The TPB welcomed the subsequent decision by the Administrative Appeals Tribunal (AAT) to reject Mr Gould's application for a stay. Importantly, in rejecting Mr Gould's application, AAT Deputy President Molloy noted:

*... the public interest favours refusing a stay in light of the serious implications of the Applicant's conduct, as found by the Federal Court, for the revenue, the integrity of Australian tax laws, the standing of the tax profession within the community, and the ability of the Commissioner of Taxation to discharge his statutory functions.*

The AAT referred to the Federal Court decision in *Hua Wang* which pointed to 'sustained, calculated and layered dishonesty', including describing Mr Gould's conduct as 'disgraceful'.

#### **Majority of case outcomes unvaried when reviewed by the Inspector General of Taxation**

During 2018–19, 26 cases were reviewed by the IGTO. None of those cases were varied upon review.

The IGTO made one business improvement recommendation, leading to changes to the TPB's independent review processes.

The TPB's internal quality assurance process affirmed that TPB procedures are being applied. Complaints and compliance cases selected for quality assurance review reached the necessary rating of 'achieved' or higher for 89% of the cases selected.

## Our compliance initiatives

### Targeted campaigns

To better meet our strategic objective to maintain, protect and enhance the integrity of the registered tax profession, the TPB commenced a number of new initiatives to adopt a more strategic approach to proactive compliance in 2018–19. Two core areas of practitioner compliance were targeted:

- personal tax obligations
- continuing professional education (CPE) requirements.

Our work to support the initiatives and the integrity of the profession involved the whole of the TPB, and the communications efforts to support compliance and deter conduct by unregistered entities addressed a number of our key priorities.

### Personal tax obligations

In December 2018, the TPB announced a campaign to improve practitioner tax debt and lodgement, reminding agents to address outstanding requirements promptly. The strategy targeted tax practitioners who might be in breach of their obligations under the tax law and in breach of their registration requirements under the *Tax Agent Services Act 2009*.

The media campaign was supported by ATO engagement with agents. We were very pleased that a range of professional associations also supported the strategy. The associations recognised the privileged position of practitioners in serving Australian taxpayers, and the risk to good reputation if their members failed to meet their basic tax obligations.

At the time of the campaign announcement, 7,839 practitioners had outstanding taxation obligations, of which:

- over 2,500 tax practitioners had not lodged one or more of their personal income tax returns or those of their associated entities
- over 1,000 tax practitioners had more than one outstanding instalment activity statement (IAS) or business activity statement (BAS) for their associated entities.

Nearly 500 tax practitioners fell into both of those groups. In total, over 5,000 tax practitioners had a debt of over \$300 (with no active payment arrangements), representing a total debt of nearly \$115 million.

The strategy has been broadly effective in influencing practitioner compliance.

At 30 June 2019, the original target population of 7,839 tax practitioners had collectively:

- lodged 6,637 (66%) of the 10,120 outstanding income tax returns, IASs and BASs
- reduced outstanding/collectable debt by nearly \$37 million (from \$114,808,910 to \$78,185,640).

## IN FOCUS

### Our compliance initiatives *continued*

Further, the ATO has reported that, at 30 June 2019, 971 (36%) of the 2,728 tax practitioners with outstanding annual returns for self-managed superannuation funds had rectified the situation by either submitting all outstanding annual returns or winding up the funds. The superannuation assets at risk decreased by nearly \$500 million (from \$1,070,006,323 to \$572,363,866).

Around 70 highest risk cases have been investigated. A significant number of practitioners who have been investigated under this targeted work have had their registrations terminated – many with a five-year exclusion period applied. This work has been complemented by parallel ATO activity including debt recovery action, lodgement prosecutions, audits and investigations.

Although there has been a recognised change in lodgement activity and debt payment, the TPB remains concerned that – despite being reminded directly, in the media and by their professional associations – some practitioners remain behind in their tax obligations.

We will continue this campaign until we are satisfied that these non-compliant behaviours have been addressed.

#### **Continuing professional education**

A key aspect of the TPB's compliance program was the commencement in July 2018 of a program to assess how tax practitioners comply with the TPB's CPE policy, which requires them to maintain the knowledge and skills relevant to the services which they are registered to provide.

During 2018–19, 1,288 tax practitioners were randomly selected for a review of their CPE responsibilities. Formal CPE audits were subsequently conducted for 530 practitioners.

The audit found that the majority of practitioners take seriously their CPE obligations in order to provide a thorough service to their clients. However, 83 practitioners were found to have been marginally deficient in meeting their obligations and were cautioned.

Eight formal investigations were conducted into practitioners who were found to be significantly deficient in meeting their obligations. The investigations led to more formal sanctions, including suspension.

**The TPB remains concerned that – despite being reminded directly, in the media and by their professional associations – some practitioners remain behind in their tax obligations**

## IN FOCUS

# Our compliance initiatives *continued*

### Black Economy Taskforce

The TPB maintained its involvement in the Black Economy Taskforce to support broader government initiatives and deter conduct of unregistered entities.

The alignment of TPB and ATO investigations was also recognised in the joint focus on addressing 'agents of concern' under the allocation of Black Economy Taskforce funding.

The TPB has been working with other government and law enforcement stakeholders to proactively identify, assess and respond to complaints and referrals associated with practitioners who facilitate or undertake illegal and black economy behaviours.

We target practitioners who are facilitating the avoidance of tax or fair work obligations, phoenixing, money laundering or organised crime, and those who are exploiting their position and access to conduct activities such as misappropriating client funds, lodging false returns and lodging amendments without client knowledge.

During the year, the TPB received 20 referrals from the ATO or other agencies for matters which were considered to represent black economy behaviours.

## PRIORITY 2C

### Deter conduct by unregistered entities prohibited under the TASA

#### CORE ACTIVITY 2.3

Investigate conduct by unregistered entities that is prohibited under the TASA and initiate Federal Court proceedings where appropriate

Performance criterion	Result
Majority of cases finalised within published service standard timeframes (unregistered practitioners)	●
Cases are finalised within published service standards (unregistered practitioners)	●
Majority of case outcomes unvaried when reviewed by the Inspector General of Taxation (unregistered practitioners)	●
Quality assurance and quality control processes demonstrate that complaint handling aligns with TPB's policies and procedures (unregistered practitioners)	●
Majority of Federal Court decisions affirm breaches of the TASA. Following any Federal Court decision, a media release will be issued where appropriate (unregistered practitioners)	●

## ADDITIONAL COMMENTARY

### Rogue unregistered agents and sanction powers

Our analytics gave us an insight into up to 1,000 cases of rogue unregistered advisers in 2018–19. We also received 174 referrals relating to unregistered advisers and commenced conducting about 30 investigations into those matters.

While our progress has been considerable, there is more work to be done. We have established a new team dedicated to rogue unregistered advisers, but its progress has been slow.

Partly this is because the only compliance action available to the TPB under the *Tax Agent Services Act 2009* is to apply to the Federal Court of Australia for the imposition of a civil penalty and injunctive relief. This is a slow, resource intensive and costly procedure.

The review of the TPB/TASA discussion paper indicates that a suite of additional powers to impose sanctions on unregistered agents could greatly assist our ability to maintain the integrity of the system. Powers such as the ability to impose on-the-spot fines or to seek and publish enforceable undertakings from rogue agents (registered or unregistered) are among the options canvassed in the discussion paper.

#### Majority of cases finalised within published service standard timeframes (unregistered practitioners)

##### Cases are finalised within published service standards (unregistered practitioners)

In 2018–19, the TPB commenced a more overt and proactive approach to dealing with unregistered advisers, which focuses on utilising data analytics and working with co-regulators.

Our data analytics processes have supported our building a link between the lodgement of taxpayer returns and the activity of unregistered practitioners. This provided substantial support for the 174 rogue unregistered practitioner cases which were referred to the TPB during the year. For the most egregious cases, investigations are commenced, and applications are made to the Federal Court to seek civil penalties for unregistered practitioner activity.

Throughout 2018–19, published service standards for the finalisation of cases for the review of unregistered practitioners were met, as shown in Table 12.

**Table 12: Case finalisation service standards results – unregistered entities, 2018–19**

Service standard	Result
80% of cases received completed within 150 days	89%
90% of cases received completed within 210 days	91%

#### Majority of case outcomes unvaried when reviewed by the Inspector General of Taxation (unregistered practitioners)

No cases selected for review by the IGTO in 2018–19 related to unregistered practitioners.

### **Quality assurance and quality control processes demonstrate that complaint handling aligns with TPB's policies and procedures (unregistered practitioners)**

Quality assurance processes for cases of unregistered practitioners and their review remained appropriate for the risk levels identified. During 2018–19, seven cases of unregistered practitioners were selected for quality assurance review; all seven cases reached the necessary rating of 'achieved' or higher.

### **Majority of Federal Court decisions affirm breaches of the TASA. Following any Federal Court decision, a media release will be issued where appropriate (unregistered practitioners)**

In 2018–19, the TPB brought one case regarding unregistered conduct before the Federal Court, alleging that Kent Hacker and two associated entities were acting unlawfully by charging fees while unregistered and failing clients by claiming false and inflated deductions.

On 1 March 2019, before Justice Rangiah of the Federal Court, the respondents undertook to not provide tax services illegally. That undertaking means that they cannot provide tax agent services or BAS services to clients for a fee.

The litigation continues, and the undertakings will remain in place until the TPB's application for penalties and final injunction is heard.

Following any Federal Court decision, media releases are issued where appropriate. In March 2019, we published a media release highlighting this case and communicating our key messages about the risks of using an unregistered agent.

## **CORE ACTIVITY 2.4**

Recognise professional associations and ensure they meet the eligibility requirements for recognition

<b>Performance criterion</b>	<b>Result</b>
All new applications are processed and assessed against the eligibility criteria as required under the Tax Agent Services Regulations	●
Outcomes of Annual Declaration process reflect appropriate scrutiny and assurance that professional associations should remain recognised	●

### **All new applications are processed and assessed against the eligibility criteria as required under the Tax Agent Services Regulations**

Voting members of a recognised professional association have an additional pathway to seek registration with the TPB. The TPB recognises a number of professional associations for this purpose; however, it is important to note that the TPB's recognition of a professional association does not give a professional association the ability to actually provide tax agent services for a fee.

Due to standards set out in the TAsR, to gain recognition a professional association must assure the TPB that it requires high educational, ethical and professional standards of its members and that it has appropriate governance arrangements.

During 2018–19, the TPB did not accredit any additional professional associations. The TPB terminated the recognition of accreditation status of two professional associations, following requests from the professional associations to surrender their recognition.

### **Outcomes of Annual Declaration process reflect appropriate scrutiny and assurance that professional associations should remain recognised**

The TPB continues to roll out the annual declaration process for recognised professional associations to help ensure that all recognised associations continue to meet the ongoing eligibility requirements for recognition, as noted in Schedule 1 to the TAsR. The TPB requires that recognised professional associations submit their annual declarations approximately four months after their financial statement year-end.

The TPB's recognised professional associations committee, acting under delegated authority of the Board, considers annual declarations from associations to decide whether the requirements for recognition continue to be satisfied.

Thirty annual declarations were considered for 19 recognised professional associations during 2018–19. Further information, requested actions and amendments – including updating processes, by-laws, constitutions and website information to provide further clarity and accountability – were sought from associations to provide assurance that the associations satisfied eligibility requirements.

Further information about the requirements for recognition of professional associations is on the TPB website. The professional associations officially recognised by the TPB at 30 June 2019 are shown at Appendix B.

#### **ADDITIONAL COMMENTARY**

### **Professional associations**

The TPB will always seek close collaboration with the associations representing tax practitioners, and draw on their valuable contributions to our consultative forum. However, the TPB does not act as a regulator or provide oversight for the professional associations that it recognises.

We have received feedback suggesting that by recognising some professional associations and not others (or favouring existing associations over new associations) we are limiting opportunities for new services and innovating organisations. This is an issue for further consideration in the review of the TPB/TASA.

## STRATEGIC OBJECTIVE 3

# Promote the TPB as an independent, efficient and effective regulator

## PRIORITY 3A

### Demonstrate the TPB is an effective, best-practice regulator of tax practitioners

#### CORE ACTIVITY 3.1

All actions and decisions are made in accordance with the law

Performance criterion	Result
Majority of decisions of the Inspector General of Taxation, AAT and Federal Court affirm TPB's procedures and decisions	●

#### Majority of decisions of the Inspector General of Taxation, AAT and Federal Court affirm TPB's procedures and decisions

During 2018–19, a number of decisions of the Board were appealed to higher jurisdictions, including the AAT and Federal Court, and a number of our cases were randomly selected for review of our procedures and decisions by the IGTO. Appendix C provides a summary of such matters finalised in 2018–19. The results show that our procedures support our decisions and result in positive outcomes when tested.

#### Inspector General of Taxation and Taxation Ombudsman

During the period, 26 cases were reviewed by the IGTO. None of these cases related to unregistered practitioners and none were amended upon review.

#### Administrative Appeals Tribunal

In 2018–19, 17 new applications were made to the AAT for a merits review of a TPB Board decision. Nine matters were resolved without a published decision. Those cases were finalised in the TPB's favour, dismissed by the AAT for non-compliance with tribunal orders and directions, or withdrawn by the applicant prior to the substantive final hearing. The remaining eight matters were ongoing at 30 June 2019.

Applications to stay the Board's determinations were rejected by the AAT in four cases, namely:

- *Hill and Tax Practitioners Board (Taxation)* [2019] AATA 756
- *Evans and Tax Practitioners Board (Taxation)* [2019] AATA 1408
- *Hopfner and Tax Practitioners Board* [2019] AATA 851
- *Gould and Tax Practitioners Board* [2019] AATA 1056.

## CASE STUDY

### *Dadwal and Tax Practitioners Board [2018] AATA 2878*

The Board terminated Ranjit Dadwal's tax agent registration based on a finding that he is not a fit and proper person, given his:

- conduct that resulted in his being convicted of one count of 'indecent act with a child under 16' and two counts of 'indecent assault' in contravention of the *Crimes Act 1958* (Vic)
- failure to disclose his convictions in the annual declaration that he lodged with the Board on 1 April 2016.

Mr Dadwal sought review of the Board's decision in the Administrative Appeals Tribunal (AAT).

On 24 August 2018, the AAT affirmed the Board's decision to terminate Mr Dadwal's tax agent registration on the basis that he is not a fit and proper person, and upheld a period of two years in which he could not reapply for registration.

During the proceedings, the Board made submissions regarding Mr Dadwal's lack of contrition for his offending behaviour, and his reluctance to take responsibility for his lack of candour, honesty and integrity in his dealings with various entities, including the police, the ATO, the Australian Securities and Investments Commission, CPA Australia, the Board and the AAT.

In affirming the Board's decision that Mr Dadwal is not a fit and proper person, the AAT found that Mr Dadwal lacks 'good fame, integrity and character' in the context of a person acting as a registered tax agent. The AAT confirmed that misconduct does not need to involve professional misconduct to lead to a conclusion that a person is not a fit and proper person to practise in that profession.

The AAT considered that the Board's decision to prohibit Mr Dadwal from reapplying for registration for two years was appropriate, given that:

*Mr Dadwal has engaged in serious criminal conduct that presents a risk to the reputation of the profession of registered tax agents ... This is compounded by the significant pattern of non-disclosure and false and misleading statements that followed by Mr Dadwal in an attempt to cover up and downplay the significance of what he had done.*

The AAT concluded that:

*Mr Dadwal's convictions and in particular his lack of insight and remorse for his offending behaviour or even acceptance (depending on who or what entity he is dealing with at the time), that he engaged in the conduct he did on 10 March 2015, shows a disregard for the criminal legal system. If Mr Dadwal is permitted to act as a registered tax agent, in his day to day role he will be required to observe a complex and extensive set of laws relating to taxation. The Tribunal is not satisfied that Mr Dadwal pays sufficient respect to the force of law to be confident that he will observe the applicable laws regarding taxation matters, at times when it does not suit either him or his clients to do so.*

## Federal Court

In 2018–19, the Federal Court made two decisions following appeals filed by applicants who were dissatisfied with AAT decisions affirming the Board's decision.

In *Ham and Tax Practitioners Board* [2018] FCA 1652, the Board had rejected Philip Ham's application for renewal of registration as a tax agent on the basis that he was not a fit and proper person, primarily due to his conduct which had been considered in an unrelated Supreme Court of Queensland proceeding. The Supreme Court's findings in respect of Mr Ham included that his company had breached its fiduciary duties and duties of trust, and that Mr Ham, as controlling mind of the company, had consciously acted dishonestly.

Mr Ham sought review of the Board's decision in the AAT, which affirmed the decision on 9 October 2017. He subsequently appealed the AAT decision to the Federal Court. Mr Ham's appeal was dismissed and he was ordered to pay costs.

In his judgement on 2 November 2018, Justice Logan found no error in the AAT's conclusion that Mr Ham's conduct was 'inconsistent not only with the qualities of strong moral principles, uprightness and honesty, but also with the "atmosphere of mutual trust" ... that underpins the agent's relationships with his or her clients, the ATO and the Board'.

In *Beckett and Tax Practitioners Board* [2019] FCA 353, the Board had terminated Barbara Beckett's registration as a tax agent on the basis that she was not a fit and proper person, due to two convictions under the *Crimes Act 1900* (NSW) and a failure to disclose a disciplinary determination by the Legal Profession Board of Tasmania in her annual declaration.

Ms Beckett sought review of the Board's decision in the AAT. On 14 June 2018, the AAT affirmed the Board's decision, finding that her dishonesty was calculated and that the conduct did not need to occur directly in the course of her professional practice as a tax agent.

Ms Beckett's subsequent appeal to the Federal Court was allowed on the basis that the AAT had denied her procedural fairness. The matter was remitted to the AAT for reconsideration under a differently constituted tribunal. Pursuant to the orders, the AAT is currently reviewing the matter.

The TPB is also currently involved in an *Administrative Decisions (Judicial Review) Act 1977* application in the Federal Court, and an appeal in the Full Federal Court.

## External scrutiny and reviews

A range of external bodies review the TPB's decisions and operations. They include the courts and the AAT, the Australian National Audit Office, the IGTO and the Office of the Australian Information Commissioner.

### Reviews by the Inspector-General of Taxation and Taxation Ombudsman

The IGTO released its report *The Future of the Tax Profession* in April 2019. The report made six recommendations to the TPB, relating to:

- implementing a framework to periodically review the TPB's workforce capability needs to meet future regulatory and compliance challenges
- offering assistance to tax practitioners by, for example, providing advice on whether their future plans meet the ongoing obligations of the TASA (in consultation with recognised professional associations)
- undertaking research to determine if its policies and procedures appropriately cater for all tax professionals within its jurisdiction, including tax (financial) advisers (in consultation with recognised professional associations)
- periodically reviewing the suitability of the educational requirements of the TASA and its own related guidance, with input from practitioners, professional associations, tertiary institutions and the ATO, and acting upon any findings, including by requesting the government to consider legislative change where necessary
- considering whether the TASA regime provides sufficient flexibility to manage the range of professionals who may offer tax services, and presenting its findings to the government
- undertaking research to determine the extent to which tax services may be offered in the gig economy by people who are not appropriately registered, and engaging with other agencies, such as the ATO, the Australian Competition and Consumer Commission and ASIC, to consider options to protect taxpayers from such service providers.

The TPB agreed with all six recommendations made by the IGTO, noting that any expansion of the TPB's remit may need to be accompanied by additional resources, not only to facilitate registration and provide an appropriate level of guidance but also to adequately risk assess and take compliance action.

The TPB is implementing the recommendations made by the IGTO in a number of ways, and will continue to work to implement those recommendations together with the outcomes of the review of the TPB/TASA.

Separately, the IGTO reviews a number of randomly selected cases each year to provide feedback and recommendations. As previously noted, none of the cases selected for review in 2018–19 were amended upon review.

### Ministerial requests

The TPB responded to four ministerial requests in 2018–19. They included general information requests on the complaint-handling process and on the role of the TPB, including its compliance approach. All matters were finalised after the TPB provided further information.

### Information requests from law enforcement agencies

The TPB received four requests for disclosures of information from external law enforcement agencies in 2018–19. We responded to the requests in accordance with section 70-40(4) of the TASA.

## Complaints about the TPB's decisions and operations

The TPB responds to complaints to support the public, to enhance the reputation of the profession, and to inform and strengthen administrative and decision-making processes. In 2018–19, the TPB continued to:

- establish and refine risk and referral processes
- undertake targeted regulatory assurance activity
- maintain an effective internal independent review process
- continually review and improve its correspondence and online interaction services.

## Freedom of information

The TPB regularly receives requests for documents under the *Freedom of Information Act 1982*. All matters are handled in accordance with the Information Publication Scheme, as described on the TPB website at [www.tpb.gov.au/information-publication-scheme](http://www.tpb.gov.au/information-publication-scheme).

### ADDITIONAL COMMENTARY

## Effective regulation

Some commentary, including in submissions to the review of the TPB/TASA, has raised questions about the independence of the TPB. Generally, the issue raised is whether the TPB is sufficiently independent of the ATO.

Undoubtedly, there are close legal, funding and personnel connections between the TPB and the ATO. These include the provision of IT services and secondment of staff to administer the TPB's functions.

However, the TPB is led by a Board, appointed by the Minister, with no connection to the ATO. It is the Board that sets TPB strategies. Critically, it is this Board, or its committee, that makes all decisions in relation to the alleged misconduct or sanctioning of tax practitioners.

Confirmation that the Board exercises its independent role comes from a long line of decisions from courts, the Administrative Appeals Tribunal and other scrutineers. The TPB therefore does not agree that it has failed to act independently of the ATO in the proper discharge of its duties under the *Tax Agent Services Act 2009*.

Nonetheless, the Board is aware of some issues of perception of independence, and is working with the review of the TPB/TASA to address those perceptions. In doing so, the Board is careful to balance the perceptions with other essential elements of good public policy. These public policy elements include the need for close collaboration between agencies in dealing with major fraud (for example, through the Black Economy Taskforce).

In addition, the Board is keenly aware of the need to deliver services and regulation to the community with an eye to efficiency. The complete separation of the TPB from the ATO, including accommodation and other services, could create substantial additional costs to be borne by practitioners and/or the community. As highlighted in the review discussion paper, 'a close working relationship between the TPB and ATO is essential for the tax practitioner profession to be appropriately regulated'.

### CORE ACTIVITY 3.3

Engage with other government agencies particularly the Australian Taxation Office (ATO) and the Australian Securities and Investments Commission (ASIC)

Performance criterion	Result
Memorandums of understanding in place with relevant government agencies	●

#### Memorandums of understanding in place with relevant government agencies

The TPB has memorandums of understanding in place with a number of government agencies, including ASIC, the ATO, the Department of Industry, Innovation and Science (regarding SmartForms) and the Department of Finance.

However, the TPB recognises that we must do more to improve whole-of-government approaches. This includes working on:

- better understanding of other agencies' goals, strategies, resources and culture
- relationship building at leadership levels to support collaboration
- improved responsiveness to requests for information and assistance
- longer term strategies to share data and intelligence, where allowed by law, to better detect risks and opportunities
- joint strategies to address common risks in the most efficient and effective manner.

The TPB is currently renewing its relationships with the ATO and ASIC. In addition, we see great opportunity to build strong connections with other co-regulators, such as the Australian Financial Complaints Authority, FASEA, code of ethics compliance-monitoring bodies and the Professional Standards Board.

### PRIORITY 3B

#### Improve the TPB's technology platforms to ensure they meet the needs and expectations of the profession, consumers and staff

### CORE ACTIVITY 3.2

Ensure TPB is appropriately supported by a flexible, agile and capable workforce and information technology systems

Performance criterion	Result
All staff have current individual performance and development agreements in place (compass discussions)	●
Internal TPB digital systems and services are available a majority of the time	●
Priority initiatives are scoped and implemented	●
Compliance with whole of government standards regarding security of information	●
The KPIs set in the Regulator Performance Framework are met	●

### **All staff have current individual performance and development agreements in place (compass discussions)**

The TPB continue to embed a formal performance appraisal tool and framework (the Compass framework) within its business in 2018–19. The framework contains a mechanism for regular staff performance and development discussions between a staff member and their team leader. This ensures that all staff have the opportunity to continue to grow and develop in their current TPB roles and the opportunity to plan their career development.

The majority of TPB staff have performance goals in place and clear performance expectations around the work that is required to be undertaken in their current role. The TPB aims to ensure that all staff are operating within the performance and development framework optimally, and have a clear view of how their individual goals align to team plans and the corporate plan in the year ahead.

### **Internal TPB digital systems and services are available a majority of the time**

During 2018–19, system outages were minimal – the system was available for 99% of the time. For outages that did occur, processes were in place to identify the cause, rectify the outage and ensure that the issue would be better managed in the future.

### **Priority initiatives are scoped and implemented**

In August 2018, the TPB approached the market via the Australian Government Digital Marketplace to initiate a new contract for the supply of IT infrastructure services. Datacom was selected as the successful contractor and is currently working with the TPB to transform our information and communications technology (ICT) systems.

As part of this work:

- a new network design will improve the TPB's ICT systems, to enable better connectivity, speed and security
- the TPB will migrate from on-premises data centres to cloud data centres, to fully reap the benefits of cloud computing
- IT infrastructure library processes will be embedded into service operations, to build the foundation for better provision of ICT services
- projects will be undertaken to improve existing applications and identify any further business improvement needs.

### **Compliance with whole of government standards regarding security of information**

As part of the transition to Datacom, a key focus was ensuring that the *Australian Government Information Security Manual* and Australian Signals Directorate guidelines were adhered to. The TPB also works with the ATO to ensure that the TPB's IT systems meet ATO security standards.

### **The KPIs set in the Regulator Performance Framework are met**

The TPB has developed a range of measures and metrics in order to self-assess our performance against the six KPIs of the Regulator Performance Framework (as outlined on page 20).

The measures and metrics were developed with input from our consultative forum, which also examines and validates our self-assessment of performance. The report of the annual self-assessment is published on the TPB website.

In the overall assessment against the KPIs, the TPB is on track to show continuous improvement in enhancing the regulatory environment for registered tax practitioners across Australia. The TPB has demonstrated continuing drive to be consultative and interactive with key stakeholders and registered practitioners and has made it a priority to better communicate and help practitioners to comply with their obligations.

The TPB works with the ATO and other government partners on new initiatives in technology and strategies to implement and integrate improvements. This includes streamlining processes and coordinating resources to meet service delivery obligations, as demonstrated by the strong uptake of the annual declaration program and the integration of tax (financial) advisers into the regulatory regime.

### **PRIORITY 3C**

## **Consult with Treasury on any legislative matters that may impact upon the efficient and effective operation of the TASA including matters relating to the TPB's independence**

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### **CORE ACTIVITY 3.4**

Identify and raise legislative matters impacting upon the efficient and effective operation of the TASA with Treasury

<b>Performance criterion</b>	<b>Result</b>
Treasury considers TPB's submissions	●

#### **Treasury considers TPB's submissions**

Since the announcement of the independent review of the TPB/TASA, the TPB has been working closely with the leader of the review, Keith James, and with Treasury to provide information to assist in the review.

In addition, the TPB continued to make submissions to Treasury on key issues impacting the TPB and tax practitioners, such as the new whistleblower laws introduced in 2018–19. The *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* established a new regime to legally enforce protections for people who make disclosures and, in particular, to better protect those who 'blow the whistle' on non-compliance with tax law or misconduct in relation to an entity's tax affairs.



# 04

## **Financial operations**

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# FINANCIAL OPERATIONS

In accordance with the TASR, the Commissioner of Taxation provides the Board with operational and administrative assistance in the form of a Secretary, ATO employees on secondment, and an agreed budget.

Consistent with these arrangements, the TPB's financial operations appear in the ATO's annual report as part of the ATO's financial operations. This TPB annual report does not include audited financial statements. The summary of expenditure provided in this section outlines direct salary and supplier costs, but not overheads which are borne by the ATO under a shared services model.

In 2018–19, the ATO allocated an operating budget of \$19,682,000 to the TPB for its direct costs and a capital budget of \$2,750,000.

## Expenditure

Actual expenditure for 2018–19 is shown in Table 13.

**Table 13:** Actual expenses, 2017–18 and 2018–19

Departmental staffing and expenditure	2017–18	2018–19
<b>Number of staff (FTE)</b>	<b>121.5</b>	<b>122.2</b>
<i>Operating expenditure</i>	<b>\$</b>	<b>\$</b>
Staff and salaries	12,822,102	14,089,685
Supplier	3,837,346	5,048,691
<b>Total direct expenditure</b>	<b>16,659,448</b>	<b>19,138,376</b>
<i>Capital expenditure</i>	<b>\$</b>	<b>\$</b>
IT systems	2,755,016	1,590,555
<b>Total capital expenditure</b>	<b>2,755,016</b>	<b>1,590,555</b>

FTE = full-time equivalent

**Note:** These figures include direct costs, and do not include corporate support or infrastructure overhead costs.

A summary of the expenditure for 2018–19 shown in Table 13 is as follows.

Employee and related costs (salary costs) totalled \$14,089,685. This is an increase compared to 2017–18, due to costs involved in reshaping the workforce, along with investment in higher level staff to undertake investigation and legal functions. Staff costs in the Technology Team were also higher, but were offset by a reduction in operating costs, as less effort was expended on capital improvements while effort was focused on maintenance of systems and the transition of the IT environment to a new service provider.

Supplier costs outlined in Table 13 included the following areas of major expenditure:

- contractor costs of \$785,421, comprising
  - \$430,279 for labour hire to assist with the TPB's enquiry management and processing of registrations, renewals and annual declarations
  - \$355,143 for remuneration of Board members, who are remunerated as contractors in accordance with rates determined by the Remuneration Tribunal
- travel and accommodation costs of \$487,513, associated with the running of the TPB, its dispersed operations and the regulatory framework. Interstate travel is often necessary for Board members and staff to carry out their responsibilities, including investigations and stakeholder engagement.
- technology costs of \$3,201,443, for maintaining the TPB's business systems and IT infrastructure, along with hosting and maintaining the TPB website. Costs included payments to contractors and IT service and software providers. The significant increase in 2018–19 was due to costs of transitioning the TPB's IT systems to a new service provider.
- litigation costs of \$410,671, for litigation and external legal advice. The increase in litigation costs in 2018–19 reflected the increased focus on enforcement activities, including activities related to the Black Economy Taskforce.
- communications costs of \$48,978, for outreach events held to promote the TPB, advertising campaigns, print and postage of correspondence to tax practitioners, and ad hoc marketing expenses
- costs of \$70,070 for staff learning and development
- costs of \$44,596 for other operating expenses.

Capital expenditure of \$1,590,555 was incurred in the course of improving and enhancing the IT environment and systems. Unspent funds were returned to the ATO for reallocation to other ATO capital projects. The capital expenditure for the TPB comprised:

- \$249,192 for staff salaries
- \$660,739 for IT contractors
- \$674,817 for IT services and software
- \$5,807 for desktop computers and multifunction devices.

The breakdown of direct expenditure by TPB cost centre is shown in Table 14.

**Table 14: Direct expenditure by cost centre, 2018–19**

Cost centre	Salary costs	Supplier costs	Total
	\$	\$	\$
Investigations	5,182,730	558,142	<b>5,740,872</b>
Technology	1,341,855	3,280,769	<b>4,622,624</b>
Client Services	3,094,461	224,367	<b>3,318,828</b>
Legal	1,477,967	236,929	<b>1,714,896</b>
Office of the Secretary and CEO and Policy <sup>1</sup>	1,292,908	137,568	<b>1,430,476</b>
Board and Members	327,647	512,739	<b>840,386</b>
Corporate Governance	725,707	49,080	<b>774,787</b>
Communications	646,410	49,097	<b>695,507</b>
<b>Total</b>	<b>14,089,685</b>	<b>5,048,691</b>	<b>19,138,376</b>

1. For cost centre purposes, Office of the Chair is included in Office of the Secretary and CEO.

## Purchasing and consultancies

The ATO buys goods and services for TPB operations on the TPB's behalf. Detailed information on the ATO's procurement processes and activities (including consultancies, advertising, direct mail, media placement and market research activities) is included in the ATO annual report. Contracts with a value of greater than \$10,000 are also published on AusTender ([www.tenders.gov.au](http://www.tenders.gov.au)).

The TPB supports small business participation in the Australian Government procurement market. Small and medium-sized enterprise participation statistics are available on the Department of Finance website ([www.finance.gov.au](http://www.finance.gov.au)).

## Cost recovery

The TPB recovers a portion of the costs of processing tax practitioner registrations by way of an application fee charged at the time of applying to become registered or to renew an existing registration. Further details regarding cost recovery can be found in the financial statements in the ATO annual report, and in the TPB Cost Recovery Implementation Statement, which is available on the TPB website at [www.tpb.gov.au/about-tpb](http://www.tpb.gov.au/about-tpb).

In 2018–19, the TPB received application fee payments from tax practitioners of \$12,703,343, as shown in Table 15.

**Table 15:** Revenue received, 2017–18 and 2018–19

Source	2017–18	2018–19
	\$	\$
Practitioner fee revenue	9,301,720	12,703,343



# 05

## Appendixes



# APPENDIXES

## Appendix A: Guidance papers released in 2018–19

Guidance paper	Details
TPB(EP) 03/2010 <i>Professional indemnity insurance requirements for registered tax and BAS agents from 30 June 2013</i>	On 3 May 2019, the TPB updated this TPB(EP) to provide additional information in relation to cyber insurance cover.
TPB(EP) 05/2014 <i>Professional indemnity insurance requirements for tax (financial) advisers</i>	On 11 December 2018, the TPB updated this TPB(EP) to include automatic reinstatements as a recommended additional feature of professional indemnity insurance cover. On 3 May 2019, the TPB updated this TPB(EP) to provide additional information in relation to cyber insurance cover.
TPB(I) D34/2018 <i>Code of Professional Conduct – complying with taxation laws in the conduct of your personal affairs</i>	On 11 December 2018, this information sheet was released to assist registered tax practitioners to understand their obligations under subsection 30-10(2) of the <i>Tax Agent Services Act 2009</i> in the Code of Professional Conduct (Code Item 2).
TPB(I) 31/2016 <i>Payroll service providers</i>	On 4 February 2019, the TPB updated this TPB(I) to: <ul style="list-style-type: none"><li>• include information on the performance of payroll-related functions that involve the use of Single Touch Payroll (STP)</li><li>• provide additional guidance on the transmission of data to the Commissioner of Taxation through the use of STP</li><li>• replace the term 'software provider' with 'digital service provider'.</li></ul>
TPB(I) 17/2013 <i>Code of Professional Conduct – Reasonable care to ascertain a client's state of affairs</i>	On 22 January 2019, the TPB updated this TPB(I) to include two new examples.
TPB(I) 09/2011 <i>Digital service providers and the Tax Agent Services Act 2009</i>	On 4 February 2019, the TPB updated this TPB(I) to: <ul style="list-style-type: none"><li>• include information on the performance of payroll-related functions that involve the use of Single Touch Payroll (STP)</li><li>• provide additional guidance on the transmission of data to the Commissioner of Taxation through the use of STP</li><li>• replace the term 'software provider' with 'digital service provider'.</li></ul>

Guidance paper	Details
<p>Exposure Draft: TPB practice note TPB(PN) D41/2019</p> <p><i>Transfers of business by tax (financial) advisers and confidentiality</i></p>	<p>On 10 May 2019, this draft practice note was issued to provide practical guidance and assistance to registered tax (financial) advisers to understand their obligations under the Code of Professional Conduct, as contained in section 30-10 of the <i>Tax Agent Services Act 2009</i>, when executing a transfer of business. Comments and submissions were invited and closed on 7 June 2019. Further consultation may be required before finalising the practice note.</p>
<p>Exposure Draft: TPB practice note TPB(PN) D40/2019</p> <p><i>Letters of engagement</i></p>	<p>On 10 May 2019, this draft practice note was issued. Once finalised, this draft practice note will replace TPB(l) 01/2011: <i>Letters of engagement</i>. Comments and submissions were invited and closed on 7 June 2019. Further consultation may be required before finalising the practice note.</p>
<p>Information Sheet TPB(l) 32/2017</p> <p><i>Code of Professional Conduct – Confidentiality of client information for tax (financial) advisers</i></p>	<p>On 10 October 2018, the TPB updated paragraph 13 of the information sheet to include 'former client'.</p>
<p>Information Sheet TPB(l) 21/2014</p> <p><i>Code of Professional Conduct – Confidentiality of client information</i></p>	<p>On 10 October 2018, the TPB updated paragraph 13 of the information sheet to include 'former client'.</p>

## Appendix B: Recognised professional associations at 30 June 2019

Association	Type of recognition	Date of accreditation
Association of Accounting Technicians Australia	BAS agent association	5 May 2010
Association of Chartered Certified Accountants – Australia and New Zealand	Tax agent association BAS agent association	12 May 2010
Association of Financial Advisers	Tax (financial) adviser association	5 February 2015
Australian Bookkeepers Association	BAS agent association	21 May 2013
Australian Institute of Quantity Surveyors	Tax agent association	26 August 2010
Chartered Accountants Australia and New Zealand	Tax agent association BAS agent association	12 May 2010
CPA Australia	Tax agent association BAS agent association	31 May 2010
Financial Planning Association of Australia	Tax agent association Tax (financial) adviser association	21 March 2012 26 August 2015
Institute of Certified Bookkeepers	BAS agent association	5 May 2010
Institute of Chartered Accountants in England and Wales	Tax agent association	14 August 2014
Institute of Public Accountants	Tax agent association BAS agent association Tax (financial) adviser association	5 May 2010 5 May 2010 27 July 2016
Law Society of New South Wales	Tax agent association	21 March 2012
National Tax Agents' Association Ltd	Tax agent association	1 July 2011
Royal Institution of Chartered Surveyors	Tax agent association	30 August 2010
Self Managed Super Fund Association	Tax agent association Tax (financial) adviser association	10 September 2010 5 February 2015
South African Institute of Chartered Accountants	Tax agent association BAS agent association	13 December 2016
Stockbrokers and Financial Advisers Association Limited	Tax (financial) adviser association	13 December 2016
TAI Practitioners & Advisers Ltd	Tax agent association	21 May 2013
The Tax Institute	Tax agent association	5 May 2010

## Appendix C: Administrative review litigation finalised in 2018–19

Jurisdiction	Total finalised matters	Matters resolved without proceeding to a substantive hearing <sup>1</sup>	Matters resulting in a published decision	Published decisions affirming the TPB's decision
Administrative Appeals Tribunal	10	9	1	1
Federal Court (appeals against Administrative Appeals Tribunal decisions)	2	–	2	1
Federal Court (judicial review)	1	–	1	–

1. Includes applicant withdrawals and dismissal orders.

## Appendix D: Cases reviewed under the *Tax Agent Services Act 2009* in 2018–19

Classification of closed cases by primary breach	Cases
20-15(a) Fit and Proper – good fame integrity and character	129
20-15(b)(i) An event described in section 20.45 has occurred in previous 5 years	2
20-15(b)(ii) Individual status of an undischarged bankrupt in previous 5 years	11
20-15(b)(iii) Individual has served a term of imprisonment in previous 5 years	5
20-5 Eligibility for registration	88
30-10(01) Code – act honestly with integrity	285
30-10(02) Code – comply with taxation laws in conduct of personal affairs	122
30-10(03) Code – account for money or other property on trust	127
30-10(04) Code – best interests of your client	182
30-10(05) Code – arrangements for the management of conflict of interest	19
30-10(06) Code – must not disclose information relating to client affairs without permission	12
30-10(07) Code – tax agent service is provided competently	187
30-10(08) Code – maintain knowledge and skills	988
30-10(09) Code – reasonable care when making statements or thing you are doing	26
30-10(10) Code – reasonable care taxation laws applied	13
30-10(11) Code – must not knowingly obstruct proper administration of taxation laws	14
30-10(12) Code – advise client of client's rights and obligations	7
30-10(13) Code – maintain professional indemnity insurance required	3
30-10(14) Code – respond to requests and directions from Board	2,864
50-05 Civil Penalty – providing tax agent services if unregistered	137
50-10 Civil Penalty – advertising tax agent services if unregistered	37
50-15 Civil Penalty – representing that you are a tax/BAS agent if unregistered	8
50-20 Civil Penalty – making false or misleading statements	8
50-25 Civil Penalty – employing or using the services of deregistered entities	1
50-30 Civil Penalty – signing of declarations etc	11
Non-TP-related referral	35
No breach identified	169
<b>Total</b>	<b>5,490</b>

# LIST OF ABBREVIATIONS

<b>AAT</b>	Administrative Appeals Tribunal
<b>ASIC</b>	Australian Securities and Investments Commission
<b>ATO</b>	Australian Taxation Office
<b>BAS</b>	business activity statement
<b>CEO</b>	Chief Executive Officer
<b>Code, the</b>	Code of Professional Conduct
<b>CPE</b>	continuing professional education
<b>FASEA</b>	Financial Adviser Standards and Ethics Authority
<b>FPA</b>	Financial Planning Association of Australia
<b>ICT</b>	information and communications technology
<b>IGTO</b>	Inspector-General of Taxation and Taxation Ombudsman
<b>IT</b>	information technology
<b>KPI</b>	key performance indicator
<b>PGPA Act</b>	<i>Public Governance, Performance and Accountability Act 2013</i>
<b>review of the TPB/TASA</b>	Australian Government's independent review of the effectiveness of the TPB/TASA, announced in March 2019
<b>TASA</b>	<i>Tax Agent Services Act 2009</i>
<b>TASR</b>	Tax Agent Services Regulations 2009
<b>TPB</b>	Tax Practitioners Board

# LIST OF REQUIREMENTS

This appendix shows the location in this report of information required to be reported by non-corporate Commonwealth entities as set out in Schedule 2 of the Public Governance, Performance and Accountability Rule 2014.

Description	Page
<b>Letter of transmittal</b>	
A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	iii
<b>Aids to access</b>	
Table of contents.	iv
Alphabetical index.	78
Glossary of abbreviations and acronyms.	71
List of requirements.	72–77
Details of contact officer.	ii
Entity's website address.	ii
Electronic address of report.	ii
<b>Review by accountable authority</b>	
A review by the accountable authority of the entity.	ATO annual report
<b>Overview of the entity</b>	
A description of the role and functions of the entity.	8–9
A description of the organisational structure of the entity.	15
A description of the outcomes and programmes administered by the entity.	Not applicable
A description of the purposes of the entity as included in corporate plan.	22
Name of the accountable authority or each member of the accountable authority	ATO annual report
Position title of the accountable authority or each member of the accountable authority	19
Period as the accountable authority or member of the accountable authority within the reporting period	ATO annual report

Description	Page
An outline of the structure of the portfolio of the entity.	ATO annual report
Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	Not applicable
<b>Report on the Performance of the entity</b>	
<i>Annual performance Statements</i>	
Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	22–57
<i>Report on Financial Performance</i>	
A discussion and analysis of the entity's financial performance.	60–63
A table summarising the total resources and total payments of the entity.	ATO annual report
If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	Not applicable
<b>Management and Accountability</b>	
<i>Corporate Governance</i>	
Information on compliance with section 10 (fraud systems)	ATO annual report
A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	ATO annual report
A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	ATO annual report
A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	ATO annual report
An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	14–15
A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	Not applicable

Description	Page
<b>External Scrutiny</b>	
Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	2–5, 53–54
Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	Appendix C
Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	Not applicable
Information on any capability reviews on the entity that were released during the period.	Not applicable
<b>Management of Human Resources</b>	
An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	18, 56
Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: (a) statistics on full-time employees; (b) statistics on part-time employees; (c) statistics on gender; (d) statistics on staff location.	16–17
Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: <ul style="list-style-type: none"> <li>• Statistics on staffing classification level;</li> <li>• Statistics on full-time employees;</li> <li>• Statistics on part-time employees;</li> <li>• Statistics on gender;</li> <li>• Statistics on staff location;</li> <li>• Statistics on employees who identify as Indigenous.</li> </ul>	16–17
Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	ATO annual report
Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	ATO annual report
The salary ranges available for APS employees by classification level.	ATO annual report
A description of non-salary benefits provided to employees.	ATO annual report
Information on the number of employees at each classification level who received performance pay.	ATO annual report
Information on aggregate amounts of performance pay at each classification level.	ATO annual report

Description	Page
Information on the average amount of performance payment, and range of such payments, at each classification level.	ATO annual report
Information on aggregate amount of performance payments.	ATO annual report
<b>Assets Management</b>	
An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	ATO annual report
<b>Purchasing</b>	
An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	ATO annual report
<b>Consultants</b>	
A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	ATO annual report
A statement that ' <i>During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]</i> '.	ATO annual report
A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	ATO annual report
A statement that ' <i>Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.</i> '	ATO annual report
<b>Australian National Audit Office Access Clauses</b>	
If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	ATO annual report
<b>Exempt contracts</b>	
If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	ATO annual report

Description	Page
<b>Small business</b>	
A statement that ' <i>[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website.</i> '	63
An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	ATO annual report
If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that ' <i>[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website.</i> '	Not applicable
<b>Financial Statements</b>	
Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	ATO annual report
<b>Executive Remuneration</b>	
Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2–3 of the Rule.	ATO annual report
<b>Other Mandatory Information</b>	
If the entity conducted advertising campaigns, a statement that ' <i>During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website.</i> '	ATO annual report
If the entity did not conduct advertising campaigns, a statement to that effect.	ATO annual report
A statement that ' <i>Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].</i> '	Not applicable
Outline of mechanisms of disability reporting, including reference to website for further information.	ATO annual report
Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	54
Correction of material errors in previous annual report	Not applicable

Description	Page
Information required by other legislation	
Work health and safety (Schedule 2, Part 4 of the <i>Work Health and Safety Act 2011</i> )	ATO annual report
Ecologically sustainable development and environmental performance (section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> )	ATO annual report
Information required by other legislation (section 70-40(4) of the <i>Tax Agent Services Act 2009</i> )	53
Report on operations (section 60-130 of the <i>Tax Agent Services Act 2009</i> )	Throughout
Outcomes of self-assessment (page 12 of the Regulator Performance Framework)	57

# INDEX

## A

accountable authority, Commissioner of Taxation as, 16, 19, 22

Administrative Appeals Tribunal  
decisions, 43, 50–51, 52, 69  
provisions for appeal to, 9, 14, 50, 53

administrative decisions, provisions for review of, 9, 14; *see also* Administrative Appeals Tribunal; Federal Court of Australia

*Administrative Decisions (Judicial Review) Act 1977*  
cases, 52

annual declaration process, 25–26, 28, 38, 57  
professional associations, 48, 49

annual performance statement, 19, 22–57

annual reporting requirements, TPB, 19, 22

application fee payments, 63

applications, processing of, 25–27, 28–29

approved courses, 36

ATO Open Forums, 37

Australian Financial Complaints Authority, 55

*Australian Government Information Security Manual*, 56

Australian Securities and Investment Commission, 4, 5, 27, 40

memorandum of understanding with, 55

Australian Signals Directorate guidelines, 56

Australian Taxation Office, 3  
administrative support from, 16, 54  
collaboration with, 5, 6, 27, 33, 40, 54  
focus on work-related expenses, 5, 37, 41  
investigation of referrals from, 40–41  
memorandum of understanding with, 55  
TPB independence from, 5, 54  
*see also* Commissioner of Taxation

## B

*Beckett and Tax Practitioners Board* [2019] FCA 353, 52

Black Economy Taskforce, 5, 46

Board, 2, 8

committees, 14  
delegation of authority, 9, 14  
members, 2, 8, 10–13  
remuneration, 61

Board approved courses, 36

business activity statement (BAS) agents  
cancellation of registration, 29  
consultation, 37  
number of registered, 25  
regulation and registration of, 8, 9, 19

## C

cancellations of registrations, 29, 41, 42

case studies

Agents overclaiming expenses on behalf of clients, 41

*Dadwal and Tax Practitioners Board* [2018]

AATA 2878, 51

*Gould and Tax Practitioners Board* [2019]

AATA 1056, 43

Joint investigation with the ATO, 41

Not a fit and proper person, 30

Significant personal tax obligations, 29

cases reviewed under *Tax Agent Services Act 2009*, 47, 70

Chair's report, 2–6

civil penalty provisions, 9, 47

classification, employees by, 17

client satisfaction surveys, 26–27, 36;  
*see also* feedback; stakeholder consultation

Code of Professional Conduct, 3

administration of, 9

breaches of, 27, 29, 30, 41

Commissioner of Taxation

as accountable authority, 19, 22

provision of staff, 8, 16, 19, 60

*see also* Australian Taxation Office

committees, Board, 14

communications costs, 61

complaints management, 39, 40–43, 54

compliance initiatives, 3–4, 5, 44–46

consultation, stakeholder; *see* consultative forum;  
stakeholder consultation

consultative forum, 35, 37–38

validation of performance metrics, 20, 56

*see also* stakeholder consultation

consumers, awareness activities for, 33  
continuing professional education policy,  
3, 37, 38, 44, 45  
corporate plan, 19, 22  
cost recovery measures, 63  
court cases, 33, 43, 48, 52, 69  
culture, organisational, 18  
cyber security, guidance measures, 35, 37

## D

*Dadwal and Tax Practitioners Board* [2018] AATA  
2878, case study, 51  
data analytics capability, development of, 4, 47  
Datacom, IT infrastructure services, 56  
Department of Finance, 19, 55  
Department of Industry, Innovation and Science,  
memorandum of understanding with, 55  
Department of the Treasury, 19, 57  
digital services, improvements to, 26–27, 31, 35, 56  
diversity, workplace, 18

## E

education and guidance measures, tax practitioners,  
3, 4, 9, 35–38  
employee statistics, 15, 16–17, 18  
eNewsletter, 36  
enquiries, statistics, 26  
*Evans and Tax Practitioners Board (Taxation)* [2019]  
AATA 1408, 50  
expenditure, 60–62  
external scrutiny, 53–54; *see also* Administrative  
Appeals Tribunal; Federal Court of Australia;  
Inspector-General of Taxation and Taxation  
Ombudsman

## F

Facebook, launch of TPB page, 32, 33  
failure to meet fit and proper person requirements,  
30, 51, 52  
Federal Court of Australia, 9, 47  
cases, 33, 43, 48, 52, 69  
feedback, stakeholders, 31, 35, 37;  
*see also* client satisfaction survey  
financial adviser forum, 35  
Financial Adviser Standards and Ethics Authority,  
5, 38, 55

financial operations, 60–63  
fit and proper person requirements for registration,  
25, 32  
cases relating to, 30, 51, 52  
*Freedom of Information Act 1982*, 54  
freedom of information requests, 54  
functional area, employees by, 17  
functions, TPB, 9; *see also* role, TPB

## G

gender, employees by, 17  
*Gould and Tax Practitioners Board* [2019]  
AATA 1056, 43, 50  
guidance papers, 35, 66–67; *see also* education  
and guidance measures, tax practitioners

## H

*Ham and Tax Practitioners Board* [2018]  
FCA 1652, 52  
*Hill and Tax Practitioners Board (Taxation)* [2019]  
AATA 756, 50  
*Hopfner and Tax Practitioners Board* [2019]  
AATA 851, 50  
*Hua Wang Bank Berhad v Commissioner  
of Taxation* [2014] FCA 1392, 43  
human resources management, 16–17, 18, 56

## I

indemnity insurance; *see* professional  
indemnity insurance  
independent review of effectiveness of TPB  
and TASA, 6, 27, 47, 49, 53, 54, 57  
independent reviews, of complaints, 43, 54  
Information Publication Scheme, 54  
information technology systems, 55, 56  
Inspector-General of Taxation and  
Taxation Ombudsman  
external scrutiny by, 43, 47, 50, 53  
report on the future of the tax profession,  
5, 33, 36, 53  
intelligence sharing arrangements, 4, 5, 40, 55  
investigations program, 39–40

## J

judicial review of decisions, 52, 69;  
*see also* Federal Court of Australia

## K

key achievements 2018–19, 3–4  
key performance indicators, 20; *see also* annual performance statement; performance criteria

## L

law enforcement agencies, provision of information to, 27, 46, 53  
learning and development, staff, 56  
    expenditure, 61  
legislative framework, 2, 19  
letter of transmittal, iii  
LinkedIn, 31, 32  
list of requirements, 72–75  
location, employees by, 16

## M

Maintain, protect and enhance the integrity of the tax profession (strategic objective 2), 23  
    performance criteria, 35, 38, 46, 48  
    performance report, 35–49  
media coverage, 32, 33, 48  
memorandums of understanding, 55  
Migration Agents Registration Authority, 33  
ministerial requests, 53

## N

non-compliance, sanctions for, 9, 28, 42, 47

## O

objectives; *see* strategic objectives  
Office of the Australian Information Commissioner, 53  
online services, improvements to, 26–27, 35, 56  
organisational structure, 15  
outreach activities, 36, 37, 61; *see also* education and guidance measures, tax practitioners;  
    webinar program  
overclaiming expenses, 5, 41

## P

People Program, 18  
performance agreements, staff, 56

performance criteria  
    Strategic objective 1, 25, 27, 30, 32  
    Strategic objective 2, 35, 38, 46, 48  
    Strategic objective 3, 50, 55, 57  
    *see also* annual performance statement;  
    key performance indicators  
performance statement, annual, 19, 22–57  
personal tax obligations, practitioners', 29, 33, 35, 44–45  
phoenix schemes, 5, 46  
policy and guidance material, TPB, review of, 35–36  
procurement management, 63  
professional associations  
    annual declaration requirements, 48–49  
    consultation with, 36, 37–38, 49  
    list of recognised, 68  
    role in registration processes, 28, 48  
professional indemnity insurance  
    explanatory paper on, 35  
    requirement to have, 25, 30, 32, 38  
Professional Standards Board, 55  
Promote the TPB as an independent, efficient and effective regulator (strategic objective 3), 23  
    performance criteria, 50, 55, 57  
    performance report, 50–57  
proof of identify process, 4, 26  
Protect all consumers of tax practitioner services (strategic objective 1), 23  
    performance criteria, 25, 27, 30, 32  
    performance report, 25–34  
*Public Governance, Performance and Accountability Act 2013*, 19, 22  
*Public Governance, Performance and Accountability Rule 2014*, 22  
public register, online, 34  
purchasing and consultancies, 63  
purpose, TPB, 2, 6, 8, 23

## Q

quality assurance reviews, 32, 43

## R

recognised professional associations, 14, 68;  
    *see also* professional associations  
registered tax practitioners; *see* business activity statement (BAS) agents; tax agents;  
    tax (financial) advisers

registration and renewal applications
 

- cancellations, 29, 41, 42
- processing, 9, 25, 38
- rejections, 14, 29, 30, 42, 52

 registration requirements, 25
 

- awareness of, 33

 registration service standards, 25–27
 Regulator Performance Framework, 20, 37, 38, 56–57
 rejections, of applications, 14, 29, 30, 42, 52
 remuneration, Board, 61
 Remuneration Tribunal, 61
 renewal applications, processing, 25–26, 28–29
 reporting framework, 19
 risk-based compliance model, 3–4, 39
 rogue agents; see unregistered advisers, measures to curb
 role, TPB, 2, 6, 8, 9, 23, 54
 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, 5

**S**

salary costs, 60, 61
 sanctions, for non-compliance, 9, 28, 42, 47
 service standards
 

- complaints handling, 40, 42
- registration processing, 25–27

 Single Touch Payroll services, 4, 35, 38
 social media, use of, 31–32, 33
 staff statistics, 15, 16–17
 stakeholder consultation, 4, 8, 35, 37–38, 49; see also consultative forum
 strategic objectives, 2, 20, 22, 23
 

- performance reports, 25–34, 35–49, 50–57

 structure, organisational, 15
 surveys, client satisfaction, 26–27, 36

**T**

*Tax Agent Services Act 2009*, 2, 8
 

- Board's powers under, 9, 14, 19
- cases reviewed under, 47, 70
- compliance measures, 9, 38–39, 44–46
- practitioners obligations under, 25, 29, 30, 35, 38–39
- review of effectiveness, 6, 27, 47, 49, 53, 54, 57

*Tax Agent Services (Specified BAS Services) Instrument 2016*, 19

*Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009*, 19
 tax agents
 

- cancellation of registrations, 29, 41, 42
- consultation, 37
- number of registered, 25
- regulation and registration requirements, 8, 9, 19

*Tax Agents Services Regulations 2009*, 19, 60
 tax avoidance schemes, 5, 46
 tax (financial) advisers
 

- cancellation of registrations, 29
- consultation, 37
- number of registered, 25
- regulations and registration requirements, 8, 9, 19

*Tax Laws Amendment (2013 Measures No. 3) Act 2013*, 19
 *Tax Practitioners Board Corporate Plan 2018–19*, 19, 22
 tax time 2019 campaign, 32, 33
 *The Future of the Tax Profession* (report), 33, 36, 53
 *TPB eNews*, 36
 TPB Register, 34
 TPB/TASA review, 6, 27, 47, 49, 53, 54, 57
 *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*, 57
 Treasury Portfolio Budget Statements 2018–19, 19, 22
 Twitter, 31
 two-factor authentication requirements, introduction of, 16

**U**

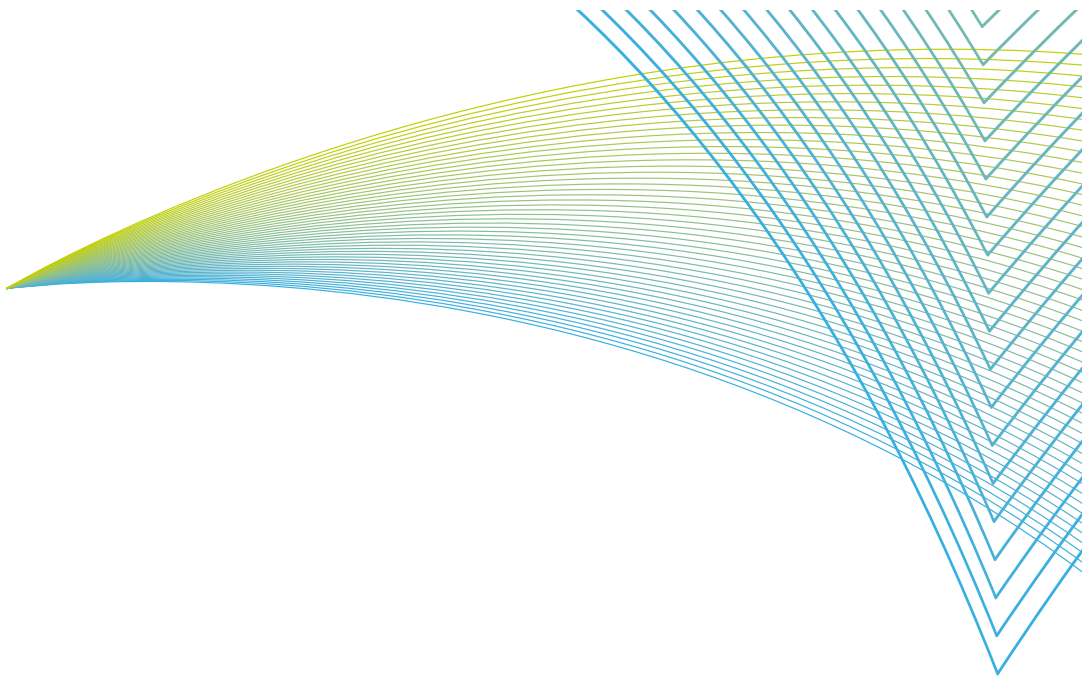
unregistered advisers, measures to curb, 33, 46–48

**W**

webinar program, 4, 32, 36–37
 website, TPB, usage, 31
 whistleblower laws, 38, 39, 57
 work-related expenses, compliance with tax laws, 5, 37, 41
 workforce statistics, 15, 16–17
 workplace diversity, 18

**Y**

year ahead, 6
 year in review, 2–6
 YouTube, 32



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