



15 October 2021

Retirement, Advice and Investment Division  
Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [SDBConsultation@treasury.gov.au](mailto:SDBConsultation@treasury.gov.au)

Dear Sir/Madam,

**SMSF ASSOCIATION SUBMISSION – BETTER ADVICE BILL: EXPOSURE DRAFT REGULATIONS**

The SMSF Association welcomes the opportunity to provide this submission in response to the Government’s Better Advice Bill – Exposure Draft Regulations.

The Better Advice Bill is large and proposes significant changes for the financial advice sector and associated Regulators. A two-week consultation period is very short and has not provided sufficient time to work through the Bill and address all of the issues. This is particularly so when we consider the level of detail, impacts and, in some cases, the complexity involved.

We broadly support the proposed regulations with regards to:

- Setting a criteria for when ASIC must refer disciplinary matters to the single disciplinary body.
- Prescribing which administrative sanctions made against a financial adviser must be included on the Financial Advisers Register.
- Setting a framework for the financial adviser exam to be administered by ASIC.
- Extending the deadline to complete the financial adviser exam to 30 September 2022 for financial advisers who have attempted the exam twice before 31 December 2021.
- Setting new fees for the financial adviser exam and registration from 1 January 2022.

We understand the need for the Royal Commission measures to proceed and we support them in moving forward. It is important that these measures can progress to provide certainty to all industry participants and stakeholders.

However, it is our recommendation that the measures relating to:

- The removal of tax (financial) advisers from the *Tax Agent Services Act 2009* and related regulations;
- The creation of a ‘qualified tax relevant provider’ in the *Corporations Act 2001*; and
- Relocation of the registration and oversight from the Tax Practitioners Board (“TPB”) to ASIC;

Should be removed from both the regulations and the primary legislation.



We welcome the policy intent of the TPB and tax advice measures, which are driven by the findings of the TPB review. However, now that we have had an opportunity to review the draft Regulations, we note that complexities have emerged.

Unintended consequences have now become evident for a number of industry participants which would not be in the best interests of consumers. A redrafting of the regulations will not be sufficient to address these issues and concerns. The primary legislation needs to be revisited in some detail.

As this measure is not related to the Royal Commission recommendations, we strongly urge that this component of the Bill be removed, and further engagement and consultation undertaken to ensure its future presentation is practical, workable, achieves the right policy setting, and meets its objectives.

To be clear, the SMSF Association is not advocating for the permanent removal of these measures. We support the removal of tax (financial) advisers from the *Tax Agent Services Act 2009*, but rather we are advocating for the removal of these measures from the Government's Better Advice Bill to they can be revised and redrafted, and to ensure passage of the Bill.

Our final comments relate to the proposed financial adviser exam fee of \$948 per exam sitting.

We understand that a cost recovery methodology was a determining factor in the striking of this fee. Whilst this rationale would appear reasonable, it does raise concerns that this will become a barrier to entry for new entrants.

Going forward, the only advisers who will be sitting the exam will be new entrants. For existing advisers, the deadline to complete the exam will either be 31 December 2021 or 30 September 2022 for those who qualify for the proposed extension. We expect the number of existing advisers to utilise the proposed extension will be low.

Given the very low numbers of new entrants to the sector, we hold concerns that the financial adviser exam fee will become a significant barrier to entry. Consideration should be given for an alternative, reduced fee for new entrants. Retaining the current exam fee of \$540 plus GST for this purpose would be reasonable.

If you have any questions about our submission, please do not hesitate to contact us. We thank you again for the opportunity to provide this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter Burgess', written over a thin horizontal line.

Peter Burgess  
Deputy CEO/Director of Policy and Education  
SMSF Association



### **ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak body representing SMSF sector which is comprised of over 1.1 million SMSF members who have more than \$700 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.