Australian Government

Tertiary Education Quality and Standards Agency

TEQSA

Future directions for TEQSA's Regulatory Risk Framework

Sector discussion paper

October 2013

Responding to this paper

Responses to the consultation questions posed in this paper, and other relevant feedback, are requested via email to consultation@teqsa.gov.au.

Submissions close at **5.00pm on 4 December 2013**.

Interested parties can also email consultation@teqsa.gov.au with queries about this paper, or to seek clarification of the consultation questions.

Please note that TEQSA intends to publish submissions received. If you do not wish for your submission to be published, please indicate this in your response. TEQSA may alter the format or content of submissions before they are published, or decline to publish particular submissions, having regard to the requirements for Australian Government websites.

Future directions for TEQSA's Regulatory Risk Framework

Background and purpose

TEQSA has developed a reform agenda to improve its regulatory framework. The reform agenda includes proposals to review and update TEQSA's Regulatory Risk Framework (RRF) to further strengthen risk-based regulation of the higher education sector.

The reform proposals address the Direction given to the Agency by the Minister for Education on 22 October 2013, to apply "a deregulatory and quality enhancement philosophy and deliberate action to remove red tape". The Ministerial Direction is online at http://www.comlaw.gov.au/Details/F2013L01824.

To inform the update of the RRF, TEQSA invites comments from stakeholders on key proposals outlined in this paper. The proposals aim to simplify the design of the RRF, while retaining and enhancing TEQSA's ability to monitor risks in the sector and tailor regulatory processes.

The proposals have been developed drawing from the first annual cycle of risk assessments and feedback to date, including the recent review of higher education regulation. They are also in line with commitments previously made by TEQSA to:

▸ Reduce overall requirements of the 2013 Provider Information Request (PIR)

▸ Reduce the number of risk indicators to focus on key areas of risk; and

▸ Consider the intersection of the RRF with TEQSA's responsibilities under the Education Services for Overseas Students Act 2000 (the ESOS Act).

Further background on the RRF is provided at **Attachment A**.

Information on TEQSA's broader reform agenda is available online at www.teqsa.gov.au/regulatory-approach/reform-and-continuous-improvement. The reform agenda includes proposed changes to TEQSA's regulatory processes for renewal of registration, as well as course accreditation and re-accreditation. Proposed changes feature greater use of TEQSA's Risk Profiles in tailoring regulatory processes to providers' circumstances and reducing regulatory burden on the sector. A separate discussion paper has been issued on these proposals and is available at the link above.

Proposed Improvements

TEQSA's approach in updating the RRF has been guided by two key objectives:

▸ Simplify its design; and

▸ Improve information for providers.

Below is a summary of proposed changes to achieve these objectives.

Objectives and key proposed changes
1. Simplify the design, including reducing the number of indicators to focus on key risk areas
1.1. Focus on four key areas of risk: (i) *students (load, outcomes and experience)*;

> (ii) *academic staff profile;* (iii) *financial viability and sustainability; and*
> (iv) *regulatory history and standing.*
>
> Reduce and reshape the overall risk evaluation areas from three to two -
> *'Risk to Students'* and *'Risk to Financial Position'*

> 1.2. Focus on a *refined set of risk indicators (12 are proposed from the current 46)* that are measurable on an annual basis, can apply or be adapted to different provider contexts and delivery models, and enable clear consideration of the international student cohort.

> **2. Improve information for providers, including in relation to risk definitions, thresholds and controls**

> 2.1. Share information with providers on the *risk threshold methodology* and where the provider sits in the *distribution of sector data*.

> 2.2. Assist providers with guidance about relevant information on *risk controls* and *context* that TEQSA may take into account when finalising risk ratings.

1. Simplify the design, including reducing the number of indictors to focus on key risk areas

1.1 Key risk areas

The current RRF aims to assess risk across seven areas aligned with the Provider Registration Standards. There are, however, significant gaps in the Risk Profiles of some of these areas given limitations in data. Some areas are also more suited to be assessed at the time of a regulatory review process, rather than regular measurement through annual risk assessments.

To address this and simplify the design of the RRF, TEQSA proposes that four key areas would become the focus of the risk assessments:

▸ Students (load, outcomes and experience)

▸ Academic staff profile

▸ Financial viability and sustainability; and

▸ Regulatory history and standing.

Considered together, these areas provide strong coverage across key aspects of a provider's operations to support an overall evaluation of risk in relation to the Thresholds Standards and ESOS National Code.

In relation to the overall evaluation of risk, TEQSA is proposing to focus on "Risk to Students" and "Risk to Financial Position".
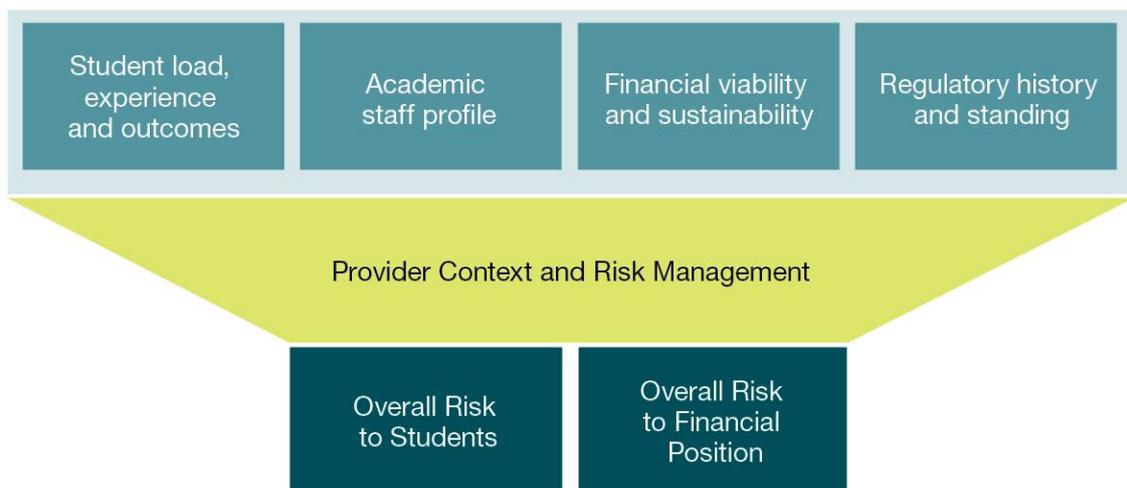
"Risk to Financial Position" would provide a more nuanced description that would replace "Risk of Provider Collapse" in the current RRF. "Risk to Financial Position" would better reflect the broader approach taken by TEQSA in monitoring a provider's capacity to deliver and invest in quality higher education for its students.

The proposal to focus on "Risk to Students" and "Risk to Financial Position" would also result in the removal of "Risk to Sector Reputation" from the current RRF. From the experience of the

first cycle of risk assessments, "Risk to Sector Reputation" added limited value given its overlapping nature with "Risk to Students" and "Risk to Financial Position". Although risk to sector reputation warrants careful monitoring, in practice its detection is not independent of the other two risk areas.

In arriving at the overall evaluation of risk, information on the provider's context and own risk management (where appropriate) would continue to be an important consideration.

Figure 1 below outlines the simplified design and the four key risk areas proposed for the update of the RRF.

| Student load, experience and outcomes | Academic staff profile | Financial viability and sustainability | Regulatory history and standing |

Provider Context and Risk Management

| Overall Risk to Students | Overall Risk to Financial Position |

Consultation question

▸ Does the proposed approach reflected in **Figure 1** offer an improvement to the current approach? If not, why and what changes would you propose?

1.2 Refinement of risk indicators

The revised set of risk indicators proposed for the update of the RRF, organised according to the four risk areas outlined above, is included at **Attachment B.** The indicators have been selected with consideration given to data availability (on an annual basis), their applicability across the sector and to different provider models, and their relevance to key areas of risk (mapped to the Threshold Standards and ESOS National Code).

Changes reflected at **Attachment B** include:

▸ A refined approach to financial indicators using two composite indicators comprising commonly used measures.

▸ Greater use of information from recent regulatory review(s) to form a key part of the Risk Profile.

▸ A mapping of indicators to standards, reflecting a range of potential relationships and providing a clearer view of potential areas of focus in risk-based regulatory reviews.

The mapping at **Attachment B** shows that all of the proposed indicators are also relevant to both the ESOS Act and National Code. It is intended that the assessment of student risk indicators would include a specific focus on any onshore international student population (by disaggregating data for each student risk indicator by domestic, international onshore and offshore students, where possible). This would enable onshore international student outcomes to be viewed alongside the domestic cohort. It would allow a view of risk at the institutional level, as well as risk to specific cohorts of students. An integrated approach of this kind is warranted given the considerable overlap between the ESOS Act and National Code, and the TEQSA Act and Threshold Standards.

The proposed set of indicators at **Attachment B** has also been developed with consideration given to different provider types and delivery models, including those delivering all courses online. For example, changes are proposed to TEQSA's risk monitoring of capital expenditure as part of the financial sustainability indicator. The proposed focus on capital replacement assesses a provider's level of reinvestment in its asset base. This approach better recognises the diversity of provider operating models and capital expenditure profiles. It enables more flexibility in assessing risk relative to the provider's own level of activity, and does not assume 'bricks and mortar' capital requirements.

Consultation question

▶ Is the reduction in the number of risk indicators and the proposed selection of indicators at **Attachment B** appropriate for capturing key risks of non-compliance in the sector? If not, why and what changes would you propose?

2. Provide more information to providers, including on risk definitions, thresholds and controls

It is intended that the updated RRF will include clearer explanatory information on TEQSA's approach to risk and give more guidance to providers to support their participation in and use of the risk assessment process.

TEQSA intends to include in the updated RRF detailed information on risk indicators, including the risks being measured, technical definitions, calculations and data elements used. TEQSA also intends to provide more explanation on how it has arrived at risk ratings, and why a final risk rating has or has not been adjusted after considering a provider's response.

2.1 Risk Thresholds

Risk thresholds are used internally by TEQSA to guide an initial risk rating (red, orange or green) on an indicator, before other context or risk controls are taken into account. At the initial stage of the RRF's development and following consultation with peak bodies, TEQSA made the decision not to disclose risk thresholds to the sector, for a number of reasons. These included the possible misinterpretation of how TEQSA applies risk thresholds – when thresholds are only used as an initial guide on potential risks with other contextual factors taken into account. Risk thresholds may also be mistaken for best practice or performance benchmarks and result in public rankings, or have unintended consequences in provider behaviour. In considering the release of information relating to risk thresholds, or the release of risk thresholds themselves, TEQSA is conscious that the potential for misuse is real.

TEQSA acknowledges that there may, however, be good reasons for releasing information about risk thresholds. On balance, and after consulting its external Risk Reference Group, TEQSA considers that one option may be to:

a. Share the methodology for how risk thresholds are arrived at; and/or

b. Provide contextual information on how the provider is situated relative to the sector, through splitting sector data into equal groupings (e.g. quintiles).

While this would provide a guide, it is important to note that risk thresholds are not calculated based on quintiles (or dividing sector data into equal groupings), but take into account factors such as statistical significance and expert professional judgement.

Another option that TEQSA may consider is the release of risk thresholds for financial indicators only, given these are based on commonly used ratios and this information is more often made public.

2.2. Examples of information considered in finalising risk ratings

TEQSA also proposes including in the updated RRF examples of relevant information that may lead to an adjustment of a risk rating by TEQSA. This is intended to give greater transparency for providers about what type of information TEQSA takes into account in finalising a risk rating. This would include examples of evidence relating to provider risk controls and context.

For example, where a risk assessment identifies a significantly sharp increase in student growth that generates a 'red risk flag' based on the risk thresholds, TEQSA may determine that an adjustment to an 'orange risk flag' is appropriate where there is evidence of strategic and operational planning to support that growth (i.e. infrastructure, available resources).

Consultation questions

▸ Should information about risk thresholds be released by TEQSA?

▸ If yes, what information would strike an appropriate balance in supporting providers to understand risk assessments, while preventing the potential misinterpretation or misuse of the thresholds?

▸ Apart from better information about the nature of information TEQSA takes into account in finalising risk ratings, are there other areas of the risk process and/or profile that would benefit from further explanation by TEQSA?

Consultation process

This paper is being made available on TEQSA's website (www.teqsa.gov.au) and has been sent directly to all higher education providers and peak bodies for providers and students.

Responses to the questions posed in this paper and other relevant feedback can be provided through the following email address consultation@teqsa.gov.au.

Submissions close at **5.00pm on 4 December 2013**.

TEQSA will also hold discussions with peak bodies and continue to draw on the advice of TEQSA's Risk Reference Group to develop the RRF. TEQSA will release an update of the RRF in early 2014.

Interested parties can also email consultation@teqsa.gov.au with queries about this paper, or to seek clarification of the consultation questions.

Please note that TEQSA intends to publish submissions received. If you do not wish for your submission to be published, please indicate this in your response. TEQSA may alter the format or content of submissions before they are published, or decline to publish particular submissions, having regard to the requirements for Australian Government websites.

A summary of feedback received will be incorporated into TEQSA's announcement of the new RRF.

Attachment A: Background on TEQSA's Regulatory Risk Framework

The RRF establishes TEQSA's policy and processes for developing Risk Profiles of registered providers. TEQSA uses Risk Profiles for three main purposes:

1. To monitor changes in the sector that may compromise standards for students and the sector's reputation;

2. To tailor regulatory review processes to a provider's circumstances, reducing regulatory burden on individual providers; and

3. To inform decisions on regulatory business.

The approach closely aligns with the AS/NZS ISO 31000:2009 Risk Management Standard, as outlined at **Figure 2**.

The key principles and processes established for the RRF still apply in the updated release. This includes a commitment to two-way dialogue with providers on the risk profile where appropriate, the importance of considering provider context and allowing for expert judgement, and a commitment by TEQSA not to publicly release Risk Profiles.

Feedback from providers during the first cycle of risk assessments included that the RRF was seen to have value within providers' own institutional processes. Some providers have also taken action in response to risk assessments, for example, strengthening risk management, or undertaking a review of the adequacy of the staff profile. Providers also gave constructive comments on individual indicators and TEQSA's willingness to discuss Risk Profiles.

As part of its commitment to refining its regulatory approach, and as signalled in the current RRF, TEQSA will periodically review its approach to identifying, assessing and monitoring regulatory risk across the sector. This includes updating and refining indicators according to the best available data, experience and feedback from the sector.

Future reviews or updates to the RRF will take into account the revised Higher Education Standards Framework, as well the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (National Code).

Under the ESOS Act, TEQSA regulates a number of ELICOS and Foundation Program providers that are not registered higher education providers. The principles and processes established in TEQSA's RRF also apply to TEQSA's risk management of these providers, but with differing information requirements and a tailored set of risk indicators. TEQSA has consulted with relevant peak bodies and is communicating directly to these providers about how the approach applies to them.

The current RRF is available at www.teqsa.gov.au/regulatory-approach/regulatory-risk-framework.

Figure 2 – RRF mapped to ISO 31000:2009 Risk Management Model
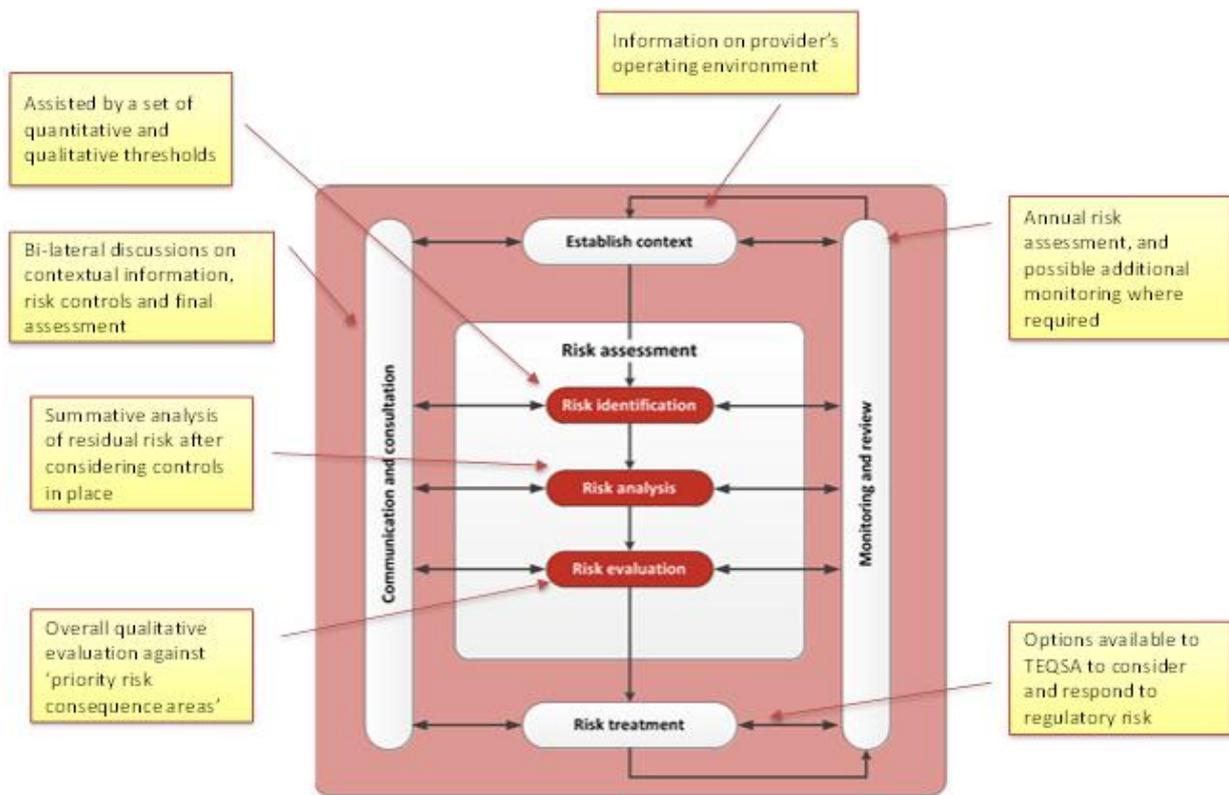
Attachment B: Key Areas Considered in Risk Assessment

CONTEXT
E.g. multi-sector, parent entity, proportion of onshore international students, TNE operations etc.

REGULATORY HISTORY AND STANDING
Corporate governance:
For example – Most recent regulatory review found that the corporate board did not have any representatives external from the provider.
Academic governance:
For example – Most recent regulatory review found that students were not involved in deliberative and decision-making processes.
Quality assurance:
For example – Recent course accreditation found effective course design and quality assurance practices.
Other regulatory issues:
For example - Rejection of professional accreditation in last two years.

Provider Risk Management:
TEQSA will consider available information on a provider's risk management and controls.
Complaints:
TEQSA may consider complaints it has received, particularly multiple complaints on the same issue.

	RISK INDICATORS			
	Risk Indicator	**Description of Risk**	**Examples of links with Threshold Standards and ESOS Act/National Code**	**Description of Measure**
Student Profile and Outcomes				
1	**Cohorts completed**	An entity that has recently commenced delivery as a higher education provider carries initial operational, business and quality risks. For example, meeting student projection targets, meeting financial targets, whether infrastructure and staff resources are maintained with the rate of student growth, and whether governance bodies successfully implement key policies and quality assurance activities. Where applicable, consideration will also be given to recently registered CRICOS locations without a track record in delivery, which present a potential risk regarding the establishment of quality operations at that location.	PRS 1 – Provider Standing EA Part 2, Division 3, Section 9AB (1)(f) NC S14: Staff capability, educational resources and premises	At least three cohorts of students completed and five years of higher education delivery undertaken.
2	**Student load**	A significant increase in student load may impact on the quality of student experience unless planned for and managed, for example, through adequate investment in infrastructure, academic teaching staff, student support and teaching and learning resources. A significant and continuing unplanned decline in student load may have negative financial impacts due to loss of fee revenue, and may signal a decline in the quality or value of the organisation's course offerings, as perceived by prospective students. This may particularly be the case where the student profile is heavily reliant on international students from a limited number of countries. Factors that may be considered in assessing this indicator include, for example, the provider's strategic planning objectives, student support arrangements and capacity to accommodate and manage changes in student population.	PRS 2 - Financial viability and safeguards PRS 5 - Management and human resources PRS 7 - Physical and electronic resources and infrastructure PCAS 2 - Course resourcing and information is adequate NC Standard 2 – Student engagement before enrolment	Based on Department of Education (DoE) Definition: Percentage change of total student load, measured in EFTSL (Equivalent Full-Time Student Load), in the Reference Year over a specified period.

3	**Attrition rate**	High attrition rate / low progression rate / or low or significantly decreasing completions, each indicate potential quality issues in admission processes, teaching and learning processes, and overall student experience. Factors that may be considered in assessing attrition, progress and completion indicators include for example, trend, student satisfaction measures, or relevant programs in place to increase retention / assist student progress / assist students complete their course. Consideration may also be given to the reasons for attrition, such as the proportion of students who transfer to another higher education provider.	PRS 4 - Primacy of academic quality and integrity PRS 6 - Responsibilities to students PCAS 3 - Admission criteria are appropriate PCAS 4 - Teaching and learning are of high quality NC Standard 6 – Student support service NC Standard 10 – Monitoring course progress NC Standard 11 – Monitoring attendance	The percentage of first year commencing Bachelor students in a year who neither complete nor return to study in the following year to the total commencing bachelor students. Adjusted attrition rate may be used if available. Trend may also be considered.
4	**Progress rate**	See description for attrition rate	See mapping for Attrition rate	Based on DoE Definition: The percentage of actual student load (EFTSL) for units of study that are passed to all units of study completed (passed + failed + withdrawn), in the last academic year or 12 month period. Trend may also be considered.

5	**Completions** (UG and HDR as applicable)	See description for attrition rate	See mapping for Attrition rate	Based on DIICCSRTE Definition: Percentage change of total Undergraduate (UG) / Higher Degree by Research (HDR) student completions in the Reference Year. Absolute level and trend may also be considered.
6	**Student Satisfaction** (Graduate and Postgraduate as applicable)	Low graduate satisfaction reflects overall student experience and signals potential issues in relation to the quality of the course. For example, the level of staff and support available to students, the quality of teaching, and adequacy of learning resources. Poor student satisfaction may also impact future market demand. Academic staff indicators may provide important context in considering this indicator.	PRS 3 - Corporate and academic governance PRS 5 - Management and human resources PRS 6 - Responsibilities to students PCAS 2 - Course resourcing and information are adequate PCAS 4 - Teaching and learning are of high quality NC Standard 6 – Student support services	Mean percentage agreement (agree and strongly agree responses) of Overall Satisfaction Item (OSI) of the (Undergraduate & Postgraduate Coursework) Course Experience Questionnaire (CEQ) administered by Graduate Careers Australia. Mean percentage agreement (agree and strongly agree responses) of Overall Satisfaction Item (OSI) of the (Higher Degree Research only) Postgraduate Research Experience Questionnaire (PREQ) administered by Graduate Careers Australia. Other survey results and trend may be considered.

7	**Graduate destinations**	Very low employment or further study rates signal that students may not be well-equipped with the necessary graduate attributes to successfully transition into the next stage of their chosen profession or study.	PRS 3 - Corporate and academic governance RS 5 - Management and human resources PRS 6 - Responsibilities to students NC Standard 6 – Student support services NC Standard 14 – Staff capability, educational resources and premises	Percentage of bachelor graduates in full-time employment or full-time study Graduate Destination Survey (GDS) mean full-time employment of those seeking full-time employment, and further study of those seeking further study. Other survey results and trend may be considered.
Staff Resources and Profile				
8	**Senior academic leaders**	A relatively low number of senior academic leaders embedded within the organisation may compromise the strength of the organisation's academic capability. Senior academic leaders typically make a strong contribution to key academic policies for the organisation, internal quality review, supervise staff and show professional leadership in their field of expertise. In assessing risk in relation to senior academic leaders, consideration may be given to context such as the size and scope of a provider's operations, and a close institutional relationship with another higher education provider.	PRS 4 - Primacy of academic quality and integrity PRS 5 - Management and human resources PCAS 4 - Teaching and learning are of high quality	The ratio of the total teaching staff (headcount), at Levels D and E for university, or equivalent, to the number of ASCED BFOEs offered. Equivalency in terms of qualifications, experience and duties may be considered. Trend may also be considered.

9	**Student to staff ratio**	A high ratio of students to teaching and learning staff provides a broad indication of potential constraints on the level of support available to students, the quality of the learning experience for students, and the average teaching workload. It is not proposed here as a proxy for class size. In assessing risk in relation to SSR, consideration may be given to context such as trend, delivery model and mode, and relevant insights offered by other indicators relating to student outcomes and experience.	PRS 5 - Management and human resources PRS 6 - Responsibilities to students PCAS 4 - Teaching and learning are of high quality NC Standard 14 – Staff capability, educational resources and premises	The ratio of total onshore student load (EFTSL) to total onshore teaching only (TO) and teaching and research (T&R) staff (FTE) employed by the provider, including casuals. Consideration may be given to offshore SSR data where available. Trend may also be considered.
10	**Academic staff on casual work contracts**	Unless well supported within the organisation, casual or sessional staff may be in a less able position than permanent staff to anchor academic activities, engage in scholarship, provide ongoing academic leadership, provide a continuity of support for their students, be active contributing members in a community of scholarship, and be embedded in the academic culture of the organisation. In assessing risk in relation to casual staff, consideration may be given to context such as trend, delivery model or use of current industry professionals in specialist areas, in conjunction with strategies in place to support the engagement of casual staff and their ongoing professional development. Consideration may also be given to insights offered through other indicators, such as those relating to student outcomes and experience.	PRS 4 - Primacy of academic quality and integrity PRS 5 - Management and human resources PCAS 4 - Teaching and learning are of high quality NC Standard 14 – Staff capability, educational resources and premises PCS 1.4, 2.5, 3.5, 4.5	The percentage of academic FTE employed on a basis other than full time or fractional full time to total academic FTE employed on a full time or fractional full time basis by a provider. Trend may also be considered.

Financial Viability and Sustainability				

11	**Financial viability**	This composite indicator considers risk to a provider's current and immediate-to short-term strength and capacity. Measures included within this indicator include profitability, liquidity, gearing, debt servicing and cash flow.
		
		   i. Operating margin %: Provides an indication of the provider's ability to manage revenues and control expenses in order to generate a surplus which can be used in the future to support the capacity of the provider to sustain its higher education operations.
		
		   ii. Liquidity: Provides an indication of the provider's capacity to meet financial obligations within the ordinary operating cycle.
		
		   iii. Gearing: Provides an indication of assets available to satisfy the provider's obligations.
		
		   iv. Debt Service Coverage: For providers with borrowings, provides an indication of the provider's capacity to amortise and service the debt whilst reinvesting in the fixed assets of the business.
		
		   v. Operating cash flow ratio: Provides an indication of the provider's capacity to meet current financial obligations based on the cash flow generated from a provider's operations
			PRS 2 – Financial viability and sustainability
			
			 EA Part 2, Division 3, Section 9AB (1)(f)
				i. Net result; Total revenue
				
				 ii. Current assets; Current liabilities
				
				 iii. Tangible assets; Total liabilities
				
				 iv. EBITDA; Cash outflows for property, plant and equipment; Interest expense; Tax expense
				
				 v. Operating cash flow; Total current liabilities

| 12 | Financial sustainability | This indicator provides a longer-term view of a provider's strength and capacity and its ability to exhibit structural characteristics to support operating endurance. Measures are generally analysed over a rolling period (3 years) and cover revenue changes, assets, employee benefits, enrolments and revenue diversification.

i.   *Change in total revenue %: Provides an indication of any change in the level of activity in the provider. Revenue is the key source of operating income for providers and allows the provider to effectively meet higher education objectives.*

ii.   *Asset (Capital) replacement: The provider's fixed asset base contributes to the effective delivery of higher education objectives. As assets deteriorate this measure gives an indication of the provider's track record of reinvesting in the fixed asset base.*

iii.   *Change in Employee Benefits Ratio: Staff typically comprises the major cost item for many providers. Staff are critical to the effective achievement of higher education objectives. This measure provides an indication of the change in total staff costs (academic & non-academic staff) relative to the level of activity.*

iv.   *Year on Year change in Commencements (EFTSL): Provides an indication of changes in demand for the provider's offering and its ability to maintain student load and enrolment momentum.*

v.   *Diversity of revenue: Diversification of revenue sources allows the provider to reduce financial and business risks by spreading risks across different activities and respond more effectively to changes in its trading environment.* | PRS 2 – Financial viability and sustainability

NC Standard 14 – Staff capability, educational resources and premises | *i. Total revenue*

ii. Cash outflows for property, plant and equipment; Depreciation

iii. Total Employee benefits expense; Total revenue

iv. Current year commencing EFTSL; Prior year commencing EFTSL

v. Maximum revenue source; Total revenue |

Other				
-	Other identified risk	Allows for a provider-specific risk, for example as identified through a Material Change Notification or recent regulatory review process. While TEQSA believes its approach to using the revised indicators above, adjusted for contextual factors, allows for a significant degree of flexibility in the revised framework, it also regards it as important to have the capacity to define and utilise an indicator specifically tailored for a particular provider or situation if this is warranted.	-	-