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Draft Finance Bill 2025 -26

Modernising and mandating tax adviser registration with HMRC[1]

Response by the Chartered Institute of Taxation

1. Executive Summary

1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.

1.2. The CIOT is grateful for the opportunity to discuss our feedback with HMRC during the consultation process and welcome HMRC's offer to continue this engagement post consultation. Our response covers several areas which require further careful consideration to address the significant concerns arising from the current drafting of the proposals.

1.3. We would query whether the register needs to be introduced to the current timetable envisaged and there are two possible ways forward:

a. If the register is to be introduced in April 2026 we would urge HMRC to review recommendations provided in this response and test amendments with stakeholders, as well as providing clear guidance as soon as possible; or

b. Our preferred position is that implementation is deferred (for at least a year to April 2027) to enable further consideration of the legislation and practical implementation.

We urge HMRC to resolve the issues we identify in this response before the legislation is finalised for parliamentary scrutiny and test revisions with stakeholders to avoid unforeseen consequences. Improved legislation is needed to support the policy aims, reduce requirements for supplementary guidance, provide improved clarity for tax advisers, and ultimately ensure that the current proposals become workable for tax agents and taxpayers.

[1] https://www.gov.uk/government/publications/modernising-and-mandating-tax-adviser-registration-with-hmrc

1.4. We see a register of tax advisers as a first step towards further measures to raise standards in the tax advice market. We do however note that this legislation only applies to those who interact with HMRC and therefore there will be a significant section of the tax advice market completely outside the scope of the legislation. Whilst the explanatory note with the draft legislation indicates that there are 'limited exceptions' to the requirement to register, the need to interact with HMRC gives exception to a considerable proportion of the market. This reduces the potential impact of the policy objectives to raise standards and to take action in relation to those who are outside scope (a population which is likely to include many of those historically responsible for some of the most egregious harms). We recognise that this limitation was noted and recognised when mandatory registration was consulted on, and that registration is seen as a potential first step in considering wider regulation, but this makes it all the more important that the design and conditions of this narrower policy do not lead to excessive costs, burdens, risk or practical difficulties which further distort the market.

1.5. The eligibility criteria set out give HMRC scope to impose wide ranging standards on tax advisers if they are to interact with HMRC. Feedback received from our membership indicates concern that this may be viewed as introducing HMRC regulation of a defined section of the tax market (ie. just those who interact directly with HMRC) via the backdoor. The definition of a regulator is a body that sets conditions for entry to a market and/ or minimum standards for the work of those in the market, monitors performance against those standards and imposes consequences on those who fail to adhere to those standards (eg penalties or exclusion). This is because:

- The draft legislation defines the 'market' via clauses 1 and 3;
- The inclusion of Condition B in the eligibility conditions, reinforced by the power for HMRC/HMT to make regulations altering the conditions, sets the minimum standards;
- HMRC's Intermediaries Directorate will monitor performance against those standards, by monitoring compliance with all the conditions; and
- The draft legislation specifies the consequences that HMRC can impose if an adviser fails to meet the standards: suspension or prohibition of registration and penalties.

As acknowledged in HMRC's response to the 2024 consultation, HMRC would have a conflict of interest if it is the regulator, which may damage trust in the tax system. For the above reasons, the inclusion of Condition B would make this concern a reality and we do not support its inclusion in the draft legislation. In addition, the wording of clause 22, about HMT's ability to make regulations, needs to be suitably limited so that it does not enable Condition B to be replaced via Statutory Instrument. HMRC do not need Condition B to ensure that tax advisers have good standing (they have the other conditions) and commencement dates could still be modified by regulation, if the need arises. Wider regulation of the profession can then be considered via a future consultation, without being complicated by HMRC already being the regulator

If Condition B is retained, at a minimum the legislation needs to provide safeguards. These could, for example, include the requirement for an independent panel to review and approve the standards to be applied under Condition B. The safeguards will need to be clearly independent and transparent to be seen as fair and ensure trust that they can be relied upon.

1.6. As drafted we believe there may be unintended consequences of the legislation. For example, Condition B coupled with the draft facilitating non-compliance legislation may result in agents feeling hesitant about being able to have or to pursue legitimate technical disagreements with HMRC on behalf of their clients once the

legislation comes into effect. This is not healthy given the complexities and uncertainties in aspects of UK tax law and the reality that HMRC's view is not always proven correct. Some clients may be concerned about this too and some may turn to tax advisory only firms (who are not registered) for tax advice and tax dispute resolution services, undermining the objectives of the proposals to raise standards and distorting the market in the process.

1.7. HMRC powers as set out in the draft legislation are wide. Decision making seems to sit with individual HMRC officers. This should not be the case, given the potential impact on a tax adviser's business and disruption to their clients. There needs to be comprehensive, transparent oversight and governance. One such example is the drafting of HMRC powers relating to suspension. Every letter/communication related to suspension should be reviewed/signed off before it leaves HMRC. The Tax Dispute Resolution Board (TDRB) or the HMRC Commissioners should be required to carefully review and approve any decision to suspend or remove a firm's ability to interact with HMRC directly.

1.8. We consider that the process of transition to the new register is unclear. The education of agents needs to start as soon as possible particularly given the pressures on agents dealing with self-assessment returns in the period from November 2025 to January 2026, combined with the introduction of Making Tax Digital (MTD) quarterly filing from April 2026. We are already receiving questions from CIOT members who will be impacted by this measure as to what actions they will need to take to comply and the timelines involved. This is one of the reasons why the CIOT considers the measure should be deferred for at least a year to enable full consideration of the measures.

2. Clause 1 – Meaning of tax adviser

2.1. Clause 1(1) provides that a tax adviser is a 'person' who 'in the course of business assists other persons with their tax affairs'. We can see that the draft legislation has tried to cover the distinction between individual tax advisers and firms/organisations that they work for. However, we would query whether the legislation works entirely as intended. The use of 'person' by definition, does not include a partnership (other than in Scotland). A partner in an 1890 Act partnership (ie. not an LLP) – at least in England, Wales and Northern Ireland - is in business themselves. The partnership is not a 'person' so the 'tax adviser' must be the individual. The partnership is then presumably the 'organisation' in s1(4). But s4(3)(b) then doesn't seem to work properly as the tax adviser (ie. the individual) doesn't have senior managers (they have fellow partners). By contrast an LLP (and a Scottish partnership) is a 'person' and so presumably is the tax adviser. S4(3)(b) then makes sense.

2.2. Clause 1(1) refers to a 'tax adviser' as a person in the course of a business assisting other persons with their tax affairs. It may be the case that the business is not an accountancy or tax business but in the course of business (for example, as a manufacturing firm) employees work on the corporation tax for their employing company and other companies within the same group. They would not be required to register for AML supervision as they are not acting in the course of business in the UK as an external accountant or tax adviser but as drafted the legislation may suggest such businesses have to individually register with HMRC as a tax adviser. We are receiving queries from employees working in in-house tax teams in industry as to whether the legislation applies to them and we discussed this with you during the consultation period. You indicated at that stage that HMRC are planning to issue guidance to clarify the position for those operating in various capacities who undertake tax work. Whilst guidance with examples is helpful the CIOT considers that clarity in legislation provides greater certainty for tax advisers as the courts look to legislation. We would therefore welcome a tightening of the wording of the legislation.

2.3. The current definition of tax adviser also captures a range of professional services whose primary service is not the provision of tax advice such as engineers providing R&D reports, valuers, surveyors etc. The legislation should be clear that these services are excluded.

2.4. It would be helpful to understand why those providing services on a charitable basis are not within scope of the registration requirements. Charities often provide support to some of the most vulnerable in society who are reliant on the advice provided and it is important that these tax service providers are also required to meet high standards and that action can be taken where they do not. Such charitable organisations may have agent codes for filing purposes but do not require AML supervision because they are providing services on a charitable basis.

2.5. Clarity in the legislation is also required as a reading of the current draft suggests that someone who acts as a tax adviser in the course of business but also gives tax advice in an individual capacity without being paid will need to register in respect of that latter activity. For example, if an individual helps family and friends free of charge and that individual also has a job as a tax adviser in a professional firm which is registered with HMRC, it is currently unclear whether that individual also needs to register in their personal capacity as a tax adviser in respect of their work helping friends and family. The way the legislation is currently drafted is resulting in queries as to where lines are drawn for registration in a scenario like this.

2.6. Clause 1(4) also says that it doesn't matter if the individual works for an organisation. There is a lack of clarity as to whether the definition of 'organisation' includes LLPs, companies, Scottish partnerships and foreign entities. If not, that may mean LLPs, companies, Scottish partnerships and foreign entities (at least those that have legal personality) may be interpreted as having a dual registration requirement at BOTH firm and individual level. Whereas for a sole trader or partner in a conventional partnership there is only a single registration requirement. The legislation should make it clear when there would be a dual registration requirement.

2.7. We note that HMRC did consider the definition of tax adviser and whether this should be aligned with the definition in the Money Laundering Regulations (MLR) but have chosen a different definition. We notice the definition of tax adviser in the registration consultation is therefore not aligned with the MLR definition even though Condition C requires anti-money laundering (AML) supervision. The definition is also not aligned with that of a tax agent in the draft deliberate conduct legislation. We understand from discussions that this has been raised by a number of stakeholders and that you are considering how the terms used and the definitions can be aligned. This is important as an agent is often understood to mean a person who prepares and files tax returns and documents on behalf of their client, whereas an adviser has a wider meaning and includes those who simply provide tax advice in general.

3. Clauses 2 and 3 – Requirement to Register and Exemptions

3.1. Clause 3(1)(a) - An adviser is exempted from the requirement to register 'where the adviser is an individual who works for an organisation and interacts with HMRC in the course of a business carried on by that organisation'. Working for an organisation 'includes being a director, partner or member of an organisation' [Cl 21(4)]. 'Organisation' 'includes any person carrying on a business' [Cl 21(1)]. The aim of this seems to be to restrict the requirement to register to the LLP/corporate which seems sensible. However, the wording could be tightened to give clarity – in particular:

- What does 'works for' mean? Not all LLPs employ their staff directly. Some have companies which are owned by the LLP and which employ and pay the staff, supplying their services to the LLP which then engages with the client and bills the staff (and LLP members') time to the client. In this situation do the staff 'work for' the LLP?

- See the point above in relation to individuals who work for a business organisation (in industry) who may be working on the tax affairs of their employer business and other businesses in the group. We have received a specific query as to whether in-house tax teams are within scope. For example, an in-house tax team who submit the business' Corporation Tax, VAT and PAYE returns for example and may also submit SA returns for the directors perhaps.

3.2. In relation to existing agents we understand from discussions that existing agents will not need to re-register and that those with an Agent Services Account (ASA) will automatically be added to the register. We consider that the legislation should be amended to indicate that HMRC can 'grandfather' in all existing firms with an ASA so there is no disruption to the services that they provide to their clients. We understand that following this transfer agents will need to demonstrate compliance with the conditions set out in the legislation. It is unclear when and how these checks will be dealt with and the timeframe. We have covered further points in relation to this in the section below on practical implications.

3.3. The position for existing agents with an agent code (but no ASA) remains unclear as does the position for those with agent codes but no current requirement for AML supervision. We assume that these agents will need to register from April 2026 but confirmation of this would be helpful and the CIOT would also seek reassurance that these agents would not lose access to HMRC systems during the transitional period. Loss of access could seriously damage an agent's ability to make submissions for clients or their business (where they work in industry) and reduce levels of tax compliance by those they serve.

3.4. As referred to above, tax advisers who provide advisory services are not required to register. The draft legislation provides a requirement to register where the tax adviser 'interacts' with HMRC. An adviser who is acting in a purely advisory capacity would not be required to register, which means that this legislation will have little or no meaningful impact on the way that they work. This may also encourage firms to 'get around' the registration requirements by assisting clients to interact with HMRC themselves eg by drafting letters for the client to sign and send.

3.5. The CIOT consider that HMRC should make the legislation and associated guidance clearer in relation to software companies and when they would be within scope of registration. There will be queries as to where the lines are drawn on tax software providers under the exemption from the requirement to register. There is a scale here of firms who purely sell software with no support, support provided on explaining software and the provision of sophisticated software which provides prompts or is provided alongside the option to receive advice. The provision of nudges and prompts will continue to expand and grow with projects such as Making Tax Digital resulting in increasing numbers of taxpayers using commercial software to deal with their tax obligations.

3.6. Points noted here illustrate the potential number of queries which HMRC may need to deal with in relation to registration requirements if the scope of the legislation is unclear. Unclear legislation will also make 'policing the perimeter' more difficult with some firms arguing that whatever the guidance indicates there is no statutory requirement for them to register.

4. Clause 5 – Eligibility conditions (and definition of a senior manager)

4.1. We have discussed with you the requirements for a 'senior manager' to comply with eligibility conditions, and the definition of a senior manager (Clause 21(2)). The current draft may be read as capturing all senior managers (employees), despite indications from HMRC that the policy intention is to require 'any partner/director' to comply with the eligibility conditions. Specifically on LLPs, it may be read as capturing every partner within an LLP, including non-equity partners. For corporate structures, it is our understanding that all directors are caught under the definition of a senior manager.

4.2. Many firms have people falling within the definition 'senior manager' who are far removed from any decision making on the running of the tax practice, even at partner level. Furthermore 'senior manager' is a common job title in firms providing tax services (a bit like describing someone in legislation relating to HMRC as a 'Grade 7 Tax Specialist' or 'Grade 6 Tax Specialist'). From discussions we understand that HMRC have a concern about limiting too much the individuals subject to checks to avoid creating loopholes. The CIOT consider that the scope of the legislation should target the individuals in charge of the tax function in a firm, rather than the staff members undertaking the tax work (or wider work). We have suggested potential alternative options to make the legislation clearer and achieve the policy aims.

4.3. One suggestion to mitigate against confusion is for the title to be changed to 'Responsible tax person' or 'Responsible individual', perhaps with the addition of 'senior' in front of the label if the intention is to focus on individuals leading a firm's tax service stream. We also suggest that there is consideration as to whether the term used and/or the definition should align with that in the draft legislation for 'promoters', as the divergence between the two 'senior manager' usages and definitions is confusing.

4.4. Suggested amendments to clause 21(2) focus on the people in charge are in *red italics* below.

(2) A '*responsible tax person*' means—

(a) in relation to a body corporate other than one whose affairs are managed by its members—
(i) a director, manager, secretary or other similar officer of the body, or a person purporting to act in such a capacity, or

(ii) a shadow director within the meaning of section 251 of the Companies Act 2006:

(b) in relation to a limited liability partnership or other body corporate (*'the firm'*) whose affairs are managed by its members –

i) a member, *who by being a participant in a board or committee which* exercise~~*esing*~~ management functions *over the firm's provision of taxation services to clients*~~, or purporting to do so~~, or
(ii) in the case of a limited liability partnership, a shadow member;

(c) in relation to a partnership, a partner or a person purporting to act in that capacity.

(3) In this section, a 'shadow member' means a person in accordance with whose directions or instructions the members of the limited liability partnership are accustomed to act, save that a person is not a shadow member by reason only of the fact that the members act on advice given by that person in a professional capacity *or by reason of being an employee of the limited liability partnership.'.*

4.5. Another possibility to be considered would be the requirement for a firm to have a system of nominated officer(s) in the same way as they are required to under the Money Laundering Regulations (MLR). In most firms this individual is normally referred to as the Money Laundering Reporting Officer (MLRO) and is required to receive and deal with reports of knowledge or suspicion of money laundering and take responsibility for the firm's compliance with the MLR (See Regulation 21 Money Laundering Regulations 2017). For larger firms there are additional requirements. A similar appointment of an individual responsible for the firm's tax services would give clarity on the individual(s) subject to penalties for failing to register and maintain appropriate standards. The MLRO role carries with it significant responsibilities and significant penalties for acting incorrectly and in our experience MLROs work hard to ensure compliance with requirements throughout an organisation.

4.6. Larger firms tend to have complex governance structures in place. They may be providing multiple services eg audit, tax, business recovery, forensic services, business advisory services etc. A leadership board typically runs the firm as a whole, with a sub-board running each of these services, with further committees/sub-boards for specific matters. Whilst senior employees may provide input to these boards, the partners/LLP members make the decisions. Partners running the client work (and those working with them) must work within the 'rules' set by the boards. The above definition therefore needs to be refined so that it is targeted on the tax board – not least as PCRT requires only those with the requisite knowledge and experience to be doing tax work (presumably including running a tax practice).

4.7. It is important that employees are scoped out as it is the LLP members who make the decisions and who also decide things like record retention policies (which may affect whether an employee – who may by then be an ex-employee or retired – can access the evidence at the time to demonstrate if the LLP is 'accustomed to act' on their instructions'). This is difficult for HMRC and the person to evidence and so should be removed from the test.

4.8. In reality, there can be layers of partners in firms with diminishing levels of autonomy and employees in such firms do not have final say, as that lies with the decision making partners leading the tax function. We would also welcome clarity from HMRC here that they are seeking to target the people in charge of the tax function in a firm rather than the people doing the tax work for clients, the general leadership of firms or parts of firms that deliver services unrelated to tax. If HMRC would rather focus on a single individual (as happens in the AML legislation) then perhaps the focus should be a firm's Head of Tax.

4.9. There are risks associated with not getting the definitions right in terms of responsible individuals. If the senior manager definition is too broad and captures people who have nothing to do with tax in a firm this may act as a disincentive for individuals to take on these roles within tax firms. Where individuals are in a role where they cannot reasonably be expected to know the approach taken by the tax function (which would appear to be the outcome based on current drafting), this will have an impact on the requirements which risk teams in large firms then put in place. In some cases, firms may decide to restrict the areas of tax advice they are willing to be involved in where they are on the register but of course the same considerations would not apply to those who do not interact with HMRC and are not required to register

4.10. Careful consideration also needs to be given to firms which are not primarily providing tax and accounting services. This may include legal firms which have a tax department. We discuss above the distinction between general leadership and those that are in charge of the tax function, however, there may not be a 'tax board' in a legal firm given these are not tax and accounting firms. We have received comments indicating a concern that trying to ensure the leadership as a whole meets eligibility conditions will be particularly problematic. The legislation must be clear on HMRC's policy position here – is the intention that general leadership should

comply with the eligibility conditions, even where the firm is not primarily a tax or accounting firm? Or should it be the person (normally a partner/LLP member) who is in charge of the tax department?

4.11. Clause 5(2)(a) provides that a tax adviser must not have any outstanding tax returns. At present the legislation is drafted such that one small mistake (eg one senior member whose got behind on their tax payments) could cause HMRC to suspend the agent registration. This is disproportionate. Suspension should only occur when it is in the public interest and is proportionate and reasonable given the mistake that has occurred and the steps the firm is taking to prevent a repeat. Firms' work is delivered by humans, so expecting them to never make a mistake and leaving an implicit threat of suspension for one mistake seems disproportionate. We understand that HMRC consider that discretion will be applied and further guidance on implementation will cover this. The CIOT consider that legislation should be clear on any de minimis thresholds in relation to Condition A. For example, at present nothing has been included to indicate any thresholds on the amount of tax outstanding or the time that tax or a tax return is overdue for. There could also be the situation where HMRC and the senior manager have different interpretations of the tax due in relation to a tax return entry which might lead the senior manager to consider no tax is outstanding whilst HMRC consider there is tax outstanding – it is unclear what would happen in these circumstances What if an individual coming within the definition of Senior Manager has been unable to fulfil their requirements because of illness or bereavement? We note that HMRC is required to adhere to the Public Sector Equality Duty (as a consequence of the Equality Act 2010). This is part of the reason why late filing and late payment penalties are not imposed where a taxpayer has a reasonable excuse for not complying on time (eg due to ill health). Could the draft legislation be amended to take this into account?

4.12. As currently drafted there are considerable challenges for large firms as it would appear they will need to be aware of the tax compliance and tax payment status of all relevant individuals. Whilst in some cases work may be coordinated centrally there is nothing which requires senior individuals within a firm to disclose to others within the same business information in relation to their own tax affairs. We understand from recent discussions that as part of the registration process HMRC may be looking for relevant individuals to consent to HMRC sharing information about their tax compliance and payment records with the firm. Given the potential number of individuals currently within scope as relevant individuals we would suggest that the legislation should include a requirement for a process to be in place within those organisations in scope to require information to be disclosed and monitored. In large firms and based on the legislation as drafted there could be a requirement for firms to monitor tax compliance in relation to hundreds of individuals. This will have administrative and cost implications for the relevant firms. The greater the number of individuals who come within the senior manager definition the greater the cost for each firm to implement the legislation and this should be reflected in impact assessments.

4.13. If HMRC do not set out in legislation the ability to disclose to a firm that the relevant individual is behind with their tax affairs this will cause considerable problems for firms trying to understand why their registration has been denied and rectify the position. At present we are unclear how these details can s be disclosed to a firm given the requirement for HMRC to maintain taxpayer confidentiality under CRCA 2005? Any decision to enable the sharing of information with the firm is a significant step away from the principle of taxpayer confidentiality. The mechanism for this sharing needs to be more transparent as do the safeguards. We consider that the potential for disclosure should be subject to greater consideration and consultation before being enacted.

4.14. Clause 5(2)(a) – this section does not make it clear that the condition only relates to UK tax returns and UK tax due. Clarity is required on overseas tax returns and payments of relevant individuals. Consideration also needs

to be given as to whether an outstanding MTD quarterly filing would constitute a late tax return under this clause.

4.15. Clause 5(2)(c) - this says that the tax adviser and their senior manager(s) are not subject to sanction or another measure imposed by HMRC in relation to tax anti-avoidance activities. There is no definition of 'tax anti-avoidance activities' and the definition should be included in the legislation to give clarity here It is essential that such information is in the legislation as Tribunals are not bound to follow HMRC guidance, only legislation.

4.16. Clause 5(3) - Condition B refers to the adviser and their senior manager meeting 'any standards expected of tax advisers in their dealings with HMRC that are specified in a notice or other document published by HMRC for the purposes of this section'. Our understanding from our recent meeting is that the intention is that these standards will essentially be HMRC's Standard for Agents, and that this was not expressly included within the legislation in case there is future change. It is unclear whether there is anything else with which HMRC expects firms to comply under Condition B. HMRC is in the process of creating AI principles and software standards (per its Transformation Roadmap) so, if the firm is in scope of this, will this be another thing which affects whether registration as an agent can take place? There is also a question over whether it is appropriate to leave this open-ended for 'future change'? This condition effectively seems to make HMRC the profession's regulator without any Parliamentary oversight of the standards (or costs thereof) that it imposes. When this option was discussed via a 2023/24 consultation, it was discounted partly because HMRC will have a conflict of interest if it retains its current role and becomes a de-facto regulator so why is it getting this power now? Will HMRC stick to Professional Conduct in Relation to Taxation (PCRT) in future or develop the Standards for Agents away from it. How will other guidance (eg Guidelines for Compliance) fit into this (particularly given guidance is not comprehensive, is mostly ignored by the FTT and sometimes ignored and argued against by HMRC itself)?

4.17. The CIOT consider that safeguards must be introduced to ensure the standards expected of tax advisers are clear and the introduction of new standards is proportionate. At the very least the legislation should make clear that the standards applied must be signed off by an independent panel with both HMRC representation and representation from the tax advice sector. We recommend convening such a panel in advance of the introduction of the register in April 2026 to consider and agree which standards are being applied from the outset.

4.18. Clause 5(2) and 5(3) – Conditions A and B – we have queried with HMRC the position for a new firm is setting up. We understand that in the absence of information indicating non-compliance with Conditions A and B then registration will be permitted but as with other registrants it will be subject to ongoing monitoring.

5. Clause 7 – Determination of application

5.1. Clause 7(1) and 7(3) – The legislation would provide clarity on HMRC's requirements if it imposed a deadline on HMRC to respond to the tax adviser's registration eg 30 days? Failure to set a deadline leaves the prospect of advisers being unable to conduct business whilst waiting for HMRC to make a decision and not knowing how long it may take HMRC to respond.

5.2. Clause 7(2) – Provides HMRC with the power to ask the tax adviser to 'provide further information or evidence in relation to the application', which we are concerned provides HMRC with the power to ask for unlimited information. Is this the intention? Perhaps this clause could be changed to 'Before deciding whether to approve the application, the officer may require the tax adviser to provide further *relevant* information evidence in

relation to the application as the officer reasonably requires for the purpose of deciding whether or *to approve the application'*.

5.3. Clause 7(3) – Provides that HMRC 'must approve the application if satisfied that the eligibility conditions are met' ie. there is mandatory acceptance by HMRC if Conditions A to C are met. Our concern lies with the interaction of Condition B and the meeting of 'any standards expected of tax advisers in their dealings with HMRC that are specified in a notice or other document published by HMRC for the purposes of this section'. By not specifically defining what these standards are HMRC are being given unfettered power in the legislation. There is also the potential for future change. If those standards introduce subjectivity or ambiguity, this effectively means there isn't mandatory acceptance of registrations.

5.4. Clause 7(4) – provides HMRC with the power to register the adviser from 'such date as the officer may specify'. There should not be a delay here, as it affects the adviser's ability to conduct business and help taxpayers. If there are specific reasons why this has not been drafted such that registration would take effect immediately and in a way that resulted in very minimal delay in notifying the agent it would be helpful to understand the background. Suggested rewording may be: 'Where an application under this Part is approved, the officer must register the adviser with *immediate* effect ~~*from such date as the officer may specify*~~. *and notify the adviser the same day that they are registered.'*

6. Clause 9 – suspension of registration

6.1. Clause 9(2) – The legislation here refers to may and it should be updated to refer to must. The suggested rewording is: 'Before suspending a tax adviser's registration under this section, the officer ~~*may*~~ *must* provide the adviser with an opportunity to… within a period specified by the officer.'

6.2. The 'period specified' should be defined – or at least a minimum period should be specified (leaving the possibility of a longer period if the matter is complex) eg 60 days. Advisers should also be provided with an explanation otherwise there is no opportunity to correct misunderstandings etc.

6.3. It is difficult to conceive of a situation where it would be in the public interest for HMRC to suspend a firm's registration after they make just one mistake in relation to one condition. Is this HMRC's intention? We consider that there should be proportionate escalation process so that firms have a chance to improve. There should be recognition that mistakes can happen as advisers are human and also that sometimes a person in a firm ignores firm procedures. There should be a clear escalation route eg

mistake one – you are politely spoken to and educated;

mistake 2 (within the next year) – you are told to improve;

mistake 3 (within a year of mistake 2) – written warning;

mistake 4 – written final warning;

mistake 5 – consider suspension.

Also the number of mistakes should be proportionate to the size of the firm in question due to the number of staff and partners involved.

6.4. Clause 9(3) – We suggest that the legislation here should also be changed from may to must: 'An officer of Revenue and Customs *must* ~~*may*~~, by notice, end a suspension of a tax adviser's registration under this section if satisfied that the eligibility conditions are met in relation to the adviser.' Is the notice referred to here required to be in the same format? It would be helpful for this to be clarified in the drafting. There should also be a time specified ie. that as soon as the officer is satisfied that the eligibility conditions are met the suspension must be lifted within, say, 5 days.

6.5. Clause 9(4) – The legislation does not provide clarity on the date that a suspension would start and finish, with HMRC having the discretion to choose the date. It is important that this point is made clear so tax advisers understand how the rules operate.

7. Clause 10 – Compliance notice

7.1. The draft says that HMRC may issue a compliance notice. In what circumstances 'may' this apply? The inclusion of criteria (or how they will be set) should be included in guidance, if not in the legislation.

7.2. Is the intention that a compliance notice will only be issued following suspension of an agent's registration or that a compliance notice can be issued by HMRC without suspending the agent first?

8. Clauses 11 and 12 – Financial penalties

8.1. How well will HMRC be able to distinguish calls to it from Firm A (as liquidator of X Ltd) – ie. as the taxpayer – from those from Firm A as adviser to Y Ltd, given only the latter should be subject to penalties? This is linked to our point about clarity of in the legislation as to who is within scope where they may have different roles.

8.2. Clause 12 provides that where 'the contravention is attributable to a senior manager of the tax adviser' then the senior manager is liable for the penalty. What does 'attributable' mean? We presume that means that the senior manager would only be liable where the continued acting under a suspension notice is directly attributable to the actions of the senior manager ie. the senior manager choosing to continue to interact with HMRC despite instruction otherwise from their business/organisation/employer. Rather than a senior manager being attributable because they were the one partner/employee of the business/organisation that failed the eligibility conditions to result in a suspension?

9. Clause 15 – Notification to clients

9.1 It is unclear from the legislation whether the register of tax advisers will be published or whether tax advisers on the register will need to make this clear on the literature, websites, email signature strips etc. Whilst an adviser may meet the eligibility requirements to be on the register this indicates only basic standards have been met and HMRC should make it clear to taxpayers that a tax adviser being registered with HMRC is not a badge of endorsement.

9.2 If there will be requirement to notify clients on removal from the register it would seem appropriate that firms also have to indicate whether they are on the register to begin with so clients can be clear whether a firm has the ability to interact directly with HMRC.

9.3 Notifying all clients will be significantly damaging for agent's businesses particularly if issues are then rectified and registration is re-instated. The legislation should be amended to only require client notification for systemic and deliberate conduct and where the First Tier Tribunal has confirmed the suspension on appeal or the adviser hasn't appealed within the statutory time limit.

10. Clause 17 – Time limits and treatments of penalties

10.1. The draft legislation says that an assessment of a penalty 'must be made within the period of…'. Case law says that an assessment is made when HMRC authorises its entry into the computer (*Corbally-Stourton v HMRC* [2008] UKSPC 692). So HMRC could make an assessment and not notify the adviser for an unlimited amount of time – the adviser would be unaware of their liability to penalties (particularly likely the bigger the firm as those running the firm may be unaware that someone has contacted HMRC). The payment or appeal deadline runs from the date on which the assessment is issued. We would suggest revising 17(1) and (2) so they both say that an assessment of a penalty… 'must be *made and issued* within the period of 12 months beginning with the day on which….'

11. Schedule 1 para 3 – Time to accept offer of review

11.1. Clause 3(2) provides that HMRC may 'by notice extend the period within which a person may accept the offer of review'. Has the case of Indigo Media Partnership (TC4601) (paragraph 80) been considered? In this case, the FTT held that these powers to extend did not exist in relation to the equivalent provisions of TMA 1970?

12. Schedule 1 para 6 (6)– Delayed HMRC reviews

12.1. This section notes that if the conclusions of review are not notified within the period specified in sub-paragraph (5) then the review is to be treated as having concluded the decision is upheld. This does not align with fairness principles - if HMRC misses the deadline, the default should be that the decision is withdrawn.

13. Schedule 1 para 8 – Powers of Tribunal

13.1. Why draft it this way given it is more usual to say that the tribunal can confirm, vary or cancel HMRC's decision?

14. Schedule 1 para 9 – Temporary relief pending review or appeal

14.1. Temporary reinstatement seems too narrowly scoped. It only applies if the adviser would be unable to continue as a going concern pending the final determination of a review or appeal. Where a firm provides tax services alongside other services (eg audit, management consultancy, insolvency etc) it may be able to survive as a going concern without its tax practice, but with considerable damage (probably irreparable) to that practice. Appeals take years to resolve.

14.2. Also, the temporary reinstatement process also seems somewhat circular and ineffective as it takes into account the likelihood of the appeal succeeding and the person at HMRC considering it is the same officer (so

there's no independent oversight or a 'fresh pair of eyes'). Surely all firms should keep their registration until conclusion of ALL appeals against the decision?

14.3. Clause 9(5) provides that the reinstatement may be subject to any 'conditions or restrictions imposed on the temporary reinstatement'. These conditions or restrictions are not defined within the legislation. What sort of conditions or restrictions would this be and would this continue to impact the agent's ability to continue to operate during the temporary reinstatement?

15. Implementation

The CIOT have several concerns and comments about the implementation of the register, which are set out below.

Effective design and implementation

15.1. The policy paper states that 'the government will mandate registration from 1 April 2026 and is investing £36 million to modernise existing registration services'. Key details of the new agent registration process are still not known although we understand from discussions with HMRC that the legislation permits registration in tranches with guidance due to be published on the process, outlining who will be expected to register first. Although we have had initial confidential discussions through HMRC working groups around problems with the current agent registration process, even confidentially, we do not have any details to date on what the new agent registration process will look like. We understand that there is a desire to integrate the registration of overseas agents into the new process, but this in itself, has complexities which need to be carefully considered.

15.2. HMRC should test the new online system before rolling it out to ensure that it works, is secure and it is user friendly by:

(a) listing the information that the person will need to have to hand to fill in the form;

(b) allowing the form to be downloaded when partially complete – as it is likely this would need to go through some form of internal review and approval before submission;

(c) allowing the person to go back into the form, update the entries as needed and then submit it;

(d) allowing the person to download a copy of the final submitted form for evidence;

(e) providing a reference to confirm it got through the gateway and the date/time this occurred so the person knows the submission worked. Security includes HMRC ensuring that only an appropriately authorised person can submit the info on behalf of a firm.

We also consider there should be extensive testing of the system to share information about AML supervision with the professional body supervisors before April 2026. The Authorised Corporate Service Provider requirements have highlighted the difficulty in sharing information electronically with Companies House. As discussed previously it would also be helpful to have a designated contact in place ready for April 2026 so that AML supervisors such as the CIOT can contact that individual where members are having difficulties in registering and providing confirmation of supervision.

15.3. Clause 2(3) provides the definition of interacting with HMRC includes 'filing a return, claim or other document with HMRC (whether electronically or otherwise)'. We would welcome clarity from HMRC on whether the plan

is to move all tax filings behind the agent registration. Currently, not having an agent registration does not prevent certain filings. This is perhaps increasingly relevant for legal firms who are involved with Inheritance Tax compliance and Stamp Duty Land Tax or Land and Buildings Transaction Tax, and most immediately relevant for the Inheritance Tax digitalisation project.

15.4. We are concerned about the issues that an April 2026 start date will have on agents and supporting agents under Making Tax Digital for Income Tax (MTD). MTD is one of the greatest changes to tax administration, perhaps since the introduction of Self-Assessment and will change how the market operates. For existing main agents and supporting agents already registered for an ASA under MTD testing or in anticipation of the April start date, there will be transitional requirements. It is unclear what these requirements will be and what the transitional period will look like. Care needs taken that any issues with the registration process for new supporting agents entering the market post April, and the transitional period for existing agents/supporting agents, does not result in agents being unable to make their client's MTD quarterly submissions at such a critical time in the roll out of MTD.

15.5. An education programme for tax advisers will be key to the implementation of the project and we would like to understand more about this and how messages will be communicated to agents including those based overseas. We can see there may be issues with overseas agents in relation to evidencing AML requirements. For example, our understanding is that advisers in France working on UK returns cannot register for AML in France as they are not lawyers but cannot register with UK professional bodies as they are not based in the UK. Care must also be taken around supporting agents for MTD, who are more likely to have bookkeeping skills rather than being trained tax advisers. There will be a challenge in ensuring new firms register for AML supervision and become aware of the need for agent registration on a timely basis. Careful consideration ought to be given to the education and guidance provided by both through the agent registration project team and the MTD project team, ideally collaboratively and in tandem.

Transitioning existing agents

15.6. Difficulties already exist in merging old agent accounts (for example where a firm has clients across numerous old agent accounts, say for different offices) and Agent Service Accounts where organisations have merged. Currently, due to GDPR requirements, an agent must move each client individually – which can be a long and painful process for agents. In September 2024, HMRC ran a One to Many (OTM) campaign to ask agents to review their existing agent codes, and confirm which codes were in use and those that were no longer required. We would assume that this work to review and tidy tax codes was a preparatory step for the new agent registration process, however the success of agent code OTM is perhaps questionable due to the OTM campaign being fraught with difficulties, which affected the response rate.

15.7. As noted above, we await further information on the £36 million project to modernise agent registration. Whilst we understand from the discussions that we have had with HMRC that those with an ASA will automatically be moved across to the register a number of areas remain unclear for existing agents. For example, will Form COMP1s and Form 64-8 be grandfathered in? How will HMRC cope where a firm has an Agent Services Account and legacy agents accounts (which may not be linked to the ASA and may be several per firm eg one per office) – will all those continue working and be linked to the agent registration somehow? How do HMRC plan to deal with the transition of these legacy accounts? These existing issues with merging accounts, and issues with the OTM campaign, highlight why care, consultation and collaboration is needed when transitioning agents.

16. About us

16.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

16.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

16.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

16.4. The objects of the Institute include:

- to prevent crime and
- to promote the sound administration of the law for the public benefit by promoting and enforcing standards of professional conduct amongst those engaged in the provision of advice and services in relation to taxation and monitoring and supervising their compliance with money laundering legislation.

16.5. Raising standards in the tax advice market is therefore at the heart of our aims as a professional body.

16.6. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

16.7. The CIOT is also one of the author bodies of Professional Conduct in Relation to Taxation (PCRT) which sets the high ethical standards which form the core of the tripartite relationship between tax adviser, client and HMRC. It supports the key role members play in helping clients comply with their tax obligations and their broader responsibilities to society. The guidance in the PCRT is based on five fundamental principles:

- Integrity
- Objectivity
- Professional competence and due care
- Confidentiality
- Professional behaviour

16.8. PCRT includes tax planning standards which aim to set out high standards for members when providing tax planning advice.

16.9. Disciplinary action in relation to CIOT members is dealt with by the Taxation Disciplinary Board (TDB). The TDB is an independent body that runs the complaints and disciplinary scheme for both the CIOT and ATT.

16.10. Our stated objective for the tax systems include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

17. Acknowledgement of submission

17.1. We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

15 September 2025