



Australian Government



TAX
PRACTITIONERS
BOARD

Tax Practitioners Board
Annual Report
2017–18

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Australian Government



**TAX
PRACTITIONERS
BOARD**

The Hon Stuart Robert MP
Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with subsection 60–130(1) of the *Tax Agent Services Act 2009*, I present this report on the operations of the Tax Practitioners Board in the financial year 2017–18.

Yours sincerely

A handwritten signature in black ink, appearing to read 'I. R. Taylor', with a long horizontal flourish extending to the right.

Ian R Taylor
Chair

2 October 2018

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1

Year in review

1 • Year in review



On 1 March 2018 we marked eight years of operation of the Tax Practitioners Board (TPB) and the *Tax Agent Services Act 2009* (TASA).

Since the commencement of the TASA and the legislated Code of Professional Conduct (Code), by 30 June 2018 the registered tax practitioner population had tripled to 77,749, with 42,561 tax agents, 15,638 business activity statement (BAS) agents and 19,550 tax (financial) advisers now part of the TPB's regulatory framework.

During 2017–18, the TPB continued to protect consumers by ensuring that tax practitioners met the registration/renewal requirements and that they were supported to respond to the challenge of rapidly evolving business practices while continuing to meet registration obligations. We also continued to emphasise that there are significant financial penalties for anyone providing tax agent services for a fee or reward while unregistered.

Work with tax (financial) advisers

One primary focus in 2017–18 was to process the significant volume of registration and renewal applications for tax (financial) advisers.

Last year I expressed concern that 2017–18 was likely to be a challenging year with a significantly increased workload within the context of budgetary constraints. A major issue was the impact that the additional tax (financial) adviser renewal applications could have on the service standards we previously achieved for application processing.

As almost 3,000 tax (financial) advisers registered under the transitional option before it ended on 30 June 2017 – and nearly half of those applications were received in the last four weeks of the 18-month transitional registration period – we had a large number of transitional applications to work through in 2017–18.

Following the 19,000 tax (financial) advisers who registered with the TPB via the notification option, the TPB received 10,798 tax (financial) adviser notifier renewal applications in 2017–18.

Together, 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 practise 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, by 30 June 2018.

Improved online experience

We have made a number of 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.

A significant achievement was the improved search functionality for the TPB Register. Improvements based on user feedback provide a more contemporary search experience and make it easier to find a registered tax practitioner. More than 1.7 million searches of the TPB Register were conducted in 2017–18, 32 per cent more than the total in 2016–17.

In March, the launch of a new qualifications tool on our website assisted 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 standards. These enhanced online services will greatly improve the registration and renewal process for tax practitioners.

Guidance on emerging issues

In response to the growing threat of cyber-attacks, we provided further guidance and education to tax practitioners to reinforce the importance of cyber security for their practices and their clients.

We updated our continuing professional indemnity insurance and professional education insurance explanatory papers to reflect measures that tax practitioners can put in place to protect themselves from cyber security threats. Tax practitioners were encouraged to consider optional professional indemnity insurance to cover first-party losses arising from a cyber-attack. The TPB now also recognises cyber security awareness training as relevant continuing professional education.

In February 2018, we released a practice note to assist tax practitioners to better understand their obligations under the Code in relation to the use of outsourcing and offshoring. Offshoring and outsourcing tax services to third parties is of increasing significance to the tax profession and we valued the participation of many stakeholders in finalising this guidance.

New privacy laws came into effect in February 2018 to regulate the reporting and notification of eligible data breaches to the Office of the Australian Information Commissioner. To assist tax practitioners to understand these new laws, we provided education and guidance to help tax practitioners comply with the Notifiable Data Breaches scheme and how it relates to their obligations under the Code.

In readiness for the start of Single Touch Payroll in July 2018, we engaged with the Australian Taxation Office (ATO) software and payroll service providers and BAS agents to increase industry awareness of our guidance on situations where they are providing a tax agent service and must be registered with the TPB.

Continued focus on compliance

A key compliance activity, the annual declaration process, has now entered its third year after being introduced for tax and BAS agents in January 2016. In 2017–18, tax and BAS agents demonstrated a high level of compliance with the annual declaration process: 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 requirements of registration.

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

An annual declaration requirement for recognised professional associations was introduced in April 2016. Following the first round of annual declarations, in February 2018 we released further guidance on the requirements for recognition that relate to corporate governance, operational procedures and accountability to members under the Tax Agent Services Regulations 2009 (TASR).

The guidance assists existing recognised professional associations, and associations seeking recognition, to understand and demonstrate that they meet their obligations under the TASR. Consistent with the TPB's practice, the guidance adopts a principles-based pragmatic approach, recognising that there is no set formula and that concepts of good corporate governance evolve over time.

Board and staff

In July 2017, Peter de Cure and Ria Sotiropoulos were appointed to the Board for three years, by the Minister for Revenue and Financial Services. Both bring a wealth of experience and understanding of the Australian tax system to the Board. In addition, Julie Berry was reappointed to the Board for three years.

It was an exceptionally busy year for Board members and for the staff of the TPB. Under the stewardship of the Secretary, Rosemary Holloway, TPB staff worked hard to successfully meet many competing challenges. I thank all Board members and TPB staff for their contribution to many positive outcomes for the TPB, tax practitioners and consumers of tax services in 2017–18.

Year ahead

As the TPB enters its ninth year, several reviews and initiatives are underway or planned that will impact the TPB and tax practitioners.

The Black Economy Taskforce recommendations will have implications for the TPB, including a greater focus on tax practitioners, key areas of concern regarding compliance with the tax system and proposed changes to the environment in which tax practitioners operate. Appropriately, the TPB has been provided with additional funding for this new work.

The outcomes of the Inspector-General of Taxation's Review into the Future of the Tax Profession are expected to cover the opportunities and challenges the tax profession is facing in the short, medium and long terms. We expect that this review will consider the impacts of technological change, globalisation and generational change that we identified in our submission to the review. Once the review has been finalised, the TPB will consider its outcomes and recommendations.

The ATO's focus on work-related expenses and the role tax agents play in ensuring compliance with taxation laws will continue. We will actively educate tax practitioners in the coming months to ensure that they meet their obligations throughout tax time.

The ongoing additional funding allocated to the TPB in the 2018–19 Budget will make an important difference to the outcomes we can deliver for tax practitioners and consumers of tax services.

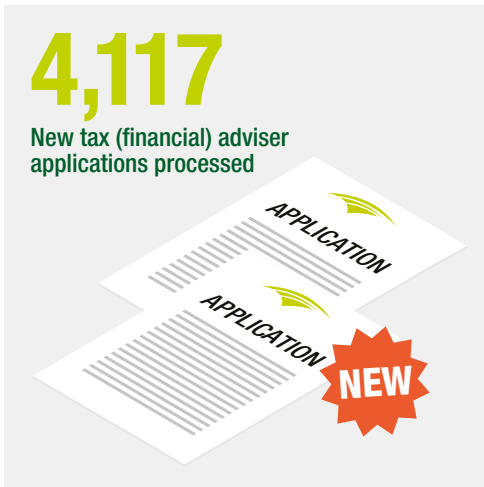
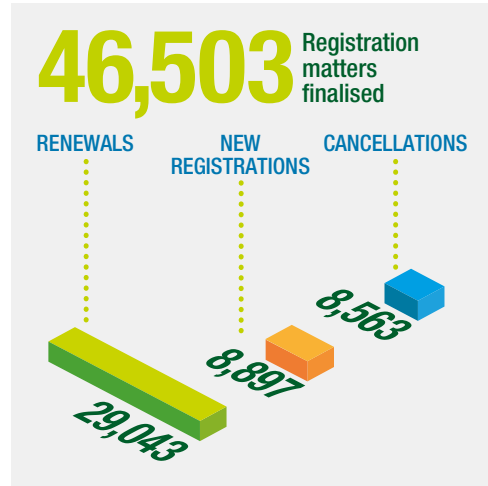
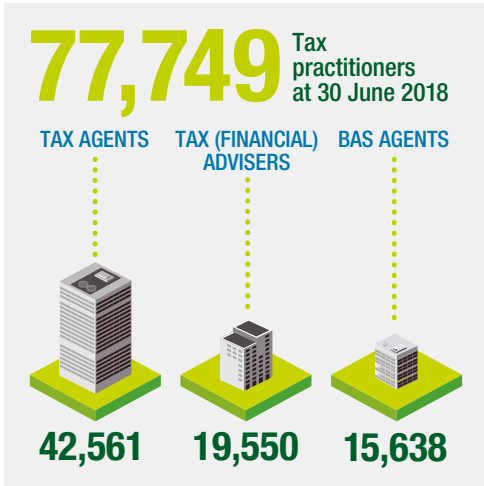
Tax practitioner application fee increases and changes apply from 1 July 2018. This increase in fees is subject to a future review of the application of the Australian Government Charging Framework to the TPB's activities. This review is proposed to take place in 2018–19 and will include consultation with our key stakeholders.

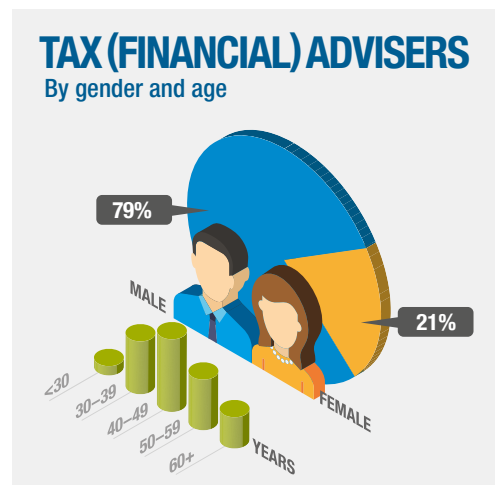
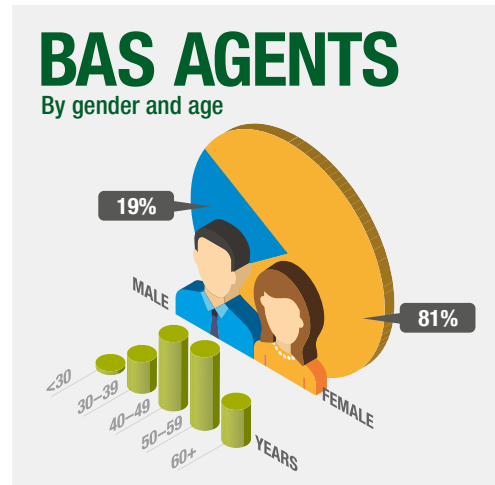
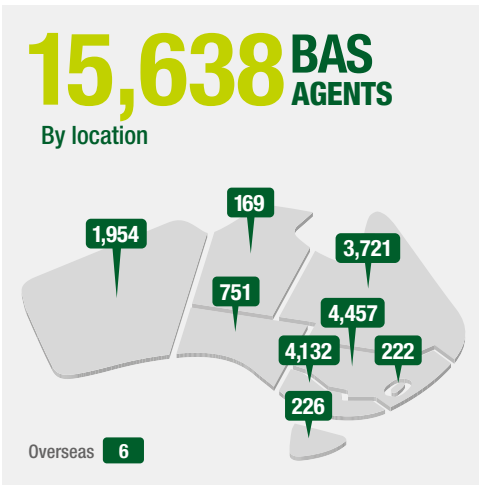
Given the TPB's notable achievements on a number of fronts in 2017–18, we enter 2018–19 in a strong position and welcome the challenges of the year ahead.

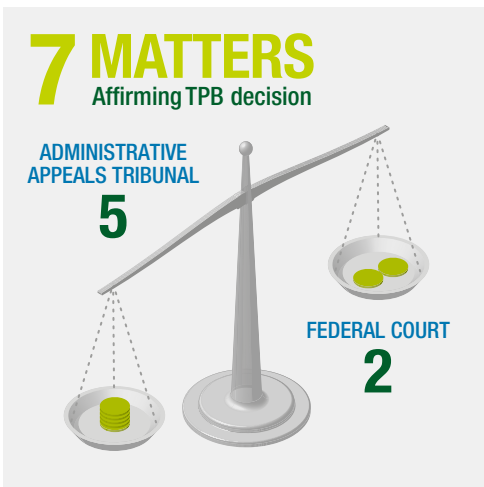
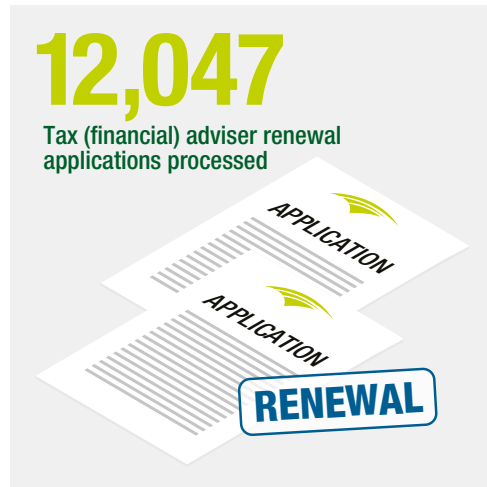
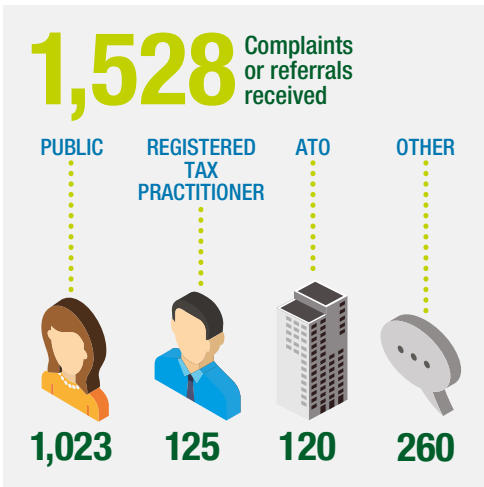
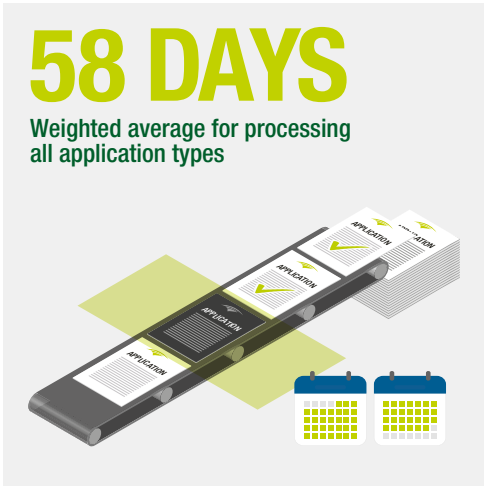


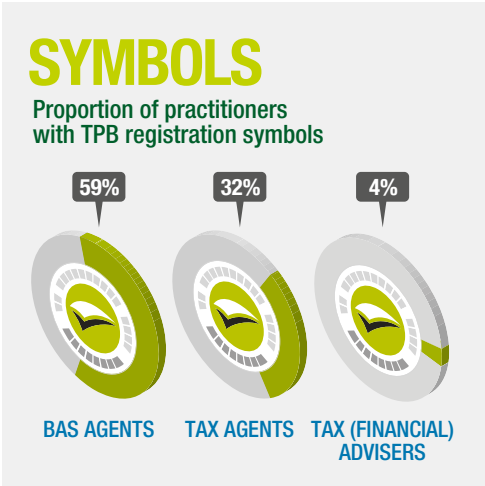
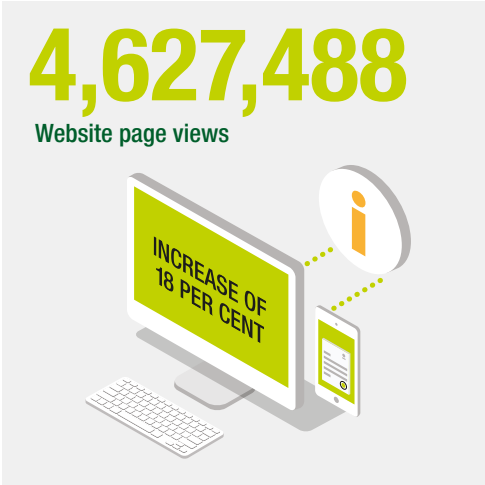
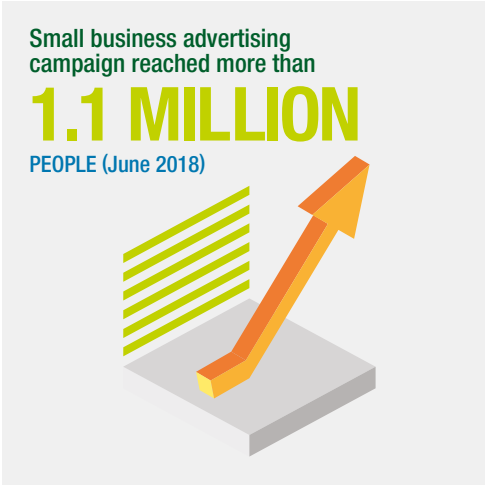
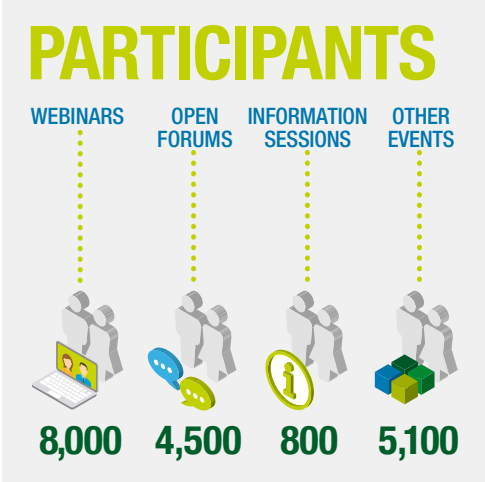
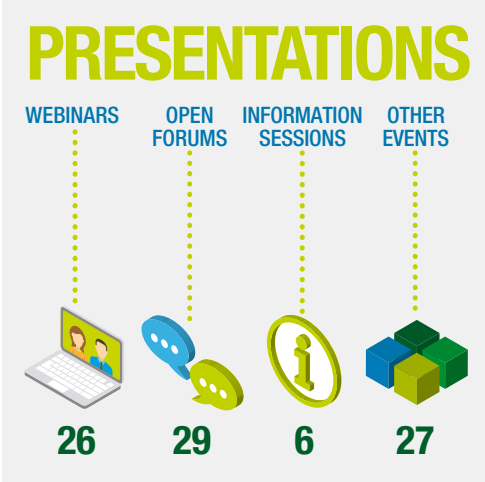
Ian R Taylor

Chair, Tax Practitioners Board









2

About the Tax Practitioners Board

2 • About the Tax Practitioners Board

The Tax Practitioners Board (TPB) is an independent statutory body created under the TASA and composed of Board members appointed by the responsible Minister.

Board members are appointed by the minister in recognition of their considerable expertise in diverse areas. In 2017–18, the Board had eight members, including the Chair, all of whom were part time.

The Board reports to the Minister and is supported by staff made available by the Commissioner of Taxation. Collectively, the Board and staff are referred to as the TPB.

The objective of the TPB is to ensure that the services provided by tax practitioners are provided to the public in accordance with appropriate standards of professional and ethical conduct.

The TPB seeks to regulate tax practitioners in a fair, consistent and practical way under the TASA, to protect consumers of taxation services, thereby strengthening the integrity of the tax practitioner profession.

ATO statistics indicate that registered tax practitioners lodge 72.4 per cent of all income tax returns, including 96.7 per cent of business returns.¹ The TPB plays a vital role in ensuring the integrity of this revenue channel.

The TPB collaborates with key stakeholders to:

- ensure that tax practitioners maintain appropriate knowledge and skills to provide competent services
- ensure that tax practitioners are aware of and understand their obligations, by communicating with them, issuing clear guidance and employing transparent processes in administering the TASA
- respond promptly and effectively to complaints about tax practitioners.

Role

The TPB is responsible for regulating the services provided by tax agents, BAS agents and tax (financial) advisers in Australia, in accordance with the TASA.

As a regulator, the TPB focuses on ensuring that tax practitioners comply with the TASA, promoting high professional and ethical standards, and protecting consumers of tax agent services. Tax agent services are defined broadly as tax services, including advice, where it can reasonably be expected that the services will be relied on for tax purposes.

1. Australian Taxation Office, 2016, *Taxation Statistics 2015–16*, www.data.gov.au.

Functions

Under the TASA, the TPB's functions include:

- administering the registration system for tax practitioners – individuals and entities that provide taxation services: tax agents, BAS agents and tax (financial) advisers
- administering the Code of Professional Conduct (Code)
- issuing guidance on relevant matters
- investigating conduct that may breach the TASA, including Code noncompliance, conduct that results in a tax practitioner no longer meeting the 'fit and proper' requirement for registration and breaches of the civil penalty provisions
- applying administrative sanctions for Code noncompliance
- seeking Federal Court civil penalty orders in response to breaches by registered tax practitioners and entities that should be registered but are not.

Subject to the requirements set out in the TASA, the Board may delegate functions and powers to committees. In some cases, suitable persons other than Board members can be appointed to the committees.

The Board delegates routine decision-making (not subject to appeal) to the TPB Secretary, who authorises TPB staff to act on the Secretary's behalf, while retaining full responsibility and maintaining decision-making quality assurance.

As part of its regulatory role, the TPB can seek civil penalties through the Federal Court for improper conduct by registered tax practitioners and unregistered entities. For example, civil penalties may apply where an unregistered entity advertises tax agent services or provides tax agent services for a fee or other reward, or where a registered tax or BAS agent knowingly or recklessly makes false or misleading statements to the Commissioner of Taxation.

Board decisions, including administrative sanctions, can be appealed to the Administrative Appeals Tribunal (AAT) and the Federal Court (see 'Judicial and administrative tribunal reviews and appeals', p. 47).

Board members

At 30 June 2018, the members of the Board were: Ian R Taylor (Chair), Julie Berry, Peter de Cure, Jim Hawson, Julianne Jaques, Ian Klug, Greg Lewis, and Ria Sotiropoulos. The brief biographies in this chapter provide details of their qualifications and experience.

Russell Smith and Yvonne Sneddon concluded their Board appointments on 22 July 2017.

Board membership 30 June 2018



Ian R Taylor (Chair)

Ian was a tax partner with KPMG in Melbourne from 1985 to 2006, before establishing his own practice as a registered tax agent. He was previously a senior lecturer in taxation, financial management and accounting at Swinburne University for 13 years, and has also taught at La Trobe University and the Melbourne Business School at Melbourne University. He has a Bachelor of Economics and a Diploma of Education from Monash University and a Master of Business Administration from the University of Melbourne. He is a Fellow of CPA Australia and a Fellow of Chartered Accountants Australia and New Zealand. He has been a committee member and chair of various committees for both CPA Australia and Chartered Accountants Australia and New Zealand. Ian commenced as Chair of the TPB in January 2013 and was reappointed in December 2015 for a three-year period.



Julie Berry

Julie is a registered tax (financial) adviser and a certified financial planner, and has practised as a financial planner for more than 28 years. She is Managing Director of Berry Financial Services and an authorised representative of ClearView Financial Advice Pty Ltd. She is Chair of the New South Wales Mid North Coast chapter of the Financial Planning Association of Australia (FPA). Julie has previously served as both Chair and a board member of the FPA, and is a life member of the FPA and recipient of the FPA Distinguished Service Award. She is a member of the Australian Institute of Company Directors. Julie was appointed to the Board in December 2015 and reappointed in July 2017.

Peter de Cure

Peter is a professional company director and chartered accountant. His experience in taxation matters has developed over a 25-year career as a tax partner with KPMG, and as a registered tax agent for 16 years. Peter is a Fellow of the Australian Institute of Company Directors and a Fellow of Chartered Accountants Australia and New Zealand. He is chairman of the Australian-American Fulbright Commission and of Gifford Hill Joint Venture and Gifford Hill Pty Ltd; a non-executive director of Accord Property Development Fund and Variety, the children's charity; and an advisory board member of several significant private companies. He is a director of the Royal Flying Doctor Service, Central Operations. Peter holds a Bachelor of Economics from the University of Adelaide. Peter was appointed to the Board in July 2017.

**Jim Hawson**

Jim is a registered tax agent and Fellow of CPA Australia. He works with small and medium-sized enterprises as both a consultant and a board member. Jim began his career at the ATO, before joining Hobart accountancy firm Garity Hurd and Partners in 1987. Jim joined the national accounting firm Investor Group (now Crowe Horwath) as a principal in 2003 and was a member of the Tasmanian management team until his retirement in 2015. Jim holds a Bachelor of Commerce from the University of Tasmania. Jim was appointed to the Board in December 2015.

**Julianne Jaques**

Julianne is a barrister specialising in taxation, and has been a tax adviser for more than 25 years. She is a chartered accountant, chartered tax adviser and Tax Bar Association member. Formerly an accountant with Coopers & Lybrand and a solicitor with Freehills, Julianne was also an adviser to the federal government during the GST and business tax reforms of 1999 to 2001. Julianne is a member of the Victorian State Council of The Tax Institute and Co-chair of The Tax Institute's Victorian Professional Development Committee. She holds a Bachelor of Economics and Bachelor of Laws from Monash University, and a Doctorate of Juridical Science from the University of Melbourne. Julianne was appointed to the Board in December 2015.





Ian Klug

Ian is a Fellow of Chartered Accountants Australia and New Zealand and a Fellow of the Australian Institute of Company Directors. He is Chairman of Brisbane Marketing, the city's economic development agency. Ian is also chairman of Place Design Group, an international planning and design company; the Lord Mayor's Economic Development Steering Committee; and The Water and Carbon Group. He is on the board of the Brisbane Festival and chairs the finance committee. His previous roles include partner at Pitcher Partners, Chairman of Queensland Artworkers Alliance, and director of Tennis Queensland and councillor of Tennis Australia. Ian was awarded an Australian Sports Medal in 2000 and made a Member of the Order of Australia in 2017. He has a Bachelor of Arts and a Bachelor of Commerce from the University of Queensland. Ian was appointed to the Board in December 2015.



Greg Lewis

Greg is a chartered accountant, chartered tax adviser and registered tax agent. He began his career as a graduate at KPMG, then moved to Ernst & Young, where he was promoted to the position of principal in the tax division. After returning to KPMG as a partner, Greg went on to become a consultant in taxation at the law firm Minter Ellison. He has been a company director and chairman of various organisations, both public and private. Until recently, he was Managing Director of specialist industrial fittings manufacturer Bayside Benders Pty Ltd, supplying the civil, electrical and telecommunications industries. He is a consultant to private companies on a wide range of technical and strategic matters. Greg holds a Bachelor of Economics and a Masters in Taxation. Greg was appointed to the Board in December 2015, and was Acting Chair of the Board in July 2017.



Ria Sotiropoulos

Ria is an experienced tax barrister at the Victorian Bar who has practised in tax law for 17 years, including as a barrister for the past nine years. As a solicitor at large law firms (Clayton Utz and Arnold Bloch Leibler) and a senior taxation consultant at large accounting firms (Ernst & Young and Deloitte), she gained broad and extensive tax experience advising clients on complex tax issues. Ria is a chartered tax adviser, a committee member of the Tax Bar Association, and a member of the International Fiscal Association. Ria participates in international tax meetings and forums with global tax leaders, advisers and policy-makers on current and emerging international tax issues. Ria holds a Bachelor of Science (Dist), a Bachelor of Laws and a Master of Laws (Hons). Ria was appointed to the Board in July 2017.



Board members from left to right: Jim Hawson, Julie Berry, Greg Lewis, Ria Sotiropoulos, Peter de Cure, Ian Taylor (Chair), Julianne Jaques, Ian Klug.

Committees

The TASA empowers the Board to form committees with delegated authority to make certain decisions. The committee structure enables the Board to make timely decisions efficiently, particularly on routine matters such as registration applications.

Under the TASA, decisions that may be subject to AAT appeal may be delegated only to committees composed of at least three Board members (and only Board members).

Decisions subject to appeal include those that:

- reject registration applications
- impose conditions on registrations
- suspend or terminate registration (or apply other sanctions)
- extend investigation periods
- decline to accredit an association as a recognised tax agent, BAS agent or tax (financial) adviser association.

The Board has the capacity to appoint non-Board members, including people not on the Board's staff, as members of some committees. This enables the Board to get expert advice or assistance as required, as well as to delegate routine decision-making to qualified staff.

Table 1 provides details of the Board's committees at 30 June 2018.

Table 1: Board committees, 2017–18

Type/responsibility	No.	Name
Governance	7	Audit and risk committee
Policy and consultative	1	Consultative forum
	2	Financial adviser forum
	3	Education and course approvals committee
	4	Professional practice committee
Operations	9	Recognised professional associations committee
	13	Reviewable applications decisions committee (registration exceptions)
	19	Board conduct committee
	–	Projects and IT steering committee

Note: Committees are numbered for administrative convenience and are not renumbered when the need for a particular committee ceases.

Organisation



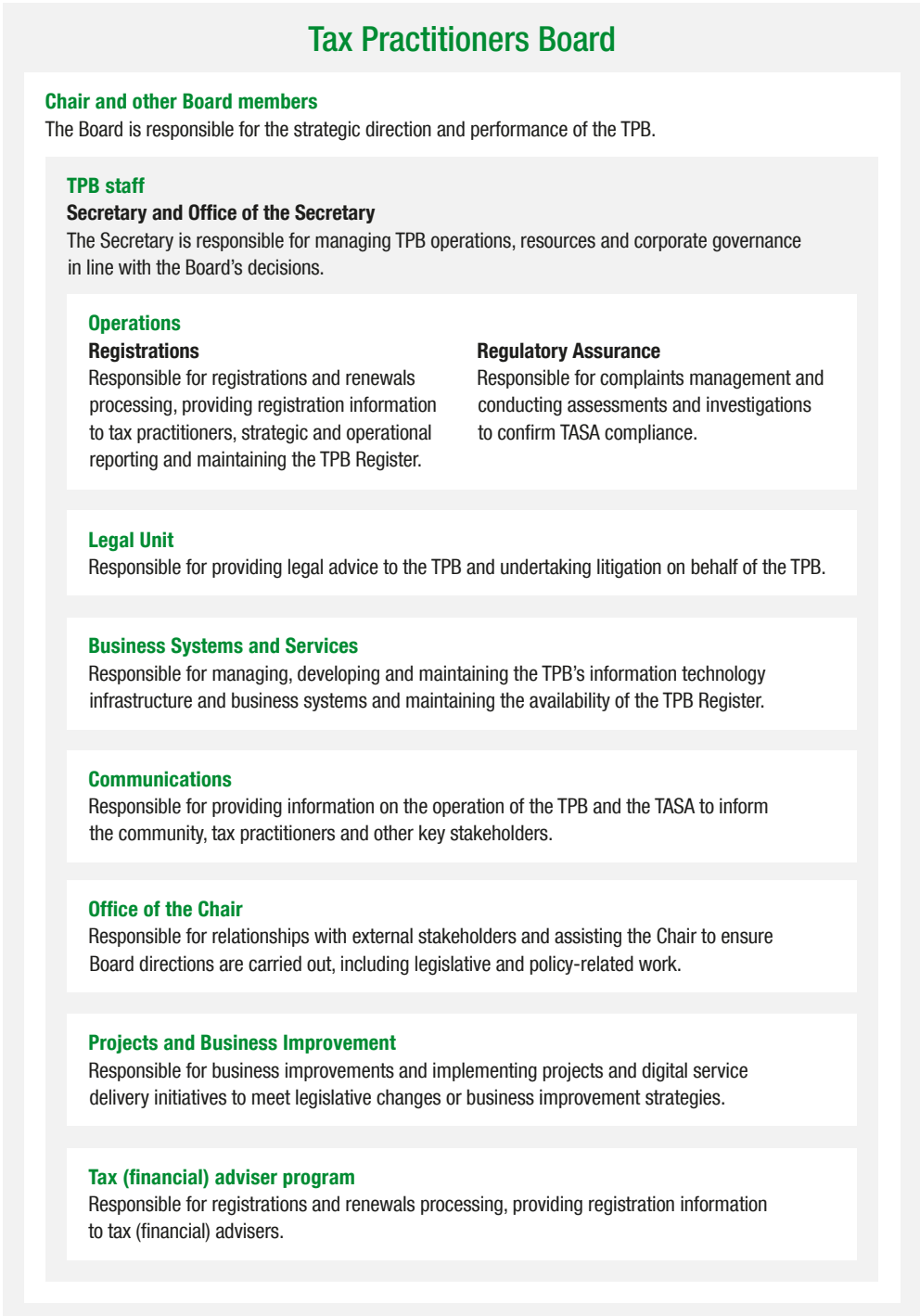
Rosemary Holloway, Secretary of the TPB

Under the TASA, the ATO provides administrative support to the Board, including staffing, accommodation, and financial and other systems. The Board is assisted by the Secretary and staff, who are employees of the ATO and made available to the Board by the Commissioner of Taxation.

At 30 June 2018, Rosemary Holloway was Secretary of the TPB, and its workforce comprised 130 ongoing and non-ongoing staff (see Appendix A). TPB staff are located in Brisbane, Canberra, Melbourne and Sydney.

Table 2 outlines the elements of the TPB's organisation and their responsibilities.

Table 2: Organisational structure, 2017–18



Legislative framework

The TPB administers the:

- *Tax Agent Services Act 2009 (TASA)* – sets out the powers and functions of the TPB for the registration and regulation of tax agents, BAS agents and tax (financial) advisers
- *Tax Agent Services Regulations 2009 (TASR)* – set out the broad requirements for registration, applicable fees, and the provisions for recognising professional associations
- *Tax Laws Amendment (2013 Measures No. 3) Act 2013* – creates a regulatory framework for tax (financial) advice services, including the transitional provisions for registration as a tax (financial) adviser
- *Tax Agent Services (Specified BAS Services) Instrument 2016*
- *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* – deals with consequential and transitional matters arising from the TASA's enactment.

The legislation is available at www.legislation.gov.au.

While the TPB operates with statutory independence and reports directly on its operations to the Minister, the TPB's funding is derived through ATO program funding under the Treasury portfolio, and it is assisted by APS employees whose services are made available by the Commissioner of Taxation.

Reporting framework

For the purposes of the *Public Governance, Performance and Accountability Act 2013*, the Commissioner of Taxation is the accountable authority for the ATO entity, which includes the TPB.

The TPB's corporate plan and annual report (incorporating the Annual Performance Statement) are submitted to the Minister, the Department of the Treasury and the Department of Finance.

The work of the TPB constitutes Program 1.2: Tax Practitioners Board of the ATO, as defined in the *Treasury Portfolio Budget Statements 2017–18*.

The Annual Performance Statement included in this annual report reflects the TPB's performance against the deliverables and performance criteria set out in the ATO's PBS and the *TPB Corporate Plan 2017–18*.

Regulator Performance Framework

The Regulator Performance Framework assesses one aspect of regulatory performance (minimisation of regulatory burden) and focuses on administering regulation (not regulatory policy-making).

A key purpose of the framework is to increase the transparency and accountability of Commonwealth regulators. Commonwealth regulators are required to report annually (through self-assessment) on how they are performing against the following six key performance indicators (KPIs):

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

The TPB has developed a range of measures and metrics against each of the KPIs, which have been externally validated through the TPB consultative forum and published on the TPB website.

Table 3 demonstrates how the strategic goals in the corporate plan are mapped to the Regulator Performance Framework KPIs.

Table 3: Mapping of strategic goals to Regulator Performance Framework key performance indicators

Strategic goal, corporate plan	KPI 1	KPI 2	KPI 3	KPI 4	KPI 5	KPI 6
1 Consumers of tax practitioner services only engage registered practitioners						●
2 Every entity that should be registered as a tax practitioner is registered		●	●		●	
3 Tax practitioners understand their obligations under the <i>Tax Agent Services Act 2009</i>		●	●	●	●	
4 Tax practitioners comply with their obligations under the <i>Tax Agent Services Act 2009</i>		●	●	●	●	●
5 The TPB is recognised as an independent, efficient and effective regulator	●	●	●	●	●	●

3

**Annual
performance**

3 • Annual performance

The *TPB Corporate Plan 2017–18* outlines five strategic goals (purposes) of the TPB. These goals and related performance measures are aligned with the performance framework articulated in the PBS.

STRATEGIC GOAL 1

Consumers of tax practitioner services only engage registered practitioners

A broad range of communications activities were conducted by the TPB in 2017–18 to encourage consumers of tax services to ensure that their tax practitioner is registered by:

- checking the TPB Register
- looking for the registered tax practitioner symbol.

Major activities included the implementation of a tax time digital advertising campaign and a small business awareness strategy. Channels used to promote these key messages throughout the year included social media and targeted stakeholder communications.

Tax time campaign

A tax time digital advertising campaign ran in June 2018 to encourage small businesses to ensure that their tax practitioner is registered. The advertising aimed to continue the outcomes achieved through the 2016–17 unregistered service provider project, which provided increased consumer protection and helped to increase the integrity of the tax profession.

Digital advertising was done through Google, Bing, Yellow Pages® online, TrueLocal and Gumtree to encourage people looking for a tax agent or BAS agent to:

- look for the registered tax practitioner symbol or check whether they are registered
- understand the benefits of using a registered practitioner.

Digital advertising resulted in more than 1.1 million advertisements appearing when small businesses were searching for a tax agent or BAS agent, and generated more than 4,300 searches of the TPB Register.

Small business awareness

During 2017–18, a small business communications strategy was implemented to integrate our messages regarding registered tax practitioners in stakeholder communications to small businesses.

The TPB worked with other government agencies to embed key messages in existing communication channels, such as business.gov.au and the ATO's website content for small business, small business newsroom, and 'New to business' email series and webinar.

The campaign resulted in supporting coverage through business.gov.au and the ATO's small business newsroom. It was also promoted through social media channels for:

- the Australian Small Business and Family Enterprise Ombudsman
- Business Tasmania
- the New South Wales Small Business Commissioner
- Business NSW.

To coincide with the end of tax time in October 2017, the TPB issued direct communications to small business associations, promoting the message that small businesses should check that their tax practitioner is registered. This resulted in various small business association news outlets publishing articles about checking the TPB Register.

TPB Register

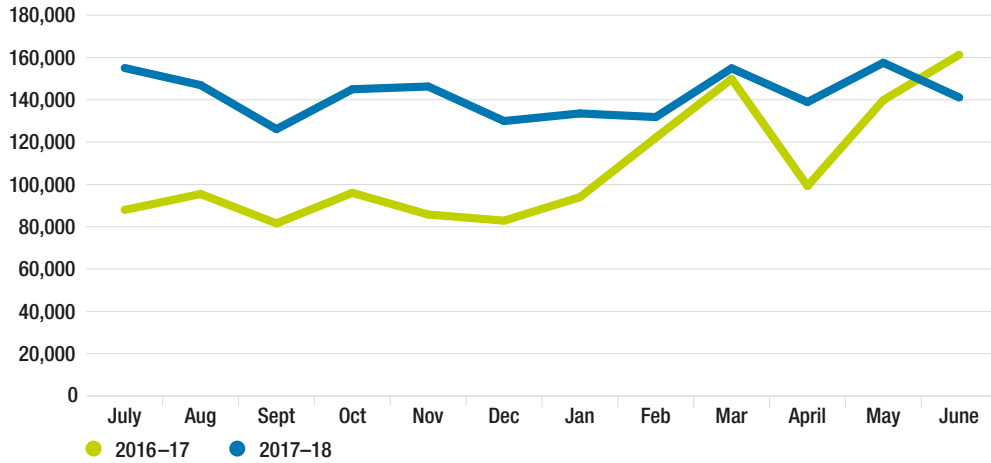
During 2017–18, 1,707,371 searches were conducted on the TPB Register, a 32 per cent increase compared to the total for 2016–17. Figure 1 shows the trends in searches by month.

Advertising, social media and stakeholder communications were used to encourage consumers of tax practitioner services to check the TPB Register to ensure that the entity they were using was registered and therefore appropriately qualified.

In March 2018, the TPB implemented a major upgrade of the functionality of the TPB Register, creating an enhanced user experience. In response to external user testing feedback, a faster and more flexible search experience was delivered to help consumers check whether their practitioner is registered.

The new TPB Register also provides a unique URL for every practitioner's record. Registered tax practitioners can link to their unique URL from their website or email and use their registered tax practitioner symbol to show clients that they are registered with the TPB.

Figure 1: TPB Register searches, 2016–17 and 2017–18



Registered tax practitioner symbol

The registered tax practitioner symbol provides public recognition that a tax practitioner is registered and maintains the ethical and professional standards required for registration. Separate symbols are provided for different practitioner types, as shown in Figure 2.

Figure 2: Registered tax practitioner symbol



A total of 4,229 symbol download requests were received in 2017–18, a decrease compared to 5,052 in 2016–17. A total of 23,759 registered practitioners have requested the symbol to date. This accounts for 32 per cent of tax agents, 59 per cent of BAS agents and 4 per cent of tax (financial) advisers.

In the lead-up to the tax time digital advertising campaign, registered tax practitioners were encouraged to download and use their symbol, through a targeted email strategy that resulted in a significant increase in symbol download requests during May and June 2018.

STRATEGIC GOAL 2**Every entity that should be registered as a tax practitioner is registered**

To help tax practitioners to register and to ensure that requirements are met for initial and ongoing registration, the TPB continued to focus on its core business of processing applications and ensuring that tax practitioners met the requirements. For example, the TPB supported financial advisers who provide tax advice in the context of financial advice to take advantage of the transitional registration option which ended on 30 June 2017. The extra workload that resulted from tax (financial) adviser registration renewals impacted on TPB service standards in 2017–18.

Registrations and renewals

In 2017–18, the numbers of registered tax agents and BAS agents increased slightly. The total number of registered tax (financial) advisers reduced to 19,550 (see Table 4).

As part of its responsibility for administering a registration system for tax practitioners, the TPB processes new applications, renewals, annual declarations, cancellations, surrenders and rejections (see Table 5).

The number of tax (financial) adviser registrations decreased because almost 6,000 of approximately 19,000 tax (financial) advisers that had registered under the notification option (which ceased in 2014) did not renew their registration. Most of those who did not renew had ceased to be representatives of an AFS licensee or did not actually provide tax (financial) advice services for a fee or reward.

Table 4: Registered tax practitioners, 2015 to 2018

Category	30 June 2015	30 June 2016	30 June 2017	30 June 2018
Tax agents	40,593	41,227	41,532	42,561
BAS agents	14,936	14,715	15,235	15,638
Tax (financial) advisers ¹	16,329	19,494	21,826	19,550
Total	71,858	75,436	78,593	77,749

1. Tax (financial) advisers include Australian financial services licensees and their representatives.

Note: All figures include individuals, corporate entities, partnerships and trustees.

Table 5: Registration applications, 2017–18

Category	Awaiting finalisation at 30 June 2017	Received	Finalised	Awaiting finalisation at 30 June 2018
Tax agent				
New applications	543	2,836	3,008	371
Renewals	1,407	10,654	11,512	549
Total	1,950	13,490	14,520	920
BAS agent				
New applications	241	1,701	1,772	170
Renewals	404	5,229	5,484	149
Total	645	6,930	7,256	319
Tax (financial) advisers				
New applications	1,955	2,264	4,117	102
Renewals	1,437	10,798	12,047	188
Total	3,392	13,062	16,164	290
Grand total	5,987	33,482	37,940	1,529

Cancellations

During the year, the TPB processed 8,563 cancellations of registration. The reasons for cancellation are detailed in Table 6.

Table 6: Registration cancellations, 2017–18

Reason for cancellation	Tax agent	BAS agent	Tax (financial) adviser	Total
Administrative closure of branch	30	0	0	30
Company ceased to exist	5	12	1	18
Company no longer meets registration requirements	3	1	1	5
Company surrendered registration	173	102	59	334
Death	86	8	9	103
Failed to renew	661	594	5,964	7,219
Failure to comply with Code of Professional Conduct	17	6	0	23
Individual no longer meets registration requirements	6	0	1	7
Partnership no longer meets registration requirements	0	1	0	1
Partnership surrendered registration	27	17	0	44
Branch surrendered registration	1	0	0	1
Individual surrendered registration	348	296	134	778
Total	1,357	1,037	6,169	8,563

Rejections

Of the registration applications finalised during the year, the TPB formally rejected seven tax agent applications and four BAS agent applications, for the reasons shown in Table 7. No tax (financial) adviser applications were rejected.

Table 7: Registration application rejections, 2017–18

Reason for application rejection	Tax agent	BAS agent	Tax (financial) adviser	Total
Fitness and propriety	6	1	0	7
Lack of qualifications	1	2	0	3
Lack of relevant experience	0	1	0	1
Total	7	4	0	11

Note: All application rejections are appealable decisions and a number are currently before the Administrative Appeals Tribunal.

Requirements for registration

Board approved courses

To meet the qualification requirements for registration, individual applicants may be required to undertake Board approved courses that cover areas of Australian taxation law, commercial law and accountancy relevant to their registration. During the year, the Board reviewed four course approval requests and approved four, including courses developed by education providers to meet the Board's requirements. Course details are on the TPB website.

In addition to approving courses, the TPB provided input into the work of PwC's Skills for Australia to develop a new diploma of payroll services and the newly named Certificate IV in Accounting and Bookkeeping qualification.

Recognised professional associations

Voting members of a recognised professional association have an additional pathway to seek registration with the TPB. The TPB recognises a number of professional associations for this purpose; however, it is important to note that the TPB's recognition of a professional association does not give a professional association the ability to actually provide tax agent services for a fee.

Due to standards set out in the TASR, to gain recognition, a professional association must assure the TPB that it requires high educational, ethical and professional standards of its members and that it has appropriate governance arrangements. During 2017–18, the TPB did not accredit any additional professional associations; however, the TPB rejected one application for recognised tax (financial) adviser association status.

The TPB has an annual declaration process for recognised professional associations to help ensure that all recognised associations continue to meet the ongoing eligibility requirements for recognition, as noted in Schedule 1 to the TASR. The TPB requires that recognised professional associations submit their annual declarations approximately four months after their financial statement year-end.

The TPB's Recognised professional associations committee, acting under delegated authority of the Board, considers annual declarations from associations to decide whether the requirements for recognition continue to be satisfied.

Following the first round of annual declarations in 2016–17, the TPB released draft guidance to assist existing recognised professional associations and those seeking recognition to meet the requirements in relation to corporate governance, operational procedures and accountability to members. Following stakeholder consultation and consideration of public submissions, the TPB finalised and released the guidance in February 2018. The guidance is a reference point for assessing annual declaration responses, ensuring that recognised associations meet ongoing eligibility requirements for recognition as noted in Schedule 1 to the TASR.

Further information about the requirements for recognition of professional associations is on the TPB website. The 20 professional associations officially recognised by the TPB at 30 June 2018 are shown at Appendix B.

Qualifications check tool

In March 2018, the TPB implemented a new online tool to help applicants check whether they meet qualifications requirements under the TASR. The TPB's qualifications check tool provides an easier way for applicants and course providers to:

- check whether their qualifications meet the registration requirements
- search for Board approved courses and units.

Between March and June 2018, the qualifications check tool handled 11,879 enquiries. After the TPB Register, the qualifications check tool pages have been the second-highest-ranking pages on the website since implementation, accounting for 14 per cent of page views since the service was launched.

The qualifications check tool also provides a more efficient way for TPB staff to manage the qualifications knowledge base and respond to qualifications enquiries. The tool was supported by a new internal qualifications database, launched in July 2017.

Tax (financial) advisers

In 2017–18, a primary focus for the TPB was supporting the registration and renewal of registration of tax (financial) advisers. A total of 19,550 tax (financial) advisers were registered with the TPB at 30 June 2018.

The TPB commenced 2017–18 facing a huge tax (financial) adviser registration and renewal workload. Just over 19,000 tax (financial) advisers registered with the TPB via the notification option in 2014 and 2015, and their registrations were due for renewal in 2017–18. Almost 3,000 tax (financial) advisers lodged renewal applications under the transitional option before it ended on 30 June 2017. Nearly half of those applications were received in the last four weeks of the 18-month transitional registration period. The TPB entered 2017–18 with a large number of transitional applications to process.

Approximately 10,800 tax (financial) adviser notifier renewal applications were submitted in 2017–18. Most of the former tax (financial) adviser notifiers who did not renew were no longer representatives of an AFS licensee. Others had notified to register when they did not need to, for example, they did not actually provide tax (financial) advice services.

A dedicated tax (financial) adviser team provided assistance to tax (financial) advisers, answering more than 14,500 phone enquiries and more than 5,800 email enquiries. The team also streamlined processes and procedures, ensuring that policies and processes for registering and regulating tax (financial) advisers were practical and relevant to the industry.

This resulted in more than 4,117 tax (financial) adviser standard and transitional new applications and 12,047 renewal applications being finalised in 2017–18. Together, these applications saw a 16 per cent increase in the TPB's registration and renewal workload compared to the workload in 2016–17.

The TPB established the role of key client manager to work closely with those AFS licensees that have 10 or more authorised representatives, and invited them to participate in a bulk renewal process for the first renewal of their registered individual authorised representatives.

In 2017–18, the TPB used a range of communication channels and worked with key stakeholders, such as the Australian Securities and Investments Commission (ASIC) and professional associations, to engage with tax (financial) advisers and increase awareness of the TPB's registration requirements. The TPB consulted closely with the financial planning profession and held several meetings with associations and industry groups, including the financial adviser forum (see 'Consultation' on p. 45 for more information).

Through effective communication and resources, dedicated client support, collaboration with AFS licensees and streamlined and improved application processing, the TPB efficiently processed all transitional applications and almost all (98 per cent) notifier renewal applications by 30 June 2018.

Registration service standards

The TPB has targets for service delivery in processing registrations and dealing with enquiries, most of which relate to registration. The standards and the TPB's performance against those service standards in 2017–18 are detailed in Table 8.

Table 8: Service standards, 2017–18

Service standard	Performance %
80 per cent of registration applications processed within 30 days of receiving a complete application	73
95 per cent of registration applications processed within 60 days of receiving a complete application	78
95 per cent of telephone calls answered within five minutes	94
98 per cent of telephone calls answered within 10 minutes	99
95 per cent of emails and letters actioned within 14 days	88

The TPB strives to meet its registration service standards; however, in 2017–18 there was a marginal decline in the percentage of applications processed within the 30-day and 60-day targets. The processing time for all applications (new and renewals) was affected by resourcing constraints and a significant increase in registration workload and enquiries.

Some of the pressure on processing times in 2017–18 was due to factors such as the:

- volume of new tax (financial) adviser registrations lodged, especially during the last stage of the transitional registration period before it ended on 30 June 2017
- processing of 12,047 notifier renewals and 4,117 new (standard and transitional) applications for tax (financial) advisers
- implementation of the annual declaration process, which required a significant investment but delivered considerable improvements in:
 - practitioner engagement with the TPB
 - TPB information on the professional indemnity insurance details of practitioners
 - lodgement of outstanding returns
- increase in the numbers of emails and phone calls to the TPB, primarily from tax (financial) adviser registrants
- high number of pre-1988 tax agents requiring assistance with the renewal process.

The TPB works through communication and process improvements to increase the number of registration and renewal applications processed without requiring further applicant interaction. This approach aims to improve the registration process for tax practitioners and deliver operational efficiencies for the TPB.

In 2017–18, 73.8 per cent of registration and renewal applications were processed without further applicant interaction, which is an increase from the 71.9 per cent achieved in 2016–17. The TPB achieved a weighted average of 58 days to process all application types, answered 46,682 phone calls and actioned 19,081 emails and letters.

STRATEGIC GOAL 3

Tax practitioners understand their obligations under the *Tax Agent Services Act 2009*

To help tax practitioners to understand their obligations under the TASA and to maintain their registration, in 2017–18 the TPB worked to educate practitioners through:

- the TPB website
- a record number of speaking events and webinars
- the regular publication of *TPB eNews*
- regular messages through social media channels – Twitter, LinkedIn and YouTube.

These communications activities provided tax practitioners with timely reminders about their obligations.

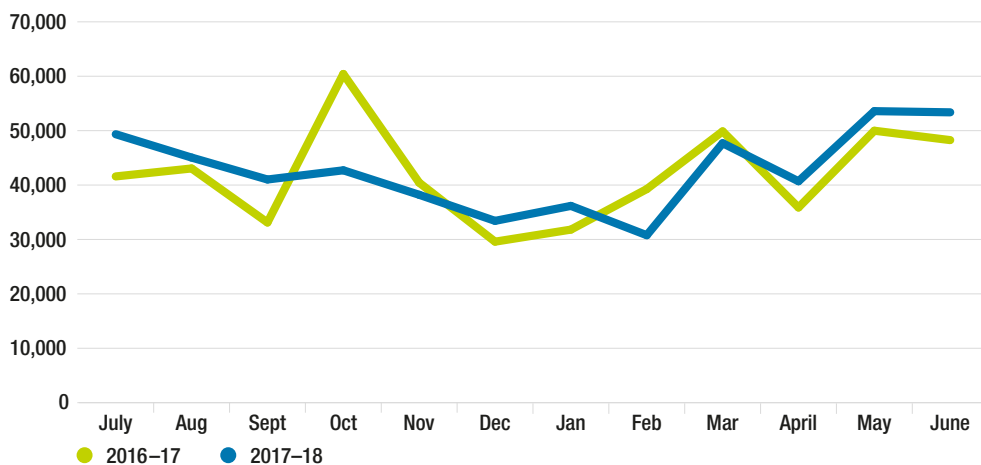
Website

During 2017–18, the TPB website attracted 414,360 visitors and 4,627,488 page views. This represents an 18 per cent increase in the number of page views compared to the total in 2016–17. Figure 3 shows the trends in website visits by month.

The most popular content on the TPB website related to information on how to register and the qualifications and experience required for registration. Website user research indicates that most practitioners access the website to find the requirements while preparing for registration.

Spikes in visits coincided with the publication of *TPB eNews* in July, September and December 2017 and March and May 2018. Throughout the year, the TPB reminded tax practitioners when it was time for them to renew their registration or complete an annual declaration, through timely emails linked to the TPB website.

Figure 3: Website monthly visits, 2016–17 and 2017–18



Online registration and enquiries

In December 2017, the TPB implemented online improvements to make it easier for tax practitioners to notify the TPB of changes in registration details. A series of online forms assist registered tax practitioners to notify the TPB of changes to a practice or legal name, add or remove supervising tax practitioners, directors or partners, or advise the TPB of change of circumstances affecting their registration.

The TPB also implemented a general enquiry form to simplify the enquiry process. This initiative contributed to improvements in enquiry response times and the TPB's ability to effectively manage increasing workloads.

The change of details form has been accessed 4,326 times and the general enquiry form has been accessed 4,821 times since implementation.

Outreach and speaking engagements

In 2017–18, the TPB continued its commitment to communications and awareness activities, including webinars, information sessions and speaking engagements. The TPB webinar program continued to prove a popular continuing professional education opportunity for tax practitioners: the number of registrations increased significantly, by 42 per cent compared to the total in 2016–17.

In addition to delivering its highest number of webinars – 26 webinars, reaching more than 8,000 participants – the TPB presented at a significant number of events, including:

- 29 ATO Open Forums
- 27 industry/professional body conferences.

The TPB also undertook face-to-face outreach activities during March 2018, holding three information sessions each in Doncaster, Victoria, and Parramatta, New South Wales. Collectively, more than 800 tax agents and BAS agents attended the sessions, which covered confidentiality, outsourcing and offshoring, authorisation to lodge, Single Touch Payroll, cyber security, and the Notifiable Data Breaches scheme.

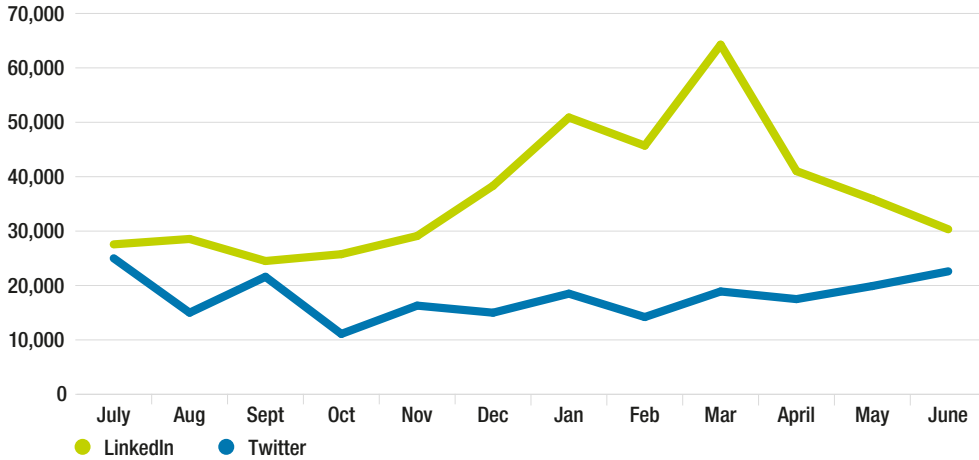
TPB eNews and social media

During 2017–18, the TPB issued 11 editions of the e-newsletter *TPB eNews*. Five editions were tailored for tax agents and BAS agents, five were tailored for tax (financial) advisers, and one special edition was tailored for AFS licensees. Subscriptions to *TPB eNews* increased by about 2 per cent, to reach more than 59,600 recipients. Throughout 2017–18 the tax (financial) adviser issues provided guidance to help those practitioners through the registration renewal process.

TPB eNews provides timely advice and news updates to tax practitioners, alerting them to matters of interest to the tax profession. It had an average open rate of 38 per cent and about 7 per cent of recipients clicked through to online content in 2017–18. This compares favourably with the industry average of 25.7 per cent for open rates and 3.6 per cent for click-through rates.

At 30 June 2018, the TPB had 4,078 LinkedIn followers and 1,379 Twitter followers. The TPB uses LinkedIn to engage with professional networks, associations of tax practitioners and industry experts. During the year, sharing by followers – including professional associations and tax practitioners – resulted in TPB messages generating about 245,542 impressions on LinkedIn accounts (see Figure 4). The number of TPB LinkedIn followers grew at a high rate, increasing by 54 per cent between October 2017 and June 2018.

Twenty-three new videos were published on the TPB's YouTube channel, and the channel received a total of 11,042 views, providing more than 1,175 viewing hours. On Twitter, TPB tweets achieved 215,600 impressions and 228 retweets, including by professional associations and government agencies (see Figure 4).

Figure 4: Twitter and LinkedIn message impressions, 2017–18

Note: Twitter impressions data for December 2017 is estimated due to an error in Twitter analytics for the month.

Policy and guidance

In 2017–18, the TPB provided practical guidance to help tax practitioners and other key stakeholders to understand their obligations under the TASA and the Code in an evolving environment, including by consulting with professional associations, tax practitioners and the public as appropriate.

In July 2017, the TPB updated explanatory paper guidance for all registered tax practitioners to incorporate cyber security. Recognising the threat of cyber-attacks and the importance of tax practitioners proactively protecting themselves, their practices and their clients, the explanatory paper includes new details on professional indemnity insurance and continuing professional education. In developing this guidance, the TPB consulted with a range of stakeholders, including the TPB consultative forum and financial adviser forum, the Insurance Council of Australia and the ATO-sponsored Cyber Security Stakeholder Group.

In February 2018, two new guidance products were published. The first was an information sheet on requirements for accreditation as a recognised professional association under the TASA. It provides a reference point for new applications for recognition and for considering annual declaration responses from currently recognised professional associations. The second was a practice note to assist registered tax practitioners to better understand their obligations in relation to the use of outsourcing and offshoring.

STRATEGIC GOAL 4

Tax practitioners comply with their obligations under the *Tax Agent Services Act 2009*

As a key requirement of registration, the annual declaration process is now mandatory for all tax practitioner types, following the introduction of the process for tax (financial) advisers in August 2017. It allows tax practitioners to demonstrate they meet all the requirements for registration and compliance with the TASA.

The TPB works closely with stakeholders, such as professional associations, the ATO and other government agencies, to ensure that tax practitioners have every opportunity to comply with their legislative obligations. In 2017–18, TPB communications activities included the latest news on government reviews of interest to tax practitioners and other activities with a compliance focus.

Annual declaration

The annual declaration process ensures that tax practitioners demonstrate to the TPB that they meet the professional indemnity insurance requirement and provide up-to-date details about whether they are meeting their personal tax obligations. Through the TPB's annual declaration process, 99 per cent of the registered tax agents and BAS agents who were required to complete an annual declaration notified the TPB that they met the TPB's professional indemnity insurance requirement.

In 2017–18, 42,877 registered tax agents and BAS agents 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.

An 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 2016–17 as the requirement to submit the annual declaration aligns with the anniversary of the renewal applications being processed.

The annual declaration improves the integrity of the TPB Register and ensures that the TPB's information on tax practitioners is up to date.

Notifiable Data Breaches scheme

On 22 February 2018, new privacy laws came into effect to regulate the reporting and notification of eligible data breaches to the Office of the Australian Information Commissioner (OAIC) and affected individuals.

The Notifiable Data Breaches scheme, which applies to eligible data breaches that occur on or after 22 February 2018, is an amendment to the *Privacy Act 1988* and effectively mandates a reporting and notification process that the OAIC had previously recommended as best practice. The OAIC is responsible for the administration of the scheme.

If tax practitioners fail to comply with the new scheme there may be implications in relation to the TASA. Such a failure may be considered by the TPB in determining whether tax practitioners have breached requirements of the TASA, including the Code. The TPB has continued to raise awareness of the new laws and provided guidance in relation to Notifiable Data Breaches, including in *TPB eNews*, website guidance, webinars and other outreach activity.

Work-related expenses focus

The TPB is educating tax agents about their responsibilities under the Code, particularly in relation to work-related expenses.

This area of focus relates to ATO concerns that many taxpayers, including those who lodge income tax returns through a tax agent, are over-claiming work-related expenses.

The TPB held well-attended webinars and speaking engagements in 2017–18, to provide practical guidance and examples to help tax agents report correctly and better understand their obligation to ascertain a client's state of affairs and apply taxation laws correctly.

Compliance

While the vast majority of tax practitioners comply with their obligations, the TPB proactively uses compliance outcomes to promote behaviour in line with the obligations of registered practitioners.

The TPB applies a strategic, risk-based approach to compliance, providing ongoing help and support to encourage compliant practitioner behaviour. In a small percentage of cases, the Board will apply sanctions – including terminating or suspending the registrations of tax practitioners, where appropriate – for noncompliance with the TASA.

Risk-based model

The TPB compliance strategy is risk-based: compliance work and resources are focused on the matters that represent the greatest risk of harm to taxpayers and the community. The strategy ensures that sanctions are in line with the seriousness of the breach.

The risk-based approach is the best use of TPB resources and has the least impact on responsible tax practitioners who seek to comply with the Code and other obligations. The TPB compliance model (see Figure 5) illustrates this approach.

Figure 5: Compliance model

TPB approach	Type of behaviour	Outcomes
Enforce the law	<1% of behaviour that may attract civil penalties or affect registration	Stop behaviour
Educate/penalise	<4% of behaviour that breaches the Code or may affect registration	Modify behaviour
Help and support	>95% of practitioners are compliant with all aspects of the law	Encourage behaviour

Strategy

The TPB compliance process responds to:

- complaints from the public about the conduct of registered tax practitioners and unregistered entities
- concerns raised by tax practitioners and their professional associations
- ATO referrals
- intelligence from a range of other sources, including the media.

The strategy strongly supports responsible tax practitioners who comply with the Code and other legislative requirements, and results in firm action against those who do not comply. The principles supporting this approach are:

- to respond appropriately to all complaints and referrals and take action where tax practitioners are at risk of not meeting their obligations
- to exercise sound judgement and use available powers
- to begin enquiries and investigations in a timely manner
- to enhance tax practitioners' skills and knowledge
- to identify and address undesirable tax practitioner behaviours
- to treat our clients and stakeholders fairly and with respect
- to enhance the tax system's integrity and uphold the law.

Complaints

In 2017–18, the TPB received 1,528 complaints and referrals regarding potential breaches of the TASA by tax practitioners and unregistered entities. The sources of complaints and referrals are shown in Table 9.

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.

Table 9: Sources of complaints, 2017–18

Source	Tax agent	BAS agent	Tax (financial) adviser	Unregistered agent	Total complaints	Total (%)
Public	897	47	15	64	1,023	67
Other registered tax practitioners	69	13	6	37	125	8
ATO	101	3	6	10	120	8
Other	170	21	31	38	260	17
Total	1,237	84	58	149	1,528	100

Complaint management

The TPB adopts a triage assessment approach to complaint management in the first instance. When the TPB receives a complaint, it first considers the complexity of the alleged conduct and the likelihood that it will involve further and protracted enquiry work.

The most appropriate compliance treatment, ranging from providing intervention and advice in matters of lower complexity, to investigating and imposing sanctions for more complex matters (such as where the tax practitioner's behaviour poses an unacceptable risk to the public), is then determined.

Lower complexity matters are predominately resolved at the risk and issues management (RIM) stage, in discussion with the complainant and the practitioner. Higher complexity matters and those that cannot be resolved at the RIM stage are referred to a case officer for a preliminary enquiry.

Complaints which are finalised in the RIM stage can include:

- complaints that are not within the jurisdiction of the TPB – such as fee disputes and pre-TASA behaviour
- complaints that are resolved predominately by the intervention of the TPB in the matter – such as disputes and misunderstandings about the quality and level of service provided by the practitioner
- complaints that may not be supported by sufficient information to substantiate a breach of the TASA – such as uncorroborated differing versions of events between the parties.

In 2017–18, 15 per cent of cases were resolved at the RIM stage, 76 per cent of cases at the preliminary enquiry stage and 9 per cent through an investigation, as shown in Table 10.

Table 10: Compliance process and case outcomes, at 30 June 2018

Outcome	Risk and issues management	Preliminary enquiries	Investigation	Total
Registration terminated or renewal rejected	1	6	30	37
Sanctioned	0	1	181	182
Surrendered registration	5	749	44	798
Change of behaviour	8	75	0	83
Education of tax practitioner	25	1,158	0	1,183
Breach found but no sanction	0	1	5	6
No breach identified or proven	232	189	4	425
Outside TPB jurisdiction	89	69	0	158
Other	92	40	2	134
Total finalised	452	2,288	266	3,006
Proportion of total (%)	15	76	9	100

All formal investigations involve a rigorous process that includes consideration by a Board delegate and, where appropriate, the TPB Legal Unit. The Board Conduct Committee or an appropriate delegate determines all decisions and sanctions, as detailed in Table 11.

Table 11: Sanctions for finalised cases, at 30 June 2018

Decision	Total
Termination	24
Suspension	0
Imposition of order	81
Written caution	182
Total	287

Note: More than one sanction can be imposed for a case finalised against a tax practitioner. During 2017–18, the TPB imposed a total of 287 sanctions against 194 tax practitioners.

The number of terminations increased in comparison to the result in 2016–17. However, in contrast to 2016–17, in 2017–18 the large majority of termination decisions were as a result of investigations into practitioner conduct rather than issues associated with the annual declaration process.

Given that the large majority of tax agents and BAS agents have completed at least one annual declaration since the process was introduced in late 2016, it is expected that the level of compliance by tax agents and BAS agents with the TPB's requests for completion of the annual declaration will continue to improve.

A large number of tax (financial) advisers will be completing the annual declaration for the first time in 2018–19. This is expected to present some challenges for delivering the appropriate levels of engagement and compliance with the annual declaration process.

Independent review process

The TPB has an internal independent review process for complainants who are not satisfied with the outcome of their case. An independent senior officer, not involved in the original complaint process, reviews the complaint and decision. During 2017–18, the TPB received 22 requests for an independent review and finalised 24 matters.

Specific compliance issues

The TPB case management system enables all compliance matters – including complaints, referrals and proactive work – to be mapped across the relevant provisions of the TASA, such as alleged breaches of the Code, 'fit and proper' matters, and civil penalty provisions. The system gathers information from a range of sources, to assist in identifying trends in noncompliant behaviour and in planning and allocating resources effectively. Appendix D details the types of cases the TPB investigated in 2017–18.

In 2017–18, there were noticeable numbers of cases recorded under subsection 30-10(14) (failure to respond to requests and directions from Board) and subsection 30-10(2) (compliance with taxation laws in the conduct of personal affairs) of the Code. These cases related respectively to tax practitioners who failed to lodge their annual declaration by its due date or disclosed outstanding personal tax liabilities or lodgement obligations. As a result of the increased ATO attention to work-related expenses, there was also a noticeable increase in the number of cases which related to subsection 30-10(7) (tax agent services are provided competently).

There was also a notable increase in the number of cases recorded against entities providing services whilst unregistered (a 37 per cent increase compared to the result in 2016–17). The TPB finalised investigations into two unregistered entities and, as a result, decided to apply to the Federal Court for a pecuniary penalty order and injunctions against each entity.

However, there was a decrease in the number of cases completed concerning advertising of unregistered tax services, a result of the TPB's unregistered BAS service provider project which concluded in 2016–17.

Other compliance issues in 2017–18 related to:

- making enquiries in response to concerns raised about the behaviour of tax (financial) advisers at hearings of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
- exploring means of improving the efficiency of the TPB's investigation processes through the trial of a streamlined investigation model
- developing an appropriate structure to address the practitioner risks identified in the paper handed down by the Black Economy Taskforce.

Compliance monitoring

In 2017–18, the TPB finalised 64 cases requiring compliance monitoring, of which 34 were found to require no further action (as the practitioners either complied with an order or changed their behaviour to comply with their obligations). The TPB had 30 compliance monitoring cases on hand at the end of June 2018.

CASE STUDIES

Tax agent fails to meet ‘fit and proper’ requirement

An individual tax agent was identified as having been convicted of offences involving fraud or dishonesty under the *Criminal Code Act 1995* and sentenced to a term of imprisonment for three years.

The TPB conducted further enquiries and terminated the tax agent’s registration under paragraph 40-5(1)(b) of the TASA because they had ceased to meet the registration requirement of being a fit and proper person, due to having had a criminal conviction and a term of imprisonment. These are both events that can affect a tax practitioner’s registration under section 20-45 of the TASA.

The tax agent was considered not of good fame, integrity and character because of the conduct which resulted in the conviction for criminal offences. The tax agent had pleaded guilty to three charges, which were serious offences that involved defrauding Commonwealth revenue.

In making its decision, the TPB determined that the tax agent could not apply for registration under the TASA for a period of five years from the date the termination took effect, in accordance with paragraph 40-25 of the TASA.

Tax agent fails to comply with a Board order

An individual tax agent received an order from the Board for failing to complete an annual declaration.

After the practitioner failed to comply with the order to lodge the annual declaration, the TPB commenced an investigation and identified outstanding income tax returns (ITRs) for the financial years ending 30 June 2015, 30 June 2016 and 30 June 2017.

The TPB determined that the practitioner had breached subsection 30-10(2) of the Code by failing to comply with the taxation laws in the conduct of their personal affairs by failing to lodge ITRs for the financial years ending 30 June 2015, 30 June 2016 and 30 June 2017 by their respective due dates.

The Board also determined that the practitioner had breached subsection 30-10(14) of the Code, for failing to respond to requests and directions in a timely, responsible and reasonable manner by failing to comply with an order.

The TPB decided, in accordance with subparagraph 60-125(2)(b)(i) of the TASA, to terminate the practitioner’s registration as a tax agent under section 30-30 of the TASA.

The tax practitioner's conduct was inconsistent with the expectations and standards required of a registered tax agent and the failure to comply with the order demonstrated a lack of regard for the requirements of the TASA.

Tax agent terminated following multiple Code breaches

The TPB investigated the conduct of a registered tax agent following a referral from the ATO. Eight clients of the practitioner were audited and found to have claimed excessive work-related expenses for items considered private in nature.

The TPB found that the practitioner had breached several subsections of the Code, including:

- subsection 30-10(7), by failing to ensure that the tax agent services were provided competently by failing to ensure that the ITRs lodged on behalf of the clients contained accurate information
- subsection 30-10(9), by failing to take reasonable care in ascertaining the state of affairs of the clients by failing to ask sufficient or pertinent questions regarding allowances/ work-related expense deductions that were claimed on behalf of the clients
- subsection 30-10(10), by failing to take reasonable care to ensure that the taxation laws were applied correctly to the circumstances of the clients
- subsection 30-10(12), by failing to advise the clients of their obligations and associated tax liabilities by failing to pass on ATO correspondence regarding the audits of their ITRs, including audit notices, penalty notices and notices of assessment/amended assessment.

The TPB terminated the practitioner's registration as it was not satisfied that the practitioner was a fit and proper person within the meaning of the TASA.

STRATEGIC GOAL 5

TPB is recognised as an independent, efficient and effective regulator

In 2017–18, in meeting its goal to be recognised as an independent, efficient and effective regulator, the TPB significantly increased the savings it contributed to the Australian Government's Regulatory Reform Agenda, consulted broadly with stakeholders and, following extensive user testing, launched improvements to our website services.

Regulatory Reform Agenda

In 2017–18, the TPB improved and simplified its processes, taking account of the effects and costs of regulation on businesses and the community. The TPB contributed \$8,832,324 in savings to the Australian Government's Regulatory Reform Agenda through savings relating to:

- improving the TPB website
- issuing guidance products to explain the law to tax practitioners
- introducing a renewal process for tax (financial) advisers
- undertaking various communications activities, including speaking events and webinars.

Consultation

The TPB is committed to consulting and working with key stakeholders, particularly tax practitioners, to ensure that their experiences inform the TPB's decision-making and operations.

The primary consultative mechanisms are the TPB consultative forum and TPB financial adviser forum. Those forums ensure that the views and experiences of professional associations are taken into account in the TPB's decision-making.

The consultative forum also forms a key component of the Regulator Performance Framework assessment of metrics against KPIs.

Forum members include the Chair, a fellow member of the TPB Board, the Secretary and invited representatives from professional associations and the ATO. Professional associations include all recognised tax and BAS agent and tax (financial) adviser associations.

The consultative forum and the financial adviser forum each met three times during 2017–18. A number of major issues were discussed, such as:

- the TPB's registration process and communication, including the registration renewal process for tax (financial) advisers and the annual declaration process for registered tax practitioners and recognised associations
- the TPB's compliance approach and activity
- guidance in relation to the TPB's interpretation and application of the requirements for recognition of professional associations that relate to corporate governance, operational procedures and accountability
- regulatory reform and the proposed assessment metrics for the Regulator Performance Framework
- professional practice issues, in areas such as
 - TPB guidance on the application of the Code in relation to outsourcing and offshoring
 - topical issues, including cyber security insurance and the Notifiable Data Breaches scheme.

Communiqués are sent to association representatives after forum meetings to enable them to distribute key messages to their members. Information is also published on the TPB website. The TPB uses forum outcomes to refine its guidance material and plan and manage its work program.

Other consultative mechanisms

The TPB is committed to developing further guidance to help tax practitioners understand their obligations under the tax agent services regime. In 2017–18, the TPB continued to be actively involved in stakeholder consultation and engagement, including:

- liaising and working with the ATO and ASIC on relevant regulatory issues – for example, Single Touch Payroll, conveyancers and the *Corporations Act 2001* exemption from providing financial product advice
- participating in working and stewardship groups – for example, the Tax Practitioner Stewardship Group, the Cyber Security Stakeholder Working Group and the PwC Skills for Australia working groups established to review qualifications in the vocational education and training sector
- providing feedback and submissions for relevant discussion papers, inquiries and taskforces – for example, the Black Economy Taskforce, and the Inspector-General of Taxation's Review into the Future of the Tax Profession
- convening consultative and financial adviser forums to consider discussion papers and pre-exposure draft guidance on professional practice work program priorities, and holding meetings with various stakeholders – for example, AFS licensees, the Insurance Council of Australia and the National Insurance Brokers Association.

In July 2017, the Inspector-General of Taxation announced a Review into the Future of the Tax Profession. The terms of reference of the review included a focus on:

- opportunities, risks and challenges presented by new technological, social, policy and regulatory developments on the administration of the tax system
- strategies necessary to assist the tax profession to meet the potential challenges posed by the identified developments
- how the ATO and the TPB can seize the opportunities presented by technological, social, policy and regulatory developments.

The TPB made a submission to the review during 2017–18. The final report will be released in 2018–19.

The TPB also made a submission to the Black Economy Taskforce following its release of an interim report and consultation paper outlining additional policy ideas to reduce black economy activity.

Digital improvements

Several enhancements were implemented in 2017–18 to improve the way in which tax professionals can engage online with the TPB.

Along with improved processing interactions required to be undertaken by TPB staff, these enhancements contributed to deregulation savings of almost \$2.95 million in 2017–18. Supported by digital transformation improvements, the TPB managed to maintain its registration processing time targets and efficiently refocus resources on more proactive compliance work.

Key initiatives implemented to improve the online experience with the TPB included:

- simplifying how registered tax practitioners advise us of changes to their registration and make general enquiries to the TPB
- improving the ability of tax professionals to assess their qualifications
- making it easier to search the TPB Register for a registered tax practitioner.

In 2017–18, the TPB prioritised the design and development of new online services to improve the tax practitioner experience in interacting with the TPB and align with Australian Government digital security standards. These enhanced online services will greatly improve the registration and renewal process for tax practitioners and provide the foundation for further streamlining TPB processing.

External scrutiny

A range of external bodies review the TPB's decisions and operations. Those bodies include the courts and the AAT, parliamentary committees, the Australian National Audit Office, the Inspector-General of Taxation and the OAIC.

Judicial and administrative tribunal reviews and appeals

Seven decisions on matters related to the TPB's operations were published in 2017–18:

- AAT decisions
 - *Frugniet and Tax Practitioners Board (Taxation)* [2017] AATA 1393
 - *Ham and Tax Practitioners Board (Taxation)* [2017] AATA 1642
 - *Mendonca and Tax Practitioners Board* [2017] AATA 2177
 - *Peterson and Tax Practitioners Board* [2018] AATA 93
 - *Beckett and Tax Practitioner's Board* [2018] AATA 1860
- Federal Court decisions
 - *Juneja & Three Wickets Pty Ltd v Tax Practitioners Board* [2017] FCA 908
 - *Frugniet v Tax Practitioners Board* [2018] FCA 387.

A summary of all administrative review litigation matters related to the TPB's operations that were finalised in 2017–18 is shown in Table 12.

Table 12: Finalised administrative review litigation, 2017–18

Jurisdiction	Total finalised matters	Matters resolved without proceeding to a substantive hearing ¹	Matters resulting in a published decision	Published decisions affirming the TPB's decision
AAT	11	6	5	5
Federal Court (appeals against AAT decisions)	2	0	2	2
Federal Court (judicial review)	0	0	0	0

1. Includes applicant withdrawals and dismissal orders.

Ministerial requests

The TPB responded to four ministerial requests in 2017–18, which included general information requests on:

- the regulation of tax practitioners (including registration eligibility requirements and review options)
- the complaints handling process
- the role of the TPB, including its compliance approach.

All matters were finalised after the TPB provided further information.

Inspector-General of Taxation investigations

During 2017–18, the TPB received 18 formal notices of investigations by the Inspector-General of Taxation; eight matters were finalised as at 30 June 2018.

Information provided to law enforcement agencies

Under subsection 70-40(4) of the TASA, the TPB may disclose information acquired under the TASA to an authorised law enforcement agency officer for:

- investigating a serious offence
- enforcing a law, the contravention of which is a serious offence
- the making or the proposed or possible making of a proceeds-of-crime order.

During 2017–18, the TPB released information for the purpose of enforcing a law, the contravention of which is a serious offence, in response to three requests from the New South Wales Police Force.

Complaints about the TPB's decisions and operations

The TPB responds to complaints as a means of informing and strengthening administrative and decision-making processes and applying the principles of natural justice. In 2017–18, the TPB continued to:

- establish and refine risk and referral processes
- undertake targeted regulatory assurance activity
- maintain an effective internal independent review process
- continually review and improve its correspondence and online interaction services.

Freedom of information

During 2017–18, the TPB received 20 requests for documents under the *Freedom of Information Act 1982*. Sixteen of the matters were finalised during the year, with the following outcomes:

- the TPB granted access in full in response to one request
- the TPB granted access in part in response to 10 requests
- the TPB refused access in full in response to two requests
- three requests were withdrawn.

The TPB's plan outlining the information it publishes in accordance with the Information Publication Scheme requirements is available at www.tpb.gov.au/information-publication-scheme.

CASE STUDIES

Peterson and Tax Practitioners Board [2018] AATA 93

The Board decided to terminate the Applicant's tax agent registration, finding that he had breached subsections 30-10(2), (7), (13) and (14) of the Code by his failure to:

- comply with his personal tax obligations
- lodge seven BASs for his client by their respective due dates
- forward correspondence from the ATO to his client regarding the failures to lodge the client's BASs
- maintain professional indemnity insurance that meets the Board's requirements
- respond to the Board in a timely manner.

The Applicant sought review of the Board's decision in the AAT.

On 31 January 2018, the Tribunal affirmed the Board's decision to terminate the Applicant's tax agent registration for breaches of the Code.

The Tribunal found that the repeated and continuous non-lodgement of the Applicant's personal BASs and ITRs, together with not having appropriate administrative processes in place to run his business properly, was sufficient to warrant termination.

While recognising the Applicant's personal circumstances (including the death of his father, his ongoing responsibilities to his mother and his personal health concerns), the Tribunal found that the Applicant had been dealing with these issues for five years and sufficient time had passed to enable him to achieve a balance between his needs and the needs of his clients.

The Tribunal rejected the Applicant's submissions that the case of *SHTX and Tax Practitioners Board [2016] AATA 451* sets a new standard in relation to proportionate sanctions for breaches of the Code, stating that an appropriate sanction can only be determined against the wider context in which the breaches occurred, why they occurred, and what the tax agent has done, and is doing, to rectify them and the likelihood of their recurring in the future.

The Tribunal acknowledged that the Applicant had taken steps to address his systems, and had brought his ITRs and BASs up to date.

It also acknowledged that the Applicant did not have large numbers of complaints go to the Board.

However, given the history of Applicant's conduct, the Tribunal considered that termination was the appropriate sanction as it would give the Applicant the opportunity to gain a proper understanding of his obligations to develop his administrative skills.

The decision also confirms that the Tribunal should have regard to relevant evidentiary material 'to reach a decision that is the correct or preferable decision', including any new evidence arising prior to its decision being handed down.

Juneja & Three Wickets Pty Ltd v Tax Practitioners Board **[2017] FCA 908**

Mr Juneja (Individual Applicant) was the sole director of Three Wickets Pty Ltd (Company Applicant). The Individual Applicant was also the sole director and shareholder of Cudmores Integrated Business Solutions Pty Ltd (Cudmores).

The Board terminated the Individual Applicant's tax agent registration on the basis that he had ceased to meet the registration requirement of being a fit and proper person, given his failure to:

- ensure that Cudmores complied with its tax obligations
- disclose to the Board that Cudmores had outstanding tax liabilities at the time he lodged the renewal application on its behalf.

The Board subsequently terminated the tax agent registration of the Company Applicant on the basis that it had ceased to meet the tax practitioner registration requirement that each director of the Company Applicant be a fit and proper person.

The Applicants sought review of the Board's decisions in the Tribunal. On 7 October 2016, the Tribunal affirmed the Board's decisions ([2016] AATA 786), finding that the Individual Applicant did not satisfy the three elements of fitness and propriety: competence, character and contrition.

The Tribunal also had regard to the fact that the Individual Applicant had applied to ASIC for the voluntary deregistration of Cudmores, and in the application he had failed to disclose that Cudmores had outstanding tax liabilities and was a party to current legal proceedings. Despite Cudmores being subsequently deregistered by ASIC, the Individual Applicant did not inform the Tribunal or the Board of that deregistration and purported to take a number of steps on behalf of Cudmores in legal proceedings.

The Applicants subsequently appealed the Tribunal's decision to the Federal Court.

The Federal Court dismissed all grounds of appeal raised by the Applicants, and ordered the Applicants to pay the Board's costs of the proceedings. As the Federal Court found no errors of law in the Tribunal's decision, it is open to the Board to continue to:

- adopt the approach previously taken in *Burnett and Tax Practitioners Board* [2014] AATA 687 for assessing the fitness and propriety of an applicant by assessing their competence, character and contrition
- find that a sole director is responsible for ensuring that a company meets its tax obligations, and cannot rely on a lack of knowledge or awareness to avoid this responsibility.

Tax Practitioners Board 2017–18 Annual Performance Statement

Tax Practitioners Board (Program 1.2)

The Tax Practitioners Board (TPB) presents its 2017–18 Annual Performance Statement. This Statement is in accordance with section 39 of the *Public Governance, Performance and Accountability Act 2013* and accurately presents the TPB's performance for the 2017–18 financial year.

About the TPB

The TPB is an independent statutory body, with a Board composed of members appointed by the Minister, and supported by staff made available by the Commissioner of Taxation. The TPB's establishment, functions and powers are defined in the *Tax Agent Services Act 2009* (TASA).

The TPB has the general administration of the TASA and is responsible for the registration and regulation of tax practitioners, which include tax agents, business activity statement (BAS) agents and tax (financial) advisers (TFAs). As at 30 June 2018, there were 77,749 tax practitioners registered with the TPB.

Purpose

The role of the TPB is to ensure that every entity that should be registered is registered, and to ensure the services provided by registered tax practitioners to the public are provided in accordance with appropriate standards of professional and ethical conduct. The TPB regulates tax practitioners in a fair, consistent and practical way, and this regulation protects consumers by strengthening the integrity of the tax practitioner profession. In 2017–18, the TPB had the following strategic goals:

1. Consumers of tax practitioner services only engage registered practitioners
2. Every entity that should be registered as a tax practitioner is registered
3. Tax practitioners understand their obligations under the TASA
4. Tax practitioners comply with their obligations under the TASA
5. The TPB is recognised as an independent, efficient and effective regulator.

Performance Overview

Overall, the TPB's performance results for 2017–18 demonstrate it has effectively achieved its strategic goals. The TPB focused on the following priorities to position itself to meet its strategic goals by:

- developing and implementing effective renewal processes to manage an approximate 19,000 tax (financial) advisers who had previously notified to be registered with the TPB
- prioritising the processing of new tax practitioner applications
- improving automation of the TPB's registration processes to maintain the service standards for the processing of all tax practitioner applications
- increasing compliance activities arising from the continuation of the annual declaration process for tax and BAS agents, with a focus on ensuring registered tax practitioners maintain professional indemnity (PI) insurance cover to enhance consumer protection
- increasing compliance work arising from the introduction of an annual declaration process for TFAs
- increasing work arising from the continuation of the annual declaration process for recognised tax agent associations, BAS agent associations and TFA associations and the release of TPB guidance on the governance requirements for these recognised associations
- implementing the TPB's Strategic IT Review, including a refresh of IT hardware and the move to a cloud-based platform.

The TPB achieved all its targets against the specific performance criteria set out in the *Treasury Portfolio Budget Statements 2017–18* (PBS) and the TPB Corporate Plan 2017–18.

Performance criterion	Source	Result against performance criterion	
		Target	Result
Financial advisers who provide a tax (financial) advice service are registered and shown on the register. To meet this criterion, tax (financial) advisers (TFAs) that failed to renew their registration were informed that they must not continue offering or advertising TFA services, or representing themselves as being a TFA.	2017–18 PBS Australian Taxation Office Program 1.2, p.196 and TPB Corporate Plan 2017–18	100% of previously registered TFAs are notified if they fail to renew	100%

Analysis of performance:

With the large volume of TFAs due for renewal in 2017–18, one of the key priorities for the TPB was to ensure that financial advisers who provided a tax (financial) advice service were registered. The TPB's objective was to ensure that any TFA that failed to renew their registration would not continue to provide or advertise relevant services, or represent themselves as being a TFA.

In meeting the target under this performance criterion (in conjunction with other educational strategies), the TPB has contributed to ensuring that every entity that should be registered as a tax practitioner is registered. In addition to notifying 100% of TFAs who failed to renew, the TPB also contacted all Australian financial services licensees (AFSLs) to check whether they, or any of their Authorised Representatives, needed to be registered with the TPB. As at 30 June 2018, there were approximately 19,500 registered TFAs. This aligns with the original estimate from the Australian Securities and Investments Commission that there would be potentially 20,000 financial advisers that would need to be registered with the TPB.

In relation to the goal that every entity that should be registered as a tax practitioner is registered, the TPB also continued to undertake compliance action against unregistered entities that potentially breached the civil penalty provisions of the TASA. In 2017–18, the TPB finalised 61 cases relating to enquiries into unregistered activity which resulted in either a change of behaviour by the entity (advertising removed or amended) or specific educational letters being issued to the entity.

In relation to the goal of ensuring that consumers of tax practitioner services only engage registered practitioners, the TPB's public register of registered and deregistered tax practitioners (TPB Register) was available for more than 99% of the time, with information updated daily. In addition to this, and separate from the educational communications events and products discussed in the next performance criterion, the TPB also invested in a specific digital advertising campaign (via Google, LinkedIn, Gumtree, Yellow Pages and TrueLocal) leading up to tax time to raise awareness of the importance of making sure a tax practitioner is registered. The TPB received positive coverage and feedback from tax practitioners about the campaign. Advertisements appeared more than 1.1 million times when small businesses were searching for a tax or BAS agent, and generated more than 4,300 click throughs to the TPB Register.

Performance criterion	Criterion source	Result against performance criterion	
		Target	Result
Tax practitioners receive ongoing education to understand their rights and obligations as evidenced by: <ol style="list-style-type: none"> 1. events and attendance of regular webinars, consultative forums, outreach activities, open forums, and publication of eNews, guidance material, practice notes etc. 2. feedback survey results on education initiatives and communication avenues, including on webpages regarding the relevance and usefulness of the content. 	2017–18 PBS Australian Taxation Office Program 1.2, p.197 and TPB Corporate Plan 2017–18	1. Maintain or improve	Improved – Webinar attendance increased from 6,510 to 8,269
		2. Majority of feedback is positive	Achieved <ul style="list-style-type: none"> • 96% satisfaction rate for webinars • 4.1 (on a scale of 1 to 5) satisfaction rate for outreach activities

Analysis of performance:

The 2017–18 year showed steady increases in the level of digital interaction with the tax practitioner community through various mediums, including social media. The TPB also continued to undertake ongoing consultation and stakeholder engagement through a range of consultative forums, speaking events (including events organised by the ATO and professional associations) and webinars, with attendance of webinars increasing significantly from previous years.

The following statistics highlight some key stakeholder engagement undertaken by the TPB in the 2017–18 financial year (and in comparison to the previous financial year).

		2016–17	2017–18
Webinars	Number of events	23	26
	Attendees	6,510	8,269
	Satisfaction rate (%)	96%	96%
Consultative Forums	Number of forums	6	6
ATO Open Forums	Number of forums	36	29
External professional association events	Number of events	25	27
Outreach (face to face) activities ¹	Number of events (including 9 for AFSLs)	28	6
	Satisfaction rate (out of 5)	4.19	4.10

		2016–17	2017–18
eNews (via email ² and on TPB website)	Number of publications	11	11
	Number of subscribers	58,500	59,600
	Open rate (%)	38.8%	38.1%

1. The TPB reduced the number of outreach activities, moving to a more cost effective and robust webinar program to deliver its messages and engage with practitioners.
2. Statistics from Mailchimp (the TPB's email marketing provider) indicate government averages for email campaigns have an open rate of 25.7%. The TPB's performance exceeds this, demonstrating a higher success rate in engaging with practitioners through this channel.

Tax practitioners also have access to guidance material published by the TPB on its website to ensure they receive ongoing education to understand their rights and obligations. In 2017–18, the TPB's suite of policy documents (which are all subject to a rigorous development process, including external stakeholder feedback) included the following:

- six Explanatory Papers – foundation documents providing a detailed explanation of the TPB's interpretation of the TASA, Tax Agent Services Regulations 2009 (TAS Regulations) and the tax practitioner obligations under the TASA
- five proposed guidelines – guidelines that the TPB intends to follow pending legislative instruments
- 33 information sheets – providing an overview of the TPB's position on particular topics to assist with tax practitioner understanding of obligations under the TASA and TAS Regulations. An additional information sheet was published in early 2018 to provide guidance in relation to the TPB's interpretation and application of the governance requirements for the recognition of professional associations under the TAS Regulations.
- two practice notes – providing practical guidance and assistance to registered tax practitioners to better understand their obligations under the Code of Professional Conduct. In early 2018, a practice note was published in relation to the use of outsourcing and offshoring of tax agent services.

Through the TPB's Annual Declaration process, individual tax practitioners must confirm that they have complied with the TPB's policy on Continuing Professional Education (CPE) each year. Meeting the TPB's policy on CPE is also a registration renewal requirement for individual tax practitioners.

Performance criterion	Criterion source	Result against performance criterion	
		Target	Result
An effective complaints/referrals process for consumers, the public and other agencies, to detect, deter and respond to misconduct, as evidenced by:	2017–18 PBS Australian Taxation Office Program 1.2, p. 197 and TPB Corporate Plan 2017–18	<3% of tax practitioners are subject to a breach finding	0.2%
i. % of all registered tax practitioners subject to a breach finding		<1% of complaints are subject to oversight from the Inspector General of Taxation (IGoT)	0.5%
ii. % of TPB complaints subject to oversight from the Inspector General of Taxation (IGoT)			

Analysis of performance:

The TPB applied a targeted and strategic risk-based compliance approach to investigating tax practitioner conduct that breached the TASA, and imposed sanctions where appropriate. This is demonstrated by the following results:

- 3,006 compliance cases were finalised in 2017–18.
- In applying a risk matrix, and making preliminary enquiries where appropriate, 2,740 cases were finalised without having to proceed to a formal investigation.
- 8 tax practitioners were terminated for ceasing to be fit and proper persons.
- 266 matters were escalated to a formal investigation and referred to a delegate or the Board Conduct Committee, with the following sanctions imposed:
 - 24 practitioners terminated
 - 81 orders***
 - 182 cautions***.

*** More than one sanction may be imposed in relation to an investigation matter.

There were 18 complaints made to the IGoT in 2017–18 relating to the TPB which led to an investigation. Eight were finalised in the financial year, with three complaints resulting in agreed business improvements.

In 2017–18, the TPB finalised ten proceedings in the Administrative Appeals Tribunal (AAT). Half of these were resolved without proceeding to a final hearing, with the remaining five matters resulting in a published decision. All five AAT published decisions affirmed the Board's decision. The TPB was also a party to two appeals to the Federal Court of Australia, and both were finalised with favourable decisions dismissing the appeals and affirming the Board's decision, with one matter currently on appeal to the Full Federal Court of Australia. The outcome of these external reviews demonstrates that the TPB's decision-making processes are appropriate, and that the Board's decisions are legally defensible.

4

**Financial
operations**

4 • Financial operations

The Commissioner of Taxation and the Chair of the Board (on behalf of the TPB) must agree on the funding needed for the TPB to perform its functions and exercise its powers under the TASA.

Consistent with these arrangements, the TPB's financial operations appear in the ATO's annual report as part of the ATO's financial operations. This report does not include audited financial statements.

The summary of expenditure provided in this section outlines direct salary and supplier costs, but not overheads.

In 2017–18, the ATO allocated an operating budget of \$16,840,163 to the TPB for its direct costs (excluding depreciation), and a capital budget of \$3,856,5251.

Actual expenditure for 2017–18 is shown in Table 13.

Table 13: Actual expenses, 2016–17 and 2017–18

	2016–17	2017–18
Departmental operating FTE and expenditure		
Number of staff	114.9	121.5
Staff and salaries	\$12,327,385	\$12,822,102
Supplier	\$4,640,078	\$3,837,346
Total direct expenditure¹	\$16,967,463	\$16,659,448
Capital expenditure (IT systems)	\$813,899	\$2,755,016

FTE = full-time equivalent staff

1. Due to rounding, numbers presented in this table do not sum up to the totals.

Note: These figures include direct costs, and do not include corporate support or infrastructure overhead costs.

A summary of the expenditure for the 2017–18 financial year is as follows.

Employee and related costs (salary costs) totalled \$12,822,102.

The supplier costs outlined in Table 13 included the following areas of major expenditure:

- Consultants: \$60,510 for consultancy to advise on the TPB's future investment strategy for IT systems.
- Contractors: \$653,548, comprising:
 - \$290,082 for labour hire to assist with the TPB's enquiry management and processing of registrations, renewals and annual declarations
 - \$363,467 for remuneration of Board members, remunerated as contractors in accordance with rates determined by the Remuneration Tribunal.¹
- Travel and accommodation: \$560,418 for costs associated with the running of the TPB, its dispersed operations and the regulatory framework. Interstate travel is often necessary for Board members and staff to carry out their responsibilities for attending meetings or delivering presentations.
- Technology: \$2,258,403 for the costs of maintaining the TPB's business systems and IT infrastructure, along with the hosting and maintenance of the TPB's website, tpb.gov.au. Costs include payments to contractors and IT service and software providers.
- Litigation: \$172,255 for the costs of litigation and external legal advice.
- Communications: \$60,924 for the costs associated with outreach events held to promote the TPB, advertising campaigns, print and postage of correspondence to tax practitioners, and other ad hoc marketing costs.
- Staff learning and development: \$30,487.
- Other operating expenses: \$40,801.

Capital expenditure of \$2,755,016 was incurred in the course of improving and enhancing the TPB IT environment and systems. It comprised the costs of:

- Staff salaries: \$446,391.
- IT contractors: \$937,832.
- IT services and software: \$1,208,137.
- Purchase of desktop computers and multifunction devices: \$162,655.¹

The TPB expenditure broken down by cost centre is shown in Table 14.

1. Due to rounding, numbers presented in this paragraph do not sum up to their total.

Table 14: Direct expenditure by cost centre, 2017–18

Cost centre	Salary costs \$	Supplier costs \$	Total \$
Operations	6,701,491	353,127	7,054,618
Legal	1,204,144	226,053	1,430,196
Board and Members	394,231	524,058	918,288
Business Systems and Services	753,051	2,265,784	3,018,835
Office of the Secretary ¹	1,030,090	210,278	1,240,369
Communications	725,477	111,747	837,224
Projects and Business Improvement	228,130	52,479	280,609
Tax (Financial) Adviser Services	1,785,488	93,821	1,879,308
Total²	12,822,102	3,837,346	16,659,448

1. For cost centre purposes, Office of the Chair is included in Office of the Secretary.

2. Due to rounding, numbers presented in this table do not sum up to the totals.

Asset management

The TPB operates with ATO funds so, for the purposes of the *Public Governance, Performance and Accountability Act 2013*, TPB assets are managed according to the ATO's established processes.

Purchasing and consultancies

Procurement and contract management was undertaken in accordance with the Public Governance, Performance and Accountability Act, the Commonwealth Procurement Rules and internal ATO policies. Further information regarding compliance with procurement policy can be found in the ATO annual report for 2017–18.

5

Appendices

Appendix A · Human resources

In 2017–18, TPB staff were in the Brisbane, Canberra, Melbourne and Sydney CBD offices and in the Box Hill and Moonee Ponds offices in Melbourne.

At 30 June 2018, the TPB workforce comprised a total of 130 staff at APS 3 to Senior Executive Service classification levels. Included in the staffing numbers are 11 staff recruited through the ATO's Opening Doors program, which provides people from under-represented groups, such as refugees and veterans, with a 12-month employment opportunity. Non-ongoing employees are engaged for a specific term or task.

Table 15: Employees by functional areas, 2017 and 2018

Functional area	30 June 2017	30 June 2018
Office of the Chair	6	6
Office of the Secretary	3	3
Regulatory Assurance	31	41
Registrations	35	21
Tax (financial) adviser program	21	21
Legal Unit	11	13
Business Systems and Services	8	8
Projects and Business Improvement	10	6
Communications	7	11
Total employees	132	130

Note: Includes non-ongoing employees.

Table 16: Employees by classification and gender, at 30 June 2018

Classification	Full time		Part time		Total
	Female	Male	Female	Male	
Senior Executive Service Band 1	1	0	0	0	1
Executive Level 2	3	3	0	1	7
Executive Level 1	9	7	4	0	20
APS 6	18	12	5	0	35
APS 5	11	8	1	0	20
APS 4	10	10	2	1	23
APS 3	5	5	3	0	13
Total employees	57	45	15	2	119

Note: Ongoing staff numbers only as per the pay report of 30 June 2018.

Table 17: Ongoing employees by location, at 30 June 2018

Region	Number of employees
Australian Capital Territory	11
New South Wales (Sydney)	61
Queensland (Brisbane)	18
Victoria (Moonee Ponds 4, Melbourne 4, Box Hill 21)	29
Total employees	119

Table 18: Ongoing and non-ongoing employees who identified as Indigenous, 2017 and 2018

	30 June 2017	30 June 2018
Indigenous staff – ongoing	1	1
Indigenous staff – non-ongoing	0	0
Total employees	1	1

Training and development

As ATO employees, TPB staff have access to and participate in the ATO training and development programs as part of their ongoing career and professional development. This is supplemented by specific TPB training and development, including staff induction. Compass is the performance and development framework utilised within TPB. All staff have now completed Compass training.

Enterprise agreements

As ATO employees, ongoing TPB staff are covered by the ATO Enterprise Agreement 2011.

Board member remuneration

Board members are statutory office holders appointed by the responsible Minister. The Remuneration Tribunal determines Board member remuneration.

Executive remuneration

The Secretary is a Senior Executive Service officer of the ATO. The ATO determines executive remuneration arrangements, as covered in the ATO annual report.

Table 19: Senior Executive Service remuneration, 2017–18

Salary band	Staff
\$200,000–\$250,000	1

Work health and safety

As TPB staff are ATO employees, work health and safety processes are covered in the ATO annual report.

Disability reporting

The National Disability Strategy 2010–2020 sets out a 10-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high-level biennial report tracks progress against each of the six outcome areas of the strategy and presents a picture of how people with disability are faring. The first of these reports was published in late 2014 and can be found at www.dss.gov.au.

TPB's services are primarily delivered through its website, which is designed to ensure accessibility for people with disability.

As TPB staff members are ATO employees, the ATO's disability strategy and policies apply.

Ecologically sustainable development and environmental performance reporting

Refer to the Management and Accountability section in the ATO annual report for information relating to the *Environment Protection and Biodiversity Conservation Act 1999*.

Appendix B · Recognised professional associations at 30 June 2018

Association	Type of recognition	Date of accreditation
Association of Accounting Technicians Australia	BAS agent association	5 May 2010
Association of Chartered Certified Accountants – Australia and New Zealand	Tax agent association BAS agent association	12 May 2010
Association of Financial Advisers	Tax (financial) adviser association	5 February 2015
Australian Bookkeepers Association	BAS agent association	21 May 2013
Australian Institute of Quantity Surveyors	Tax agent association	26 August 2010
Chartered Accountants Australia and New Zealand	Tax agent association BAS agent association	12 May 2010
CPA Australia	Tax agent association BAS agent association	31 May 2010
Financial Planning Association of Australia	Tax agent association Tax (financial) adviser association	21 March 2012 26 August 2015
Institute of Certified Bookkeepers	BAS agent association	5 May 2010
Institute of Chartered Accountants in England and Wales	Tax agent association	14 August 2014
Institute of Public Accountants	Tax agent association BAS agent association Tax (financial) adviser association	5 May 2010 5 May 2010 27 July 2016
Law Society of New South Wales	Tax agent association	21 March 2012
National Tax Agents' Association Ltd	Tax agent association	1 July 2011
New Zealand Institute of Chartered Accountants	Tax agent association BAS agent association	5 September 2012
Royal Institute of Chartered Surveyors Australasia	Tax agent association	30 August 2010
Self Managed Super Fund Association	Tax agent association Tax (financial) adviser association	10 September 2010 5 February 2015
South African Institute of Chartered Accountants	Tax agent association BAS agent association	13 December 2016
Stockbrokers and Financial Advisers Association Limited	Tax (financial) adviser association	13 December 2016
TAI Practitioners & Advisers Ltd	Tax agent association	21 May 2013
The Tax Institute	Tax agent association	5 May 2010

Appendix C · Guidance papers released in 2017–18

Guidance paper	Details
<p>TPB(PN) D38/2017: <i>Outsourcing, offshoring and the Code of Professional Conduct</i></p>	<p>On 28 August 2017, the TPB invited comment on an exposure draft practice note to assist registered tax practitioners to understand their obligations under the Code of Professional Conduct in relation to the use of outsourcing and offshoring.</p>
<p>TPB(I) D39/2017: <i>Recognised professional associations – Corporate governance related requirements for recognition under the Tax Agent Services Regulations 2009</i></p>	<p>On 3 October 2017, the TPB invited comment on an exposure draft information sheet designed to assist professional associations to understand the TPB's interpretation and application of the requirements for recognition of recognised professional associations under the Tax Agent Services Regulations 2009 that relate to corporate governance, operational procedures and accountability.</p>
<p>TPB(PN) 2/2018: <i>Outsourcing and offshoring – Code of Professional Conduct considerations</i></p>	<p>On 27 February 2018, the TPB finalised a practice note to provide practical guidance and assist registered tax practitioners to understand their obligations under the Code of Professional Conduct in relation to the use of outsourcing and offshoring.</p>
<p>TPB(I) 33/2018: <i>Recognised professional associations – Corporate governance related requirements for recognition under the Tax Agent Services Regulations 2009</i></p>	<p>On 27 February 2018, the TPB finalised an information sheet to provide guidance to professional associations in relation to the TPB's interpretation and application of the requirements for recognition of recognised professional associations under the Tax Agent Services Regulations 2009 that relate to corporate governance, operational procedures and accountability.</p>

Appendix D • Cases reviewed under the *Tax Agent Services Act 2009*

Item	Classification of closed cases by primary breach	2015–16	2016–17	2017–18
1	20-15(a) Fit and Proper – good fame, integrity and character	90	22	35
2	20-15(b)(i) An event described in section 20-45 has occurred in previous 5 years	6	0	0
3	20-15(b)(ii) Individual status of an undischarged bankrupt in previous 5 years	5	1	1
4	20-15(b)(iii) Individual has served a term of imprisonment in previous 5 years	0	0	0
5	20-5 Eligibility for registration	38	11	19
6	30-10(1) Code – act honestly and with integrity	179	43	49
7	30-10(2) Code – comply with taxation laws in conduct of personal affairs	65	136	158
8	30-10(3) Code – account for money or other property on trust	24	15	23
9	30-10(4) Code – best interests of your client	187	66	84
10	30-10(5) Code – arrangements for the management of conflict of interest	4	7	2
11	30-10(6) Code – must not disclose information relating to client affairs without permission	15	0	4
12	30-10(7) Code – tax agent service is provided competently	182	48	66
13	30-10(8) Code – maintain knowledge and skills	0	22	2
14	30-10(9) Code – reasonable care when making statements or doing a thing	18	6	5
15	30-10(10) Code – reasonable care taxation laws applied	2	1	2
16	30-10(11) Code – must not knowingly obstruct proper administration of taxation laws	0	0	0
17	30-10(12) Code – advise client of client's rights and obligations	0	0	2
18	30-10(13) Code – maintain professional indemnity insurance required	13	5	15
19	30-10(14) Code – respond to requests and directions from Board	669	1,895	1,869

Item	Classification of closed cases by primary breach	2015-16	2016-17	2017-18
20	50-5 Civil penalty – providing tax agent services if unregistered	89	41	56
21	50-10 Civil penalty – advertising tax agent services if unregistered	30	173	23
22	50-15 Civil penalty – representing that you are a tax/BAS agent if unregistered	25	16	6
23	50-20 Civil penalty – making false or misleading statements	0	0	1
24	50-25 Civil penalty – employing or using the services of deregistered entities	0	0	1
25	50-30 Civil penalty – signing of declarations, etc.	0	0	0
26	Registered Tax Agent pre-TASA	0	0	0
27	Non-TPB-related referral	2	5	0
28	No potential breach identified	8	754	583
	Total	1,651	3,267	3,006

Annual report compliance index

This appendix shows the location in this report of information required to be reported by non-corporate Commonwealth entities as set out in Subdivision A of Division 3A of the Public Governance, Performance and Accountability Rule 2014.

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List of reporting requirements	69–72
Contact officer(s)	ii
Website and internet address for report	ii
Review by accountable authority	
Chair's review	2–5
Overview	
Role and functions	12–13
Organisational structure	19
Outcome and program structure	20–21
Purposes as in corporate plan	51
Portfolio structure	Not applicable
Where outcome and program structure differs from Portfolio Budget Statements, Portfolio Additional Estimates Statements or other portfolio statements accompanying any other additional appropriation bills, details of variation and reasons for change	Not applicable
Report on performance	
<i>Annual performance statement</i>	
Annual performance statements in accordance with paragraph 39(1)(b) of the <i>Public Governance, Performance and Accountability Act 2013</i> (PGPA Act)	51–56
<i>Report on financial performance</i>	
Discussion and analysis of the entity's financial performance	58–60
Tables summarising the total resources and total payments of the entity	ATO annual report

Requirement	Page
Discussion of any significant changes in financial results during or after the previous or current reporting period	ATO annual report
Management and accountability	
<i>Corporate governance</i>	
Information on compliance with section 10 of the PGPA Act (fraud systems)	ATO annual report
Certification by accountable authority that fraud risk assessments and fraud control plans have been prepared	ATO annual report
Certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place	ATO annual report
Certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	ATO annual report
Statement of the main corporate governance structures and processes in place	17–18
A statement of significant issues reported to the minister under paragraph 19(1)(e) of the PGPA Act that relates to non-compliance with the finance law	None to report
<i>External scrutiny</i>	
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Information on the number of employees at each classification level who received performance pay	ATO annual report

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<i>Assets management</i>	
Assessment of effectiveness of assets management	60
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<i>Consultants</i>	
A summary statement detailing the number of new contracts engaging consultants entered into during the period, the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST), the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	ATO annual report
Prescribed statement on numbers and value of new and ongoing contracts	ATO annual report
A summary of policies and procedures for selecting and engaging consultants and the main purposes for which consultants were engaged	ATO annual report
Prescribed statement noting that information on contracts and consultancies is available through the AusTender website	ATO annual report
<i>Australian National Audit Office access clauses</i>	
Absence of provisions in contracts allowing access by the Auditor-General	ATO annual report
<i>Exempt contracts</i>	
Contracts exempted from publication on AusTender	ATO annual report
<i>Small business</i>	
Prescribed statement on support for small business participation	ATO annual report
Procurement practices to support small and medium enterprises	ATO annual report
Prescribed statement of recognition for small business by material entities	ATO annual report
<i>Financial statements</i>	
Financial statements	ATO annual report
<i>Other mandatory information</i>	
Advertising and market research (section 311A of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	ATO annual report
If the entity did not conduct advertising campaigns, a statement to that effect	Not applicable
Statement on grants	Not applicable

Requirement	Page
Outline of the mechanisms of disability reporting	64
Reference to web address of Information Publication Scheme statement	48
Correction of material errors in previous annual report	None to report
Work health and safety (Schedule 2, Part 4 of the <i>Work Health and Safety Act 2011</i>)	64
Ecologically sustainable development and environmental performance (section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	64
Report on operations (section 60-130 of the <i>Tax Agent Services Act 2009</i>)	Throughout
Outcomes of self-assessment (page 12 of the Regulator Performance Framework)	21

Glossary

AAT	Administrative Appeals Tribunal
AFS licensee	Australian financial services licensee
ATO	Australian Taxation Office
ASIC	Australian Securities and Investments Commission
BAS	business activity statement Businesses use a BAS to report and pay a number of tax obligations, including GST, pay as you go (PAYG) instalments, PAYG withholding and fringe benefits tax. The BAS is also used by individuals who need to pay quarterly PAYG instalments.
BAS agent	An individual or other entity registered to provide BAS services for a fee or other reward
Code, the	Code of Professional Conduct (set out in the TASA)
FPA	Financial Planning Association of Australia
ITR	income tax return
KPI	key performance indicator
OAIC	Office of the Australian Information Commissioner
PBS	Portfolio Budget Statements
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
RIM	risk and issues management
TASA	<i>Tax Agent Services Act 2009</i>
TASR	Tax Agent Services Regulations 2009
tax (financial) adviser	an individual or other entity registered to provide tax (financial) advice services for a fee or other reward
tax agent	an individual or other entity registered to provide tax agent services for a fee or other reward
tax agent services	services provided for a fee or other reward and which may include an element of tax advice, where it can reasonably be expected that the services or advice will be relied on for tax purposes (includes TFA services and BAS services)
tax practitioners	tax agents, BAS agents, tax (financial) advisers
TFA	tax (financial) adviser
TPB	Tax Practitioners Board

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