

EXPLANATORY STATEMENT

Migration Regulations 1994

SPECIFICATION OF ACTIVITIES 2016/075

(Paragraph 5.19E(6)(a))

1. Instrument IMMI 16/075 is made under paragraph 5.19E(6)(a) of Division 5.3 of Part 5 of the *Migration Regulations 1994* (the Regulations).
2. Regulation 5.19E prescribes the requirements of a “complying entrepreneurial activity” for an applicant seeking to satisfy the primary criteria for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream or a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Entrepreneur stream. The “complying entrepreneurial activity” must relate to an innovative idea that is proposed to lead to the commercialisation of a product or service in Australia or the development of an enterprise or business in Australia, but must not relate to specified activities. This Instrument specifies those excluded activities.
3. The Instrument specifies, under paragraph 5.19E(6)(a) for the purposes of paragraph 5.19E(2)(b), a range of investment activities relating to: labour hire entities; residential real property; and existing entities (including franchises). These activities relate to passive areas of the economy that already attract significant capital flows. Excluding these areas encourages investment in emerging enterprises, the creation of new jobs and promotion of local commercialisation of innovative research and development.
4. The Department of Immigration and Border Protection has undertaken consultation with: State and Territory governments; the Department of Foreign Affairs and Trade; the Australian Trade and Investment Commission; the Department of Education and Training; the Department of Employment; the Department of Industry, Innovation and Science, including AusIndustry; the Department of the Prime Minister and Cabinet; and industry groups. Public submissions were also received.

5. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 20000).
6. Under section 42 and subsection 44(2) of the *Legislation Act 2003* and Item 20 of Regulation 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the Instrument is not subject to disallowance and therefore a Statement of Compatibility with Human Rights has not been provided.
7. The Instrument commences immediately after the commencement of the *Migration Amendment (Entrepreneur Visas and Other Measures) Regulation 2016*.