



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

*Corporations (Relevant Providers Degrees, Qualifications and Courses Standard)  
Amendment Determination (No. 1) 2020*

### **Explanatory Statement**



## Key information

1. This instrument amends the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2020* (the **2020 Determination**). It amends the list of bachelor and higher degrees, and equivalent qualifications determined 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 amend the 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>Authority</i>	Financial Adviser Standards and Ethics Authority Ltd, which is declared to be the standards body under section 921X.

## 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*). 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).

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 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. The 2020 Determination approves specific bachelor and higher degrees, and equivalent qualifications, for this purpose.
8. 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 2020 Determination determines courses for this purpose.

## The determination in detail

### Part 1—Preliminary

9. Section 1 provides that the name of the instrument is the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment Determination (No. 1) 2020*.
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) and paragraph 1546B(1)(b) of the Act.
12. Section 4 provides for the amendments to be made, in Schedule 1 of the Determination.

### Schedule 1—Amendments

13. Schedule 1 amends the 2020 determination.
14. Item 1 amends the definitions in subsection 5(1) of the 2020 Determination by adding a definition of **post-graduate relevant degree** (relevantly, a graduate diploma or Masters degree that satisfies AQF criteria for AQF level 8 or higher).
15. Item 2 amends the notes to subsection 6(2) of the 2020 Determination by adding additional degrees and qualifications that include ethics units of study and so relevant providers who complete these degrees and qualifications do not have to complete, also, approved ethics courses.
16. Item 3 amends the table in subsection 7(1) to add provision for relevant providers who have a relevant degree and a post-graduate relevant degree.
17. Item 4 repeals and replaces the table to section 8. That table relates to existing advisers with specific qualifications, and specifies the additional courses / bridging units that they must complete. The amendments (principally item 5A in the table) relate to providers who have a relevant degree and a post-graduate relevant degree.

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<sup>1</sup> 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.

18. Item 5 repeals and replaces the table in Schedule 1 to the 2020 Determination. The replaced table includes a number of corrections and updates to information and descriptions of degrees and units of study reflecting input from higher education providers to correct and update and the Authority's on-going reviews of courses.
19. The table also includes additional degrees and qualifications that have been assessed by the Authority as meeting the appropriate standards.
20. Item 6 repeals and replaces the table in Schedule 2 to the 2020 Determination. The replaced table includes a number of corrections and updates to information and descriptions of degrees and units of study reflecting input from higher education providers to correct and update and the Authority's on-going reviews of courses.

## **Consultation**

21. The Authority undertook consultation in September 2020 on the substance of the changes proposed to be made in the Determination. There were 6 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**

22. The Office of Best Practice Regulation has confirmed that no Regulatory Impact Statement is needed for the determination.
23. 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**

24. 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*.