



Australian Government



TAX  
PRACTITIONERS  
BOARD

# **Tax Practitioners Board Regulator Performance Framework Self-assessment 2017-18**

UNCLASSIFIED

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# 1. Introduction

The Government's regulation reform agenda introduced a new Regulator Performance Framework (Framework) to help measure the performance of regulators and to reduce the burden of regulation on the community.

The Government has developed the Framework to measure and test the performance of regulators with six outcome-based Key Performance Indicators (KPIs) of best practice, performance and administration. Such measures, along with public reporting are intended to give business, stakeholders, the community and individuals confidence that regulators effectively and flexibly manage risk in the work they perform.

The Framework seeks to facilitate performance assessment by; ensuring accountability, being transparent, flexible and cost-effective; and complement, rather than duplicate, other processes. Regulators are required to work in consultation with their agreed stakeholders and report annually on their performance against the six KPI's.

The Tax Practitioner Board (TPB) has received approval to have the TPB consultative forum externally validate its metrics to measure and assess performance against the six KPIs. The TPB, in consultation with the consultative forum have developed a range of metrics against each of the KPIs before publishing them on the TPB website.

<b>Six Key Performance Indicators</b>	
<b>KPI 1</b>	Regulators do not unnecessarily impede the efficient operation of regulated entities.
<b>KPI 2</b>	Communication with regulated entities is clear, targeted and effective.
<b>KPI 3</b>	Actions undertaken by regulators are proportionate to the risk being managed.
<b>KPI 4</b>	Compliance and monitoring approaches are streamlined and coordinated.
<b>KPI 5</b>	Regulators are open and transparent in their dealings with regulated entities.
<b>KPI 6</b>	Regulators actively contribute to the continuous improvement of regulatory frameworks.

## 2. Self-assessment

This report sets out TPB's 2017-18 self-assessment against the Framework. To support the TPB's annual self-assessment, the TPB has consulted with its consultative forum members to validate its performance and its conclusions are reasonable and objective.

This self-assessment report provides an overall summary and conclusion on the TPB's performance against the Framework and the six KPIs outlined in the Framework. This report provides an overall summary on areas the TPB is working well on and areas of risk to the TPB.

This is then followed by a separate summary and conclusion for each of the six KPIs in providing an objective assessment of how the TPB has performed against each of the KPIs. Information and evidence to support our metrics is contained in our Corporate Plan 2017-18, Annual Report 2017-18 and the associated Annual Performance Statement.

## 2.1 Self-assessment method

The TPB uses a four-point rating scale to self-assess our performance against for each of the six KPIs. Information supporting each KPI was analysed and allocated an appropriate rating to indicate the level of performance achieved.

<b>Rating</b>	<b>Performance definition</b>
<b>Excellent</b>	Meets all expectations of performance
<b>Very good</b>	Meets most expectations with minor room for improvement
<b>Satisfactory</b>	Average performance with room for improvement
<b>Improvement required</b>	Performance is partially met with considerable room for improvement

# 3. Summary of assessment

In the overall assessment against the KPIs, the TPB is on track to show continuous improvement in enhancing the regulatory environment for registered tax practitioners across Australia. The TPB has demonstrated continuing drive to be consultative and interactive with key stakeholders and registered practitioners and have made it a priority to better communicate and help practitioners comply with their obligations.

We employ a range of communications channels and products to provide clear, targeted and effective messaging to our audiences and key stakeholders. The TPB uses a variety of channels, including; publishing our eNews newsletters, new and updated guidance material on the TPB website, TPB Twitter feed, the use of LinkedIn, and TPB YouTube videos. The TPB also conducts regular consultative forum meetings with professional associations as a primary consultative mechanism to ensure their views are taken into account in our decision-making process.

The TPB puts a high priority on public and practitioner awareness programs, including presenting at numerous engagements and conferences, and hosting webinars throughout the year. The TPB considers the outcomes and results from its proactive approach to communications and engagement strategies provides strong support to the tax practitioner community and key stakeholders and demonstrates TPB’s commitment in these areas.

During 2017-18 the TPB has continued to focus its efforts on streamlining the tax practitioner registration system, effectively administering the *Tax Agent Services Act 2009* (TASA) and upholding the tax profession’s integrity. The TPB aims to simplify processes for registered tax practitioners and those looking to register, and to protect the interests of the consumers who use the services of tax practitioners.

The TPB has experienced significant growth over the last couple of years, with the inclusion of some 19,000 tax (financial) advisers into the TPB’s regulatory framework. As the process for the registration and renewal of registration of tax (financial) advisers has become more streamlined, our priority has shifted to ensure that those registered are compliant with their obligations under the TASA.

Our operational strategies included effective communication and resources, dedicated client support teams, collaboration with Australian financial services licensees, and improved application processing. We managed to efficiently process large numbers of transitional applications and almost all notifier applications, with no impact on other business continuity. This was a significant achievement as one of our primary focuses during the year was to ensure there would be no disruption to practitioner businesses.

During 2017-18 we prioritised the design of new online services to improve the tax practitioner experience of interacting with the TPB when registering or renewing their registration or submitting their annual declaration. These improvements also align with Australian Government digital security and identity standards. These enhanced online services will greatly improve the registration and renewal experience for tax practitioners.

## 3.1 Continual improvement

The TPB continues to work with the ATO and other government partners on new initiatives and improvements in technology and strategies, to implement and integrate improvements. The TPB continues to work on streamlining processes and coordinating resources to meet service delivery obligations demonstrated by the strong uptake of the annual declaration program and the integration of tax (financial) advisers into the regulatory regime.

This is an area of key improvement for the TPB, with the focus on continuous improvement in working with all stakeholders and government partners in enhancing the regulatory environment for registered tax practitioners.

<b>Rating for the summary of assessment</b>	Very good
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## 4. Summary against the KPI's

### 4.1 - KPI 1 Regulators do not unnecessarily impede the efficient operation of regulated entities

The TPB is committed to consulting and working with key stakeholders and registered tax practitioners, ensuring their experiences and industry knowledge help inform the TPB in its decision making and operations. The TPB publishes guidance material and information sheets which are freely available to all interested parties.

The TPB uses an extensive range of communications channels to actively engage and inform key stakeholders, registered tax practitioners and consumers to ensure we are open and transparent in dealings with regulated entities. The metrics used for this KPI outline a range of channels used with registered tax practitioners to assist and guide them in their dealings with the TPB and understand their ongoing registration obligations.

The TPB provides a range of different methods to deliver this information including:

- The TPB Corporate Plan and the TPB Annual Report which both provide details on the strategic direction, new programs of work, our roles, functions, performance and achievements
- The TPB website which is the main channel for communicating with tax practitioners and the public. All other communication channels refer to the website as the key source of information as the TPB works to make sure the website is as clear, accessible and information is as easy to locate as possible
- The TPB presented at 56 external speaking events in the last financial year across Australia, including; professional association conferences, universities, TAFEs and at ATO Open forum events
- TPB conducted 26 webinars in the 2017-18 year that practitioners registered for, and these webinars count towards required CPE hours
- TPB distributes eNews with separate editions for tax and BAS agents, and tax (financial) advisers. There were 11 editions distributed last year, with five editions for tax and BAS practitioners, five for tax (financial) adviser and one special edition for AFS Licensees.

The TPB has a range of service standards for the processing of new and renewal applications for registrations it reports on. During 2017-18 the TPB processed 73% of all applications within 30 days. Although this is slightly under the 80% service standard, this occurred within the context of a large increase in the volume of work, including the processing of over 12,000 tax (financial) adviser registration renewal applications and the lodgement of over 42,000 annual declaration forms.

The TPB directly engages with recognised professional associations to help facilitate the efficient communication to registered tax practitioners. The TPB informs them of our processes and provides them with opportunities to have input into the TPB's service delivery and operations.

The TPB conducts regular consultative forum meetings with the tax and BAS agent recognised professional associations, and with the recognised tax (financial) advisers professional associations to help facilitate dialogue on topics that are relevant to tax practitioners registration, obligations and industry concerns.

To further assist efficient operations for registered tax practitioners, the TPB publishes policy guidance material in the form of explanatory papers, guidelines and information sheets. All proposed policy material is issued as public exposure drafts as a means of seeking industry and public feedback. These public exposure drafts are first issued to the consultative forum members for their feedback, before being issued seeking public feedback.

The TPB considers the use of the consultative forums as a key reference point for gathering industry feedback on our draft policy guidance material as a highly effective process in helping form our policy positions. We have received favourable feedback from forum members on their inclusion in our feedback processes.

The TPB considers it has performed well for this KPI with a dedicated approach to engagement with all key stakeholders and processes to receive feedback from them. The achievements in this area have enabled the TPB to positively interact with stakeholders and respond to their requirements in providing professional tax practitioners services for all consumers.

<b>Rating for KPI 1</b>	Very good
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# 4.2 - KPI 2 Communication with regulated entities is clear, targeted and effective

The TPB communications strategy supports our overarching strategic objectives to protect consumers and the integrity of the tax profession and promote the TPB as an effective regulator.

Our strategy aims to educate the community on the importance of using a registered practitioner, educate practitioners themselves on their obligations and responsibilities, and increase awareness of the TPB and the legislation underpinning our regulation. Through our communications, we share the story of how we manage practitioner compliance to better protect consumers and other practitioners.

We employ a range of communications channels and products to provide clear, targeted and effective messaging to our audiences and key stakeholders. This includes a mix of digital communication (such as our website, social media, webinars and e-newsletter channels) and face-to-face channels such as professional forums, conferences and ATO open forums.

Our website includes policy guidance (explanatory papers, guidelines and information sheets) to help tax practitioners understand and comply with their obligations. Draft policy material is made available for feedback from professional associations, tax practitioners and consumers, before finalised material is made available on the website.

Recently, we have undertaken improvements to our online experience for tax practitioners and consumers. We continue to improve the TPB Register, making it easier to search for registered practitioners. We have provided practitioners with a “qualifications advice tool” which helps them better match their qualifications to those required for registration. We have improved the online forms practitioners use to register, renew their registration, and for consumers to lodge complaints or enquiries.

The range of metrics used for this KPI demonstrate how we communicate and engage with stakeholders. For example, in 2017-18:

- TPB’s eNews newsletters were distributed to an average 59,000 subscribers, made up of tax agents, BAS agents and tax (financial) advisers.
- Our webinar program continues to be successful, with over 8,000 attendees across 26 webinars. We continually evaluate our webinar program, adding 10 new topics of interest, enlisting new speakers and exploring opportunities with our technology.
- We attended 56 speaking events organised by professional associations and the Australian Taxation Office (ATO), delivering key messages around registration requirements, obligations and responsibilities, and ongoing compliance.
- We delivered a targeted small business advertising campaign to spread the message to small businesses on the importance of using a registered tax practitioner.

The TPB directly engages with professional practitioner associations and conducts regular consultative forums with tax and BAS practitioners and tax (financial) advisers. This engagement facilitates efficient communications with registered tax practitioners and allows the TPB to inform them of our processes and provides them with opportunities to have input into the TPB’s service delivery and operations.

Looking forward, the TPB will be adopting a stronger compliance focus in our communications strategy and will be looking to employ data analytics and new technologies in our approach.

<b>Rating for KPI 2</b>	Very good
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## 4.3 - KPI 3 Actions undertaken by regulators are proportionate to the risk being managed

The TPB's compliance strategy is risk-based; compliance work and resources are focused on issues where there is the greatest risk of harm to specific taxpayers and to the community. The strategy ensures that sanctions imposed are in line with the seriousness of any possible breaches.

This risk-based approach is the best use of the TPB's resources and avoids unnecessary impacts on responsible tax practitioners who seek to comply with the Code of Professional Conduct and other obligations. The TPB will also seek where appropriate, civil penalty orders against registered tax practitioners, as well as entities who should but do not register with the TPB.

An important aspect of the TPB's compliance functions is to ensure that tax practitioners are aware of and understand their obligations and is highlighted by:

- The TPB Corporate Plan details the strategic risk based approach to compliance work, and also details key performance and service standards to assist in measuring the timeliness of compliance work
- The TPB publishes key compliance results every quarter on its website and is an important measure in managing expectations for tax practitioners
- The TPB provides updated compliance information at the consultative forums, including; TPB Operations monthly report containing compliance details and updates to the TPB Summary of penalties, sanctions and terminations report, which demonstrates our compliance work in upholding professional integrity to these key industry stakeholders
- The TPB website provides tax practitioners with relevant information about their obligations and facilitates appropriate behaviour aligned with TPB's objectives and it continues to attract large number of visits.

The TPB puts a high priority on supporting tax practitioners to understand and comply with their obligations under the TASA and considers this to be an area that can continue to be built on.

In 2017-18, tax and BAS agents demonstrated a high level of compliance with the annual declaration process: in excess of 97 per cent of agents submitted their annual declaration by the due date. The annual declaration has resulted in an increase in surrenders and terminations, demonstrating its effectiveness in ensuring that all tax practitioners meet the continuing requirements of registration.

The TPB also addressed 1,528 complaints and referrals regarding potential breaches of the TASA by tax practitioners and unregistered entities. There was a 2 per cent increase in the number of public complaints and a 48 per cent increase in ATO referrals. The increase in ATO referrals was a result of the ATO's increased focus on targeting work-related expense claims, and this trend is expected to continue with the ATO's increased compliance activity in this area.

While there was a decrease in meeting the TPB service standards for completion of compliance cases, this was set against the background of increased workloads in the processing of over 12,000 tax (financial) advisers renewal applications and over 42,000 annual declaration lodgements. The TPB prioritised this additional work to ensure there were no disruptions to tax practitioner business models.

The TPB views the actions taken to support tax professionals in complying is proportionate to the risk. We will continue to work with all key stakeholders to strengthen the activities to manage and support the tax practitioner community in meeting their regulatory obligations.

In 2018-19, the TPB is investing further resources in its compliance functions to ensure that practitioners maintain the knowledge and skills relevant to the services which they are registered to provide. In doing so, the TPB will undertake reviews of the continuing professional education (CPE) records of over 1,000 individual tax practitioners.

Using funding provided in the 2018-19 Federal Budget, a TPB black economy investigations team has also been established. This team is working closely with the ATO to investigate, prosecute and terminate registration of tax practitioners found to be dealing in the black economy.

The TPB will also focus on investigations for an expected increase in referrals from the ATO for tax practitioners who are contributing to the individuals tax gap by incorrectly claiming work-related expenses deductions.

In terms of proactive compliance work, we are sharing information with other agencies and using data analytics to identify and target those practitioners who pose the highest risk. We will also use data analytics to identify entities providing tax agent services who are not registered with the TPB. We will take firm and swift action on these practitioners.

Overall, we propose a very good rating for this KPI. This recognises further improvements that will be addressed including:

- enhanced data analysis and risk detection,
- considering all complaints, but putting the highest priority on the highest risk matters
- more focus on our program of work to address unregistered agents
- increased collaboration with co-regulators, including the ATO and ASIC.

<b>Rating for KPI 3</b>	Very good
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# 4.4 - KPI 4 Compliance and monitoring approaches are streamlined and coordinated

The Board’s members participate in our conduct committees to ensure a nationally consistent approach is taken to all registration and compliance outcomes.

The metrics used for this KPI highlight the coordinated national approach TPB’s compliance committees take when considering the matters they are deciding upon for the most appropriate outcome or sanction. This nationally coordinated approach also allows for the most efficient processes to be deployed and allows for additional streamlining of compliance work, as committee members have an end to end view of the TPB’s compliance work.

The TPB promotes and facilitates relationships with other Commonwealth regulators, particularly the ATO and the Australian Securities and Investments Commission (ASIC), to ensure a more streamlined and coordinated approach to issues of mutual interest. This extends to timely exchanges of information (where permitted) for matters of co-regulation, areas of shared risks and compliance referrals. The TPB coordinates this by regular liaison meetings with these regulators and particularly works closely with the ATO on compliance matters they have referred to us.

The TPB’s annual declaration program ensures an annual interaction with registered tax practitioners with a streamlined approach for tax practitioners to meet their ongoing registration requirements. The annual declaration form is an easy-to-complete online form that takes on average less than five minutes to complete. All practitioners are required to complete an annual declaration each year, except in their renewal year. The annual declaration is due on the anniversary of their renewal.

In 2017-18, 42,877 registered tax agents, BAS agents and tax (financial) advisers lodged annual declarations. Many also took advantage of the opportunity to update their contact details with the TPB. The clear majority of tax practitioners who were required to lodge an annual declaration did so by the due date.

The annual declaration process was introduced for tax (financial) advisers in August 2017. While only a small number of tax (financial) adviser annual declarations have been required to be submitted so far, this will change in 2018–19 as the requirement to submit the annual declaration aligns with the anniversary of the renewal applications being processed.

The TPB is currently reviewing its investigative processes. This will allow compliance approaches to more closely align with key risks, with more focus on outcomes. This will be supported by more streamlined governance and decision making, with an ability to further empower staff to expedite cases to decision.

<b>Rating for KPI 4</b>	Satisfactory
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## 4.5 - KPI 5 Regulators are open and transparent in their dealings with regulated entities

Tax practitioners play an important role in helping individuals and businesses meet their taxation obligations. The TPB is committed to consulting and working with key stakeholders, particularly tax practitioners, to ensure their experiences inform and influence the TPB's decision-making and operations.

The TPB communicates with the tax profession through all relevant professional associations, and directly with practitioners through its website, email, events, conferences, webinars and meetings and consultative arrangements including:

- messages to professional associations
- content for incorporation into the ATO tax professional communications and agent portal
- other documents concerning corporate aspects of the TPB.

Key focus areas that have been targeted include:

- communication and consultation with registered tax practitioners and their intermediaries, including recognised professional associations and through consultative forums
- publication of information sheets and other guidance for registered tax practitioners and consumer rights and obligations.

The TPB engages frequently with the professional associations, including those that are accredited by the TPB as a recognised tax agent, BAS agent or tax (financial) adviser association, that support the tax practitioner profession. This approach and related feedback, ensures the expectations of tax practitioners as represented by their professional bodies, aligns with the role of the TPB as the regulator of the tax profession in Australia.

The TPB has recently issued draft guidance material regarding the governance requirements for professional associations recognised under the TASA regime. An annual declaration process has also been introduced to ensure that recognised professional associations continue to meet the relevant ongoing requirements for recognition under the TASA.

The TPB also works with other government agencies, particularly the ATO and the ASIC, to ensure a coordinated approach to issues of mutual interest.

Consumer protection is an overriding goal of the TPB and it facilitates a framework which helps support this goal. The TPB engages with the broader community to ensure matters of tax practitioner conduct are appropriately managed.

The TPB undertakes a range of consumer engagement through:

- advertising campaigns and social media to raise awareness
- speaking engagements, webinars and webcasts, which involve tax practitioners and their representative organisations
- publishing content on ATO and other government and stakeholder channels for consumers
- publishing case studies under 'Summary of penalties, sanctions and terminations' on the website which summarises outcomes from the Federal Court, Administrative Appeals Tribunal (AAT) and the Board Conduct Committee and provides further information to ensure public confidence in our decision making.

The TPB maintains a public register which provides information about registered and deregistered tax agents, BAS agents and tax (financial) advisers, including:

- business contact details
- professional associations as disclosed by the tax practitioner
- duration and expiry of registration
- any conditions imposed by the TPB.

Decisions made by the TPB which result in a suspension or termination of a tax practitioner, are published in the Australian Government Gazette and on the public register for the longer of:

- 12 months starting on the day on which the sanction is imposed; and
- the period during which the sanction has effect.

The TPB considers its performance against the KPI to be strong due to the engagement processes with all key stakeholders and the extensive communication channels to inform the tax practitioner community and consumers.

<b>Rating for KPI 5</b>	Very good
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# 4.6 - KPI 6 Regulators actively contribute to the continuous improvement of regulatory frameworks

The TPB continues to focus its efforts on streamlining the tax practitioner registration system, effectively administering the TASA and upholding the tax profession’s integrity. In everything we do, we aim to simplify processes for registered tax practitioners and those looking to register, and to protect the interests of the consumers who engage the services of tax practitioners.

The TPB have worked extensively with key stakeholders in the financial planning industry to raise awareness of this new regulatory arrangements for tax (financial) advisers, including Financial Adviser Standards and Ethics Authority (FASEA), ASIC, Australian Financial Complaints Authority (AFCA) and professional associations. Due to the importance of supporting tax (financial) advisers, the TPB has consulted closely with the financial planning profession and practitioners.

During 2017-18 a key focus for us was to process the significant volume of registration and renewal applications for tax (financial) advisers. We had a large number of transitional renewal applications to work through with the 19,000 tax (financial) advisers who initially registered with the TPB via the notification option. The TPB received over 10,000 tax (financial) adviser notifier renewal applications in 2017–18. These applications saw a 16 per cent increase in our registration and renewal workload compared to the previous financial year. New tax practitioner applications were given a higher priority than renewals throughout 2017–18, so applicants, once registered, could start providing services and commence their business with minimal delays. Those renewing can continue to practice while the renewal is being processed.

Through effective communication and resources, dedicated client support, collaboration with Australian financial services licensees and streamlined and improved application processing, we managed to efficiently process all transitional applications and almost all (98 per cent) notifier renewal applications, with no impact on business continuity for those renewing.

We also made several enhancements to improve the online experience with the TPB. The changes provided a faster and more flexible TPB Register search experience, improved the ability of new applicants to assess their qualifications, and made it easier for tax practitioners to advise us of changes affecting their registration.

In March, the launch of a new qualifications tool on our website assisted new applicants to check whether their qualifications meet the registration requirements, search for Board approved courses and units, and submit courses and units for assessment by the TPB. As well as being easier for tax practitioners to search and enabling a quicker assessment turnaround, the qualifications tool has resulted in a marked reduction of calls and emails to the TPB, allowing resources to be diverted to other operational priorities.

In addition, in 2017–18 we prioritised the design and development of new online services to improve the tax practitioner experience of interacting with the TPB when registering or renewing their registration, submitting annual declarations or making complaints. These improvements also align with Australian Government digital security and identity standards. These enhanced online services will greatly improve the registration and renewal process for tax practitioners.

There are two key challenges for the TPB in relation to our regulatory framework. The first involves continuing innovation and updating our strategies (around client services, investigations, law and policy, technology and corporate services) to enhance effectiveness under the existing law. The second concerns a broader law reform, of the TASA and a myriad of overlapping regulatory frameworks (e.g. ASIC, FASEA, AFCA, ATO) to cut red-tape and to improve system integrity.

<b>Rating for KPI 6</b>	Satisfactory
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