

10 November 2023

The Hon Stephen Jones MP  
Assistant Treasurer and Minister for Financial Services

By email: [stephen.jones@treasury.gov.au](mailto:stephen.jones@treasury.gov.au)

Dear Assistant Treasurer,

**Proposed amendments to the *Tax Agent Services Act 2009* by the Treasury Laws Amendment (2023 Measures No. 1) Bill 2023**

Chartered Accountants Australia and New Zealand, CPA Australia, Institute of Public Accountants, the Business Law Section of the Law Council of Australia, The Tax Institute, Australian Bookkeepers Association, The Institute of Certified Bookkeepers, Financial Advice Association of Australia and SMSF Association (collectively **the Joint Bodies**) represent the tax profession as the external members of the Tax Practitioners Board (**TPB**) Tax Practitioner Governance and Standards Forum (**TPGSF**).

The Joint Bodies write to you to highlight that it is in the public interest that significant legislation (including proposed amendments) is shared in advance with stakeholders including affected parties and those who represent them for comment — to avoid unintended consequences and to ensure effective design. While we respect that Senators and other Members of Parliament are free to table amendments to any current Bill or Act at any time, it is in the public interest that significant proposed changes are made available for comment in advance of such amendments becoming law.

In relation to the Treasury Laws Amendment (2023 Measures No. 1) Bill 2023 (**the Bill**), stakeholders were given the opportunity to comment in advance and have provided meaningful feedback. The same occurred in relation to separate relevant exposure draft legislation related to the 'Response to PwC' package, as recently as October 2023. The Bill was introduced into the House of Representatives on 16 February 2023 and was passed by the House on 9 March 2023 before being introduced into the Senate that day. The Senate Economics Legislation Committee also considered our submissions on the Bill and made no recommendations to alter Schedule 3 which proposes to amend the *Tax Agent Services Act 2009* (**TASA**).

We understand that various consultations on the Bill have been held since, none of which were relevant to or have contemplated the current or proposed amendments tabled by Senator Barbara Pocock (**Amendments**) to Schedule 3 to the Bill.

It was with considerable surprise and concern that the first time the professional bodies and public generally became aware of the Amendments was in various newspaper articles on 8 November 2023. At very short notice, we, as members of the TPGSF — who have an obligation under our Charter to consider proposed new legislation affecting tax practitioners — have briefly considered the Amendments and have a number of important comments to make and questions to raise.

The Amendments introduce the concept of 'Community Representatives' for the first time and an 'Obligation to Notify of Significant Breaches of the Code of Professional Conduct' with a wide-ranging definition of 'significant breach of the Code'. These new and very significant changes are drafted much wider than similar provisions that apply to other sectors (with the exception of financial services/advice), and affect long-standing fundamental legal principles, such as the privilege against self-incrimination and Legal Professional Privilege. The Amendments need proper consultation with our members and other experts before they progress.

While we fully appreciate the right of any member of Parliament to introduce amendments to any legislation, we respectfully ask, in the public interest, that a proper period of consultation be undertaken before the Amendments become law.

While we understand what the Parliament is trying to achieve, in the short time the Joint Bodies have had available to consider the substance of the three most significant changes referred to above, we are concerned about the manner in which the Parliament's concerns are sought to be addressed. Accordingly, there is broad opposition to and strong concern regarding each of them on a variety of grounds that we consider important to discuss with you.


In these circumstances, with respect, we consider that it is appropriate that all these Amendments should form part of the next round of consultation on the exposure draft legislation relating to the TPB ('Response to PwC' package) that was originally made available for public comment on 20 September 2023 and on which most of the Joint Bodies made submissions by the due date of 4 October 2023. Not only would this be the more appropriate place for the proposed Amendments but also it would ensure proper and adequate parliamentary, professional and public scrutiny, of highly technical and very significant proposed changes.

To arrange a meeting with representatives of the Joint Bodies, please contact Matthew Addison, the Joint Chair of the TPGSF on 0421 553 613, in the first instance.

Yours sincerely



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**CPA Australia**



**Michael Croker**  
**Tax Leader**  
**Chartered Accountants Australia**  
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**Matthew Addison**  
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