

Submission: Tuition Protection Service

About Navitas

Navitas Ltd is an Australian global education partner providing pre-university and university programs, English language courses, migrant education and settlement services, creative media education, student recruitment, professional development and corporate training services to more than 80,000 students across a network of over 120 colleges and campuses in 27 countries. Navitas listed on the Australian Securities Exchange (ASX) in 2004 and is now an S&P/ASX Top 100 Company, employing more than 5,800 staff globally.

General comments

In Australia, Navitas has more than twenty separate CRICOS entities delivering programs to approximately fifteen thousand international students each year.

Australia has a long and successful record in the development and implementation of consumer protection for international students.

Navitas strongly supports the consumer protection elements of the *Education Services for Overseas Students Act 2000 (ESOS Act)* and believes that government and industry have worked effectively over successive iterations of the ESOS Act to establish and embed good practice in the international education sector.

The impact on Brand Australia is widespread when there is failure of an international education provider and all providers in the sector experience negative impacts associated with poorly managed closures. Hence, we believe that all parts of the sector need to take responsibility for the assurance mechanism and that the TPS should continue to apply to all providers who deliver programs to international students, including public and private providers.

While the current model is supported by Navitas, there are a number of issues that we believe should be addressed:

- We are concerned that the current composition of the Advisory Board does not include industry representatives, as would be normal practice in other industry bodies.
- We believe that it is important for the reputation of Australia that tuition protection mechanisms are maintained across all types of providers.
- Significant funds are spent on administration of the fund even during the most recent 'benign' period of environment – these expenditures should be carefully scrutinised to see if there are more effective and efficient ways to administer the scheme.
- The combination and permutation of various tuition protection mechanisms (ie, operation of designated accounts, restraint on collection of pre-paid fees, and contributions to the Overseas Students Tuition Fund (OSTF)) are overly burdensome and costly for private providers. This needs to be considered within the context of the globally competitive industry that providers operate in.

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Review of the Governance and Administration of the Tuition Protection Service

1. Assess the effectiveness and efficiency of the current legislative and governance arrangements including:

	<p>a. the structure, function and operation of the Tuition Protection Service Advisory Board;</p>
<p>Navitas Response</p>	<p><i>Lack of industry representation</i></p> <p>The Advisory Board structure includes a number of representatives from government agencies and up to seven other members appointed by the Minister.</p> <p>In the first term of appointments to the Advisory board, peak bodies were consulted and asked to nominate appropriate representatives from the industry.</p> <p>In 2015 the Minister appointed new members to the Advisory Board without consulting with industry or peak bodies. By not selecting members from industry, there is a strong possibility that appointees will not have sufficient industry knowledge to understand either the current environment nor long-term strategic shifts in the industry that might challenge or impact the underlying position of the OSTF.</p> <p>Further, the Board may lack sufficient experience and knowledge to fully understand how changes to the TPS will actually affect education providers in practice. The industry has experienced such issues before which have caused significant damage until they could be rectified.</p> <p>Finally, the Advisory Board does not have any mechanism to speak to industry or provide advocacy for particular recommendations that are made to the TPS Director. This appears to be a lost opportunity on behalf of the TPS to demonstrate strong industry consultation and liaison.</p> <p>Navitas recommends that the previous practice of appointing industry representatives be re-established.</p> <p><i>Strengthen the role of the Advisory Board</i></p> <p>The role of the Board is to provide advice to the TPS Director (as per S55B of the <i>ESOS Act</i>):</p> <p style="padding-left: 40px;">The Board’s function is, either on its own initiative or at the request of the TPS Director, to provide advice and make recommendations to the TPS Director in relation to the making of a legislative instrument each year under subsections 9(3) and 10(2) of the <i>Education Services for Overseas Students (TPS Levies) Act 2012</i>.</p> <p>The TPS Director is required to ‘have regard to’ this advice (as per S11 of the <i>Education Services for Overseas Students (TPS Levies) Act 2012</i>):</p> <p style="padding-left: 40px;">(2) In making a legislative instrument under those subsections, the TPS Director must have regard to:</p>

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	<p>(a) any advice of the Board in relation to the matters referred to in those subsections; and</p> <p>(b) the sustainability of the OSTF.</p> <p>We believe that the Advisory Board, with appropriate industry representation, is well placed to direct the TPS Director in relation to the administrative instrument, as opposed to simply providing advice. This is because they will have deep industry knowledge to understand both the current environment and the long-term strategic changes in the industry.</p> <p>The Advisory Board would need to also consider the sustainability of the OSTF as part of their advice. A mechanism could be established to allow the TPS Director to not act on the advice. This should be based on a recommendation to the Minister with transparency as to the rationale for not accepting this advice.</p> <p>Navitas recommends strengthening the role of the Advisory Board to ensure that the TPS Director implements the advice of the Board.</p>
	<p>b. the position, role and functions of the Tuition Protection Service Director</p>
Navitas Response	<p>Navitas does not have a strong view on whether the TPS Director should continue as a statutory appointment. In general the system appears to be working well.</p> <p>If there is a considered view that there are more effective and efficient ways to administer the scheme then two options could be considered:</p> <ol style="list-style-type: none"> 1. TPS Directorate operating within the function of an existing department of a government agency, or 2. operated as a combined unit of ASQA/TEQSA. <p>It is noted that all three bodies (TPS, ASQA and TEQSA) use different methods to establish a risk rating for a provider. Under the current arrangement, it is possible that each agency could establish different risk ratings for the same provider. The second option above would mean that a higher level of consistency in risk rating would be established and could also reduce administrative burden by providing a 'one-stop-shop' for providers dealing with matters associated with the ESOS Act.</p> <p>Navitas recommends that if the current statutory arrangements are changed, consideration be given to the TPS function being absorbed into a combined unit operated by ASQA/TEQSA.</p>
	<p>c. the administrative arrangements for the Tuition Protection Service, including the current Tuition Protection Service Administrator contract which provides case management of students affected by provider defaults; and</p>
Navitas Response	<p>The environment in the international education sector has been reasonably benign since the establishment of the OSTF.</p> <p>During this time substantial funds have been collected from industry to establish the OSTF. In both 2013 and 2014 approximately \$6m was collected from contributors to the OSTF. As noted by the TPS Director, part of the aim over the first years of operation have been to establish a 'strategic reserve' for the fund.</p>

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	<p>The Board has established a short-medium term objective, based on advice from the Australian Government Actuaries, to build an adequate reserve of between \$20-50m.</p> <p>According to the Tuition Protection Service Annual Report (part of the Education Annual Report 2013–14) there were 82 calls made on the OSTF but zero placements in similar courses were made. It is not clear from the report why no placements were made.</p> <p>It would seem that the first priority should be to ensure students are able to complete the course that they wanted to undertake.</p> <p>Navitas recommends that a renewed focus on student placements, as opposed to refunds, is adopted by the TPS Director and Administrator.</p>
<p>d.</p>	<p>the management of the Overseas Students Tuition Fund – special account under the <i>Public Governance, Performance and Accountability Act 2013</i></p>
<p>Navitas Response</p>	<p>No response.</p>

2. Undertake a cost/benefit analysis of the current governance and administration arrangements of the Tuition Protection Service, including the efficiency and effectiveness in delivering the Tuition Protection Service policy objectives as set out in the ESOS Act

<p>Navitas Response</p>	<p>As noted above, in the 2013-14 Annual Report, more money was spent on administering the fund in this 12 month period than on student and provider payments.</p> <p>Navitas believes that the TPS Directorate has adopted a positive and professional approach to the sector and has genuinely sought to implement the guiding principles adopted by the Board at its first meeting – particularly two principles that seek to minimize change and administrative burden on providers:</p> <ul style="list-style-type: none"> • the model for the TPS levy should, as far as possible, reflect gradual change and assist the industry with business planning by providing a stable regulatory environment • additional imposts on industry, such as data collection, should be minimised as far as possible. <p>Notwithstanding, there is always value in assessing any service delivery model to establish that opportunities for improved efficiency and effectiveness have not been overlooked.</p> <p>Navitas supports further cost/benefit reviews of the governance and administrative arrangements of the TPS.</p>
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3. Assess whether the experience of the Tuition Protection Service can inform the provision of tuition protection for domestic students in Australia

<p>Navitas Response</p>	<p>There are some elements of the model adopted by TPS that could inform a similar model for domestic students. Administratively the TPS model is quite streamlined for providers as it sources data from PRISMS.</p> <p>Following the guideline adopted by the Board that “additional imposts on industry, such as data collection, should be minimised as far as possible”, the current process for calculation of the OSTF payment is streamlined and is a low burden for providers.</p> <p>It is noted that the costs of the TPS, if applied to domestic students, would be a significant increase above the current model – cost increases would not be supported.</p>
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4. Recommend practical improvements that could be made and savings that could be achieved with potential streamlining of the current governance and administration arrangements.

<p>Navitas Response</p>	<p><i>OSTF fund accumulation</i></p> <p>As noted above, part of the aim over the first years of operation of the TPS have been to establish a ‘strategic reserve’ for the fund. The TPS Advisory Board has established a short-medium term objective, based on advice from the Australian Government Actuaries, to build an adequate reserve of between \$20-50m. This is a substantial amount of funds provided directly by the industry.</p> <p>Navitas understands that of the \$12m raised by the OSTF in 2013 and 2014, approximately 25% of this was from ‘exempt’ providers (that is, public providers), or about \$3M.</p> <p>Navitas believes strongly that:</p> <ul style="list-style-type: none"> • All providers have a stake in the maintenance of Brand Australia and therefore all providers should contribute to the development of funds in the OSTF. • Taking into account the \$15.7b generated by the international education industry (13/14) the government could seed the OSTF with \$30m to reduce the cost burdens on the sector whilst the fund is being built up to an adequate reserve. <p>As the fund accumulates to an adequate reserve, long term fund contributors should be able to obtain a substantially reduced fee on the basis that they have contributed during the ‘build up’ phase.</p>
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Alternate models

The Tuition Protection Service (TPS) is not necessarily the most efficient model for protecting student funds as the current regulations impose a significant financial and administrative impost on education providers with no recognition of risk profile. In Navitas' case this equates to a cost of more than \$600k per annum as debt facilities have been extended to meet requirements.

A simple solution to reduce the impact of the TPS would be to apply the already developed risk rating to providers whereby low risk institutions could reduce pre-paid funds held in designated accounts and supplement the difference with bank guarantees or some other financial instrument.

Acknowledging that the requirement for designated accounts is already under review, an alternative might be for an 'opt out' scheme. This could be considered by exception only and might be through a number of alternate mechanisms:

- the provision of an alternate financial guarantee to protect student funds. For instance, all Navitas entities currently cross-guarantee each other – mechanisms of this nature should be able to be taken into account to reduce the risk profile of an individual CRICOS provider that is part of a larger entity. This could then be used to potentially reduce the risk premium paid by providers as part of their contribution to the OSTF, or reduce the amount required in designated accounts.
- In New Zealand, an alternate insurance model for consumer protection has been established. Providers could be given the option of taking out insurance for student's funds, or contributing to the OSTF. This could potentially be cheaper for providers improving their competitiveness.

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