

28 June 2021

Janette Luu  
Director  
Policy and Legislation  
Tax Practitioners Board

By email: [tpbsubmissions@tpb.com.au](mailto:tpbsubmissions@tpb.com.au)

Dear Janette,

**TPB EXPOSURE DRAFT TPB INFORMATION SHEET TPB(I) D46/2021 SUPERVISORY ARRANGEMENTS UNDER THE TAX AGENT SERVICES ACT 2009**

CPA Australia represents the diverse interests of more than 168,000 members working in over 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

The Tax Practitioners Board (TPB) **Exposure Draft TPB Information Sheet TPB(I) D46/2021 Supervisory arrangements under the Tax Agent Services Act 2009 (the Exposure Draft)** provides formal guidance in relation to the TPB's expectations of practitioners' supervisory arrangements. We assume this guidance will replace the current information on **supervisory arrangements and supervision and control (the current guidance)** and **TPB(I) 23/2014 Sufficient number requirement for partnership and company registered tax (financial) advisers**.

The Exposure Draft adds to the current guidance and reflects a much-needed shift of position in relation to the requirements around physical oversight and physical proximity. There is a recognition that contemporary firms use a combination of human and technology-based processes to supervise and control their activities. We appreciate the inclusion of factors such as the level, type and sophistication of technology or software used and risk management processes and procedures, including the use of delegated supervision processes (paragraph 18). We also welcome the removal of terminology that requires the practitioner's physical presence to demonstrate supervision and control when there may be more effective, practical and efficient alternatives.

We observe that there remains some uncertainty within the profession as to the TPB's expectations in relation to the use of technology and processes to ensure supervision and control. We suggest that the TPB may benefit from consulting directly with firms, particularly those with compliance departments, to establish a common understanding of how these issues are currently managed and how technology and process improvements continue to improve quality standards.

The introduction of written consent requirements (paragraph 20) and the recommendation of a supervisory plan (paragraphs 41 and 48) may necessitate process and administrative changes for some practitioners and firms. We recommend that the TPB undertake further awareness raising and education activities to support practitioners with the transition.

We agree with the TPB at paragraph 22 that "it is ultimately a matter for the partnership or company to assess how many registered individual tax practitioners their business requires". The Exposure Draft places the onus on the partnership or company to demonstrate to the TPB that, on the balance of probabilities, services are provided competently with adequate supervisory arrangements in place. For greater certainty, it may be beneficial to include an example that illustrates the necessary standard.

Given the changes to working arrangements enabled by technology, and accelerated by COVID-19, we also suggest that the Exposure Draft takes a technology-first approach and integrates the requirements related to remote supervisory arrangements into the general considerations rather than being discussed separately. Specifically, paragraphs 42 to 50 could be subsumed into paragraphs 33 to 41 and the TPB should recommend that a supervisory plan covers the relevant considerations.

The Exposure Draft makes reference to “the registered individual tax practitioner undertaking the supervision and control” (paragraph 18) which suggests that the requirements are imposed on them as individuals. Paragraphs 38 and 39 proceed to include terms such as “substantial supervision”, “periodic and ‘spot’ checks of material”, “supervision of office work”, “undertaking spot checks of the source documents” and “inspecting, advising and directing how the staff undertake their tasks”. The question arises as to whether the TPB expects these to be personally performed by the registered individual tax practitioner, or whether the other factors (e.g. delegated supervision processes) listed at paragraph 18 are sufficient. Where the TPB’s view is the former, we recommend that the TPB consults further with tax practitioner firms of all sizes to assess whether such an interpretation is sufficiently flexible to accommodate their practices. Alternatively, the wording of paragraph 18 should be changed to “the registered individual tax practitioner *responsible for* the supervision and control” to accommodate the breadth of potential arrangements.

Further clarity about the interaction between the requirements in the Exposure Draft and those in **TPB(PN) 2/2018 Outsourcing and offshoring of tax services – Code of Professional Conduct considerations (the Practice Note)** would also assist practitioners and firms. For example, paragraph 44 of the Exposure Draft refers to arrangements “where the supervisor and the supervised entity are employed by different entities”, while paragraph 14 of the Practice Note requires that “adequate supervision and control arrangements are in place” except where outsourced to a registered third party (paragraph 28).

We recommend that:

- the Practice Note, particularly the paragraphs in relation to Code item 7, be updated to align with or be replaced by a reference to the Exposure Draft
- the Exposure Draft include a clear statement that the requirements do not apply where the activity is outsourced to a registered third party.

If you have any queries, contact Elinor Kasapidis, Senior Manager Tax Policy, at 0466 675 194 or [elinor.kasapidis@cpaaustralia.com.au](mailto:elinor.kasapidis@cpaaustralia.com.au).

Yours sincerely,

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