

EXPLANATORY STATEMENT

Migration Regulations 1994

**EVIDENCE OF FINANCIAL CAPACITY FOR SUBCLASS 500 (STUDENT) VISAS
AND SUBCLASS 590 (STUDENT GUARDIAN) VISAS 2016/018**

(subclause 500.214(4), 500.313(4) and 590.216(4))

1. Instrument IMMI 16/018 is made under subclause 500.214(4), subclause 500.313(4) and subclause 590.216(4) of the *Migration Regulations 1994* (the Regulations).
2. Under clause 500.214 and clause 500.313 of Schedule 2 to the Regulations, an applicant seeking to satisfy the primary criteria or secondary criteria of a Subclass 500 (Student) visa, must maintain genuine access, while the applicant holds the visa, to sufficient funds available to meet the costs and expenses of the applicant during the applicant's intended stay in Australia and the costs and expenses of each member of the applicants family unit (if any) who will be in Australia. If required by the Minister the applicant will also be required to provide evidence of financial capacity under subclause 500.214(4) or subclause 500.313(4) of Schedule 2 to the Regulations.

Under clause 590.216 of Schedule 2 to the Regulations, an applicant seeking to satisfy the primary criteria of a Subclass 590 (Student Guardian) visa, must maintain genuine access to sufficient funds to meet the costs and expenses of the applicant during the applicant's intended stay in Australia and the costs and expenses of each member of the applicants family unit (if any) who will be in Australia and unless the applicant meet the requirements in subclause 590.211(4) of Schedule 2 to the Regulations, the costs and expenses of each nominating student. The applicant must also provide evidence of financial capacity that satisfies requirements under subclause 590.216(4) of Schedule 2 to the Regulations

3. The purpose of the Instrument is for the Minister to specify under subclause 500.213(4), subclause 500.313(4) and subclause 590.216(4) of Schedule 2 to the Regulations, requirements that the applicant of a Subclass 500 (Student) visa or a Subclass 590 (Student Guardian) visa gives to the Minister as evidence of financial capacity.

On 16 June 2015, the Australian Government released the *Future Directions for Streamlined Visa Processing* report and announced that it would implement the report's eight recommendations; including a simplified student visa framework based on two of the key recommendations:

- a. reduce the number of student visa subclasses from eight to two; and
- b. implement a new combined country and provider immigration risk framework to guide student visa evidentiary requirements and create streamlined visa application processing opportunities for education providers across all sectors.

Subclass 500 - Student and Subclass 590 – Student Guardian form part of the project to simplify the Department's student visa framework.

4. Consultation was undertaken with key international education sector stakeholders as part of the project to simplify Australia's student visa framework before this instrument was made. Stakeholders consulted included: Commonwealth agencies (Department of Education and Training, Austrade, Department of Foreign Affairs and Trade, the Department of Defence, the Australian Skills Quality Authority, and the Tertiary Education Quality and Standards Agency), state and territory government agencies (including school regulators), as well as industry peak bodies (Australian Council for Private Education and Training, Australian Government Schools International, Council of Private Higher Education, English Australia, Independent Schools Council of Australia, International Education Association of Australia, TAFE Directors Australia, and Universities Australia).
5. The Office of Best Practice Regulation (OBPR) has been consulted and a Regulatory Impact Statement has been completed, and is attached to this Explanatory Statement at Attachment A. (OBPR Reference 18083).
6. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the Instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
7. The Instrument commences immediately after the commencement of Schedule 4 of the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016*.