Migration Institute of Australia

Submission

Business Innovation and Investment Program: Getting a better deal for Australia



14 February 2020

Migration Institute of Australia
ABN 83 003 409 390

Phone: +612 9249 9000 | Fax: +612 9279 3172 | Email: info@mia.org.au | Website: www.mia.org.au

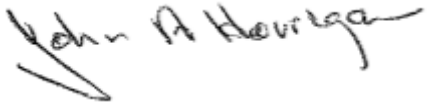
The Director, Skills and Innovation Policy Section
Migration Planning and Visa Policy Branch
Department of Home Affairs

Dear Director

The MIA appreciates this opportunity to provide input into the Business Innovation and Investment Program: Getting a better deal for Australia through this submission and the Industry Roundtable Consultation conducted by Minister Tudge today at his electoral office in Wantirna South, Victoria.

The MIA provides the recommendations in this submission to assist in the making of decisions surrounding the Business Innovation and Investment Program. These recommendations are informed by the practical experiences of MIA Registered Migration Agent members who practice across Australia and internationally.

Please feel free to contact Bronwyn Markey at Bronwyn.Markey@mia.org.au or on 02 9249 9000 if you require further assistance or information in relation to this submission.



John Hourigan FMIA
National President
Migration Institute of Australia

14 February 2020

Migration Institute of Australia

The Migration Institute of Australia (MIA) was established in 1992 as the professional association for Registered Migration Agents. Through its public profile the Institute advocates the value of migration, thereby supporting the wider migration advice profession, migrants and prospective migrants to Australia. The Institute represents its members through regular government liaison, advocacy, public speaking and media engagements. The Institute supports its members through its separate but interlinked sections: professional support; education; membership; communications; media; business development and marketing.

The Institute operates as a company limited by guarantee and complies with all Australian Securities and Investments Commission (ASIC) requirements. Under its constitution it is not empowered to pay any dividends. The MIA and its elected office bearers are guided by the legal framework set out in the Corporations Act 2001, the MIA Constitution and Rules, the Corporate Governance Statement and Board Charter.

MIA Members hold a further responsibility to their clients and the Australian community to abide by ethical professional conduct and to act in a manner which at all times enhances the integrity of the migration advice profession and the Institute. MIA Members are bound by both the MIA Members' Code of Ethics and Practice, which sets the profession's standards of behaviour, and the statutory Code of Conduct of the Office of the Migration Agents Registration Authority (MARA).

Recommendations

Recommendation 1
The MIA recommends that the viability of increasing investment threshold for Significant Investor Visa stream be reassessed within the context of the negative economic impact of the Novel Coronavirus (CoVid-19) on the Chinese economy as the major source country for this visa subclass.

Recommendation 2
The MIA recommends that the low investment threshold for the Subclass 188 Business Innovation stream be judiciously increased.

Recommendation 3
The MIA recommends that Subclass 188 Investor stream applicants continue to be permitted to invest in State and Territory bonds if desired.

Recommendation 4
The MIA recommends that Subclass 188 Investor stream applicants be permitted to move their investments from State and Territory bonds to complying managed funds within the required four years investment period.

Recommendation 5
The MIA recommends that Subclass 188 Investor stream applicants be permitted the choice of investing directly in complying managed funds without prior investment in State and Territory bonds.

Recommendation 6
The MIA recommends that authority to nominate Subclass 188 Premium Investor Visa stream applicants be extended to State and Territory Governments.

Recommendation 7
The MIA recommends that the Subclass 188 Entrepreneur stream be discontinued.

Recommendation 8
The MIA recommends that the Subclass 132 Venture Capital stream be discontinued.

Recommendation 9
The MIA recommends that the necessity for the Business Skills Points test be reconsidered.

Recommendation 10
The MIA recommends that if the Business Skills Points Test continues to be used it remains a threshold filtering tool.

Recommendation 11
The MIA recommends that if the Business Skills Points Test continues to be used as a threshold filtering tool that the financial assets threshold be increased and the points recalibrated.

Recommendation 12
The MIA recommends that if the Business Skills Points Test continues to be used as a threshold filtering tool that the business turnover threshold be increased and the points recalibrated.

Recommendation 13
The MIA recommends that if any changes to the order of business skills visa processing are considered that the changes be made in consultation with the State and Territory nominating authorities

Recommendation 14
The MIA recommends that incentives be offered to business migrants to operate businesses or invest in regional areas by awarding bonus points in the Business Skills Points Test.

Recommendation 15
The MIA recommends that business migrants be offered the incentive of lower investment thresholds for operating or investing in regional areas.

Recommendation 16
The MIA recommends that business migrants be offered incentives to invest in regional areas without the requirement to live in these areas.

Recommendation 17
The MIA recommends that any changes made to the Business Innovation and Investment Program subclasses be made incrementally.

Recommendation 18
The MIA recommends that consideration be given to annual CPI or percentage increases to investment thresholds.

The MIA welcomes the opportunity to provide input into this current review of the Business Innovation and Investment Program: Getting a better deal for Australia. The MIA notes that this is the sixth review/inquiry since 2014 that MIA has provided submissions to that have included the Business Innovation and Investment (BIIP) and Significant Investor Visa (SIV) Programmes.

The MIA contends that many of the issues identified in its previous research with MIA members through focus groups and member survey,[1] those who represent significant numbers of business and investment migration clients, remain unresolved. The current discussion paper suffers the same deficiencies as previous reviews, being based on MIA identified misconceptions held by the Government and Department on the BIIP visa applicants' personal and financial attributes and motivations.

It is obvious from the wording of the current discussion paper and questions that support is being sought for the Government's already predetermined position and actions, *prior* to consulting those who deal directly with these potential applicants and whom have an in-depth understanding of this class of potential migrants, rather than an academic economic and statistical overview of the programs.

1. **How can the investment thresholds be increased to provide the best outcome for Australia?**

The MIA would argue that this question has been incorrectly construed and should instead read … *'what would be the outcome for Australia of increasing the investment thresholds?'*

The MIA suggests that a wholesale increase of investment thresholds without detailed understanding of the impacts of these changes is ill-conceived and potentially damaging to the program.

In its submission to the Department of Immigration and Border Protection Review of the Significant Investor Visa Programme in November 2014[2], for example, the MIA reported that while that program took some time to be accepted by overseas investors, it had started to show good signs of growth. Shortly after, in July 2015, the SIV program investment requirements were prescriptively changed. MIA members reported an immediate decline in demand for this visa subclass. Departmental statistics bear this out with some 1645 granted in the first three years of the program and only 667 after the change and in the last four and a half years.[3]

Given that the source country of the majority of applicants is China and to a much lesser extent other Asian countries, the health of those economies must be taken into consideration if making changes to the programs. The OECD 2020-2024 Economic Outlook

[1] MIA Supplementary submission to the Joint Standing Committee on Migration's Inquiry into the Business Innovation and Investment Visa Programme, 2014, https://www.mia.org.au/public-resources/mia-submissions/business-innovation-and-investment-visa-programme---parliamentary-joint-standing-committee-on-migration---supplementary-submission---november-2014

[2] MIA Submission to Department of Immigration and Border Protection, Review of the Significant Investor Visa Programme, 2014, p 3 https://www.mia.org.au/public-resources/mia-submissions/significant-investor-visa-programme-review---april-2014

[3] December 2019 SIV statistics https://www. esearch -and-

for Emerging Asia (South East Asia, China and India)[4] predicts lower growth forecasts than in the previous four years, with China's GDP predicted to fall to 5.7% and growth down to 5.6%.[5]

The Outlook reports rising cautiousness in business sentiment resulting from broadening economic weakness in advanced economies, compounded by uncertainty over US – China relations and Brexit. Reports on the Chinese investment behaviours indicate that high net wealth investors are making more mature asset allocation investment and shifting their focus back to investments in China, in light of the global economic uncertainty[6].

Prophetically, the Outlook also questions the resilience of disaster response initiatives within the region.[7] The detrimental economic impact of the CoVid-19 pandemic is yet to be played out. Similarly, the impact on the confidence of overseas investors in the Australian economy following the recent and severe natural disasters has yet to be determined.

The OECD forecast and the recent Australian disasters must advocate a cautious approach to changing the parameters of the Business Innovation and Investment Program at this time. The MIA questions the Department's assertion that the investment behaviour and demand are 'not very sensitive' to change[8] when set within this context.

The best outcome for Australia would not be achieved by damaging the current BIIP program by unreasonably increasing investment thresholds, particularly for the SIV subclass where confidence and acceptance of the investment options appear to be returning.

More than 25 countries are reported to have active immigrant investor visa programs, that offer permanent residency and/or direct pathways to citizenship for foreign and business investors [9](see Appendix A). Australia is in competition with countries that offer lower investment thresholds and potentially more attractive investment options. Although the Australian Business Talent 132 subclasses and the Business Innovation and Investor 188 (A&B) subclasses offer investment options are comparable in cost to some other countries, the Australian SIV and PIV programs remain among the most expensive of any immigrant investor programs.

It is rumoured that the Government intends to increase the SIV investment by 50% to $7.5 million dollars in one adjustment. Such a large single increase in the current economic climate has the potential to damage the SIV program in the same manner as the 2015 changes. The MIA suggests that if increases are to be made, these should be in smaller increments over time, rather than as large lump sum adjustments.

The MIA would support an adjustment to the threshold asset and investment requirements for the Business Innovation (188 'A'), Investor (188 'B') and Significant Business History (132) subclasses. These thresholds have not been adjusted since changes to the program in 2012.

---

[4] Economic Outlook for Southeast Asia, China and India 2020 https://www.oecd-ilibrary.org/sites/3d142eb3-en/index.html?itemId=/content/component/3d142eb3-en

[5] ibid. The OECD Report was produced before the CoVid-19 pandemic emerged

[6] 2019 China Private Wealth Report China's Private Banking Industry: Back to Basics https://www.bain.com/insights/chinas-private-banking-industry-back-to-basics/

[7] Economic Outlook for Southeast Asia, China and India 2020 https://www.oecd-ilibrary.org/sites/3d142eb3-en/index.html?itemId=/content/component/3d142eb3-en

[8] Business Innovation and Investment Program: Getting a better deal for Australia, Department of Home Affairs discussion paper 2019, p 4

[9] Corpcrat Magazine, Citizenship By Investment, Balakrishnan, October 2019 https://corpocrat.com/2019/10/03/25-immigrant-investor-citizenship-programs-in-the-world/

The total investment thresholds, including business and personal assets, for these subclasses are relatively low investment amounts by current Australian standards, although some States and Territories impose higher level requirements for nomination. The Business Innovation Subclass 188 'A' stream $800,000 personal and business asset requirement, potentially $400,000 each for the applicant and their partner, is an amount so low that it must be questioned whether it can realistically deliver any noteworthy investment potential and whether this low threshold is contributing to the unmet demand reported in the Department's current discussion paper.

Recommendation 1
The MIA recommends that the viability of increasing investment threshold for Significant Investor Visa stream be reassessed within the context of the negative economic impact of the Novel Coronavirus (CoVid-19) on the Chinese economy as the major source country for this visa subclass.

Recommendation 2
The MIA recommends that the low investment threshold for the Subclass 188 Business Innovation stream be judiciously increased.

2. How could we achieve better outcomes for the Australian economy through the composition of designated investments for the Investor and Significant Investor visas?

It has been suggested that the requirement to invest AUD $1.5 million in the passive investment in State and Territory bonds for the Investor 188'B' subclass be altered to improve outcomes for the Australian economy. The MIA contends that safety of investment is a prime consideration of overseas investors unfamiliar with the Australian investment system and economy. Removing the ability of business investors to invest in 'safe' products would discourage some from investment in Australia at all. However, business investor applicants could also be offered alternative investment options.

The MIA suggests that rather than changing the investment regime totally, that the requirement to maintain the investment in these bonds for four years be amended. The business investor visa holders should be permitted to move the investment funds to other products during the four year period. The same level of invested funds would be required to be maintained in the new investment products.

Consideration could be given to legislatively restricting the further investments to complying managed funds, as per those suitable for SIV investment. Given the relatively low amount of this investment, a prescriptive ratio requirement of the type of complying funds that must be invested in, is most likely to unwarranted and inefficient. Some limitation on the number of times the invested funds can be moved may be required, to enable efficient processing of future permanent residency visas. Alternatively, business investors could be given the choice to invest in these complying managed funds in the first instance.

It is also rumoured that the government is planning to change to balance of the SIV Complying Investment Framework by increasing from 40% to 60% the investment in the Venture Capital and Emerging Companies funds and reducing from 60% to 40% the investment in other managed funds. The MIA again suggests a cautious approach to changes to the SIV program given the previous negative impacts from changes to the investment regime. If the balance is to be changed, it is suggested that this be well marketed in advance of the changes and only apply to new applicants.

Recommendation 3
The MIA recommends that Subclass 188 Investor stream applicants continue to be permitted to invest in State and Territory bonds if desired.

Recommendation 4
The MIA recommends that Subclass 188 Investor stream applicants be permitted to move their investments from State and Territory bonds to complying managed funds within the required four years investment period.

Recommendation 5
The MIA recommends that Subclass 188 Investor stream applicants be permitted the choice of investing directly in complying managed funds without prior investment in State and Territory bonds.

3. How could a simplified BIIP framework make the program more efficient and effective in maximising benefit to Australia?

The current BIIP framework could benefit from simplification of the nine visa streams, particularly given the recent introduction and allocation of 5000 places to the Global Talent Visa program.

The variety of BIIP subclasses are potentially confusing to prospective migrants and some are severely underutilised, such as the Entrepreneur 188'E', Premium Investor 188'D' and Venture Capital 132 subclasses streams.

The Premium Investor visa, as the only direct permanent residency business visa, should have proved more popular than it has. It is surmised that the low uptake of this visa is due to the restrictions imposed by the Austrade nomination requirement. As an alternative to abandoning this subclass, relaxation of that requirement to allow state and territory nomination could be considered.

The Entrepreneur 188'E' and the Venture Capital 132 subclasses should be abandoned. The very few applicants for these streams would most likely be accommodated by the new Global Talent scheme.

Recommendation 6
The MIA recommends that authority to nominate Subclass 188 Premium Investor Visa stream applicants be extended to State and Territory Governments.

Recommendation 7
The MIA recommends that the Subclass 188 Entrepreneur stream be discontinued.

Recommendation 8
The MIA recommends that the Subclass 132 Venture Capital stream be discontinued.

4. How can the points test be adapted to encourage investments above the minimum threshold?

The rationale for imposing a Business Skills Points Test on BIIP visas is unclear given that it provides little more than a secondary filtering function to the visa process. As identified in the Department's current discussion paper, once the threshold of 65 points has been achieved, applicants are then treated as an undifferentiated cohort. It could be argued that the same threshold determination of eligibility could be obtained using personal characteristics, English language proficiency plus investment levels as with other non business visa classes.

The MIA has identified in previous submissions[10] that savvy business migrants will only work to meet the minimum threshold standards, quarantining and protecting the remainder of their assets from the process. If the program only requires an investment of $1 million for example, why invest more until permanent residency has been confirmed? There is no incentive to 'invest' more than the minimum in terms of funds or even in personal attributes such as improved English language ability.

Adjustments to the points test could provide the potential to select applicants on the basis of ranked points, as in the skilled migration programs and create incentive for applicants to invest greater amounts of funds or improve other attributes for their applications. However, it is essential that the impact of such a move on State and Territory nomination processes be fully explored and understood before such a decision is made.

The States and Territories impose their own criteria for business applicant nominations based on their local economic objectives. Moving away from a threshold filtering function may conflict with these local economic objectives. States and Territories must have the freedom to select the applicants with the most appropriate business proposal and experience to meet their economic objectives. Extensive consultation on any change in the use of the points test in this manner is required with the state and territory governments before any change is implemented.

The MIA suggests that given that the points test only encourages applicants to make minimum threshold contributions applicable to their personal circumstances and that any incentives provided by encouraging greater investment with extra points, is likely to be in direct conflict with the State and Territory nomination processes, that the points test remain as a threshold filtering tool or alternatively be abandoned.

If the points test is to remain as a filtering tool, rather than incentivising higher investment, the investment threshold points could be increased to achieve the same outcome, as provided in the Table 1 following.

[10] MIA Supplementary submission to the Joint Standing Committee on Migration's Inquiry into the Business Innovation and Investment Visa Programme, 2014, p 6 https://www.mia.org.au/public-resources/mia-submissions/business-innovation-and-investment-visa-programme---parliamentary-joint-standing-committee-on-migration---supplementary-submission---november-2014

Table 1. Financial assets (net business and personal assets) – Item 7A.7

Item	Net business and personal assets	Current points	Suggested points
7A.71	Not less than AUD 800,000	5	0
7A.72	Not less than AUD 1.3 million	15	10
7A.73	Not less than AUD 1.8 million	25	20
7A.74	Not less than AUD 2.25 million	35	30
-	Not less than AUD 2.5 million	-	35

Consideration might also be given to increasing the business turnover requirements in the points test, as provided in Table 2 below.

Table 2. Business turnover – Item 7A.8

Item	Business turnover in last 2 of 4 years:	Current points	Suggested points
7A.81	Not less than AUD 500,000	5	0
7A.82	Not less than AUD 1 million	15	10
7A.83	Not less than AUD 1.5 million	25	20
7A.84	Not less than AUD 2 million	35	30
-	Not less than AUD 2.5 million	-	35

As well as increasing investment amounts, the change to the business turnover would assist in reducing demand by excluding smaller business owner applicants with potentially lower levels of business expertise and experience from consideration.

Recommendation 9
The MIA recommends that the necessity for the Business Skills Points test be reconsidered.

Recommendation 10
The MIA recommends that if the Business Skills Points Test continues to be used it remains a threshold filtering tool.

Recommendation 11
The MIA recommends that if any changes to the order of business skills visa processing are considered that the changes be made in consultation with the State and Territory nominating authorities

Recommendation 12
The MIA recommends that if the Business Skills Points Test continues to be used as a threshold filtering tool that the financial assets threshold be increased and the points recalibrated.

Recommendation 13
The MIA recommends that if the Business Skills Points Test continues to be used as a threshold filtering tool that the business turnover threshold be increased and the points recalibrated.

5. **How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?**

Currently, there are few meaningful concessions available to prospective business and investor migrants to operate in regional areas. Building business and investment is crucial to the development and sustainability of regional areas. Concessions such as reducing the business turnover threshold and decreasing the net worth threshold could encourage more business visa applicants to both invest and/or settle in regional areas.

In the discussion above, the MIA recommended that the lower level business and personal assets in Item 7A.71 be removed from the points test list and consideration be given to removing the lowest business turnover threshold for Item 7A.81. However, these minimum threshold could offered as an incentive for business owners who are willing to establish businesses or invest in regional locations.

Business migrants are often loathe to live in regional or lower population centres. If the business points test is maintained, bonus points for migrants willing to invest and/or settle in regional areas could also be awarded, in the same vein as bonus points are provided for general skilled migrants who study or settle in regional areas.

Alternatively, an incentive to invest higher amounts in employment generating businesses in regional areas could made more attractive were investors not required to also reside in a regional area. Such an idea is not without precedent, SIV visa holders are not required to live in Australia for more than 160 days in the four years they hold their investment, to be eligible to apply for permanent residency. Similar visa conditions could be offered to applicants who invest a slightly less amount in regional areas, of say $4,000,000.

Recommendation 14
The MIA recommends that incentives be offered to business migrants to operate businesses or invest in regional areas by awarding bonus points in the Business Skills Points Test.

Recommendation 15
The MIA recommends that business migrants be offered the incentive of lower investment thresholds for operating or investing in regional areas.

Recommendation 16
The MIA recommends that business migrants be offered incentives to invest in regional areas without the requirement to live in these areas.

6. What factors should be considered in introducing any changes, including phasing in changes over time?

The significant impact on demand for the SIV program, when changes were made within the first few years of the program, are clearly evident in the Department's own statistics and should be considered a warning on making abrupt changes to visa programs.

While the MIA understands the need to make adjustments within the program, especially to threshold investment amount in the lower level streams, it suggests that wholesale and abrupt changes be avoided.

Incremental annual increases in investment thresholds should be considered, for example adjustments linked to CPI, much in the same way as the Fair Work High Income Threshold is adjusted annually or by legislated annual percentage increase.

Such an approach would have the advantage of smaller continual and predictable increases in investment thresholds, and would instil confidence in the BIIP program and support its sustainability over time.

Recommendation 17

The MIA recommends that any changes made to the Business Innovation and Investment Program subclasses be made incrementally.

Recommendation 18

The MIA recommends that consideration be given to annual CPI or percentage increases to investment thresholds.

Appendix A

Popular global investor visas programs

	Country	Visa	Minimum capital investment in AUD	Time frame
1	Portugal	EU Residence permit	$567,000 (real estate)	3 to 5 months
2	Malta	EU Permanent Residence permit	$405,000 (Government bonds) for Malta Residence Visa or $160,000 Financed option available	3 months
3	Thailand	Residence Visa	$24,000	Less than 1 month
4	United Kingdom	Residence permit	$3.9 million (investor) / S190,000 (innovator entrepreneur)	3 weeks
5	United States	EB-5 Green card	$1.4 million (from Nov 21, 2019)	12 to 24 months
6	Switzerland	Residence permit	Annual lump-sum tax payment of between $230,000 and $1.5 million dependent on the canton of residence	2 to 6 months
7	Canada Quebec	Permanent residence	$1,35 million or Financing option $280,000	18 months
8	Cyprus	Residence permit	$486,000 (real estate)	2 months
9	Greece	EU residence permit	$405,000 (real estate)	3 months
10	Spain	EU residence permit	$809,000 (real estate)	3 months
11	Ireland	Stamp 4 (permanent residency)	$809,000 (donation) or $1.6 million (bonds)	2-3 months
12	Cayman Islands	Permanent residence	$1.5 million (business or real estate)	3 months
13	Italy	EU residence permit	$809,000 (startup)	3 months
14	Czech Republic	EU residence permit	$4.5 million (business)	3 months
15	The Netherlands	EU residence permit	$2.02 million (capital investment)	3 months
16	Latvia	EU residence permit	$160,000 (business) or $405,000 (real estate/bonds)	3 months
17	Bulgaria	Residence permit	$486,000 (real estate)	3 months
18	Australia	Investor visa	SIV $5 million, PIV $15 million (designated investments)	2 months
19	New Zealand	Investor stream	$2,900,000	1 month
20	Luxembourg	Investor permit	$809,000 (business)	3 months
21	Anguilla	Permanent residence	$224,000 (donation) or $1.2 million (real estate)	3 months

Source: Corpcrat Magazine, October 2019[i]

[i] https://corpocrat.com/2019/10/03/25-immigrant-investor-citizenship-programs-in-the-world/