

Rules Governing Use of Certification Trade Mark



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1. Purpose

- 1.1 The Rules govern the use of the certification trade mark, the purpose of which is the promotion, maintenance and signification of high standards of professionalism, education and integrity within the Australian finance industry.
- 1.2 The Rules are to be applied and interpreted impartially, without discrimination, by the Education Committee and its sub committees on behalf of the CFMIA, with a view to furthering the underlying purpose of the certification trade mark.
- 1.3 The Rules assume that financial transactions are subject to an inherent degree of risk. The purpose of the certification trade mark is not to seek to eliminate risk, but to endeavour to ensure that recipients of finance advice can make an informed decision to assume risk based on educated, professional and bona fide advice given in good faith.
- 1.4 The CFMIA will support the certification trade mark by entering into commercial agreements with reputable educational institutions, whereby those providers are permitted to develop and administer high quality educational courses and programs that will form an integral requirement for use of the certification trade mark.

2. Interpretation

- 2.1 Where the interpretation of the Rules is unclear, a construction that is consistent with the Purpose of the certification trade mark is to be preferred to a construction that is not consistent.
- 2.2 In the Rules, the following definitions apply:

Applicant means a person who has applied to use the Mark in relation to Finance Services.

Application means an application to use the Mark in relation to Finance Services.

Approved Certifier means the Education Committee, or a sub-committee appointed by the Education Committee, in accordance with the Rules.

Approved Examination means any examination developed by a reputable Australian educational institution (namely an educational institution that is recognised under Commonwealth, State or Territory legislation (for example, a Registered Training Organisation or University) which retains academic expertise in the fields of finance and professional practice and has experience in developing examinations) and is approved by the Education Committee as a requirement for being authorised to use the Mark in relation to Finance Services. An Approved Examination shall include questions relating to finance lending, finance products and professional conduct, with a view to demonstrating that the examinee has an advanced understanding of:

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- Finance lending and finance products offered in the Australian market;
- Practical and ethical issues regularly encountered by consultants in the field of finance products; and
- Professional standards and conduct required of an Authorised User, including the Code of Ethics.

Approved Dispute Resolution Scheme means a relevant Ombudsman's dispute resolution scheme as recognised by the Education Committee.

Approved Certification Education Designation Program means an educational program approved by the board of the CFMIA. The board must be satisfied that the educational program delivers an education level sufficient for a person to be an Authorised User. The educational program will contain the following components:

- An Australian Skills Quality Authority (or equivalent regulatory body) approved diploma level course or higher, focusing on finance and debt related matters; **and**
- An "advanced course" (or group of subjects coupled with assessments), created by a Registered Training Organisation, which includes subject matter pertaining to professional ethics and the duties of a professional consultant.

Authorised User means a person authorised to use the Mark in relation to Finance Services.

Approved Form means any document, in physical or electronic form, approved and made available by the Education Committee, or an equivalent document that is substantially the same as a document approved by the Education Committee.

CFMIA means Certified Finance and Mortgage Institute of Australasia Pty Ltd.

Code of Ethics means the Code of Ethics contained in Schedule 1, or that Code as updated and published by the Education Committee on its website from time to time.

CPE Requirements means at least thirty hours of relevant professional development activities in the field of Finance Services each financial year. The following activities will be deemed relevant by the Education Committee:

- Presentations, seminars (including online) or short courses of not less than one hour delivered by experienced professionals or educators in the fields of finance lending, finance products or professional ethics in the finance industry;
- Formal courses leading to a qualification and offered by an RTO, with course content directly relevant to the fields of finance lending, finance products, or professional ethics in the finance industry; and

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- Self education activities (up to a maximum of five hours per year), namely reading material in the fields of finance lending, finance products or professional ethics in the finance industry.

Education Committee means the committee of qualified persons appointed by the company board of the CFMIA to determine Applications and administer the Rules, and whose members will form sub-committees (including the education and administration committee) to exercise powers on behalf of the Education Committee.

Fee Schedule means the Schedule of Fees as published by the Education Committee.

Finance Services means finance and advisory and information services relating to finance and debt instruments and associated products.

Mark means



Notice means a written communication, in either electronic or physical form, sent to an address where the sender has reason to believe the intended recipient will receive and comprehend the communication in a timely manner.

Registration means Australian trade mark registration no. 1833700.

Relevant Licence/s or authority means any licence/s or authority required under Australian law in order to provide Finance Services.

Rules means these rules and any schedule, annex or other attachment to these rules mentioned herein.

2.3 The following definitions also apply to interpretation of the Rules:

days includes weekdays and weekends, but excludes public holidays in a State or Territory where a person required to do an act is located.

includes is not a word of limitation, nor are the words 'include' or 'including'.

month/s means a period starting on one day of a particular month, and ending and inclusive of the same day of the next month (or the previous day, in the case where the next month is shorter in length than the previous month).

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person	includes a natural person, a corporation, an incorporated entity having legal personality (however defined), a partnership, a joint venture, the Crown, a government agency or statutory authority.
subparagraphs	unless otherwise stated (e.g. by use of restrictive terminology), each subparagraph is deemed to be a separate and independent condition, right or obligation.

3. Approved Certifier and other functions of the Education Committee

- 3.1 The Education Committee shall act as the Approved Certifier.
- 3.2 The Education Committee shall be comprised of at least five members (including one chairperson), each of whom should be of good fame and character and with at least five years relevant experience in the Australian finance industry. Relevant experience shall mean time spent:
- i. acting as a consultant in relation to finance products;
 - ii. employed as an advisor, manager or business development manager in the banking finance sector;
 - iii. employed by a Government regulator in relation to finance products;
 - iv. employed by a recognised professional association in the field of finance consulting services ;or
 - v. employed as an educator in relation to education courses relating to finance.
- 3.3 The Education Committee may appoint sub-committees of one or more persons to determine Applications, conduct audits, determine revocation, and undertake any other task relating to the administration of the Rules. Such sub-committees may include:
- i. an administrative sub-committee to carry out administrative functions pertaining to the Rules; and
 - ii. an education sub-committee to determine whether a person holds relevant qualifications and meets other relevant criteria in order to be an Authorised User.
- 3.4 In cases where the Education Committee appoints a sub-committee to perform a function, relevant references to the Education Committee in the Rules should be read as a reference to the sub-committee.
- 3.5 The Education Committee may dismiss a sub-committee, or alter its composition, at its discretion.

4. Certification Requirements

- 4.1 The Finance Services to be provided by an Applicant will meet certification requirements when all of the following requirements are met:

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- i. The Education Committee is satisfied that the Applicant meets the requirements to be an Authorised User.
- ii. The Education Committee authorises the person to use the Mark in relation to Finance Services.

5. Requirements for approval to use the Mark for Finance Services

5.1 An Applicant that wishes to use the Mark in relation to Finance Services must file an Application with the Education Committee.

5.2 The Applicant must satisfy the following requirements:

- i. Be a natural person.
- ii. Be of good fame and character.
- iii. Not be a current bankrupt.
- iv. Hold any Relevant License/s or authority.
- v. Not be subject to any court or administrative order prohibiting them from providing advice in relation to Finance Services.
- vi. Have completed an Approved Certification Education Designation Program.
- vii. Achieve a satisfactory result in any Approved Examination.
- viii. Have three years full-time relevant industry experience in the finance industry. In deciding whether the Applicant has relevant experience, the Education Committee will consider the extent to which the Applicant has been engaged in providing services in relation to finance products, and the supporting documentation provided by the Applicant including letters of employment, curriculum vitae and references.
- ix. Have in place an Internal Dispute Resolution Procedure for handling of complaints and for providing a timely and appropriately detailed response to any complaint and any proposed action in response to a complaint.
- x. Be a participant in an Approved Dispute Resolution Scheme.
- xi. Undertake to abide by the Code of Ethics and by any other ongoing requirements imposed by the Rules.

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- xii. Pay any relevant fee in the Fee Schedule.
- 5.3 The Education Committee may at any time after the Application is filed:
- i. Request further information from the Applicant regarding the requirements.
 - ii. Request documentary evidence (including statutory declarations or affidavits) demonstrating that the Applicant meets the requirements.
- 5.4 The Education Committee must consider and issue a decision by Notice within three months of receiving an Application. This time period may be extended by three months if the Education Committee has requested further information or documentary evidence from the Applicant.
- 5.5 The Education Committee may, upon being satisfied that the Applicant has met the requirements for use of the Mark and that the Applicant will provide the Finance Services in accordance with the Rules, issue a decision by Notice to the Applicant that they are an Authorised User, and that they may from the date of the Notice use the Mark in relation to Finance Services.
- 5.6 If the Education Committee is not satisfied that the Applicant has met the requirements for use of the Mark, the Education Committee must issue a decision by Notice to the Applicant in writing, including the following information:
- i. The reasons why the Application does not meet the requirements for use of the Mark, and
 - ii. The action that the Applicant may take (including provision of further information and/or evidence) in order to meet the requirements for use of the Mark.
- 5.7 The Applicant may respond within three months of the date of Notice. If no response is filed by the deadline, the Application will be rejected.
- 5.8 If the Applicant responds, but in the opinion of the Education Committee still does not meet the requirements for use of the Mark, the Education Committee may at its discretion:
- i. Finally reject the Application, or
 - ii. Permit the filing of additional information or evidence, according to a deadline or timetable determined by the Education Committee.
- 5.9 An Applicant may file a new Application twelve months after the initial Application is filed.

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- 5.10 The Education Committee may by Notice reject an Application if the Education Committee believes it is vexatious or the Applicant has not made reasonable efforts to remedy deficiencies with a previous Application.

6. Ongoing requirements to use the Mark for Finance Services

6.1 An Authorised User must:

- i. Abide by the Rules insofar as they relate to use of the Mark for Finance Services.
- ii. Abide by the Code of Ethics.
- iii. Abide by any practice directions issued by the Education Committee from time to time relating to use of the Mark for Finance Services.
- iv. Meet the CPE Requirements, to the satisfaction of the Education Committee.
- v. Maintain, from the date of commencement of use of the Mark, the minimum required level of professional indemnity insurance required under any relevant Australian law in order to provide advice in relation to Finance Services.
- vi. Immediately notify the Education Committee should the following occur:
 - a. The Authorised User no longer holds any Relevant License/s or authority.
 - b. The Authorised User becomes subject to any court or administrative order prohibiting them from providing advice in relation to Finance Services.
 - c. The Authorised User ceases to have the minimum required level of professional indemnity insurance required under any relevant Australian law in order to provide advice in relation to Finance Services.
 - d. The Authorised User ceases to be a participant in an Approved Dispute Resolution Scheme.
 - e. The Authorised User becomes aware of any other circumstance which may indicate that the Authorised User is no longer compliant with the Rules or Code of Ethics.
 - f. The Authorised User becomes aware of any other matter that would reasonably affect a decision by the Education Committee to allow the Authorised User to continue using the Mark.

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- vii. Retain all records relating to their provision of Finance Services for a minimum of eleven years from the date a record was last acted upon.
- viii. Provide any co-operation and assistance to the Education Committee, including provision of relevant documents and business records, in response to any audit or request by the Education Committee for the purpose of determining compliance with the Rules and Code of Ethics.
- ix. Provide any information or supporting evidence requested by the Education Committee that would allow the Education Committee to determine whether the Authorised User is entitled to continue using the Mark.
- x. Pay any relevant fee in the Fee Schedule.

7. Other requirements for Authorised Users

- 7.1 An Authorised User will promptly and at their own expense answer any correspondence from the Education Committee relating to use of the Mark or the obligations of the Authorised User under the Rules.
- 7.2 An Authorised User must not:
 - i. Use the Mark in an incomplete, or altered form, without the prior consent of the Education Committee.
 - ii. Hold themselves out to be an authorised employee or representative of the Education Committee or CFMIA, however defined.
 - iii. Disclose confidential information of CFMIA, including information that is disclosed in circumstances importing an obligation of confidence.
- 7.3 An Authorised User agrees to provide any documentary or other support necessary to support any action by the CFMIA to defend the validity or currency of the Mark.
- 7.4 An Authorised User indemnifies the CFMIA for any loss, damage and/or costs resulting from use of the Mark that is not in accordance with the Rules, or that otherwise constitutes misconduct, negligence or other wrongdoing on the part of the Authorised User.
- 7.5 An Authorised User will not hold liable the CFMIA and its officers, agents, employees and representatives for any claim arising from the lapsing, abandonment, revocation, cancellation or other termination of the Mark (however defined).

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8. Revocation

- 8.1 The Education Committee may issue a Notice to an Authorised User stating the Education Committee's intention to revoke authorisation to use the Mark, in the event that the Education Committee has a reasonable basis for believing any of following:
- i. The Authorised User has breached its obligations under the Rules, or is likely to do so.
 - ii. The Authorised User would no longer meet the requirements to be granted authorisation to use the Mark.
 - iii. The Authorised User has engaged or is likely to engage in some activity that will bring the CFMIA and/or the Mark into disrepute, or damage the reputation or goodwill of the CFMIA and/or the Mark.
 - iv. The Authorised User has engaged in conduct that is otherwise inconsistent with the purpose of the certification trade mark.
- 8.2 Prior to revoking authorisation to use the Mark, the Education Committee will allow the Authorised User thirty days from the date of Notice to show cause why authorisation to use the Mark should not be revoked. The thirty day period is extendable at the discretion of the Education Committee.
- 8.3 After considering any submissions by the Authorised User by the relevant deadline, the Education Committee will issue a final decision on revocation.
- 8.4 The Authorised User is not entitled to a refund of any fees paid should authorisation to use the Mark be revoked.

9. Dispute Resolution

- 9.1 Any dispute by an Applicant or Authorised User in relation to the Rules will be treated as follows:
- i. If the dispute relates to a decision or conduct by an agent, employee or representative of the Education Committee, a submission may be made to the Education Committee detailing the basis for the dispute and any remedial action requested.
 - ii. If the dispute relates to a decision or conduct by a sub-committee of the Education Committee:
 - a. The dispute will be referred to the full Education Committee for consideration, and

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- b. At least two members of the Education Committee not being part of the initial sub-committee (the “Review Board”) will review the matter, and issue a decision affirming or varying the decision of the committee.
- iii. If the decision relates to a decision of the full Education Committee or of a Review Board, the matter may be referred to external mediation by an accredited and experienced Australian mediator.

9.2 The Education Committee will:

- i. Deal with any dispute in a fair, expeditious and courteous manner.
- ii. Unless the basis for a dispute is vexatious, manifestly unreasonable or clearly lacking in merit, participate in any mediation and contribute a reasonable amount towards the cost of that mediation.
- iii. Abide by any agreement reached during mediation, and take any action necessary to implement the terms of that agreement.

10. Other powers of the Education Committee

10.1 The Education Committee may adopt any internal practice, procedures, regulations or guidelines that are necessary to ensure the effective administration of the rules, including:

- i. Requiring that an Application or any other document required to be filed by any person be filed in an Approved Form.
- ii. Publishing or making available any information, including by electronic means.
- iii. Maintaining a complaints database for members of the public, Authorised Users, Applicant’s, and other persons.
- iv. Maintaining a procedure for dealing with complaints.

10.2 The Education Committee may undertake any action necessary that is consistent with the purpose of the certification trade mark, including taking action to promote or defend the Mark.

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Schedule 1

Code of Ethics

1. An Authorised User must act at all times in accordance with the law.
2. An Authorised User must act at all times with integrity, honesty and professionalism.
3. An Authorised User must be of good fame and character.
4. An Authorised User must act only in matters where they are professionally competent, and in accordance with the conditions of any Relevant Licence/s or authority.
5. An Authorised User must act in the best interests of those they advise and serve, including by:
 - (i) Providing services in a transparent, efficient and timely manner.
 - (ii) Taking all reasonable steps to avoid a conflict of interest.
 - (iii) Explaining to the persons they advise and serve their qualifications, experience and Relevant Licence/s or authority held (including relevant conditions on those licences or authority), before providing advice.
 - (iv) Explaining to the persons they advise and serve the nature of the advice the Authorised User can provide, and what advice they cannot provide.
 - (v) Being sufficiently educated in relation to products and services recommended.
 - (vi) Sufficiently explaining advice given, and the basis for that advice.
 - (vii) Being satisfied that the persons they advise and serve understands the advice, and the basis for that advice.
 - (viii) Recommending only products and services suitable to the circumstances of the persons they advise and serve.
 - (ix) Avoiding over servicing or 'churning' strategies.
 - (x) Disclosing any expected remuneration received in relation to any products and services obtained by persons they advise and serve on advice from the Authorised User.

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- (xi) Disclosing in advance, where required by Australian law, any fees and charges in relation to advice, products or services provided or recommended by the Authorised User.
 - (xii) Offering to refer the persons who they advise and serve to another professional when it becomes apparent that the person's interests may be adversely affected by circumstances for which the Authorised User is unable to offer professional advice.
6. An Authorised User who becomes aware of a conflict of interest (or a potential conflict of interest), must to the extent possible fully and frankly disclose the conflict or potential conflict to the relevant persons who they advise and serve as soon as practicable. The Authorised User shall not proceed with any transaction or advice relating to the conflict or potential conflict without first obtaining informed, written consent from the relevant persons who they advise and serve.
 7. An Authorised User must not represent they are competent when they have no reasonable basis for this belief.
 8. An Authorised User must not bring the Mark or CFMIA into disrepute, or act in a manner likely to damage the reputation or goodwill of the Mark or CFMIA.