

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Treasurer and Minister for Financial Services**

#### *Corporations Act 2001*

#### *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment (2023 Measures No. 1) Determination 2023*

Part 7.6 of the Corporations Act (the Act) sets out licensing obligations for relevant providers, which are financial planners and financial advisers. Section 921B sets out education and training standards for a person who is, or is to be, a relevant provider.

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) 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.

The first education and training standard in subsection 921B(2) requires that a relevant provider has completed an approved bachelor or higher degree, or equivalent qualification, or foreign qualification, that has been approved by the Minister. Paragraph 921B(6)(a) of the Act provides that the Minister responsible for administering the Act may, by legislative instrument, approve bachelor or higher degrees, or equivalent qualifications, for relevant providers.

Before approving domestic bachelor or higher degrees or equivalent qualifications, the Minister must be satisfied that doing so is necessary or desirable to ensure relevant providers are adequately trained and competent to provide personal advice to retail clients (subsection 921B(7) of the Act).

Approved bachelor or higher degrees, and equivalent qualifications, are set out in the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021 (the Determination). The Determination is updated from time to time as educational providers seek approval of new degrees and make changes to existing approved degrees and associated units.

This instrument updated the Determination by:

- Adding three new degrees approved by the Minister;
- Adding one new approved bridging unit; and
- Correcting and updating approved degree names and the conditions associated with approved degrees.

The Minister has assessed that these amendments are necessary and desirable to ensure that relevant providers are adequately trained and competent to provide personal advice to retail clients in relation to relevant financial products.

Details of the instrument are set out in Attachment A.

The instrument amends the Determination to address issues and updates identified in consultation with relevant educational providers. Public consultation on the instrument was not undertaken as the instrument is minor and machinery in nature.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The instrument commenced on the day after the instrument was registered on the Federal Register of Legislation.

The Office of Impact Assessment has confirmed that no Impact Assessment is needed for the instrument.

A statement of Compatibility with Human Rights is at Attachment B.

**Details of the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment (2023 Measures No. 1) Determination 2023**

**Section 1 – Name of the Instrument**

This section provides that the name of the instrument is the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment (2023 Measures No. 1) Determination 2023* (the Amending Determination).

**Section 2 – Commencement**

Schedule 1 to the Amending Determination commenced on the day after the Amending Determination was registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Amending Determination was made under the *Corporations Act 2001* (the Act).

**Section 4 – Schedule**

This section provides that each instrument that is specified in the Schedule to this instrument will be amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments to the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021 (the Determination)**

Schedule 1 makes amendments to the Determination in the following areas:

- Adding new approved degrees
- Correcting unit names
- Updating Bachelor names and units
- Correcting commencement dates
- Correcting required units
- Removal of a minor and elective units
- Adding a new bridging unit

Some corrections are to ensure that the Determination matches the degrees and associated conditions that were approved by the Financial Adviser Standards and Ethics Authority (FASEA). FASEA was previously the standards body responsible for approving degrees until its powers were transferred to the Minister from 1 January 2022.

All references to items are references to items of the Amending Determination, unless stated otherwise. Items of the Determination are stated to be items of the Determination.

### *New approved degrees*

Schedule 1 of the Determination sets out a list of degrees and qualifications that are approved by the Minister to satisfy the first education and training standard for relevant providers. The Minister approved three new degrees as necessary or desirable to ensure that relevant providers are adequately trained and competent to provide personal advice to retail clients in relation to relevant financial products.

Item 5 of the Amending Determination added a new degree offered by Kaplan Higher Education Pty Ltd to the list of approved degrees. It also added a condition that the relevant provider commenced the program on or after 1 July 2023, as the course is not available before then.

Item 8 of the Amending Determination added a new double degree offered by the Royal Melbourne Institute of Technology to the list of approved degrees. It also added a condition that the relevant provider commenced the program during or after Semester 1 2023. The degree was not offered before that date. It also included a condition that the relevant provider completed or completes a list of specified units as part of the degree program.

Item 17 of the Amending Determination added a new double degree offered by the University of Technology Sydney to the list of approved degrees. It also adds a condition that the relevant provider commenced the program on or after 1 July 2019. That date matches the commencement condition of the Master of Financial Planning at Item 111A of the Determination. A relevant provider may have commenced units towards the new double degree under the Master of Financial Planning at Item 111A before the double degree was approved.

Under the Determination, all relevant providers must have completed an ethics unit of study. Paragraph 6(2)(a) of the Determination requires a relevant provider to complete an Ethics for Professional Advisers bridging unit, except if the relevant item of the Determination Schedule 1 states that paragraph 6(2)(a) does not apply. Where an approved degree already includes an ethics unit, it is not necessary for a relevant provider to also complete an Ethics for Professional Advisers bridging unit, so the conditions listed against the course in Schedule 1 exempt it from paragraph 6(2)(a).

All three of the new degrees added to Schedule 1 of the Determination in Items 5, 8 and 17 include an ethics unit of study. The conditions for each new degree specify that paragraph 6(2)(a) does not apply to the degree because it includes an ethics unit of study.

Subsection 6(2) Note 1 of the Determination provides a list of degrees to which paragraph 6(2)(a) does not apply because they include an ethics unit of study. Items 2, 3 and 4 included the three new degrees in this list at subsection 6(2) Note 1 of the Determination for Kaplan Higher Education Pty Ltd at paragraph (h), the Royal

Melbourne Institute of Technology at paragraph (j), and the University of Technology Sydney at paragraph (t) respectively.

#### *Minor corrections to unit names*

Items 6 and 9-13 made minor corrections to unit names. Item 6 capitalised the word ‘insurance’ in the unit name ‘Insurance and Risk Planning.’ Items 9, 11 and 13 replace ‘ACT2288’ with ‘ACCT2288’. Item 10 replaced LAW unit code ‘2452’ with ‘2542’ and re-ordered unit numbers so that they are listed consecutively. Item 12 replaced ‘QUA’ with ‘OUA’. Item 1 inserted a definition of OUA as meaning Open Universities Australia in subsection 5(1) of the Determination.

#### *Updating Bachelor names and units*

Item 30A of the Determination previously specified that any bachelors degree offered by La Trobe University was an approved degree subject to conditions including that a list of specified units were completed as part of the degree program. That requirement effectively narrowed the range of bachelor degrees capable of being approved degrees.

Item 7 replaced the reference to any bachelors degree with 6 specific bachelor degree titles that are relevant to the listed units.

Item 7 also replaced one of the required units listed in the column headed “Other conditions”, removing the reference to LST2BSL Introduction to Business Law and replacing it with FIN1FOF Fundamentals of Finance. The degree was approved by FASEA in 2018 on the basis that the provider completed or completes unit FIN1FOF Fundamentals of Finance, rather than the unit LST2BSL Introduction to Business Law, so this amendment aligned the required units with the assessment of the degree.

Item 7 also updated the timeframe within which the bachelors degree needed to be commenced, providing a longer date range within which a provider needed to commence the degree for it to be an approved degree. Instead of needing to commence their degree between 1 January 2014 and 31 December 2015, they are now able to commence the degree between 1 March 2009 and 30 June 2018. However, apart from the correction outlined in the paragraph above, the Amending Determination did not change the list of required units. This means that the course content that a provider needs to have completed is unchanged, even if they commenced their degree several years earlier than was previously approved.

#### *Correction to commencement dates*

Item 14 makes a correction to the timeframe within which a provider needs to have commenced the Bachelor of Business offered by Southern Cross University for it to be an approved degree. Previously, Schedule 1 Item 40A of the Determination covered any bachelor degree with a Financial Services major offered by Southern Cross University, provided that the provider commenced or commences the program on or after March 2021 and completed or completes each of a list of units as part of the degree program.

The Bachelor of Business is covered by Schedule 1 Item 40A of the Determination but was assessed and recommended for approval on the basis that the provider commenced or commences the program on or after 1 March 2018. The other degrees previously covered by Schedule 1 Item 40A of the Determination (the Bachelor of Business and Enterprise, and the double degree Bachelor of Business and Enterprise / Bachelor of Arts) were assessed and recommended for approval on the basis that the program was commenced on or after 1 March 2021.

To provide a different commencement date range for the Bachelor of Business, Schedule 1 Item 40A of the Determination was repealed and replaced with: Item 40A which covers the Bachelor of Business; and Item 40B which covers the other programs that were previously covered by Item 40A. Items 40A and 40B of Schedule 1 of the Determination have the same units listed in the column headed “Other conditions”.

#### *Correcting required units*

Item 15 corrected the Determination by removing the list of units that a provider needed to complete as part of the Bachelor of Applied Commerce majoring in Financial Planning offered by TAFE NSW. The Bachelor of Applied Commerce was approved by FASEA without any required units, and in error was included at Schedule 1 Item 42 of the Determination with required units.

The other degree previously covered by Schedule 1 Item 42 of the Determination, the Bachelor of Applied Commerce Accounting Financial Planning Double Major, was approved by FASEA with the list of units in the column headed “Other conditions”.

To remove the list of units for the Bachelor of Applied Commerce majoring in Financial Planning, and keep the list of units for the Bachelor of Applied Commerce Accounting Financial Planning Double Major, Schedule 1 Item 42 of the Determination was repealed and replaced by two new Items, 42 and 42A. Schedule 1 Item 42 of the Determination has no required units and Item 42A maintains the list of unit previously required for the Bachelor of Applied Commerce Accounting Financial Planning Double Major.

#### *Removal of a minor and elective units*

Item 16 updated the name of the course Bachelor of Commerce (Personal Financial Planning) to remove the reference to Personal Financial Planning, at Schedule 1 Item 57 of the Determination. The Personal Financial Planning minor does not appear on the testamur or transcript and was not intended to be required to be completed when the degree was assessed and recommended for approval.

Item 16 also removed elective units that were included in the column headed “Other conditions” for the degree, and the note stating that they were elective units. The elective units were not intended to be required to be completed when the degree was assessed and recommended for approval. The Determination only needs to include units in the column headed “Other conditions” if completion of the units is necessary for the degree to be approved. For clarity and consistency, the elective units were removed from the Determination.

### *New bridging unit*

Under paragraph 6(2)(a) of the Determination, a relevant provider needs to complete an Ethics for Professional Advisers bridging unit unless the item at Schedule 1 of the Determination specifies that paragraph 6(2)(a) does not apply. Under the definitions in subsection 5(1) of the Determination, an approved bridging unit includes a unit of study identified in Schedule 2 as an Ethics for Professional Advisers bridging unit.

Item 18 included a new unit offered by Deakin University as an Ethics for Professional Advisers bridging unit at Schedule 2, Item 5, in the column headed “Course identification”. The new unit is titled “MAA 250 Ethics for Financial Professionals.”

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment (2023 Measures No. 1) Determination 2023**

This Legislative Instrument is 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*.

**Overview of the Legislative Instrument**

Section 921B of the *Corporations Act 2001* sets out education and training standards for relevant providers, who are financial advisers and financial planners. The first education and training standard requires relevant providers to complete a bachelor or higher degree, or equivalent qualification, or foreign qualification, approved by the Minister.

Bachelor or higher degrees, and equivalent qualifications, that are approved by the Minister are set out in the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021 (the Determination). The Legislative Instrument included three new approved degrees and one new bridging unit, and made updates and corrections to the names of, and conditions associated with, existing approved degrees in the Determination.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.