



Australian Government

The Treasury

REGISTRATION REQUIREMENTS FOR TAX (FINANCIAL) ADVISERS

SUMMARY OF CONSULTATION PROCESS

This measure was included in Tax Laws Amendment (2013 Measures No. 3) Bill 2013 (the Bill), which was introduced into Parliament on 20 June 2013. The *Tax Agent Services Amendment (Tax (Financial) Advisers) Regulation 2014* gives effect to Schedules 1 and 2 of the Bill.

The *Tax Agent Services Amendment (Tax (Financial) Advisers) Regulation 2014* was registered on 23 July 2014.

Consultation process

The Government consulted on the draft legislation in the *Tax Laws Amendment (2013 Measures No. 3) Act 2013* and the design of potential amendments to the Regulation between 8 February 2013 and 8 March 2013. Thirty-three submissions were received, including three confidential submissions. The non-confidential submissions are available on the Department of the Treasury (the Treasury) website. A discussion paper on the content of the draft regulations was released on 14 June 2013 and closed on 11 July 2013. Eight submissions were received.

An additional roundtable consultation was conducted by Treasury with key industry stakeholders, the Tax Practitioners Board (the Board) and the Australian Securities and Investments Commission (ASIC) on 13 May 2013 to discuss issues raised during the public exposure of the draft legislation and proposed regulations.

Throughout 2013 and 2014 there has been ongoing dialogue between key industry stakeholders, the Treasury, and the Board.

On 21 May 2014, there was a further roundtable consultation conducted by Treasury with key industry stakeholders and the Board, to discuss details of proposed regulations.

On 25 June 2014, a two week public consultation on an exposure draft of the regulations was held, with submissions closing on 9 July 2014. 10 Submissions were received.

Submissions can be viewed on the [Treasury website](#).

Summary of key issues

14 June Discussion Paper

Eight submissions were received.

The majority of submissions supported the requirement to be a financial services licensee or a representative.



Australian Government

The Treasury

Some submissions supported the idea of including courses in Australian taxation law and commercial law, while others did not. As a result of consultation, a decision was made to require the completion of courses in Australian taxation law and commercial law for three of the four qualifications and experience combinations. Where an applicant has completed six years of full-time relevant experience in the past eight years, they are not required to complete those courses.

The various combinations ensure that individuals seeking registration have sufficient breadth of knowledge in both Australian taxation law and commercial law. Where an applicant has been engaged in six years of full-time relevant experience in the past eight years, they would also have the relevant breadth of knowledge in order to provide tax (financial) advice.

Ongoing dialogue and roundtables

A number of stakeholders suggested that particular services should not be considered a tax agent service. Where the Board was of the view that the service was a tax agent service, and that service was not intended to be regulated as a tax agent service, targeted consultation was undertaken to determine the best way to ensure that industry participants were not subject to unnecessary or duplicative regulation. Where a service is not a tax agent service, the regulation making power does not allow for that service to be prescribed as not a tax agent service.

Some stakeholders raised concerns about the transitional rules which applied to tax (financial) advisers, and the ongoing registration requirement to be a financial services licensee or a representative. The suggestion was made that the transitional rule should be extended from 30 days to 90 days to account for longer career transitions. This was adopted.

Some stakeholders raised concerns about the processes for recognising tax (financial) adviser associations, and who the constituent members would be. These concerns were addressed in the subsequent exposure draft of the regulations.

25 June 2014 exposure draft

Ten submissions were received. A number of submissions re-raised some of the issues described above.

Some stakeholders were concerned that the transitional rule described above had discriminatory operation because it was not long enough to account for individuals taking extended career break due to ill-health or maternity leave. The example is cited where an individual has had to resign from their employment as an AFSL licensee or representative in order to take career break, and they would therefore lose their registration. It was suggested that the requirement to be an AFSL licensee or representative should be removed to account for this. When assessing this submission, it was noted that individuals would not automatically cease to be registered with the Board if they were not a licensee or representative – the Board maintains the discretion to continue registration, if they feel it is appropriate in the circumstances. It was also noted that the rule ensures an applicant is actively engaged in the industry. Where an applicant has taken lengthy career break, there are no barriers to their re-registration with the Board. The explanatory material was significantly revised to reflect this.



Australian Government

The Treasury

Some submissions suggested alternative formulations to ensure that services which are not tax agent services are not inadvertently captured. To the extent possible, these suggestions were adopted.

Some submissions raised concerns about the narrow definition of relevant discipline. This was not the intention, so the definition was expanded to include other disciplines.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au . Alternatively, you can contact Philip Akroyd on 02 6263 4385.

Thank you to all participants in the consultation process.