



INSTITUTE OF  
PUBLIC  
ACCOUNTANTS®

Submission to the  
Treasury on the  
education standards for  
experienced financial advisers

May 2023

03 May 2023

Assistant Secretary  
Advice and Investment Branch  
Retirement, Advice and Investment Division  
The Treasury  
Langton Cres  
Parkes ACT 2600

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Dear Sir/ Madam

**Education standards for experienced financial advisers and technical fixes for new entrants**

The Institute of Public Accountants (IPA) welcomes the opportunity to provide comments on the exposure draft legislation with respect to the above. We note that related submissions were made in February and September 2022.

Whilst we continue to oppose the experience pathway, we acknowledge that the Government is proceeding. We note that our proposed alternative model and previous comments have not been accepted or reflected in the exposure draft. In any event, we attach below the main sections of our previous comments in case they are of benefit in the implementation of the legislation.

With respect to the exposure draft legislation, the IPA's understanding is that some of the operational issues will be dealt with by legislative instrument. We note that this might be contrary to the intent of the ALRC's reforms of the *Corporations Act 2001* which is to demystify the legislation and to deal with the impenetrable situation that has been created by the over-use of legislative instruments and subordinate legislation in general.

Since the Government is proceeding with the experienced pathway, the IPA accepts the flexibility that the legislation provides in terms of acknowledging that advisers may come from different backgrounds, countries or sectors. We appreciate and support the policy objective of trying to get more advisers into the sector and trying to encourage those who left to return, though we support a different pathway for achieving this (of which experience is one component). Mandatory and ongoing CPD is a given and we believe this shouldn't be an issue for professional advisers. IPA has mandatory CPD requirements around ethics and professional standards (as well as two other mandatory categories based on technical skills and professional management ie interpersonal type skills).

We have no issues at this stage with the new entrant provisions and believe that the implementation will reveal any issues which may need addressing in due course.

We welcome the removal of duplication relating to Registered Tax Agents.

The other main point we make is that the legislation should have a sunset clause dated for December 2032. This will provide sufficient time for experienced advisers to stay or return to the sector. It is likely they will exit the sector as they transition or retire so a sunset clause is unlikely to have a

negative impact on them. In this way the policy objective of professionalizing the 'industry' can be satisfied by returning to the education and other requirements which underpin a profession.

As mentioned, we reiterate below some of the member comments and recommendations that we made in previous submissions.

Please don't hesitate to contact Vicki Stylianou ([vicki.stylianou@publicaccountants.org.au](mailto:vicki.stylianou@publicaccountants.org.au) or mob. 0419 942 733) if you require further information or have queries.

Yours faithfully

A handwritten signature in black ink, appearing to read 'V. Stylianou', with a stylized flourish at the end.

Vicki Stylianou  
Group Executive, Advocacy & Policy  
Institute of Public Accountants

## Existing advisers – experienced pathway

The IPA has previously opposed the proposal to introduce an experienced pathway for financial advisers. However, if the proposal is to proceed, then the IPA believes that certain parameters need to be included to make it consistent with the policy intention of professionalizing the financial advice sector. We have worked with other professional associations to develop a way forward, which is outlined below.

1. **Relevant experience:** they can demonstrate 10 years of relevant licensed experience where they have provided personal advice to retail clients. This would be over the period from 01 January 2004 to 01 January 2019.
2. **Clean record:** further consultation may be required to define what constitutes a ‘clean record’. The IPA applies a ‘fit and proper person’ test for our members which is broader and widely understood and accepted, and which could be used to inform the clean record requirement. It could include:
  - no disciplinary actions recorded on the Financial Advisers Register (FAR)
  - never been suspended or banned from being licensed for any period of time
  - no material complaint with the Australian Financial Complaints Authority (AFCA) resulting in a client suffering financial detriment
  - no disciplinary action taken by a professional association of which the adviser is or was a member
3. **Must be a voting member of a relevant non-profit or professional association that has:**
  - Code of Ethics/ Conduct/ Professional Standards
  - Mandatory Continuing Professional Development (CPD) obligations
  - Complaints and disciplinary system
  - Quality review system
  - Must remain a member to maintain eligibility under this pathway
4. **Proof:** the adviser should provide proof of having met the requirements by way of a statutory declaration. It is essential to ensure accountability and transparency as far as possible if the experienced pathway is to be adopted. Accordingly, there should be appropriate penalties for providing a false declaration, which could include disqualification from registration for a prescribed period of time, including a permanent banning order.

### Alternative option

If the above is considered unacceptable, then the following is offered as an alternative approach:

#### Ethics subject:

- If an adviser is not a member of a professional association, then they must complete an approved ethics subject by 01 January 2026. It is essential that all advisers receive the appropriate level of training in professional and ethical standards, which are essential for acting in the consumer’s best interest. Advisers who are members of a professional association, such as the IPA, are subject to mandatory requirements with respect to professional and ethical standards. For instance, IPA members must complete 20 hours of CPD in ethics over every three-year CPD period – this is a mandatory requirement of membership. Members in practice are audited on an annual basis to ensure they comply with this (and other) requirements.

### **Sunset clause:**

- The IPA believes that the experienced pathway should be subject to a sunset clause, ending on 01 January 2032. This would strike the right equitable balance between advisers who have undertaken study and complied with the regulatory requirements and those who haven't.
- Any adviser who wishes to continue to practice after this date would need to meet the education requirements for existing advisers. Again, this would strike the right equitable balance.

### **Additional notes**

- The pathways for existing advisers may need to be revised to ensure any education requirements are relevant and fit for purpose given the varying demands of clients.
- These advisers should then be provided with the choice of either completing the current FASEA pathway or any new revised pathway which may be introduced. This would be fair to the advisers who have complied with regulatory requirements, which has necessitated huge time, effort, and cost on their part.
- It should be clarified that advisers who are Registered Tax Agents and who were not deemed onto the FAR do not need to complete additional study (tax and commercial law).

### **New entrants**

New entrants should be required to complete education against a competency framework assessed against the AQF 7 level (we refer to our previous submission on the financial adviser education standards). For instance, the education and other requirements may be as follows and can be subject to further consultation.

#### **1. Core units**

- Ethics, professional and behavioural finance
- Advice: legal obligations (including privacy, anti-money laundering/ counter-terrorism financing, Chapter 7 Corporations Act 2001 etc)
- Financial products and markets
- Tax (commercial law and tax law)

#### **2. Elective units – these may include:**

- Superannuation and retirement planning
- Life insurance and risk management
- Stockbroking
- Investment strategies and implementation

#### **3. Professional year**

- This could be completed concurrently with the education course (and brought forward). There should be no unsupervised advice provided until all of the core subjects have been completed.
- Undertaking a Professional Year and mentoring in general have changed hugely over the years and become more innovative. It should be flexible and could include being undertaken online, or with group mentoring, or with multiple mentors and so on.

- Recognised Prior Learning (RPL) should be given due weight in any new pathway. It should be included in any competency framework – we refer to our previous submission which referred to experience (such as on the job experience), RPL, credits and so on, which can all be included as part of the competency framework. This would provide maximum flexibility and integrity and satisfy the policy objectives, including increasing the number of advisers and professionalizing financial advice.
- Given any limitations in the relatively restricted scope of studies, to mitigate risk, entrants could have their areas of practice restricted to areas of study/ experience until completion of the exam. We acknowledge that this may create challenges to implement in the short term, however, the Tax Practitioners Board took a similar approach when the new registration requirements of the *Tax Agent Services Act 2009* were first being implemented.

#### 4. Capstone unit

- This would replace the exam
- It would be provided by an accredited education provider and be commensurate with the advice being provided.

#### Co-regulatory professional association

The requirement above relating to professional associations eligible for the experienced pathway, would require the association to meet specific requirements, including:

- Responsible for setting core and elective units, including curriculum, quantum, and approved assessment methods
- Would be responsible for accrediting universities – noting this could be courses, qualifications, subjects to provide flexibility to the education provider and potential advisers
- It would have to be financially viable for the professional association to undertake this co-regulatory role – a cost recovery model could be developed
- There would have to be an approved list of professional associations to enable future advisers to have certainty on pathways and so licensees can comply with s912A of the Corporations Act.

#### Notes on education developments

1. Most bodies followed the presumption of an AQF level of knowledge (AQF 7 or 8) as the required level of education. While this is the only traditional way to quantify a person's knowledge, there is perhaps an inclination that we should not change it. TEQSA itself is currently reviewing the leveling of such knowledge, which, to some extent, has been used quite broadly for a number of systems, for example, migration/ skills assessments. However, when we talk with IPA members about the capabilities of graduates, there were a lot of doubts about the actual competencies of a lot of graduates. We have long been too wedded with a system that is easier to measure, for example, a 3-year degree, an 8 unit graduate diploma, etc and that is based on input volume of learning. Increasingly there are examples where such volume of learning does not prove the competency of a person, especially when the assessment is largely dependent on knowledge assessment (eg examination) and not on demonstrating competencies. This has been our education system for years. Even though we are now in the position to critically evaluate what is best for the future, or what is truly relevant, there is the tendency to fall back into what we traditionally accept. This should be resisted.

2. Individuals' learning capabilities have changed greatly while our system of education has remained quite stagnant. Younger people also have increasingly started to question the value of certain education systems. Many have gone beyond or outside the traditional degree and have done amazing things, creatively, interactively, and bringing new ideas.
3. Having said all that, a degree in theory should enrich a person's knowledge and provided the system is well managed and allows new ideas to thrive, should be considered. Even at today's higher education system, there are consistent 'complaints' about having to achieve a high teaching score and not to really worry about what students learn in reality. A high teaching score can be obtained by giving out examination hints, for example.
4. Education standards for financial advisers require some fundamental knowledge and understanding. However, we should identify what are the core knowledge and competencies and be flexible to allow different learning pathways without having to define a single pathway like a specific degree. We therefore support a flexible pathway of good proven standards and be mindful that TEQSA itself may have a different way of defining a degree. The core knowledge approach is a good start.
5. A person's competence should not be measured by how many years they have studied. Each person attains the experience differently. How do we ensure that the person has 'enough' experience? The only way is to have some peer review, independent assessment, through the person's career. What is sufficient experience depends on a fundamental attribute – to be observant, to learn from mistakes, or seek help when needed, to be open-minded. We suggest one way to ensure a person attains a certain attribute is through defined and assessed CPD over a certain period. Some people can be a brilliant financial adviser with a certain number of years of learning, listening, and so on, but not necessarily at the 10 or 20 year mark.
6. The basic principle of education standards has to be the concept of CPD, lifelong learning, improvements, etc. whilst retaining key ethical competence and professionalism.