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RE: BUSINESS INNOVATION AND INVESTMENT PROGRAM: GETTING A BETTER DEAL FOR AUSTRALIA

Dear Sir/Madam,

Thank you for the opportunity to provide comments on the review of the Business Innovation and Investment Program (BIIP), and in particular to subclass 132 visas and the Global Talent Scheme.

THE BUSINESS TALENT PROGRAM (SUBCLASS 132)

Objectives and performance of the Business Talent subclass 132 program

Since its inception, BIIP (originally the Business Skills Programme - BSP) aims to attract and facilitate business owners and investors, who have a successful history in operating foreign businesses, to undertake business and/or investment activity in Australia. In the 2012 changes, the Department introduced a new structure of visa subclasses with higher threshold criteria to target a selection of applicants with higher levels of assets, turnover and investment. However, in this restructure of the BIIP program (2012), the Business Talent (subclass 132) remained unchanged because the Department found that it was attracting "very good applicants".[1]

In fact, the Business Talent visas, under the good mixture of thresholds set by the State and Federal governments, continues to pick up applications from what we consider to be the top decile of successful business owners and entrepreneurs. These applicants have a genuine intention to invest at least AUD 1.5 million in a business in Australia and often considerably more. In the process of seeking the State nomination, they have already carried out extensive market research and taken steps to understand the priority sectors of the destination state and demonstrate the substantial economic benefits that their proposed business and investment will bring to the nominating state.

In our practice alone, in the period of 3 years (2016 – 2019), the amount of investment 132A and 132B visa holders/applicants have made and committed to make reached AUD 1,516,000,000. Our observation shows that the average level of business turnover of these clients is more than AUD 5 million.

In our experience, among all visas in the BIIP, given the significant investment amounts deployed and the skills and networks of the applicants, subclass 132 Business Talent visa holders tend to engage in more "innovation activities"[2] as they proactively engage local professional consultancy

[1] Department of Immigration and Border Protection, *Submission to the Joint Standing Committee on Migration Business Innovation and Investment Programme Inquiry*, p. 6

[2] According to the *Oslo Manual* (3rd Edition), innovation activities include identifying new products, processes, marketing methods for organisational changes; buying technical information, paying fees or royalties for patented inventions or buying know-how and skills through engineering, design or other consultancy services; developing human skills through training and hiring, investing in innovation equipment, software or intermediate inputs, reorganising management systems and business activities and developing new marketing methods.

services to advise and assist them in setting up, acquiring or joint venturing a business, which can be at the value of AUD 1 million – 2 million, and assessing the prospect of licensing Australian technology to overseas clients. Moreover, the main types of 132 visa applicants are business owners with significant history of business success in target sectors and entrepreneurs with venture capital funding to develop Australian businesses in target sectors. These applicants also bring extensive knowledge, networks, and skill in accessing markets in their home countries and regions (predominantly in key markets in the Asia-Pacific).

Recommendations

Given that the investment and turnover thresholds for the Business Talent visas have not been changed for about a decade. We believe that, since the last changes announced in 2012, the economies of our migrant source countries and the demand for Australian residency have grown very significantly.

We recommend the required business turnover for 132A be raised to AUD $5 million and that the threshold level of investment for both the 132A and 132B streams be raised to at least AUD 2 million in regional Australia and higher, perhaps at least AUD 3 million, for major cities.

We agree with in the Department's submission to the Joint Standing Committee on Migration[3] that the issue of an accumulating pipeline of applications should be addressed by adjusting the threshold settings for the visas so that the program selects quality applicants who have a higher level of assets and who are committed to invest in sectors and areas of priority for the Australian Government.

At the time of writing, the published processing time for subclass 132A (Significant Business History) is about 24 months [4] (and there appears to be a very substantial difference in the times taken to process applications by the Adelaide and Hong Kong offices). This contrasts sharply with an 11-month processing time for 132A applications achieved by the Department in the 2013-2014 financial year.[5]

According to one a recent FOI release, in the period between 2014 and 2019, the number of grants (primary applicants only) fluctuated and increased from 167 (2014/2015) to 260 (2017/2018) and 336 (2018/2019). In the same financial years, the number of applications (primary applicants only) were 847, 2906 and 3100 accordingly – evidencing a strong surge in demand from applicants and supporting our proposal to substantially raise investment and turnover thresholds.

We note that the total planning levels for Business Skills visas are calculated to include all applicants (primary and secondary). The main difference between BIIP and the GSM and Employer sponsored programs is that the latter attract and target young skilled adults and a large portion of them could be single or young couples, almost all applicants under the 188A, 188B, 188C, 132A and 132B streams, given the requirement to demonstrate a successful business and/or investment history, will be married with one child or more. We believe that, in addition to the strong surge in demand from high quality applicants noted above, these facts provide a logical basis for allocation of a significant number of additional places to the BIIP.

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[3] Department of Immigration and Border Protection, *Submission to the Joint Standing Committee on Migration Business Innovation and Investment Programme Inquiry*, p.3.

[4]

[5] Commonwealth of Australia 2015, *Report of the Inquiry into the Business Innovation and Investment Programme - Joint Standing Committee on Migration*, p.9.

THE POSSIBILITY OF INCORPORATING THE BUSINESS TALENT 132 PROGRAM WITHIN THE GLOBAL TALENT PROGRAM (GTI/GTES)/VISAS FOR INNOVATION PROGRAM

We submit that the Business Talent and Global Talent programs as presently constituted attract distinct and essentially non-overlapping pools of applicants.

Target of the Global Talent programs

The Global Talent Independent program (GTI) is built on the basis of the Distinguished Talent visa which centres around highly skilled migrants in niche technology- and STEM-related areas. The Global Talent Employer Sponsored program (GTES) operates as a program for employers to access Temporary Skills Shortage visas to fill highly-skilled niche positions that cannot be met by local workers or the existing skills migration programs. In other words, the current GTI/GTES programs are tailored for employees and highly-skilled workers.

In contrast, we consider that the subclass 132 Business Talent streams brings business owners and entrepreneurs with extensive general management experience (often in combination with early career experience with innovation and technology) to Australia. These applicants have a different set of skills from the majority of GTS applicants that enables them to create jobs, attract investment, pioneer new economic opportunities and facilitate exports. Should you require a compilation of the different types of executive summaries of the various business proposals from the 132A and 132B categories from our firm, we would be more than happy to provide you with a copy.

Recommendation

We suggest extending the definition of "talent" under the GTS to include skill sets common among subclass 132 applicants such as business ownership, entrepreneurial general management, managing high-growth businesses, and operating businesses internationally. This would be a logical and worthy addition to the GTS' current definition of talent which revolves around skills that enable commercialisation of new technologies that are common among industry specialists, scientists and other workers with very high level and current technical skills.

This would preserve the proven and effective features of both subclass 132 Business Talent visa streams and allow them to be incorporated (with the adjustments proposed above and perhaps with some rebranding) into the Global Talent Scheme.

As we have demonstrated through firsthand experience with our clients, the benefits of the two subclass 132 visa streams to the Australian economy and community have been very substantial and are accumulating rapidly as visa holders expand the scale and scope of their business activities in Australia.

While there is certainly now an opportunity to address integrity issues that have emerged over time with this visa subclass, substantially modifying or discarding either stream of the subclass 132 visa would likely alienate a large and highly desirable pool of potential of applicants from any possibility of immigration to Australia and risk the creation of a whole new set of integrity challenges for the Department (including in other areas of the overall skilled migration program). Given that Australia major competitors from UK, Canada, USA and New Zealand all have one step permanent residence visa program it would be detrimental to the economy to miss out on the opportunity to attract these ultra-high net worth and talented business owners and entrepreneurs.

Moreover, each of visa program draws different people to different parts of Australia's economy. We analogise this to the different visa categories forming a brick wall, taking a brick out of the wall would surely destabilise the wall in the same way that it would destabilise the attractiveness of Australia's migration program. The current GTS program brings in highly skilled employees, however, these applicants will not have the general management experience of large foreign businesses like those in the Business Talent program. Both types of the applicants are crucial to the development of innovative businesses and creating job opportunities for Australians.

Please do not hesitate to contact us should you need any further information.

Yours sincerely,



Shanice Hoang
Managing Partner