About Navitas

Navitas Ltd is an Australian global education leader 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.

Navitas believes an innovative, diverse, globally connected public and private education sector is critical to Australia's future prosperity, intellectual capital and social cohesion.

Navitas welcomes this opportunity to provide input to the review of the Education Services for Overseas Students (ESOS) legislative framework.

Proposals for the reform of the ESOS framework

Streamlining quality assurance processes

Simplifying administrative arrangements – proposed changes

Proposed change 1	Amend the current legislative arrangements to simplify decision making powers and responsibilities by directly providing rather than delegating some powers to TEQSA and ASQA. This will also simplify the registration and assessment process for ELICOS and foundation programs.
Navitas Response	Navitas endorses this proposal. Simplified decision making processes lead to quicker decisions, which enable providers to respond more quickly to market and learner demand.
Proposed change 2	Allow quality assurance agencies to deem compliance with ESOS standards if equivalent domestic standards are met.
Navitas Response	Navitas endorses this proposal while noting that this proposal would benefit from further consultation to ensure that there are no unintended consequences.
	However Navitas notes that ELICOS providers do not have 'equivalent domestic standards'. Navitas believes that it is important for the ESOS standards to continue to define the expectations of **all** education providers delivering courses to international students. Navitas would not support a situation where one CRICOS provider was allowed to operate against 'lower' domestic standards simply because they delivered to both international and domestic students.
	The onus should be on quality assurance agencies to evaluate whether a provider has met the ESOS standards in the context of other requirements already having been

	met.
Proposed change 3	Amend the registration period in the ESOS Act to ensure it allows more flexible registration periods and extensions of registration timeframes, in line with domestic registration timeframes.
Navitas Response	Navitas endorses this proposal. Navitas supports the use of a transparent risk assessment framework to determine the appropriate registration period for providers. This could involve shorter or longer registration periods, e.g., allowing flexibility for CRICOS Provider approvals to be aligned with TEQSA's 7-year HEP approval timeframes.
Proposed change 4	Provide a 'check and balance' power to the Minister responsible for ESOS to direct TEQSA and ASQA in relation to the performance of their functions and the exercise of their powers under the ESOS Act, in consultation with other relevant ministers where appropriate.
Navitas Response	Navitas endorses this proposal, with the caveat that this does not lead to inconsistent application of registration and accreditation processes.
Proposed change 5	Amend the ESOS Act and the National Code to enable quality assurance agencies to consider additional relevant material gathered through other registration processes in assessing CRICOS registration.
Navitas Response	Navitas endorses this proposal in principle, assuming that the consideration of alternative material does not lead to principles of natural justice being contravened. Navitas does have some concerns regarding the application of this change. In the past there have been instances where ASQA's CRICOS assessors have sought to reconsider elements that have already been approved under course accreditation/ addition to scope processes. Any change that would enable regulators to undertake multiple assessments of the same information should be avoided.
Proposed change 6	Amend the ESOS Act to increase consistency in compliance and enforcement powers under ESOS and domestic legislative frameworks.
Navitas Response	Navitas endorses this proposal.

Submission: Reform of the ESOS framework

Reviews of decisions by quality assurance agencies – proposed changes

Proposed change 7	Amend the ESOS Act to allow an education institution to seek an internal review of decisions made by the relevant quality assurance agency prior to application to the Administrative Appeals Tribunal.
Navitas Response	Navitas endorses this proposal.
Proposed change 8	Require publication of information regarding the quality assurance agency's internal review approach and process.
Navitas Response	Navitas endorses this proposal.

Reducing the reporting burden

Proposed changes

Proposed change 9	Streamline the student default reporting process in PRISMS to align with the 14-day reporting timeframe, consistent with the proposed policy changes to Tuition Protection Service (TPS) to allow easier reporting of student defaults through the student course variation process.
Navitas Response	The reporting requirements of the ESOS regulatory framework are complex, inconsistent and, in a number of cases, questionable in terms of their value. Greater clarity is required regarding what information is needed, by whom, for what purpose and within what timeline (with a rationale for that timeline). Student default reporting currently imposes an excessive resource burden on the provider. The process usually requires handling a case multiple times in PRISMS (i.e., applying the default, cancelling the CoE, and then entering the refund at a later time). Surely the very act of CoE cancellation serves to notify that a default has occurred. At the time of cancellation, a drop down could specify whether the cancellation is student or provider initiated. The additional step of default reporting is unnecessarily onerous. Further Navitas believes that the reporting requirements for student default purposes cannot be reviewed in isolation from other reporting requirements. Aligning the student default reporting process with the current 14-day reporting timeframe for student course variation purposes assumes that the 14-day period is appropriate, where this is not necessarily the case. Greater discretion needs to be given to the provider to determine what needs to be reported and when is the appropriate time. Navitas believes that the legislation should allow discretion for the provider to report student default when the provider believes it is a genuine student default (i.e., there should not be a defined number of days.) There are many circumstances that might lead to a delay in the date of arrival of a student and sometimes it does take a substantial amount of time to liaise with all of the various parties to confirm a student default. Further, movement between different ELICOS courses with the same provider is currently defined as 'student default'. Given that ELICOS students move frequently

between levels and different English courses, Navitas proposed that consideration be given to the definition of 'student default' within the ESOS Act.

For students that are under the age of 18, Navitas believes that a higher burden on providers is appropriate and that, for these students, a 14-day timeframe for reporting student default is appropriate.

We note that there may be some providers who are not necessarily adhering to this current requirement. If the final changes do impose a time limit (of 14 days) we would support TEQSA and ASQA regularly checking those providers that **never** report any student default.

Navitas notes that the Department has identified the issue of the student default reporting process as requiring further workshopping to achieve appropriate sector specific solutions. Navitas supports this and would recommend prior to further discussions that a comprehensive audit of data collection requirements through PRISMS be undertaken.

Proposed change 10	Provide data upload facilities and links between PRISMS or CRICOS and other data systems to decrease manual entry and increase data quality.
Navitas Response	Navitas strongly endorses this proposal and support any initiatives that improve efficiency in data transfer and reporting. Manual data entry is both time consuming and labour intensive.
	Specific PRISMS/CRICOS enhancements that we believe would be of benefit include:
	▪ Additional data download facilities from PRISMS e.g., the facility for the provider to download data reports on fee payments entered into PRISMS against individual eCoEs (i.e., the recorded amount and date of each payment and the entered start and end dates of the period to which the payment relates);
	▪ PRISMS and CRICOS handling/recording of registered entities that use multiple business names and dual sector entities and associated dual sector CRICOS approvals.
	▪ Any enhancements that enable bulk uploading and downloading would be supported.
Proposed change 11	Standardise data elements to assist with data collection and reporting, including utilisation of information provided across different data collection systems.
Navitas Response	Navitas endorses this proposal.
Proposed change 12	Remove redundant data items from PRISMS and CRICOS.
	Navitas endorses this proposal, while noting the need to consult with the industry regarding on which data items are redundant

Submission: Reform of the ESOS framework

Minimising Tuition Protection Service requirements

Proposed changes

Proposed change 13	Change the requirement that all education institutions be subject to the 50 per cent limit on the collection of tuition fees prior to commencing a course.
Navitas Response	Navitas endorses this proposal. In the main students want to pay more than 50% up front, largely to avoid bank transfer fees. Currently, students that return after a break from studies, with some credit, are problematic to administer. For example, if they have 5 remaining units to complete, applying the 50% rule is arbitrary and unhelpful. All it serves to achieve is that the student will not have sufficient funds in their account to enrol in a full-time load. We strongly recommend removing this as a mandatory requirement for all education providers, but retaining this as an optional condition that TEQSA/ASQA can apply to individual providers as part of their normal determinations of risk, where a provider warrants higher scrutiny.
Proposed change 14	Amend or remove the requirement to maintain a designated account for all education institutions, for instance making it a condition of registration for fewer education institutions.
Navitas Response	Navitas strongly support the removal of this condition. There appear to be no current mechanisms to check compliance with this requirement; and the condition appears to have had no ameliorating impact in cases of provider default. In the case of publicly listed institutions, such as Navitas Limited, there are stringent reporting obligations under ASX listing rules, which should provide assurances to regulators in relation to this and other ESOS requirements. However, Navitas recommends retaining this requirement as an optional condition that TEQSA/ASQA can apply to individual providers as part of their normal determinations of risk, where a provider warrants higher scrutiny.
Proposed change 15	Remove requirements to identify study periods in the ESOS Act.
Navitas Response	If changes 13 and 14 are implemented, then Navitas supports the removal of this requirement.

Submission: Reform of the ESOS framework

Increasing flexibility in education delivery

Proposed changes

Proposed change 16	Amend the National Code to increase flexibility and discretion in the use and allowable amount of online and distance learning, within visa requirements.
Navitas Response	This is an area where different approaches are required to meet the needs of the different sectors. It is important that Australia has a regulatory framework that allows for new delivery methods and innovation in teaching and learning.
	Navitas argues that the proper place for deciding the quantum of online/distance delivery is with the regulators (ASQA and TEQSA) when they are assessing whether a course meets, and maintains, accreditation standards, rather than specifying an arbitrary percentage within regulations. Providers, when seeking accreditation for courses, need to be able to specify, and justify against course objectives and learning outcomes, modes of delivery which fit the purpose for which the course is designed, i.e., demonstrate an appropriate mix of face-to-face and other delivery modes to meet the learning outcomes of the accredited course.
	For the ELICOS sector, the current requirement of 20 hours of face-to-face teaching is the appropriate minimum hours for a full-time course. If an ELICOS provider wants to deliver online components then these should be on top of the core 20 hours.
	We further note that there are a small number of examples where currently the 20 hours of delivery is done over a weekend (i.e., 10 hours/day). In these cases we believe that a maximum of 6 hours should be the daily maximum.
Proposed change 17	Amend the National Code to broaden the work-based training or work-integrated learning provisions.
Navitas Response	Navitas endorses this proposal in principle. If a course or qualification has a work component then international students should be able to access this on an equal footing with domestic students.
	Further, it is recommended that ELICOS students (on sub-class 570 visa) be provided with access to English plus internship packaged programs within the student visa framework. Currently there is no visa option that provides for these two elements to be combined in one package. ELICOS students are seeking a 'gap year program' in Australia that would significantly enhance their future career employability prospects upon returning to their home country. The program would focus on first raising the students' English proficiency to the level expected by international companies and then providing them with overseas work experience in Australian companies via an internship e.g. 1-30 weeks' ELICOS study followed by 12-16 weeks' internship.
	Navitas, through its Careers & Internships unit since its establishment in 2008, has a proven track record of delivering high quality internships for international students. These are delivered following the Australian Government gazetted Professional Year Program requirements which provide a valuable basis for building a robust framework. In line with Fair Work Australia's framework, the internship should be related directly to the students' recent or intended area of study and/or career and follow the critical element of being for the benefit of the student (learning related).

The B20 Human Capital Taskforce recently called out the need for greater mobility in the labour force with proposals to:

- Develop models that encourage collaboration between education providers and industry to identify skills needs and design appropriate curricula, including by encouraging business participation in teaching.
- Provide models for workplace integrated learning, such as intern/mentorships

Navitas believes that providing ELICOS students with access to English plus internships programs would also support the intent of these B20 proposals.

Proposed change 18	Amend the National Code to allow course progress to be deemed by the relevant quality assurance agency as sufficient for meeting visa compliance requirements where appropriate.
Navitas Response	Navitas endorses this proposal.
Proposed change 19	Amend the National Code to allow existing practices for monitoring attendance to be deemed to satisfy the requirements under the National Code where appropriate.
Navitas Response	Navitas believes that the current approaches, acknowledged as different in various sectors, are currently appropriate and that the existing practices available for dual sector providers in the National Code should be maintained.

In the ELICOS sector, tracking course attendance has been used as a proxy for course progress and we believe that the current 80% attendance requirements are appropriate. However, the most important factor for Navitas is to reduce complexity for the providers associated with multiple CoEs and allow the provider discretion to take a holistic view of the student's attendance across multiple CoEs. That is, providers should be able to consider all courses and all CoEs that a student is undertaking to determine their overall attendance.

As an example, consider an ELICOS student who enrolls in a 16-week General English course. After they have completed 4 weeks of study, they then decide to undertake a 12-week Cambridge exam preparation program. To do this, the new CoEs issues for this revised course structure would be:

- 4 weeks General English
- 10 weeks Cambridge Preparation
- 2 weeks General English.

Currently, if the student's overall attendance drops below reporting threshold in *any* of the CoE's they could be reported even if, for all their courses, their overall attendance is above reporting thresholds therefore they should be considered a genuine student. It is our understanding that if DIBP examined this circumstance they would examine the overall attendance over all CoEs and take a 'holistic' approach to this situation.

A further issue for Navitas is ensuring that VET accredited RTO providers delivering English Language programs to international students (ELICOS), but which have been registered under VET regulations, should be required to comply with the ELICOS National Standards to ensure that ELICOS students are protected and that there is a

level playing field across the whole sector. This would remove a legislative anomaly where a provider can choose to have the same course accredited as either ELICOS or VET and end up with substantially different administrative requirements.

Transfer of students

Proposed changes

Proposed change 20	Amend standard 3 of the National Code to more clearly require a written agreement to include a cancellation (currently refund) policy in the event of a student cancelling an enrolment or transferring to another education institution.
Navitas Response	In general, Navitas would support the option of including a 'cancellation fee' in the refund policy, which would allow the provider to recoup a portion of the cost of recruitment.
	The minimum 6 month requirement of study in the principal course before student release should be retained unless the student transfer process in standard 7 is amended and DIBP is able to more effectively oversee compliance with the standard and related SVP arrangements.
Proposed change 21	Amend the student transfer process in standard 7.
Navitas Response	Navitas strongly supports amendment of Standard 7.
	Navitas believes that the introduction on limits of pre-paid fees has increased the 'ease' of students transferring from their initial provider for purposes mostly associated with course fees rather than suitability of their original course choice.
	The proposal to remove the pre-paid fee requirements may, by itself, reduce a number of issues associated with these types of student transfers.
	The changes to the National Code must also be viewed in context with the provisions of the Streamlined Visa Processing (SVP) arrangements. Even in the current environment, issues have emerged of students applying to an SVP provider to gain access to Australia, and then changing to a cheaper VET option on arrival. This undermines the purpose of the visa regulations, jeopardises the SVP providers' risk rating with DIBP and can significantly impact business returns. Providers must be able to maintain some control.
	Navitas notes that there is an inherent conflict between the wording of Standard 7 of the National Code and Item 7 of the Streamlined Visa Processing (SVP) Opt-In document.
	Standard 7 of the National Code states that "It is expected that the student's request (for release) will be granted where the transfer will not be to the detriment of the student".

The SVP Opt-In document requires providers to report on "arrangements with educational business partners or other strategies to minimise incentives for students to deliberately arrive under AL 1 type arrangements and then purposely transfer out or downgrade their University course to take advantage of the SVP arrangements".

Currently PRISMS does not stop the enrolment of a student if they do not have a release letter.

If the Letter of Release provision was retained, it would need to be monitored and enforced. Stories abound of providers accepting students without a release letter. One solution may be to require lodging "letters of release" within PRISMS. If a new provider attempts to enrol a student, that has not had their release approved by the existing provider, then PRISMS prevents the CoE from being created.

When students do not receive permission to transfer, they often withdraw and approach another provider. In such circumstances a Letter of Release should also be required. The penalties for enrolling or allowing transferring or withdrawing students to attend other providers without a Letter of Release needs to be more strictly enforced by DIBP.

Advice sought in relation to particular cases usually results in DIBP referring the provider to TEQSA, only for TEQSA to claim they have no jurisdiction. Providers need clarity when seeking advice regarding a particular case. It is understood that the Department is intending to run further workshops on these issues and Navitas would support further discussions related to this issue.

There is a range of complex scenarios that need to be examined to ensure that both protection for students **and** the provider's investment in recruitment are protected.

Proposed change 22	Amend standard 4 of the National Code to require education institutions to enter into a written agreement with each education agent whose services it uses (as opposed to 'each education agent it engages to formally represent it').
Navitas Response	Navitas does not support this proposed change. It is unclear whether the Department or regulators are monitoring provider engagement with agents under the current requirements. We would not support adding further requirements that will not demonstrably add value to the process.

It is considered to be unnecessarily onerous burden to require a provider to enter into an agreement with an agent that might send 1 student every second year (or less). The current arrangements are satisfactory where an agent can enroll a small number of students *before* there is the need for a written agreement.

In addition, Navitas would appreciate further clarity as to the definition of 'written agreement' with education agents. Recent advice from the Overseas Students Ombudsman would indicate that an agreement needs to be physically signed by both parties. However there is legal opinion that an unsigned agreement where the parties act as if it has been signed is implied consent, i.e., the consent is inferred by the agent's actions (or inactions) and any facts and conditions surrounding the situation. |

Submission: Reform of the ESOS framework

Proposed change 23	Consider whether further information on the use of agents should be provided in addition to the current requirement for the publication of agent names and details on an education institution's website and the voluntary requirement in PRISMS for education institutions to give details of an education agent for each enrolment.
Navitas Response	Navitas does not support this proposed change. The current arrangements are satisfactory. It is accepted that the provision of agent information in PRISMS is highly problematic. The propensity for duplication, incorrect or incomplete data is high. If further information is required, the method for recording data would require a significant review to ensure that the additional workload was leading to a justifiable outcome for the Department.
Proposed change 24	Support an industry driven shared set of principles or code of ethics for education agents. This may include an industry-led system for recognising formally trained, high-quality, ethical and suitably qualified or knowledgeable education agents (rather than a formal registration system).
Navitas Response	In general, Navitas would support the proposed change if it is genuinely industry led and voluntary. We would also support industry working with government to identify agents with poor practices (through some form of complaint lodging mechanism). It is noted that in other industries, the concept of 'naming and shaming' has had a positive impact on standards and it might be that some system of this nature might be able to be developed to improve performance of u. For instance, agents with very low visa approval rates could be identified publically or a DIBP website accessible to providers could provide information on unethical agent behavior or low visa approval rates. Navitas acknowledges that these suggestions require further careful discussion given the reputational and commercial impacts on named agents however Navitas believes there is no place for unscrupulous or unethical behavior within Australia's international education industry.
Proposed change 25	Support more options for training and informing education agents of their obligations to students.
Navitas Response	In general, Navitas would support the proposed change if it is genuinely industry led and voluntary.

Welfare of students aged under 18

Proposed changes

Proposed change 26	Amend the National Code to clarify requirements and responsibility for the welfare of international students aged under 18, including clearer references to supervision, accommodation as 'adequate and appropriate', health and well-being, and welfare arrangements.
Navitas Response	Navitas supports this proposal but would seek further clarity on what is 'adequate and appropriate'. Currently the start of welfare arrangements for an under 18 student is triggered by the date of the student visa *even if the student is not in the country on that date*. Navitas believes that the arrangements should apply from the date advised by the provider on the CoE and based on the date agreed between the parents and the provider.
Proposed change 27	Clarify that responsibility for ensuring appropriate welfare arrangements for a student remains with a provider until the student commences a course with another provider, regardless of the date from which the transfer is accepted.
Navitas Response	Navitas supports this proposal in principle. Further we endorse the Department's intention to further workshop these issues with the industry as the proposal has the potential, in some circumstances, to place an onerous condition on the provider. For example, instances where the student needs to travel and reside interstate for compassionate reasons. It also does not address the issue where a student chooses to withdraw instead of transferring but does not leave Australia.

Working with stakeholders to produce a practical and accessible National Code and explanatory guide for ESOS

Proposed changes

Proposed change 28	Remove redundant provisions in the National Code.
Navitas Response	Navitas endorses the removal of elements in the National Code that are overly proscriptive and repetitive.

Proposed change 29	Develop a simpler and clearer explanatory guide and other supporting material for ESOS, in collaboration with stakeholders, with sector-specific examples.
Navitas Response	The National Code Explanatory Guide is a highly valuable resource, though it is noted that there are inconsistencies and gaps in information. Navitas supports the development of sector specific examples within the explanatory guide and supporting material.
Proposed change 30	Amend the ESOS Act to better reflect the purpose of the National Code, its contents and the changes proposed in this discussion paper.
Navitas Response	Navitas endorses this proposal.

Registration charges

Proposed changes

Proposed change 31	Amend the Registration Charges Regulations to include a provision that allows for an exemption from the Entry to Market Charge for a class of education institutions with an appropriate history of education provision and CRICOS registration, and no adverse compliance record.
Navitas Response	Navitas endorses this proposal. Further, if these changes not only reduce the burden on provider, but also reduce the cost of TEQSA/ASQA, then cost reductions should be passed onto providers as a result.

General Comments

- **Monitoring and enforcement of the National Code**. Navitas is concerned that in some states DIBP does not appear to have the ability to monitor adherence to the National Code, particularly in relation to students changing providers. This undermines the Codes effectiveness as a deterrent to certain student behaviours.

- **The prescription of maximum class sizes** in the National ELICOS Standards. Standard P3.1 requires c) *'class sizes are appropriate'* and d) *'teacher to student ratios do not exceed 1:18 per class.'*

  In many instances the two requirements are in conflict. For example, there are occasions

in an English for Academic Purposes course when it would be appropriate to simulate a Q&A or note taking session within a university lecture, a debate or a student presentation to a group of 20-40 other students. All of these situations do not meet P3.1 d).

A ratio of 1:18 is an arbitrary figure, and the rationale is lost in history. There is no such requirement in non-ELICOS language courses. The capped 1:18 ratio is a costly and out-moded business model. It has the potential to incentivise some providers to employ less experienced, and therefore less costly teachers, to maintain acceptable commercial outcomes.

Navitas proposes amending:

- o Standard P3.1 c) to *'class sizes are appropriate to the learning outcomes of the course',*

- o Standard P3.1 d) to *'teacher to student ratios do not exceed 1:25 per class'* or deleting it altogethe.

- **ELICOS – course registration.** Navitas would like to request further consideration of the current process by which courses are evaluated prior to their approval for registration on CRICOS for their suitability for international students. In particular Navitas has concerns about the current process whereby education providers themselves can choose whether to register their English language courses on CRICOS as either ELICOS or VET. It is our strong opinion that all English language courses on CRICOS should be registered as ELICOS to ensure consistency in the standards required, to ensure potential students are able to readily compare course offerings and to support the integrity of the student visa program where risk levels are defined by the sector in which a course is registered.

Submitted by
Navitas Limited
Level 8, Brookfield Place
125 St Georges Terrace

PERTH WA 6000

Contact: Helen Zimmerman

Group General Manager, Government & Stakeholder Relations

helen.zimmerman@navitas.com