

Open Consultation - Raising standards in the tax advice market – strengthening the regulatory framework and improving registration.

The IFA welcomes the opportunity to this open consultation published on 6 March 2024.

We would be happy to discuss any aspect of our response and to take part in any further consultations in this area.

Established in 1916, the Institute of Financial Accountants (IFA) is an internationally recognised professional accountancy membership body. Our members work within micro and small to medium-sized enterprises or in micro and small to medium-sized accounting practices advising micro and SME clients. We are part of the Institute of Public Accountants (IPA) of Australia Group, the world's largest SME focused accountancy group, with more than 49,000 members and students in 100 countries.

The IFA is a full member of the International Federation of Accountants (IFAC), the global accounting standard-setter. As such, the IFA takes its place alongside the UK and Ireland's six chartered accountancy bodies.

The IFA have been approved by:

HM Treasury to supervise our members for the purposes of compliance with the Money Laundering Regulations, and by the Financial Services Authority in the Isle of Man.

The Charity Commission in England and Wales, for conducting independent reviews of charity accounts below the audit threshold;

The Scottish Charity Regulator, for providing independent examination of Scottish charity accounts; and

The Civil Aviation Authority (CAA) for IFA practising members to join the ATOL Reporting Accountants (ARA) scheme.

The IFA is represented on several UK Government committees and forums alongside other IFAC members, including the HMRC Agent Support Group, HMRC Compliance Reform Forum, HMRC Guidance Strategy Forum and HMRC Charter Stakeholder Group.

Copyright © IFA 2024 All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is appropriately attributed, replicated accurately and is not used in a misleading context;
- the source of the extract or document is acknowledged and the title is quoted.

Where third-party copyright material has been identified, application for permission must be made to the copyright holder.

For more information, please contact the IFA mail@ifa.org.uk.

www.ifa.org.uk

General comments

1. The IFA shares HMRC's commitment to improving the standards of the tax advice market through a strengthened regulatory framework.
2. We support the proposal set out by the government of introducing a requirement for paid for tax practitioners to be members of a recognised professional body that supervises against professional standards.
3. We recognise there are tax practitioners providing good tax advice and services to the public who do not possess professional body membership that require a clear pathway to membership to help raise and maintain the tax advice market standards.
4. IFA look forward, should this approach be adopted, to working with HMRC and government departments to develop a clear framework to achieving the objectives of this consultation.

Responses to consultation questions

The government's intention

Q1: Do you agree the limitations in the partial framework across the tax advice market contribute to issues observed? Select all that apply:

- **no requirements of technical competence to practice**
- **no general deterrents for dishonest practitioners operating in the market**
- **disjointed monitoring of tax practitioners**
- **variations in the action taken against substandard and unscrupulous tax practitioners**
- **clients being unable to easily assess the competence of a tax practitioner**
- **other, please specify**
-

Please give reasons for your answer.

5. We agree that the limitations identified in the partial framework across the tax advice market are all contributing factors impacting on the standards of the tax advice market.
6. Some issues, we believe, have a greater impact, however they can all have an adverse effect either individually or collectively.
7. The lack of oversight from unaffiliated tax advice providers we see as a major flaw in the current regime as this can lead to reduced trust from consumers, additional costs for HMRC to rectify poor advice and additional costs imposed on taxpayers to engage replacement tax advisors to rectify mistakes or poor advice.
8. This is linked to the lack of deterrents to guard against tax advisors providing poor advice or unscrupulous practitioners continuing to operate in this area. The IFA has first-hand experience of members being excluded from membership by IFA conduct committees but continue to engage with taxpayers. This undermines the intent of the conduct committee and provides an opportunity for the tax advisor to continue to engage with the public without any requirement to upskill.
9. We do agree that taxpayers may incorrectly assume that all tax advisers are regulated, and have up to date knowledge, and the relevant skills, to provide appropriate tax advice resulting in the correct tax being paid at the right time.

Objectives of a strengthened regulatory framework

Q2: Are there other components of a regulatory framework that would support the delivery of these objectives?

10. The IFA believes that stronger enforcement of the requirement for all tax advisors to be registered with HMRC would strengthen the regime. We have come across examples of non-registered agents using the tax credentials of clients to access information and submit tax returns.

Q3: Is there anything else that the government should consider?

11. The IFA believes, as an alternative, HMRC could work with government departments to protect the term 'accountant' as this would help to drive up public confidence in the accountancy and tax agent sectors as the vast majority of accountants engaged in public practice provide tax advice and tax compliance services to clients.
12. In its 3-year plan, the Financial Reporting Council (FRC), explained how it intends to develop and roll out plans to replace the FRC with the Audit, Reporting and Governance Authority (ARGA). HMRC should engage with the FRC to explore possible links, or at the very least, to ensure there is no duplication in any oversight work imposed on tax advisors.

Strengthening the controls on access to HMRC's agent services Approaches to strengthening the regulatory framework

Q4: Do you think the government should mandate registration for tax practitioners who wish to interact with HMRC?

- **yes**
- **no**
- **maybe**
- **don't know**

If no, please give reasons for your answer

13. Yes
14. This will help develop a consistent approach across all services and strengthen HMRCs understanding of the standards of service provided across all tax regimes and help HMRC identify problematic behaviours and prevent or mitigate harm to taxpayers and the regime.
15. Mandating all tax practitioners to register with HMRC would help strengthen public confidence and remove perceived inequalities by registered agents that they do not operate on a level playing field. IFA members have often suggested that those not subject to regulatory oversight are not accountable and can provide services to clients without having to apply resources to satisfy compliance demands, thus can often undercut those adhering to compliance and professional standards requirements.
16. IFA welcomes the intention to develop a single registration service to allow a tax practitioner to register for all relevant services at the point of registration and continue periodically.
17. HMRC should build on existing gateways to share information relating to tax agents such as Regulation 52 of the Anti-Money Laundering (AML) Regulations. IFA have used this gateway to help HMRC in its attempts to police the perimeter to ensure tax agents have appropriate AML supervision in place.
18. The Reg 52 gateway has helped the IFA share intelligence with HMRC when firms are no longer supervised by IFA for AML. This might be due to retirement, or in cases where firms have resigned from membership due to being selected for an IFA AML review or have been excluded due to an adverse disciplinary outcome.

19. We believe this joined-up working has proved to be an effective mechanism and should be used as a starting point when considering the processes to mandate tax agent registration with HMRC.

Q5: What are your views on the intention to apply the requirement to all tax practitioners who interact in any way with HMRC in a professional capacity?

20. We fully support the intention to apply registration requirements to all tax practitioners who interact in any way with HMRC.
21. In the first instance, HMRC should consider applying mandatory registration with tax advisors who provide services by way of business as these agents should already be supervised by HMRC or professional bodies under the ML regulations. However, those engaging with HMRC to provide pro-bono services, such as on behalf of friends and families, need careful consideration. IFA believe the way forward could also be to mandate membership of a professional body, to ensure they are subject to continued professional development (CPD) and professional standard requirements to maintain as part of their continued membership.

Q6: HMRC currently applies several checks at the point of registration including: whether the tax practitioner has outstanding debt and/or returns with HMRC, and the status of their AML supervision. Are there additional checks that the government should consider for tax practitioners at the point of registration with HMRC?

22. In addition to the checks at the point of registration HMRC should consider checking the list of disqualified directors with Companies House as part of a fit and proper check.
23. HMRC should consider using other sources of information such as the Financial Crime Information Network (FIN-NET) or the Shared Intelligence System (SIS) hosted by the FCA. SIS is used by most professional body supervisors to share information relating to members and firms to avoid supervisory arbitrage.

Q7: Are there specific criteria or checks HMRC should apply if:

- an individual, who has previously registered a company with HMRC as a tax practitioner, attempts to register a new company?
 - a tax practitioner operating as a sole trader becomes incorporated?
24. We believe HMRC should ensure there is continuity of information relating to any individuals who attempt to register new or multiple companies, with links to connected entities and their histories. This would ensure HMRC have a complete picture of the practitioner and identify patterns of unwanted behaviour.
25. IFA believes it is important to retain any linked trading history and therefore suggests linking tax history of sole traders to incorporated businesses to maintain a complete overview.

Approaches to strengthening the regulatory framework

Q8: Which approach do you think would best meet the objectives set out in chapter 4?

- approach 1: mandatory membership of a recognised professional body
- approach 2: joint HMRC-industry enforcement
- approach 3: regulation by a government body

Please give reasons for your answer.

26. The IFA believes approach 1: mandatory membership of a recognised professional body is the option that would best support the objectives set out in chapter 4 of this consultation.
27. Professional bodies have in depth knowledge of the members and firms they supervise, and members already have a trusted relationship with them.
28. This approach, alongside the need for mandatory registration with HMRC would remove the notion of a 2-tier regime.
29. The support and enforcement process mechanisms provided by professional bodies provide tax agents with resources to develop their skills in an ever-changing tax regime through CPD, and taxpayers with a straightforward route to complain against perceived bad advice or malpractice.
30. This approach builds upon existing frameworks and would be the most cost effective as it would appear to be the option that would not require additional burdens on taxpayers to fund.

Q9: What are your views of the merits and problems of the 3 potential approaches described in this chapter?

31. We have outlined the merits of approach in our answer to question 8.
32. The main problems with adopting approach 1, which the IFA believes are surmountable, relate to professional bodies ability and willingness to provide support to existing members as well as routes to membership for unaffiliated members.
33. The IFA agrees there are tax practitioners who provide a good level of service to clients without affiliation to any professional body. One of the biggest challenges will be to provide a pathway to affiliation that does not undermine existing members of a professional bodies standing or forces unaffiliated tax practitioners out of business.
34. We believe the main issues relating to approach 2 includes both merits and problems.
35. This option is pretty much business as usual and therefore would require minimal intervention from professional bodies and, or HMRC. However, this status quo would not support the objectives identified in chapter 4, to improve agent standards.
36. Approach 3 would see the introduction of an additional regulator by the government. This would add another tier of regulation into the sector which already has many regulatory requirements such as AML supervision, and is, at some point, going to be subject to further oversight under ARGAs.
37. We believe this model would be the most expensive model to implement with the burden falling on taxpayers. The length of time it would take to implement should also be considered as a problematic factor.

Q10: Are there any other approaches to raising standards the government should consider?

38. We have no other suggestions to make beyond the 3 approaches outlined in this consultation.

Exploring how mandatory membership of a professional body could raise standards

Q11: Do you think membership with a professional body raises and maintains standards of tax practitioners?

- **yes**
- **no**
- **maybe**

- don't know

Please give reasons for your answer

39. Yes
40. Members of professional bodies, such as the IFA, must meet certain criteria, such as educational requirements, experience working in public practice, appropriate levels of Professional Indemnity Insurance, and meet public practice as well as professional and ethical standards e.g., IFAC IESB Code of Ethics and Professional Conduct in Relation to Tax (PCRT).
41. In addition to achieving these standards they must demonstrate they continue to maintain their professional competence by meeting continued professional development (CPD) requirements.
42. Affiliated members are accountable and are subject to appropriate enforcement action by conduct committees, who in the case of IFA conduct committees, are not part of the IFA executive and operate independently of the IFA administration.
43. Members engaged in public practice and supervised by the IFA for AML purposes are subject to ongoing monitoring which goes beyond scrutiny of AML compliance. Reviews include oversight of public practice regulations, complaints, compliance history and fit and proper checks.
44. The IFA engages with HMRC in many stakeholder group meetings and receives intelligence relating to alleged malpractice, which is provided to conduct committees to consider disciplinary sanctions.
45. We believe the above points help to demonstrate the IFA's accountability and public interest in driving standards higher in the sector and can help raise and maintain standards of affiliated tax practitioners.

Q12: What is your view of the capacity and capability of professional bodies to undertake greater supervision of tax practitioners?

46. Professional bodies have the right to approve or reject membership as defined in each professional bodies constitution and byelaws and this will need to be maintained.
47. Professional bodies, such as the IFA, can accommodate different levels of membership, such as students, graduates, affiliates, alongside associate and fellow members. The important factor is that each category of membership is subject to the IFA's professional and ethical standards.
48. From an IFA perspective, we have an existing pathway that could help support the transition of unaffiliated members using a flexible online platform that provides an affordable and relevant learning programme called [IFA Direct](#). This is a personalised route to gaining full IFA membership which is administrated in partnership with [ATHE](#), a global awarding organisation regulated by Ofqual. The programme is based on gathering learning credits up to a level 7 accreditation in subjects including UK taxation for business and individuals – advanced. In addition to our level 7 advanced tax unit the IFA Direct programme has a Personal Tax unit at level 4 and a Business Tax unit at level 5.
49. The IFA believes this will be for each professional body to consider, however we believe we have a proven pathway that can accommodate unaffiliated members and support them to become affiliated members through a recognised education platform, while supporting professional standards and ethical requirements.

Q13: What more could the professional bodies do to uphold and raise standards for their members?

50. Professional bodies already provide support to members in terms of CPD, representing member interests in stakeholder groups such as the HMRC Agent Support Group (ASG) and many others.

51. The oversight and monitoring of members and firms is a continual process and focuses on AML compliance, public practice compliance and CPD monitoring. This could be enhanced to include, for example, review of how a member of firm complies with the requirements of the PCRT.
52. The IFA would be happy to work with HMRC and other professional bodies to identify areas that could be enhanced in terms of oversight and monitoring. It should be noted that it is important that any such areas are agreed by all concerned parties to ensure a consistent approach is applied, and to avoid on arbitrage relating to monitoring activities.

Q14: What additional costs may professional bodies face if strengthening their supervisory processes and/or taking on new members?

53. It is difficult to identify specific additional costs. As referenced earlier, the IFA has a proven, flexible education pathway which is designed to accommodate unaffiliated members into a route to professional membership.
54. Potential additional resources would be required to support the transition in terms of monitoring, support, and where necessary, enforcement activities. However, until an approach is agreed upon alongside transitional arrangements, it is difficult to identify specific costs.
55. It would be hoped that the additional costs incurred by professional bodies would be satisfied by the additional revenue streams provided by new routes to membership and the education pathways supporting the unaffiliated members into membership.

Routes for customer support

Q15: What is the best way to ensure current and new professional bodies maintain high standards?

56. We believe that to be approved as a professional body supervisor, irrespective of being an existing or new professional body, there are a number of criteria that should be considered, such as the following:
57. Appropriate entry requirements which should include options that facilitate different levels of entry that allows access to a pathway to full membership.
58. It is essential that professional bodies include an appropriate level of tax compliance in its syllabus or agreed prior learning to ensure minimum levels of competency are maintained.
59. Annual returns or declarations should be mandatory, subject to scrutiny and monitoring and enforcement where appropriate. This should include annual fit and proper requirements and confirmation in maintaining professional standards, ethical working, ongoing CPD and, where appropriate, AML compliance.
60. Independent disciplinary functions should be in place to allow appropriate enforcement action in cases of proven misconduct. The complaints and disciplinary process should be easily accessible and transparent to clients of tax practitioners as well as others such as HMRC and law enforcement.

Q16: What role could the professional bodies play in supporting the clients of their members?

61. Essentially, as a membership body, the IFA supports its members in terms of training and ongoing development, however we also believe it is essential that we support the profession and the wider public interest.
62. IFA believes that being transparent in its activities, including monitoring and oversight of its members, provides clients with a degree of confidence in its abilities to support and regulate its membership. Our CPD program, conferences and workshops are all accessible to members and non-members and all proven conduct committee outcomes are in the public domain.

Q17: Should the government consider strengthening customer support options beyond the current complaints processes offered by professional bodies?

- yes
- no
- maybe
- don't know

Please give reasons for your answer.

63. Maybe

64. The complaints process adopted by most professional bodies is transparent, independent, and designed to support the profession and reduce public interest concerns. We believe the IFA complaints process would stand up to scrutiny alongside other professional bodies and therefore government intervention would not be required.

65. We believe that where professional bodies cannot demonstrate robust complaints processes, then there could be scope for the introduction of some form of Alternative Dispute Resolution service or appeals process designed to protect taxpayers.

Q18: What role should HMRC/the government play under approach 1: mandatory membership of a recognised professional body?

66. HMRC and the government should work with professional bodies to share data relating to noncompliance against the tax regime, similar to how data sharing via Regulation 52 of the ML regulations works. To some extent this already happens, however it may be beneficial to all parties if this took on a more formulaic approach and was transparent to the consumer.

How this approach could work: who should be regulated?

Q19: Do you agree that the requirement should only apply to those who interact with HMRC?

- yes
- no
- maybe
- don't know

Please give reasons for your answer.

67. Yes

68. We believe the requirement to register should apply to all tax practitioners that interact with HMRC in a professional capacity by way of business.

69. Tax practitioners acting on behalf of clients have the most impact on the administration of the tax system and help to drive trust in the tax regime.

Q20: Do you agree that the requirement should only apply to controlling or principals of firms?

- yes
- no
- maybe
- don't know

Please give reasons for your answer.

70. Yes
71. The majority of professional bodies have public practice regulations requiring directors, principals, or those holding themselves out to be principles of firms to hold a practising license. The suggestion, therefore, that the requirement should apply to those controlling a firm will be consistent with existing regulatory requirements.

Exclusions

Q21: Are there any other regulated professions that should be excluded from this requirement?

72. The IFA cautiously agrees with the proposal to exclude tax practitioners already subject to statutory regulation such as insolvency practitioners and statutory auditors on the provision they are subject to the same oversight and monitoring as tax practitioners required to register.

Q22: How can the government ensure members of regulated professions have high standards in relation to their work providing tax advice or services?

73. HMRC should work with the regulated professions to ensure the same standards are applied across registered tax practitioners and the statutory regulated professionals.
74. Consideration will need to be made in relation to multidisciplinary firms such as those with a partner providing financial advice and another partner providing statutory audit services, as both could also provide tax advice or services that otherwise would have required tax practitioner registration.

Q23: What are your views of the proposed exclusions?

75. We understand the need to keep regulatory burdens to a minimum, however we believe the introduction of exemptions could potentially pose a threat to consistency and to the general public as it may not be clear what services are included or excluded.

Potentially in scope

Q24: Do you think the following tax practitioners should be in scope of the requirement to become a member of a professional body member? Select all practitioner types you think should be in scope.

- **charities interacting with HMRC on behalf of taxpayers**
- **tax practitioners providing Pro-bono services**
- **promoters and enablers of tax avoidance**
- **overseas/offshore practitioners**
- **other (please specify)**

Please give reasons for your answer.

76. We believe all the categories listed should be in the scope of the requirement to become a member of a professional body as all pose a significant risk to the integrity of the tax administration and public trust.
77. We accept that charities interacting with HMRC on behalf of taxpayers play a vital role in helping the most vulnerable in society, however we feel this could be open to exploitation by those pretending or holding out to be charitable organisations. Vulnerable clients may have reduced capacity to pursue complaints. We feel these organisations are effectively tax practitioners who provide similar services to those that will be required to register as a tax practitioner and therefore should be treated the same.

78. Those providing pro-bono work are still representing the profession and the advice provided should still be subject to the same scrutiny and oversight as registered tax practitioners. The IFA only requires members to hold a license to practice if they provide services by way of business. However, these members are still subject to professional standards and CPD requirements as they maintain the reputation of the profession and the IFA brand. As referenced in the consultation, oversight and monitoring should be applied on a risk sensitive basis and therefore professional bodies processes would be better placed to look at these members or firms and decide upon appropriate monitoring rather than to fully exempt them from the regime.
79. Where promoters and enablers of tax avoidance schemes are identified it is envisaged HMRC would share information with professional bodies to take appropriate action. It is not clear why this category is referenced in the consultation as HMRC regularly publish these high-risk entities and professional bodies already take appropriate action.
80. The IFA does not provide a practising license to overseas or offshore practitioners and is therefore not in a position to comment. However, it does appear to offer the potential for practitioners to re-locate overseas to avoid the need to register. Requiring registration would remove this potential loophole.

Definition in legislation of a provider of tax advice and services

Q25: What could be the consequences of introducing a legal definition of a provider of tax advice and services?

81. We are pleased to hear that the government intends to consult further on the production of a legal definition of a tax practitioner as a provider of tax advice and services. HMRC should ensure all stakeholders have the opportunity to comment on the draft definition.
82. A clear, well-constructed and agreed definition can help support the administration of the regime and provide professional bodies and conduct committees with a clear mandate in terms of support and enforcement action.

Q26: What gaps or issues can you see arising because of this definition?

83. We cannot see any gaps or issues provided the definition is agreed by stakeholders and takes into account the consultation process.

Implementation and next steps - Evaluation

Q27: How could unaffiliated tax practitioners be transitioned into professional body membership?

84. It is unclear how many unaffiliated tax practitioners will remain in business and therefore be mandated to become a member of an approved professional body, therefore in the first instance HMRC will be required to engage with professional bodies to confirm, or otherwise, membership of tax practitioners.
85. Professional bodies will need to provide options and pathways to allow unaffiliated members to become members.
86. HMRC, having recognised professional bodies as tax practitioner supervisors, will provide published details of all professional bodies for the unaffiliated tax practitioner to approach.
87. Further contact between HMRC and the appointed professional body would need to be placed on a legal footing in relation to data sharing and data protection issues concerning the progress, or otherwise, of unaffiliated tax practitioners during the transition period.

Q28: Should a legacy scheme be adopted?

88. The IFA agrees that a legacy scheme allowing tax practitioners not affiliated with a professional body time to remain registered with HMRC and continue to operate as normal for a specified time period while gaining the qualifications required for membership.
89. There would also need to be agreement between HMRC and the professional body as to liability to take forward disciplinary action should a complaint or misconduct change become apparent during the transition period.

Q29: Do you agree a transition period of 3 years would give sufficient time for the market to adapt to the introduction of mandatory professional body membership?

- **yes**
- **no**
- **maybe**
- **don't know**

Please give reasons for your answer.

90. Maybe
91. Although the consultation suggests 2028 as the earliest time frame for implementation, and that this would require a finance bill to enact, the IFA believes this time frame is at best optimistic.
92. In theory the complete IFA Direct program can be completed in 18 months, however this assumes full time study without study breaks and we would suggest a period of 3 to 5 years to complete if studying while working as a tax practitioner.
93. The addition of the legacy scheme referenced in the consultation could provide a clearer picture in relation to expected time frames required to transition this process.

Q30: What future developments would need to be accounted for in implementing mandatory professional body membership?

94. The consultation refers to Professional Body Supervisors in relation to the ML regulations. The outcome of the HM Treasury consultation on the future approach to AML supervision is now long overdue. This may have a profound impact on a supervisors' ability, and or willingness, to become an approved tax practitioner supervisor with HMRC. This model, therefore, may need drastically amending if professional body AML supervision is removed.
95. The potential development of ARGA by the FRC could have an impact in terms of increased regulatory oversight of professional bodies that fall under the scope of ARGAs. The IFA would appear to fall under the scope and therefore suggest HMRC should take this potential development into account when rolling out any new requirements to avoid any regulatory duplication.
96. The general election taking place in July 2024 may well create new priorities and directions of travel. The IFA calls on the new government to ensure this proposal, as well as those listed above are not considered in isolation.

Contact details

Should you wish to discuss this response further, please contact Tim Pinkney, IFA Director of Professional Standards, by email at timp@ifa.org.uk.