14 August 2026

The Treasury
Langton Crescent
PARKES ACT 2600

By email: taxadministrationconsultation@treasury.gov.au

Dear Treasurer,

Tax Practitioners Board sanctions reforms

The Tax Institute welcomes the opportunity to make a submission to the Treasury in relation to the consultation on:

- the draft regulations and explanatory statement supporting the publication of sanctions on the Tax Practitioners Board (**TPB**) public register; and
- the draft determination and explanatory statement requiring tax practitioners to notify clients of specified conduct matters.

We support the Government's objective of strengthening confidence in the tax profession, improving consumer protection and ensuring that taxpayers have access to relevant information when selecting and engaging tax practitioners. We also support the objective of providing the TPB with an appropriately graduated sanctions framework that promotes compliance with professional standards.

Transparency measures that involve public disclosure of sanctions and mandatory client notifications must be carefully calibrated. Such measures can have significant and lasting reputational consequences for practitioners, and may affect their ability to continue operating long after any formal sanction has ceased.

Consistent with our concerns previously raised in our 27 April 2026 submission (**April 2026 submission**) on the exposure draft TPB sanctions legislation, we consider that procedural fairness, proportionality, and the availability of appropriate safeguards remain crucial considerations in the design of these reforms. Public disclosure can be an important regulatory tool, but it should not operate in a manner that effectively imposes additional penalties beyond those intended by Parliament.

We are also concerned that the publication regime and client notification requirements may, in some circumstances, result in adverse reputational consequences before review rights are exhausted or before a matter has been finally determined.

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Consultation timeframe

We are concerned that the consultation period for the draft regulations and draft determination is 10 business days, which does not provide stakeholders with sufficient opportunity to properly consider the proposals and develop informed responses. The exposure draft regulations and draft determination also need to be considered in conjunction with the Treasury Laws Amendment (Strengthening Accountability for Tax Adviser Misconduct and Other Measures) Bill 2026 **(the Bill)** currently before Parliament. The exposure draft of that Bill was itself subject to a very limited consultation period of approximately two weeks (13 to 24 April 2026).

This consultation follows immediately after Treasury's consultation on the proposed minimum tax on discretionary trusts, which closed on 31 July 2026, and coincides with consultation on the CGT and Negative Gearing Tranche 2 legislation, which opened on 4 August 2026 with submissions due by 21 August 2026. Treasury is also undertaking targeted consultation on aspects of the Tranche 2 measures and other significant reforms. Many of these consultations involve the same stakeholders, advisers and representative bodies.

In these circumstances, it is difficult for stakeholders to provide properly considered and comprehensive feedback across multiple complex consultations within such compressed and overlapping timeframes. Meaningful consultation requires sufficient time to analyse proposals, assess practical implications, engage with members and formulate recommendations.

Against this background, our submission focuses on those aspects of the draft regulations and draft determination that we consider raise the most significant policy, administrative, and procedural issues. We encourage Treasury to continue engaging with stakeholders as these reforms progress and we intend to provide further comments should additional issues emerge.

This submission should be read in conjunction with the April 2026 submission. The concerns and recommendations expressed in that submission remain relevant to the supporting regulations and determination and should be considered as part of Treasury's assessment of the reforms as a whole.

Summary of key issues and recommendations

General issues (applicable to both instruments)

- **Preliminary comments and the graduated sanctions framework**

The consultation materials provide limited guidance on how the TPB's expanded range of sanctions will operate as an escalating and proportionate compliance framework. Treasury and the TPB should provide further guidance on the intended application of these powers and the circumstances in which particular sanctions may be used.

Issues on the draft Determination

- **Interim suspensions – client notification obligations (section 45)**

Interim suspensions are intended to be precautionary measures rather than final findings of misconduct, but the client notification requirements in section 45 may amplify their practical consequences. Treasury should ensure these requirements remain proportionate and consistent with the temporary nature of interim suspensions. Our support for these requirements is conditional on the interim suspension threshold in the Bill being amended to require both a serious and an immediate risk of harm.

Issues on the draft Regulation

- **Interim suspensions – publication on the TPB Register (section 25EB)**

Publication of an interim suspension on the TPB Register may cause reputational consequences that are disproportionate to its precautionary nature. Where interim suspension information is published, the TPB should also publish the final outcome of the matter to provide a complete and balanced record. As above, our support is conditional on the interim suspension threshold in the Bill being amended accordingly.

- **Enforceable undertakings – publication on the TPB Register (section 25JD)**

An enforceable undertaking is a cooperative compliance mechanism and does not involve a formal finding of misconduct. Treasury should reconsider whether, and in what circumstances, publication of an enforceable undertaking on the Register is warranted.

- **Institution of criminal proceedings – publication of alleged conduct (section 25JA)**

The Register must publish details of conduct alleged to constitute a criminal offence once proceedings are instituted, without any TPB threshold assessment, and this remains published for as long as the proceedings continue. This information should be clearly qualified as unproven while the matter is on foot.

- **Correction and removal of information from the Register**

It is unclear how a Register entry is corrected or removed where the underlying decision is varied, overturned or set aside on review or appeal. Treasury should clarify this process and ensure publication periods are proportionate.

Our detailed comments and recommendations are contained in **Appendix A**.

The Tax Institute is the leading forum for the tax community in Australia. We are committed to shaping the future of the tax profession and the continuous improvement of the tax system for the benefit of all. In this regard, The Tax Institute seeks to influence tax and revenue policy at the highest level with a view to achieving a better Australian tax system for all.

If you would like to discuss any of the above, please contact our Tax Counsel, John Storey, at (02) 9602 2003.

Yours faithfully,

Julie Abdalla	**Tim Sandow**
Head of Tax & Legal	President

APPENDIX A

We have set out below our detailed comments and observations for your consideration.

Part A – General issues (applicable to both the draft determination and the draft regulation)

Preliminary comments and the graduated sanctions framework

The Tax Institute supports the Government's goal of increasing public trust in the tax profession and better protecting consumers by making serious disciplinary actions and conduct issues involving registered tax practitioners more transparent.

The reforms give the TPB a much wider range of enforcement options. These include infringement notices, enforceable undertakings, temporary and standard suspensions, termination of registration, and civil and criminal penalties for people who provide tax services without being registered. The Tax Institute supports these additional powers because they allow the TPB to respond more appropriately to different types of misconduct, rather than relying on a smaller set of enforcement options.

However, the consultation materials do not clearly explain how these different sanctions will work together as a graduated enforcement framework. For example, page 6 of the explanatory statement to the draft regulation notes that the TPB can impose a range of sanctions on registered practitioners, including suspension and termination of registration. However, it does not explain where lower-level measures, such as infringement notices and enforceable undertakings, fit within the overall compliance process. More guidance would help practitioners understand how the TPB intends to use its expanded powers and provide confidence that the most serious sanctions, such as suspension and termination, will be used only in cases of serious or repeated misconduct.

As outlined in our April 2026 submission, The Tax Institute supports an education-first approach to compliance. This approach encourages early engagement with practitioners, helps them understand and meet their obligations, and reserves the strongest sanctions for cases of serious misconduct. We encourage Treasury and the TPB to reflect this approach in any guidance that accompanies the new graduated sanctions framework.

Recommendations

- Treasury and the TPB should provide guidance on the intended operation of the graduated sanctions framework, including how lower-order responses such as infringement notices and enforceable undertakings are intended to interact with, and generally precede, suspension or termination of registration.
- The explanatory statements should give balanced treatment to the full range of available sanctions, rather than emphasising suspension and termination of registration, so that practitioners and the public understand how the graduated framework is intended to operate in practice.

Part B – Issues on the draft determination

Interim suspensions – client notification obligations (section 45)

We note that the explanatory statement indicates that interim suspension powers are intended to be used only in serious circumstances where urgent intervention is required to protect clients or the integrity of the tax system.

When consultation occurred on the draft legislation, The Tax Institute supported the availability of interim suspension powers in genuinely serious cases. However, we also emphasised that interim suspension is intended to be an exceptional and precautionary measure rather than a final determination of misconduct.

Section 45 of the determination treats interim suspensions differently depending on timing. Once an interim suspension has ended, item 1 of the instrument removes it from the five-year historical disclosure obligation in paragraph 45(1)(d). This is consistent with the policy that a lifted interim suspension should not follow a practitioner indefinitely, a position we support. However, while an interim suspension is current, new subparagraph 45(1)(e)(ii) and paragraph 45(2)(d) require the practitioner to notify existing clients as soon as reasonably practicable, and to notify prospective clients at the time of any enquiry. Our concern in this section is directed at that live notification obligation, which applies for the duration of the suspension, rather than the historical disclosure position.

We are concerned that the practical consequences of an interim suspension may be significantly amplified where a mandatory client notification obligation automatically follows the suspension decision. The proposed notification framework should recognise the distinction between a precautionary interim measure and a final disciplinary outcome, to avoid creating reputational consequences that exceed the intended operation of the interim suspension power itself.

The explanatory statement states at page 4:

> "These amendments ensure that prior to engaging, re-engaging or continuing to engage a tax practitioner for their services, clients have access to information that may materially influence their decision to engage or re-engage the practitioner. This is balanced against the temporary nature of interim suspensions, which are intended to allow the Board to respond quickly to potential risks while further compliance action is considered, and which should not of themselves be taken as reflecting on a tax practitioner's ongoing suitability to provide tax agent or BAS services once the suspension has ceased."

We consider there is a tension between this explanation and the practical effect of an interim suspension. Where a practitioner is subject to an interim suspension, they are generally unable to continue providing tax agent or BAS services during the suspension period. In practical terms, the practitioner may effectively be required to cease operating their practice for the duration of the suspension. In these circumstances, it is unclear how the concept of a client's decision to engage or continue engaging the practitioner remains relevant while the interim suspension is in force.

We also note that the explanatory statement refers only to a simplified description of the interim suspension power contained in paragraph 1.80 of the explanatory memorandum to the Bill. That paragraph explains that the power allows the TPB to act quickly to prevent harm while further compliance action is considered.

However, the explanatory statement does not refer to paragraph 1.81, which sets out the full test that must be met before an interim suspension can be imposed. Under that test, the TPB must have reasonable grounds to believe both that the practitioner may have committed a serious offence or contravened a civil penalty provision, and that the conduct creates a significant risk of harm to clients, the revenue, the tax system, or the integrity of the profession, such that suspension is in the public interest.

By relying only on the abbreviated description in paragraph 1.80, the explanatory statement understates the seriousness of the threshold Parliament intended for the use of interim suspensions. This contributes to the disconnect between the policy rationale for interim suspensions and the practical effect of the client notification requirements.

Recommendations

- Notification requirements arising from interim suspension decisions should be carefully limited and proportionate to the precautionary nature of those decisions.
- Treasury should clarify how the proposed client notification framework aligns with the stated policy intention that interim suspension powers are intended to be used only in serious and exceptional circumstances.
- The explanatory statement to the determination (and to the regulation, where equivalent language appears) should be amended to reflect the full threshold set out in paragraph 1.81 of the explanatory memorandum to the Bill, rather than the abbreviated formulation in paragraph 1.80, so that the policy intent underlying client notification obligations is accurately and completely described.
- Consistent with our April 2026 submission, our support for the client notification requirements applying to interim suspensions is conditional on the threshold for interim suspension in the Bill being amended to require both a serious and an immediate risk of harm.

Part C – Issues on the draft regulation

Interim suspensions – publication on the TPB Register (section 25EB)

We are concerned that publishing an interim suspension on the TPB Register may have significant reputational consequences for a practitioner and may disrupt client relationships before the underlying matter has been fully investigated or decided.

Because an interim suspension is intended to be a temporary precautionary measure rather than a final disciplinary finding, the publication framework should recognise this distinction. It should avoid creating consequences for practitioners and their clients that go beyond the intended purpose of the interim suspension power.

If the policy intention is that an interim suspension should not, by itself, affect perceptions of a practitioner's suitability once the suspension has ended, consideration should also be given to publishing the final outcome of the matter. This would provide important context where the practitioner is ultimately cleared of any concerns, where the outcome is less serious than initially anticipated, or where no further action is taken.

We note that interim suspensions are treated more favourably than standard suspensions under the proposed framework. A standard suspension remains visible on the TPB Register for five years after it ends, whereas publication of an interim suspension ceases once the suspension is lifted. We support the removal of interim suspension information once the suspension ends. However, this difference highlights the importance of publishing the final outcome of the matter. Otherwise, the interim suspension may be the only information the public ever sees, even if the final outcome does not support the original concerns.

As discussed above in relation to the client notification requirements, the explanatory statement explains interim suspension powers primarily by reference to paragraph 1.80 of the explanatory memorandum to the Bill, but does not refer to the full threshold in paragraph 1.81. Given the significant reputational consequences that may arise from publication of an interim suspension on a public register, the explanatory statement should reflect the full statutory threshold intended by Parliament.

Recommendations

- Publication of interim suspension information on the TPB Register should be limited and proportionate to the precautionary nature of interim suspension decisions.
- Where interim suspension information is published on the TPB Register, the TPB should also publish the final outcome of the relevant compliance or disciplinary process to provide a complete and transparent record of the matter.
- As noted above in relation to the determination, the explanatory statement to the regulation should reflect the full threshold set out in paragraph 1.81 of the explanatory memorandum to the Bill when explaining the rationale for publishing interim suspension information on the TPB Register.
- Consistent with our April 2026 submission, our support for the publication of interim suspension information on the TPB Register is conditional on the threshold for interim suspension in the Bill being amended to require both a serious and an immediate risk of harm.

Enforceable undertakings – publication on the TPB Register (section 25JD)

We are also concerned about the proposal to publish enforceable undertakings on the TPB Register under section 25JD.

An enforceable undertaking is a cooperative regulatory tool that allows issues to be addressed without necessarily involving an admission of wrongdoing or a formal finding of misconduct. As a result, publishing an enforceable undertaking may create a misleading impression if clients or members of the public assume that it reflects proven misconduct when that is not the case.

Without appropriate context, publication may lead people to draw conclusions that are not supported by the facts. It may also result in matters being effectively judged in the public domain even where the issue is relatively minor, has been resolved through cooperation with the TPB, or has not resulted in any formal finding of misconduct.

This concern is different from the client notification requirement in subparagraph 45(1)(d)(x) of the determination, which applies where a practitioner has been the subject of a court order for breaching an enforceable undertaking. The Tax Institute does not object to that requirement. In our view, it is appropriately limited to situations where a breach has occurred and has been formally recognised through an order. It also supports compliance with the terms of the undertaking.

For these reasons, consideration should be given to whether publication of an enforceable undertaking is necessary in the first place. An alternative approach would be to limit publication to circumstances where the undertaking has been breached or where there has been other serious non-compliance or misconduct.

Recommendations

- Treasury should reconsider whether it is necessary to publish enforceable undertakings on the TPB Register, given their cooperative nature and the fact that they do not necessarily involve an admission of wrongdoing or a finding of misconduct.
- If publication is retained, the Register should clearly state that an enforceable undertaking does not constitute a finding of misconduct.
- Consideration should be given to limiting publication to cases where an enforceable undertaking has been breached or where there has been other serious non-compliance or misconduct.

Institution of criminal proceedings – publication of alleged conduct (section 25JA)

Section 25JA requires an entity to be entered on the Register, and details of the conduct alleged to constitute the offence to be published, from the point at which a person institutes proceedings against the entity for an offence against a provision in Division 51 of the Act. This information remains on the Register for as long as the proceedings continue, regardless of the eventual outcome.

This differs materially from the approach taken elsewhere in the amendments. An interim suspension, for example, can only be imposed after the TPB itself has reached reasonable grounds for satisfaction as to both the conduct and the risk it poses, consistent with paragraph 1.81 of the explanatory memorandum to the Bill discussed above. Publication under section 25JA is not subject to any equivalent TPB assessment or threshold. The obligation arises automatically once proceedings are instituted, regardless of the strength of the allegation or the likelihood of conviction.

We recognise that section 25JA is closely modelled on the existing approach in section 25G, which applies where the TPB itself applies to the Federal Court for a civil penalty or an injunction. However, section 25JA extends this approach to criminal proceedings, which carry more serious and more publicly damaging implications for a practitioner even where no wrongdoing is ultimately established. Publishing details of the conduct alleged for the duration of what may be a lengthy prosecution risks the same reputational harm we raise above in relation to interim suspensions, without the safeguard of any TPB threshold assessment.

We note that the Register entry lapses once proceedings are dismissed, result in an acquittal, or are otherwise concluded. However, criminal proceedings can take a considerable period to resolve, during which the Register will present unproven allegations, without qualification, to any member of the public who searches for the practitioner.

Recommendations

- Information published under section 25JA should be clearly qualified as alleged and unproven for so long as the proceedings remain on foot.
- Treasury should clarify why publication under section 25JA is not subject to a TPB threshold assessment equivalent to that required for other precautionary sanctions, such as interim suspension.
- Consideration should be given to whether the level of detail required to be published, in particular details of the conduct alleged, is proportionate given that the entity will not have yet been found guilty of any offence, if at all.

Correction and removal of information from the Register

Public confidence in the TPB Register depends on the accuracy of the information published. We note that sections 25L and 25M require the Register to record that a decision is subject to review by the Administrative Review Tribunal or appeal to a court. However, it is not clear from the amendments, or from the explanatory statement, whether or how the original Register entry is corrected or removed where a review or appeal is ultimately successful. For example, where a suspension or termination is set aside, or a conviction is overturned.

This is a live concern given the range of decisions the amendments require to be published, including interim suspensions, standard suspensions and terminations, criminal convictions, and instituted criminal proceedings, several of which may later be varied, reversed, stayed, or shown to be unfounded on review or appeal.

Recommendations

- Treasury should clarify the process by which a Register entry is corrected or removed where the underlying decision is varied, overturned or set aside on review or appeal.
- The explanatory statements should confirm that a successful review or appeal results in prompt correction of the Register, not merely an additional notation that a review or appeal occurred.
- Treasury should also consider whether publication periods should be prescribed and proportionate to the seriousness of the conduct.