



Navitas submission to the House Standing Committee on Education and Employment on the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011

About Navitas

Navitas is a diversified global education provider that offers an extensive range of educational services for students and professionals including university programs, English language training and settlement services, creative media education, workforce education and student recruitment. Navitas is an Australian corporation ranked amongst the top 200 publicly listed companies on the ASX.

Navitas is the industry leader in pre-university and university pathway programs. It offers university programs from colleges in Australia, UK, US, Canada, Singapore, Sri Lanka and Africa.

English Language training includes the provision of English as second language courses for international students and English language, settlement and work preparation programs for migrants and refugees.

Navitas Workforce provides quality vocational, employment and placement services in areas of key demand. Focusing on meeting business and industry needs for skilled human resources, it provides the capabilities that find, train and place "work ready" skilled employees.

Via SAE and Qantm Navitas is now a leader in creative media education offering audio, film and new media qualifications around the world.

Navitas also offers student recruitment services in India and China for universities and other educational institutions in Australia, Canada, US and UK.

Further details about Navitas are available at www.navitas.com.

Executive Summary

Thank you for the opportunity to comment on the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011.

Navitas supports amendment to the Education Services for Overseas Students (ESOS) Act and the establishment of a single Tuition Protection Scheme (TPS) as steps that should improve regulation of the international education sector.

Navitas also welcomes the adoption of a risk-based regulatory approach whereby established providers with lower risk profiles will be treated differently from higher risk providers. This risk based approach will incentivise high risk organisations to further improve and will reduce regulatory burden.

However Navitas does have some concerns with some aspects of the Bill and recommends that:

- Higher Education providers be required to report student default within one week of the census date of the relevant study period instead of within 24 hours of default occurring;

- Providers be allowed to retain an appropriate administrative fee when a student defaults due to failure to secure an appropriate visa;

Navitas also has considerable concerns regarding Subsection 3 of proposed Section 27 and believes that restricting providers ability to accept pre-paid fees is penalising established high quality providers and potentially limiting the viability of all providers.

This is important given the costs that are incurred by organisations in advance of students commencing, and it assists the underpinning of competition by encouraging infrastructure investment, innovation expenditure and new entrants. There are sound protections in place for students in areas such as refund of fees and tuition assurance that mean entities seeking to offer quality education should not be penalised.

A recommended alternative is that providers be allowed to accept student fees at any time but that these fees be retained in dedicated bank accounts and not utilised until the student starts the appropriate study period.

Further to this, for identified low risk providers it is recommended that the need for a dedicated account be replaced with a requirement that the quantum of pre-paid fees be held in their current operating accounts, or be covered by an acceptable loan or overdraft facility with an Australian Authorised Deposit-taking Institution (as defined within the meaning of section 9 of the Corporations Act 2001).

Points of comment

Proposed section 47C - Registered provider to notify of student default

Navitas is of the view that reporting student default within 24 hours would not be practical or realistic. It is evident from reading through the Bills that the refund provisions are extremely complex and do not necessarily demonstrate an understanding of the practicalities of administering student enrolments. Reporting requirements relating to student default need to be realistic, reasonable and purposeful.

For higher education providers Navitas would recommend that providers be required to report student default within one week of the census date of the relevant study period. This would allow providers greater flexibility to accommodate students who may not have been able to commence study on the first day of term and provide sufficient time for appropriate follow up and student support. Genuine examples are illness, transport issues and misadventure, and this approach would be unduly severe on students.

Consideration also should be given that default reporting be facilitated via the PRISMS database.

With significant penalties attached to non-compliance, it will also be important to ensure that providers are thoroughly briefed regarding their new obligations and the potential penalties.

Proposed section 47E - Refund in other cases

When a student defaults due to failure to secure an appropriate visa a substantial amount of administrative time has already been invested by the provider to facilitate the visa application and prepare the student for entry into the institution. As such the Minister should take this administrative burden into account when considering the amount that will be refunded to the student and allow providers to withhold a reasonable sum to cover these administrative costs. This is not uncommon in other service industries and is an accepted practice.

Proposed section 53A - TPS Director to set TPS levies

Navitas welcomes the establishment of a single Tuition Protection Scheme (TPS) that should provide a more effective and streamlined approach to student placement and refund arrangements when required.

It is important that there be adequate time allowed for the establishment of the TPS. This should include sufficient time for providers to implement appropriate changes as well as timely and quality reporting on the performance of the scheme.

Navitas also welcomes a risk-based regulatory approach whereby established providers with lower risk profiles will be treated differently from higher risk providers in relation to the TPS. This system will not only reward low risk providers but also incentivise high risk organisations to further improve.

Proposed section 27 - Pre-paid fees

The principle of a risk based approach should be applied to the proposals around pre-paid fees as it refers to an organisation's ability to refund student fees in an appropriate and timely manner.

Navitas has considerable concerns with Subsection three which states that a provider is prevented from receiving tuition fees for a course more than 2 weeks before the beginning of a study period for the course.

This clause will be extremely problematic for providers as:

- Planning and staffing will be compromised severely as providers will not have certainty over student levels until 2 weeks before classes commence. This is an unreasonable situation to place organisations in who have long time lines to manage in securing staff, planning timetables, facilities etc. The overwhelming performance of educational institutions in the past does not support this major constraint on operations;
- This lack of ability to plan will increase costs and could prove fatal to smaller providers e.g. in terms of securing finance and managing risk and cash flow, as well as discouraging new entrants;
- The risk of defaults increases as students are not financially locked into one course or provider. A rise in student defaults and drop in retention rates would reflect badly on the quality of education in Australia and damage the country's reputation; and
- Students who may want to pre-pay to take advantage of favourable exchange rates will be prevented from doing so.

This clause is of particular concern for Navitas' ELICOS operations due the English Language sectors shorter teaching cycle, lack of break between cycles and largely similar student outcomes. This limit on pre-paid fees would therefore encourage student poaching and student churn, further contributing to the current challenging operating environment for ELICOS providers.

The suggested limit on pre-paid fees aims to ensure that providers have appropriate funds to refund students in cases of default. Proposed Section 28 which calls for registered providers to maintain designated accounts has the same objective. As these two proposed amendments aim to achieve the same result, Navitas highly recommends that providers be allowed to accept student fees at any time but that these fees are retained in dedicated bank accounts and not utilised until the student starts the appropriate study period.

Further to this, it is recommended that for low risk providers the need for a dedicated account be replaced with a requirement that the quantum of pre-paid fees be held in their current operating accounts, or be covered by an acceptable loan or overdraft facility with an Australian Authorised Deposit-taking Institution (as defined within the meaning of section 9 of the Corporations Act 2001).

This would lower the significant administrative burden on low risk high quality providers such as Navitas with over 30 CRICOS accredited operations across Australia, whilst also achieving the objective of safe guarding pre-paid fees, and allowing providers to operate with an acceptable level of certainty.

- Ends -

Submitted by Navitas Limited and authorised by Rod Jones, CEO
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