

# EXPOSURE DRAFT



## **Financial Adviser Standards and Ethics Authority Ltd**

*Corporations (Relevant Providers Exams Standard) Determination 2019*

**Explanatory Statement**

**EXPOSURE DRAFT**



# EXPOSURE DRAFT

*Corporations (Relevant Providers Exams Standard) Determination 2019*

---

## Key information

1. This instrument approves the exam that a person must pass to meet the second of the education and training standards under section 921B of the *Corporations Act 2001* (see subsection 921B(3) of the Act).
2. ***Date of effect***: the day after this instrument is registered in the Federal Register of Legislation (see section 2).

## Glossary

3. Words and expressions used in this statement are defined in the following table.

<b>Expression</b>	<b>Meaning</b>
<i>Act</i>	the <i>Corporations Act 2001</i> .
<i>Authority</i>	Financial Adviser Standards and Ethics Authority Ltd, which is the standards body under section 921X of the Act.
<i>candidate</i>	for an exam means a person sitting the exam.
<i>education and training standards</i>	the standards set out in section 921B of the Act.
<i>eligible candidate</i>	a person who is eligible, in terms of the determination, to sit an exam.
<i>applied ethical and professional reasoning and communication area</i>	the area of knowledge and skills described in paragraph 6(3)(b).
<i>exam</i>	an exam approved under this determination.
<i>exam administrator</i>	means the exam administrator published on the FASEA website.
<i>exam location</i>	a place at which an exam is to be held.
<i>knowledge and skills area</i>	for an exam, the applied ethical and professional reasoning and communication area, the financial advice regulatory and legal obligations area or the financial advice construction area.
<i>financial advice regulatory and legal obligations area</i>	the area of knowledge and skills described in paragraph 6(3)(a).
<i>registered</i>	registered by the exam administrator for an exam.
<i>relevant provider</i>	defined in subsection 910A of the Act.
<i>retail client</i>	defined in sections 761G and 761GA of the Act.

EXPOSURE DRAFT

# EXPOSURE DRAFT

*Corporations (Relevant Providers Exams Standard) Determination 2019*

---

<b>Expression</b>	<b>Meaning</b>
<i>financial advice construction area</i>	the area of knowledge and skills described in paragraph 6(3)(c).

---

4. References to numbered sections or other provisions are to those sections or other provisions of the determination, unless indicated otherwise.

## Context

5. The Act was amended in 2017 to raise education, training, and ethical standards of financial advisers.
6. Section 921B of the Act sets 4 standards that relevant providers must meet (***education and training standards***). Section 921C of the Act prohibits ASIC from granting a financial services licence to a person who has not met the education and training standards. It also prohibits licensees and authorised representatives of licensees from authorising other persons to give personal advice to retail clients in relation to relevant financial products unless the other persons have met the education and training standards.
7. The second of the standards requires a person to pass an exam approved by the Authority. Under subparagraph 921U(2)(a)(ii) of the Act, the Authority must, by legislative instrument, approve an exam. The determination contains that approval.
8. The Authority has contracted a service provider (the ***exam administrator***) to prepare and administer exams in accordance with the determination.
9. The Authority will publish the exam timetable, along with registration terms and procedures, on its website. The first exam is expected to be held in mid-2019. Exams are expected to be scheduled quarterly for all candidates from mid-2019. Exams will also be scheduled bi-monthly in 2020 for relevant providers whose details were on ASIC's Register on 1 January 2019 (see Subdivision C of Division 9 of Part 7.6 of the Act).

## Preliminary matters

### Name

10. Section 1 provides that the name of the instrument is the *Corporations (Relevant Providers Exams Standard) Determination 2019*.

### Commencement

11. Section 2 provides that the determination will commence on the day after it is registered in the Federal Register of Legislation.

EXPOSURE DRAFT

# EXPOSURE DRAFT

*Corporations (Relevant Providers Exams Standard) Determination 2019*

---

## Authority

12. Section 3 sets out the legislative authority for making the determination: subparagraph 921U(2)(a)(ii) of the Act.

## Definitions

13. Section 4 defines “the Act” as the *Corporations Act 2001* and refers readers to the definitions of a range of expressions in the Act. These, and other definitions relevant to the determination, are in the Glossary at paragraph 3 above.

## Section 5: Approval of exams

14. To satisfy the second of the education and training standards, a person must pass an exam approved by the Authority.

15. This section gives approval to exams that meet all the standards set out in the determination.

16. An exam must be administered by the exam administrator.

## Section 6: Standard: knowledge and skills areas

17. The first standard deals with the 3 defined knowledge and skills areas that will be covered in an exam:

- the financial advice regulatory and legal obligations area
- the applied ethical and professional reasoning and communication area
- the financial advice construction area.

18. Candidates must achieve AQF 7 level, as described in *Australian Qualifications Framework*, 2nd edition (January 2013) published by the Australian Qualifications Framework Council. Candidates at this level:

- have broad and coherent theoretical and technical knowledge with depth in one or more disciplines or areas of practice
- have well-developed cognitive, technical and communication skills to select and apply methods and technologies to analyse and evaluate information, generate and communicate solutions to unpredictable and sometimes complex problems, transmit knowledge, skills and ideas to others and demonstrate autonomy, well-developed judgement and responsibility.

19. Subsection 6(3) describes the 3 knowledge and skills areas, and details the specific knowledge and skills that a candidate will need to demonstrate to pass an exam.

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

*Corporations (Relevant Providers Exams Standard) Determination 2019*

---

## **Section 7: Standard: exam questions**

20. This section requires that an exam must have at least 70 questions, made up of at least 64 multiple-choice questions and at least 6 written response questions that require short answers or report writing.
21. The questions in an exam will cover all 3 knowledge and skills areas.

## **Section 8: Standard: duration of exam**

22. This section specifies that a candidate will have 3.5 hours to complete an exam. This period will include 30 minutes of reading time. Subsection 10(15) prohibits a candidate from recording answers to exam questions during the reading time.

## **Section 9: marking exams**

23. This section deals with marking an exam.
24. An exam must specify the maximum marks that may be awarded for each question.
25. Subsection 9(3) provides that persons with appropriate expertise, appointed by the exam administrator, will approve the questions in an exam, and the maximum marks that may be awarded for each question.

## **Section 10: Standard: terms of registration for sitting exams**

### **Registration for exams**

26. A candidate is eligible to sit an exam only if registered for the exam by the exam administrator (see paragraph 4(2)(b)). The exam administrator will charge a fee for an exam (noted in Note 2 to subsection 10(2)). The terms of registration will apply to the conduct of the exam. The Authority will publish the terms of registration on its website for information, and they will be provided to candidates on registration (see Note 1 to subsection 10(2)).
27. Section 10 sets out standards that the terms of registration must comply with.

### **Subsections 10(3) to (4): entry into an exam location**

28. The terms of registration for an exam will only permit a person into an exam location if the person is an eligible candidate for that exam, or is an employee or other personnel of the exam administrator. *Eligible candidate* is defined in subsection 4(2).
29. The registration terms will set out any identification requirements.

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

*Corporations (Relevant Providers Exams Standard) Determination 2019*

---

## **Subsections 10(5) to (10): equipment**

30. Candidates must complete an exam using a computer provided by the exam administrator (subsection 10(5)). This computer will enable access to statutory materials and materials published by ASIC and other relevant regulators as specified by FASEA.

31. Subsection 10(6) prohibit a candidate from using a device (other than the computer provided for the candidate by the exam administrator) to access the internet from an exam location.

32. Subsection 10(7) prohibits a candidate from bringing any equipment or materials into the exam location without the approval of the exam administrator. Approval will only be given for equipment needed because of a candidate's special needs. The terms of registration may set out procedures for applying for and gaining approval.

33. Subsection 10(9) provides that the exam administrator will make reasonable and appropriate provision for candidates with special needs if the administrator is notified at least 30 days before the scheduled date for the exam.

## **Subsections 10(10) to (16): conduct of an exam**

34. Subsections 10(10) and (11) provide that an exam will be invigilated, and that candidates must comply with any instruction or direction given by an invigilator in connection with the exam.

35. To preserve the integrity of exams, subsection 10(12) prohibits a candidate from communicating with another person (unless permitted to do so by an invigilator); reading another candidate's work or copying another candidate's work during an exam.

36. Subsection 10(14) prohibits a candidate from recording answers to exam questions during the 30 minutes of reading time in an exam.

37. Subsection 10(15) provides that the exam administrator may exclude a candidate from the exam location, fail a candidate, or both, if the candidate breaches subsection (6), (7), (11), (12) or (14).

## **Subsection 10(16): marking and results**

38. Candidates will be notified only whether they have passed or failed an exam.

## **Subsection 10(17): review of results**

39. Subsection 10(17) provides that a candidate who has failed an exam may apply once to the exam administrator for a review of the marking of only the written response style questions of the exam. The exam administrator will charge a fee for a review. The terms of registration will:

- specify how and by when that application may be made;
- provide for the review to be conducted;

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

*Corporations (Relevant Providers Exams Standard) Determination 2019*

---

- provide for the results of the review to be communicated to the candidate.

## **Subsection 10(18): deferral of exams for exceptional circumstances**

40. Subsection 10(18) requires the terms of registration for an exam to provide:
- that a registered candidate may apply to the exam administrator to defer sitting the exam due to exceptional circumstances beyond the candidate's control;
  - for reasonable procedures for making and dealing with those applications; and
  - that the candidate may be registered for another exam without incurring additional charges.

## **Subsection 10(19): alternative arrangements**

41. Subsection 10(19) provides that from 1 January 2020 subject to the exam administrator's approval, a candidate may apply to the exam administrator for alternative arrangements for an exam if it is unreasonable for that candidate to travel to the exam because they live in a remote location or because they are not able to travel to the exam location. To preserve the integrity of exams, alternative arrangements must provide for the candidate to sit the exam in similar circumstances, and subject to similar conditions and requirements, as other candidates.

**EXPOSURE DRAFT**