

EXPOSURE DRAFT



Corporations (Relevant Providers Exams Standard) Determination 2019

Financial Adviser Standards and Ethics Authority Ltd, the standards body for Part 7.6 of the *Corporations Act 2001*, makes the following determination.

Dated 2019

The common seal of Financial)
Adviser Standards and Ethics)
Authority Ltd, affixed by authority)
of its directors in the presence of:)

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director

.....
Name of director (block letters)

DRAFT ONLY—NOT FOR SIGNATURE

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1 Name

This instrument is the *Corporations (Relevant Providers Exams Standard) Determination 2019*.

2 Commencement

This instrument commences the day after it is registered.

3 Authority

This instrument is made under subparagraph 921U(2)(a)(ii) of the Act.

4 Definitions

Note: *Code of Ethics, relevant provider* and *monitoring body* are defined in section 910A of the Act. *Financial product advice* is defined in section 766B of the Act.

(1) In this instrument:

Act means the *Corporations Act 2001*.

candidate, for an exam, means a person sitting the exam.

eligible candidate has the meaning given by subsection (2).

applied ethical and professional reasoning and communication area has the meaning given by paragraph 6(3)(b).

exam means an exam approved under this determination.

exam administrator means the exam administrator published on the FASEA website.

exam location means a place at which an exam is to be held.

knowledge and skills area, for an exam, means the applied ethical and professional reasoning and communication area, the financial advice regulatory and legal obligations area or the financial advice construction area.

financial advice regulatory and legal obligations area has the meaning given by paragraph 6(3)(a).

registered means registered by the exam administrator for an exam.

financial advice construction area has the meaning given by paragraph 6(3)(c).

(2) A person is an *eligible candidate* for an exam if:

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- (a) any of the following apply:
 - (i) on 1 January 2019 the person's details were on the register maintained under Subdivision C of Division 9 of Part 7.6 of the Act;
 - (ii) the person meets the education and training standard set out in subsection 921B(2) of the Act and intends to be registered as a provisional relevant provider after 1 January 2019;
 - (iii) a monitoring body has imposed on the person a sanction requiring the person to sit an exam;
 - (iv) the person has been permitted to sit the exam as a result of an application under paragraph 10(18)(a);
 - (v) the person has completed a course of study overseas that is assessed by FASEA as substantially equivalent to an approved qualification, and is seeking registration as a Financial Adviser in Australia
- (b) the person is registered for the exam;
- (c) the person has not sat an exam within 3 months before registering for the exam; and
- (d) paragraph 10(15) does not apply to the person.

- Note: For subparagraph (a)(iii), the education and training standard set out in subsection 921B(2) of the Act is met if the person:
- (a) has completed an approved bachelors or higher degree, or an approved equivalent qualification (see *Corporations (Degrees, Qualifications and Courses Standards) Determination 2018*); or
 - (b) has completed an approved foreign qualification.

5 Approval of exams

For an eligible candidate, an exam that:

- (a) is administered by the exam administrator; and
- (b) is administered in a way that meets the standards specified in this determination;

is approved for the purposes of subsection 921B(3) of the Act.

6 Standard: knowledge and skills areas

- (1) This section specifies a standard relating to knowledge and skills areas.
- (2) An exam must be designed to test whether eligible candidates have knowledge and skills, in each of the knowledge and skills areas, at AQF 7 level as described in *Australian Qualifications Framework*, 2nd edition (January 2013) published by the Australian Qualifications Framework Council.

Note: On the day this instrument was registered, this publication was available at <https://www.aqf.edu.au/>.

- (3) An exam must cover each of the following knowledge and skills areas as they apply in relation to financial products:

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- (a) the ***financial advice regulatory and legal obligations area***, that is to say, the knowledge and skills needed to understand and conform to the requirements of each of the following:
- (i) Chapter 7 of the Act;
 - (ii) the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;
 - (iii) the *Privacy Act 1988*;
 - (iv) Australian taxation law and commercial law, as covered in relevant courses approved by the Tax Practitioners Board;
- (b) the ***applied ethical and professional reasoning and communication area***, that is to say, the knowledge and skills needed to be able to apply ethical and professional reasoning, and to communicate effectively, including the ability to:
- (i) identify the obligations imposed by the Code of Ethics and how to comply with them; and
 - (ii) articulate the importance of a code of ethics and the need for financial planners to conform to the Code of Ethics in the context of professional standards; and
 - (iii) apply ethical frameworks to solve dilemmas encountered as a relevant provider; and
 - (iv) identify the importance of and demonstrate the duty of a relevant provider to act with integrity and in the best interest of each of the provider's clients; and
 - (v) identify the need for due diligence and the need to maintain client files and records;
- (c) the ***financial advice construction area***, that is to say, the knowledge and skills needed to construct suitable financial product advice through an understanding of:
- (i) the environment in which financial product advice is sought and given; and
 - (ii) the need to prevent and avoid misconduct and inappropriate advice; and
 - (iii) population and community profiles at a retail client level; and
 - (iv) consumer behaviour and decision-making; and
 - (v) the advice strategies suitable for different retail clients.

Note: On the day this instrument was registered, courses referred to in subparagraph (a)(iv), were available at <https://www.tpb.gov.au/board-approved-courses-tax-agents>.

7 Standard: exam questions

- (1) This section specifies a standard relating to the questions in an exam.

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- (2) There must be at least 70 questions, comprising:
 - (a) at least 64 multiple choice questions; and
 - (b) at least 6 written response questions requiring short answers or report writing.

8 Standard: duration of exam

- (1) This section specifies a standard relating to the duration of an exam.
- (2) A candidate in an exam must have 3.5 hours to complete the exam, which period must include 30 minutes reading time.

Note: Eligible candidates may need to spend up to 60 minutes to complete pre-examination procedures and post-examination administration.

9 Standard: marking exams

- (1) This section specifies a standard relating to the marking of an exam.
- (2) An exam must show the maximum marks that may be awarded for each question.
- (3) The questions in an exam, and the maximum marks that may be awarded for each question, must be approved by persons with appropriate expertise, appointed by the exam administrator.

10 Standard: terms of registration for sitting exams

- (1) This section describes standards relating to the terms of registration for sitting an exam.
- (2) The terms on which a person is registered to sit an exam must comply with this section.

Note 1: The terms of registration for sitting an exam, and the exam location, will be given to each eligible candidate for the exam on registration.

Note 2: The exam administrator will charge a fee for an exam.

Entry into an exam location

- (3) A person will not be admitted to the exam location for an exam unless the person:
 - (a) is an eligible candidate for the exam; or
 - (b) is an employee or other personnel of the exam administrator.
- (4) The terms of registration may impose identification requirements for eligible candidates to be admitted to the exam location.

Note: For example, requirements for photo ID may be imposed.

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Equipment

- (5) An exam must be completed using a computer provided by the exam administrator (apart from special circumstances outlined in section 10(19)). The computer must give electronic access to statutory materials and materials published by ASIC and other relevant regulators as specified by FASEA.
- (6) A candidate may not use a device (other than the computer provided for the candidate by the exam administrator) to access the internet from an exam location.
- (7) A candidate may not bring any equipment or materials into the exam location without the approval of the exam administrator.
- (8) Approval under subsection (7) will only be given for equipment needed because of the candidate's special needs. The terms of registration may set out procedures for applying for and gaining approval.
- (9) 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. The terms of registration may set out requirements for notifications.

Note For example, provisions made may include adjustable desks, ensuring that computer screens have larger fonts, higher contrasting colours and reader assistance (for candidates with visual impairments) and support to ensure that invigilators can communicate effectively with candidates with hearing impairments.

Conduct of the exam

- (10) The exam will be invigilated.
- (11) A candidate must comply with an instruction or direction given by an invigilator in connection with the exam.
- (12) A candidate must not do any of the following:
 - (a) communicate, by any means, with any other person, including another candidate, during an exam without the permission of an invigilator;
 - (b) read or attempt to read another candidate's work during an exam;
 - (c) copy from another candidate during an exam.
- (13) Nothing prevents a candidate from communicating appropriately with an invigilator.
- (14) A candidate must not start to record answers to exam questions until after the reading time for the exam has ended.

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Consequences of misconduct

- (15) If a candidate breaches subsection (6), (7), (11), (12) or (14), the exam administrator may do either or both of the following:
- (a) exclude the candidate from the exam location;
 - (b) fail the candidate.

Marking and results

- (16) Candidates for an exam will be notified only that they have passed or failed the exam which will be marked to a credit level.

Review of results

- (17) A candidate who has failed an exam may apply to the exam administrator for a review of the marking of only the written response style questions of the exam. The terms of registration must:
- (a) specify how and by when that application may be made; and
 - (b) provide for the review to be conducted; and
 - (c) provide for the results of the review to be communicated to the candidate.
- A candidate may make only 1 application for review for an exam.

Note 1: The exam administrator will charge a fee for a review of the marking of the exam.

Deferral of exams for exceptional circumstances

- (18) The terms of registration must provide:
- (a) that a registered candidate may apply to the exam administrator to defer sitting the exam due to exceptional circumstances beyond the candidate's control, such as:
 - (i) acute illness (including hospital admission);
 - (ii) recent loss or bereavement (including the death of a close family member);
 - (iii) hardship or trauma (including being victim of crime or severe disruption to domestic life);
 - (iv) unforeseen call-up for service (including military service, court appearance, jury service or emergency service).
 - (v) computer malfunction during the exam; and
 - (b) for reasonable procedures for making and dealing with those applications; and
 - (c) that the candidate may be registered for another exam without incurring additional charges.

Note 1: Reasonable procedures under paragraph (b) may include requirements for medical or other certificates, or other evidence, to be provided.

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Note 2: All applications must be submitted in writing within 14 working days of the date of the examination.

Alternative arrangements

- (19) From 1 January 2020 subject to the exam administrator's approval, if it is unreasonable for a candidate for an exam to travel to the exam location because:
- (a) the candidate lives in a remote location; or
 - (b) the candidate is not able to travel to the exam location;
- the exam administrator may, on application by the candidate, make alternative arrangements for the exam for the candidate. The alternative arrangements must ensure that the candidate sits the exam in similar circumstances, and subject to similar conditions and requirements, as other candidates.