

## **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 Determination 2022*

The *Corporations Act 2001* (the Act) provides for the regulation of corporations, financial markets and products and services, including in relation to licensing, conduct, financial product advice and disclosure.

Part 7.6 of the Act provides for the licensing obligations of providers of financial services. Professional standards apply to financial advisers who provide personal advice on relevant financial products to retail clients and include having an approved qualification. Section 921B sets out the education and training standards for a person who is, or is to be, a relevant provider (financial planners and advisers). There are four standards that relevant providers must meet (collectively known as the 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 education and training standard requires that a provider has completed an approved bachelor or higher degree, or equivalent qualification or a foreign qualification 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.

The Act specifies matters that the Minister must be satisfied of before approving a degree or other qualification. To approve domestic bachelor or higher degrees or equivalent qualifications, the Minister must be satisfied that this is necessary or desirable to ensure relevant providers are adequately trained and competent to provide personal advice to retail clients (section 921B(7) of the Act).

This instrument updates *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021* to add the Bachelor of Commerce (Financial Advising) provided by James Cook University, as a degree approved by the Minister that satisfies the first professional standard. This approval follows the Ministers assessment that approving the degree is 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.

Public consultation on this instrument was not undertaken as the instrument is minor and machinery in nature.

Details of the instrument are set out in Attachment A

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. The instrument is subject to disallowance and sunseting in accordance with the ordinary arrangements.

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

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

### **Regulation Impact Statement**

The Office of Best Practice Regulation has confirmed that no Regulatory Impact Statement is needed for the instrument.

**Details of the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment Determination 2022**

**Section 1 – Name of the Regulations**

This instrument is the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment Determination 2022*. All references are to the instrument unless otherwise stated.

This Amending Determination adds to the list of approved degrees in Schedule 1 to the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment Determination 2021* (the Determination).

**Section 2 – Commencement**

This section provides that the whole of the instrument commences on the day the instrument is registered on the Federal Register of Legislation.

**Section 3 – Authority**

This section provides that the instrument is made under the *Corporations Act 2001* (the Act).

**Section 4 – Schedule**

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

**Schedule 1 – Amendments Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment Determination 2022**

Schedule 1 to the instrument adds the Bachelor of Commerce (Financial Advising) degree provided by James Cook University to the table of approved degrees, under paragraph 921B(6)(a) of the Act which provides that the Minister responsible for administering the Act may, by legislative instrument, approve bachelor or higher degrees, or equivalent qualifications, for relevant providers.

Item 2 amends Schedule 1 to the Determination to update the table of degrees and qualifications that satisfy the requirements in paragraph 921B(2)(a) of the Act.

The amendments insert a new item 29A into the table in Schedule 1 with the effect of adding the Bachelor of Commerce (Financial Advising) degree offered by James Cook University as the approved degree.

The approval is subject to the condition that the relevant provider commenced the program on or after 1 July 2022. Paragraph 6(2)(a) of the Determination does not apply to this qualification as it includes an ethics unit of study.

Item 1 amends the note at section 6 of the Determination to confirm that the Bachelor of Commerce (Financial Advising) provided by James Cook University, is an approved degree to which paragraph 6(2)(a) of the Determination does not apply. Paragraph 6(2)(a) of the Determination otherwise requires that the relevant provider (financial planners and financial advisers) complete an additional Ethics for Professional Advisers bridging unit. This requirement does not apply if the relevant item in Schedule 1 states that this paragraph 6(2)(a) does not apply.

**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 Determination 2022**

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**

Part 7.6 of the Act provides for the licensing obligations of providers of financial services. Professional standards apply to financial advisers who provide personal advice on relevant financial products to retail clients and include having an approved qualification. Section 921B sets out the education and training standards for a person who is, or is to be, a relevant provider (financial planners and advisers). There are four standards that relevant providers must meet (collectively known as the education and training standards).

The first education and training standard requires that a provider has completed an approved bachelor or higher degree, or equivalent qualification or a foreign qualification 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.

This legislative instrument updates *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021* to add James Cook University: Bachelor of Commerce (Financial Advising) as a degree approved by the Minister that satisfies the first professional standard that relevant providers must meet, specifically, subsection 921B(2)(a) of the Act. This approval follows the Ministers assessment that approving the degree is 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.

**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.