



30 January 2023

The Hon Dr Jim Chalmers MP  
Treasurer  
Parliament House  
Canberra ACT 2600

Dear Treasurer

**BOARD OF TAXATION – MANAGING CONFLICTS OF INTEREST AND PROTECTING CONFIDENTIAL INFORMATION**

I am writing to you in response to your letter dated 25 January 2023 asking for a review of the Board of Taxation’s (the Board) internal processes on stakeholder consultations and for assurance that appropriate systems are in place to manage conflicts of interest and protect the confidentiality of information shared with stakeholders.

The Board plays an important role in providing real-time advice to the Australian Government on tax policy and tax system issues. The Board treats the confidentiality of information and managing conflicts of interest very seriously in order to protect the integrity of the Board’s role in Australia’s tax system and to maintain public confidence in the Board’s work.

The Board regularly reviews the processes and procedures in place for Board members and the Board of Taxation Secretariat (the Secretariat) members to ensure that appropriate safeguards are in place to manage conflicts of interest and to protect the confidentiality of information.

The current safeguards that the Board and Secretariat have in place include the following:

- The Board has endorsed the “*Board of Taxation Policy Managing Conflicts of Interest*” Policy (the Policy) covering Board and Secretariat members (Refer Attachment A)
  - The Policy is reviewed and, if appropriate, updated by the Board every three years. The policy was last reviewed and endorsed at the Board meeting on 1 July 2022.
  - The Policy is available on the Board’s website for transparency and to encourage public confidence in the Board’s work
- Conflict of Interest Declarations by Board Members
  - The Board’s practice is to require members who have a material personal interest in a matter before the Board to disclose the interest to the Board and to absent themselves from the Board’s discussion of the matter, including the making of a decision, unless otherwise determined by the Chair (or if the Chair has the interest, the other members of the Board).
  - Board members are required to complete a Declaration of Personal Interest Form annually.

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- On appointment to the Board, Board members are required to execute Confidentiality Acknowledgements acknowledging that:
    - the information received by them in the course of performing work for and on behalf of the Board is received on a confidential basis, and that they will not disclose any such information to another person without the prior approval of the Commonwealth during or after their work with the Board; and
    - they will not use this information in the conduct of their own tax affairs or to advise other persons on their tax affairs.
  - The Chair of Board is required to obtain an AGVSA security clearance.
  - Protocols and guidelines are issued to private sector working group members that are involved in confidential Board consultations.
    - As part of the Board's review, the Board will consult on a confidential basis with subject matter experts (the working group). Working group members participate in reviews on a pro-bono basis to assist the Board in meeting the terms of reference given by the Government for a review. Working group members are nominated to participate in a review by the Board and the Secretariat based on their experience in the review matter, quality of expertise and diversity of views.
    - The protocols and guidelines issued set out a member's role in the review, their obligation to treat information confidentially and requirements to declare conflicts of interests. Working group members are also required to sign Confidentiality Acknowledgements.
    - The Confidentiality Acknowledgement used for these purposes is regularly reviewed and it was last reviewed in August 2022. This review was conducted in conjunction with the Treasury Legal Team (refer Attachment B).
  - Secondees from the private sector to the Secretariat are required to sign a Secondment Agreement with Treasury. The Secondment Agreement includes provisions requiring a private sector secondee to:
    - abide with all of Treasury's policies and guidelines, including acting in accordance with the requirements of the APS Code of Conduct (including the requirement to not use information improperly and avoid conflicts of interest).
    - maintain the confidentiality of Treasury information not in the public domain.
    - comply with processes to manage any conflicts of interest.
- Secondees from the private sector are also required to obtain an AGVSA security clearance.
- The Board's Advisory Panel was established in 2009. The Advisory Panel is a group of private sector tax professionals who have agreed to voluntarily contribute their knowledge and expertise in assisting the Board with its work, where requested by the Board and Secretariat.
    - Members of the Advisory Panel are appointed by the Board members based on their individual capabilities and expertise (and not as representatives of particular interests), their commitment to improving Australia's tax system and their diversity of perspectives and views. Advisory Panel members are required to sign Confidentiality Acknowledgements when involved in

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confidential consultations with the Board.

- Over the past year the Board has reviewed the role and composition of the Advisory Panel and is in the process of updating the Advisory Panel to ensure that the Board has access to a diverse range of expertise and representation from industry.

In addition to the above, we are in the process of implementing the following safeguards to improve and strengthen our systems including:

- Developing and maintaining a central conflict of interest register covering Board members, Secretariat members and working group members; and
- At the beginning of every future consultation meeting reminding private sector working group members of their obligations to declare any conflicts of interest and protect the confidentiality of information and recording that this has taken place in the minutes of the meeting.

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I trust that these safeguards provide you with assurance that that appropriate systems are in place to manage conflicts of interests and protect the confidentiality of information shared with stakeholders.

If you have any questions or would like to discuss the above further, please do not hesitate to contact me.

Yours sincerely,



Rosheen Garnon  
Chair of the Board