



Financial Adviser Standards and Ethics Authority Ltd

*Corporations (Relevant Providers Degrees, Qualifications and Courses Standard)
Determination 2020*

Explanatory Statement

Key information

1. This instrument repeals and remakes the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018* (the **2018 Determination**). It includes a number of additional approved bachelor and higher degrees, and equivalent qualifications, for the purposes of the education and training standard that relevant providers (financial planners and advisers) must meet under paragraph 921B(2)(a) of the *Corporations Act 2001*.
2. It also makes a determination under paragraph 1546B(1)(b) of the *Corporations Act 2001* for existing providers, describing courses that give the provider qualifications equivalent to the education and training standard in subsection 921B(2) of the Act.

Date of effect

3. This instrument comes into effect on the day after it is registered in the Federal Register of Legislation (see section 2 of the determination).

Glossary

4. 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>approved bridging unit</i>	means a unit of study identified in Schedule 2 of the determination as: <ol style="list-style-type: none"> (a) a Financial Advice Regulatory & Legal Obligations bridging unit; or (b) an Ethics for Professional Advisers bridging unit; or (c) a Behavioural Finance: Client and Consumer Behaviour, Engagement and Decision-Making bridging unit.
<i>approved unit of study</i>	means a unit of study listed in column 4 of the table in Schedule 1 of the determination in respect of a particular degree or qualification.
<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>higher education provider</i>	has the meaning given in the <i>Tertiary Education Quality and Standards Agency Act 2011</i> .

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

Context

- 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).
- Section 921B sets 4 standards that relevant providers must meet (*education and training standards*). Paragraph 921C(1)(b) of the Act prohibits ASIC from granting a financial services licence to a person who has not met the education and training standards. Subsection 921C(2) 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 have applied from 1 January 2019 (section 1546C).
- The first of the standards requires the relevant provider to have completed a bachelor or higher degree, or an equivalent qualification.¹ Under subparagraph 921U(2)(a)(i) of the Act, the Authority must, by legislative instrument, approve bachelor or higher degrees, or equivalent qualifications for this purpose.
- Under paragraph 1546B(1)(b) of the Act, for existing providers, courses may be determined by the Authority as courses that give the provider qualifications equivalent to the education and training standard in subsection 921B(2) of the Act.
- The 2018 Determination specifies the bachelor and higher degrees, and equivalent qualifications, for the purposes of the first standard.

The determination in detail

Part 1—Preliminary

- Section 1 provides that the name of the instrument is the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2020*.
- Section 2 provides that the determination will commence on the day after it is registered in the Federal Register of Legislation.
- Section 3 sets out the legislative authority for making the determination: subparagraph 921U(2)(a)(i) and paragraph 1546B(1)(b) of the Act.
- Section 4 repeals the 2018 Determination.

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

15. Section 5 is the definitions section. It defines *the Act* as the *Corporations Act 2001* and in the Note refers readers to the definitions of *Code of Ethics, relevant provider* and *existing provider* in the Act. This section also includes definitions for *approved bridging unit, approved unit of study, completed approved study to attain a professional designation, designated area of study, relevant degree* and other terms used in the determination.

Part 2—Approvals of degrees and qualifications

16. Section 6 gives approval, for the purposes of the education and training standard in subsection 921B(2) of the Act, to the degrees and other qualifications listed in Schedule 1. The approval is subject to the conditions specified in Schedule 1, such as conditions as to when the relevant provider must have commenced the program, and the approved units of study the provider must have completed as part of the degree or qualification program. Section 6 and Schedule 1 together re-enact section 5 of the 2018 Determination, with amendments. Most of the amendments are input from higher education providers to correct and update information and descriptions of degrees and units of study.
17. Paragraph 6(2)(a) imposes a general condition on approvals for degrees and qualifications that do not include appropriate ethics courses. The relevant provider must also complete an approved bridging course (all of which are listed in Schedule 2). The Notes to subsection 6(2) identify degrees and qualifications listed in Schedule 1 that do include appropriate ethics courses.
18. Schedule 1 is arranged according to bachelor degrees (Part 1) and post-graduate degrees and equivalent qualifications (Part 2) and, within each Part, the higher education provider offering the degrees and qualifications.

Part 3—Existing providers: qualifications equivalent to the education and training standard

19. The Authority has established several “pathways” for existing providers, depending on whether the existing provider:
- has no degree or equivalent qualification;
 - has a degree or equivalent qualification, but not in a relevant field of study;
 - has a degree or qualification in a relevant field of study; or
 - has an approved degree or qualification (under section 6).
20. Section 7 sets out in visual form a summary of the pathways for an existing provider to achieve qualifications equivalent to the education and training standard. Column 2 of the table describes various kinds of existing advisers, ranging from those with full degrees to those with no degrees. Column 3 represents in numerical and graphical form the number of additional units of study that the provider must complete to achieve qualifications equivalent to the education and training standard.
21. Section 8 is the determination, for the purposes of paragraph 1546B(1)(b) of the Act, of the courses that give existing providers qualifications equivalent to the education and training standard in subsection 921B(2) of the Act. Like section 7, column 2 of the table describes various kinds of existing advisers, ranging from those with full degrees

to those with no degrees. Column 3 lists the units of study that a provider must complete to achieve qualifications equivalent to the education and training standard. The units of study include approved bridging units, graduate diplomas and other approved units of study.

Schedule 2—Courses and units of study

22. This Schedule lists the approved bridging units that an existing provider may have to complete to have qualifications equivalent to the education and training standard in subsection 921B(2) of the Act.

Consultation

23. The Authority undertook consultation in December 2019 on the draft determination, with 8 formal submissions received. All feedback was given due consideration. The Authority concluded that the provisions of the determination identify appropriate degree and other courses for the purposes of the first of the education standards.

Regulatory impact

24. The Office of Best Practice Regulation has confirmed that no Regulatory Impact Statement is needed for the determination.
25. The compliance costs associated with the 2017 amendments to the Act raising education, training and ethical standards of financial advisers was estimated in the Explanatory Memorandum for the Bill for the *Corporations Amendment (Professional Standards of Financial Advisers) Act 2017* at approximately \$165.1m. It is not practicable to make a meaningful estimate of the value of the benefits to consumers of improved standards in the industry.

Statement of compatibility with human rights

26. The determination may engage the right to freely choose and accept work under Article 6(1) of the International Convention on Economic, Social and Cultural Rights. However, it is part of a series of legislated requirements for financial planners and financial advisers designed to ensure that consumers get better service standards and to instil overall confidence in the industry. On that basis, the instrument is assessed to be compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.