14th August 2026

The Treasury
Langton Crescent
Parkes ACT 2600

BY ELECTRONIC LODGEMENT

Dear Sir/Madam

SMSF ASSOCIATION SUBMISSION: TAX PRACTITIONERS BOARD SANCTIONS REFORMS

The SMSF Association welcomes the opportunity to provide this submission to the *Tax Practitioners Board sanctions reforms* consultation.

We acknowledge that these instruments are to support a stronger sanctions framework, which will be implemented by the *Treasury Laws Amendment (Strengthening Accountability for Tax Adviser Misconduct and Other Measures) Bill 2026* (draft Bill), currently before Parliament. This includes the introduction of criminal offences for the provision of unregistered tax agent services, new civil penalty provisions and other enforcement powers.

It will also include new powers for the TPB to issue an interim suspension of the registration of a practitioner for up to 90 days where it is satisfied that conduct may breach a criminal or civil penalty provision and there is or may be a significant risk of material loss to a client, Commonwealth revenue or the integrity of the tax system under *Subdivision 40-D – Interim suspension registration*. The interim suspension can be extended for a further 90 days.

The Explanatory Memoranda states that natural justice does not apply in this instance. Further, the tax practitioner does not have the opportunity to provide any input prior to a decision being made (1.82).

Section 25EB of the draft *Tax Agent Services Amendment (Enhancing Tax Practitioners Board Sanctions) Regulations 2026* then requires that if the TPB suspends an entity's registration, including an interim suspension, under Subdivision 40-D, the following information must be published on the public register:

- a statement that the entity's registration has been suspended
- the date on which the suspension takes effect
- the periods that the suspension is in force, and
- the reasons for the suspension.

In addition, section 45 of draft *Tax Agent Services (Code of Professional Conduct) Amendment (Enhancing Tax Practitioners Board Sanctions) Determination 2026* requires the tax practitioner to notify:

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- their current clients of their interim suspension as soon as reasonably practicable after their registration is suspended, and
- their prospective clients of their interim suspension at the time a prospective client makes inquiries to engage, or re-engage, the tax practitioner's services.

The SMSF Association generally supports the publishing and disclosure of information regarding enforcement action against a tax practitioner or unregistered individual, as it ensures that consumers and employers have access to information to protect them and ultimately assists in their decision about whether to engage the tax practitioner.

However, we are concerned that while there is a threshold the TPB must consider before enacting its powers under Subdivision 40-D, the TPB is not required to undertake a formal investigation before imposing an interim suspension on a tax practitioner. Yet, the consequences for a tax practitioner having an interim suspension imposed could be career ending.

They would lose the trust of their current and prospective clients; the respect of their peers and their reputation would be permanently marred.

Stating in the Explanatory Statement to the draft *Tax Agent Services Amendment (Enhancing Tax Practitioners Board Sanctions) Regulations 2026* that "*but 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*" unfairly plays down the potential magnitude of consequences for the individual, especially if they are running their own practice.

A further consequence that appears to have been overlooked is the impact on existing clients during the interim suspension, as the tax practitioner will lose access to the Online Services for Agents (OSfA).

This will prevent clients from being able to lodge or pay tax liabilities through their tax practitioner. The client will be left unable to manage their tax affairs during the 90 – 180 day period or will be forced to transfer to another tax practitioner. Even if the tax practitioner's interim suspension has ceased, it is unlikely clients who transfer to another tax practitioner would transition back to their original tax practitioner.

We understand the need for the TPB to have the ability to protect consumers, Commonwealth revenue and the integrity of the tax system. However, we do not believe the resulting disclosures and denying access to OSfA for an interim suspension balance this protection with the permanent negative impact on the tax practitioner's reputation or even potentially their business viability.

It is for this reason that we believe that the TPB must only be permitted to exercise this power in the most egregious of cases and where, notwithstanding no investigation or hearing have yet occurred, the risk of serious harm is very real, and the weight of evidence is overwhelming.

We are also concerned that the proposed reforms have failed to consider a situation where it may be the tax practitioner themselves who is the victim. There have already been cases where tax practitioners have suffered significant harm where concerns arose that their client base was exposed or put at risk, resulting in all of their client's TFNs being treated as compromised accounts.

The current response from the ATO is that the client's tax accounts are locked in perpetuity. This is despite the source of the harm being unknown at the time of being locked and often later identified as wholly unrelated to the tax practitioner's systems or activities. The result is that the tax practitioner's business, reputation and financial position are unrecoverable. Noting there is also no avenue available to compensate the tax practitioner where error such as this is made or an incorrect identification of the source of the harm occurs.

This is just one example of the potential risk to tax practitioners and their clients if there is an incorrect or inappropriate use of this significant enforcement powers and the devastating outcomes if those powers are not exercised with due care. Despite the overriding objective and intention to protect taxpayers, the risk of irreparable harm to a tax practitioner can extend to personal, business, financial and reputational harm which is impossible to erase in this modern, online world.

Further, there should also be transparency on the process and timelines that will apply to interim suspensions. The draft Bill requires that the TPB must within 7 days notify the tax practitioner of its decision to issue an interim suspension, noting that a failure of the TPB to notify does not affect the validity of the TPB's decision. However, it is not clear when the tax practitioner will then lose access to OSfA after the TPB has made its decision. We understand that the TPB has 30 days from making its decision to notify the ATO, however this may occur much earlier with daily communications between both regulators. It is possible that a tax practitioner may be issued an interim suspension and consequently lose access to OSfA but has not been advised by the TPB of its decision.

Should this occur, can the ATO advise the tax practitioner that they have been issued an interim suspension, or will they be referred back to the TPB?

The *Tax Agent Services Amendment (Enhancing Tax Practitioners Board Sanctions) Regulations 2026* also do not specify the timeframe within which the TPB must publish details of an interim suspension on the register. They only provide that information about the interim suspension must be published for the prescribed period; that is, from the day the suspension takes effect until the day it is no longer in force. This could result in a situation where details of an interim suspension are published on the register before the tax practitioner has been notified of the TPB's decision. We do not consider this to be an appropriate outcome.

The SMSF Association recommends that further practical consideration be given to how interim suspension powers are exercised, including the timing of client disclosures and access to OSfA. This should include proportionate measures that protect the integrity of the tax system while recognising the significant consequences for tax practitioners, particularly given there is no obligation for the TPB to apply the rules of natural justice when making an interim suspension decision and, in some cases, the tax practitioner may themselves be the victim.

Finally, we acknowledge that the draft regulations and draft determination are both subject to sunsetting. However, given the significant consequences that may arise from this power being applied even with best intentions, we recommend that there is a formal review Subdivision 40-D – Interim suspension registration in *Treasury Laws Amendment (Strengthening Accountability for Tax Adviser Misconduct and Other Measures) Bill 2026*. We believe an appropriate period to conduct this review would be two years after implementation.

If you have any questions about our submission, please do not hesitate to contact Keddie Waller, Head of Professional Standards via email keddiewaller@smsfassociation.com

Yours sincerely,

Keddie Waller

Keddie Waller
Head of Professional Standards

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.2 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.