

24 October 2014

Tax Practitioners Board  
PO Box 126  
HURTVILLE BC NSW 1481

Email: [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au)

Dear Sir/Madam,

**Re: Exposure Draft Information sheet TPB(I) D24/2014 Sufficient number requirement for partnership and company registered tax (financial) advisers**

*The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.*

*As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.*

*AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.*

AIST welcomes this exposure draft information sheet (the “information sheet”) and believes that it provides valid and welcome assistance to entities who may be asking who must be registered as tax (financial) advisers. In particular, we wish to congratulate the Board for what we believe is an impressive understanding of the differences between financial planning practices and the Board’s traditional audience of accountants.

**Meaning of ‘competent standard’ and ‘supervisory arrangements’**

We note that these terms are not defined in the *Tax Agent Services Act 2009* (TASA). We welcome the guidance that has been provided, additionally to the definitions sourced from the 2009 Macquarie Dictionary with respect to these terms.

We note that with respect to ‘competent standard’, the paper (at paragraph 6) notes section 912A(1) of the *Corporations Act 2001*, specifically referencing subsections (d) to (f). The issue of ensuring that the provision of tax (financial) advice services adhere to a competent standard touches on issues of both individual competence and organisational competence. These areas have been the subject of significant regulatory guidance from ASIC in, most notably, ASIC’s

Regulatory Guides RG 104, 105 and 146. We believe that the audience for this document would further benefit from reference to these documents, particularly if there are circumstances where the TPB's approach differs from ASIC's.

As we have mentioned in previous submissions, the notion of supervision is new to the financial services industry, and we believe that this should be the subject of its own guidance. We take this opportunity to recommend that an information sheet be developed that deals solely with supervision as the Board understands it, as we believe that this would be valuable to the industry.

AIST welcomes guidance such as that contained in paragraphs 12 and 15, and considers these paragraphs to be extremely helpful. With respect to the considerations contained in paragraph 12, we believe that the references to 'staff' may be too generic. We note the approach taken in *Exposure Draft Information sheet TPB(I) D23/2014 Fee or other reward for tax (financial) advisers* where consideration of staff who are not client facing are effectively carved out by what we believe is the intended coverage of paragraph 7 of TPB(I) D23/2014. Following from this, we believe that reference to "staff" throughout this paragraph would be better served by reference to "relevant staff".

#### **Determining the 'sufficient number'**

Similar to our comments above, we believe that paragraph 15 would be more appropriately served by replacement of "staff" with "relevant staff".

We note in this paragraph also, that where the paragraph commences with mention of requirements under the Corporations Act, the last dotpoint considers the question of conditions imposed on an entity as part of their registration. This has led some to mistakenly conclude that these conditions may be AFS licence conditions. We recommend that this be made clearer that registration in this case refers to registration with the Board.

Paragraph 18 appears to contain the guidance for AFS licensees who are applying for registration with the TPB. Although such guidance is valued, we are certain that company or partnership entities who apply for registration would benefit from a 'registration kit', similar to those issued by ASIC in the form of Regulatory Guides RG 1, 2 and 3.

#### **General comments**

We note that of the kinds of tax (financial) advice services provided by representatives of superannuation funds, a variety of different structures are in place, ranging from online intra-fund advice services, through to services provided in person whether these be streamlined intra-fund advice offerings or more extensive 'holistic' services. We also note that some entities may have variations in the level of supervision that they are able to provide, for example, where one

entity might have a number of financial advisers located centrally, another might have a number of advisers located in a number of different locations.

We believe that there may be scope in this information sheet for worked examples that identify structures such as these, and apply the information contained in the form to better assist entities with their registration needs. Relevant examples we might suggest would include the following:

- An AFS licensee such as a superannuation fund trustee who only provides an online intra-fund advice service;
- A small AFS licensee with three financial planners (all employees) all located in the one office;
- A medium sized AFS licensee with 40-50 financial planners located across several states, where all are employees; and
- A large AFS licensee with 200 financial planners located nationally (either employees or authorized representatives).

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at [rwebb@aist.asn.au](mailto:rwebb@aist.asn.au).

Yours sincerely,



Tom Garcia  
**Chief Executive Officer**