Financial Viability Risk Assessment Requirements 2011[1]

The AUSTRALIAN SKILLS QUALITY AUTHORITY makes this legislative instrument under subsection 158(1) of the *National Vocational Education and Training Regulator Act 2011*.

Dated 1 July 2011

Christopher Robinson
Interim Chief Commissioner
Australian Skills Quality Authority

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Part 1 Preliminary

Division 1 Arrangements on commencement

FVRAR 1 Name of standards

This legislative instrument is the *Financial Viability Risk Assessment Requirements 2011.*

FVRAR 2 Commencement

This legislative instrument commences as follows:

(a) on 1 July 2011 or the day after the legislative instrument is registered on Federal Register of Legislative Instruments – whichever is the later.

FVRAR 3 Definitions

In this legislative instrument, unless the contrary intention appears:

Act means the *National Vocational Education and training Regulator Act 2011*.

Financially viable means the ability of an organisation to generate sufficient income to meet operating payments, debt commitments and, where applicable, to allow growth while delivering quality training and assessment services and outcomes.

Financial viability risk is the assessed financial performance, operations, and capacity of an organisation as an ongoing concern to deliver quality training and assessment services and outcomes for the duration of its registration, and the potential of its losing this capacity.

(2) The requirements of this legislative instrument apply to:
  (a) all organisations seeking registration under the Act and
  (b) all training organisations registered under the Act.

(3) The requirements may be referred to by the abbreviation 'FVRAR'. For example, this is FVRAR 3 (3).

NVR means the National VET Regulator

An independent qualified auditor is:

a) the Auditor-General of a State, of the Australian Capital Territory or of the Northern Territory; or
b) a person registered as a company auditor or a public accountant under a law in force in a State, the Australian Capital Territory or the Northern Territory; or
c) a member of the Institute of Chartered Accountants in Australia, or of the Australian Society of Certified Practising Accountants; or
d) a person approved by the Minister in writing as a qualified auditor for the purposes of the Higher Education Support Act 2003; and
e) a person independent from the entity it is auditing.

Note: For the purpose of this legislative instrument, a qualified auditor will be considered to be independent from the entity it is auditing if the qualified auditor meets the independence requirements specified in Part 2M.4, Division 3, of the *Corporations Act 2001* as though the qualified auditor is an individual qualified auditor or an audit company and the body corporate seeking approval as a VET provider is the audited body under that Act.

Part 2 Context and intent of these requirements

FVRAR 4 Context

The Act in Section 158 requires the National VET Regulator to make the requirements relating to the financial viability of NVR registered training organisations. The requirements are to be made by legislative instrument and are to be known as the "Financial Viability Risk Assessment Requirements".

The legislative instrument applies to NVR registered training organisations. Section 24 makes it a condition of registration that an NVR registered training organisation must satisfy the Financial Viability Risk Assessment Requirements.

FVRAR 5 Intent

The National VET Regulator requires a NVR registered training organisation to demonstrate its financial viability at any point in time, upon request.

The assessment of an organisation's financial viability risk is directed at evaluating the likelihood of its business continuity, and its capacity to achieve quality outcomes. In particular, the assessment informs a judgement about whether the organisation has the financial resources necessary to:

a) acquire the requisite assets and physical resources to deliver all qualifications on its scope of registration
b) employ sufficient appropriately qualified staff to cover the courses for which it takes enrolments
c) provide appropriate levels of student services to students
d) remain in business to ensure that each student can achieve completion
e) meet the above requirements, even in an unsure environment.

Part 3 Financial viability risk assessment requirements

FVRAR 6 Obligation to submit to assessment at initial registration

(1) An organisation seeking registration with the NVR must submit to an assessment of financial viability risk by a qualified independent financial auditor nominated by the NVR, as part of the assessment of the application for registration.

(2) The assessment will include an assessment of the source and reliability of the evidence supporting the assumptions underlying the projections.

(3) The obligation to submit to the assessment referred to in (1) applies also to parent organisations, affiliated companies or organisations that have a vested interest in the organisation.

FVRAR 7 Obligation to submit to assessment at any time

(1) An NVR registered training organisation must submit to an assessment of financial viability risk by a qualified independent financial auditor nominated by the NVR at other times during the registration period as determined by the NVR in accordance with the NVR Risk Assessment Framework.

(2) The obligation to submit to the assessment referred to in (1) also applies to parent organisations, affiliated companies or organisations that have a vested interest in the organisation.

FVRAR 8 NVR may waive requirement where risk is considered low

(1) Where the NVR considers the financial viability risk of an organisation is low, it may waive the requirement for a financial viability risk assessment.

(2) The waiving of the requirement does not remove the obligation in FVRAR 8 to submit to a future assessment if required by the NVR.

Part 4 Form and content of financial viability risk assessment

FVRAR 9 Assessment to be in required form

Financial data and information must be submitted to the qualified independent financial auditor nominated by the NVR in a format that is in accordance with Australian Accounting Standards.

FVRAR 10 Assessment to be against common indicators

The assessment of financial viability risk will be undertaken by assessing common indicators of financial performance and position. These may include but are not limited to the following indicators:

a) Liquidity– including current ratio and cash flow assessments
b) Solvency – including debt to assets assessment, debt to equity assessment
c) Economic Dependency – for example, reliance upon government funded training, or reliance on a particular cohort of students (e.g. overseas students)
d) Revenue, profit and cash flow
e) Commercial risk
f) Audit opinion
g) Contingencies
h) Compliance with all of its statutory obligations (for example: GST, taxation, superannuation, Companies Code)
i) Compliance with accounting standards
j) Accounting policies – impact of the organisation's accounting policies on its financial risk.

FVRAR 11 Reviews to have regard to Standards

Independent reviews of financial projections will have regard to the Australian Audit and Assurance Standards, *AUS 804 The Audit of Prospective Financial Information* and *ASAE 3000 Assurance Engagements Other than Audits or Reviews of Historical Financial Information*.

FVRAR 12 Information to be assessed

Information that could be used to assess the common indicators in FVRAR 10 and to make a determination about financial viability risk may include, but not be limited to:

a) Independent reviews of financial projections including underlying assumptions

b) Business planning including forecast income streams and forecast expenditure

c) Assets and liabilities

d) Financial statements audited by an independent qualified auditor

e) Financial records for the previous 12 months, including profit and loss, balance sheets

f) Cash flow and bank accounts

g) Short term budgets and forecasts, including assumptions

h) Information on current and projected student enrolments, including assumptions

i) Tax records

j) Information about current debts and debtors, credits and creditors, loans and repayment

k) Plans, and information on any legal disputes

l) Inter-company dealings, transfers, ownerships and loans

m) Contingent liabilities

n) Ultimate ownership details

o) Post reporting activities (includes activities that relate to the period after accounts have been audited that would have a material impact on the organisation's operations, viability or ownership).

FVRAR 13 Assessment to consider size and scope of operations

In managing the financial viability risk of an organisation, the NVR may take into consideration the size and scope of its operations.