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Complying Investment Framework (CIF) for the Business Innovation and Investment Program

17 February 2021

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

Dear Sir/Madam,

Discussion Paper on the Complying Investment Framework (CIF) for the Business Innovation and Investment Program (BIIP)

Thank you for the opportunity to provide our submission in response to the Discussion Paper on the Complying Investment Framework (CIF) for the Business Innovation and Investment Program (BIIP). As Globility Group is not a wealth advisor or fund management firm, we have limited our responses to areas in the discussion paper where we are qualified to comment.

About Globility Group

With a particularly deep expertise and focus on the Asia Pacific region, Globility Group focuses on strategic immigration planning and global workforce management strategy, design and implementation.

Globility Group have extensive experience with investor immigration matters. Supporting the needs of high net worth individuals and entrepreneurs who have a successful history of investment or running a business, and who require specialised and confidential support.

Mark Wright is the founder and Executive Director of Globility Group, and is one of world's leading corporate immigration and mobility advisors. He has unparalleled experience and demonstrated success in providing commercially focused advice and guidance on major strategic corporate workforce management and regulatory matters to many ASX100 listed companies, as well as global multinational Fortune500 and FTSE100 entities.

Mark has worked at partner and executive leadership level in Big 4 and Professional Services Firms for the past 25 years. He has expertise in managing large multinational corporate accounts, as well as liaising and negotiating with Government authorities regarding use of foreign labour.

Should the ratios currently applied by the CIF to the Significant Investor visa remain?

Globility Group notes that the existing complying investment framework for the SIV came into effect on 1 July 2015, which had the effect of significantly reducing the level of interest from China. Whilst the number of applications lodged under the SIV program has dropped, immigrants from China still account for almost 90 per cent of those granted visas under the program.

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Prior to the changes implemented in 2015, Government Bonds played an important role in attracting foreign investors to Australia. This was widely regarded as a secure means of meeting the complying investment requirement but failed to generate the necessary benefits for the local economy.
With the impact that COVID has wreaked on the Australian economy, is it time to revisit the merits of government bonds to attract targeted complying investments to help drive economic growth?

One option worth consideration is a zero coupon bond or similar structure designated for use by Australia's industries most adversely impacted by COVID. In this scenario the revised Complying Investment Framework could include $500,000 in Venture Capital, $2 million in "Balancing Investments" and another $2.5 million in an "Australian Industry Support Bond".

In this revised structure, foreign investors will have the certainty they desire with $2.5 million of their investment in the Bond and the venture capital industry will maintain their proportion of SIV funding, which will likely benefit local start ups most.

Foreign investors will still have a total $2.5 million of funds "at risk" in the Venture Capital and Balancing Investments, but the wealth management industry which offer a complying investment product will be required to demonstrate careful fund selection and advisor due diligence.

How should the CIF be applied to the Investor Visa?

Of the options presented in the discussion paper, we support option 3 - $500,000 in VCPE or Emerging Companies at the discretion of the client, and the remaining funds invested in balancing investments.

Our reason for nominating this option is that the requirement for investors to invest in the Venture Capital and Private Growth Equity funds (VCPE) as part of their complying investment has failed to deliver the anticipated results for the Australian economy, and this investment option has also led to some practices by sectors of the wealth management industry which are counter to the best interests of the investor.

Globility Group is aware that there has been a small, but vocal, number of fund managers encouraging changes to Australia's Investor Immigration program which would be *"in the best interests of Australia".* The change suggested involves increasing the amount investors are required to invest in Venture Capital & Growth Private Equity (VCPE) component of the Complying Investment Framework of the Significant Investor Visa.

The Productivity Commission concluded in its review of the SIV program that the Venture Capital & Growth Private Equity (VCPE) component was unlikely to deliver a material amount of additional economic activity in Australia. Under these circumstances, raising the amount visa applicants were required to invest in this component as part of the complying investment would risk serving the interests of fund managers rather than the Australian economy.

In the post-COVID recovery phase of economic growth, it is in Australia's interests to attract successful business investors and entrepreneurs with a demonstrated record of success.

Changes to the types of funds eligible to offer complying investments

a) **Should all eligible funds be limited to ASIC registered funds only?**
b) **Should the threshold of funds under management be increased to further improve the integrity and function of the CIF?**
    - **If so, what amount should the threshold be increased to and what is the evidence supporting your proposed threshold?**

Globility Group does not have a view on this question.

What are your views on the following options to address potential integrity concerns, provide greater clarity in the CIF and to ensure the benefits to the Australian economy are realised?

a) Provide a clear definition of Fund of Funds (FoF). Currently FoFs is referred to in the general requirements of the instrument but is not defined. This is open to interpretation and potential misuse.

Globility Group supports the introduction of a clear definition of FoF as outlined in the Discussion Paper so as to minimise any misunderstanding on the part of investors and to mitigate the risk of misuse in the industry.

b) Can the 12 month option for Venture Capital funds investments be removed or reduced as the market is now more mature? (section 8(2) of IMMI 15/100)

For the reasons outlined earlier in this document, Globility Group supports any move by the Australian Government to reduce or remove the requirement for investors to comply with Venture Capital funds investments as part of the Complying Investment Framework.

c) Under the Balancing Investment component should investments be limited to bonds or notes issued by a company that is quoted on the Australian securities exchange?

Globility Group supports limiting investments to bonds or notes issued by a company that is quoted on the Australian securities exchange. Our reason for this is simply that this change maximises the opportunity fort he investments to be in the interests of the Australian economy and to stimulate growth.

d) Ensure the emerging companies investment is made into securities that properly meet the market capitalisation requirements for the emerging companies component of the CIF.

Globility Group does not have a view on this question.

e) Clarify the use of derivatives for risk management and ensure hedging is only used to manage currency and interest rate movements and not used to guarantee investment value.

We support the change to this area of the CIF as detailed in the discussion paper. Globility Group has observed that some sections of the wealth management industry have developed CIF product offerings with an apparent "capital guarantee" element, which has been used as a means to attract foreign investors. In practice, we question whether such product offerings have in fact a "capital guarantee" element, or whether the apparent reduced risk has been dressed as something that it is not.

f) Clarify that venture capital investments (in addition to emerging and balancing investments) may be made through a fund of fund structure.

Globility Group does not have a view on this question.

Should fund managers be required to provide annual independent audit reports to show their compliance with the CIF legislative instrument?

Globility Group supports the introduction of mandatory annual independent audit reports to show compliance with the CIF legislative instrument. We further recommend that the Australian Government use the data collected from these audits to produce an annual industry performance report which captures key information to benefit investor decisions. We believe that such a measure would also have the potential to maintain high standards across the wealth management industry participating in the CIF.

An important element of the foreign investor lifecycle is the due diligence which potential BIIP applicants should undertake when deciding how they will meet the CIF for their visa application to Australia. At present, the investor is presented with a confusing array of investment options, which are difficult for the investor to determine which is the most appropriate option for their circumstances.

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Further integrity and compliance measures

Immigration policies should ideally consist of three important policy pillars:

1. Reflect the core values of the nation
2. Be nation building by generating an economic return on investment
3. Be built on a foundation of integrity

These foundation pillars, if sympathetically applied to policy formulation, will help to generate community support and economic return for investor and skilled migration programs.

The Investor Immigration Program must take a "whole of government" lens to the policy objectives of the program aimed at building on the success of attracting capital investment to Australia and encouraging entrepreneurs to the country. Now, more than ever, Australia needs to leverage from the talent and attributes of successful business investors and entrepreneurs as the country rebuilds its economy impacted by COVID-19.

Globility Group believe that more can be done to reinforce confidence in the program's objectives amongst the local business community and wider population. The following four integrity measures by the Australian Government may help to better align the Investor Immigration Program with the evolving needs of Australia's recovering economy post-COVID.

This is not the forum for a detailed policy discussion, so the measures discussed below are more integrity areas of focus than specific measures. However, appropriate policy measures within these areas of focus will help to reinforce business and community support in the program which has the potential to deliver significant capital injection and entrepreneurial talent to Australia.

Step 1: Diversify investment portfolio providers

Are the interests of Australia, and those of investor visa applicants, best served by having one fund manager offer all product offerings in the Complying Investment Framework?

The SIV program targets a particularly vulnerable group of consumers. There has been a proliferation in markets such as China of business advisors, agents, as well as SIV product based complying fund firms, who are specifically product driven in the SIV programs. This risk to consumers is heightened, in my view, if one fund manager offers all complying products.

A logical step to consider would be to separate the Venture Capital & Growth Private Equity (VCPE) component of the Complying Investment Framework to prevent it being bundled with the other components of the Complying Investment Framework.

Step 2: Return on investment tests

This is a particularly difficult area to address in a policy setting sense. The government needs to balance building an investor immigration program which is globally competitive, with the need to ensure that the program delivers a tangible return on investment for the local economy and contributes to wider societal objectives.

For investor visas outside the SIV category, the return on investment tests are applied across two primary areas, namely:

- the State or Territory where the visa applicant intends to reside have scope to apply their own application requirements which reflect their local economic circumstances; and
- the Australian Government applies a number of application thresholds, including a points test, across areas such as applicants age, business turnover, qualifications as well as business and personal assets.

However, once the initial temporary visa is granted, there are limited ongoing measurements applied to the contribution the visa applicant is making to Australia, and limited visa cancellation provisions.

The risk to the visa applicant arises when they apply for permanent residence following the initial period of temporary residence. However, in this case the integrity measures are applied at the point of applying for permanent residence.

Currently the return on investment focus in the SIV program relies on the criteria applied by the Australian Government to the Complying Investment Framework.

The Productivity Commission concluded in its review of the SIV program that the Venture Capital & Growth Private Equity (VCPE) component was unlikely to deliver a material amount of additional economic activity in Australia. Under these circumstances, raising the amount visa applicants were required to invest in this component as part of the complying investment would risk serving the interests of fund managers rather than the Australian economy.

Perhaps a better integrity focus would be to tweak the settings in the Small Caps/Emerging Companies component. This component requires applicants to make a mandatory investment of at least 30% of the A$5 million complying investment in companies with less than A$500 million market cap, ASX listed and non-listed Australian companies.

In a post-COVID economy, it is a reasonable assumption that this sector of the Australian economy is the area most likely in need of support and investor visa applicants provide a healthy injection of capital.

An additional integrity measure which could be applied to this area would require fund managers who administer this product offering to meet minimum performance measures, and for performance results to be publicly available (ideally on the Austrade website) to help inform visa applicant due diligence.

Step 3: The sins of commission

As the Investor Immigration Program has matured, there has been a proliferation of referral and commercial arrangements between immigration advisors, fund managers and other mobility and settlement services.

Government could consider further measures to increase consumer awareness, increase transparency and disclosure of professional fees, referral fees and other benefits, and other measures to improve the integrity of the program and ensure that the best interests of the consumer are served.

Similarly, measures to limit, or prevent, commissions from fund managers to immigration advisors should be considered to help ensure that visa applicants are able to make an independent decision around the most suitable providers for their particular circumstances.

Step 4: Strengthen offshore practices

Australian registered migration agents who work overseas are subject to the same Code of Conduct, professional development and regulations as registered migration agents based in Australia.

Legal practitioners who practice immigration law are subject to a strict professional regulatory regime administered by the Law Society in their respective State or Territory in Australia.

However, I believe that there is scope to apply more robust and regular compliance mechanisms to businesses servicing the investor visa cohort outside Australia.

There has been a number of service providers who have entered the investor immigration market who act more as aggregators rather than advisors. These organisations tend to generate most of their revenue in this area from referral agreements, which often are counter to the interests of the consumer.

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Further Information

If you have any questions, please contact Mark Wright via email at mawright@globilitygroup.com.au or alternatively via telephone on +61 (0) 411 220 354.

Yours sincerely,



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