

# EXPOSURE DRAFT

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Inserts for  
**Treasury Laws Amendment (Measures  
for Future Bills) Bill 2023: Recognising  
experience in the financial advice  
industry**

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule #	The day after this Act receives the Royal Assent.	
2.		
3.		

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## Schedule #—Recognising experience in the financial advice industry

### Part 1—Transitional arrangements for experienced providers

#### *Corporations Act 2001*

##### **1 Part 10.57 (at the end of the heading)**

Add “and related measures”.

##### **2 Section 1684**

Before “In this Part:”, insert “(1)”.

##### **3 Section 1684**

Insert:

*experienced provider*: a person is an *experienced provider* if:

- (a) the person is an individual; and
- (b) on a day within the period (the *qualifying period*) beginning on 1 January 2007 and ending on 31 December 2021, the person was, under this Act as in force on that day:
  - (i) a financial services licensee; or
  - (ii) an authorised representative of a financial services licensee; or
  - (iii) an employee or director of a financial services licensee; or
  - (iv) an employee or director of a related body corporate of a financial services licensee; and
- (c) the person was, under this Act as in force on that day, authorised to provide personal advice to retail clients in relation to any financial product other than:
  - (i) a general insurance product; or
  - (ii) a consumer credit insurance product; or
  - (iii) for a day within the qualifying period that is on or after 1 July 2012—a basic banking product; and
- (d) the person satisfies paragraphs (b) and (c) in relation to a total of at least 3,650 days within the qualifying period (whether consecutive or not); and

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- 1 (e) before the end of the qualifying period, the person has never:  
2 (i) been banned or disqualified under Division 8 of Part 7.6  
3 as in force at that time; or  
4 (ii) given an undertaking under section 93AA or 171E of  
5 the ASIC Act as in force at that time.

## 6 **4 Section 1684 (definition of *relevant provider*)**

7 Repeal the definition.

## 8 **5 Section 1684**

9 Insert:

10 *second amending Act* means the *Treasury Laws Amendment (2023*  
11 *Measures No. #) Act 2023*.

## 12 **6 At the end of section 1684**

13 Add:

- 14 (2) An expression used in this Part that is also used in Part 7.6 has the  
15 same meaning as in Part 7.6.

## 16 **7 Before section 1684A**

17 Insert:

### 18 **1684AA Experienced provider pathway**

19 *Recognising experience of relevant providers*

- 20 (1) Despite anything else in this Part, a person who:  
21 (a) is an experienced provider; and  
22 (b) does not (apart from this subsection) meet the education and  
23 training standard in subsection 921B(2) or (4);  
24 is taken to meet that standard if a declaration made by the person  
25 under subsection (2) of this section is in force.
- 26 (2) For the purposes of subsection (1), the person may make a written  
27 declaration confirming the person:  
28 (a) has 10 years of experience providing financial advice with a  
29 clean disciplinary record; and  
30 (b) satisfies each paragraph of the definition of *experienced*  
31 *provider* in subsection 1684(1).

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1 Note: A person may commit an offence or contravene a civil penalty  
2 provision if the person gives false or misleading information (see  
3 section 1308 of this Act and section 137.1 of the *Criminal Code*).

## 4 *Requirement to lodge notice*

5 (3) A notice in the prescribed form must be lodged with ASIC under  
6 this section if:

7 (a) either:

8 (i) the person becomes a relevant provider; or

9 (ii) at the start of 1 January 2026 the person is a relevant  
10 provider and an existing provider; and

11 (b) the person meets the education and training standard in  
12 subsection 921B(2) or (4) because of subsection (1) of this  
13 section.

14 Note 1: For how to lodge a notice in the prescribed form, see section 350.

15 Note 2: The prescribed form may deal with information required under  
16 various sections (for example, sections 922D to 922L) of this Act.

17 Note 3: A notice under this section is required each time the person becomes a  
18 relevant provider.

## 19 *Content of notice*

20 (4) The notice must include:

21 (a) the person's name; and

22 (b) the address of the person's principal place of business; and

23 (c) a written statement by:

24 (i) if the person is a financial services licensee—the  
25 person; or

26 (ii) otherwise—the financial services licensee on whose  
27 behalf the person is authorised to provide personal  
28 advice to retail clients in relation to relevant financial  
29 products;

30 to the effect that the person has met that standard because of  
31 subsection (1).

## 32 *When notice must be lodged*

33 (5) The notice must be lodged with ASIC:

34 (a) if subparagraph (3)(a)(i) applies—within 30 business days  
35 after the day the person becomes a relevant provider; or

36 (b) if subparagraph (3)(a)(ii) applies—before the end of the 30th  
37 business day after 1 January 2026.

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1 Note: A notice must also be lodged with ASIC under section 922D if the  
2 person becomes a relevant provider.

3 *Who must lodge notice*

- 4 (6) The notice must be lodged by:  
5 (a) if the person is a financial services licensee—the person; or  
6 (b) otherwise—the financial services licensee on whose behalf  
7 the person is authorised to provide personal advice to retail  
8 clients in relation to relevant financial products.

9 *Requirement to give declaration to licensee*

- 10 (7) If paragraph (6)(b) applies, the person must:  
11 (a) give the licensee mentioned in that paragraph a copy of the  
12 person's declaration in force under subsection (2); and  
13 (b) do so within a reasonable period that would allow the  
14 licensee to comply with its obligation to lodge a notice under  
15 this section.

16 *Register of Relevant Providers*

- 17 (8) Subsection 922Q(2) applies as if the details that must be entered on  
18 the Register of Relevant Providers in respect of a person who is or  
19 was a relevant provider included whether a notice has been lodged  
20 with ASIC under this section in respect of the person.

21 *Failing to lodge notice*

- 22 (9) Section 922M applies in relation to a person required to lodge a  
23 notice under this section in a corresponding way to the way that  
24 section applies in relation to a person required to cause a notice to  
25 be lodged under a notice provision.

26 Note: Section 922M provides an offence and civil penalty for failing to  
27 lodge certain notices.

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## 1 **Part 2—Addressing known issues for new entrants**

### 2 *Corporations Act 2001*

#### 3 **8 Paragraph 921B(2)(a)**

4 Repeal the paragraph, substitute:

5 (a) the person:

- 6 (i) has completed a bachelor or higher degree, or  
7 equivalent qualification, approved by the Minister; and  
8 (ii) has done so by satisfying in a way (if any) approved by  
9 the Minister conditions (if any) approved by the  
10 Minister; or

#### 11 **9 At the end of subsection 921B(2)**

12 Add:

13 ; or (c) the person holds an approval under subsection 921GA(4).

#### 14 **10 Paragraph 921B(6)(a)**

15 Omit “paragraph (2)(a)”, substitute “subparagraph (2)(a)(i)”.

#### 16 **11 After paragraph 921B(6)(a)**

17 Insert:

- 18 (aa) approve for the purposes of subparagraph (2)(a)(ii):  
19 (i) one or more conditions for completing an approved  
20 degree or qualification; and  
21 (ii) one or more ways for satisfying such conditions;

#### 22 **12 Paragraph 921G(3)(a)**

23 Omit “paragraph 921B(2)(a)”, substitute “subparagraph 921B(2)(a)(i)”.

#### 24 **13 Subsection 921G(4)**

25 Omit “paragraph 921B(2)(a)”, substitute “subparagraph 921B(2)(a)(i)”.

#### 26 **14 After section 921G**

27 Insert:

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## 1 921GA Approval of domestic qualifications

### 2 *Application for approval*

- 3 (1) A person who:
- 4 (a) has completed a bachelor or higher degree, or equivalent
- 5 qualification, approved by a determination in force for the
- 6 purposes of subparagraph 921B(2)(a)(i) (the *domestic*
- 7 *qualification*); but
- 8 (b) has not completed the domestic qualification in accordance
- 9 with subparagraph 921B(2)(a)(ii);
- 10 may apply to the Minister for approval of the domestic
- 11 qualification.
- 12 (2) The application must be:
- 13 (a) in writing; and
- 14 (b) in the form approved, in writing, by the Minister.

### 15 *Approval or refusal*

- 16 (3) The Minister must either:
- 17 (a) approve the domestic qualification if the Minister is satisfied
- 18 of the matters in subsection (4); or
- 19 (b) refuse to approve the domestic qualification.
- 20 (4) The matters are that:
- 21 (a) the person has completed the domestic qualification but not
- 22 in accordance with subparagraph 921B(2)(a)(ii); and
- 23 (b) the person is nevertheless adequately qualified and
- 24 competent to provide personal advice to retail clients in
- 25 relation to relevant financial products.

### 26 *When approval comes into force*

- 27 (5) An approval under subsection (3) comes into force when it is
- 28 given.

## 29 **15 Subsection 1684A(2)**

30 Omit “subsection 921B(2), as amended by Schedule 1 to the amending

31 Act” (wherever occurring), substitute “subsection 921B(2), as amended

32 by Schedule # to the second amending Act”.

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1 **16 Subparagraph 1684C(3)(b)(i)**

2 Omit “subsection 921B(2), as amended by Schedule 1 to the amending  
3 Act”, substitute “subsection 921B(2), as amended by Schedule # to the  
4 second amending Act”.

5 **17 Paragraph 1684D(3)(a)**

6 Omit “subsection 921B(2), as amended by Schedule 1 to the amending  
7 Act”, substitute “subsection 921B(2), as amended by Schedule # to the  
8 second amending Act”.

9 **18 Paragraph 1684D(4)(a)**

10 Omit “subsection 921B(2), as amended by Schedule 1 to the amending  
11 Act”, substitute “subsection 921B(2), as amended by Schedule # to the  
12 second amending Act”.

13 **19 Paragraph 1684D(6)(a)**

14 Omit “subsection 921B(2), as amended by Schedule 1 to the amending  
15 Act”, substitute “subsection 921B(2), as amended by Schedule # to the  
16 second amending Act”.



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1 **Part 3—Addressing known issues for qualified tax**  
2 **relevant providers**

3 *Corporations Act 2001*

4 **20 Section 910A (paragraph (b) of the definition of *qualified***  
5 ***tax relevant provider*)**

6 Repeal the paragraph, substitute:

7 (b) one or more of the following applies:

8 (i) the person is a registered tax agent;

9 (ii) if a determination is in force under  
10 subsection 921BB(1)—the person meets each  
11 requirement set out in the determination that is of a kind  
12 mentioned in any of paragraphs (a) to (d) of that  
13 subsection.

14 **21 After subparagraphs 921C(1)(b)(i) and (c)(i)**

15 Insert:

16 (ia) the applicant is not a registered tax agent; and

17 **22 After subparagraph 921C(2)(c)(i)**

18 Insert:

19 (ia) the person is not a registered tax agent; and

20 **23 After subparagraph 921C(3)(c)(i)**

21 Insert:

22 (ia) the individual is not a registered tax agent; and

23 **24 After subparagraph 921C(4)(c)(i)**

24 Insert:

25 (ia) the employee or director is not a registered tax agent;  
26 and

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1 **Part 4—Transitional provisions**

2 *Corporations Act 2001*

3 **25 Division 3 of Part 10.57 of Chapter 10 (at the end of the**  
4 **heading)**

5 Add “relating to the amending Act”.

6 **26 At the end of Part 10.57 of Chapter 10**

7 Add:

8 **Division 4—Transitional provisions relating to the second**  
9 **amending Act**

10 **1684W Application of amendment—approval of domestic**  
11 **qualifications**

12 Section 921GA, as inserted by Schedule # to the second amending  
13 Act, applies in relation to an application made under that section on  
14 or after the commencement of that Schedule, whether the degree or  
15 qualification to which the application relates was completed  
16 before, on or after that commencement.

17 **1684X Transitional—determination approving degrees and**  
18 **qualifications**

- 19 (1) This section applies to a determination that is in force immediately  
20 before the commencement of Schedule # to the second amending  
21 Act:
- 22 (a) under subsection 921B(6); and
  - 23 (b) for the purposes of paragraph 921B(2)(a).
- 24 (2) The determination continues in force (and may be dealt with) on  
25 and after that commencement as if the determination had been  
26 made:
- 27 (a) under subsection 921B(6) as amended by that Schedule; and
  - 28 (b) for the purposes of paragraph 921B(2)(a) as substituted by  
29 that Schedule.