



# The experience pathway for financial advisers

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**L**egislation that seeks to recognise the experience of eligible existing providers (that is, financial advisers) as an alternative pathway to meeting the education requirements recently passed both houses of parliament and has received Royal Assent. Those who meet the defined circumstances outlined in these new transitional arrangements for experienced providers, will be taken to have met the education and training standards. In this article, we explore the conditions for utilising this pathway.

The passage and Royal Assent of the *Treasury Laws Amendment (2023 Measures No.3) Act 2023* cements the experience pathway as an alternative way for experienced financial advisers to meet the education and training standards.

To rely on this pathway, there are several components that need to be met.

## Experienced providers

The first component is to be deemed an ‘experienced provider’. A person will be considered an experienced provider if:

- they are an individual who was authorised to provide personal advice to a retail client in relation to certain financial products for a minimum of 10 years—which need not be consecutive—during the period 1 January 2007 to 31 December 2021, and

- they had a clean disciplinary record as at 31 December 2021, that is:
  - never been banned or disqualified under Division 8 of Part 7.6 of the *Corporations Act 2001* (Corporations Act), and
  - never given an undertaking under section 93AA or section 171E of the *Australian Securities and Investments Commission Act 2001*, (ASIC Act).

## Financial adviser exam

The second component aligns the experience pathway to the existing requirements under the transitional provisions in relation to the financial adviser exam for existing providers. An experienced provider will need to meet the exam standard outlined in Section 921B(3) of the Corporations Act. If an existing provider fails to meet this requirement, they will cease to be an existing provider and will be unable to use the experience pathway.

It is worth noting that if a person left the industry before the exam cut-off date, they could return at any time and access the experienced provider pathway, if they meet the eligibility criteria. However, before being authorised to provide advice, the adviser would need to pass the financial adviser exam.

## Self-declaration

The third component to consider is the access component—how does an adviser access the experienced provider pathway?

An existing adviser seeking to rely on the new transitional arrangements will be required to make a self-declaration confirming they have met all the conditions of an experienced provider. While there is no deadline for the self-declaration, if an existing financial adviser is authorised on 1 January 2026 and intends to continue in the industry after that date, but does not otherwise meet the qualifications standard, they would need to make their self-declaration to access the experienced provider pathway *before* 1 January 2026. Otherwise, under the current transitional arrangements for existing providers, their authorisation would cease on that date.

The adviser could return to the industry after making their self-declaration to access the experienced provider pathway, but it is important to remember that criminal and/or civil penalties would apply if a person continued to provide financial advice to retail clients while unauthorised.

### Licensee assessment

The next component to consider is who is responsible for making the assessment that the experience pathway has been met. If the financial adviser is authorised to provide personal advice to retail clients on behalf of an Australian Financial Services (AFS) licensee, the financial ad-

viser must make a self-declaration and provide this to the licensee. If the financial adviser is authorised by multiple licensees or moves to another licensee, they must give a copy of their self-declaration to each licensee.

### Notifying ASIC

The final component of the new legislation is who is responsible for notifying ASIC that the financial adviser meets the experience pathway. Consistent with the existing notification requirements applying to financial advisers, notices must be lodged by the AFS licensee. If the experienced provider is not a licensee, their authorising licensee must lodge a notice with ASIC. If the adviser has more than one licensee, each licensee must lodge the notice. The legislation provides further clarity around what needs to be included in the notice as well as the expected lodgement timing.

The passage and Royal Assent of this change cement the experience pathway as an alternative way for experienced advisers to meet the education and training standards. It is incumbent on those who seek to utilise this pathway to understand these obligations and how it will impact them. **FS**

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### The quote

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Sarah is senior manager, Advice Technical and Regulatory at BT. She has over 22 years' experience in the financial services industry. Sarah is a member of a number of industry working groups, including the Australian Bankers Association and the Financial Services Council, and has qualifications in finance, economics, financial planning, ethics and risk.