



21 December 2012

General Manager  
Retail Investor Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [futureofadvice@treasury.gov.au](mailto:futureofadvice@treasury.gov.au)

Dear Ms. Sim,

### **Accountants' exemption replacement regulations**

The Self Managed Superannuation Funds Professionals' Association of Australia (SPAA) welcomes the opportunity to make a submission in relation to the draft regulations which replace the existing accountants' exemption. SPAA supports the Government's amendments to bring advice provided by accountants on self managed superannuation funds (SMSFs) into the Australian Financial Services Licence (AFSL) regime.

We believe that transitioning accountants into the AFSL regime for providing advice on SMSFs is the right approach to integrating SMSF advice into the AFSL environment. This approach will allow accountants who are competent in providing strategic and SMSF advice time to shift to having an AFSL and the obligations that come with being an AFSL licensee or authorised representative.

However, we believe that this transitional approach should not be made exclusive to the Joint Accounting Bodies (JAB) (Institute of Chartered Accountants in Australia, Chartered Practising Accountants, and Institute of Public Accountants) and their Public Practice Certificates. SPAA has a SPAA Public Practice Certificate (SPAA PPC) which we believe should be part of the transitional arrangements, in addition to the JAB practicing certificates. Accountants that hold a SPAA PPC and apply for an AFSL between 1 July 2013 and 1 July 2016, and provide only SMSF and strategic advice should be able to take advantage of the streamlined transitional requirements regarding organisational competence and knowledge update requirements.

SPAA also believes that the limited licence for accountants should provide for a level playing field between accountants and financial planners providing the same advice. This is especially important in regards to statement of advice (SOA) and know your client (KYC) obligations of the *Corporations Act 2001*. We are aware that there is uncertainty in the financial planning and accounting industry as to whether the SOA and KYC obligations apply to an exempt licensee.

SPAA supports the amendments to allow a licensee that does not handle client money and provides limited advice to lodge an annual compliance certificate with ASIC instead of an audit report.

Further information on these issues is provided in the [Attachment](#).



### **About SPAA**

SPAA is the peak professional body representing the SMSF sector throughout Australia. SPAA represents professionals, irrespective of their personal membership and professional affiliations, who provide advice to individuals aspiring to higher levels of participation in the management of their superannuation savings. Membership of SPAA is principally accountants, auditors, lawyers, financial planners and other professionals such as actuaries.

SPAA is committed to raising the standard of professional advice and conduct in the SMSF sector by working proactively with Government and the industry. In doing so, SPAA has contributed to SMSF advisors providing a higher standard of advice to SMSF trustees. This in turn has enabled trustees to make more informed decisions addressing the adequacy, sustainability and longevity of their own retirement savings. SMSFs offer trustees greater control and flexibility and have become an integral part of the Australian Superannuation landscape by providing significant and viable options for managers, business owners, executives and retail operators alike.

We would be happy to provide further information or to discuss any questions you may have about this submission with you.

Yours sincerely

Andrea Slattery  
CEO

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**Mr. Peter Burgess**  
Technical Director



## ATTACHMENT

### **SPAA PPC to be recognised in regulations**

SPAA believe that its SPAA PPC should be part of the transitional arrangements for the new exempt licence arrangement for accountants providing SMSF and strategic advice. Accountants that hold a SPAA PPC should be regarded as a recognised accountant in the regulations. We believe that the SPAA PPC should receive the same recognition as a JAB PPC on the basis that:

- The SPAA PPC requirements are as rigorous as those required in the JAB PPC rules.
- The SPAA PPC is a competency based certificate as accountants that hold one must be either an accredited SPAA SMSF Specialist Advisor (SSA) or SMSF Specialist Auditor (SSAud).
- The SPAA PPC is focused on business practices of providing SMSF and strategic advice which is directly relevant to exempt licence holders.

We also understand from Minister the Hon Bill Shorten MP's press release accompanying the release of the draft regulations (No. 84/2012 – copy attached) that other professional associations, including SPAA, would have their PPCs considered to form part of the transitional arrangement for the exempt licence regime. Under this consideration, **we recommend that regulation 7.6.01BA(4) should be amended so that the definition of recognised accountant includes a person who holds a SPAA PPC.**

#### **1. SPAA PPC requirements**

An accountant who is a SPAA SMSF Specialist Advisor (SSA) and/or a SPAA SMSF Specialist Auditor (SSAud) **and** provides an opinion on or verifies the accuracy of financial, legislative or technical advice or information in relation to an SMSF, which may be relied upon by another person, must hold a SPAA PPC. A SPAA PPC is not required to be held if the accountant holds a public practice certificate from a recognised accounting body.

SPAA members who hold the SSA and/or SSAud designation are required to meet the following requirements:

- Hold adequate professional indemnity cover under an insurance policy that meets the requirements approved by SPAA.
- Commit to the requirements of SPAA's Quality Review Program.
- Satisfy SPAA's requirement to undertake 120 points of continuing professional development over a three year rolling period.
- Adhere to SPAA's Code of Conduct.
- Meet SPAA approved professional standards limited liability scheme requirements.



- Satisfy SPAA's branding guidelines.

In addition, SPAA members who hold the SSA and/or SSAud designation who hold a SPAA PPC must:

- Satisfy SPAA's guidelines for professional behaviour as a holder of a SPAA PPC.
- Pay any fee or charge in connection with the approval and provision of the SPAA PPC

## **2. SPAA competency**

SPAA is a strong advocate of increasing competencies and the standard of advice in the financial services industry and this is reflected in SPAA's specialisation programs.

SPAA's SSAs have displayed competencies for:

- Introduction to Superannuation and SMSF's
- Establishing an SMSF
- Investment Objectives & Strategies
- Taxation
- SMSF administration and operation
- Applying the law for SMSFs and maintaining currency of knowledge
- SMSF Products and Investments
- Competencies and Professional Requirements for SMSF Practitioners

SPAA's SSAuds have displayed competencies for:

- Auditor registration requirements
- SPAA Auditor requirements
- SPAA Code of Professional Conduct
- Auditing Standards relevant to planning the audit
- Auditing Standards relevant to conducting the financial statement audit
- Auditing Standards relevant to forming an opinion and completing the financial statement audit
- Auditing Standards relevant to a compliance audit
- SIS audit requirements for the establishment and operation of a SMSF



- SIS audit requirements for contributions
- SIS audit requirements for investments
- SIS audit requirements for benefits & payments
- SIS audit requirements for auditor reporting (including Auditor Contravention Reports)

SPAA SSAs and SSAuds are required to maintain the currency of their knowledge by earning 120 CPD points over a rolling triennium (three-year period). This equates to an approximate average of 40 hours of CPD per annum.

We believe that accountants that hold the SSA designations have the knowledge, experience and accreditation that should have them regarded as equal, if not more competent, than their peers that hold a JAB PPC.

### **3. Focus on SMSF and strategic advice business**

SPAA's PPC has a focus on businesses providing SMSF and strategic advice, which is the target of the exempt licence which is replacing the accountants' exemption. This is different from the JAB PPCs which have a general accountancy focus rather than a focus on the types of business that would be conducted under an exempt licence.

SPAA's focus on business practices related to providing SMSF and strategic advice culminates in the SPAA PPC Education Workshop (outline attached) which provides SPAA PPC holders with practical education about running a professional and ethical SMSF/strategic advice business. The SPAA PPC workshop focuses on practical skills such as strategic planning, marketing, risk management, practice development and integrity in advice services.

We believe it is a strength of the SPAA PPC that it focuses on the business practices and services that are directly related to the exempt licence that is replacing the accountants exemption. This makes the SPAA PPC a suitable practicing certificate to be included in the transitional arrangements.

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Attached to this submission are:

- a. The Rules for SSA members.
- b. The Rules and Standards for SSAud members.
- c. The Rules for members holding a SPAA PPC.
- d. An outline of the SPAA PPC Education Workshop Session (this document is provided on an in-confidence basis as it is a SPAA working document).
- e. The Hon Bill Shorten MP's Press release 'Increased access to financial advice'.

We will contact the relevant Treasury officers soon to further discuss the suitability of the SPAA PPC to be part of the transitional arrangements.



## **Level playing field for accountants and financial planners**

SPAA believes that there should be a level playing field for strategic and SMSF advice between accountants and financial planners. The key to a level playing field is ensuring that financial planners and accountants who are providing the same advice are subject to the same obligations under the *Corporations Act 2001*. In particular the statement of advice (SOA) and know your client (KYC) obligations of the the *Corporations Act 2001* should apply to accountants that are providing SMSF or strategic advice under an exempt licence.

To allow accountants to provide the same advice on SMSFs and financial strategy without having the same compliance requirements as financial planners providing the same advice would give them an unfair commercial advantage over financial planners. Not needing to undertake SOA and KYC activities would be a significant cost saving for accountants over financial planners. This advantage would be especially unfair to financial planners as they would be inhibited by legislation to be able to compete with accountants on the same commercial terms. Accordingly, we believe it is important that accountants are required to meet the same advice obligations that financial planners must comply with.

We also believe that undertaking SOA and KYC obligations should be an important part of providing best practice advice in regards to SMSF and strategic advice. Undertaking these obligations gives consumers of financial advice the best indication that the advice and recommendations made to them best suit their individual circumstances and will assist them achieve their financial goals. Therefore, we believe that accountants will provide the best quality advice when they are complying with the same obligations that financial planners are required too. We also understand that this would be the longer term outcome of accountants providing SMSF and strategic advice being brought into the AFSL regime but believe that these obligations should apply to exempt licence holders from 1 July 2013.

Finally, we are aware that there is uncertainty in the financial advice industry as to the extent of accountants' requirements operating under an exempt licence to meet the SOA and KYC requirements. We believe that this should be clarified in the explanatory statement accompanying the regulations and should also be a subject of ASIC guidance on with the exempt licence will be administered and regulated by ASIC.