



Financial Adviser Standards and Ethics Authority Ltd

Corporations (Provisional Relevant Providers—Expressions) Determination 2018

Explanatory Statement

Key information

1. Under section 923C of the *Corporations Act 2001*, a person cannot use the expressions “financial planner” or “financial adviser” (or terms of like import) if the person is a “provisional relevant provider”. Provisional relevant providers can only provide financial services to clients under supervision.
2. This effect of this determination is that a provisional relevant provider can lawfully use or assume the expressions “provisional financial planner” or “provisional financial adviser”.
3. **Date of effect:** the day after it is registered in the Federal Register of Legislation (see section 2).

Outline of this determination

4. Under subsection 923C(9), a provisional relevant provider may assume or use the expressions “financial planner” or “financial adviser” (or terms of like import) if they are or are part of expressions determined for the purposes by the standards body (Financial Adviser Standards and Ethics Authority Ltd).
5. **Provisional relevant provider** is defined in section 910A of the *Corporations Act 2001*.
6. Section 4 of this determination has the effect that a provisional relevant provider can use or assume the expressions “provisional financial planner” or “provisional financial adviser”.

Detailed provisions

Section 1

7. This section identifies the determination as the *Corporations (Provisional Relevant Providers—Expressions) Determination 2018*.

Section 2

8. This section sets out when the determination commences, which is the day after it is registered in the Federal Register of Legislation.

Section 3

9. This section states the legislative authority for making the determination: subparagraph 921U(2)(a)(v) of the *Corporations Act 2001*.

Section 4

10. This section specifies the 2 expressions that may be used or assumed by a provisional relevant provider: “provisional financial planner” and “provisional financial adviser”.

Consultation

11. The Authority undertook consultation from July to August 2018 on the work and training requirements with 14 formal submissions received. The draft determination itself was also the subject of consultation with 7 submissions received. The Authority conducted 5 forums with stakeholder groups. All feedback was given due consideration. The Authority concluded that the determination meets its requirements for the expressions standard.

Regulatory Impact

12. The Office of Best Practice Regulation has advised that no regulatory impact statement is required for the determination given the limited regulatory impact that it will have.

13. 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

14. This instrument 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*.