



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

*Corporations (Relevant Providers Degrees, Qualifications and Courses Standard)  
(Amendment No. 1) Determination 2019*

**Explanatory Statement**



## Key information

1. This instrument amends the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018* to include updated information received from the Higher Education Providers as well as a number of additional approved bachelor and higher degrees, and equivalent qualifications, for the purposes of the first education and training standard that relevant providers (financial planners and advisers) must meet under subparagraph 921B(2)(a) of the *Corporations Act 2001*.
2. **Date of effect:** the day after this instrument is registered in the Federal Register of Legislation (see section 2 of the determination).

## Glossary

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

Expression	Meaning
<i>Act</i>	the <i>Corporations Act 2001</i> .
<i>AQF-related expressions</i>	AQF, AQF criteria and AQF level refer to the <i>Australian Qualifications Framework</i> , which guides the assessment of tertiary-level courses of study.
<i>Authority</i>	Financial Adviser Standards and Ethics Authority Ltd, which is declared to be the standards body under section 921X.
<i>existing provider</i>	defined in section 1546A of the Act, as modified by <i>ASIC Corporations (Professional Standards—Transitional) Instrument 2018/894</i> section 10.
<i>relevant financial product</i>	defined section 910A of the Act.
<i>relevant provider</i>	defined section 910A of the Act.

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

## Context

5. The Corporations Act was amended in 2017 to provide for improved standards of education, training, ethical behaviour and professionalism for relevant providers (financial planners and financial advisers).
6. Section 921B sets 4 standards that relevant providers must meet (*education and training standards*). Section 921C(1)(b) 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. These prohibitions apply from 1 January 2019 (section 1546C).

7. The first of the standards requires the relevant provider to have completed a bachelor or higher degree, or an equivalent qualification.<sup>1</sup> Under subsection 921U(2)(a)(i) of the Act, the Authority must, by legislative instrument, approve bachelor or higher degrees, or equivalent qualifications for this purpose.

8. The *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018* specifies the bachelor and higher degrees, and equivalent qualifications, for the purposes of the first standard. The *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) (Amendment No. 1) Determination 2019* makes a number of detailed amendments to this determination.

## **The determination in detail**

### **Preliminary matters**

9. Section 1 provides that the name of the instrument is the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) (Amendment No. 1) Determination 2019*.

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

11. Section 3 sets out the legislative authority for making the determination: subparagraph 921U(2)(a)(i) of the Act and subsection 33(3) of the *Acts Interpretation Act 1901*.

12. Section 4 refers to Schedule 1 of the determination, which sets out the detailed amendments to the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*.

### **Schedule 1**

#### *Item 1*

13. Item 1 adds a reference to “standards body” to the note to section 4 of the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*. Section 4 is the definition section.

#### *Item 2*

14. Item 2 inserts definitions of *AQF*, *AQF level* and *AQF criteria*.

---

<sup>1</sup> Section 921V allows for foreign qualification, specified by the Authority, to be regarded as meeting the first standard. This determination does not deal with foreign qualifications.

*Items 3 and 4*

15. These items insert appropriate subsection headings in section 5 of the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*.

*Item 5*

16. This item makes amendments to section 5 of the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*. That section specifies conditions that apply to the approval of a degree or qualification.

17. New subsection 5(2A) and (2B) have the effect that institutions that offer approved degrees and qualifications will recognise, and grant credit for, prior learning of existing providers who are undertaking the degrees and qualifications, in 3 cases.

- First, where the existing provider has completed 4-7 courses for a degree offered by a registered higher education provider within the meaning of the *Tertiary Education Quality and Standards Agency Act 2011*. The courses must be at AQF Level 7 or higher and relate 1 or more of the following (in any combination):
  - financial planning;
  - investments;
  - accounting;
  - banking;
  - business law or commercial law (as approved by the Tax Practitioners Board);
  - economics;
  - estate law;
  - finance;
  - finance law;
  - taxation law (as approved by the Tax Practitioners Board).
- Secondly, where the relevant provider holds an advanced diploma relating to financial planning or financial advice from a registered higher education provider within the meaning of the *Tertiary Education Quality and Standards Agency Act 2011* or an NVR registered training organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011*. The diploma must be at AQF Level 6 or higher.
- Thirdly, where the relevant provider has completed 5 specific units of the Financial Planning Association's CFP<sup>®</sup> Certification Program.

18. Subsections (2C) and (2D) set out conditions for approval of the degrees and qualifications listed at items 87 and 88 of the table in section 5. For those degrees and qualifications, the relevant provider must have completed the relevant program by January 2008 and January 2010 respectively. The specific amendments to items 87 and 88 of the table to section 5 are made by items 50 and 52 of Schedule 1 to this determination.

*Detailed items amending the table in section 5 of the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*

19. Items 6 to 68 make detailed and specific amendments to the table to section 5 of the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*. The amendments variously:

- update requirements for courses where the content of degree programs, or course names, have changed;
- permit alternative courses approved by the Authority to be substituted where a relevant provider has not completed a required course before it ceases to be offered;
- correct, clarify or otherwise amend conditions as to when a particular course of study must have been started;
- correct typographical errors or formatting inconsistencies;
- insert or update notes to various items in the table, for example, as to when courses started or ceased to be offered, or that specified courses are electives. .

20. In 2 cases, the amendments remove specified degrees (former items 48 and 63 of the table to section 5 of the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018*).