



Australian Government  
Inspector-General of Taxation  
Taxation Ombudsman

# Submission to the Parliamentary Joint Committee on Corporations and Financial Services

Ethics and Professional Accountability:  
Structural Challenges in the Audit, Assurance  
and Consultancy Industry

By the Inspector-General of Taxation

30 August 2023



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Senator Deborah O'Neill  
Chair  
Parliamentary Joint Committee on Corporations and Financial Services  
Parliament House  
Canberra ACT 2600

Dear Senator O'Neill

**Ethics and Professional Accountability: Structural Challenges  
in the Audit, Assurance and Consultancy Industry**

The Inspector-General of Taxation and Taxation Ombudsman (**IGTO**) welcomes the opportunity to contribute to the Parliamentary Joint Committee on Corporations and Financial Services' (**Committee**) inquiry – *Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry (Inquiry)*.

The IGTO is an independent statutory agency that investigates taxation administration systems and laws, as well as the actions and decisions made by Tax Officials - of the Australian Taxation Office (**ATO**) or the Tax Practitioners Board (**TPB**). The IGTO seeks 'to assure the community that there is a fair, equitable, and transparent administration of the tax system consistent with community expectations.'<sup>1</sup> We also undertake tax investigations for the purpose of providing independent advice and assurance to Government on the taxation administration laws and systems.

The IGTO is not empowered to investigate or advise on tax policy matters. Accordingly, this submission does not make (or intend to make) comment on any policy approaches or policy responses to the recent allegations of misconduct by major accounting, audit and consultancy firms.

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<sup>1</sup> Inspector-General of Taxation and Taxation Ombudsman, *Corporate Plan 2024 - 2027* (2023) p 10.

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The comments from the IGTO in this submission are not as a result of any specific investigation that the IGTO has undertaken in relation to these matters. Rather, we have undertaken some initial research and presented some views that we trust will be of assistance to the Committee as it progresses with the Inquiry. Where we believe that prior IGTO reports or submissions are relevant to the current matters being examined, we have highlighted these for the Committee's reference.

In the main, the key areas of this submission are:

1. The role of the IGTO
2. A brief introduction to the TPB
3. Sanctions and powers of the TPB
4. Access and information gathering powers of the TPB
5. Coverage and interaction between regulatory bodies
6. The whistleblower protection framework

If there are any areas in this submission that the Committee wishes to explore further, we would be happy to provide a supplementary submission or provide further insights at a briefing or hearing.

If you have any queries about this submission, please do not hesitate to contact me

Kind regards,

Karen Payne  
Inspector-General of Taxation and Taxation Ombudsman

# 1 The role of the IGT0

The Inspector-General of Taxation and Taxation Ombudsman (**IGTO**) is an independent, Commonwealth statutory agency, operating out of a single office location in Sydney but with national responsibilities and obligations. The IGTO contributes to the overall integrity and transparency of the tax system, by independently investigating taxation administrative actions and decisions of the Australian Taxation Office (**ATO**) and the Tax Practitioners Board (**TPB**), as well as systems and laws relating to tax administration.

The IGTO's Outcome Statement was updated in 2023 to better capture the role that we perform in the tax and superannuation systems. It now provides:

*Fair, accountable and improved administration and integrity of the taxation and superannuation systems for the benefit of the Australian community, through independent investigation and reporting.*

The IGTO has been supporting the integrity of the taxation system for 20 years – as Inspector-General of Taxation since 2003 and, additionally, as the Taxation Ombudsman since 2015.

The IGTO has dual investigation roles which complement each other:

- The **Taxation Ombudsman** provides independent assurance directly to taxpayers and tax professionals, and investigates the actions or decisions of tax officials which are the subject of dispute – dispute assurance and dispute investigations
- The **Taxation Ombudsman**, also investigates and reports on issues that have broader community impact or are commonly observed in a number of disputes to identify wider system improvements that address the causal issues – own-initiative investigations
- The **Inspector-General of Taxation** undertakes investigations, informed by community consultations and insights drawn from dispute investigations, of actions, systems and taxation laws (to the extent they deal with tax administration matters) – review investigations.

Both roles and the various investigation modes determine whether taxation laws are administered consistently, with integrity and as intended by Parliament. This includes determining whether taxation laws are administered in accordance with the law, ATO or TPB guidelines and publicly communicated commitments (including those set out in the ATO's *Our Charter*), and also consistent with community expectations of fairness.

The IGTO's investigations build confidence in the fairness of the tax system and its integrity and deliver improvements to the administration of taxation laws for the benefit of all taxpayers, tax practitioners and other entities.

The community's perception of the fairness and integrity of the tax administration system is an important factor and influence in determining voluntary compliance by taxpayers and tax practitioners alike – which ultimately determines the efficiency and effectiveness of the tax system itself – including tax revenues raised, the timeliness of tax lodgements and the efficient resolution of complaints and disputes.

## 2 A brief introduction about the TPB

The IGTO notes that the TPB is an independent statutory board consisting of a Chair and at least 6 other Board members appointed by the Minister. However, the Commissioner of Taxation is the Accountable Authority for both the ATO and the TPB, although the TPB produces a separate Annual Report. In relation to the employees of the TPB, the TPB website explains:

*TPB staff are employed under the Public Service Act 1999 by the Commissioner of Taxation but are seconded on a permanent basis to the TPB under the Tax Agent Services Act 2009.*

As such, the TPB (the Board itself) is legally independent of the ATO but also dependent on the services of Taxation Officers 'seconded' to the TPB to fulfil its statutory purpose and objective.

A Taxation Officer is defined in section 355-30 of the TAA 1953 as follows:

*Taxation officer means:*

*(a) the Commissioner or a \*Second Commissioner; or*

*(b) an individual appointed or engaged under the Public Service Act 1999 and performing duties in the Australian Taxation Office.*

The operation of taxation secrecy and confidentiality provisions in the context of this arrangement requires further explanation – see section 5 below. A further question arises as to whether Taxation Officers seconded to the TPB are *performing duties in the Australian Taxation Office*.

## 3 Sanctions and powers of the TPB

The IGTO made a submission (dated 6 September 2019) to the Treasury's Review of the Tax Practitioners Board Discussion Paper which noted the unique position of the TPB. A copy of that submission is available on the IGTO [website](#).

The IGTO considers that the powers and sanctions available to the TPB should reflect its statutory purpose. The Object of the TPB as currently stated<sup>2</sup> makes no reference to consumer protection, despite it being a clear and valued objective or purpose. The objects are currently described as follows:

*The object of this Act is to ensure that \*tax agent services are provided to the public in accordance with appropriate standards of professional and ethical conduct. This is to be achieved by (among other things):*

- a. establishing a national Board to register tax agents and BAS agents; and*
- b. introducing a \*Code of Professional Conduct for \*registered tax agents and BAS agents; and*
- c. providing for sanctions to discipline registered tax agents and BAS agents.*

Where consumer protection is a relevant objective of the TPB then the sanctions and powers available to the TPB (as well as the relevant objects clause) should be updated to reflect this purpose.

The IGTO notes that there were 28 recommendations in the *Independent Review of the Tax Practitioners Board (the James Review)*. Specifically in reference to sanctions and powers, the IGTO also notes and supports recommendation 3.4, 6.1, 6.2, 6.3, 8.1 of the James Review.

## Sanctions and disciplinary action

The IGTO submission to the James Review made the following observations about sanctions and disciplinary action available to the TPB:<sup>3</sup>

*IGTO considers that taxpayer (consumer) protection should be a core ongoing function for the TPB. We consider that increased compliance activity by the TPB would assist to increase awareness of it as a regulatory body and enhance its standing as a consumer protection body within the tax system. Accordingly, we suggest that the Review consider:*

- the current resourcing and workforce capabilities of the TPB to develop comprehensive active compliance programs to address risks within the tax profession, including the prevalence of unregistered persons providing tax services;*
- the future resourcing and workforce capability needs to enable the TPB to develop comprehensive active compliance programs to address risks that may emerge, including those arising as a result of technology developments (e.g., tax services being offered in the gig and sharing economies); and*

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<sup>2</sup> Tax Agent Services Act 2009, s 2.5.

<sup>3</sup> Inspector-General of Taxation and Taxation Ombudsman, Submission to the Treasury's *Review of the Tax Practitioners Board* Discussion Paper (6 September 2009) pp 13-14.

- *whether the range of disciplinary actions and sanctions available to the TPB need to be enhanced to enable them to address risks or behaviours identified as part of the compliance program.*

*If the registration function of the TPB is to be 'shared' with professional associations and a more consistent or universal Code of Conduct adopted, or opted into, we believe that the disciplinary action and imposition of sanctions could also be more collaborative between the TPB and the professional associations. For example, where following an investigation, it is identified that a registered tax agent or tax professional has not complied with one or more requirements of the Code, and that tax agent is also a CA or CPA, consultation with the relevant professional body on the appropriate disciplinary action and sanction, would ensure a consistency in approach.*

*Furthermore, as the IGTO has previously identified, where it may not be possible for the TPB to undertake a high volume of compliance activities, consideration should be given to enabling information sharing and other arrangements with other bodies who may be able to assist in investigation and disciplinary actions. It will be necessary to consider how best to leverage a network of regulators to cover the field and ensure that consumers are protected in future. That is, where it is accepted that the population of professionals who are likely to offer tax services in the future will grow and if the jurisdiction of the TPB is not proposed to be expanded to cover these professionals. In order for this to be effective, we consider that the Review will need to consider what existing statutory mechanisms there are for the TPB to refer and share information with other regulators to facilitate effective investigation, disciplinary action and sanction for those professionals not falling directly within its remit, and vice versa.*

## Existing Sanctions available to the TPB

The existing sanctions available to the TPB are as follows:<sup>4</sup>

### **SECTION 30.15 - Sanctions for failure to comply with the Code of Professional Conduct**

- 1) *This Subdivision applies if the Board is satisfied, after conducting an investigation under Subdivision 60-E, that you have failed to comply with the \* Code of Professional Conduct.*
- 2) *The Board may do one or more of the following:*
  - a) *give you a written caution;*
  - b) *give you an order under section 30-20;*
  - c) *suspend your registration under section 30-25;*
  - d) *terminate your registration under section 30-30.*

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<sup>4</sup> Tax Agent Services Act 2009, ss 30.15-30.20.

### **SECTION 30.20 - Orders**

3) *The Board may make an order that requires you take one or more actions including, but not limited to, the following:*

- a) *completing a course of education or training specified in the order;*
- b) *providing \* tax agent services for which you are registered only under the supervision of a \* registered tax agent or BAS agent specified in the order;*
- c) *providing only those tax agent services that are specified in the order.*

## **Expanding the range of sanctions available to the TPB**

In respect of the sanctions available to the TPB, the James review observed that the TPB had been ‘left little choice between applying low-level sanctions (such as written cautions and further education), and high-level sanctions including the suspension or termination of registration and civil penalties.’<sup>5</sup> The report made a recommendation for further sanction powers to be added to the *Tax Agent Services Act 2009 (TASA)*, including:<sup>6</sup>

- infringement notices
- enforceable undertakings
- quality assurance audits
- interim suspensions
- permanent disbarment
- external intervention

The IGTO supports the expansion of sanction powers for the TPB to provide a graduated series of actions that may be taken having regard to the severity and scope of misconduct found to have been committed. The Government has recently announced a range of actions to strengthen the regulatory arrangements, including ‘implementing remaining recommendations from the independent review of the TPB, including strengthening the range of sanctions available to the TPB.’<sup>7</sup>

An additional factor which the Committee may wish to consider is whether or not the TPB should also have powers to investigate and impose sanctions on the relevant professional firms where it is found that the firm has failed to institute appropriate risk management and governance frameworks to detect and prevent professional and ethical misconduct. At present, the jurisdiction of the TPB extends only to the (individual) practitioners that are required to be registered with it. Where misconduct is found to have occurred, it is the individual practitioner that is sanctioned with little or no pecuniary or other

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<sup>5</sup> The Treasury, *Independent Review of the Tax Practitioners Board* (31 October 2019) p 63.

<sup>6</sup> The Treasury, *Independent Review of the Tax Practitioners Board* (31 October 2019) p 65.

<sup>7</sup> The Hon Stephen Jones MP, *Government taking decisive action in response to PwC tax leaks scandal* (Joint Media Release with the Hon Jim Chalmers MP, Senator the Hon Katy Gallagher and the Hon Mark Dreyfus MP, 6 March 2023).



impacts for the associated firm. Empowering the TPB to extend its investigative and sanction powers to the relevant professional firm may assist to ensure that firms take necessary action and establish more robust governance arrangements to guard against any such misconduct by partners, employees and other agents.

The IGTO considers that the relevant whistleblower protections are also important for detecting instances of misconduct – Section 7 below.

## 4 Access and information gathering powers of the TPB

A consideration of all relevant information for the purposes of satisfying the requirements of procedural fairness can contribute to delay in concluding an investigation, especially where the investigator is required to satisfy themselves through their own investigations of the alleged conduct and behaviour. It may be efficient to introduce a positive statutory obligation on the relevant professional, professional firm or professional association to assist the TPB in their investigations.

For these purposes it would also be useful to consider if the TPB's access to ATO information is sufficient for these purposes or if the following may expedite the investigation process

- A requirement to assist;
- A requirement to provide any existing material relevant to the investigation.

### Powers of Access and Disclosure of Protected information by Taxation Officers

A *Taxation Officer* (essentially someone performing duties in the ATO) commits an offence by making a record of protected information or disclosing protected information to another person or entity unless a relevant exception applies. Prima facie, this includes any disclosure by a taxation officer to another taxation officer, although there are a number of exceptions which apply and this includes disclosure made in performing their duties as a taxation officer<sup>8</sup>. This in turn includes:

Item	The record is made for or the disclosure is made to ...	And the record or disclosure ...
Item 1	any entity, court or tribunal	is for the purpose of administering any taxation law <sup>9</sup> .
Item 8	any board or member of a board performing a function or exercising a power under a taxation law	is for the purpose of performing that function or exercising that power

<sup>8</sup> *Taxation Administration Act 1953*, Sch 1, s 355-50.

<sup>9</sup> *Taxation Administration Act 1953*, Sch 1, sub-s 355-50(2).

A *Taxation law* is defined in section 995-1 of the *Income Tax Assessment Act 1997* to include the TASA. Accordingly, the TPB is administering and/or performing a function or exercising a power under a taxation law. A Taxation Officer may therefore disclose to the TPB (or another Taxation Officer working for the TPB) for the purpose of administering any taxation law or for the purpose of performing a function or exercising a power under a taxation law. It should be noted that this would include jurisdiction over a promoter of any \*tax exploitation scheme as defined in the tax laws<sup>10</sup>.

Although various Government agencies and officers are expressly named as exceptions<sup>11</sup> in Subdivision 355-B, the TPB is not. Although the IGTO considers the drafting and language in Items 1 and 8 is sufficiently clear, should there be any confusion about the lawful authority for a Taxation Officer to disclose to another Taxation Officer seconded to the TPB or in turn to the TPB itself, then this could be easily clarified by expressly naming the TPB.

## No obligation for Taxation Officers to refer matters to the TPB

The IGTO is unable to identify any current legal obligation or mandate for a Taxation Officer to refer information to the TPB for further investigation where potential misconduct has been identified. The current wording in Division 355 of the TAA 1953 permits but does not mandate a Taxation Officer to share information with the TPB. However, the ATO and TPB have a shared risk in relation to the ethical and professional conduct of tax practitioners, including as a result of the Commissioner's role as Accountable Authority of both agencies.<sup>12</sup> Accordingly, the Committee may wish to enquire with each how this shared risk is managed according to their internal risk procedures and related protocols. It would be expected that internal procedures exist within each of the ATO and TPB to escalate matters for referral in defined circumstances but ultimately such matters appear to be managed through internal governance processes, which are ultimately discretionary processes.

The Committee may wish to consider whether or not a statutory obligation to refer matters to the TPB should be introduced to avoid any doubt. A recent example of a mandatory referral obligation can be found in section 33 of the *National Anti-Corruption Commission Act 2023 (NACC Act)*. The NACC Act avoids further doubt by making clear that 'the obligation to refer a corruption issue under this Division applies despite any secrecy provision (other than an exempt secrecy provision).'<sup>13</sup>

## TPB may request information from the ATO

As noted in Section 3 above, the TPB is supported by *Taxation Officers* as defined in section 355-30 on secondment. However, it is worth clarifying whether such Officers are *performing duties in the Australian Taxation Office* when they are seconded to support the TPB.

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<sup>10</sup> *Taxation Administration Act 1953*, Sch 1, s 290-60.

<sup>11</sup> *Taxation Administration Act 1953*, Sch 1, ss 355-50, 355-65, 355-67 and 355-70.

<sup>12</sup> *For the purposes of the PGPA Act, the Commissioner is the accountable authority for the ATO, the Tax Practitioners Board (TPB) and the Australian Charities and Not-for-profits Commission (ACNC)* – refer Part 1 of the ATO's FY21 Annual Report

<sup>13</sup> *National Anti-Corruption Commission Act 2023*, s 36.

Nonetheless, the IGTO expects that Taxation Officers seconded to the TPB would have access to protected ATO information in accordance with agreed internal ATO protocols, given their shared risks. This is a matter worth clarifying with each of the ATO and TPB.

However, the TPB (the board itself) may not access ATO information without submitting an express request under the TASA.<sup>14</sup>

*Power to request production of a document or thing*

1) *For the purpose of an investigation, the Board may, by notice, request a person:*

- a) to give the Board the information referred to in the notice; or*
- b) to produce to the Board the documents or things referred to in the notice.*

*Note: Failure to give the information, or produce the documents or things, is an offence: see sections 8C and 8D of the Taxation Administration Act 1953 .*

2) *The Board's request must:*

- a) be in writing; and*
- b) specify the period within which the person must comply with the request.*

*The period specified under paragraph (b) must be at least 14 days after the date of the request.*

Although the TPB may request the production of documents or things under section 60-100 of the TASA (reproduced below), this pre-supposes that the TPB is aware of the underlying issue, understands the scope and nature of concerns needing to be investigated, and has insight into the available information it should be requesting. Whilst It is possible to frame a request broadly, such requests are likely either to generate a large volume of information that will require time and resources to review and analyse, or not yield meaningful information to aid the inquiry.

In the IGTO's view, it is always preferable to have direct access to the relevant case information for the purposes of conducting an independent investigation efficiently. As all TPB officers are Taxation Officers, the IGTO believes that such direct access could be readily managed through the ATO's internal monitoring structures to guard against inappropriate access or misuse that currently applies to all taxation officers of the ATO.

The Committee may wish to consider whether direct access to ATO information by the TPB is warranted.

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<sup>14</sup> *Tax Agent Services Act 2009*, s 60-100.

## Some background to Tax Secrecy and confidentiality

The following extracts from the Explanatory Memorandum for the *Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010* outline the reasons for separate secrecy provisions for the ATO and TPB.

### *Maintaining the secrecy and disclosure provisions in the Tax Agent Services Act 2009*

*1.24 The TAS Act establishes a new regime for the regulation and registration of tax agents. It also creates the Tax Practitioners Board which has the general administration of the TAS Act. Despite the general administration of the TAS Act not being vested in the Commissioner, the TAS Act will, with the enactment of the Tax Agent Services (Transitional Provisions and Consequential Amendments) Bill 2009, also be a taxation law.*

*1.25 In developing the TAS Act, there has been a greater emphasis placed on the independence of the Tax Practitioner Board from the ATO. This is reflected in the Board being set up under legislation over which it has the general administration. As a consequence of this greater independence, it is appropriate for the Board to be treated as a separate entity from the ATO (and therefore keep its own secrecy and disclosure provisions). As such officers (who may be ATO officers provided by the Commissioner to assist the Board) performing services under the TAS Act will be subject to the secrecy provisions contained in that Act rather than this consolidated framework.*

*1.26 As the existing TAS Act secrecy provisions currently link into other secrecy provisions in the taxation law that will be repealed as a part of this Bill, it is necessary to update the TAS Act accordingly. This also provides an opportunity to amend the TAS Act secrecy provisions so that they are drafted in a manner that is consistent with the consolidated framework in this Bill. [Schedule 2, items 92 to 95]*

In addition to the secrecy provisions set out in the TASA,<sup>15</sup> it is also an offence to on-disclose protected information that was received from the ATO. Although there are limited exceptions where on-disclosure may occur,<sup>16</sup> the IGTO considers that the combination of the secrecy provision in the TASA and the additional offence for on-disclosure is sufficient to assuage concerns about inappropriate access or use of protected information.

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<sup>15</sup> *Tax Agent Services Act 2009*, s 70-35.

<sup>16</sup> *Taxation Administration Act 1953*, Sch 1, s 355-155.

## Treasury review of secrecy provisions

As part of the suite of measures in response to the recent allegations of misconduct, the Government has announced:<sup>17</sup>

*A Treasury review of the secrecy provisions that apply to the ATO and Tax Practitioner Board to consider whether there are further circumstances in which it is in the broad public interest for information obtained by these regulators to be shared with other regulatory agencies.*

The IGTO will contribute to the Treasury review when consultations open for that inquiry. In the IGTO's view, information sharing and access are critical to a timely, efficient and coordinated response to allegations of this kind. The reasons for this are set out in the next section.

## 5 Coverage and Interaction between regulatory bodies

The discussion and reporting of the recent allegations of misconduct have largely focused upon the role and actions of the TPB. However, it is necessary to appreciate that not all practitioners within the Audit, Assurance and Consultancy industry fall within the jurisdiction of the TPB. That is, if they are not registered tax practitioners within the meaning of the TASA, the TPB would have no jurisdiction to investigate any allegations of misconduct.

In the IGTO's 2018 report *The Future of the Tax Profession*, there was some discussion about the expansion of the tax profession to move beyond traditional definitions of a tax practitioner to include those that are currently providing services to practitioners or to taxpayers directly including digital service providers. At the time, the IGTO identified other professionals who may, from time to time, provide some services similar to those of tax practitioners including 'data analysts, software providers and those who have always been tangentially part of the tax profession such as economists, tax educators, ATO officers, lawyers and conveyancers.'<sup>18</sup>

Although the current matter under inquiry does not relate to what professionals should fall within the jurisdiction of the TPB, it does highlight the need to ensure clarity of jurisdiction. That is, clarity about the regulatory bodies overseeing professionals that are providing services and being clear about who is able to receive and investigate concerns and impose sanctions.

In the case of the TPB, the example of Tax (Financial) Advisers (TFAs) highlights how quickly professionals may move in and out of jurisdiction. TFAs were first brought under the TASA in FY15. Since FY22, TFAs have begun to transition away from the TPB's jurisdiction and will instead be regulated under a new

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<sup>17</sup> The Hon Stephen Jones MP, *Government taking decisive action in response to PwC tax leaks scandal* (Joint Media Release with the Hon Jim Chalmers MP, Senator the Hon Katy Gallagher and the Hon Mark Dreyfus MP, 6 March 2023).

<sup>18</sup> Inspector-General of Taxation, *The Future of the Tax Profession* (2018) p 132.

regulatory framework under the *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021*.

The concerns highlighted above in relation to information sharing between the ATO and the TPB are likely to be further pronounced where regulation is undertaken by entities or organisations that do not engage Taxation Officers or are not administering Taxation Laws (as defined).

The Committee may wish to consider how best to ensure there is an adequate framework to overcome the potential for silo responses. That is, there is sufficient coverage of regulatory bodies to respond to emerging risks and allegations of misconduct to ensure that it is addressed in a timely, holistic and effective manner. Whilst information sharing is a key aspect of the process, the IGTO considers that more active consultation, collaboration and cooperation is also critical to ensuring that responses are timely and effective.

## 6 The whistleblower protection framework

We understand that an area of concern which has emerged in the context of the recent allegations of misconduct is the passage of time between the alleged misconduct and when it was uncovered following investigation by the TPB. A question understandably arises as to whether anyone could have come forward earlier to ‘blow the whistle’ on the conduct and, if not, what actions could be taken to encourage early disclosure and detection (whistleblowing) in these circumstances in future.

A key area for the Committee’s consideration will be the coverage and effectiveness of whistleblower protections within the context of professional services firms. At present, there are a number of other frameworks that encourage whistleblowing and provide (to varying degrees) protections of the whistleblowers, for example:

- *Public Interest Disclosure Act 2013* concerning the conduct and decisions of public officials and former public officials;
- Part IVD of the *Taxation Administration Act 1953* concerning disclosures in relation to the taxation affairs of an entity; and
- Part 9.4AAA of the *Corporations Act 2001* concerning qualifying disclosures about corporations.

The recently commenced *National Anti-Corruption Commission Act 2022* may also provide an avenue for disclosures in relation to the conduct under examination in this inquiry. Given the relative recency with which this Act and the Commission have been in operation, it is not possible to assess the nature and regularity of disclosures that may be made.

The Committee may therefore wish to explore and consider whether existing whistleblower regimes are sufficient to protect any potential whistleblowers coming forward and, correspondingly, whether protections against reprisal might have encouraged approaches or disclosures that would have uncovered any misconduct in a more timely manner.

## Please advise if the IGTO may further assist the Committee

As noted at the outset, the matters set out in this submission are not as a result of any specific investigations that the IGTO has undertaken into the matters being examined. The IGTO has not received a complaint to investigate any matters relating to the recent allegations of misconduct, or the ATO or TPB's response to these matters. Nor have we decided to commence an own initiative investigation or review of these matters, given other independent investigations already in progress and other priorities for our limited resources. However, the conduct of the ATO and the TPB are matters within the IGTO's jurisdiction to examine further if necessary.

Accordingly, in addition to the matters set out in this submission and any further evidence given before the Committee, the *Inspector-General of Taxation Act 2003* (IGT Act) also provides a mechanism for the Committee to request the IGTO to undertake an investigation under the IGT Act. Specifically, paragraph 8(3)(d) provides that:

*The Inspector-General may be requested to conduct an investigation under paragraphs 7(1)(c) or (d) by:*

...

*(d) a resolution of a Committee of either House, or of both Houses, of the Parliament.*

Where the Committee identifies a matter as part of its inquiry that it considers warrants further independent scrutiny by the IGTO of matters under her jurisdiction, the Committee may resolve to request that the IGTO undertake that inquiry.