

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. 2) 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 two new double degrees approved by the Minister;
- updating required unit names and codes in the conditions applied to 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 make 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. 2) 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. 2) 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;
- making minor updates to unit names and codes;
- removing duplicative units;
- addressing unit restructures and adjustments; and
- removing one unit and including another for Deakin University approved degrees.

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 Determination Items.

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 two new double 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 14 added two new degrees offered by Southern Cross University to the list of approved degrees. Both are double degrees that contain the Bachelor of Business and Enterprise, which was already an approved degree at table item 40B in Schedule 1 to the Determination. Both new degrees have the same conditions for commencement date and required units, so are included as one item in the table in the Determination. They include a condition that the relevant provider commenced the program on or after 1 March 2024, as the degrees are not available before then.

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 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 it is listed in Note 1 under paragraph 6(2)(b) as a degree or qualification to which paragraph 6(2)(a) does not apply and the conditions listed against the course in Schedule 1 exempt it from paragraph 6(2)(a).

Both new degrees contain an ethics unit of study. The other conditions for the new degrees specify that paragraph 6(2)(a) does not apply to the degree because it includes an ethics unit of study.

Item 2 updates Note 1 under subsection 6(2) to include the two new degrees in the list of degrees offered by Southern Cross University to which paragraph 6(2)(a) does not apply.

Minor updates and corrections to unit names and codes

Items 8 to 13, 15 to 21 and 23 to 26 include new unit names and codes as alternatives to previously listed unit names and codes for units offered by Western Sydney University, the Queensland University of Technology, Royal Melbourne Institute of Technology, University of the Sunshine Coast, Kaplan Higher Education Pty Limited, and University of Southern Queensland. Listing the new names and codes as alternatives to the previous names and codes ensures that a provider can complete the required units under either name or code to meet the conditions for the degree or course identification for the bridging unit.

In relation to the Kaplan Higher Education Pty Ltd units, FASEA approved the new units as equivalent to the previous units. There was no change to the content or learning outcomes for the other units.

Item 4 corrects a typographical error in one unit code for a unit offered by Deakin University.

Removing duplicative units

Items 22 and 23 remove a unit which is listed twice for the affected degrees.

Unit restructures and corrections

Item 3 removes the unit MLC301 Principals of Income Tax Law for Deakin University as an alternative to MAF307 / MAF207 Equities and Investment Analysis in table items 23 and 26 in Schedule 1 to the Determination, as it does not cover the same content. The effect is that MAF307 / MAF207 Equities and Investment Analysis becomes a required unit as was originally intended under the degree approval, and either MLC301 Principals of Income Tax Law or its equivalent MLL406 / MLL322 Taxation remains as a required unit under table items 23 and 26.

Item 6 updates required units for Griffith University. New unit 2150AFE Taxation Law combines two previously required units, 3106AFE / 3186AFE Revenue Law: Theory and Policy in Action and 3108AFE / 3188AFE Taxation Planning, so is now listed as an alternative to completing both of the latter units.

Also, Item 6 adds new unit 7269AFE / 7815AFE Ethics and Professionalism which replaced 3215AFE / 3285AFE Contemporary Issues in Financial Planning in 2019, so is now listed as an alternative to that unit. The other conditions provide that paragraph 6(2)(a) does not apply to the degree if 7269AFE / 7815AFE Ethics and Professionalism is completed, because the degree then includes an ethics unit of study.

Item 1 also updates Note 1 under paragraph 6(2)(b) of the Determination so that paragraph 6(2)(a) does not apply to the degree if 7269AFE / 7815AFE Ethics and Professionalism is completed, but paragraph 6(2)(a) would still apply if 7269AFE / 7815AFE Ethics and Professionalism was not completed.

Item 7 updates required units for Griffith University. New unit 2150AFE / AFE210 Taxation Law combines two previously required units, 3106AFE / AFE316 Revenue Law: Theory and Policy in Action and 3108AFE / AFE318 Taxation Planning 2150AFE / AFE210, so is now listed as an alternative to completing both of the latter units.

Removing one unit and including another for Deakin University

Items 3 and 5 remove MAF202 Money and Capital Markets as a required unit for Bachelor degrees that could be commenced after 2012, as the required content is covered by MAF101 Fundamentals of Finance and MAF255 / MAA255 Financial Planning.

Items 3 and 5 also add MAA250 Ethics for Financial Professionals as a required unit for degrees awarded after 1 July 2019, as that is when it was introduced and became a required unit of the degree.

The other conditions provide that paragraph 6(2)(a) does not apply to the degree if MAA250 Ethics for Financial Professionals is completed, because the degree then includes an ethics unit of study. Item 1 also updates Note 1 under paragraph 6(2)(b) of the Determination so that paragraph 6(2)(a) does not apply to the degree if

MAA250 Ethics for Financial Professionals is completed, but paragraph 6(2)(a) would still apply if MAA250 Ethics for Financial Professionals was not completed.

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. 2) 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 two new approved degrees and made updates and corrections to unit names and codes required under 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.