

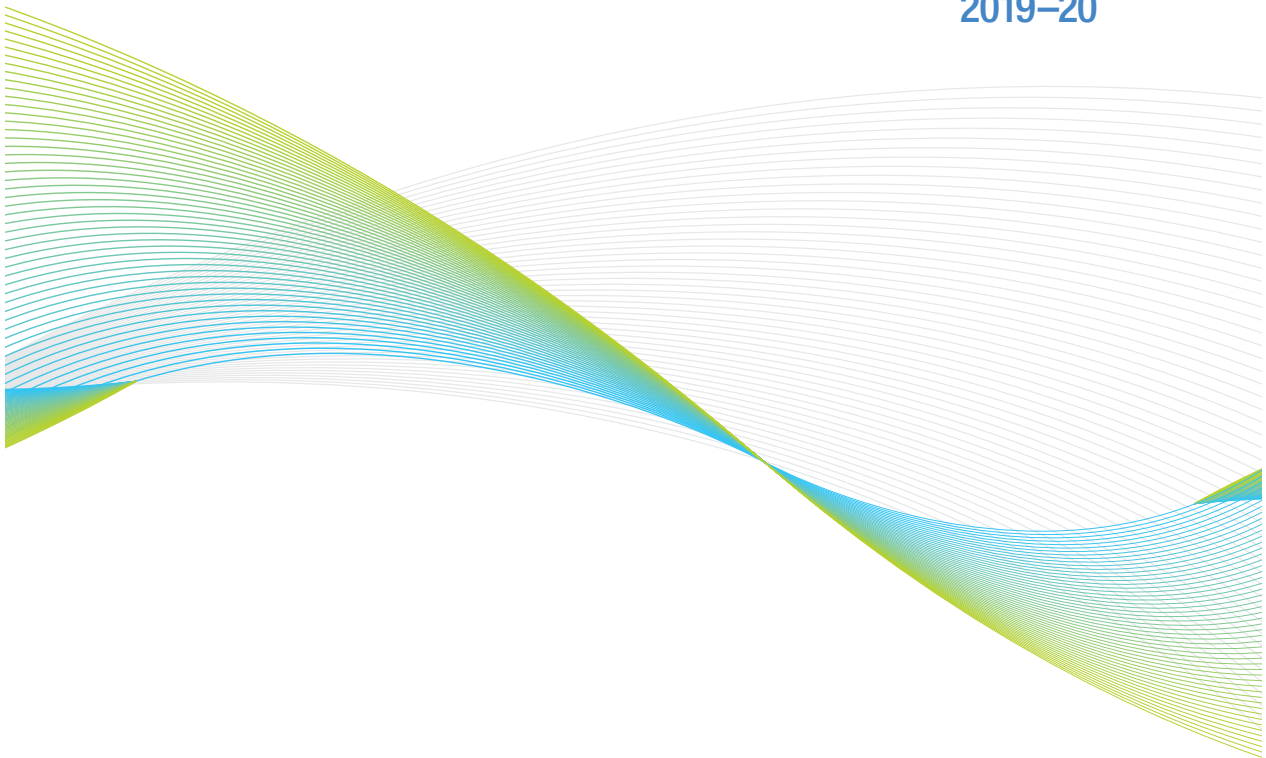


Australian Government



TAX  
PRACTITIONERS  
BOARD

TAX PRACTITIONERS BOARD  
**ANNUAL REPORT**  
2019–20



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ISSN 2208-6536

NAT 73666 DE-20230



**Australian Government**



**TAX  
PRACTITIONERS  
BOARD**

The Hon Michael Sukkar MP  
Minister for Housing and Assistant Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Minister

In accordance with sub-section 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 2019–20.

Yours sincerely

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

**Ian Klug AM**  
Chair, Tax Practitioners Board

16 October 2020

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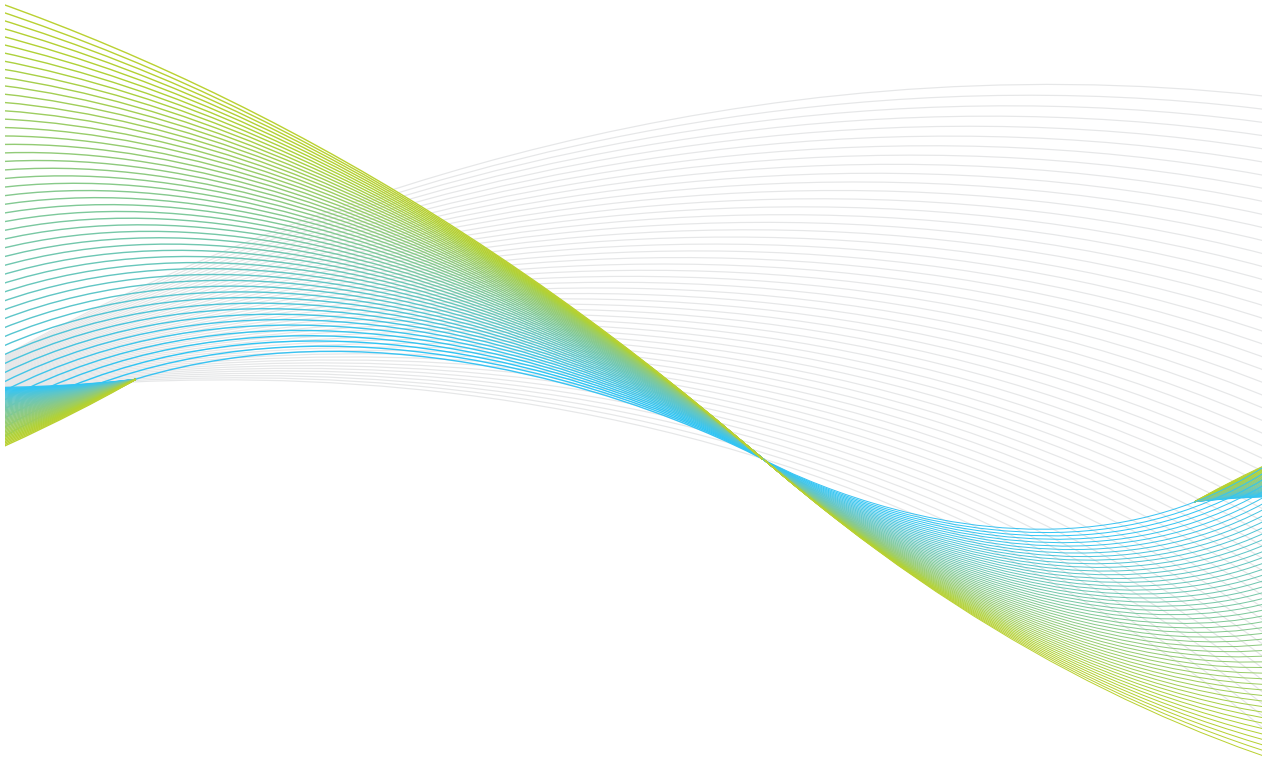
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01

**YEAR IN REVIEW**



# 01 YEAR IN REVIEW

2019–20 has been one of the most challenging years for the TPB, tax practitioners, clients and communities. Everyone's life has been impacted in some way – by either drought, fire, flood or pandemic, everyone has been tested. This year, our communities needed reliable, trustworthy and supportive practitioners more than ever, as they took on numerous challenges and helped individuals and businesses of all sizes to ask for and access support.

I am personally so proud of the staff of the TPB and all that they have achieved during such a short period to support our practitioner base. Our response to the bushfires and COVID-19 was fast, tailored and effective.

In just a few months, the TPB:

- extended lodgement requirements for over 39,000 practitioners to ease their reporting requirements
- amended the continuing professional education (CPE) requirements to make it easier for tax practitioners to meet the minimum requirements and maintain registrations, and included limited health and wellbeing training as acceptable CPE
- relaxed the requirement for at least 40% of the total assessment of a Board-approved course to be completed under independent supervision
- produced multiple resources and guides for the public and registered practitioners to support them during the bushfires and pandemic response, including webinars for tax professionals
- doubled our engagement through social media to keep our registered practitioner body informed on any changes and make their interaction easier
- introduced a COVID-19 hotline for queries, support and referrals
- supported the Australian Government and the Australian Taxation Office (ATO) through the release of multiple stimulus measures, including by introducing new compliance procedures to deal with improper activity and claims around these measures
- released a new legislative instrument to enable business activity statement (BAS) agents to legally advise on the government stimulus package, ensuring that they were able to maintain business and support the community.

***Our response to the bushfires and COVID-19 was fast, tailored and effective.***

All of this was in addition to our regular workload. In 2019–20, we closed over 5,000 cases, introduced new IT solutions across the organisation, and supported our staff in multiple locations around the country to work remotely to protect their health.

It is astounding to me to see the effort that the TPB has produced, around the country, to support our practitioners. We will continue to support the government, registered practitioners and our staff throughout these challenging times as we enter 2020–21.

It is pleasing to know that, even in trying times, the majority of tax practitioners act lawfully and professionally, supporting their clients and the integrity of the tax system. Currently, 70% of individual Australians, and 95% of businesses, engage a practitioner to help them with their taxes. In responses to our recent surveys, 88% of consumers have reported a high level of trust in their practitioners and 66% have rated their practitioner experience as 'excellent'.

That is why the TPB is committed to supporting practitioners with service and advice. In particular, given extreme bushfire and COVID-19-related challenges during the year, we were swift to amend regulatory requirements, including annual declarations, registrations and CPE educational requirements, in order to help practitioners who are helping Australians. I extend my thanks to each and every tax practitioner who is providing quality service and support to their clients and community.

At the same time, we take very seriously our primary obligation, which is to protect the Australian public from those who would seek to abuse the system. This year, we completed 2,400 investigations and complaints and, among other sanctions, terminated over 170 practitioners for serious breaches of the law and their Code of Professional Conduct.

These unsuitable practitioners undermine community confidence in the vast majority of tax practitioners, who do the right thing. Collectively, this unlawful minority of practitioners represented a surprising 60,000 clients, many of whom will face ATO investigations, tax adjustments and heavy penalties. By dealing with unlawful conduct by these practitioners, we are addressing tax avoidance and evasion generated by a relatively small but influential cohort of unethical practitioners.

Our relationship with the ATO continues to mature and develop, and the implementation of the Joint Compliance Program (JCP) between the TPB and ATO during the year sets the stage for continued growth and impact. The JCP relies on the ATO tax practitioner risk model and is an end-to-end strategy covering detection, compliance enforcement, sanction (including through litigation) and influencing behaviours. Next year, we will continue to pursue the highest risk practitioners through the JCP, as well as progress our normal investigations through our regular compliance program and assure our trustworthy practitioners that we are working hard to level the playing field for those who provide sound, intelligent and effective tax advice to their clients.


Currently, we also have around 40 investigations into unregistered practitioners. Unregistered practitioners are more commonly associated with frauds on their clients and on the community via the tax system. We continue to seek court-imposed sanctions, and work with the ATO and police to deal with criminal behaviour.

***Collectively, this unlawful minority of practitioners represented a surprising 60,000 clients, many of whom will face ATO investigations, tax adjustments and heavy penalties.***

However, the *Tax Agent Services Act 2009*, under which we operate, was drafted over 15 years ago and may not have the powers and sanctions required to enable the TPB to effectively address this serious misconduct. That is why I welcomed the independent review of the TPB by Mr Keith James, and why I look forward to government decisions about the implementation of the recommendations arising from the review and the future of the TPB.

I take this opportunity to express my thanks to the Treasurer, the Assistant Treasurer, and the Commissioner of Taxation for their ongoing support of the TPB. My thanks also go to my colleagues on the Board, our Secretary/CEO Michael O'Neill, and our senior leadership team, without whose support, hard work and leadership our achievements in the past year would not have been possible.

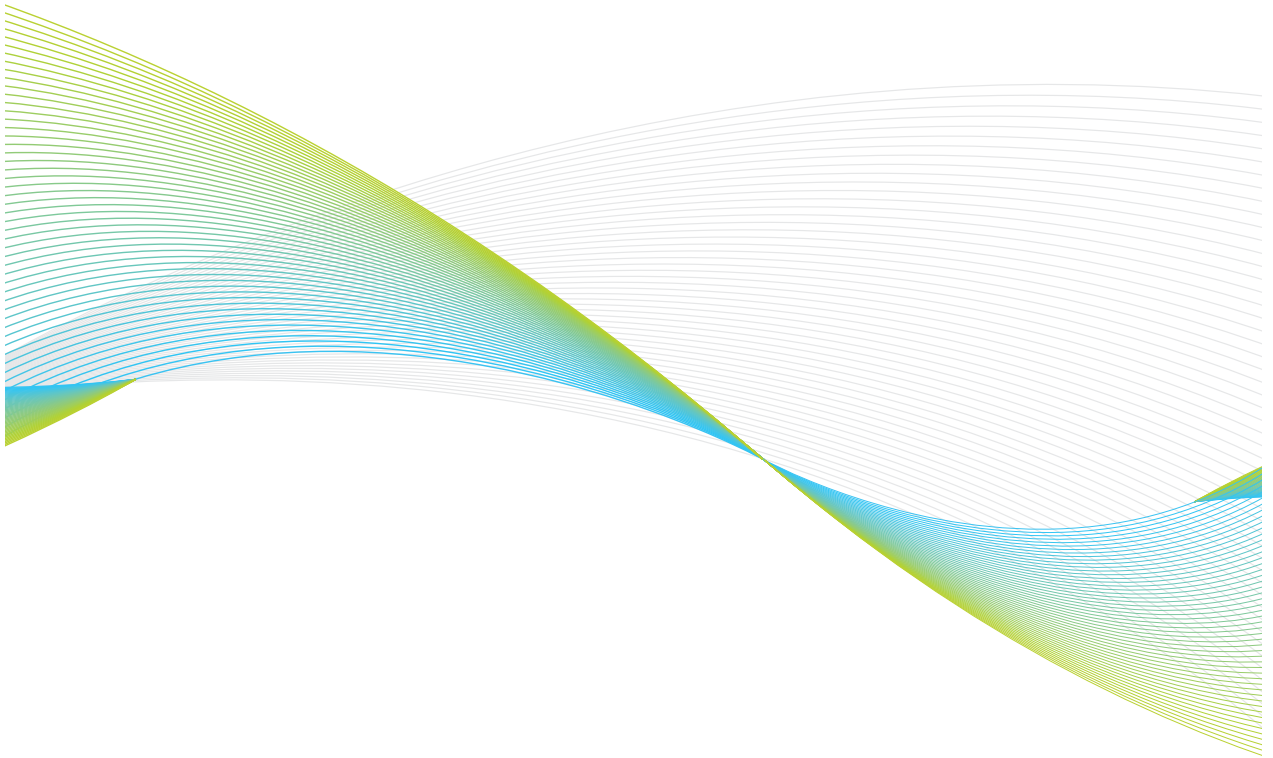
Most importantly, I thank the TPB staff for their hard work, dedication and commitment. I look forward to working with each and every one of you in 2020–21.



**Ian Klug AM**  
Chair

02

**ABOUT THE TAX  
PRACTITIONERS  
BOARD**



## 02 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, business activity statement (BAS) agents and tax (financial) advisers.

Our role, as set out in the *Tax Practitioners Board Corporate Plan 2019–20*, 'is to ensure that tax practitioner services are provided to the public in accordance with appropriate standards of professional and ethical conduct'. We seek to regulate tax practitioners in a fair, consistent and practical way.

The TPB plays a vital role in strengthening the integrity of the tax profession and the tax system more broadly. The most recent statistics from the Australian Taxation Office (ATO) indicate that registered tax practitioners lodged 70% of all individual income tax returns and 95% of all corporate tax returns in 2017–18.

The TPB is an independent statutory body created under the *Tax Agent Services Act 2009* (TASA). The statutory body is the Board, composed of members appointed by the Minister. The Board is responsible for administering and investigating practitioners, and for making disciplinary decisions and applying sanctions in appropriate cases.

The Board is supported by staff, including the Secretary/CEO, who is responsible for the people, resources and day-to-day operations of the organisation. Collectively, the Board and staff are referred to as the TPB.

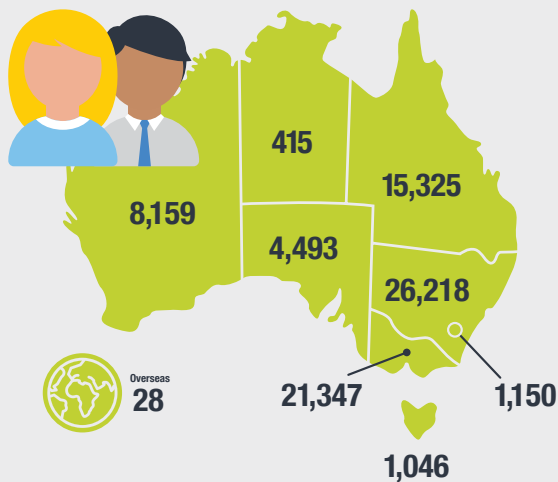
The TPB resides in the Treasury portfolio, under Program 1.2 of the ATO, and reports to the Assistant Treasurer. Under the *Public Governance, Performance, and Accountability Act 2013* (PGPA Act), the Commissioner of Taxation is the accountable authority for the TPB.

While the TPB operates with statutory independence and reports directly to the Minister, the TPB's funding is derived through ATO program funding, and the TPB is assisted by Australian Public Service (APS) employees made available by the Commissioner of Taxation.

## Tax practitioners

As at 30 June 2020, the total registered tax practitioner population was 78,181, composed of 43,253 tax agents, 16,160 BAS agents and 18,768 tax (financial) advisers. The numbers were consistent with numbers in 2018–19, when a total of 78,270 tax practitioners were registered with the TPB.

**Figure 1:** Locations of Australian tax practitioners



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 *Tax Agent Services Act 2009*; and have appropriate professional indemnity insurance cover to protect the public, including consumers.

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

## Functions

The TASA sets out the powers and functions of the TPB for the registration and regulation of tax agents, BAS agents and tax (financial) advisers. 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 (Code)
- 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
- resolving complaints lodged about practitioners and unregistered agents
- 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.

In addition to the TASA, the TPB administers the:

- 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
- Tax Agent Services (Specified BAS Services No.1) Instrument 2020, which declares certain services under the Australian Government's COVID-19 stimulus measures as BAS services.

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

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.

The powers and functions of the TPB were recently subjected to an independent review to confirm the TPB's efficiency and effectiveness. The Review of the Tax Practitioners Board and *Tax Agent Services Act 2009*, conducted by Mr Keith James, presented its final report to the Assistant Treasurer in October 2019. The TPB looks forward to government decisions which will ensure that it is 'fit for purpose' into the future.

## Board

The Board is responsible for the strategic direction and performance of the TPB and makes disciplinary decisions and applies sanctions in appropriate cases. The Board delegates routine decision-making (not subject to appeal) to the TPB Secretary/CEO, who authorises TPB staff to act on his behalf while retaining full responsibility and maintaining decision-making quality assurance.

## Members

In 2019–20, the Board had eight members, including the Chair, all of whom were part time. The members of the Board were Ian Klug AM (Chair), Debra Anderson, Julie Berry, Peter de Cure, Jim Hawson, Julianne Jaques, Greg Lewis and Ria Sotiropoulos. The following brief biographies provide details of their qualifications and experience.

### Ian Klug AM (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 The Water and Carbon Group. He is one of the founding directors of the Brisbane Portrait Prize and was previously on the board of the Brisbane Festival. Other roles have included Chairman of Brisbane Marketing, the city's economic development agency, Partner at Pitcher Partners, Chairman of Queensland Artworkers Alliance, and 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 business activity statement agent and tax agent. She is a Fellow of the Institute of Public Accountants and a member of the Australian Institute of Company Directors, The Tax Institute 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 Australian Taxation Office on matters relating to tax practitioners and small business.

Debra was appointed to the Board in February 2019.

## Julie Berry



Julie Berry is a registered tax (financial) adviser and a certified financial planner professional who has practised as a financial planner for more than 30 years. Julie is a Non-Executive Director of Xplore Wealth Ltd (ASX:XPL) and Deputy Chair of the Future2 Foundation. As a technical specialist for Doctors Financial Services Pty Limited, Julie works closely with financial planners. Julie has previously served as both Chair and a board member of the Financial Planning Association of Australia (FPA) and Chair and board member of the Institute of Financial Advisers, New Zealand. She is a life member of the FPA and recipient of Money Management's Lifetime Achievement Award. 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, Chairman of the Royal Flying Doctor Service Central Operations, Chairman of Wirra Wirra Vineyards and Chairman of Gifford Hill Joint Venture and Gifford Hill Pty Ltd; Director of Accord Property Holdings Pty Ltd and the Accord Property Development Fund and Variety, the children's charity; and advisory board Chairman of Tim Adams Wines. Peter holds a Bachelor of Economics from the University of Adelaide.

Peter was appointed to the Board in July 2017.

## Jim Hawson

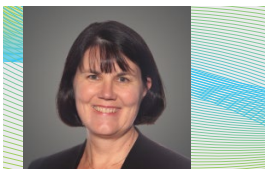


Jim is a registered tax agent and Fellow of CPA Australia.

He works with small and medium-sized enterprises as a consultant and as a board member. Jim began his career at the Australian Taxation Office, before joining Hobart accountancy firm Garity Hurd and Partners in 1987. Jim joined the national accounting firm Investor Group Limited, later Crowe Horwath Australasia, 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 practitioner 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. She is a member

of the Independent Parliamentary Expenses Authority and the Board of Taxation. Julianne holds a Bachelor of Economics and Bachelor of Laws from Monash University, and a Doctorate of Juridical Science from the University of Melbourne.

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

## Greg Lewis

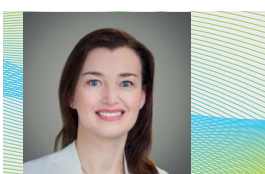


Greg is a chartered accountant and chartered tax adviser. He began his career as a graduate at KPMG, then moved to Ernst & Young, where he was promoted to the position of principal in the tax division. After returning to KPMG as a partner, Greg went on to become a consultant in tax at the law firm Minter 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 Committee of 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 12 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-worth individuals on complex tax issues. Ria is a chartered tax adviser, a member of the United Nations Tax 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. The Board is also assisted by receiving advice through consultative committees and forums, such as the Combined Consultative and Financial Adviser Forum.

Table 1 lists the committees active at 30 June 2020.

**Table 1:** Board committees at 30 June 2020

Type/responsibility	Name
Governance	Audit and Risk Committee
Policy	Professional Practice Committee
Operations	Recognised Professional Associations Committee
	Board Conduct Committee

### Audit and Risk Committee

The TPB Audit and Risk Committee is a subcommittee of the Board and does not have any formal powers under the PGPA Act. The committee advises on and provides good governance practice and fulfils a key management role. Its members in 2019–20 comprised Ian Klug AM (Chair), Debra Anderson, Ria Sotiropoulos and Peter de Cure.

The TPB is oversighted by the ATO Audit and Risk Committee under section 17 of the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule). The details of the ATO Audit and Risk Committee, as required under section 17AG(2A) of the PGPA Rule, are outlined in the ATO annual report.

### Recognised Professional Associations Committee

The Recognised Professional Associations Committee is responsible for the accreditation of an association as a recognised tax agent, BAS agent or tax (financial) adviser association, including considering annual declarations made by recognised professional associations to ensure that they continue to meet the recognition requirements under the TASA. The Recognised Professional Associations Committee is also responsible for developing policy and guidance relevant to the recognition of professional associations to assist them in understanding their obligations in connection with their recognition under the TASA.

### Board Conduct Committee

The Board Conduct Committee considers cases of practitioner conduct that may lead to a decision to:

- reject registration applications
- impose conditions on registrations
- suspend or terminate registration (or apply other sanctions)
- extend investigation periods.

## Combined Consultative and Financial Adviser Forum

The TPB's Combined Consultative and Financial Adviser Forum establishes ongoing consultative arrangements with a dedicated group of representatives from TPB recognised professional associations, and other key stakeholders representing the interests of tax practitioners. The Combined Consultative and Financial Adviser Forum provides an opportunity to directly engage with the Board of the TPB and facilitate an effective dialogue, to gain a mutual understanding of issues and generally act as a consultative advisory group to facilitate the TPB achieving its overall objective and purposes.

The TPB uses the Combined Consultative and Financial Adviser Forum outcomes to refine its guidance material and plan and manage its work program. The Combined Consultative and Financial Adviser Forum also forms a key component of the Regulator Performance Framework self-assessment process of metrics against key performance indicators. Membership details can be found on our website. After each meeting, a communique is issued to attendees and made available on our website.

## Organisation

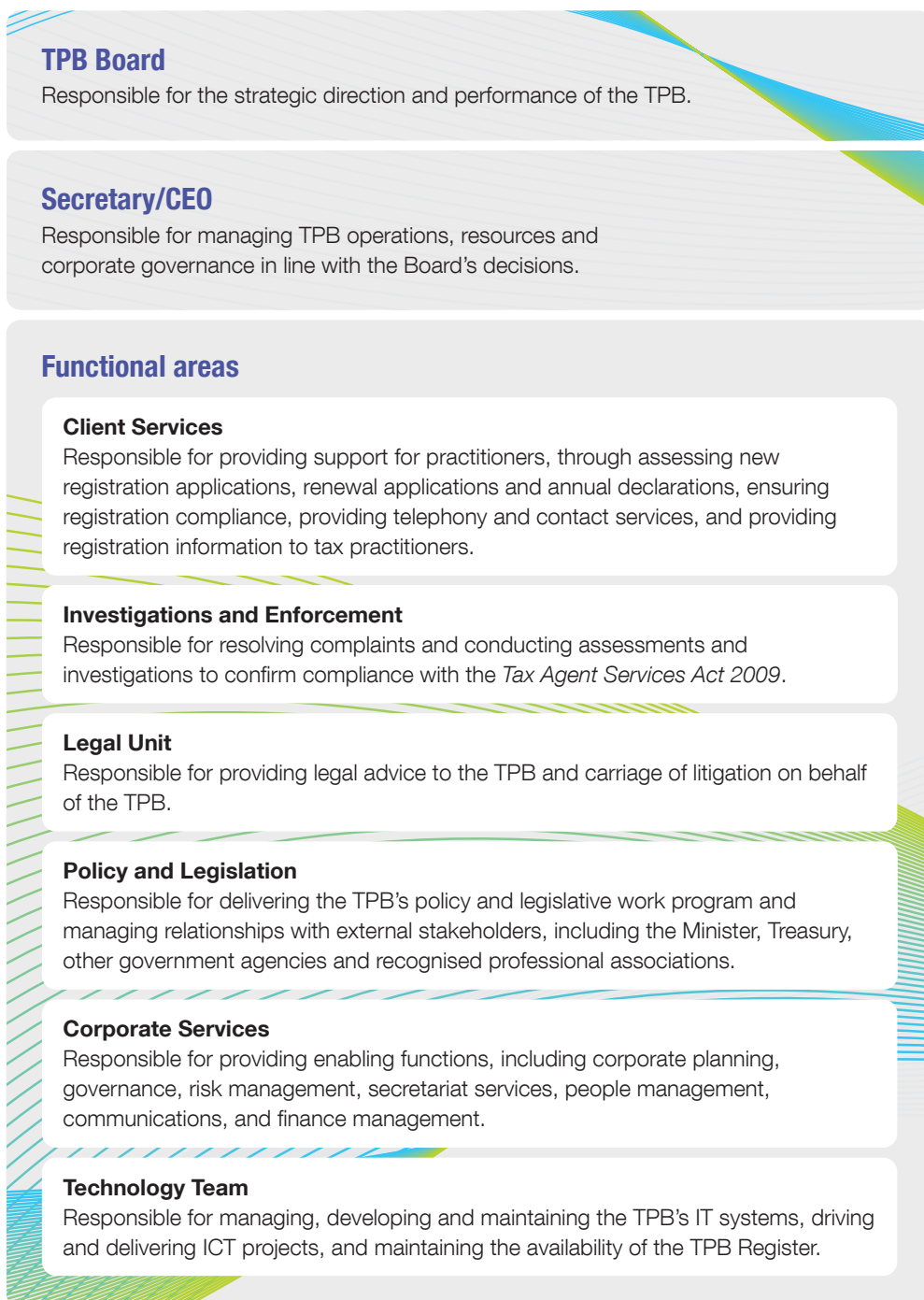
The Secretary/CEO is responsible for managing TPB operations, resources and corporate governance in line with the Board's decisions. The Secretary/CEO is supported by staff across six functional areas, as shown in Figure 2.

### Michael O'Neill, Secretary/CEO



Michael O'Neill was appointed Secretary/CEO of the TPB in August 2018. A lawyer with extensive public service experience, Michael joined the TPB from the Australian Taxation Office, 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.

**Figure 2:** Organisational structure at 30 June 2020



## Staff

In 2019–20, TPB staff were located at sites around Australia, as shown in Table 2.

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

<b>Region</b>	<b>2019</b>	<b>2020</b>
Australian Capital Territory (Canberra)	14	14
New South Wales	68	74
Queensland	21	25
Victoria	30	29
<b>Total</b>	<b>133</b>	<b>142</b>

At 30 June 2020, the TPB workforce comprised 142 ongoing and non-ongoing staff, an increase of nine staff compared to 30 June 2019.

Tables 3 and 4 reflect our staffing levels at year end for 2018–19 and 2019–20. These tables are for information only, as all TPB staff are made available by the Commissioner of Taxation under the TASA and the ATO formally reports on staffing in its annual report.

**Table 3:** Employees by functional areas

<b>Functional area</b>	<b>30 June 2019</b>	<b>30 June 2020</b>
Secretary/CEO	2	2
Client Services	31	33
Investigations and Enforcement	55	58
Corporate Services	16	15
Legal Unit	14	14
Technology Team	10	15
Policy and Legislation	5	5
<b>Total employees</b>	<b>133</b>	<b>142</b>

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

Classification	2019			2020		
	Female	Male	Total	Female	Male	Total
Senior Executive Service Band 2	0	1	1	0	1	1
Executive Level 2HWW <sup>1</sup>	1	1	2	2	1	3
Executive Level 2	2	4	6	2	4	6
Executive Level 1	13	9	22	14	13	27
Australian Public Service (APS) 6	22	13	35	25	25	50
APS 5	11	8	19	13	11	24
APS 4	18	13	31	12	10	22
APS 3	11	6	17	7	2	9
<b>Total</b>	<b>78</b>	<b>55</b>	<b>133</b>	<b>75</b>	<b>67</b>	<b>142</b>

1. EL2 Higher Work Value. The Executive Level 2 classification has two pay zones, separated by a work barrier.

**Note:** Includes ongoing and non-ongoing staff and full-time and part-time staff.

## Workforce size

Staffing increases reflected our focus on investigations and enforcement and our work to build and implement new client management software. As shown in Table 3, the largest increases in staff were allocated to our investigations business line and our technology capabilities.

Our staffing increases overall continue to be minimal. Since the TPB's inception in 2010, the tax practitioner population has grown by approximately 200% from 25,000 to 80,000 individuals and entities. However, the size of the TPB has remained relatively stable, with 130–140 full-time equivalent staff and an annual budget of approximately \$20 million, reflecting our ability to continuously improve our processes, services and technology to support our practitioners.

At 30 June 2020, due to the ongoing effects of the COVID-19 pandemic, recruitment across the TPB and ATO was minimal and reserved only for urgent vacancies that must be filled. This will have ongoing implications in 2020–21.

## Workforce profile

Table 4 highlights the shifts in classifications within the TPB. As the compliance focus has targeted the highest risk compliance cases, greater experience and expertise has led to an upwards movement in staff classifications. Also, automation and more efficient management approaches have led to the replacement of lower classification tasks with higher value work across the TPB.

The TPB continued to show strong female representation across the organisation in 2019–20, with females representing over 50% of total staff and 50% or more of staff at all APS levels.

## Culture and capability

In October 2019, the TPB engaged an external consultant, Mr Robbie Macpherson, to undertake a leadership and culture review of the organisation. This was to support the TPB's commitment to renew and improve on its culture. As part of the review, surveys were conducted among TPB staff and a range of external stakeholders, and feedback was sought at a Combined Consultative and Financial Adviser Forum meeting on November 2019.

The review concluded that, overall, the TPB's culture is positive and 'most importantly making progress in being fit for purpose'. The report stated: 'There is a noticeable optimism and energy about the direction the TPB is heading in and the progress it has made particularly over the past 12 months.'

The report drew on staff members' positive attitude toward the TPB, TPB leadership and their managers, and included references to the positive APS employee census results for 2019. The report recommended improved reward and recognition processes for staff, increased leadership development for senior leaders and managers, and ongoing improvements to staff wellbeing and change management processes. The Board agreed to and/or noted all of the report's recommendations.

## Reporting framework

Each year, in line with the requirements of the PGPA Rule, the TPB submits a corporate plan and an annual report to the Minister, The Treasury and the Department of Finance.

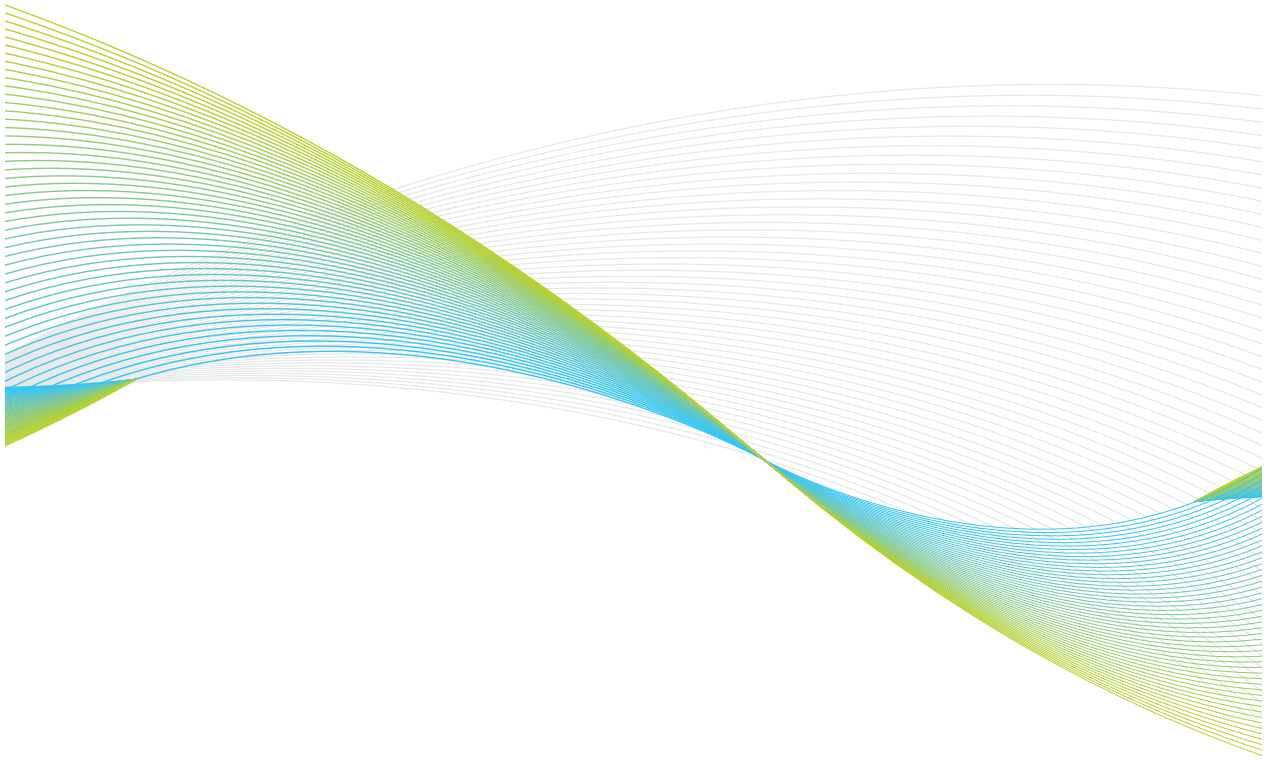
As required by section 16F of the PGPA Rule, the TPB's annual report includes an annual performance statement that reflects the TPB's performance against the deliverables and performance criteria set out in the Treasury portfolio budget statements and the TPB corporate plan. The annual performance statement is presented to the ATO Audit and Risk Committee for endorsement, along with a signed attestation letter from the Chair of the Board.

As a Commonwealth regulator, the TPB also provides an annual report on its performance against the key performance indicators of the Australian Government's Regulator Performance Framework. Further information regarding the Regulator Performance Framework is outlined in performance measure 3.3 in the annual performance statement.



03

**PERFORMANCE**



# 03 PERFORMANCE

## Highlights of 2019–20

### Protecting consumers of tax practitioner services

#### Processing and enquiries

The TPB processed all aspects of registrations and renewal applications; managed client contact, supporting both new and existing tax practitioners; and provided quality advice and guidance to tax practitioners by email and telephone, responding to over 23,000 emails and more than 37,000 telephone calls.



**Table 5:** Processing tasks completed, 2018–19 and 2019–20

Work type	2018–19	2019–20
Total new applications processed	5,291	5,710
Total renewals processed	18,358	20,822
Total annual declarations processed	49,753	37,275
Calls answered	49,442	37,131
Emails actioned	22,168	23,181

#### Positive feedback on quality of services

*Thank you so much for your email. I appreciate the time it must have taken you to gather all the information for me. Your email has helped me dramatically and has saved me a lot of anguish in the long run if I had enrolled in the wrong subject. I will now enrol in a Bachelor of Accounting.*

## Annual declarations investigations

The TPB investigated over 1,800 practitioners in relation to annual declarations, and imposed 589 sanctions, as detailed in Table 6. The sanctions included one termination, which was the result of non-lodgement of an annual declaration and not meeting the fit and proper person requirements of the *Tax Agent Services Act 2009* (TASA). Most practitioners were issued an educational letter.

**Table 6:** Investigations and sanctions related to annual declarations 2017–18, 2018–19 and 2019–20

Decision	2017–18	2018–19	2019–20
Termination	24	24	1
Written caution	182	487	522
Suspension	0	2	16
Imposition of order	81	81	50
<b>Total</b>	<b>287</b>	<b>594</b>	<b>589</b>

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

## Social media engagement and communications

Social media engagement with tax practitioners increased significantly across all platforms, including Facebook, Twitter, LinkedIn and YouTube, reflecting the TPB’s proactive approach to posting social media messaging tailored to relevant audiences. A highlight was the success of the new TPB Facebook page, which was launched in July and grew throughout the year to attract over 3,000 followers.

The TPB uses multiple channels across all forms of media to reach consumers and registered tax practitioners in order to inform and protect them.

## Enhancing the integrity of the registered tax profession

### Investigations

The TPB resolved over 2,400 matters arising from complaints, referrals and intelligence, as detailed in Appendix D. Over 300 of those resulted in cases presented to the Board Conduct Committee for consideration. In total, 964 sanctions were applied, including the terminations of over 170 practitioners.

The number of terminations increased by 129% while sanctions increased by 32% compared to totals for 2018–19.



## Data analytics and support

The use and integration of data analytics capability within the TPB's investigations stream assisted decision-making, case selection and the ability to assess the compliance of tax practitioners quickly, improving compliance activities considerably.

The use of data also enabled the automation of personal tax obligation checks for registration renewals, improving the accuracy of the checks and improving registration service levels.

## Litigation

Litigation outcomes supported the TPB's strategic objectives, affirmed Board Conduct Committee decisions and provided law clarification. The TPB received 72 merits review applications – a significant increase compared to 17 in 2018–19 – which were managed with the same resourcing levels as in 2018–19.

In total, 18 stay decisions and six final decisions were published by the Administrative Appeals Tribunal (AAT), the bulk of them affirming the Board's position. These decisions highlighted key principles regarding the importance of the TPB's role to protect consumers and maintain the appropriate standards of professional and ethical conduct among registered practitioners.

## Guidance and support to tax practitioners

The TPB drafted, consulted upon and published a number of information products to assist tax practitioners to understand their professional responsibilities. They included new information products in relation to letters of engagement, whistleblower legislation, the Notifiable Data Breaches scheme, transfers of business for tax (financial) advisers, and the requirements of the TPB and the Financial Adviser Standards and Ethics Authority for registered tax (financial) advisers and cyber security.

## Webinar program

To complement the TPB's regular education program for practitioners, and to offer more flexible continuing professional education opportunities for tax practitioners in response to the COVID-19 restrictions on staging public events, the TPB increased its program of webinars in April, May and June.

## Positive feedback on continuing professional education

***Bill Hackett, a practitioner of over 50 years, admits that he is 'one of the old school'. 'I love accounting but must realise that I will fall behind in my knowledge and that is not good when advising clients. Continuing professional education is a necessary obligation and I don't want to let my clients down', Bill said.***

## Our crisis response

Clearly, 2019–20 was a year like no other, with concurrent and widespread crises that required swift actions and initiatives well outside those envisaged in the TPB corporate plan.

Throughout the floods, bushfires and COVID-19 pandemic, the TPB quickly implemented strategies in response to the changing circumstances, deploying a pragmatic approach to assist affected tax practitioners and support Australian Government initiatives.



## Being an efficient and effective regulator

### Review of the Tax Practitioners Board and *Tax Agent Services Act 2009*

The TPB contributed to the Review of the Tax Practitioners Board and *Tax Agent Services Act 2009* by providing assistance, advice and support to the review head. The final report of the review to be provided to the Australian Government by 31 October 2019.

## Stakeholder engagement

The Board managed and supported relationships with its key stakeholders – in particular, recognised professional associations and the TPB’s Combined Consultative and Financial Adviser Forum members.

In addition, the TPB signed its first memorandum of understanding with a recognised professional association, setting out a clear and practical framework for engagement, cooperation and proactive information sharing.

## IT infrastructure

The TPB introduced incident, problem, asset and change management processes, consistent with worldwide ITIL (IT Infrastructure Library) standards.

The TPB also introduced numerous security improvements to reduce the risk of attacks on its systems and facilitated the migration of the TPB website and portal to an updated whole-of-government platform which will further support the reliability of access and data for stakeholders.

## Extending renewal and annual declaration deadlines

Using data analytics, the TPB identified practitioners affected by bushfires and flooding events via their postcodes and provided those practitioners with additional time to lodge renewal applications. For the natural disasters and COVID-19 pandemic we supported tax practitioners with a renewal application due by encouraging them to contact the TPB to discuss their circumstances if they were experiencing difficulties in meeting their TPB obligations.

Natural disaster affected practitioners with an annual declaration due from February 2020 were given an exemption from lodging an annual declaration in 2020. From March 2020 due to COVID-19 we temporarily waived the requirement to complete an annual declaration for over 39,000 registered practitioners. Practitioners with an annual declaration due on or before 31 December 2020 were given an automatic extension to 2021 or 2022 (if they were required to renew their registration in 2021).

### Positive feedback on client support during COVID-19

*Good morning, I have just received your email in relation to my not requiring to complete my annual declaration this year. I would like to reach out and thank the TPB for the support in these unprecedented and uncertain times. It is greatly appreciated.*

## Releasing new legislative instruments

On the announcement of government stimulus measures, the TPB moved swiftly to ensure that business activity statement (BAS) agents were able to legally advise clients on the JobKeeper Payment and cash flow boost initiatives, by registering the Tax Agent Services (Specified BAS Services No. 1) Instrument 2020.

## Easing continuous professional education requirements

The TPB implemented a number of temporary concessions to continuing professional education (CPE) requirements to address matters arising due to the COVID-19 pandemic, including:

- removing the 25% cap for relevant technical/professional reading activity
- accepting small amounts of educative health and wellbeing activities as relevant CPE
- relaxing the requirement for at least 40% of the total assessment for a Board-approved course to be completed under independent supervision.

In addition, to better support tax practitioners who had reduced opportunity to attend CPE activities, the TPB ran extra webinars each month from April to June to educate practitioners and help them meet CPE requirements.

## Supporting government stimulus measures

The compliance focus of the TPB shifted in response to the COVID-19 pandemic, focusing attention on practitioners acting to undermine the integrity of the JobKeeper Payment, cash flow boost and early access to superannuation stimulus measures. The TPB worked closely with the Australian Taxation Office (ATO) to develop the most appropriate operational strategy for these cases.

Recognising that most tax practitioners were providing high levels of support to their clients, in April 2020 the TPB implemented a dedicated hotline to receive information on those acting fraudulently regarding the stimulus measures. The information received related to both registered and unregistered agents who were allegedly not acting professionally and ethically.

## Informing clients

The TPB used multiple channels to ensure that tax practitioners were kept informed during the bushfires and the COVID-19 pandemic.

The TPB website was updated to include a dedicated news page to provide easy access to information regarding COVID-19 concessions offered by the TPB and other COVID-19 related content to support tax practitioners. This included an FAQs page and COVID-19 stimulus package information. Frequent announcements were also made via media and social media to engage practitioners with key messages.

## Maintaining staff capability

The TPB's COVID-19 response to support staff and their wellbeing included training, flexible working arrangements and wellbeing tools for individuals and managers. This support was provided quickly and effectively through strong communication channels.

From the onset of the pandemic, our IT team and contractors enabled the TPB to maintain productivity and keep staff safe. Remote working capabilities were already present, although temporarily stretched by a significant number of staff suddenly accessing remote working options. The IT team was able to facilitate the transition of 175 staff and contractors to working-from-home arrangements, with cost-saving measures in place, in a very short space of time.

# Annual performance statement

For the purposes of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the TPB is part of the ATO.

As the accountable authority, the Commissioner of Taxation is responsible for providing an annual report to Parliament that complies with the requirements of the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule). As an independent statutory body, the TPB provides an annual performance statement in line with section 16F of the PGPA Rule, 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 2019–20*, and the measures set out in the *Tax Practitioners Board Corporate Plan 2019–20*.

The purpose of the TPB is defined on page 192 of the portfolio budget statements, setting out the three strategic objectives that underpin the corporate plan:

*The TPB seeks to protect consumers of taxation services by regulating tax practitioners in a fair, consistent and practical way, thereby strengthening the integrity of the tax practitioner profession by:*

- 1. Protect consumers of tax practitioner services*
- 2. Enhance the integrity of the registered tax practitioner profession*
- 3. Strengthen the TPB as an efficient and effective regulator.*

Figure 3 demonstrates the alignment between portfolio performance criteria and corporate plan measures, and provides a summary of results against the three strategic objectives. The following sections provide an analysis of the factors that contributed to the TPB's performance.

The TPB takes a qualitative approach to assessing its performance, based on the indicators set out in Figure 3 and factors including:

- the currency of the TPB Register
- the usefulness of our advice and guidance
- the effectiveness of our complaints handling
- our use of data and intelligence to target high-risk practitioners
- the conduct of litigation cases that clarify the law and support the TPB's strategic objectives
- our influence on statutory reform, including in collaboration with Treasury
- feedback on our governance arrangements.

**Figure 3:** Performance summary, 2019–20

Corporate plan strategic objectives	Corporate plan measures of success	Portfolio budget statements performance criteria and targets <sup>1</sup>	Results
1 Protect consumers of tax practitioner services <sup>2</sup>	1.1 An effective public register that is readily accessible		<b>Achieved:</b> The public register was available throughout 2019–20 and the TPB made a number of improvements.
	1.2 Our complaints resolution mechanism		<b>Achieved:</b> Complaints were risk assessed to determine the most appropriate treatment, with more serious complaints escalated.
	1.3 Our consumer awareness messaging	Supporting consumers – Educate consumers of their rights when using registered tax practitioners.	<b>Target:</b> Majority of feedback on usefulness of TPB website content, communications and education initiatives is positive <sup>3</sup> .

**Figure 3:** Performance summary, 2019–20 (continued)

Corporate plan strategic objectives	Corporate plan measures of success	Portfolio budget statements performance criteria and targets <sup>1</sup>	Results
2 Enhance the integrity of the registered tax practitioner profession <sup>4</sup>		Supporting the legal and ethical standards of the professions – All practitioner applications are processed in a timely manner to reduce delays for tax practitioners. <b>Target:</b> All new and renewal applications are processed within service standards.	<b>Partially achieved:</b> Service standards for processing times were not met due to factors impacting on TPB resources, including natural disasters and the COVID-19 pandemic.
	2.1 Guidance and advice to tax practitioners on their rights and obligations		<b>Achieved:</b> Survey results indicated that a majority of tax and BAS agents believe that the TPB provides the right type, amount and frequency of information.
		Acting on misconduct – Build on voluntary compliance as a result of our investigations and enforcement campaigns. <b>Target:</b> Increase in voluntary practitioner compliance.	<b>Achieved:</b> The TPB has driven voluntary compliance through its strategy of targeting the highest risk practitioners with investigations programs.
	2.2 Targeting highest risks with investigations and compliance programs		<b>Achieved:</b> Data and intelligence enabled the TPB to detect the highest risk practitioners and present cases to the Board Conduct Committee.
	2.3 Strategic litigation program to clarify law, support just outcomes and deter poor conduct		<b>Achieved:</b> Administrative Appeals Tribunal and Federal Court results highlighted the importance of the Board's objectives and provided law clarification.

**Figure 3:** Performance summary, 2019–20 (continued)

Corporate plan strategic objectives	Corporate plan measures of success	Portfolio budget statements performance criteria and targets <sup>1</sup>	Results
3 Strengthen the TPB as an efficient and effective regulator <sup>5</sup>		<p>Strengthening capability – Ensure TPB is appropriately supported by a flexible, agile and capable workforce and information technology systems.</p> <p><b>Target:</b> Internal TPB digital systems and services are available a majority of the time.</p>	<p><b>Achieved:</b> This measure has evolved to focus on employee engagement as a means to strengthen overall capability, reported at 3.1, effectively replacing the original target which more narrowly considered systems capability alone.</p>
	3.1 Our employee engagement census results		<p><b>Achieved:</b> The census achieved a high level of participation and positive results, particularly in the areas of senior leadership, staff satisfaction and staff’s willingness to ‘work beyond what is required to help my agency achieve its objectives’.</p>
	3.2 Work with Government on statutory reform	<p>Shaping and influencing law and policy – Work with Government and Treasury on statutory reform.</p> <p><b>Target:</b> Treasury considers TPB submissions.</p>	<p><b>Achieved:</b> The TPB worked closely with Treasury in the review of the TPB throughout the year.</p>
	3.3 Board evaluation and stakeholder feedback		<p><b>Achieved:</b> The TPB was supported and monitored by the Board and internal and external stakeholders.</p>

1. *Treasury Portfolio Budget Statements 2019–20*, p. 197.

2. *Tax Practitioners Board Corporate Plan 2019–20*, p. 6.

3. This target was finalised after the Portfolio Budget Statements were published.

4. *Tax Practitioners Board Corporate Plan 2019–20*, p. 7.

5. *Tax Practitioners Board Corporate Plan 2019–20*, p. 8.

# STRATEGIC OBJECTIVE 1

## Protect consumers of tax practitioner services

### Performance measure 1.1

#### **An effective public register that is readily accessible**

The TPB Register was available throughout 2019–20, apart from regular scheduled maintenance windows. The public register contains details of registered and deregistered tax and BAS agents and tax (financial) advisers.

Only registered tax practitioners can charge or receive a fee or other reward for providing tax practitioner services. Using a registered tax agent provides protection to consumers, including some penalty ‘safe harbours’, and professional indemnity insurance if errors occur.

Improvements made to the public register in 2019–20 provided more detail to enable users to be better informed when choosing tax practitioners. They included:

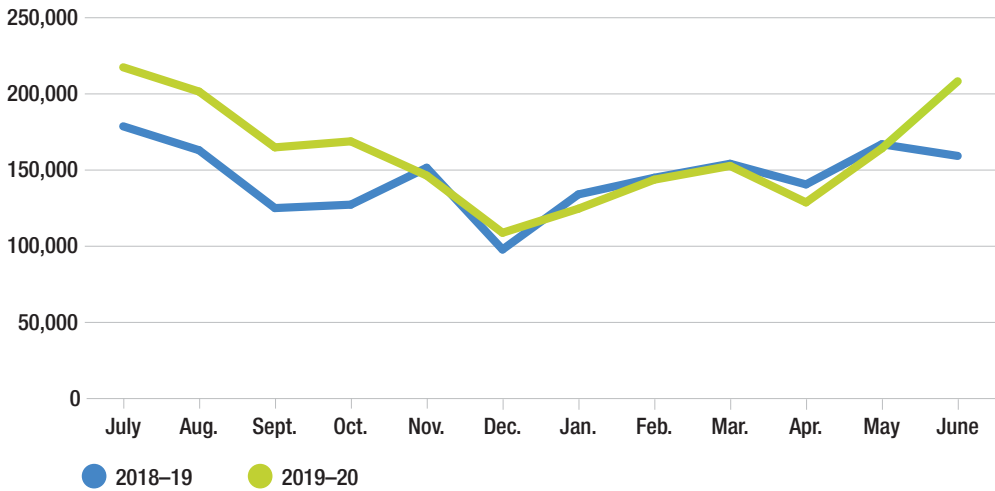
- increased transparency concerning details of practitioner registration termination events, sanctions and conditions and the reasons for them
- optimised search functionality, resulting in more relevant and reliable search results for consumers
- the retention of records of tax practitioners who surrendered their registration, for a period of 12 months after the registration ceased
- new performance and reliability monitoring of the TPB’s website to optimise the user experience.

These enhancements make it easier for consumers to check and understand the status of their preferred practitioners quickly and easily, and to protect themselves from rogue, unregistered service providers.

Increasingly, we have been updating the TPB Register with details of cases that have been subject to investigation and sanction. This increased transparency assists members of the public, including former and prospective clients, in choosing the right tax practitioner. Publication of sanctions also provides an immediate and general deterrent, discouraging other tax practitioners from failing to act with integrity.

In 2019–20, over 1.9 million searches were conducted on the register, as shown in Figure 4. There was an 10.8% rise in searches conducted since 2018–19.

**Figure 4:** TPB Register searches, 2018–19 and 2019–20



## Performance measure 1.2 Our complaints resolution mechanism

The TPB receives complaints regarding tax practitioners from a range of external sources, including the public, other agents, other departments, the ATO, and our own investigations.

During 2019–20, 1,937 complaints were referred to the TPB, of which more than 50% came from the public. This was similar to the 2018–19 result, as shown in Table 7.

**Table 7:** Sources of complaints and referrals, 2018–19 and 2019–20

Source	2018–19	2019–20
Public	1,110	991
Registered Tax Practitioners	154	227
Australian Taxation Office	196	245
Other	514	474
<b>Total</b>	<b>1,974</b>	<b>1,937</b>

The ATO referred 245 matters to the TPB in 2019–20, a 25% increase compared to 196 matters in the previous year. Increasingly, the TPB is proactive in undertaking cases with the ATO to ensure that practitioners are properly sanctioned for legal and ethical breaches. More information on our Joint Compliance Program (JCP) with the ATO is provided in the report on performance measure 2.2.

Complaints are risk assessed to determine the most appropriate treatment pathway. The more serious complaints, referrals and risks otherwise detected by the TPB are escalated for further enquiries and/or investigations, with the highest risk cases presented to the Board Conduct Committee.

In 2019–20, approximately 89% of all referrals were escalated to a new case, 7% were added to existing cases and 3% were filed for intelligence. The remaining 1% were finalised with no further actions.

Over 300 cases were presented to the Board Conduct Committee, resulting in over 170 terminations, a 129% increase compared to the previous year. In total, over 950 sanctions were imposed on practitioners in 2019–20, a 32% increase compared to 2018–19. The committee's decisions are summarised in Table 8.

**Table 8:** Board Conduct Committee decisions, 2017–18, 2018–19 and 2019–20

Decision	2017–18 <sup>1</sup>	2018–19 <sup>1</sup>	2019–20
Termination	36	76	174
Suspension	1	12	50
Rejection of renewal application	12	15	7
Imposition of an order	91	105	114
Written caution	181	524	619
Other	2	1	1
<b>Total</b>	<b>323</b>	<b>733</b>	<b>965</b>

1. Due to a change in the calculation methods, figures for 2017–18 and 2018–19 have been updated.

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

The increase in sanctions was attributed to an increase in investigator numbers (equivalent to approximately 10 full-time positions) early in the year, and to enhanced data analytics targeting the highest risk practitioners, including those with outstanding personal tax obligations. Around one-third of all cases presented to the Board Conduct Committee came through our personal tax obligations and CPE programs.

We expect further increases in cases presented to the Board Conduct Committee and increases in the sanctions applied in 2020–21 as we continue to advance and refine our data analytics and the JCP.



## CASE STUDY

# Termination of registration

On 14 April 2020, after completing an investigation, the Board concluded that Christopher Phillip Allenby had, while a partner of KPMG in Sydney, engaged in dishonest behaviour by enabling two clients to avoid over \$1.5 million in capital gains tax through an arrangement involving call options which were not genuine. On this basis, the Board imposed a period of three years during which he may not apply for registration.

The Board found that Mr Allenby:

- made false statements to the relevant state revenue authority, the Australian Securities and Investments Commission, and the Commissioner of Taxation
- obstructed the proper administration of the taxation laws by maintaining a position that was not reasonably arguable on the evidence available to him.

In addition to finding these Code of Professional Conduct breaches, the Board determined that Mr Allenby had ceased to meet the tax agent registration requirements, in that he was no longer a fit and proper person because:

- the breaches of the Code reflected poorly on his honesty and integrity
- his conduct undermined the integrity of the taxation system
- he is not a person whom the Commissioner of Taxation, clients and the public could have confidence will perform the functions of a registered tax agent competently and with integrity.

The Board found that Mr Allenby is not a fit and proper person and should not be registered as a tax agent.

## Performance measure 1.3

### Our consumer awareness messaging

#### Communications

The TPB built on the earlier successes of its ongoing communications strategy in 2019–20. We continued to build engagement with our stakeholders through a range of communication tactics and channels, to provide clear, targeted and effective messaging to our audiences.

Our strategies focused on supporting the regulated professionals with registration, renewal and education on obligations, increasing the visibility of TPB outcomes, and raising awareness in the community of the importance of using registered tax practitioners.

Throughout the year, we implemented a process of continuous improvement across all of the TPB's communication channels, including improving the accessibility of our website, and expanding our suite of information regarding consumer awareness and protection.

Key communications activities included:

- distribution of *TPB eNews* to over 59,000 subscribers each month
- delivery of topical TPB webinars, with free community registration, on a range of topics, including TPB investigations processes, our 2020 vision and client obligations
- generation of regular media coverage through TPB media releases across industry and mainstream media outlets
- daily social media messaging, via Facebook, LinkedIn and Twitter, to an increasing and engaged audience
- an advertising campaign, aimed at consumers, with reminders to use a registered tax practitioner at tax time.

Cumulatively, these improvements and activities contributed to the TPB reaching more consumers than ever before. Our social media engagement increased, and our website and TPB register were accessed more. Our benchmarking survey results show that the community is increasingly aware of the TPB and the importance of choosing the right tax practitioner for their needs.

## Research

In October 2019, the TPB commenced the first Tax Practitioner Biannual Survey, involving both tax practitioners and consumers of taxation services. The survey measures several factors, including trust in the industry and awareness both of the TPB and the TPB register. It will provide useful long-term patterns and may show cause-and-effect relationships of TPB awareness and compliance activities.

The initial survey indicated that:

- 88% of consumers included in the survey put high levels of trust and confidence in the tax profession
- most of the consumers surveyed (65%) select their tax practitioner based on family and friend recommendations
- 30% of consumers surveyed are aware of the TPB and its activities.

***88% of practitioners responding to our new survey put high levels of trust and confidence in the tax profession.***

During March and April, the TPB commissioned research agency Colmar Brunton to conduct exploratory research with registered tax practitioners on the issue of unregistered service providers. The intention was to ascertain how the TPB may best communicate to the community the benefits of using registered practitioners and the risks of using unregistered service providers.

The research findings are being used to inform consumer messaging strategies.

## STRATEGIC OBJECTIVE 2

# Enhance the integrity of the registered tax practitioner profession

### Performance measure 2.1

## Guidance and advice to tax practitioners on their rights and obligations

### Guidance

In 2019–20, the TPB provided practical guidance to help tax practitioners and other key stakeholders understand their obligations under the TASA and the Code of Professional Conduct.

In July 2019, a new practice note was published to provide practical guidance to all tax practitioners about the benefits of using letters of engagement, and matters that tax practitioners should consider including in letters of engagement, particularly to ensure compliance with the Code and the TASA. Appendix B provides details of the practice note and a formal discussion paper released in 2019–20.

We also published website guidance in relation to Single Touch Payroll, newly enacted whistleblower legislation, the Notifiable Data Breaches scheme, and the requirements of the TPB and the Financial Adviser Standards and Ethics Authority (FASEA) for registered tax (financial) advisers and cyber security.

We updated a number of existing guidance products, and conducted reviews and consultation into a number of matters which are yet to be finalised. These included practice notes, advice and changes regarding CPE requirements for practitioners, and draft legislative instruments.

We measure the effectiveness and usage of our guidance materials based on feedback from tax practitioners. Our 2020 survey showed that a majority of tax practitioners have accessed the materials, with 80% of those who accessed the materials expressing their satisfaction. Survey results also indicated that approximately two-thirds of tax agents and BAS agents believe that the TPB provides the right type, amount and frequency of information and communication via appropriate channels. We continue to work with our stakeholders to ensure that our advice is relevant to their needs.

## Processing of applications

The TPB has clear targets for service standards, which are published on our website. The standards ensure that we remain focused on supporting practitioners to comply with their obligations in as timely a manner as possible.

The TPB strived to meet its registration service standards in 2019–20; however, there was a decline in the percentages of applications processed within the 30-day and 60-day targets, as shown in Table 9.

**Table 9:** Registrations processed within service standards, 2018–19 and 2019–20

Service standard	2018–19	2019–20
80% of registrations processed within 30 days of receiving a completed application	88%	77%
95% of registrations processed within 60 days of receiving a completed application	99%	87%

In 2019–20, we processed 5,710 new registrations, 20,822 renewals and 37,275 annual declarations. This represented increases of 8% in registrations and 13% in renewals, and a decrease of 25% in annual declarations. The decrease in annual declarations is as a result of the exemptions provided to tax practitioners from lodging an annual declaration from March to December 2020 in response to the extraordinary circumstances.

The processing time for all applications (new applications and renewals) was affected by a number of factors, including resourcing constraints, a significant increase in registration workloads and enquiries flowing on from 2018–19, and the impacts of bushfires and the COVID-19 pandemic.

## Formal collaborations

The TPB works collaboratively with other government agencies, including the ATO, the Australian Securities and Investments Commission, the Director of Public Prosecutions and the Australian Federal Police. Where appropriate, these arrangements are formalised via memorandums of understanding (MOUs).

The MOUs cover matters pertaining to the functions of the parties, information sharing, consultation and dispute resolution, and assist us to gain the support of co-regulators and stakeholders alike.

At its Combined Consultative and Financial Adviser Forum meeting in May 2020, the TPB invited expressions of interest from recognised professional associations seeking MOUs with the TPB. The TPB received numerous expressions of interest. At 30 June 2020, the TPB was in advanced discussions with multiple associations and had finalised an MOU with the Financial Planning Association of Australia. Appendix A provides details of recognised professional associations at 30 June 2020.

## Performance measure 2.2

### Targeting highest risks with investigations and compliance programs

During 2019–20, the TPB resolved over 2,400 cases from complaints, referrals and intelligence (received in 2019–20 and 2018–19). By targeting higher risk practitioners, we are protecting the public, upholding the good name of tax practitioners, supporting tax system integrity and ensuring a level playing field for the majority of practitioners, who are acting with integrity and professionalism.

In 2019–20, our data and intelligence capability continued to develop and mature, and supported us to detect the highest risk practitioners and present over 300 cases from across our compliance programs to the Board Conduct Committee.

The TPB continues to build its attention on compliance within the registered and unregistered practitioner populations. As our compliance processes and procedures improve, along with our relationships with other agencies, we continue to refine our cases and risks.

Currently, the higher risk tax practitioner investigations are often conducted with co-regulators or other partners, including the ATO and the Australian Securities and Investments Commission, and with the police in cases concerning fraud.

In addition to our general compliance program, we undertook a range of projects to address particular areas of high risk in 2019–20. These projects included:

- targeted campaigns on practitioners' personal tax obligations and CPE requirements
- the work on tax practitioner involvement in the black economy
- investigations of unregistered service providers
- the implementation of the JCP, with the ATO.

#### Personal tax obligations

Following a successful launch in 2018–19, the TPB continued its campaign on practitioners with outstanding personal tax obligations (debts or lodgements) in 2019–20.

In December 2018, 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 BAS for their associated entities.

Nearly 500 tax practitioners fell into both of these groups. In addition, 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 1 July 2020:

- 94% of the outstanding lodgements – 9,559 out of 10,120 outstanding income tax returns, IASs and BASs – had been lodged
- outstanding/collectible debt had been reduced by 34% (\$38.5 million), from \$114.8 million to \$76.3 million.

The cases of the most egregious practitioners were taken to the Board Conduct Committee, and over 50% of those practitioners had their registrations terminated (many with exclusion periods of five years) or suspended for a period of time.

Our work was 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.

## CASE STUDY

### Termination of registration

The Board terminated the registration of a company for failing to comply with taxation laws in the conduct of its personal affairs. The Board also decided to conduct enquiries into whether the company's sole director, a registered tax (financial) adviser, continued to meet the registration eligibility requirements outlined in the *Tax Agent Services Act 2009* (TASA).

The company's sole director was the director of 25 companies. A number of those companies had outstanding taxation obligations and three of the companies were also registered with the Board. The director failed to disclose outstanding taxation liabilities for himself and for four companies in their annual declarations. The director also failed to comply with taxation laws in the conduct of his personal affairs, by failing to lodge income tax returns and business activity statements for himself and for 12 companies of which he was the sole director.

The director attempted to surrender his registration after the commencement of the investigation.

The Board decided that the director had failed to comply with the Code of Professional Conduct. The Board also decided that the director no longer met the requirements for registration that he be a fit and proper person as required by the TASA.

The Board decided to not accept the director's surrender request and to terminate his registration as a tax (financial) adviser. The Board also decided that the director could not apply for registration under the TASA for a period of 12 months from the date of termination.

## Continuing professional education

A key aspect of the TPB's compliance program was the continuation of reviews 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.

In 2019–20, over 600 CPE reviews were completed. Of the tax practitioners who were reviewed, 86% were found compliant, 7% received education outcomes, 3% surrendered their registration and 2% were investigated; the remainder of cases were closed.

Most of the tax practitioners reviewed were found compliant and responded to requests for their CPE logs within the specified timeframe. Most practitioners are now aware of the CPE project, but the TPB continues to provide education and guidance to practitioners to improve compliance.

Over 12 formal investigations were conducted into practitioners who were found to be significantly deficient in meeting their CPE obligations. The investigations led to formal sanctions, including suspension.



### CASE STUDY

## Caution and imposition of an order

A registered tax agent was selected for a review of his continuing professional education for the period 1 April 2016 to 1 April 2019. The tax agent had lodged his 2019 application for renewal of registration, declaring that he met the TPB's requirement of 90 hours CPE within the three-year registration period.

An initial investigation indicated the tax agent was short in completing the required 90 hours, having completed only 22 hours of non-reading activities and 30 hours of reading activities.

After a review, it was found that the tax agent was 45.5 hours short of the 90-hour requirement.

The Board found that the agent did not meet the Board's CPE requirements and had breached the Code of Professional Conduct. The Board issued a written caution and orders requiring him to:

- complete the outstanding CPE hours within six months from the date of the order, and provide evidence of his CPE activity hours to the Board
- undertake a course on the *Tax Agent Services Act 2009*, and provide evidence of successful completion of the course to the Board within six months from the date of the order.

## Black economy

In 2019–20, the TPB continued to target the highest risk tax practitioners who facilitate or undertake hidden economic activity either to derive a benefit for their clients or themselves, or to hide the benefits obtained from illicit activities. This work led to:

- cooperation and collaboration with the ATO and other regulators to detect and disrupt bad actors, through coordinated activities across multiple work programs
- detailed submissions to the Board Conduct Committee to explore the nature and significance of the behaviour, and to inform the Board of broader patterns and themes identified
- significant sanction outcomes from some of the TPB's more complex case work, involving practitioners well versed in creating financial and documentary trails to hide their activities
- increased focus on data analytics and intelligence practices to use learnings from recent case work to drive increased and earlier detection and interdiction.



## CASE STUDY

# Termination of registration

Following a six-month investigation, the Board terminated the registration of Victorian-based company The Associates Vic Pty Ltd, trading as Brown Baldwin and Associates (BBA), and imposed the maximum five-year ban on reapplying for registration.

During the investigation, the Board found BBA had:

- maintained two sets of financial accounts, one set for bank purposes and another for taxation purposes – this had led to misleading information being given to the Commissioner of Taxation and credit/finance companies
- failed to meet its outstanding taxation obligations on several occasions
- not supervised its staff sufficiently to ensure that they were acting competently
- assisted some of its clients to set up companies for the purpose of avoiding payment of debts and tax.

Additionally, the Board found BBA's directors, Andrew Locantro, Biren Shah and Rajinder Narula, were responsible for the misconduct of BBA and had provided misleading information to the Board.

## Unregistered agents

In 2019–20, the TPB received over 200 complaints about unregistered agents. Over 40 were external complaints lodged via the TPB website or contact line, and the remainder were from intelligence or referrals from others (including registered professional associations or fellow agencies such as the ATO).

Each complaint about an unregistered agent is risk assessed to determine the most appropriate treatment strategy. This may include:

- education of the unregistered agent on the operation of the TASA
- face-to-face interaction from TPB staff to influence behaviour
- cease and desist correspondence
- notification of the suspected client base to disrupt the unregistered agent's services
- proactive work with the ATO to address compliance issues for unregistered agents and clients
- investigation under the TASA to limit the agent's influence over the tax system
- formal litigation, seeking civil penalties or injunctive relief
- work with partner agencies to pursue criminal prosecution of unregistered agents.

At 30 June 2020, the TPB had over 40 active cases on unregistered agents in which one or more of the above treatment strategies had been deployed.

The TPB also indirectly targeted unregistered agents through its tax time online media campaign, which warned consumers away from unregistered practitioners and encouraged behaviour to check the credentials of those purporting to be registered agents.

In the longer term, the outcomes of the independent Review of the Tax Practitioners Board and *Tax Agent Services Act 2009* may offer further opportunities for the TPB to influence the treatment of unregistered agent activity.

## Joint Compliance Program

In 2019–20, the TPB and ATO began to implement the JCP to address higher risk tax practitioners, including those associated with schemes to undermine the integrity of the Australian Government's COVID-19 stimulus measures. The JCP has been expedited to support the integrity of the stimulus measures.

The JCP recognises that the ATO and the TPB are separate and independent agencies, with their own laws, strategies and governance. Equally, the JCP is based on proven experience that collaboration enhances the delivery of objectives.

The JCP encapsulates the two agencies' joint compliance strategy to regulate the tax profession from end to end, from detecting non-compliance, through dealing with non-compliance (in terms of actions leading to tangible outcomes), to communicating the actions taken against the highest risk practitioners to give confidence to the profession, taxpayers and stakeholders. Where necessary and appropriate, law reform and system improvements will be sought.

## Performance measure 2.3

### **Strategic litigation program to clarify law, support just outcomes and deter poor conduct**

The TPB strategically targets its litigation program toward matters which clarify the law and support our broader objectives. This starts with a comprehensive compliance program, based on a risk profiling strategy, which has increased the number of sanctions decisions.

In 2019–20, our key focus remained the protection of the consumers of tax advice and the integrity of the registered tax profession. Our program supported the position that the highest risk practitioners should be removed from the profession as soon as possible, which was supported by positive stay results in the AAT throughout the period.

Appendix C provides a summary of all litigation matters that were finalised in 2019–20.

#### **Administrative Appeals Tribunal**

In 2019–20, 72 new applications for a merits review of a Board decision were made to the AAT. This is a significant increase compared to the total of 17 applications made in 2018–19, and is reflective of the increase in outcomes from the TPB's various compliance programs targeting higher risk practitioners that were found to have undermined the tax profession and system through misconduct, lack of competence, or fraudulent behaviour.

The majority of the new applications were accompanied by applications to stay the Board's decision until final determination of the matter. Where practitioners posed a significant risk to the public, the TPB opposed those applications.

In 2019–20, a total of 18 stay decisions were published by the AAT. 12 stay applications were denied, and the six remaining decisions granted a stay of the Board's decision with conditions, primarily intended to protect the practitioner's clients and the public.

These decisions affirm the TPB's position that it is in the public interest that higher risk practitioners be removed from the profession as soon as possible. Further, they highlight the importance of the TPB's role in administering a regulatory regime that protects consumers of tax practitioner services, maintains appropriate standards of professional conduct and upholds the integrity of the self-assessment tax system.



## CASE STUDY

# Administrative Appeals Tribunal refusal to stay Board decisions

The Board terminated the tax agent registrations of Feng Gao and his company, Australia Fortune Financial Group Pty Ltd (AFFG).

The Board found that AFFG had breached the Code of Professional Conduct by:

- failing to comply with its taxation obligations, including failing to pay superannuation guarantee charges, over a number of years
- preparing and lodging income tax returns for 397 clients without taking adequate steps to confirm with the clients that the work-related expense claims were accurate
- incorrectly reporting GST and over-claiming interest expenses on behalf of its client, Meihua Australia Pty Ltd (Meihua).

The Board found that Mr Gao ceased to be a fit and proper person, given his conduct as AFFG's director and supervising agent, and as the sole director of Meihua.

Both Mr Gao and AFFG applied for a stay of the Board's termination decisions. On 19 September 2019, the AAT refused both applications.

In relation to the failure to comply with taxation obligations, the AAT confirmed that registered practitioners must be held to a higher standard in the compliance of their own taxation affairs.

With respect to the work-related expense claims, Mr Gao maintained that he considered the claims were legitimate, despite the claims' being disallowed by the ATO. In this regard, the AAT affirmed the TPB's objective to protect consumers of tax practitioner services, particularly where an informational asymmetry exists, noting:

*The Tribunal finds that Mr Gao's attitude to this issue [is] disturbing. He appears to lack an understanding of why the claims were disallowed and why, as a registered tax agent, he should have insisted on substantiation of the claims by those clients. Substantiation of the clients' claims would have been particularly relevant given that the majority of those clients were from non-English speaking backgrounds and were unlikely to have a good understanding of their Australian legal tax obligations.*

The TPB continued to defend matters at final hearing that would deter misconduct among registered professionals, while achieving law clarification. Final decisions were published in the following six matters:

- *Shmuel and Tax Practitioners Board* [2019] AATA 2168
- *Madz and Tax Practitioners Board* [2019] AATA 4773
- *Ridden and Tax Practitioners Board* [2020] AATA 422
- *Hill and Tax Practitioners Board* [2020] AATA 678
- *Elsawi and Tax Practitioners Board* [2020] AATA 998
- *HFFV and Tax Practitioners Board* [2020] AATA 1712.

Five of the six decisions were favourable to the TPB, with the AAT affirming the Board's termination decision but varying the non-application period in some cases.

The decisions of *Elsawi* and *Ridden* support the TPB's strategic objectives around consumer protection and maintaining professional and ethical standards. The decisions of *Shmuel*, *Madz*, *Hill* and *Ridden* highlight the expectation that, as members of a regulatory regime, registered practitioners will be candid in their dealings with the Board.

The decisions of *Shmuel*, *Madz*, *Hill* and *Ridden* validated the TPB's approach to practitioners with outstanding personal tax obligations. Specifically, the decision of *Hill* confirmed that the requirement for practitioners to comply with taxation laws in the conduct of their 'personal affairs' extends to corporate entities over which they exercise practical control.

In *HFFV*, although the AAT accepted that a sequence of unfortunate events led to the non-compliance with taxation obligations, and set aside the Board's decision, it expressly noted that its decision should not be taken to be a reflection that such behaviour is excusable.

Appendix C provides a summary of the AAT matters that were finalised in 2019–20. This includes applications for merits review made in 2019–20 and the previous financial year.

Thirty-seven matters were ongoing before the AAT at 30 June 2020.



## CASE STUDY

# Administrative Appeals Tribunal affirms Board decision

The Board terminated Immanuel Shmuel's tax agent registration and imposed a non-registration period of 12 months based on a finding that he is not a fit and proper person, given his:

- failure to comply with his taxation obligations
- misleading statements to the Board in failing to declare in his annual declaration that he had outstanding taxation obligations and had been issued a default judgement order
- failure to notify the Board of his bankruptcy, an event affecting registration
- failure to meet other statutory obligations as a bankrupt and a company director
- failure to respond the Board's enquiries in a timely, responsible and reasonable manner, as required by the Code of Professional Conduct.

The AAT affirmed the Board's decision.

In affirming the Board's decision, the AAT accepted the Board's position that a tax agent owes a higher standard of care when it comes to complying with taxation obligations. It further noted that:

*... a failure by a tax agent to comply with taxation obligations is sufficiently serious of itself to justify a finding that a person fails to meet the fit and proper person requirement. Complying with taxation obligations is a fundamental duty of a tax agent and goes to the heart of an agent's capacity and willingness to perform their function. A failure to comply with taxation obligations must raise serious doubt about the capacity and commitment of an agent to competently handle other people's taxation affairs.*

With respect to Mr Shmuel's false and misleading statements to the Board, the AAT confirmed that '[f]or the applicant to knowingly mislead the respondent is a very serious matter' and in breach of his obligation under the Code to act with honesty and integrity. The AAT concluded that such conduct:

*... must reflect adversely on his good fame, integrity and character, is not consistent with a tax agent maintaining reasonably expected standards of professional and ethical conduct and is therefore not consistent with him meeting the fit and proper person requirement set out in the Act.*

## Federal Court

In 2019–20, the Federal Court made two decisions following judicial review applications filed by applicants who were dissatisfied with decisions of the Board:

- One application for judicial review was dismissed, with Justice Griffiths noting in his judgement that the applicants had the AAT available as an administrative remedy which provides a full merits review and the capacity to overcome any alleged denial of procedural fairness.
- In another case, Justice Thawley set aside the Board's decision. The judgement provided useful law clarification regarding the TPB's discretionary power to investigate complaints, confirming that the task does not require the TPB to first determine whether there is material before it that establishes there has been an actual contravention of the TASA, per the *Briginshaw* standard.

At 30 June 2020, the TPB was involved in a Federal Court proceeding seeking judicial review of an AAT decision to refuse two stay applications.

In 2019–20, the TPB commenced a proceeding in the Federal Court regarding unregistered conduct. The TPB also continued its Federal Court proceeding with Kent Hacker and his two associated entities. This proceeding was commenced in 2018–19, with the TPB alleging that the respondents were acting unlawfully by charging fees while unregistered and claiming false and inflated tax deductions. In response, the respondents undertook to not provide tax agent services to clients for a fee until the final determination in the matter.

At 30 June 2020, the TPB was awaiting the Court's decision on the question of liability. The judgement is expected to provide law clarification on two points: whether both a company and an individual can be liable for civil penalties for the same conduct, and the scope of what is regarded as a 'reward' for providing a tax agent service under the TASA.

The TPB remains committed to deterring conduct by unregistered practitioners by ensuring that they are stopped from acting unlawfully and putting consumers at risk. Currently, in order to act against unregistered entities providing tax agent services to the public, the only option available to the TPB in the TASA is to apply to the Federal Court for pecuniary penalty orders and injunctive relief. This is a slow, resource intensive and costly mechanism. Consequently, the TPB has only been able to pursue this option in the most egregious situations.

In November 2019, in *Frugtniet v Tax Practitioners Board* [2019] FCAFC 193, the Full Federal Court dismissed an appeal with costs made by Rudy Frugtniet. Mr Frugtniet sought to appeal the Federal Court's decision in *Frugtniet and Tax Practitioners Board* [2018] FCA 387 that dismissed Mr Frugtniet's appeal of an AAT decision affirming a Board decision to terminate his registration on the basis he was not a fit and proper person and preclude him from reapplying for registration for five years.

Mr Frugtniet subsequently made an application to the High Court, seeking special leave to appeal from the Full Federal Court's decision. In March 2020, the High Court dismissed Mr Frugtniet's special leave application and ordered him to pay costs (*Frugtniet v Tax Practitioners Board* [2020] HCASL 73).

## STRATEGIC OBJECTIVE 3

# The TPB is recognised as an efficient and effective regulator

### Performance measure 3.1

#### Our employee engagement census results

The Australian Public Service (APS) employee census, conducted from May to June each year, is a key source of feedback for the TPB. In the 2019 census, the TPB had a very high participation rate with 101 TPB staff participating in the survey.

The 2019 survey results were released in October. In many areas, the TPB received positive feedback from staff. Our employee engagement scores continued to improve, with 79% of respondents stating that they are satisfied with their job.

Of key importance, 89% of respondents stated that they ‘work beyond what is required in my job to help my agency achieve its objectives’, and 66% indicated they were inspired by the TPB to do their best work every day. These percentages were higher than the TPB results in 2018 and significantly higher than the APS averages in 2019 (10% and 13% higher respectively).

***89% of respondents stated that they ‘work beyond what is required in my job to help my agency achieve its objectives’.***

Feedback in the area of senior leadership was particularly positive, with the proportion of positive responses consistently higher than the TPB results in 2018 and up to 23% higher than the ATO averages for the same questions. This is a very positive reflection on the TPB leadership team’s capacity to implement new strategies and communicate its vision.

The survey also highlighted areas that require further attention. Wellbeing scores indicated that while staff felt that their immediate supervisors cared about their health and wellbeing, their confidence in the TPB more broadly was not as strong. Wellbeing scores included a large number of neutral responses, indicating a level of dissatisfaction among staff.

Our workplace culture scores were mixed. Positive results in some areas (internal communication, feeling valued and inspired) were significantly above the ATO and APS averages, while responses in other areas (consulting about change, strained relationships and feeling respected) were less positive than in 2018.

Our results for workplace conditions were also mixed. The proportion of respondents who said that they were ‘satisfied with the stability and security of my current job’ was 88%, 15% higher than the APS average. However, the lack of satisfaction with opportunities provided by the TPB for career progression was concerning, with only 33% satisfied with the opportunities, a decrease from the TPB result in 2018 and 9% lower than the APS average.

In April 2020, the ATO conducted the annual Pulse survey of its staff, including staff of the TPB. Despite the onset of the COVID-19 pandemic in early 2020, the TPB Pulse survey results were even more positive than the APS census results. In the ATO survey, 83% of respondents stated that their agency inspires them to do their best work each day (compared to 66% in the census), and 90% expressed job satisfaction (compared to 79% in the census). The wellbeing results were more clearly favourable, with 80% of respondents indicating that they felt a positive sense of wellbeing.

Overall, the TPB was pleased with the results from both 2019–20 employee surveys and will act on their recommendations.

Another source of feedback which was instrumental for the TPB in 2019–20 was the independent leadership and culture review discussed in the 'Culture and capability' section in Part 2 of this annual report.

## Performance measure 3.2

### Work with Government on statutory reform

#### Legislation

A key contribution to potential legislative reform concerning the TPB was the Review of the Tax Practitioners Board and *Tax Agent Services Act 2009*. The TPB participated in the review, including by providing input and submissions to the review head and to the Australian Government. The final report of the review was provided to the Australian Government on 31 October 2019, and the government's response to the report is pending.

The TPB also made submissions on a range of other matters related to legislative reform, including:

- whistleblower legislation
- exposure draft legislation in relation to recommendations made by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
- the Office of the Migration Agents Registration Authority's proposed amendments to the Code of Conduct for registered migration agents
- the Treasury Inquiry into Future Directions for the Consumer Data Right.

#### Deregulation

The TPB has worked closely with co-regulators to minimise the regulatory burden on tax practitioners. For example, the TPB worked with FASEA to ensure that the TPB approved courses required to be completed in order to be eligible for registration as a tax (financial) adviser are incorporated into FASEA's education requirements. In addition to this, the TPB's CPE requirements for tax (financial) advisers enable tax (financial) advisers to include CPE (or CPD) undertaken for FASEA's purposes to be counted towards meeting the TPB's requirements, as long as they are relevant to the tax (financial) advice services provided by the tax (financial) adviser.

The TPB's deregulation focus in 2020–21 will inform our advice and support to Treasury in working on legislative reforms potentially arising out of the final report of the Review of the Tax Practitioners Board and the *Tax Agent Services Act 2009*.

## Performance measure 3.3

### Board evaluation and stakeholder feedback

#### Board and ATO oversight

The Board met 11 times in 2019–20 to provide oversight of the activities of the TPB. In addition to the usual 10 meetings, a meeting was called in May 2020 to consider the TPB's response to COVID-19, as a regulator and as an organisation navigating new circumstances.

Board oversight of the operations of the TPB is a significant check to ensure that the TPB remains efficient and effective. It includes three key elements: quarterly reports, monthly business reports, and the work of the TPB Audit and Risk Committee.

TPB quarterly reports, produced for the first three quarters of the reporting year, report to the Board on the organisation's effectiveness against the strategic objectives and measures of success set out in the corporate plan. The same reports are provided to the ATO via its Audit and Risk Committee. In 2019–20, the Board accepted all three quarterly reports with only minor amendment, indicating a high level of Board satisfaction with TPB effectiveness.

At each of the 11 Board meetings held in 2019–20, the Secretary/CEO and the directors of the TPB's six functional areas reported comprehensively on the business operations of the TPB and our performance against the performance measures over the previous month. These reports included case numbers and outcomes, registration data, and information on new policy and legislation, IT developments and project updates, communications outcomes, and financial performance. The Board regularly made positive comments about the quality and comprehensiveness of the reports and the outcomes, which indicated a high level of Board satisfaction with TPB effectiveness.

In 2019–20, the TPB Audit and Risk Committee met twice to evaluate the governance and risk effectiveness of the organisation. Matters considered included the TPB Risk Register, a new risk framework, an overhaul of the TPB governance framework, and the annual performance statement. The information brought before the committee was accepted with only minor amendment, indicating a high level of Board satisfaction with TPB effectiveness.

Additionally, the Commissioner of Taxation is the TPB's accountable authority under the PGPA Act, and the ATO is responsible for a large portion of our governance and accountability. As such, the ATO imposes its own reporting requirements to ensure that we offer best practice reporting and transparency. This is facilitated through regular compliance monitoring and ATO Audit and Risk Committee meetings throughout the financial year.

#### Stakeholder engagement

The TPB invested in a significant amount of stakeholder engagement during 2019–20, to better understand practitioners and the public, in order to improve our services and target improper conduct.

Several times each year, we conduct consultation sessions with leaders of relevant professional associations, including those who represent tax agents, BAS agents and tax (financial) advisers. These sessions 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 Combined Consultative and Financial Adviser 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 Combined Consultative and Financial Adviser Forum for their evaluation, feedback and changes, to ensure an accurate and robust assessment. This process is part of our continuous improvement strategy.

During 2019–20, across a number of Combined Consultative and Financial Adviser Forum meetings, we consulted with recognised professional associations and other stakeholders in relation to the following matters:

- a review of the TPB's CPE requirements for tax practitioners
- the TPB's professional indemnity insurance requirements for tax practitioners
- draft legislative instruments (including in relation to BAS services and Board-approved courses)
- a draft practice note on the use and disclosure of a client's tax file number (TFN) and TFN information in email communications
- a draft information sheet for recognised professional associations on the exercise of the TPB's discretion regarding specific requirements for recognition under the Tax Agent Services Regulations 2009
- raising community awareness of the TPB and registered practitioners
- amendments to the TPB's information sheet relating to conflicts of interest, to deal with audit insurance.

Reports summarising matters discussed at each Combined Consultative and Financial Adviser Forum meeting are published on the TPB's website.

We also conduct an annual survey in which we seek feedback from the TPB's Combined Consultative and Financial Adviser Forum members in relation to the TPB's performance and consultative arrangements. Key themes in the feedback provided by forum members in 2019–20 were:

- the appropriateness of combining the Consultative Forum and Financial Adviser Forum meetings (to form the Combined Consultative and Financial Adviser Forum)
- having longer Combined Consultative and Financial Adviser Forum meetings and improving meeting flow to ensure that sufficient time is afforded to discussion of items and alternative views
- increasing TPB visibility, including by:
  - ensuring that matters raised and perspectives provided are really considered
  - further noting what the Board is doing and considering
  - being more transparent about meetings with other stakeholders and representations and/or submissions made to the TPB by other regulators
  - using social media better to help raise community awareness of the TPB.

## Regulator Performance Framework

The TPB has developed a range of measures and metrics in order to self-assess our performance against the six key performance indicators (KPIs) of the Regulator Performance Framework (as outlined in Part 2 of this annual report).

The 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 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, and published them on the TPB website. The measures have been externally validated through the TPB's Combined Consultative and Financial Adviser Forum, composed of representatives from relevant stakeholder professional associations.

Table 10 demonstrates how the strategic goals in the corporate plan are mapped to the Regulator Performance Framework KPIs.

**Table 10:** TPB objectives and Regulator Performance Framework key performance indicators

Strategic objectives 2019–20	KPI 1	KPI 2	KPI 3	KPI 4	KPI 5	KPI 6
Protect consumers of tax practitioner services		✓	✓	✓		
Enhance the integrity of the registered tax practitioner profession	✓	✓	✓	✓		
Strengthen the TPB as an efficient and effective regulator	✓				✓	✓

KPI = key performance indicator

Overall, we self-assessed our performance against the KPIs as 'very good' for 2018–19. In particular, we rated our performance as very good in relation to our communication with regulated entities (KPI 2), and our open and transparent dealings with regulated entities (KPI 5).

The 2018–19 draft report against the framework was presented to the Combined Consultative and Financial Adviser Forum in November 2019 for its review and comment. No comments were received by the due date and the report was finalised.

The final report of the annual self-assessment is published on the TPB website.

## Information requests

The TPB responded to two ministerial requests for information in 2019–20, involving general information on the TPB complaint-handling process and on the role of the TPB, including its compliance approach. The TPB also responded to two ministerial requests directly with the constituents, providing general information on the TPB’s registration process.

The TPB received four requests for disclosures of information from external enforcement agencies in 2019–20. We responded to all four of the requests and voluntarily provided disclosures to such agencies in another two instances, in accordance with section 70-40(4) of the TASA.

The TPB also received 31 requests for documents under the *Freedom of Information Act 1982* in 2019–20. The most common type of information requested related to professional indemnity insurance details and reasons for Board sanctions. In total, 33 freedom of information matters were finalised during the year (two relating to the previous period), with the following outcomes:

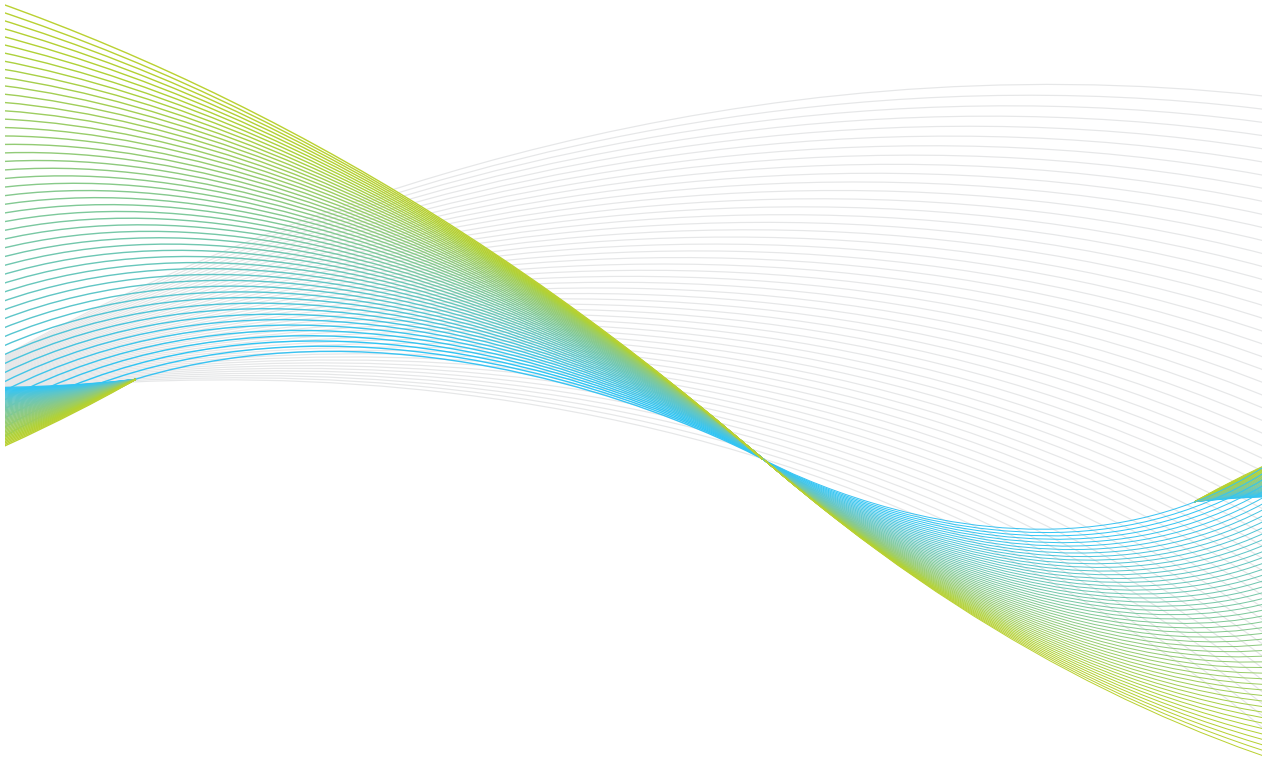
- the TPB granted access in full in response to seven requests
- the TPB granted access in part in response to 13 requests
- the TPB refused access in full in response to two requests
- 11 requests were withdrawn.

All freedom of information matters are handled in accordance with the Australian Government Information Publication Scheme requirements, as described on the TPB website at [www.tpb.gov.au/information-publication-scheme](http://www.tpb.gov.au/information-publication-scheme).



04

**FINANCIAL OPERATIONS**



## 04 FINANCIAL OPERATIONS

In accordance with the *Tax Agent Services Act 2009* and *Tax Agent Services Regulations 2009*, the Commissioner of Taxation provides the Board with operational and administrative assistance in the form of a Secretary, Australian Taxation Office (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.

### Summary of expenditure

In 2019–20, the ATO allocated an operating budget of \$20,622,000 to the TPB for its direct costs and a capital budget of \$1,416,000.

Table 11 provides a summary of the TPB's expenditure for 2019–20.

**Table 11:** Actual expenses, 2018–19 and 2019–20

Type of expenditure	2018–19	2019–20
<b>Departmental operating staff (FTE) and expenditure</b>		
Number of staff (FTE) at 30 June	122.2	133.6
Staff and salaries	\$14,089,685	\$14,965,448
Supplier	\$5,048,691	\$5,150,137
<b>Total direct expenditure<sup>1</sup></b>	<b>\$19,138,376</b>	<b>\$20,115,718</b>
<b>Capital expenditure</b>		
IT systems	\$1,590,555	\$307,031
<b>Total capital expenditure</b>	<b>\$1,590,555</b>	<b>\$307,031</b>

FTE = full-time equivalent

1. These figures include direct costs, and do not include corporate support or infrastructure overhead costs. Slight inconsistencies in totals are due to rounding.

The supplier costs outlined in Table 11 included the following major expenditure:

- \$3,069,364 for maintaining the TPB's business systems and IT infrastructure, along with the hosting and maintenance of the TPB's website – technology costs include payments to contractors and IT service and software providers

- \$730,330 for litigation and external legal advice – the increase in litigation costs in 2019–20 reflected the increased focus on enforcement activities, including activities related to the Black Economy
- \$468,213 for labour hire to assist with the TPB’s enquiry management and processing of registrations, renewals and annual declarations
- \$344,875 for remuneration of Board members in accordance with rates determined by the Remuneration Tribunal
- \$327,848 for travel and accommodation costs associated with the running of the TPB – interstate travel is often necessary for Board members and staff to carry out their responsibilities, including investigations and stakeholder engagement
- \$51,585 for communications, including outreach events held to promote the TPB, advertising campaigns, printing and postage of correspondence to tax practitioners, and ad hoc marketing costs
- \$52,089 for staff learning and development
- \$105,832 for other operating expenses.

Capital expenditure of \$307,031 was incurred in the course of improving and enhancing the TPB’s 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:

- \$49,410 for staff salaries
- \$114,120 for the engagement of IT contractors
- \$6,820 for the purchase of IT services and software
- \$136,681 for the purchase of desktop computers and multifunction devices.

Table 12 shows the TPB’s direct expenditure broken down by cost centre.

**Table 12:** Direct expenditure by cost centre, 2019–20

<b>Cost centre</b>	<b>Salary costs \$</b>	<b>Supplier costs \$</b>	<b>Total \$</b>
Board and Members	155,781	447,826	<b>603,607</b>
Secretary CEO	428,979	87,577	<b>516,556</b>
Client Services	2,909,960	451,505	<b>3,361,464</b>
Investigation and Enforcement	6,367,275	429,021	<b>6,796,296</b>
Legal Unit	1,423,885	505,888	<b>1,929,773</b>
Technology	1,430,503	3,030,696	<b>4,461,199</b>
Policy and Legislation	691,297	26,440	<b>717,736</b>
Corporate Services	1,557,770	171,184	<b>1,728,954</b>
<b>Total</b>	<b>14,965,448</b>	<b>5,150,137</b>	<b>20,115,585</b>

**Note:** Slight inconsistencies in totals are due to rounding.

## Procurement initiatives to support small business

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 from the Tax Practitioners Board Overview page of the TPB website.

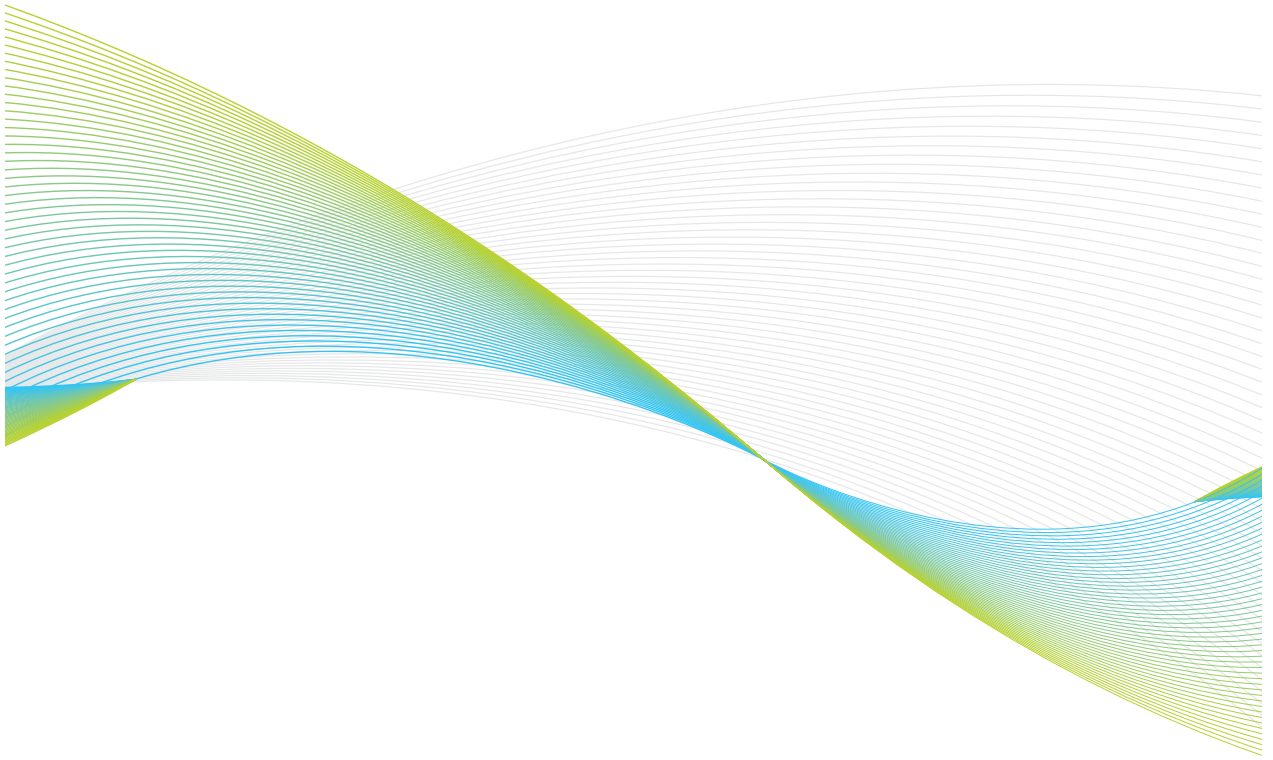
In 2019–20, the TPB received application fee payments from tax practitioners of \$13,194,187, as shown in Table 13.

**Table 13:** Revenue received, 2018–19 and 2019–20

Source	2018–19 \$	2019–20 \$
Practitioner fee revenue	12,703,343	13,194,187

05

**APPENDIXES**



## 05 APPENDIXES

### APPENDIX A

## Recognised professional associations at 30 June 2020

<b>Association</b>	<b>Type of recognition</b>	<b>Date of accreditation</b>
Association of Accounting Technicians (Australia) Limited	BAS agent association	5 May 2010
Association of Chartered Certified Accountants – Australia and New Zealand	Tax 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	21 March 2012
	Tax (financial) adviser association	26 August 2015
Financial Services Institute of Australasia	Tax (financial) adviser association	12 November 2019
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	5 May 2010
	Tax (financial) adviser association	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

<b>Association</b>	<b>Type of recognition</b>	<b>Date of accreditation</b>
Royal Institution of Chartered Surveyors	Tax agent association	30 August 2010
Self Managed Super Fund Association	Tax agent association	10 September 2010
	Tax (financial) adviser association	5 February 2015
South African Institute of Chartered Accountants	Tax agent association	13 December 2016
	BAS agent association	
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 B

# Guidance papers released in 2019–20

<b>Guidance paper</b>	<b>Details</b>
TPB discussion paper TPB(DP) D1/2020 <i>Continuing professional education requirements for tax practitioners under the Tax Agent Services Act 2009</i>	This discussion paper was issued on 19 February 2020 and is based on the <i>Tax Agent Services Act 2009</i> as at 15 March 2017. Comments on the discussion paper were invited for a period of 28 days and closed on 18 March 2020. The review of the TPB's continuing professional education requirements is ongoing.
TPB practice note TPB(PN) 3/2019 <i>Letters of engagement</i>	The TPB originally released this document as a draft practice note in the form of an exposure draft on 10 May 2019. The closing date for the submissions was 7 June 2019 and the note was released on 18 July.  The TPB considered the comments and submissions received. This practice note replaces TPB(l) 01/2011: <i>Letters of engagement</i> .

## APPENDIX C

# Administrative review litigation finalised 2019–20

Jurisdiction	Total finalised matters	Matters resolved without proceeding to a substantive hearing <sup>1</sup>	Matters resulting in a published decision	Published decisions resulting in a favourable TPB outcome
Administrative Appeals Tribunal	48	42	6	5
Federal Court (appeals against Administrative Appeals Tribunal decisions)	1	1	–	–
Federal Court (judicial review)	2	–	2	1
Full Federal Court	1	–	1	1
High Court	1	–	1	1

1. Includes matters resolved by agreement, dismissed by the Administrative Appeals Tribunal or court or withdrawn by the applicant.

# APPENDIX D

## Cases reviewed under the *Tax Agent Services Act 2009* in 2019–20

<b>Classification of closed cases by primary breach</b>	<b>Cases<sup>1</sup></b>
20-15(a) Fit and proper – good fame integrity and character	151
20-15(b)(i) An event described in section 20–45 has occurred in previous 5 years	3
20-15(b)(ii) Individual status of an undischarged bankrupt in previous 5 years	3
20-15(b)(iii) Individual has served a term of imprisonment in previous 5 years	2
20-5 Eligibility for registration	53
30-10(1) Code – act honestly with integrity	362
30-10(2) Code – comply with taxation laws in conduct of personal affairs	178
30-10(3) Code – account for money or other property held on trust	65
30-10(4) Code – act lawfully in best interests of client	83
30-10(5) Code – arrangements for the management of conflict of interest	28
30-10(6) Code – must not disclose information relating to client affairs without permission	8
30-10(7) Code – tax agent service is provided competently	260
30-10(8) Code – maintain knowledge and skills	725
30-10(9) Code – reasonable care to ascertain a client’s state of affairs	24
30-10(10) Code – reasonable care to apply tax laws correctly	11
30-10(11) Code – must not knowingly obstruct proper administration of taxation laws	18
30-10(12) Code – advise client of client’s rights and obligations	0
30-10(13) Code – maintain professional indemnity insurance	1
30-10(14) Code – respond to requests and directions from Board	2,922
50-5 Civil Penalty – providing tax agent services if unregistered	124
50-10 Civil Penalty – advertising tax agent services if unregistered	50
50-15 Civil Penalty – rthat you are a tax/BAS agent or tax (financial) adviser if unregistered	17
50-20 Civil Penalty – making false or misleading statements	4
50-25 Civil Penalty – employing or using the services of deregistered entities	0
50-30 Civil Penalty – signing of declarations etc.	3
Non-TPB-related referral	23
No breach entered	97
<b>Total</b>	<b>5,215</b>

1. There may be more than one breach per closed case.

## List of abbreviations

<b>AAT</b>	Administrative Appeals Tribunal
<b>APS</b>	Australian Public Service
<b>ATO</b>	Australian Taxation Office
<b>BAS</b>	business activity statement
<b>CPE</b>	continuing professional education
<b>FASEA</b>	Financial Advisers Standards and Ethics Authority
<b>IAS</b>	instalment activity statement
<b>JCP</b>	Joint Compliance Program
<b>KPIs</b>	key performance indicators
<b>MOU</b>	memorandum of understanding
<b>PGPA Act</b>	<i>Public Governance, Performance, and Accountability Act 2013</i>
<b>PGPA Rule</b>	<i>Public Governance, Performance and Accountability Rule 2014</i>
<b>TASA</b>	<i>Tax Agent Services Act 2009</i>
<b>TASR</b>	Tax Agent Services Regulations 2009
<b>TFN</b>	tax file number
<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*.

PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>17AD(g)</b>	<b>Letter of transmittal</b>			
17AI		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.	Mandatory	ATO annual report
<b>17AD(h)</b>	<b>Aids to access</b>			
17AJ(a)		Table of contents.	Mandatory	iv
17AJ(b)		Alphabetical index.	Mandatory	76
17AJ(c)		Glossary of abbreviations and acronyms.	Mandatory	64
17AJ(d)		List of requirements.	Mandatory	65–74
17AJ(e)		Details of contact officer.	Mandatory	ii
17AJ(f)		Entity's website address.	Mandatory	ii
17AJ(g)		Electronic address of report.	Mandatory	ii
<b>17AD(a)</b>	<b>Review by accountable authority</b>			
17AD(a)		A review by the accountable authority of the entity.	Mandatory	2–4
<b>17AD(b)</b>	<b>Overview of the entity</b>			
17AE(1)(a)(i)		A description of the role and functions of the entity.	Mandatory	6–8
17AE(1)(a)(ii)		A description of the organisational structure of the entity.	Mandatory	14
17AE(1)(a)(iii)		A description of the outcomes and programmes administered by the entity.	Mandatory	Not applicable

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>	<b>Page</b>
17AE(1)(a)(iv)		A description of the purposes of the entity as included in corporate plan.	Mandatory	26
17AE(1)(aa)(i)		Name of the accountable authority or each member of the accountable authority	Mandatory	ATO annual report
17AE(1)(aa)(ii)		Position title of the accountable authority or each member of the accountable authority	Mandatory	26
17AE(1)(aa)(iii)		Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	ATO annual report
17AE(1)(b)		An outline of the structure of the portfolio of the entity.	Portfolio departments – mandatory	Not required.
17AE(2)		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.	If applicable, Mandatory	Not required.
<b>17AD(c)</b>	<b>Report on the Performance of the entity</b>			
	<b>Annual performance statements</b>			
17AD(c)(i); 16F		Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	26–53
<b>17AD(c)(ii)</b>	<b>Report on Financial Performance</b>			
17AF(1)(a)		A discussion and analysis of the entity's financial performance.	Mandatory	56–58
17AF(1)(b)		A table summarising the total resources and total payments of the entity.	Mandatory	ATO annual report

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>	<b>Page</b>
17AF(2)		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.	If applicable, Mandatory	Not applicable
<b>17AD(d)</b>	<b>Management and Accountability</b>			
	<b>Corporate Governance</b>			
17AG(2)(a)		Information on compliance with section 10 (fraud systems)	Mandatory	ATO annual report
17AG(2)(b)(i)		A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	ATO annual report
17AG(2)(b)(ii)		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.	Mandatory	ATO annual report
17AG(2)(b)(iii)		A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	ATO annual report
17AG(2)(c)		An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	ATO annual report

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>	<b>Page</b>
17AG(2)(d) – (e)		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.	If applicable, Mandatory	Not applicable
<b>Audit Committee</b>				
17AG(2A)(a)		A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory	ATO annual report
17AG(2A)(b)		The name of each member of the entity's audit committee.	Mandatory	ATO annual report
17AG(2A)(c)		The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory	ATO annual report
17AG(2A)(d)		Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory	ATO annual report
17AG(2A)(e)		The remuneration of each member of the entity's audit committee.	Mandatory	ATO annual report
<b>External Scrutiny</b>				
17AG(3)		Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	2–4
17AG(3)(a)		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.	If applicable, Mandatory	Appendix C
17AG(3)(b)		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.	If applicable, Mandatory	Not applicable

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>	<b>Page</b>
17AG(3)(c)		Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory	Not applicable
<b>Management of Human Resources</b>				
17AG(4)(a)		An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	ATO annual report
17AG(4)(aa)		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	Mandatory	15–16
17AG(4)(b)		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>	Mandatory	15–16
17AG(4)(c)		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> .	Mandatory	ATO annual report
17AG(4)(c)(i)		Information on the number of SES and non SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	ATO annual report

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>	<b>Page</b>
17AG(4)(c)(ii)		The salary ranges available for APS employees by classification level.	Mandatory	ATO annual report
17AG(4)(c)(iii)		A description of non salary benefits provided to employees.	Mandatory	ATO annual report
17AG(4)(d)(i)		Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	ATO annual report
17AG(4)(d)(ii)		Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory	ATO annual report
17AG(4)(d)(iii)		Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory	ATO annual report
17AG(4)(d)(iv)		Information on aggregate amount of performance payments.	If applicable, Mandatory	ATO annual report
<b>Assets Management</b>				
17AG(5)		An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	ATO annual report
<b>Purchasing</b>				
17AG(6)		An assessment of entity performance against the Commonwealth Procurement Rules.	Mandatory	ATO annual report

PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>Consultants</b>				
17AG(7)(a)		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).	Mandatory	ATO annual report
17AG(7)(b)		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> '.	Mandatory	ATO annual report
17AG(7)(c)		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.	Mandatory	ATO annual report
17AG(7)(d)		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> '	Mandatory	ATO annual report

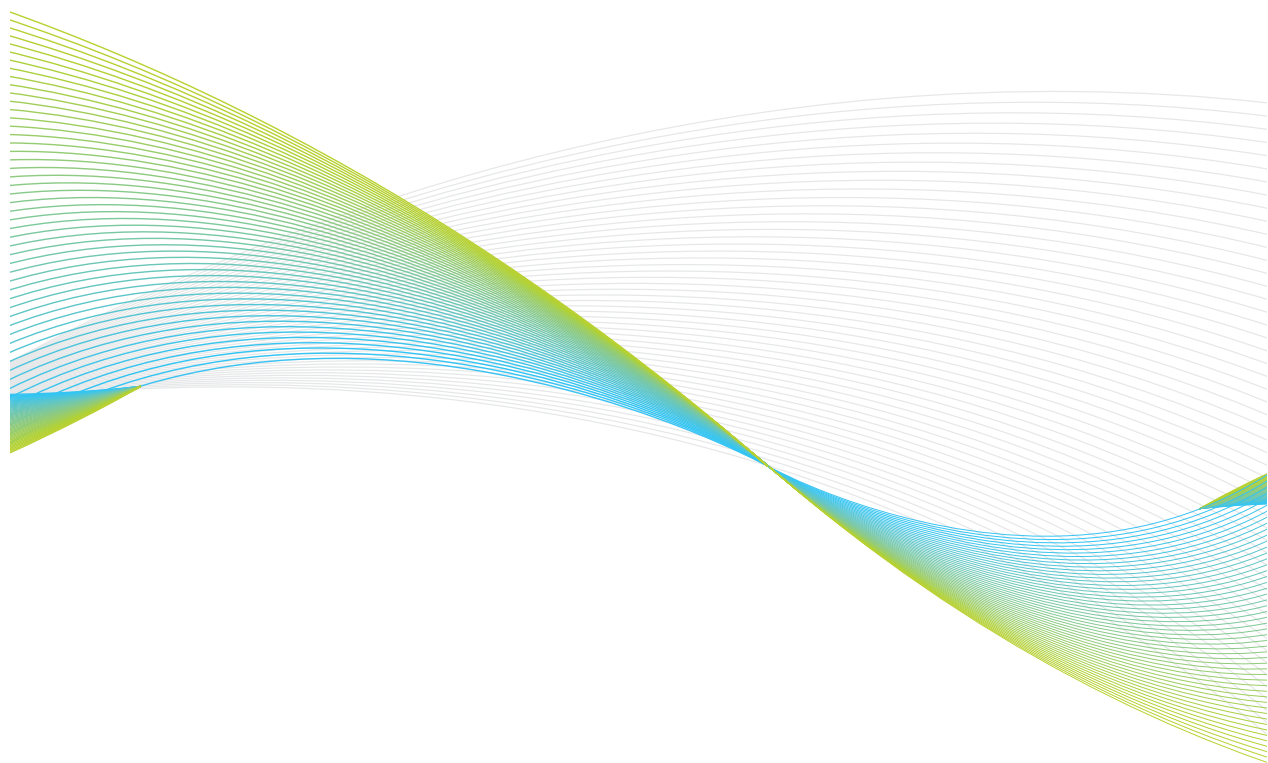
PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>Australian National Audit Office Access Clauses</b>				
17AG(8)		If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor General with access to the contractor's 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.	If applicable, Mandatory	ATO annual report
<b>Exempt contracts</b>				
17AG(9)		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.	If applicable, Mandatory	ATO annual report
<b>Small business</b>				
17AG(10)(a)		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>	Mandatory	58
17AG(10)(b)		An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	ATO annual report

PGPA Rule Reference	Part of Report	Description	Requirement	Page
17AG(10)(c)		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>	If applicable, Mandatory	ATO annual report
<b>Financial Statements</b>				
17AD(e)		Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	ATO annual report
<b>Executive Remuneration</b>				
17AD(da)		Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2 3 of the Rule.	Mandatory	ATO annual report
<b>17AD(f) Other Mandatory Information</b>				
17AH(1)(a)(i)		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>	If applicable, Mandatory	Not applicable
17AH(1)(a)(ii)		If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory	ATO annual report
17AH(1)(b)		A statement that <i>'Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].'</i>	If applicable, Mandatory	Not applicable

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>	<b>Page</b>
17AH(1)(c)		Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	ATO annual report
17AH(1)(d)		Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	53
17AH(1)(e)		Correction of material errors in previous annual report	If applicable, mandatory	Not applicable
17AH(2)		Information required by other legislation	Mandatory	
		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
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		Outcomes of self-assessment (page 12 of the Regulator Performance Framework)		52

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