

# TPB discussion paper

TPB(DP) D1/2020

## Tax Practitioners Board: Continuing professional education requirements for tax practitioners under the *Tax Agent Services Act 2009*

### **Tax Practitioners Board discussion paper**

The Tax Practitioners Board (TPB) has released this discussion paper to invite comments in relation to the TPB's review of its policy on continuing professional education (CPE)<sup>1</sup> for TPB registered tax practitioners (tax agents, BAS agents and tax (financial) advisers).

### **Comments invited**

The TPB invites public comment on the discussion paper, which contains a number of consultation points in relation to core elements of the TPB's CPE policies. The comment period is open for 28 days, with the closing date for submissions being **18 March 2020**.

All views expressed in this discussion paper are preliminary only and are subject to ongoing consultation by the Board with relevant stakeholders. Following consideration of comments and submissions, the Board will publish an exposure draft document (which will be subject to a separate consultation process) before finalising its position.

Written submissions should be made via email at [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au) or by mail to:

**Tax Practitioners Board**  
**GPO Box 1620**  
**SYDNEY NSW 2001**

### **Disclaimer**

This document is intended as information only and does not exhaust, prescribe or limit the scope of the TPB's powers in the *Tax Agent Services Act 2009* (TASA) or the *Tax Agent Services Regulations 2009* (TASR). Principles do not constitute legal advice and are at a preliminary stage only. The TPB's conclusions and views may change as a result of comments received or as other circumstances change.

### **Document history**

This discussion paper was issued on **19 February 2020** and is based on the TASA as at 15 March 2017.

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<sup>1</sup> The TPB recognises that CPE is also commonly referred to as continuing professional development (CPD) and the TPB will continue to use the terms CPD and CPE interchangeably. The term CPE is used in this discussion paper as this is how the concept of professional development is referred to in the *Tax Agent Services Act 2009* (TASA), the *Tax Agent Services Regulations 2009* (TASR) and the Explanatory Memorandum to the *Tax Agent Services Bill 2008*.

## Consultation points – consolidated summary

This discussion paper raises a number of consultation points in considering core elements of the TPB's CPE policy requirements. A consolidated list of all these points is also provided immediately below for ease of reference.

Consultation points	
<b>Q1</b>	Do you have any comment regarding continuation of the TPB's current approach to the purpose of CPE (see paragraphs 16 and 18 in this discussion paper)? If you do not agree, please provide reasons.
<b>Q2</b>	Is the proposed minimum CPE hours requirement appropriate (40 hours per annum for all tax practitioners), or should it be changed to something else (and if so, how much and why)?
<b>Q3</b>	Do you have any comment regarding continuation of the TPB's current approach to maintaining the lower CPE requirement for certain conditional tax practitioners (see paragraphs 19 and 25 in this discussion paper)?
<b>Q4</b>	Should the TPB incorporate any specific comment or requirement in relation to subject areas/categories – in particular, should the TPB: <ol style="list-style-type: none"> <li>i. recommend areas/types to be completed by tax practitioners (without being prescriptive as to minimum hours in specific subject areas), or</li> <li>ii. mandate a minimum number of hours in CPE subject areas/categories similar to FASEA's approach,<sup>2</sup> or</li> <li>iii. make no further changes / comment (do neither of the above)?</li> </ol>
<b>Q5</b>	Do you have any suggestions about how the TPB should implement any changes to its CPE requirements in relation to the minimum number of hours and/or subject areas required, noting that the TPB would allow for sufficient lead-in time for any changes?  For example, should the TPB employ a calendar-year model starting from 1 January, or commence application of any changes from a practitioner's next registration renewal?
<b>Q6</b>	Should the TPB's requirements be reduced for tax practitioners who work part-time? If so, on what basis and to what extent should the TPB's requirements be reduced?

<sup>2</sup> FASEA requires financial advisers to complete 40 hours of CPD each year (of which 70% must be approved by their licensee). The minimum hours for CPD across the mandatory categories are:

- Technical – 5 hours
- Client Care and Practice – 5 hours
- Regulatory Compliance and Consumer Protection – 5 hours
- Professionalism and Ethics – 9 hours

The balance up to 40 hours must consist of qualifying CPD (from these categories or other selected by the adviser or licensee).

Consultation points	
<b>Q7</b>	Do you have any feedback in relation to the TPB's proposed view regarding CPE activities (see paragraphs 26 to 28, and paragraphs 31 to 33 in this discussion paper)?
<b>Q8</b>	Do you agree with the TPB maintaining the 25% reading allowance (see paragraph 21 in this discussion paper)?
<b>Q9</b>	Do you have any suggestions on how tax practitioners should be required to demonstrate that the CPE completed reflects their service offerings (for example, what evidence should be required, and how frequently)?  Should the TPB require CPE logs to contain sufficient detail to explain how a tax practitioner's professional or technical reading is relevant to the tax services provided?
<b>Q10</b>	Do you have any feedback in relation to the TPB's proposed approach to recognising CPD/CPE undertaken to satisfy requirements of other bodies, including TPB Recognised professional associations and FASEA (see paragraphs 34 to 37, and paragraphs 40 to 41 in this discussion paper)?
<b>Q11</b>	Do you have any comment regarding continuation of the TPB's current approach to approval of CPE activities/providers (see paragraph 42 in this discussion paper)?
<b>Q12</b>	What evidence/level of detail should the TPB require from tax practitioners to assure compliance with the TPB's CPE requirements, and how and when should tax practitioners be required to provide evidence about their CPE?  For example, should the TPB continue to be pragmatic and apply a risk-based compliance approach, or require practitioners to provide detail/evidence annually or upon renewal?
<b>Q13</b>	Do you agree with the TPB's proposal in relation to record keeping requirements (see paragraphs 49 to 50 in this discussion paper)?
<b>Q14</b>	Do you have any comment regarding the TPB's approach to extenuating circumstances (see paragraph 53 in this discussion paper)?

# Discussion paper – Review of Tax Practitioners Board CPE requirements

## Purpose of this document

1. The purpose of this document is to seek wider feedback to assist the Tax Practitioners Board's (TPB) review of its current policy on continuing professional education (CPE) for tax practitioners (TPB registered tax agents, BAS agents and tax (financial) advisers).
2. This review has been prompted for a number of reasons, including:
  - the TPB's current CPE policy requirements, contained in two explanatory papers (EPs), were set in 2012 for [tax and BAS agents](#) and in 2014 for [tax \(financial\) advisers](#)
  - the Financial Adviser Standards and Ethics Authority (FASEA) finalised a [legislative instrument](#) on CPD for financial advisers (published on 21 December 2018)<sup>3</sup>
  - the TPB's CPE review activity has provided further clarity in relation to how the TPB's CPE requirements are being complied with by tax practitioners.
3. In this discussion paper, you will find the following information:
  - a brief outline of the legislative and policy framework
  - a reference to core elements of the TPB's CPE policies, noting a brief summary of:
    - the current TPB CPE policy position
    - views noted in initial feedback that the TPB has received
    - the TPB's proposed view on CPE requirements regarding these core elements
  - specific consultation points.
4. The TPB also welcomes feedback on any additional issues that are not set out in the consultation points, as well as any practical examples of situations that are encountered on a day to day basis in relation to a registered tax practitioner's business (that have relevance to the application of the TPB's CPE requirements).
5. Following consideration of stakeholder feedback the TPB proposes to publish exposure draft documents on the TPB's CPE requirements, which will be subject to a separate consultation period, before finalising its position.

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<sup>3</sup> See the TPB website for a brief [summary comparison](#) of key components of FASEA CPD and TPB CPE requirements.

## Legislative framework

6. The Tax Practitioners Board (TPB) is an independent statutory body that administers the *Tax Agent Services Act 2009* (TASA) and Tax Agent Services Regulations 2009 and is responsible for registering and regulating entities providing tax agent services / BAS services / tax (financial) advice services in Australia.

7. Section 2-5 of the TASA states that:

*'The object of this Act is to ensure that \*tax agent services are provided to the public in accordance with appropriate standards of professional and ethical conduct. ...'*<sup>4</sup>

8. Subdivision 20-A of the TASA outlines eligibility requirements for registration as an individual tax agent / BAS agent / tax (financial) adviser. Relevantly, paragraph 20-5(1)(d) of the TASA states that:

*'(d) In the case of a renewal of registration—the individual has completed continuing professional education that meets the Board's requirements.'*

9. Section 30-10 of the TASA, containing the Code of Professional Conduct (Code), regulates personal and professional conduct of registered tax practitioners. It relevantly provides:

*'(8) You must maintain knowledge and skills relevant to the \*tax agent services that you provide ...*

*(10) You must take reasonable care to ensure that \*taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client ...*

*(12) You must advise your client of the client's rights and obligations under the \*taxation laws that are materially related to the \*tax agent services you provide.'*

10. Paragraph 3.45 of the Explanatory Memorandum to the *Tax Agent Services Bill 2008* relevantly states that:

*'... Keeping up-to-date with developments in the relevant taxation laws and tax administration may require agents to undergo a certain minimum number of hours of tax related continuing professional education per year as determined by the Board.'*

11. Further, the [Explanatory Memorandum to the Tax Laws Amendment \(2013 Measures No.3\) Bill 2013](#) provides that the amendments make it a registration requirement for individuals seeking to renew their registration to have met the TPB's CPE requirements, to ensure that registered individuals maintain their skills and knowledge for the benefit of their clients.<sup>5</sup>

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<sup>4</sup> Use of a "\*" in the TASA indicates that the term is defined in dictionary (Division 90) of the TASA. The definition of a tax agent service includes a BAS service and a tax (financial) advice service.

<sup>5</sup> Paragraph 3.116 of the Explanatory Memorandum to the *Tax Laws Amendment (2013 Measures No.3) Bill 2013*.

## Policy Framework

12. The completion of relevant CPE assists registered tax practitioners (tax agents, BAS agents and (financial) advisers) to ensure that their knowledge and skills are maintained for the benefit of their clients and the broader community.

13. The TPB has published the following Explanatory papers (EPs) which set out these requirements and provide additional guidance to registered tax practitioners on meeting their obligations under the TASA.

- [TPB\(EP\) 04/2012 Continuing professional education policy requirements for registered tax and BAS agents](#)
- [TPB\(EP\) 06/2014 Continuing professional education policy requirements for registered tax \(financial\) advisers](#)

14. In particular, these EPs include information on the following:

- principles underpinning the TPB's CPE requirements, noting what these mean for practitioners and for consumers
- elements and associated examples in relation to elements in the TPB's CPE policy requirements, including:
  - minimum CPE hour requirements (including conditional agents / advisers)
  - what is relevant CPE
  - CPE activities
  - recognition of other CPE
  - recording of CPE activities
  - extenuating circumstances
  - a brief reference to compliance with the Code (noting that further information is on the website).

15. There are several elements in the TPB's CPE policy requirements, and each element is dealt with further below.

# Core elements of the TPB's CPE requirements

## Purpose of CPE

### Current position

16. The current policy provides that CPE is:

- the process of maintaining and improving a professional's knowledge and skills
- imperative in assisting tax practitioners' knowledge and skills (relevant to the services they provide) to adapt and improve as the law, society and their individual practice changes
- a means by which tax practitioners maintain and build upon their primary qualifications, used to gain initial registration with the TPB
- an eligibility requirement for all individual tax practitioners for renewal of registration.

### Views noted in initial feedback

17. No specific feedback has been received regarding the TPB's view on the purpose of CPE.

### TPB proposed view

18. The TPB proposes no change to the stated purpose, noting that:

- the current policy language is considered sufficiently broad and reflects the fundamental principles of CPE, which are widely acknowledged
- the TPB approach is generally consistent with FASEA and Recognised professional associations.

### Consultation point

**Q1**

Do you have any comment regarding continuation of the TPB's current approach to the purpose of CPE (see paragraphs 16 and 18 in this discussion paper)? If you do not agree, please provide reasons.

## Hours requirement

### Current position

19. Currently, the TPB's CPE requirements in relation to the hours of CPE that must be completed by tax practitioners are as follows:

<b>Tax practitioner type</b>	<b>Minimum requirement over 3-year period <sup>6</sup></b>	<b>Minimum requirement each year</b>
Tax agents	90 hours	10 hours
BAS agents	45 hours	5 hours
Tax (financial) advisers	60 hours	7 hours
Conditional*: Quantity surveying	6 hours	2 hours
Conditional*: Fuel tax credit speciality	6 hours	2 hours
Conditional*: Other	45 hours	5 hours

\* Practitioners who only provide tax agent services in a particular or restricted area of the taxation laws.

20. Importantly, the hours described above are simply minimum hours. Registered tax practitioners are to exercise appropriate professional judgement to ensure they complete sufficient CPE to maintain their knowledge and skills in order to provide competent service to clients. This may require more than the minimum hour requirements noted above, including during periods of relevant legislative change or where practice changes occur.

21. In relation to technical or professional reading, the TPB's current policy provides that not more than 25% of CPE over a tax practitioner's CPE period should be completed through relevant technical or professional reading.

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<sup>6</sup> The TPB's CPE period aligns with subsection 20-25(4) of the TASA which currently provides that an entity is registered for a period of at least 3 years.

## Views noted in initial feedback

22. The TPB has received a range of views in feedback received on the current requirements for minimum hours of CPE to be completed by tax practitioners, including the following:

- the requirements for tax (financial) advisers should more closely align with FASEA requirements
- the TPB should adopt a position that compliance with FASEA's CPD requirements automatically satisfies the TPB's CPE requirements for tax (financial) advisers
- there should be consistency across all registered tax practitioner populations (tax agents, BAS agents, tax (financial) advisers) in relation to the minimum hours of CPE required by the TPB
- further consideration should be undertaken as to whether the current (minimum) CPE hour requirements for conditional tax practitioners continues to be appropriate
- the minimum hours of CPE required for BAS agents, and for quantity surveyors (conditional tax agents), should be increased.

## TPB proposed view

23. To facilitate improved guidance and professionalism, and simplify regulatory compliance, the TPB is considering an increase to the minimum number of hours required for all tax practitioners to 40 hours per year (excluding conditional agents – see below), in conjunction with a staged implementation approach.

24. In particular, it is noted that:

- businesses increasingly operate in an environment of continuous change<sup>7</sup>
- taxation laws are complex and are always changing
- the current minimum requirements have not changed since the TPB's CPE policy was established
- some TPB recognised associations require relevant members to complete more hours than the current TPB CPE policy requirements (for instance, joint accounting bodies have a requirement for 120 hours over a triennium)
- the FASEA CPD policy requires 40 hours of CPD activity in each CPD year (36 hours for part-time).

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<sup>7</sup> See, for example, The Inspector-General of Taxation's [report](#) on its review into the Future of the Tax Profession (published 3 April 2019).

25. The TPB proposes to continue to allow for a lower CPE requirement for conditional agents.

### Consultation points

<b>Q2</b>	Is the proposed minimum CPE hours requirement appropriate (40 hours per annum for all tax practitioners), or should it be changed to something else (and if so, how much and why)?
<b>Q3</b>	Do you have any comment regarding continuation of the TPB's current approach to maintaining the lower CPE requirement for certain conditional tax practitioners (see paragraphs 19 and 25 in this discussion paper)?
<b>Q4</b>	Should the TPB incorporate any specific comment or requirement in relation to subject areas/categories – in particular, should the TPB: <ol style="list-style-type: none"> <li>i. recommend areas/types to be completed by tax practitioners (without being prescriptive as to minimum hours in specific subject areas), or</li> <li>ii. mandate a minimum number of hours in CPE subject areas/categories similar to FASEA's approach<sup>8</sup>, or</li> <li>iii. make no further changes/comment (do neither of the above)?</li> </ol>
<b>Q5</b>	Do you have any suggestions about how the TPB should implement any changes to its CPE requirements in relation to the minimum number of hours and/or subject areas required, noting that the TPB would allow for sufficient lead-in time for any changes?  For example, should the TPB employ a calendar-year model starting from 1 January, or commence application of any changes from a practitioner's next registration renewal?
<b>Q6</b>	Should the TPB's requirements be reduced for tax practitioners who work part-time? If so, on what basis and to what extent should the TPB's requirements be reduced?

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<sup>8</sup> FASEA requires financial advisers to complete 40 hours of CPD each year (of which 70% must be approved by their licensee). The minimum hours for CPD across the mandatory categories are:

- Technical – 5 hours
- Client Care and Practice – 5 hours
- Regulatory Compliance and Consumer Protection – 5 hours
- Professionalism and Ethics – 9 hours

The balance up to 40 hours must consist of qualifying CPD (from these categories or other selected by the adviser or licensee).

## Relevant CPE (Definition and CPE activities)

### Current position

26. Currently, the TPB's CPE requirements in relation to the definition of 'relevant CPE' and 'CPE activities' are as follows:

- CPE completed by tax practitioners should be relevant to the tax agent services / BAS services / tax (financial) advice services they provide<sup>9</sup> and the development of their relevant personal knowledge and skills.
- Tax practitioners are to exercise appropriate judgement in ensuring there is a sufficient nexus between the CPE activities completed and the tax agent services / BAS services / tax (financial) advice services they provide.
- Examples of relevant CPE activities include, but are not limited to, the following non-exhaustive list:
  - seminars, workshops, webinars, courses and lectures
  - structured conferences and discussion groups
  - tertiary courses provided by universities, registered training organisations (RTOs), other registered higher education institutions or other approved course providers (including distance learning)
  - other educational activities, provided by an appropriate organisation
  - research, writing and presentation by the tax practitioner of technical publications or structured training
  - peer review of research and writing submitted for publication or presentation in structured training
  - computer/internet-assisted courses, audio or video packages
  - attendance at structured in-house training on tax related subjects by persons/organisations with suitable qualifications and/or practical experience in the subject area covered
  - attendance at appropriate TPB and/or ATO seminars and presentations
  - relevant CPE activities provided to members and non-members by a [recognised professional association](#)
  - a unit of study or other CPE activity on the TASA, including the Code.

27. The TPB takes a pragmatic compliance approach. For instance, the TPB acknowledges that many tax practitioners are members of a recognised professional association that offer a range of relevant CPE activities, such as tax technical topics, practice management and cyber-security.

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<sup>9</sup> This directly aligns with the legislated Code of Professional Conduct (Code). In particular, sub-section 30-10(8) of the TASA (Code item 8) requires that a TPB registered practitioner must maintain knowledge and skills relevant to the tax agent services (including BAS services and tax (financial) advice services) they provide.

28. Further, while noting that compliance with FASEA's CPD requirements does not automatically equate to compliance with the TPB's CPE requirements for tax (financial) advisers, the TPB also understands a likely outcome is that tax (financial) advisers who complete CPD activities that meet the CPD requirements of FASEA and their Australian financial services licensees (where required) are also likely to meet the TPB's CPE requirements. It is expected that a tax (financial) adviser will exercise appropriate judgement under the current self-assessment arrangements to ensure that CPD/CPE activities counted are relevant to the tax (financial) advice services they provide.<sup>10</sup>

### Views noted in initial feedback

29. The TPB has received feedback that the TPB should continue to be pragmatic and non-prescriptive in relation to the types of activities that are required to meet the TPB's CPE requirements. However, it has also been commented that tax practitioners should be required to demonstrate how the CPE activities they have undertaken relate to their service offerings.

30. The TPB has received a suggestion that the TPB should more closely align with FASEA's CPD requirements or adopt a position that compliance with FASEA's CPD requirements automatically satisfies the TPB's CPE requirements.

### TPB proposed view

31. The TPB proposes no change to its approach, noting that CPE needs to be relevant to the tax agent services / BAS services / tax (financial) advice services provided by the registered tax practitioner. It is also reiterated that the current example listing of CPE activities is non-exhaustive.

32. However, while the TPB proposes to continue with a non-prescriptive approach and recognises that practitioners are in the best position to exercise professional judgement on what they require, the TPB is considering the following proposals:

- making recommendations as to particular areas/types of CPE to be completed by tax practitioners (without being prescriptive as to minimum hours in specific subject areas)
- further clarifying that a tax practitioner should be able to demonstrate how the CPE activities they have completed are relevant to the tax agent services / BAS services / tax (financial) advice services they provide (reflects their service offerings), including sufficient detail in CPE logs, and also noting that a tax (financial) adviser who meets FASEA's CPD requirements is also likely to meet the TPB's CPE requirements.

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<sup>10</sup> Similarly, accountants who are also licensed to provide financial advice will probably meet the TPB's CPE requirements if they manage to satisfy FASEA's CPD mandate.

33. Further, the TPB proposes that completion of additional study to satisfy the new FASEA education standard (so that a currently tax (financial) adviser can continue to operate as a financial adviser) can count toward the TPB's CPE requirements, if it is relevant to the tax (financial) advice services being provided.

### Consultation points

<b>Q7</b>	Do you have any feedback in relation to the TPB's proposed view regarding CPE activities (see paragraphs 26 to 28, and paragraphs 31 to 33 in this discussion paper)?
<b>Q8</b>	Do you agree with the TPB maintaining the 25% reading allowance (see also paragraph 21 in this discussion paper)?
<b>Q9</b>	<p>Do you have any suggestions on how tax practitioners should be required to demonstrate that the CPE completed reflects their service offerings (for example, what evidence should be required, and how frequently)?</p> <p>Should the TPB require CPE logs to contain sufficient detail to explain how a tax practitioner's professional or technical reading is relevant to the tax services provided?</p>

## Recognition of other CPE

### Current position

34. In relation to the TPB's position regarding recognition of CPE / CPD completed by tax practitioners for other purposes (for example, they are a member of a TPB Recognised professional association, or a tax (financial) adviser subject to FASEA's CPD requirements), the TPB will accept the tax practitioner's compliance with these other CPE/CPD requirements, subject to the following:

- the activities completed must be **relevant** to the tax agent services / BAS services / tax (financial) advice services provided
- the activities completed must be provided by persons or organisations with suitable qualifications and/or practical experience in the subject area.

35. The TPB acknowledges that many tax practitioners are members of a recognised professional association that set standards for conduct and regulate professional behaviour, while also noting that some associations are more developed and active in the co-regulation of their professional membership than others. The TPB also notes that associations offer a range of CPD/CPE activities.

36. By way of example, while a tax practitioner cannot count as CPE their attendance at a seminar provided by a recognised professional association in relation to its potential merger with an international accounting association, the practitioner could count training the association provided in relation to a software package that would assist them in providing tax agent services / BAS services / tax (financial) advice services to their client(s).

37. As noted in the previous section ('Relevant CPE'), the TPB understands that tax (financial) advisers who complete CPD activities that meet the CPD requirements of FASEA and their Australian financial services licensees (where required) are also likely to meet the TPB's CPE requirements. It is expected that a tax (financial) adviser will exercise appropriate judgement under the current self-assessment arrangements to ensure that CPD/CPE activities counted are relevant to the tax (financial) advice services they provide.

### View noted in initial feedback

38. The TPB has received a suggestion that the TPB should adopt a position that compliance with FASEA's CPD requirements automatically satisfies the TPB's CPE requirements.

39. It was also suggested to the TPB that the completion of a course to satisfy FASEA's minimum qualification requirements should be considered an approved CPE activity.

## TPB proposed view

40. The TPB proposes no change to the current approach in relation to counting compliance with other CPD/CPE requirements. However, the TPB does propose to further clarify that a tax (financial) adviser who meets FASEA's CPD requirements is also likely to meet the TPB's CPE requirements, and that it is expected they should be able to demonstrate how the CPE activities completed are relevant to the tax agent services / BAS services / tax (financial) advice services they provide (reflects their service offerings).
41. The TPB also proposes that completion of a course by a tax (financial) adviser to satisfy FASEA requirements, in order to continue to operate as a financial adviser, can count toward the TPB's CPE requirements (if it is relevant to the tax (financial) advice service being provided). For clarity, courses completed for the purpose of initial registration with the TPB cannot be counted toward the TPB's CPE requirements, consistent with the TPB's current approach for all tax practitioners.

## Consultation point

### Q10

Do you have any feedback in relation to the TPB's proposed approach to recognising CPD/CPE undertaken to satisfy requirements of other bodies, including TPB Recognised professional associations and FASEA (see paragraphs 34 to 37, and paragraphs 40 to 41 in this discussion paper)?

## Approval of CPE activities / providers

### Current position

42. The current policy provides that:

- The TPB does not approve CPE activities or providers, nor does it require any form of approval prior to completion of an activity.
- The TPB does not intend to be prescriptive and tax practitioners should exercise appropriate judgement when assessing relevant providers and activities.
- CPE activities should be provided by persons or organisations with suitable qualifications and/or practical experience in the relevant subject area.
- The completion of a primary course which has been used for the purpose of gaining initial registration as a tax practitioner, will not generally constitute a CPE activity.

### Views noted in initial feedback

43. Most feedback received has been supportive of the TPB's current position.

### TPB proposed view

44. The TPB proposes no change to the current approach.

### Consultation point

**Q11**

Do you have any comment regarding continuation of the TPB's current approach to approval of CPE activities/providers (see paragraph 42 in this discussion paper)?

## Record keeping requirements

### Current position

45. The current policy provides that records should be kept for a period of 6 years, unless the tax practitioner is a member of a Recognised professional association in which case records should be kept in accordance with the requirements of the relevant association (if the association's requirements meet or exceed the TPB's requirements).
46. The TPB does not mandate a particular CPE log, but has provided a CPE log on its website to provide guidance.
47. The TPB employs a pragmatic risk-based compliance approach regarding the provision of evidence by tax practitioners for the purpose of assuring compliance with the TPB's CPE requirements.

### Views noted in initial feedback

48. Most feedback received has noted the TPB's current position and proposed view.

### TPB proposed view

49. The TPB proposes updating CPE policy requirements to align with FASEA's legislated requirement that records must be kept for 7 years (instead of the current 6-year requirement), in conjunction with an appropriate education and transitional policy, providing for streamlined regulatory compliance and avoidance of confusion.
50. The TPB proposes to continue employing a pragmatic compliance approach, and also intends to employ clearer language to note that a practitioner is required to maintain relevant contemporaneous records, evidence of completed CPE activities, and ensure there is an appropriate nexus with details of CPE activities recorded and the completion of CPE relevant to the tax agent services (including BAS services and tax (financial) advice services) provided.

### Consultation points

<b>Q12</b>	<p>What evidence/level of detail should the TPB require from tax practitioners to assure compliance with the TPB's CPE requirements, and how and when should tax practitioners be required to provide evidence about their CPE?</p> <p>For example, should the TPB continue to be pragmatic and apply a risk-based compliance approach, or require practitioners to provide detail/evidence annually or upon renewal?</p>
<b>Q13</b>	<p>Do you agree with the TPB's proposal in relation to record keeping requirements (see paragraphs 49 to 50 in this discussion paper)?</p>

## Extenuating circumstances

### Current position

51. The TPB currently provides that exceptions to its minimum CPE requirements may be considered on a case-by-case basis in extenuating circumstances.

### Views noted in initial feedback

52. No specific feedback has been received regarding the TPB's current position in relation to how the TPB's CPE requirements are to be applied when tax practitioners are subject to extenuating circumstances. However, there was a suggestion that the TPB could provide further detail in relation to application of its approach.

### TPB proposed view

53. The TPB proposes continuing to provide for consideration of extenuating circumstances on a case-by-case basis and not being prescriptive as to what extenuating circumstances may entail. However, the TPB intends to provide further information about principles applied, having regard to any relevant matters that arise in due course.

### Consultation point

**Q14**

Do you have any comment regarding the TPB's approach to extenuating circumstances (see paragraph 53 in this discussion paper)?