

Open consultation

Raising standards in the tax advice market – strengthening the regulatory framework and improving registration

Published 6 March 2024

Summary

Subject of this consultation

This consultation discusses the government's intention to raise standards in the tax advice market through a strengthened regulatory framework. It sets out the 3 possible approaches to strengthening the framework: mandatory membership of a recognised professional body, joint HM Revenue and Customs (HMRC) – industry enforcement, and regulation by a separate statutory government body. The consultation also explores approaches to strengthen the controls on access to HMRC's services for tax practitioners.

Scope of this consultation

This consultation seeks views on:

- potential approaches to raising standards
- whether the government should pursue introducing a requirement for paid tax practitioners to be a member of a recognised professional body that supervises their professional standards
- how professional bodies and the government can work together to raise standards of tax practitioners
- which groups of tax practitioners should be in scope or excluded from the proposed option
- a first step of mandating registration with HMRC for tax practitioners who wish to interact with HMRC on behalf of their clients, and the requirements that HMRC should establish to enable registration

Who should read this

Anyone who may receive or provide tax advice or offers services to third parties to assist compliance with HMRC requirements. For example, accountants, tax advisers, legal professionals, payroll professionals, bookkeepers, insolvency practitioners, financial advisers, customs

intermediaries, charities and other voluntary organisations that help people with their tax affairs, software providers, employment agencies, umbrella companies and other intermediaries who arrange for the provision of workers to those who pay for their services, people who engage workers off-payroll, promoters, enablers and facilitators of tax avoidance schemes, professional and regulatory bodies, and clients, or potential clients, of all those listed above.

Duration

The consultation will run for 12 weeks from 6 March 2024 to 29 May 2024.

Lead official

The lead official is J. De Brito, Intermediaries Directorate, HMRC.

How to respond or enquire about this consultation

Responses to this consultation and enquiries can be emailed to raisingstandardsconsultation@hmrc.gov.uk or by post to:

J. De Brito
'Raising standards in the tax advice market' consultation
Agent Policy Team
HMRC
14 Westfield Avenue
Stratford
London
E20 1HZ

Telephone enquiries 03000 585115 (from a text phone prefix this number with 18001)

Additional ways to be involved

HMRC will be holding a limited number of meetings with interested parties. Please email raisingstandardsconsultation@hmrc.gov.uk if you would like to be involved.

After the consultation

HMRC will publish a summary of responses as soon as possible after the consultation period.

Getting to this stage

HMRC held informal discussions with interested stakeholders during 2018 and 2019 about ways to raise standards in the market for tax advice. In March 2020, the government published the call for evidence: 'Raising standards in the tax advice market', which closed on 28 August 2020. The summary of responses and next steps was published on 12 November 2020 and was followed by a consultation about introducing a requirement for tax practitioners to hold professional indemnity insurance. The summary of responses following that consultation was published in November 2021.

The government has undertaken comprehensive research examining several regulatory approaches and engagement with other government departments, existing regulatory bodies and industry professional bodies. The government has concluded that the most effective way to raise standards in the market is to strengthen the regulatory framework.

Previous engagement

HMRC met with stakeholders as part of the call for evidence and the consultation into mandatory professional indemnity insurance, and regularly meets with professional bodies.

Foreword

The government is committed to making our tax system fairer and simpler. Many taxpayers rely on tax practitioners to provide quality advice and services, helping them pay the right tax at the right time and access the tax reliefs they're entitled to.

Most tax practitioners who provide tax advice and services are competent and adhere to professional standards; however, the government's call for evidence on raising standards in the tax advice market (2020) has shown there is a minority of practitioners who are incompetent, unprofessional or unscrupulous who continue to operate, harming their clients and the public finances.

The government continues to carefully consider future options to improve standards which meet 3 criteria for intervention: clarity on the required standards; transparency for taxpayers; and enforcement where there are breaches.

The government is committed to driving up standards, protecting taxpayers and maintaining trust in the tax system. HMRC monitors tax practitioners and challenges them where there are concerns regarding their practices,

and already has a published 'Standard for Agents' setting out HMRC's expectations of those who represent or advise taxpayers. The government has taken recent action to tackle the most egregious behaviour in the market, particularly from promoters of tax avoidance and repayment agents, and has shifted power away from repayment agents back towards the taxpayer, where it belongs.

But there is more to be done. This document invites views from professionals and the taxpayers they serve to explore options for further improvements in the market. The government welcomes views on whether tax practitioners should be required to register with HMRC to be able to interact with the department on behalf of their clients. The government also welcomes views on whether mandating membership of a recognised professional body that supervises tax practitioner standards, for either the whole tax advice market or some tax practitioners, represents effective, proportionate, and reasonable action to raise standards.

Nigel Huddleston MP
Financial Secretary to the Treasury

1. Executive summary

As HM Revenue and Customs (HMRC) Tax Administration Strategy recognises, intermediaries such as tax practitioners [\[footnote 1\]](#) are key partners in tax administration, with approximately 85,000 tax advice firms [\[footnote 2\]](#) assisting 12 million taxpayers. Good tax practitioners help people pay the right tax at the right time and access the tax reliefs they are entitled to, contributing to the economic success of the UK by allowing business owners to concentrate on growing their business.

The problem

Most tax practitioners are competent and adhere to professional standards. Many belong to established professional bodies and are subject to their oversight. However, some tax practitioners do not meet professional standards, providing substandard advice and services, and there are only limited levers to address such failings. In contrast to most other developed countries and other business sectors, there is no statutory regulation of the market.

Almost anyone can start providing tax advice and services to clients and can do so with limited or no oversight if they are not a member of a professional body. This means activities causing problems in the market can go unnoticed. Where substandard or unscrupulous activity is identified, there are variations in and limits to the action taken against tax practitioners

and consequently they may continue to operate in the market. The lack of consistent market oversight results in persistent substandard tax advice and services leading to higher levels of tax non-compliance. In turn, these failures undermine people's trust in the tax system and result in increased costs for clients and HMRC.

People looking for tax advice often believe the market is regulated like professions such as financial services, so may place undue trust in their tax practitioner. Clients may find it difficult to assess the competence of a practitioner or make informed choices and can consequently be surprised at the limited safeguards in place when things go wrong.

The government committed to raise standards in the tax advice market following the Independent Loan Charge Review in 2019. Since then, a [Call for Evidence](#) sought views on possible approaches to improve standards. Responses to this highlighted the lack of barriers to entry in the tax advice market, and a lack of support when things go wrong. The call for evidence was followed by a [consultation into requiring all tax practitioners to hold professional indemnity insurance](#). The government decided not to proceed with this requirement but committed to publishing this further consultation on strengthening the regulatory framework in the tax advice market.

Objectives of raising standards in the tax advice market

The government considers that any regulatory action should fulfil the following objectives:

- it should be proportionate to the harms observed and the benefits expected to minimise extra costs and burdens for the taxpayer, tax practitioners and their clients, and professional bodies
- it should provide additional ways to monitor and enforce minimum standards for tax practitioners accessing HMRC systems and services
- it should remove substandard and unscrupulous tax practitioners from the market by either improving their capability or ensuring they exit the market. It should do this by providing clarity on the standards required, support to meet those standards, and increasing the likelihood that error and misconduct are identified and dealt with appropriately
- it should provide confidence in the quality of tax advice and services that clients receive from tax practitioners and ensure that support is available to clients when they want to resolve issues that arise due to actions taken by their tax practitioner

In terms of scope, there is a choice about whether interventions to raise standards should, at least initially, apply only to tax practitioners who interact with HMRC in a professional capacity. This would ensure that those who interact with HMRC and its systems and services on behalf of taxpayers meet minimum standards. However, it would not capture tax practitioners who provide tax advice and services to clients but do not interact with HMRC. Chapter 8 explores the approach to setting the scope of regulation and the government welcomes views on which scope would best fulfil the objectives set out above.

First step: improving HMRC's approach to agent registration

Alongside the broader proposals on raising standards, the government wants to improve the way that tax practitioners register with HMRC and intends to mandate registration for all tax practitioners who wish to interact with HMRC. Alongside mandated registration, HMRC would automate and streamline the existing registration routes for tax practitioners, providing a better customer service. At the point of registration, HMRC would check that the tax practitioner is compliant with requirements to register for anti-money laundering (AML) supervision and is up to date with their tax affairs. HMRC would then periodically reconfirm ongoing compliance with these requirements. This would provide assurance that registered tax practitioners continue to meet basic standards while interacting with HMRC on behalf of a client.

The government intends to improve registration now, assuring that basic standards are in place for all agent services. The government is asking for views on the proposal to mandate registration, alongside providing an automated, streamlined way for tax practitioners to register with HMRC. While this step by itself is unlikely to fundamentally raise standards in the tax advice market, it would be an essential enabler for a strengthened regulatory framework. It could also be implemented if the broader proposals for a strengthened regulatory framework are not taken forward.

Further action to raise standards in the tax advice market

While mandating agent registration will be an important enabling step, it will not systematically address the fundamental issues in the market. Moreover, registration alone could provide customers with the impression that registered tax practitioners' standards are regulated, thereby providing false comfort. Therefore, the government believes further action should be taken to raise standards in the tax advice market and has concluded that the most effective way to meet the objectives is to strengthen the regulatory

framework, whilst recognising that such action will not solve all the issues in the market.

Strengthening the regulatory framework will involve establishing minimum standards for tax practitioners, improved monitoring, effective enforcement action against tax practitioners and better routes for customer support.

The government has developed 3 potential approaches to implement strengthened regulatory models (set out in figure 1 below and explored further in chapter 6):

Figure 1: potential approaches to strengthening the regulatory framework

Approach	Model
1. Mandatory professional body membership	With professional bodies monitoring and enforcing standards of their members and raising those standards where necessary. Tax practitioners would be required to hold membership of a recognised professional body to provide paid-for tax advice and services.
2. Joint HMRC-industry enforcement (a 'hybrid model')	HMRC and industry would monitor and raise standards of the market. Unaffiliated tax practitioners would have to be supervised by HMRC and professional body members would be subject to the supervisory requirements of their professional body.
3. Regulation by a government body	The government body would set, monitor, enforce and raise standards in the market. A new independent regulator or an existing regulator with an expanded remit would supervise tax practitioners.

The consultation seeks views on the 3 approaches. Each has merits and challenges. The government has focused on the first approach which

benefits from the presence of existing professional bodies who already oversee the standards and conduct of around two thirds of tax practitioners. This means it is simpler to deliver and it will have a more limited impact on those who are affiliated with a recognised professional body and meet expected standards.

The government proposes initially exploring the extent to which approach 1 can raise standards in the tax advice market. It would require tax practitioners to hold membership of a professional body recognised as adequately managing the professional standards of its members. As there is some variation in the way that the professional bodies manage the supervision of their members' standards, the consultation explores whether all professional bodies have the capacity and desire both to take on currently unaffiliated practitioners as new members, and to effectively enforce the standards of their current and new members. For example, through enhanced supervision of their members' standards including risk-based checks of practices. The government would welcome views on this.

The government considers that mandatory registration with HMRC and mandatory professional body membership of tax practitioners could support the objectives set out above. It minimises extra costs and burdens to tax practitioners meeting expected standards, provides incentives for substandard tax practitioners to raise their standards and provides opportunities to detect unscrupulous behaviour and take necessary compliance action. This should provide taxpayers with greater assurance that they will receive quality tax advice and services from a registered tax practitioner.

Meeting the objectives should result in raised standards in the tax advice market and achieve:

- improved quality of service to clients and therefore tax compliance, from higher quality tax advice and tax services. More taxpayers can get access to quality tax advice and services that enable them to pay the right amount of tax at the right time and access appropriate tax reliefs. This could lead to a reduction in the impacts of poor tax advice and services on clients, a reduction in the tax gap and improve HMRC efficiency by reducing work needed to correct errors. This will help to protect the tax system overall
- greater trust in the tax advice market. Improving quality in the tax advice market should support a level playing field in the tax advice market, where all tax practitioners must meet high standards in order to practice and taxpayers can have confidence that their tax practitioner will provide a quality service

The consultation chapters are set out as below:

- Chapter 2: sets out the ongoing work to tackle issues in the market and references previous consultations
- Chapter 3: sets out the problems within the tax advice market and the government's intention to strengthen the regulatory framework
- Chapter 4: describes our objectives and the components of good regulation
- Chapter 5: sets out the intention to introduce an enabling step to strengthen the controls on access to HMRC's agent services and introducing mandatory registration in order to interact with HMRC
- Chapter 6: outlines how the strengthened framework should meet the objectives set out in chapter 4 and the 3 approaches to strengthening the regulatory framework
- Chapter 7: explores mandatory membership of a recognised professional body as an approach to raise standards
- Chapter 8: discusses who regulation should apply to
- Chapter 9: covers the implementation and next steps

How to get involved

The government intends to use this consultation to understand the effects of improved agent registration, introducing mandatory membership of a recognised professional body, the appetite of the professional bodies to raise standards and whether regulation should apply to tax practitioners who interact with HMRC or the whole market. The government appreciates the continuing support and engagement from stakeholders to raise standards in the tax advice market. The insight provided by stakeholders at previous consultations and informal discussions has been incredibly helpful and has informed policy thinking.

HMRC will engage with a range of stakeholders, representing people who are likely to be affected by this requirement, and welcomes views from tax practitioners, their clients, professional bodies, trade associations and anyone else who may be affected.

If you would like to be involved or contribute written views, please contact HMRC at raisingstandardsconsultation@hmrc.gov.uk.

HMRC welcomes comments by 29 May 2024.

2. Background

As HMRC's Tax Administration Strategy recognises, tax practitioners play an important role in providing advice and services, with approximately

85,000 tax advice firms assisting 12 million taxpayers as they navigate the tax system. Effective tax practitioners provide value to the tax system by supporting people to get their tax right, thereby reducing the tax gap. This is also recognised by HMRC's [Charter](#), where the department commits to respecting taxpayers' wishes to have someone else to deal with HMRC on their behalf.

Most tax practitioners are competent and adhere to professional standards. Many are members of professional bodies. Within the tax advice market, professional bodies are organisations with individual members providing tax advice and services, and they often maintain oversight of the competence, conduct, practice and professional standards of those members. Tax practitioners who join professional bodies are therefore subject to oversight and must maintain minimum standards of conduct and professionalism in order to remain a member. However, there is evidence to suggest that this oversight is not always strong or consistent enough and may benefit from improvement.

There are also very minimal requirements that need to be met before someone can become a tax practitioner and interact with HMRC on someone's behalf. Some tax practitioners do not meet professional standards and provide poor or unscrupulous tax advice and services, which is explored further in chapter 3. As a result, there have been a number of high-profile issues emerging in the tax advice market and many examples of poor customer experience.

Progress to date to raise standards

In 2019, the independent review into the Loan Charge led by Lord Amyas Morse, recommended that the government improve the market in tax advice. In response, the government committed to taking steps to raise standards and published a [call for evidence](#) which sought views from stakeholders on potential approaches to improve the market.

Since the call for evidence, the government has taken actions to address specific issues, while continuing to consider options to tackle systemic issues. The government has:

- published [HMRC's review of powers to uphold its Standard for Agents](#) in March 2022
- updated and publicised HMRC's [Standard for Agents](#) alongside a [policy statement](#) about how HMRC supports good tax practitioners and addresses poor tax practitioner behaviours
- published a consultation '[Raising standards in tax advice: protecting customers claiming tax repayments](#)' in June 2022. This sought views

on measures to address consumer protection issues for taxpayers who claim tax repayments via tax practitioners who submit income tax repayment claims (also known as repayment agents). As a result of feedback, the government introduced legislation to end the practice of income tax refunds being legally assigned by clients to a repayment agent. HMRC no longer accepts these assignments. Clients can still nominate their agent to receive their repayment, but this is now at the discretion of HMRC and HMRC will not send repayments to agents that are not registered with HMRC. HMRC has taken a number of steps to improve the transparency in the repayment agent market and protect clients including requiring repayment agents to provide their Agent Reference Number (acquired through registering with HMRC) on any claim form to receive repayments on behalf of their clients. Failure to do so results in the repayment being sent directly to the taxpayer

- strengthened HMRC's powers to tackle promoters of tax avoidance in Finance Act 2021 and Finance Act 2022 with 2 packages of measures to ensure promoters face stronger sanctions more quickly. These packages included new powers to wind up companies promoting tax avoidance, issue Stop Notices more quickly to prohibit the promotion of tax avoidance, and new powers to publish details of promoters and their schemes, to disrupt the promoter market and support taxpayers in identifying schemes so that they can steer clear of or exit them. By the end of 2023, HMRC had published the details of 59 promoters and 64 tax avoidance schemes. HMRC had also issued 23 stop notices to promoters. Furthermore, the Finance Act 2024 introduced tougher consequences for promoters of tax avoidance. This includes a new criminal offence for failing to comply with a Stop Notice and a power enabling HMRC to act more quickly to disqualify directors of companies involved in tax avoidance

Much of the action taken to date has been in response to specific issues which have emerged in the market. To address market-wide issues, the government published the consultation ['Raising standards in the tax advice market: professional indemnity insurance and defining tax advice'](#), which ran from March to June 2021. The [summary of responses](#) to that consultation, published in November 2021, announced that the government would not proceed with a proposal to introduce mandatory professional indemnity insurance because, on its own, it would not be an effective mechanism to raise standards or improve consumer redress. Instead, the government announced its intention to publish this consultation on options to improve the wider regulatory framework that supports standards in tax advice.

Timeline of progress to date

2019	2020	2021	2022	2023
Morse review published	Call for Evidence on 'Raising standards in the Tax Advice Market'	Consultation on Professional Indemnity Insurance and defining tax advice.	Consultation on Repayment Agents. Published review of powers to uphold HMRC Standard for Agents.	Introduced steps to improve transparency in the repayment agent market

3. Exploring the problem

This section explores:

- the problems in the market
- the current partial regulatory framework in the tax advice market
- the limitations of the current partial regulatory framework and how it fails to address systemic problems
- the government's intention to strengthen the regulatory framework

The problem

Responses to the call for evidence in 2020 highlighted several problems in the market. A lack of barriers to entry was raised as this ease of access means there is no minimum threshold of quality or competence to satisfy in order to practice. This contrasts with the expectation many people have that a tax practitioner will be trained and/or qualified to give high quality tax advice and services. For example, some suggested the source of many of these problems was that some tax practitioners practice without qualifications or meeting minimum standards of competence, do not have to hold professional indemnity insurance and are not subject to professional body oversight or their codes of ethics and conduct. Respondents also raised issues about the lack of customer support when something went wrong with the professional advice or service they had received.

There continue to be issues with substandard and unscrupulous tax advice, such as with some repayment agents submitting high volumes of speculative and ineligible income tax repayment claims, some specialist Research and Development (R&D) agents, and promoters and enablers of tax avoidance. Other issues in the market include problems relating to professional standards (including lack of transparency; misleading advertisements, lack of requisite knowledge of tax law and failure to take reasonable care). This can create a mismatch between the client expectation of the market and the reality of the client experience. All these activities contribute to poor market outcomes.

As an example of the persistence of substandard tax advice and services in the market, there is evidence of substantial levels of non-compliance among taxpayers using tax practitioners as set out in Annex C.

The result shows that levels of non-compliance are generally higher among taxpayers represented by an unaffiliated tax practitioner than those represented by a professional body member. There are, however, still unacceptable levels of non-compliance among taxpayers using agents who are members of professional bodies.

The government's conclusion is that professional body membership improves compliance, but on its own is probably insufficient. Any action here must also look to support consistently high standards among tax practitioners who are already members of professional bodies. This is important when considering the viability of the model being explored.

The current partial regulatory framework

The government has undertaken a review of the partial regulatory framework in the market, engaging with other government departments, existing regulatory bodies and industry professional bodies. The partial regulatory framework currently includes:

- the HMRC 'Standard for Agents' published in 2016, which is applicable to 'all agents and advisers based in the UK or in other countries, who are acting professionally in relation to the tax affairs of others'. The standard is non-statutory; however, HMRC has a range of powers to deal with unacceptable behaviour by both unaffiliated and affiliated tax practitioners as set out in [HMRC's review of powers to uphold its Standard for Agents](#). The powers and policies to uphold the standard were not designed as a single framework and were generally developed in response to specific problems. How HMRC upholds its 'Standard for Agents' can, therefore, depend on the context of a professional standards

breach. HMRC uses a sliding scale of sanction types, ranging from education and guidance for minor incompetence, up to 'refusal to deal with' and criminal prosecution for serious deliberate and concealed actions

- AML supervision [footnote 31](#), a system currently administered by 25 separate supervisory bodies. Some supervisors are independent professional bodies, and their supervisory activities are overseen by the Office for Professional Body AML Supervision (OPBAS) within the Financial Conduct Authority (FCA). HMRC supervises tax practitioners who are not supervised by professional bodies for AML
- professional bodies for tax and accountancy professionals. The professional bodies set and check adherence to entry requirements around the professional and technical competence of their members. They also oversee their members' ongoing professional standards by way of risk-based assurance and check that tax practitioners continue to meet minimum standards and adhere to their code of conduct. They sanction members who fall short of the standards using variable sets of sanctions ranging in severity, starting from compulsory remedial training and reprimands, through various levels of financial penalties, up to expulsion from the professional body for the most serious infractions. Compared to tax practitioners who are not members of a professional body, affiliated tax practitioners have more expectations placed on them: generally, their professional body requires them for example, to have a relevant qualification, hold professional indemnity insurance, undertake continuing professional development and adhere to the professional body's code of conduct, such as Professional Conduct in Relation to Taxation (PCRT)
- the Financial Reporting Council (FRC) has a non-statutory role in overseeing the regulation, by the chartered professional accountancy bodies, of their members, beyond those members who are also statutory auditors. As these functions are exercised on a voluntary basis, the professional bodies do not have to act on the FRC's recommendations
- other government bodies which can play a role in responding to issues in the tax advice market include the Advertising Standards Authority, the UK's independent advertising regulator, which has issued rulings against firms in the tax advice market found to be advertising their services in contravention of the Advertising Code

The limitations of the partial regulatory framework

The limitations of the partial framework include:

- AML supervision with either HMRC or a professional body supervisor is the only legal requirement needed to set up in business and provide tax advice and services. This means that tax practitioners can enter the market without demonstrating minimum standards of competence and potentially charge lower fees than those that take the time to gain qualifications and demonstrate continuing competence through joining a professional body
- there are no general deterrents targeted at tax practitioners across the whole market to dissuade unscrupulous practitioners from joining or staying in the market. Unless a tax practitioner has AML supervision removed, they can continue providing tax advice and services
- disjointed oversight can allow problems in the market to go unnoticed. In addition, where these problems are identified, there are variations in the action taken against the tax practitioner due to the different frameworks in place. Currently there is little systematic monitoring of, or enforcement action taken against, unaffiliated practitioners. This means a lack of opportunity to raise the standards of some tax practitioners in the market
- people looking for tax advice often believe the market is regulated, so may place undue trust in their tax practitioner. With variations in the minimum standards of competence required across the market, clients may find it difficult to assess the competence of a practitioner
- clients who are affected by substandard or unscrupulous tax practitioner activity often have no clear route to seek support or redress. The current expectation is that taxpayers take civil action against their tax practitioner or, if the practitioner is affiliated, they may be able to complain to the professional body. Seeking recourse via the courts is not always possible due to a lack of taxpayer's knowledge of the court system, it can also be expensive and time consuming

The partial regulatory framework means market problems persist and systematic action is needed to address these and raise standards in the market. The government recognises that these problems negatively affect clients, can undermine confidence in high quality tax practitioners, consume HMRC resources and widen the tax gap.

In cases of poor tax practitioner service or behaviour, clients can suffer financial difficulties because ultimately the tax liability falls on them and they may face additional costs such as penalties or needing to engage another tax practitioner to rectify mistakes. Additionally, where the tax practitioner has been dishonest and falsified claims, this can lead to a loss of trust in the capability of the tax profession and ultimately the whole system of tax administration.

Responding to issues after they have arisen, rather than preventing problems and encouraging good behaviour, is likely to be less effective in the long-term. It is therefore unsustainable to continue focussing on tackling emerging issues and the government thinks that more fundamental change is necessary to systematically raise standards in the tax advice market and address these problems.

The government's intention

Given the limitations of the existing partial regulatory framework and the impact it can have on the standard of the market as there is no holistic approach, the government has concluded there is a need to strengthen the regulatory framework to meet the aim of raising standards in the tax advice market. Raising standards in the tax advice market, should achieve:

- improved quality of service to clients and therefore tax compliance, from higher quality tax advice and tax services. More taxpayers can get access to quality tax advice and services that enable them to pay the right amount of tax at the right time and access the tax reliefs to which they are entitled. This could lead to a reduction in the impacts of poor tax advice and services on clients, a reduction in the tax gap and improve HMRC efficiency, by reducing work needed to correct errors. This will help to protect the tax system overall
- greater trust in the tax advice market. Improving quality in the tax advice market should support a level playing field in the tax advice market, where all tax practitioners must meet high standards in order to practice and mean that taxpayers can have confidence that their tax practitioner will provide a quality service

Question 1: 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.

4. Objectives of a strengthened regulatory framework

The professional indemnity insurance consultation response stated that any intervention in the tax advice market needs to be proportionate, reasonable, and should fulfil the following 3 criteria which together would drive up standards:

- clarity on the required standards, so that everyone understands what is expected of them
- transparency, so taxpayers know what to look for when engaging a tax practitioner
- enforcement, so there are effective sanctions to deal with breaches of standards

Building on the conclusions of the professional indemnity insurance consultation and these criteria, the following objectives have been developed to support the aim of raising standards in the tax advice market. The government will evaluate action to regulate the market against these objectives:

- it should be proportionate to the harms observed and the benefits expected to minimise extra costs and burdens for the taxpayer, tax practitioners and their clients, and professional bodies
- it should provide additional ways to monitor and enforce minimum standards of tax practitioners accessing HMRC systems and services
- it should remove substandard and unscrupulous tax practitioners from the market by either improving their capability or ensuring they exit the market. It should do this by providing clarity on the standards required, support to meet those standards, and increasing the likelihood that error and misconduct are identified and dealt with appropriately
- it should provide confidence in the quality of tax advice and services that clients receive from tax practitioners and ensure that support is available to clients when they want to resolve issues that arise due to actions taken by their tax practitioner

The government believes these objectives can be met through the strengthening of 3 components of the regulatory framework in the tax advice market. The government will evaluate whether the action to strengthen these 3 components support the objectives set out above:

- establishing minimum standards will provide incentives for substandard tax practitioners to meet higher thresholds of professional and technical competence and improve their capability or exit the market. This should also support the objective of enhancing trust as clients can be assured their tax practitioner has met minimum requirements to practice. This could be delivered by, for example, requirements of minimum qualification, skill level or equivalent number of years' experience for practitioners
- improved monitoring and effective enforcement action will increase the visibility of substandard tax practitioners to provide opportunities to take action to raise their standards or remove them from the market. Monitoring and enforcement will also act as a deterrent against unscrupulous tax practitioners who take advantage of the current partial regulatory framework. It will provide opportunities to take necessary compliance action to support the objective of removing unscrupulous tax practitioners from the market. This could be delivered through, for example, regular or risk-based reviews or inspections of tax practitioners and their work
- better routes for customer support should help customers make informed choices when seeking tax advice, and increase the likelihood there is appropriate support when something goes wrong. This could be delivered by, for example, providing complaint or redress routes

Question 2: Are there other components of a regulatory framework that would support the delivery of these objectives?

Question 3: Is there anything else that the government should consider?

Proposed action to achieve these objectives

The government proposes taking 2 actions to achieve these objectives. The first is to mandate registration with HMRC for tax practitioners interacting with HMRC. HMRC already registers tax practitioners for access to its online services, but requirements can vary between services and is not required for all non-digital agent services. Having a consistent way of registering tax practitioners would allow HMRC to improve its knowledge of tax practitioners it engages with and to build up a complete record of their behaviour across HMRC's systems. The second is to strengthen the wider regulatory framework to raise standards in the tax advice market.

In terms of scope, there is a choice about whether the strengthened regulatory framework should, at least initially, apply only to tax practitioners who interact with HMRC in a professional capacity. This would ensure that those who interact with HMRC and its systems and services on behalf of taxpayers meet minimum standards. However, it would not capture tax

practitioners who provide tax advice and services to clients but do not interact with HMRC. Chapter 8 explores the approach to setting the scope of regulation and the government welcomes views on which scope would best fulfil the objectives set out above.

5. Strengthening the controls on access to HMRC's agent services

Tax practitioners who interact directly with HMRC on behalf of their clients do so in a variety of ways, through HMRC's online platforms as well as by post and phone where necessary. These tax practitioners often receive access to HMRC systems and the relevant taxpayer data that HMRC holds about their clients.

Agent registration is the point at which a tax practitioner applies to HMRC to use tax services and for the ability to access taxpayer data through the agent-client authorisation process. Most of HMRC systems for tax practitioners, including the Agent Services Account and the HMRC Online Services portal, require tax practitioners to register and to be subject to basic checks before being able to use the services available through them. As a result, registration allows HMRC to ensure that an individual practitioner or firm meets the standards required and to stop tax practitioners who do not meet registration requirements from gaining access to HMRC systems and taxpayer information.

Limitations of agent registration

Requirements for registration vary between services, and registration is not required for all non-digital agent services. In some cases, tax practitioners will also need to register multiple times for access to different services.

This inconsistency creates administrative burdens for tax practitioners and gaps in HMRC's ability to check and monitor the activity of those who interact with HMRC, making it harder to identify and tackle problematic behaviours.

As a result, there are instances where HMRC interacts with tax practitioners while knowing only minimal information about that practitioner and without the ability to build up a complete record of their behaviour across HMRC's systems and services. The current approach to registration limits the ability for HMRC to proactively prevent or mitigate harms.

Action that the government has already taken to improve agent registration

The government has already taken action to address concerns raised about income tax repayment agents. This includes introducing a requirement for them to register with HMRC and provide their Agent Reference Number on claim forms to receive repayments on behalf of their clients. This step was taken following growing concern of consumer protection issues in the repayment agent market and a significant number of complaints from clients.

Registration of repayment agents has helped HMRC monitor their behaviour and to take firmer action in the most serious cases, including suspending a tax practitioner's ability to submit claim forms.

Despite these actions, there are limitations to this approach:

- registration for repayment agents only covers a section of the tax advice market
- while registrations have increased, some repayment agents have still failed to register. Registration is only required to directly receive these repayments on behalf of clients and does not stop an application from being processed

Further proposed improvements to agent registration

The government intends to mandate registration for all tax practitioners operating in a professional capacity who wish to interact with HMRC. To minimise the administrative burden of mandated registration on professional tax practitioners, HMRC will improve its registration processes by introducing streamlined, automated processes. This is something that many tax practitioners have called for.

HMRC will introduce a single agent registration service that will allow a tax practitioner to register for all relevant services. As part of this new registration process, HMRC will perform automated checks, in line with those already in place for access to HMRC digital services. These checks will be performed at the point of registration, and periodically after registration to ensure ongoing compliance.

Automation will ensure that registrations can be processed quickly and efficiently and HMRC will limit the scope of checks to factors which are objective and where evidence is readily available. The government invites views on what automated checks could be applied at registration in addition to compliance with AML supervision and whether a tax practitioner's tax affairs are up to date. Additionally, the government invites views on whether any additional checks should be made if a tax practitioner has

previously been registered with HMRC, including where they are registering a different company.

Registration checks will be supported by action to suspend or remove access when tax practitioners fail to meet the minimum standard required for registration. The process to withdraw or withhold services from a tax practitioner would be supported by appropriate governance and appeals processes.

Improving the agent registration process is an essential first step towards ensuring tax practitioners meet existing basic standards before being able to interact with HMRC on behalf of their clients. Although it cannot solely address the issues in the tax advice market, it will allow HMRC to start to address the clearest cut issues and would support a strengthened regulatory framework by enabling a more effective partnership between HMRC and a regulatory body/bodies.

Question 4: 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.

Question 5: 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?

Question 6: 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?

Question 7: 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?

6. Approaches to strengthening the regulatory framework

Improving the agent registration process is an essential first step towards ensuring tax practitioners meet existing basic standards before being able to interact with HMRC on behalf of their clients. Although it cannot solely address the issues in the tax advice market, it will allow HMRC to start to address the clearest cut issues in the tax advice market and would support a strengthened regulatory framework by enabling a more effective partnership between HMRC and a regulatory body/bodies.

Strengthening the registration process will also support wider regulatory reform in the tax advice market by making it easier for HMRC to check whether tax practitioners interacting with HMRC meet and maintain the basic minimum standards required for registration, as outlined in chapter 5. However, as a measure on its own, it is not intended to fill the regulatory gap and nor is it capable of doing so. The government has therefore concluded that in order to raise standards in the tax advice market, changes intended specifically for this purpose are needed. The government has developed 3 approaches to strengthen the regulatory framework: mandatory membership of a recognised professional body, joint HMRC-industry enforcement, and regulation by a statutory government body. In all of these options, the intent and expectation would be that improved agent registration by HMRC would support their effectiveness and that each model would be characterised by varying degrees of partnership between the government and the tax advice sector.

The government recognises that a strengthened regulatory framework will not solve all the issues in the market. However, it should support the objectives set out in chapter 4 and raise standards. All 3 approaches would strengthen the regulatory framework through established minimum standards, strengthened monitoring and effective enforcement action and establishing routes for customer support. This will provide taxpayers with greater assurance that they will receive quality tax advice and services from their tax practitioner. The judgement to be made is about which of these models is best able to meet the objectives the government has identified.

Strengthening 3 components of the regulatory framework in the tax advice market

Establishing minimum standards

Many tax practitioners, often those who are not affiliated with a professional body, are not subject to tests of minimum requirements of technical competence or tests of fitness to practice. Through a strengthened regulatory framework, minimum standards of technical competence, professional conduct and ethics will be established and must be adhered to on an ongoing basis. For example, having relevant qualifications or an equivalent number of years' experience and adherence to a code of conduct. Tax practitioners who are currently unable to meet this minimum standard for reasons of substandard technical or professional competence will need to address these shortfalls but would be given the time and support to do so.

Improving monitoring and effective enforcement action

Currently, many tax practitioners are subject to limited, or no monitoring. This means their ongoing fitness to practice is not regularly checked and they risk falling short of professional standards. Monitoring of tax practitioners requires them to be visible to a supervising entity, for example through requirements to be registered with HMRC, an independent regulator and/or membership with a professional body. Through a strengthened regulatory framework, monitoring processes will be strengthened or established to provide oversight of some or all tax practitioners depending on the scope. Tax practitioners will be monitored to provide assurance that they continue to meet minimum standards and are fit to practice. For example, through annual declarations or inspections of practices on a risk-assessed basis.

Where it is found that a tax practitioner does not meet the minimum standards to practice, there need to be processes in place to improve their standards and take compliance action where necessary. Tax practitioners can be sanctioned by HMRC for example, using the powers set out in Schedule 38 of Finance Act 2012 'Tax Agents: Dishonest Conduct', if they are found to be dishonest while interacting with HMRC. Tax practitioners who are members of a professional body can also be subject to sanctions if they do not meet their standards and requirements. However, no sanction imposed by a professional body disrupts the tax practitioner's ability to continue providing tax advice and services, as even if they are expelled from their professional body, they are legally entitled to continue practising as an unaffiliated tax practitioner. To strengthen the regulatory framework, disciplinary and enforcement processes will apply to a greater number of tax practitioners. Other action could include enhancing powers to deal with misconduct and for the most extreme cases, strengthening the consequences of providing problematic tax advice and services.

Better routes for customer support

Currently, clients are expected to resolve an issue with their tax practitioner in the first instance. Where the issue cannot be resolved this way, some may have access to a professional body complaints process if their tax practitioner is a member of a professional body with this in place.

Otherwise, a client can take civil action against their tax practitioner to seek recourse via the courts. In strengthening the regulatory framework, the government will seek to ensure more clients have access to support when they suffer as a result of their tax practitioner falling below the minimum standard. Further action could be considered. However, because individuals and businesses are ultimately liable for the tax due unless specified otherwise in legislation, offering routes for customer support is more complex in the tax advice market than in the financial services market.

Improving customer support could involve better guidance on for example, how to choose a tax practitioner and how clients could seek redress against their tax practitioner. Further options include establishing routes for clients to settle disputes with their tax practitioners or implementing a redress scheme such as an ombudsman to provide clients with compensation for issues arising as a result of substandard or problematic tax advice or services.

Transitional period

Under each approach to strengthen the regulatory framework there would need to be a transitional period to allow the market to adapt to the proposed changes. The length and nature of the transition period will depend on the approach taken for example, given the potential need for unaffiliated tax practitioners to meet professional body requirements set out in approach 1, or introduce regulation by a government body, the government would expect there to be a period of transition of around 3 to 5 years. Transition considerations relating specifically to the implementation of approach 1: mandating membership of a recognised professional body are explored in chapter 9: implementation and next steps.

Approach 1: mandatory membership of a recognised professional body with professional bodies monitoring and enforcing standards of their members and raising those standards where necessary

This approach would be achieved through:

- recognition of professional bodies to act as a supervisor on the basis that they set acceptable minimum professional standards for their members and have adequate processes to monitor and enforce their

members' adherence with those standards. This could be assessed by a government body or an otherwise agreed supervisory body

- a mandatory requirement that tax practitioners are a member of a recognised professional body

Most professional bodies establish entry requirements of their members. Entry requirements can include tests of technical competence such as holding a relevant qualification and professional competence such as holding professional indemnity insurance. Most professional bodies also establish requirements that their members must meet on an ongoing basis. To remain a member, tax practitioners must also adhere to the professional body's standards. These standards vary across professional bodies but are often underpinned by principles set by the International Federation of Accountants (for example PCRT). Like HMRC's 'Standard for Agents', they set expectations of professional conduct. Other requirements to test ongoing fitness to practice include undertaking continuing professional development.

Most professional bodies take steps to monitor the continuing fitness to practice of their members, through a control framework that can include asking their members to confirm on an annual basis that they are meeting the requirements and standards. Professional bodies also check standards and requirements are upheld through practice monitoring and processes to discipline members who do not meet their standards and to enforce sanctions where appropriate. The range of sanctions imposed by professional bodies varies from reprimands and fines to, ultimately, expulsion. Most professional bodies also provide routes for clients to complain about a member.

Under this approach, professional bodies would be responsible for using existing supervisory processes to ensure new and existing members consistently meet expected standards and necessary action is taken if not. This could include, for example, undertaking risk-based checks of their members' standards to better identify substandard and unscrupulous tax practitioners. Professional bodies could also be responsible for providing routes for customer support and be the first point of contact for a client wishing to complain.

HMRC would remain responsible for monitoring and protecting access to its own systems and continue to tackle tax non-compliance.

Tax practitioners would need to join and maintain membership of a recognised professional body, meeting the standards required by the professional body to do this. If unaffiliated practitioners are unable to meet those requirements or are unable to absorb potential increases in the costs of business, there is a risk that it could drive some competent tax

practitioners out of the market. There will therefore need to be a transitional period to allow all interested parties, including HMRC and professional bodies, the time to ensure that competent tax practitioners who provide a good service to clients but are not currently members of a professional body are able to remain practising.

There is a diverse range of professional bodies, reflecting the range of practitioners in the market. They already help to maintain high standards. However, there are still many examples where even members of a professional body make errors, commit fraud or fail to take reasonable care. This is therefore a real opportunity for all professional bodies to help raise and maintain consistently high standards across the market. The effectiveness of this proposal would depend on the willingness and capacity of some professional bodies at least to take on new members and scale their supervisory processes to ensure both existing and new members consistently meet expected standards. A key question in this model is therefore whether professional bodies would be willing and able to take on some additional responsibility.

A further risk to this approach is the potential for a new professional body to be established which does not have entry requirements, monitoring and enforcement processes or customer support routes, as a way for some unaffiliated tax practitioners to meet this requirement but circumvent the need to raise their standards. Therefore, as part of this model, it may be necessary for all professional bodies who will supervise tax practitioners to fulfil a set of criteria to become recognised by government or an otherwise agreed supervisory body. This is described in more detail in chapter 7.

Approach 2: joint HMRC-industry enforcement (the hybrid model) to monitor and raise standards of the market

Under this approach, tax practitioners in scope of the regulatory framework would be required to become and remain a member of a recognised professional body or be supervised by HMRC to provide tax advice and tax services. This would provide greater market flexibility as tax practitioners would have a choice of either becoming a member of a professional body or being unaffiliated with any professional body and instead being supervised by HMRC as a tax practitioner.

Professional bodies' responsibilities would remain the same, which includes maintaining oversight and supervision for their members and ensuring they meet the appropriate standards. They would also remain responsible for acting where members are found to be in breach of the standards required of them. This would build on the supervisory role professional bodies currently undertake to maintain professional standards

amongst tax practitioners. They would not be expected to oversee the unaffiliated market. As for approach 1, this would have minimal impact on current professional body members who meet expected standards.

Under this approach HMRC would take a greater role in maintaining and raising standards of those tax practitioners who are unaffiliated with a recognised professional body. HMRC would undertake checks of those being supervised, beyond those being proposed under mandatory registration (chapter 5). Checks could include adherence to the 'Standard for Agents' and/or complete and certify that they have met appropriate continuing professional development requirements. The practitioner would be expected to declare annually that they continued to meet requirements. Additionally, HMRC would carry out ongoing risk-based checks to ensure tax practitioners continued to meet requirements and would be responsible for enforcement when tax practitioners do not comply with standards.

This approach would therefore require investment to expand HMRC's role beyond its current role of administering the tax system and supervising some tax practitioners for AML. The ability of this approach to raise standards in the market will be dependent on the supervisory role undertaken by HMRC. However, HMRC taking on a strong supervisory role of tax practitioner professional standards whilst administering the tax system could create a conflict of interest. This is because HMRC could be perceived as acting as both judge and jury, as the department would be responsible for checking both tax compliance and setting and enforcing standards of tax practitioners, for example, where there is a difference in interpretation of the law, or where the tax practitioner considers they are acting in the best interest of the client even though HMRC disagrees with the outcome.

Other risks include the added complexity in the market for example, the potential for there to be different requirements and levels of oversight and enforcement for HMRC-supervised tax practitioners compared to professional body-supervised tax practitioners. This could cause confusion and complexity for clients and start a race to the bottom if HMRC and professional bodies had differing requirements. The government would be cautious about creating a dual system of regulation that could undermine the objective of supporting consistent standards and enforcement in the pursuit of creating a level playing field.

Approach 3: regulation by a government body that sets, monitors, enforces and raises standards in the market

This approach would see the introduction of a new independent regulator or expansion of the remit of an existing regulator to regulate tax

practitioners. A single independent regulator would provide consistency across the market. Having an arm's length body would avoid potential conflicts of interest arising from HMRC acting as a regulator and avoid a potential race to the bottom.

The government regulator would set standards, carry out checks on tax practitioners seeking to be regulated and ensure they meet the required criteria. This could include conducting an annual renewals process to ensure all information is up to date and correct. As is common with professional regulators, this body could have a role in supervising tax practitioners including inspections of tax practitioners on a risk-assessed basis to check they continue to meet expected standards, investigating issues and complaints, and enforcing sanctions.

This regulatory body could introduce customer support routes including establishing a complaints process, ensuring transparency, and supporting redress claims. The regulator could be responsible for providing support and guidance to the profession and ensuring tax practitioners receive updates on the latest changes in the tax system.

Within this model there are options about how the regulator could be set up and the role that current professional bodies could play. Current professional body members could be automatically registered with the regulator as they have already undergone a series of checks and professional bodies could retain their role as providers of qualifications and ongoing practice support for their members.

Establishing a new regulator in this way would provide the opportunity to create a tailored regulatory solution for the market which is adaptable for future needs.

Potential problems with this model include that adding a new regulator to an already complicated regulatory landscape for tax practice and accountancy may cause confusion, and this is likely to be the most expensive of the potential approaches, as it would involve costs for the government and for all tax practitioners. The government sees this approach as a fallback option if the professional body lead approach is not practical or effective.

Question 8: 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.

Question 9: What are your views of the merits and problems of the 3 potential approaches described in this chapter?

Question 10: Are there any other approaches to raising standards the government should consider?

7. Exploring how mandatory membership of a professional body could raise standards

This section sets out key questions to explore the extent to which approach 1: mandatory membership of a recognised professional body with professional bodies monitoring and enforcing standards of their members and raising those standards where necessary can sufficiently raise standards in the tax advice market and whether this approach should be pursued. Taking forward this approach would mean tax practitioners must hold membership of a professional body that is recognised as having an adequate minimum standard for its members and an adequate supervisory framework to monitor and enforce that standard. As with all the possible regulatory approaches, the government recognises that this approach will not solve all the issues in the market.

The government considers this approach to be proportionate to the problems observed and opportunities afforded. It minimises extra costs and burdens to tax practitioners who currently meet expected standards and most professional bodies currently deliver the 3 components of a regulatory framework: subjecting their tax practitioner members to minimum standards, monitoring and enforcement action; and offering routes for customer support. The government recognises there may be costs for the professional bodies in extending their supervisory frameworks to new members, with the potential for these to be passed on to clients via increased membership fees. The government will explore how best to mitigate this.

The government considers that enhancing and extending the supervisory framework operated by the professional bodies to this population of tax practitioners could achieve its aim of raising standards. However, it is dependent on the willingness and capacity of professional bodies to both strengthen the regulatory framework to raise standards of their current members who do not meet expected standards and extend membership to new members.

The evidence in Annex C shows that there are levels of non-compliance amongst taxpayers represented by affiliated tax practitioners. This

highlights that membership of a professional body alone may not be enough to raise standards in the market and that across the market, current monitoring and enforcement practices of professional bodies are not always sufficiently robust to prevent significant instances of substandard practice. This is why the government is looking to explore whether the regulatory frameworks currently in place across professional bodies are strong enough to raise standards in the tax advice market if the government chooses to proceed with this approach.

The government therefore wishes to work with professional bodies to understand their capacity and capability to raise standards across the market and seeks views on key questions to inform how mandatory professional body membership could be implemented in a way that best meets the objectives.

Findings from this consultation will inform whether the government pursues the introduction of mandatory professional body membership or whether another approach, such as regulation by a government body (approach 3) should be pursued.

Question 11: 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

Question 12: What is your view of the capacity and capability of professional bodies to undertake greater supervision of tax practitioners?

Question 13: What more could the professional bodies do to uphold and raise standards for their members?

Question 14: What additional costs may professional bodies face if strengthening their supervisory processes and/or taking on new members?

How this approach could operate

In this model, a professional body is an organisation with individual members who provide tax advice and services, either as their main focus or as part of provision of other services such as accountancy, and maintains oversight of the competence, conduct, practice and professional standards

of those members. The body will have responsibility for regulation of tax practitioners.

There are many professional bodies, reflecting the diversity and complexity of the market for tax advice and services. Not all professional bodies are the same: among the professional bodies there are differences in the way they supervise members, the independence of their disciplinary functions, minimum requirements for membership and their capability and capacity to monitor and enforce standards. Some professional bodies also supervise parts of the market for AML. If the proposed model of mandatory professional body membership is implemented, it will be important to assure that the professional bodies acting in this capacity as supervisors of tax practitioners maintain and enforce high standards for their members.

The government considers that it may be necessary to introduce formal oversight of the professional bodies for their supervision of tax advice and services to ensure:

- professional bodies accepted as supervisors for this purpose set sufficiently robust requirements for their members, maintain standards and enforce requirements
- professional bodies accepted as supervisors continue to maintain the required standards
- new bodies with lesser standards cannot enter the market or act as a shelter for substandard or unscrupulous tax practitioners

There are choices about how this could be done, and the government welcomes views from the professional bodies. The government could, for example, set and assess the criteria by which a professional body would be recognised as a supervisor of tax practitioners. This role could be taken by an independent supervisory body (either an existing or new body), by HMRC or another government department, or a joint endeavour of the professional bodies in partnership with government.

Criteria for becoming a supervisor could include that professional bodies have robust processes in place to determine and uphold minimum requirements such as checks on qualifications and fitness to practice, and that they actively work to raise standards for their members. The government would also expect any professional body seeking to be recognised as a supervisor under this proposal to have and enforce a rigorous code of conduct and have an independent complaints process. A further criterion could be that the body is a non-profit and/or has a public interest function, to avoid potential conflicts of interest.

As part of professional bodies being overseen for their supervision of tax advice and services, there would need to be mechanisms in place to hold

the professional bodies accepted as supervisors to account in relation to their role in raising and maintaining standards in the tax advice market. For example, where there is evidence that a recognised professional body supervisor has failed to uphold minimum requirements, there may be a case that the professional body should be subject to compliance action or in some cases, should no longer continue in their supervisory role.

The government would also monitor the extent to which supervisory professional bodies as a whole raise standards in the market. Should market problems persist, the government will consider strengthening the regulatory framework further for example, through regulation by a government body.

Establishing minimum standards

Most professional bodies have minimum standards which they require tax practitioners to meet on an ongoing basis to become and remain a member. This includes entry requirements, annual declaration requirements and expectations of professional conduct as set out in the professional body's standard. Under this approach, the government would not expect professional bodies with sufficiently high standards and expectations of their members to increase these requirements. This means tax practitioners who are already members of those professional bodies will not be subject to changing requirements. Additionally, the government does not expect professional bodies to lower their standards and requirements to accommodate unaffiliated tax practitioners to become members.

Improved monitoring to provide ongoing assurances that standards are met

Many professional bodies monitor their practising members through annual declarations and practice assurance visits to check ongoing fitness to practice and adherence to membership requirements and investigations following complaints.

As part of a strong regulatory framework, the government expects that professional bodies will carry out ongoing and risk-based checks of standards at regular intervals to ensure standards do not fall. The government also expects effective use of monitoring capabilities such as undertaking visits to practices on a risk-assessed basis to ensure ongoing adherence to standards. To meet this expectation there may be instances of professional bodies needing to enhance their capability to monitor their members. Without robust monitoring, the standards of tax practitioners may not be raised as intended and activities that may be causing harm to customers and the tax system may go unnoticed. The government would

like to explore ways in which professional bodies and HMRC could work in partnership to enhance existing oversight and enforcement mechanisms, such as greater data-sharing.

Effective enforcement action

The control framework that professional bodies implement to supervise their members includes processes to discipline members who do not meet their standards and to enforce sanctions where appropriate.

Imposing mandatory professional body membership would mean that a tax practitioner who was expelled would either face limitations on the tax advice and services they could provide for clients (if the requirement is only for those that interact with HMRC) or would no longer be able to practice if the requirement was for the whole market. As part of a strong regulatory framework, the government expects that enforcement mechanisms are used effectively. Without robust enforcement mechanisms, tax practitioner activities that may be causing harm to clients and the tax system may go unchallenged. The government would like to explore ways in which professional bodies and HMRC could work in partnership to enhance enforcement mechanisms.

Routes for customer support

Currently, when a tax practitioner falls below the high standards expected, and their client suffers as a result, in the first instance the client should try to resolve this with the tax practitioner. Where this does not resolve the issue to the client's satisfaction, the client can access a professional body complaints process – but only if their tax practitioner is a professional body member.

Under this approach, a greater number of clients will be able to make a complaint through a professional body and tax practitioners will be subject to adjudication procedures either by their professional body or independent arrangements such as the Taxation Disciplinary Board. As all professional bodies require members to hold professional indemnity insurance, this could also mean there is a route to ensure the client can be paid any compensation that may be due. An alternative model could be a market-wide compensation scheme or an ombudsman.

Example 1: What a strengthened regulatory framework through mandatory professional body membership could look like for tax practitioners interacting with HMRC

Becoming a member of a professional body

A tax practitioner would need to meet professional body membership requirements such as, being registered for AML supervision by HMRC or a professional body supervisor, holding a relevant qualification or equivalent number of years experience, obtaining professional indemnity insurance and declaring they will abide by the professional body's code of conduct.

Those who cannot meet these requirements and become a member of a professional body will not be able to interact with HMRC in their capacity as a provider of tax advice or services.

Remaining a member of a professional body

A tax practitioner will need to provide evidence, such as a declaration, on an annual basis that they continue to meet the membership requirements as set out above and additional requirements such as undertaking continuous professional development.

Those who cannot continue to meet the requirements to maintain membership of a professional body will not be able to interact with HMRC in their capacity as a provider of tax advice or services.

Professional bodies must also monitor their members to ensure they meet membership requirements, including adherence to the code of conduct, to ensure they are fit to practice. This would be undertaken through random and/or or risk-based, inspections of practices.

If a professional body finds that a member does not meet membership requirements and is not fit to practice, the professional body must take appropriate action depending on the problematic behaviour observed. This could take the form of action to raise the standard of the tax practitioner, fines and expulsion from the professional body.

Where a tax practitioner is expelled from the professional body, they will no longer be able to interact with HMRC in their capacity as a provider of tax advice or services.

Customer support

If a client has an issue which is the result of their tax practitioner falling below expected standards, the client should in the first instance try to resolve the issue with their tax practitioner. Where this is not possible, the client should have access to a complaint route through the professional body their tax practitioner is supervised by. Professional bodies must investigate the issue fully and take appropriate action depending on the

outcome of the investigation. This could include, fining or expelling the tax practitioner and seeing that the client is sufficiently compensated.

Tax practitioners

Tax practitioners who are currently unable to meet certain membership requirements for reasons of technical or professional incompetence will need to address these shortfalls. Those who are unable to address technical or professional incompetence will be unable to become a member of a recognised professional body supervisor. The government understands there may be other barriers to professional body membership such as additional costs, which may make it difficult for some tax practitioners to meet this requirement.

There may also be a proportion of tax practitioners who are currently a member of a professional body that does not become a recognised supervisor. Under this approach, these tax practitioners would not be adhering to the requirement and would need to become a member of a recognised supervisory professional body to interact with HMRC.

To mitigate the risk that otherwise competent tax practitioners consider leaving the market, the government proposes having a transitional period to allow interested parties including HMRC and professional bodies to mitigate circumstances whereby high numbers of unaffiliated tax practitioners leave the market. This includes determining the best routes to providing membership to competent, unaffiliated tax practitioners.

The role of HMRC

HMRC will continue to play a role in protecting access to its own systems and ensuring tax practitioners interacting with HMRC meet basic standards through improved agent registration as set out in chapter 5. HMRC will also continue to play a role in tackling tax non-compliance, and to educate customers, for example publishing details of new [tax avoidance schemes, promoters, enablers and suppliers](#). As HMRC may witness breaches of other standards, HMRC may support monitoring of tax practitioners for example, through data-sharing with the professional bodies. The specific interaction between HMRC and professional bodies for other breaches of standards would need to be worked through should this approach be pursued.

The government anticipates that new sanctions will be needed, such as sanctions for those tax practitioners who breach the regulatory requirements whilst practicing and that these will need to be legislated. Action to deal with these practitioners could be taken by HMRC.

Question 15: What is the best way to ensure current and new professional bodies maintain high standards?

Question 16: What role could the professional bodies play in supporting the clients of their members?

Question 17: 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.

Question 18: What role should HMRC/the government play under approach 1: mandatory membership of a recognised professional body?

8. How this approach could work: who should be regulated?

The requirement to join a professional body could be applied to all tax practitioners, or only those that interact directly with HMRC. A market-wide requirement would capture all practitioners, eliminating gaps and extending the regulatory control framework across the market. The main advantage of a wider scope is that it would cover all forms of tax advice and services and as a result may be able to address a wider range of the problems the government has seen in the market. One further advantage of this approach is that it would reduce the opportunity for unscrupulous tax practitioners to exploit loopholes to avoid the requirement by, for example, setting up structures to offer advice at arms-length as this would effectively be prohibited.

Introducing this requirement to only those that interact with HMRC would mean only tax practitioners who have contact with HMRC and its systems would be required to register with and be supervised by a professional body. This would include any tax practitioners who use HMRC's systems and services on behalf of paying clients and any interaction where the tax practitioner is acting on behalf of a client: digitally, by telephone, representation during an investigation and submitting paper forms. This would not include employers submitting a Real Time Information form, software providers, e-commerce platforms, or tax practitioners interacting with HMRC in their capacity as a taxpayer. Given this model would apply

only to tax professionals acting in a professional capacity, individuals who might interact with HMRC to help their friends or family members on a non-professional, unpaid basis, will not be included.

Either approach would need intensive policing. This could be more difficult to achieve in the case of a whole market approach as those operating outside the regulatory framework would not be interacting with HMRC. Similarly, the complexity of the types of professionals offering tax advice and services and the different ways that they provide that advice or service would make it challenging to effectively regulate across the market.

On balance, the government recommends that this requirement should apply to tax practitioners that interact with HMRC in a professional capacity rather than the whole market. This is because the government wants to ensure the competence and compliance of those who interact with HMRC and its systems and services on behalf of taxpayers. As these practitioners interact directly with HMRC, they have the most impact on the administration of the tax system. This does not preclude the government taking action to widen the scope to the whole market, should problems persist.

Whether the whole market or those that interact with HMRC, there are further considerations about which groups of tax practitioners should be included: this is explored below, with Figure 2 summarising examples of tax practitioners and other intermediaries who would be in scope, potentially in scope, or who would be excluded from meeting this requirement.

Figure 2: examples of professions and practitioners in scope, not in scope, and potentially in scope

In scope:

- accountants
- payroll services
- bookkeepers
- repayment agents
- specialist research and development agents

Not in scope:

- members of regulated professions (such as solicitors, barristers, auditors and financial advisers)
- customs intermediaries
- employment intermediaries
- umbrella companies

- tax software developers
- friends and family

Potentially in scope – to be determined:

- charities
- pro-bono advice
- promoters and enablers of tax avoidance
- offshore/overseas tax practitioners advising on UK taxation

Groups in scope

Tax practitioners providing tax advice and services by way of business in relation to UK taxation will be within scope. Requirements will apply to those who offer these services on a commercial basis, and will include accountants, companies providing professional payroll services, bookkeepers, repayment agents, specialist R&D agents and any other tax practitioner paid to assist with UK taxation.

Application of the proposed model

A further choice is whether this should apply to the firm or to individual tax practitioners. The government proposes that this is applied at firm level, to help minimise burdens on the sector. To ensure firms are complying the government will require the controller or controllers of the firm (for example, the principal or director) to be a member of a professional body and to be accountable for ensuring their staff are complying with professional standards.

Question 19: 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.

Question 20: 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.

Exclusions

The government thinks that there may be a need to exclude some groups from this requirement.

Members of regulated professions

The government wants to avoid increasing burdens on professionals that are already robustly regulated. We therefore propose to exclude groups of tax practitioners who interact with HMRC that are already subject to statutory regulation, including those in regulated professions such as legal services, insolvency, audit, licensed conveyancers, and independent financial advisers. As these professionals are already subject to robust regulation, where this regulation extends to the provision of tax advice or services, the government proposes to exclude them from this requirement.

In detail, this is likely to include (but are not limited to):

- legal professionals providing tax services regulated by an 'approved regulator' within the meaning of the Legal Services Act 2007 and Legal Services (Scotland) Act 2010, and the Law Society of Northern Ireland by virtue of the Legal Complaints and Regulation Act (Northern Ireland) 2016
- professionals who are regulated in accordance with the Pensions Regulator, Prudential Regulatory Authority, Financial Conduct Authority, Insolvency Service, Institute and Faculty of Actuaries, and the Funeral Planning Authority

Customs intermediaries

Customs intermediaries who complete customs declarations on behalf of traders and help clients with their customs obligations will be captured by the proposed definition as providers of tax services. However, customs intermediaries perform a fundamentally different role and provide different services to tax practitioners, with a focus on facilitating international trade and the movement of goods. Therefore, the government considers that it would not be appropriate for customs intermediaries to fall within scope of the new regulatory interventions for tax practitioners. Following a [recent consultation](#), separate work is underway to develop a voluntary standard for customs intermediaries to set best practice for that sector.

Employment intermediaries/umbrella companies

Employment intermediaries and umbrella companies do not interact with HMRC for the provision of tax advice or services; therefore, they would fall out of scope of the proposed option.

The government is considering alternative methods to tackle non-compliance in the umbrella company market following a consultation which closed 29 August 2023.

Tax software developers

Software developers are an important part of tax administration, as recognised by the Tax Administration Strategy, which refers to an expectation for further development and diversification of software products. Inclusion of software under a broad definition of those providing tax services has been adopted in Australia. Most respondents to the 'Raising standards in the tax advice market: professional indemnity insurance and defining tax advice' consultation suggested that software providing advice or prompts, which could materially change an individual's tax position should be included. However, respondents supported excluding data transfer and data input software from regulation.

Tax software is currently a tool used to facilitate interaction with the department, whereas this requirement is designed to apply to the professional providers of tax advice and services who interact with HMRC on behalf of taxpayers. Such providers of tax services may make use of tax software in their professional practice, and some taxpayers make use of the software themselves, but the software provider is not responsible for that interaction and would therefore not be in scope for these requirements.

Question 21: Are there any other regulated professions that should be excluded from this requirement?

Question 22: How can the government ensure members of regulated professions have high standards in relation to their work providing tax advice or services?

Question 23: What are your views of the proposed exclusions?

Potentially in scope

The government welcomes views on whether the following groups should be in scope:

Charities interacting with HMRC on behalf of taxpayers

The government thinks that charities providing tax advice to clients should be out of scope. However, the government thinks that they should be required to demonstrate the quality and competence of their representative activity because they are often supporting the most vulnerable in society. Organisations in receipt of HMRC funding are already subject to some requirements, and these will be reviewed as a potential model for broader requirements for the charitable tax advisory sector.

The government is considering the risk that some providers of tax services will attempt to circumvent new requirements by pretending to be charitable organisations and may attempt to receive payments in kind or ‘donations’ in lieu of payment. Pretending to be a charity would be fraudulent, and the government will look to prevent tax practitioners from doing this and deal appropriately with those that do.

Pro-bono services

The government welcomes views on whether unaffiliated tax practitioners providing pro-bono advice or services should be required to join a professional body. Although a practitioner acting on a pro-bono basis is not carrying out that activity for remuneration, they are still making use of their professional expertise. As discussed in relation to charities in the paragraph above, there is an argument that practitioners acting in this capacity should be subject to the regulatory framework as they are often acting for the most vulnerable taxpayers.

Promoters and enablers of tax avoidance

Professional bodies will be required to check that their members are not promoting and enabling avoidance schemes. Professional bodies would be expected to expel any such member. If the government decides to proceed with the proposed option, promoters and enablers of tax avoidance who interact with HMRC would no longer be able to do so as they would either be expelled by a professional body or would not be able to meet the requirements to become a member.

Irrespective of whether or not promoters and enablers of tax avoidance would be captured by the requirements of the strengthened regulatory framework, HMRC would continue taking appropriate actions under HMRC’s existing powers for tackling avoidance activity and [publishing details of new tax avoidance schemes](#) including those that promote and enable them. The government welcomes view on the implications of this model for the tax avoidance market.

Overseas/offshore practitioners

It will be necessary for some providers of tax advice and services based outside the UK to have access to HMRC's systems and services in order to support clients on matters relating to UK taxation. The removal of such access would create additional unsustainable burdens for HMRC in terms of provision of support to overseas based UK taxpayers. However, there is a risk that enabling unobstructed access to systems and services for overseas practitioners might lead to the creation of exploitable loopholes for practitioners to base themselves overseas (or appear to base themselves overseas) to avoid having to comply with new requirements.

The government therefore proposes to require overseas based practitioners to join a recognised UK based professional body if they interact with HMRC – and if this is not possible in their jurisdiction, to 'onshore' part of their business to the UK and/or have a UK arm which is able to join a professional body. This will need to be achieved in a way which complies with any relevant international obligations.

Question 24: 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.

Definition in legislation of a provider of tax advice and services

The government intends to draft a legislative definition of a tax practitioner as a provider of tax advice and services to support the implementation of this model. The government will consult further on this legislation.

The government proposes that this definition includes the following provisions:

- it covers the full range of business entities operating in the market, that is, individuals, firms and sole practitioners
- that the advice or assistance:
 - is given by way of business, so that friends and family are not inadvertently captured

- is provided in relation to UK taxation
- can be provided directly, indirectly, or at the request of someone other than the client

The definition will also set out what is meant by advice or assistance. This will include acting on behalf of a client in their dealings with HMRC or another UK tax authority in relation to tax. Depending on the scope of the regulatory framework, it could also include advising a client in relation to tax.

Question 25: What could be the consequences of introducing a legal definition of a provider of tax advice and services?

Question 26: What gaps or issues can you see arising because of this definition?

9. Implementation and next steps

The government recognises that time will be needed to implement both mandatory registration and action to strengthen the regulatory framework.

Implementing mandatory professional body membership

If the government introduces mandatory professional body membership, time will be needed to ensure professional bodies can build capacity for taking on new members without reducing the standards in place for their current members. During this period, HMRC will work with the professional bodies to support unaffiliated tax practitioners to join their organisations as soon as possible.

Regulation by a government body would require a new body to be established, or changing the remit of an existing body which would likely take longer than transitioning to the mandatory professional body membership approach.

Potential ways to manage transition could include a legacy scheme which could allow some tax practitioners, such as those already registered with HMRC, to continue operating as usual for a specified period while gaining qualifications or meeting any other requirement placed on them by a professional body. In this instance, new tax practitioners to the market or to HMRC would need to join a professional body from the time the new approach is applied. The government estimates a transitional period of at least 3 years will be needed to introduce mandatory membership of a professional body. Legislation will also be required.

There are likely to be some devolution interactions associated with the introduction of regulation in the tax advice market. The impacts will depend on which regulatory approach is adopted and who the approach will apply to.

Implementing mandatory registration

If the government proceeds with introducing mandatory registration, alongside a streamlined, automated registration service for tax practitioners to register with HMRC, legislation will need to be introduced to require all tax practitioners to register with HMRC and to set out the criteria they must satisfy. The government intends to do this through a future Finance Bill, with legislation coming into effect once HMRC systems are ready. HMRC will explore delivery options and timescales for the new registration process that will support the mandatory registration requirement. At this very early stage, implementation may be possible in 2028, although this may change as HMRC learns more during the early stages of development.

If the government introduces mandatory membership of a professional body, tax practitioners would still need to register with HMRC, and HMRC would check to confirm their professional body membership alongside checking that their tax affairs are up to date.

Evaluation

Following implementation, HMRC will evaluate the extent to which the proposals raise in the market against the objectives set out in chapter 4. Should problems persist at an unsatisfactory level, the government will consider strengthening the regulatory framework further.

Question 27: How could unaffiliated tax practitioners be transitioned into professional body membership?

Question 28: Should a legacy scheme be adopted?

- yes
- no
- maybe
- don't know

Please give reasons for your answer.

Question 29: 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.

Question 30: What future developments would need to be accounted for in implementing mandatory professional body membership?

10. Assessment of impacts

Summary of impacts

Year	2022 to 2023	2023 to 2024	2024 to 2025	2025 to 2026	2026 to 2027	2027 to 2028
Exchequer impact (£m)	+/-	+/-	+/-	+/-	+/-	+/-

Exchequer Impact Assessment

There may be a positive exchequer impact as a result of raised standards in the tax advice market. Raising standards in the tax advice market could reduce the tax gap and therefore positively impact the Exchequer. The economic impacts will depend on which regulatory approach is adopted and who the approach will apply to. The government will consider the economic impacts of the regulatory approach that the government decides to take forward.

Impacts

Comment

Economic impact

Mandating registration is not expected to have any macro-economic impacts. The economic impacts of regulating the tax advice market will depend on the regulatory approach that is adopted and who the approach will apply to. The government will consider the economic impacts of the approach it decides to take forward.

Impact on individuals, households and families

Introducing regulation in the tax advice market may mean some individuals who offer tax advice and services change aspects of their livelihood, for example, leave the tax advice and services market or offer different services, to avoid regulation. However, levelling the playing field by having a clear minimum standard to be a tax practitioner may encourage new entrants to the market. Introducing mandatory membership of a regulatory body, with increased levels of supervision by a regulator (professional bodies, or an independent government body) is likely to increase costs to tax practitioners. These costs may be passed on to their customers, which may make tax advice and services less accessible to individuals. The number of individuals impacted by this will depend on which regulatory approach is adopted and who the approach will apply to. The government will consider the impacts of the approach taken forward. The expected impact of introducing regulation on the individual's experience of dealing with HMRC will also depend on the approach taken forward. There should be fewer individuals receiving poor tax advice and services. Improved tax advice and services may help more individuals access appropriate reliefs and to pay the right tax at the right time. This means fewer individuals: facing extra charges for missed deadlines/incorrect submissions; being liable for financial costs for false claims; having to engage another tax practitioner to rectify mistakes.

Impacts

Comment

Equalities impacts

The impact of introducing regulation in the tax advice market will depend on which regulatory approach is adopted and who the approach will apply to. The government will assess the equality impacts of the approach taken forward.

Impact on
businesses and Civil
Society
Organisations

Mandating registration is unlikely to have a significant impact on circa 46,000 tax practitioners who already have access to the Agent Services Account and circa 30,000 agent businesses who may choose to engage with HMRC on behalf of their clients in future. These businesses will be bound by the new requirements if they choose to act on behalf of their client. One-off costs for those tax practitioner businesses could include familiarisation with these changes, there will also be additional one-off costs as tax practitioners who are not already registered for the Agent Service Account will need to register with HMRC to enable them to act on behalf of their clients. There are not expected to be any further one-off costs and customer experience is expected to be improved for tax practitioners registering with HMRC, but otherwise remain the same as the new requirements don't greatly change how businesses interact with HMRC. Introducing strengthened regulation into the tax advice market will likely increase costs for businesses offering tax advice and services who are impacted by the regulation. This may mean some businesses cease providing tax advice or offer different services. This may increase the cost of tax advice and services for businesses. This may make tax advice and services less accessible to businesses. It may also impact accountancy and tax professional bodies. The number of businesses impacted by this, and the extent to which they are impacted, will depend on the regulatory approach adopted and who the approach will apply to. Research to understand the characteristics of unaffiliated tax agents undertaken in 2021 showed that generally, the views of unaffiliated agents towards professional bodies were positive. The strongest theme that emerged for not being a member of a

Impacts

Comment

professional body was that they saw no clear benefit to membership. Whilst 73% of unaffiliated agents said they would not consider becoming a member, 56% of this group said that was because of age or retirement, reflecting the older profile of the population. The government will assess the impact of the approach taken forward. The expected impact on business' experience of dealing with HMRC as a result of regulating the tax advice market will also depend on the approach taken forward. As a result of raised standards in the market, tax advice and tax services will likely be better value for money for businesses. Improved tax advice and services may help businesses access appropriate tax reliefs and pay the right tax at the right time. There will be fewer businesses receiving poor tax advice and services and the impacts of this. It is not expected to impact Civil Society Organisations.

Impact on HMRC or other public sector delivery organisations

Raising standards in the tax advice market may reduce some of HMRC's activities, although the exact impacts will depend on the model progressed. Conversely, mandating registration will increase demand on tax practitioner checks at the point of registration and subsequent periodic confirmation of ongoing compliance. This and some other elements will require changes to HMRC's IT systems to realise. A full assessment of both staff requirements and IT changes required will be carried out when the results of the consultation are known, and final decisions are made.

Other impacts

–

11. Summary of consultation questions

Question 1: 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.

Question 2: Are there other components of a regulatory framework that would support the delivery of these objectives?

Question 3: Is there anything else that the government should consider?

Question 4: Do you think the government should mandate the approach to registration for tax practitioners who wish to interact with HMRC?

- yes
- no
- maybe
- don't know

If no, please give reasons for your answer.

Question 5: 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?

Question 6: 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?

Question 7: Are there specific criteria or checks HMRC should apply if:

- an individual, who has previously registered a company with HMRC as a tax practitioner, and attempts to register a new company?
- a tax practitioner operating as a sole trader becomes incorporated?

Question 8: 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.

Question 9: What are your views of the merits and problems of the 3 potential approaches described in this chapter?

Question 10: Are there any other approaches to raising standards the government should consider?

Question 11: 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.

Question 12: What is your view of the capacity and capability of professional bodies to undertake greater supervision of tax practitioners?

Question 13: What more could the professional bodies do to uphold and raise standards for their members?

Question 14: What additional costs may professional bodies face if strengthening their supervisory processes?

Question 15: What is the best way to ensure current and new professional bodies maintain high standards?

Question 16: What role could the professional bodies play in supporting the clients of their members?

Question 17: Should 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.

Question 18: What role should HMRC/the government play under approach 1: mandatory membership of a recognised professional body?

Question 19: 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.

Question 20: 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.

Question 21: Are there any other regulated professions that should be excluded from this requirement?

Question 22: How can the government ensure members of regulated professions have high standards in relation to their work providing tax advice or services?

Question 23: What are your views of the proposed exclusions?

Question 24: 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.

Question 25: What could be the consequences of introducing a legal definition of a provider of tax advice and services?

Question 26: What gaps or issues can you see arising because of this definition??

Question 27: How could unaffiliated tax practitioners be transitioned into professional body membership?

Question 28: Should a legacy scheme be adopted?

- yes
- no
- maybe
- don't know

Please give reasons for your answer.

Question 29: 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 members?

- yes
- no
- maybe
- don't know

Please give reasons for your answer.

Question 30: What future developments would need to be accounted for in implementing mandatory professional body membership?

The consultation process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1: Setting out objectives and identifying options.

Stage 2: Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3: Drafting legislation to effect the proposed change.

Stage 4: Implementing and monitoring the change.

Stage 5: Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

A summary of the questions in this consultation is included at chapter 11.

Responses should be sent by 29 May 2024, by email to raisingstandardsconsultation@hmrc.gov.uk or by post to:

J. De Brito
Raising Standards Consultation
Intermediaries Directorate
14 Westfield Avenue
Stratford
E20 1HZ

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

HMRC is committed to protecting the privacy and security of your personal information. This privacy notice describes how we collect and use personal information about you in accordance with data protection law, including the UK GDPR and the Data Protection Act (DPA) 2018.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act

2000 (FOIA), the DPA 2018, UK GDPR and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs.

Consultation Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the UK GDPR.

Your data

We will process the following personal data:

Name
Email address
Postal address
Phone number
Job title

Purpose

The purposes for which we are processing your personal data is: Raising Standards in the Tax Advice Market: strengthening the regulatory framework and improving registration.

Legal basis of processing

The legal basis for processing your personal data is that the processing is necessary for the exercise of a function of a government department.

Recipients

Your personal data will be shared by us with HM Treasury.

Retention

Your personal data will be kept by us for 6 years and will then be deleted.

Your rights

You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

0303 123 1113 casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for your personal data is HMRC. The contact details for the data controller are:

HMRC
100 Parliament Street
Westminster

London
SW1A 2BQ

The contact details for HMRC's Data Protection Officer are:

The Data Protection Officer
HMRC
14 Westfield Avenue
Stratford
London
E20 1HZ

advice.dpa@hmrc.gov.uk

Consultation principles

This call for evidence is being run in accordance with the government's Consultation Principles.

The Consultation Principles are available on the [Cabinet Office website](#).

If you have any comments or complaints about the consultation process, please contact the [Consultation Coordinator](#).

Please do not send responses to the consultation to this link.

Annex A: List of stakeholders consulted

The government is grateful to everyone who responded to previous consultations and have taken those views into account in forming the proposals set out here.

Annex B: Relevant (current) government legislation

Finance Act 2012 Schedule 38, part 1, 2 (1) to (5)

Tax agent

2 (1) A 'tax agent' is an individual who, in the course of business, assists other persons ('clients') with their tax affairs.

(2) Individuals can be tax agents even if they (or the organisations for which they work) are appointed – (a) indirectly, or (b) at the request of someone other than the client.

(3) Assistance with a client's tax affairs includes – (a) advising a client in relation to tax, and (b) acting or purporting to act as agent on behalf of a client in relation to tax.

(4) Assistance with a client's tax affairs also includes assistance with any document that is likely to be relied on by HMRC to determine a client's tax position.

(5) Assistance given for non-tax purposes counts as assistance with a client's tax affairs if it is given in the knowledge that it will be, or is likely to be, used by a client in connection with the client's tax affairs.

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended by The Money Laundering and Terrorist Financing (amendment) Regulations 2019 (amendment shown in brackets)

Auditors and others

11. In these Regulations –

(a) 'auditor' means any firm or individual who is –

(i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (statutory auditors), when carrying out statutory audit work within the meaning of section 1210 of that Act (meaning of statutory auditor), or

(ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit), when carrying out an audit required by that Act.

(b) 'insolvency practitioner' means any firm or individual who acts as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 or article 3 of the Insolvency (Northern Ireland) Order 1989 (meaning of 'act as insolvency practitioner').

(c) 'external accountant' means a firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services.

(d) 'tax adviser' means a firm or sole practitioner who by way of business provides [material aid, or assistance or advice, in connection with the tax affairs of other persons, whether provided directly or through a third party], when providing such services.

Annex C: Analysis – non-compliance according to tax practitioner membership of professional bodies

Overall summary

Where taxpayers use tax practitioners who are members of professional bodies, there is evidence that levels of compliance are higher relative to other arrangements. But HMRC still sees substantial levels of non-compliance among taxpayers using tax practitioners who are members of representative bodies.

Background, data and definitions

The attached data comes from random enquiry programmes for:

1. the R&D tax credit
2. small business Corporation Tax (CT)
3. self-employed within self-assessment (excluding large partnerships)

Specifically it looks at patterns of non-compliance among taxpayers comparing those with tax practitioners who are members of professional bodies compared to those who are not.

A Mandatory Random Enquiry Programme (MREP) is used by tax authorities to understand compliance and to gain insights into the scale of any non-compliance in a tax regime. A random sample is selected from the population of interest. Selected tax returns are then subject to a full enquiry involving a complete examination of records. Analytical methods are applied to up-scale the sample results to produce estimates of non-compliance within the tax regime's population. This is data that HMRC has access to for analytical purposes. Professional bodies do not have access to this data, and therefore will not have the ability to look at this type of compliance across their members.

Throughout the analysis HMRC divides taxpayers into those:

- represented by a tax practitioner who is a member of professional body (which we describe as an 'affiliated agent')
- represented by a tax practitioner who is not a member of a professional body ('non-affiliated agent')
- represented by a tax practitioner where HMRC cannot determine whether they are or are not a member of a professional body ('affiliation unknown')
- not represented by a tax practitioner ('no agent')

Care needs to be taken when interpreting this data in 2 regards:

- in some cases, the numbers of cases are very small meaning that these results may not be fully representative
- there are some other factors that are correlated with non-compliance such as size of R&D claim (for R&D tax credits) and level of turnover (for small business CT). In some specific cases this means HMRC are not always comparing like with like, and one specific case is highlighted below

In all cases HMRC provide 2 main measures of non-compliance:

- the 'strike rate' or share of cases that are non-compliant. This is a simple numerical count of cases that are non-compliant compared to overall cases
- the monetary value of non-compliance expressed as a percentage of the cost of the relief (R&D) or liability (CT)

Research and development tax credit

The table below shows the results aggregated by the different groups of taxpayers for 500 R&D claims received in 2020 to 2021.

R&D claims	Number of cases	% of cases with non-compliance	% of cost of relief that is non-compliant
Affiliated	303	49	20
Non-affiliated	118	53	53
Unknown affiliation	41	56	42

R&D claims	Number of cases	% of cases with non-compliance	% of cost of relief that is non-compliant
No agent	38	66	12
All	500	52	24

Overall, around half of claims are non-compliant and around one quarter of spend on R&D tax credits is non-compliant.

Those taxpayers using affiliated tax practitioners have a similar percentage of non-compliance cases when compared to other categories but have lower overall levels of non-compliance in terms of the percentage of expenditure and cost of relief

The 'no agent' non-compliance percentage of spend is much lower, but HMRC would caution about reading too much into this. These taxpayers tend to have higher value claims, so are likely to be larger, more sophisticated businesses that are able to manage the claim themselves and ensure compliance.

Corporation tax

The table below shows the position for small business CT, reflecting 676 returns received in respect of 2018 to 2019 and 2019 to 2020.

Small business CT	Number of cases	% of cases with non-compliance	% of cost of relief that is non-compliant
Affiliated	286	22	14

Small business CT	Number of cases	% of cases with non-compliance	% of cost of relief that is non-compliant
Non-affiliated	52	37	41
Unknown affiliation	48	27	77
No agent	290	29	28
All	676	26	23

The position of taxpayers with affiliated tax practitioners is better than the other groups both in terms of the percentage of cases and non-compliance as a percentage of liabilities. The overall level of non-compliance for those taxpayers represented by affiliated tax practitioners in the sample is 14% compared with 41% for those taxpayers represented by non-affiliated tax practitioners.

‘Business’ taxpayers within Self-Assessment

The table below shows the position for 916 ‘business’ taxpayers within self-assessment reflecting tax returns received in respect of 2019 to 2020 – ‘business taxpayers’ are defined as having self-employed income or being a member of a partnership with up to 4 partners. This analysis excludes 12 cases where the tax practitioner status was unknown.

Tax practitioner status	Number of cases	% of cases with non-compliance	% of cost of relief that is non-compliant
Affiliated	571	30	19
Non-affiliated	83	34	57
No agent	262	31	48
All	916	30	25

There is little difference in the percentage of taxpayers who are non-compliant by whether taxpayers use a tax practitioner or not; or where taxpayers use a tax practitioner whether the tax practitioner is affiliated or not. The non-compliance rate for taxpayers who use an affiliated tax practitioner is noticeably lower than the rate for taxpayers who use a non-affiliated tax practitioner or do not use a tax practitioner at 19% compared with 57% and 48% respectively.

1. In this consultation the term 'tax practitioner' means any professional providing tax advice and services. 'Tax agent' is a professional providing tax advice and services that is registered with HMRC to interact with HMRC on behalf of a customer, and 'tax adviser' is a professional providing tax advice and services who may not interact with HMRC on a customer's behalf. [↩](#)
2. The term 'tax advice firms' includes the following categories: accountants, bookkeepers, tax advisers/consultants, payroll professionals (not an exhaustive list). The c.85,000 figure may be a small underestimate. [↩](#)

3. [Money Laundering, Terrorist Financing and Transfer of Funds
\(Information on the Payer\) Regulations 2017 \(amended 2019\)](#) ↩