

TAXATION

Regulating digital asset platforms: proposal paper

Treasury has released a proposal paper that will require digital asset platform operators obtain an AFSL.

IGTO investigation: Commissioner's general powers of administration

IGTO has released its investigation report into the exercise of the Commissioner's general powers of administration.

Member appointments – Tax Practitioners Board

'The Albanese Government has appointed three new members to the Tax Practitioners Board (TPB). These appointments bring a diversity of skills and experience that will add to the capabilities of the board'. More information [here](#)

Client-to-agent linking expended to more businesses

The ATO have advised that from 13 November 2023, client-to-agent linking will apply to all types of entities with an ABN (excluding sole traders). This includes entity types such as companies, trusts, partnerships, superannuation funds and not-for-profits. More information [here](#)

Issue impacting pay as you go instalment variations

The ATO have said that they are aware of an issue impacting pay as you go (PAYG) instalment variations. More information [here](#)

Consultations are underway for changes to superannuation

The ATO have advised that from 1 July 2026, employers will be required to pay their employees' super at the same time as their salary and wages. Treasury recently released a consultation paper which will allow you to provide feedback on the policy aspects of payday super. More information [here](#)

Public and multinational business settlements report released

The ATO have published their first Findings report on public and multinational business settlements. The report details statistics and insights for settlements with public and multinational businesses for the 2022-23 financial year. More information [here](#)

New digital education resource

The ATO have released a video which shows how to view and print a Notice of Assessment in Online services for agents. More information [here](#)

Offsetting credits and refunds from debts on hold

The ATO have advised that they will be writing to registered tax agents with a list of their clients with debts on hold. More information [here](#)

TR 2023/D2 composite items – identifying the depreciating asset

The ATO have said that they are seeking your feedback on a draft Taxation Ruling about identifying a depreciating asset when it's made up of separate parts. More information [here](#)

Need help accessing ATO online services?

The ATO have advised a reminder that from 20 November the Technical Help Desk phone line will be disconnected. More information [here](#)

FINANCIAL SERVICES**Financial advice registration requirement extended**

ASIC has registered an instrument that puts in place further interim measures to delay the requirement for relevant providers to be registered with ASIC.

Financial reporting and audit surveillance report published

ASIC has released the annual financial reporting and audit surveillance report for 2022-23 which shares findings and highlights from the program.

SUPERANNUATION**Recovery and exit plan for APRA regulated entities**

APRA has registered a new prudential standard which requires APRA-regulated entities to develop and maintain a credible recovery and exit plan.

REGULATOR NEWS**ASIC News**

Updates from ASIC in the past week including media releases, news, articles and speeches.

TAXATION**Regulating digital asset platforms: proposal paper**

Treasury has released a [proposal paper](#) that will require digital asset platform operators obtain an Australian Financial Services Licence and so make crypto exchanges and digital asset platforms subject to existing Australian financial services

laws. This will ensure that digital platform operators will need to meet all general licence obligations. In addition, there are some specifically targeted measures.

This follows the release last week of draft legislation which will provide the Reserve Bank with more regulatory powers on digital payment services.

Feedback closes on 1 December 2023, with draft legislation expected next year.

IGTO investigation: Commissioner's general powers of administration

The Inspector General of Taxation and Taxation Ombudsman ("IGTO") has released its investigation report into [The Exercise of the Commissioner's General Powers of Administration](#). The IGTO commenced this review investigation following observations made in a number of complex dispute investigations in which the ATO applied the Commissioner's general powers of administration ("GPA") as part of its administrative actions and decisions.

Areas of the tax system administered in reliance on GPA include: (i) settlement of tax disputes; (ii) compromise of tax debts; (iii) development of practical compliance guidelines; (iv) administering tax laws following significant judicial decisions; (v) implementing aspects of the Government's coronavirus economic support measures; and (vi) implementing a shortcut deduction method for working from home expenses during the COVID-19 pandemic.

As part of the report, IGTO said that it supports the flexibility that the GPA affords the Commissioner to achieve sensible and practicable outcomes for taxpayers as part of their administration of the tax system. However, the IGTO considers that the administration of the tax system and the taxpayer's experience when engaging with the tax system would be enhanced through the implementation of a "principled framework" to guide decision making under the GPA. The IGTO also makes six recommendations which include that:

- the ATO consider establishing an advisory or oversight panel to assist and guide broad reaching exercises of the Commissioner's GPA;
- the ATO consider ways in which it could raise awareness and understanding of the Commissioner's GPA;
- the ATO consider ways in which it could enhance accountability and transparency for broad reaching exercises of the Commissioner's GPA;
- the Government consider enacting a framework of guiding principles for the exercise of the Commissioner's GPA;
- the Government consider improving tax administration by providing the Commissioner with an express administrative discretion, unless expressly excluded by Parliament;
- the Government consider improving tax administration by legislating a requirement for the Commissioner to annually publish and table a record of the

exercises of his GPA where it affects a broad class or broad range of taxpayers.

Member appointments – Tax Practitioners Board

The Hon Stephen Jones MP Assistant Treasurer and Minister for Financial Services has released a media statement which states:

‘Ms Simone Carton is an experienced CEO, lawyer and governance professional who is currently the CEO of the Law Society of the ACT. She has more than 25 years’ experience accumulated across a diverse range of legal, governance and operational roles in a variety of sectors including legal, health, advertising, banking, and the arts.

Mr Phillip Davies is an experienced lawyer, governance professional and ombudsman who is currently the Tolling Customer Ombudsman and CEO at TCO Limited, which provides independent dispute resolution processes nationally for toll road customers. He is also the Deputy Chair of the Conduct Review Commission at the Financial Planning Association of Australia.

Professor Kerrie Sadiq is currently a Professor of Taxation and Australian Research Council Future Fellow at the Queensland University of Technology and part-time editor for the Australian Tax Review. In addition to a distinguished academic career, she has held numerous board positions, including at the Tax Institute’s Higher Education subsidiary as Director; Board Member and Chair of the Academic Board from 2020 to 2023.

These appointments will continue the high level of skills and experience available to the TPB, to help ensure that the key sectors of our economy are effectively regulated.

Client-to-agent linking expended to more businesses

The ATO have said that ‘your existing clients will not need to do anything unless they are providing additional authorisation to you.’

The ATO have published information on their website which outlines [what agents need to do](#)

There is also information on the ATO website which explains [what your clients need to do](#)

You can't complete the agent nomination process on behalf of your client. However, you can help them understand what to do using these linking steps and [client agent linking steps](#)

Issue impacting pay as you go instalment variations

The ATO have said that if your clients have lodged a variation on their activity

statement since 25 August, please check their [activity statement](#) prior to their next lodgment. You may need to complete a new variation on the impacted activity statement.

Consultations are underway for changes to superannuation

The ATO have said that currently, employers are only required to pay their employees' super on a quarterly basis.

The ATO have said that they have been consulting closely with key industry bodies, including Tax Practitioner and Superannuation Industry stewardship groups to co-design the measure.

These consultations will them to gain a better understanding of impacts and changes that may need to be made, which will help inform how payday super will be implemented.

Treasury recently released a [consultation paper](#) which will allow you to provide feedback on the policy aspects of payday super. Please send any feedback to ipaadvacy@publicaccountants.org.au by **30 October 2023**

The final design will be determined by Government and considered as part of the 2024–25 Budget.

For more information, visit [Payday Superannuation](#) or refer to the ATO's [registered consultation details](#)

Public and multinational business settlements report released

The ATO have said that key insights from the report shows:

\$3.08b in additional tax revenue has been secured under settlements reached with 74 businesses for 30 separate tax disputes.

The ATO estimate an additional \$1.5 billion of tax revenue will be collected in future years as a result of these settlements.

All settlements with public and multinational businesses in 2022-23 reviewed to date have been found to be fair and reasonable, and consistent with legal principles.

The release of this report completes the ATO suite of findings reports to give a complete picture of how the ATO advise, assure, monitor and secure compliance with their largest taxpayers.

You can read more about the findings reports released for the Top 100, Top 1,000, RTP Category C Disclosures and Public and multinational business advice and

guidance program in the ATO [recent Business bulletins article](#).

New digital education resource

This video shows how to view and print a Notice of Assessment in Online services for agents.

[View and print a Notice of Assessment](#)

Offsetting credits and refunds from debts on hold

Over the coming months, the ATO have said that they will also be writing directly to your clients who have an active registration and debts on hold greater than \$50 to remind them of these debts. This threshold has increased from \$10 to \$50.

Debts on hold are currently not shown as an outstanding balance on your clients account, as we have made it 'inactive', but the debt is still on their record. The ATO have said that they are updating their systems to improve this experience. These debts will soon be included as part of your clients account balance, so they will be able to receive reminders and view and pay their debts through ATO online services.

More information, including how to view debts on hold and offset transactions in Online services for agents, can be found at ato.gov.au/debtsonhold

TR 2023/D2 composite items – identifying the depreciating asset

The ATO have said that the draft Taxation Ruling sets out:

the relevant principles to assist in determining whether a composite item is itself a depreciating asset or whether its components are separate depreciating assets for the purposes of Division 40 (about capital allowances) of the *Income Tax Assessment Act 1997* (ITAA 1997), and

whether an 'interest in an underlying asset' for the purposes of section 40-35 requires an entity to have an interest in all parts of a composite item that is itself a depreciating asset, or whether an interest in any part of the asset is enough.

The draft Ruling is open for [comment](#) until **Friday 3 November 2023**.

Need help accessing ATO online services?

The ATO have said that you can find support through [self-help web-content](#) or contact their customer service representatives for further assistance.

FINANCIAL SERVICES

Financial advice registration requirement extended

ASIC has registered the [ASIC Corporations \(Amendment\) Instrument 2023/730](#) (the "Amending Instrument"). The Amending Instrument puts in place further interim measures to delay the requirement (the "Registration Requirement") for "relevant providers" to be registered with ASIC as a precondition for providing personal advice ("Financial Advice") to retail clients about relevant financial products.

By way of background, the requirement for relevant providers to be registered was introduced by the Financial Sector Reform (Hayne Royal Commission Response -- Better Advice) Act 2021 ("Better Advice Act"). The registration provisions, as inserted by the Better Advice Act, staggered commencement dates so that Australian financial services ("AFS") licensees and relevant providers could continue providing Financial Advice without being registered up to 1 January 2023. Subsequent steps were taken by the Government to delay the Registration Requirement to 1 October 2023.

The Amending Instrument provides for a further delay to the Registration Requirement to 1 February 2024 in order to allow:

- Parliament to further consider the Treasury Laws Amendment (2023 Measures No. 1) Bill 2023 ("TLAB 1"), which gives ASIC the power to use assisted decision-making systems when processing registration applications and facilitate multiple registration of relevant providers;
- ASIC to implement TLAB 1 if TLAB 1 is enacted;
- industry to understand its rights and obligations concerning the Registration Requirement; and
- AFS licensees to register their relevant providers with ASIC prior to the Registration Requirement commencing.

Financial reporting and audit surveillance report published

ASIC has released the [annual financial reporting and audit surveillance report 2022-23](#). The report shares findings from ASIC's surveillance program which highlights insufficient disclosure of material business risks in the operating and financial review, impairment of assets and revenue recognition and other financial report disclosures. As a result, adjustments totalling \$215 million were made to previously released financial information by ASX-listed companies and other large entities.

180 financial reports of ASX-listed entities and other large unlisted entities, as well as 15 related audit files from 1 July 2022 to 30 June 2023, the report highlights areas where the quality of financial reporting and audits can be improved.

ASIC also said that it expects all audit firms to "focus on audit quality" and that it will continue to review aspects of the quality management systems of the larger audit

firms.

SUPERANNUATION

Recovery and exit plan for APRA regulated entities

APRA has registered the [Banking, Insurance, Life Insurance, Health Insurance and Superannuation \(prudential standard\) determination No. 1 of 2023](#). The instrument implements a new prudential standard, CPS 190 Recovery and Exit Planning, which requires APRA-regulated entities to develop and maintain a credible "recovery and exit" plan.

A recovery and exit plan sets out how an entity could restore its financial resilience in periods of stress or, where this is not possible, exit regulated activity in an orderly and solvent manner. It aims to ensure that the financial system is adequately prepared to manage periods of severe financial stress.

The main components of a recovery and exit plan, as required under CPS 190, include:

- a trigger framework, for early identification and monitoring of stress;
- governance arrangements, for monitoring triggers and timely activation of the plan or specific actions within it;
- recovery and exit actions, for stabilising and restoring financial resilience, or affecting an orderly and solvent exit; and
- a communication strategy, to support the execution of recovery and exit actions.

Significant financial institutions are subject to additional requirements in developing their recovery and exit plans, consistent with the "heightened risks they pose to financial stability".

Date of effect: 1 January 2024.

REGULATOR NEWS

ASIC news

ASIC has released the following updates in its Newsroom section:

- [20 October 2023 - MEDIA RELEASE 23-280MR ASIC bans former PwC partner from providing financial services for eight years](#)
- [20 October 2023 – SPEECH Parliamentary Joint Committee Opening Statement, 20 October 2023](#)
- [20 October 2023 - NEWS ITEM ASIC and APRA release notes on fifth Superannuation CEO Roundtable](#)

- [19 October 2023 - MEDIA RELEASE 23-279MR AAT sets aside banning orders made against Dominique Grubisa](#)
- [19 October 2023 - NEWS ITEM Reportable situations regime: ASIC modifies licensees' obligations](#)
- [18 October 2023 – SPEECH Regulatory update at 33rd Annual Credit Law Conference](#)
- [18 October 2023 - MEDIA RELEASE 23-278MR ASIC releases first integrated financial reporting and audit surveillance report for 12 months to 30 June 2023](#)
- [16 October 2023 – SPEECH Crypto-assets: The case for strong regulation and enforcement](#)
- [13 October 2023 - MEDIA RELEASE 23-277MR ASIC wins landmark continuous disclosure case against ANZ](#)