Australian Government
Austrade

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SUBMISSION TO THE PRODUCTIVITY COMMISSION DRAFT REPORT ON MIGRANT INTAKE INTO AUSTRALIA

Executive summary

Austrade welcomes the opportunity to make a submission to the Productivity Commission on its Draft Report on Migrant Intake into Australia, released on 13 November 2015. As the agency with policy responsibility for the complying investment framework of the revised Significant Investor Visa (SIV) and new Premium Investor Visa (PIV), Austrade welcomes the undertaking of independent, empirical analysis on the economic impact of these programmes.

Austrade's view is that it is early in the implementation of the new SIV and PIV programmes to draw substantial evidence-based conclusions about their economic impact, and visa applicants under the former SIV design are yet to complete their provisional visa term. The new PIV and revised SIV commenced very recently (1 July 2015) and only early data is available on the take-up and impact of these programmes. The former SIV programme, which commenced in 2012, has yet to complete a full cycle, with the first applicants only coming to the end of their four-year provisional visa period in late 2016 — it is not yet known how many of these visa holders will elect to stay in Australia and make a continuing economic contribution to the country. Austrade is working with relevant Commonwealth Government agencies and with states and territories to encourage collection of more detailed information on the direct and related benefits of these programmes; this information is intended to inform evidence-based reviews. Austrade plans to review the implementation of the programme, together with other relevant agencies, at regular intervals.

The Government's intention is for the PIV and enhanced SIV to generate economic and migration benefits to Australia, including but also extending beyond the value of the immediate complying investment. These programmes are aimed at attracting applicants who genuinely want to settle in Australia, who will invest in innovative Australian businesses, and who are expected to make an enduring contribution to Australia, including through investment and reinvestment beyond the complying investment framework. Additionally, the complying investment framework requires that applicants invest in areas that the Government considers will support innovation and the commercialisation of Australian ideas, research and development. In particular, it is intended that mandatory SIV investments into venture capital and growth private equity have the potential to become an additional source of equity capital to assist new and innovative Australian businesses through the high-risk period often referred to as the 'valley of death' or the 'equity gap'.

Finally, Austrade notes that SIV and PIV legislation and administrative practices include a range of measures to protect the integrity of the programme and to ensure compliance with the policy intent.

Background

The first SIV programme commenced on 24 November 2012, and was designed and administered by the Department of Immigration and Border Protection (DIBP). The Government announced a review of the SIV programme on 7 March 2014 to improve the effectiveness and competitiveness of the programme. The review was conducted by DIBP in consultation with the financial services industry and other stakeholders, including state and territory governments.

In October 2014, the Government endorsed the key recommendations of the review, announcing them as part of the Industry Innovation and Competitiveness Agenda. Minister Robb said in a media release dated 15 May 2015 that “the previous SIV framework had set the bar too low, with investment largely directed into passive investments such as government bonds and residential real estate schemes – areas that already attract large capital flows”.

Austrade’s role

Part of the announcement made in October 2014 was that Austrade would be tasked with developing the new complying investment framework for the SIV and PIV. In developing the framework, Austrade conducted extensive consultation (details below), and the new complying investment framework was announced on 15 May 2015 and commenced on 1 July 2015.

Austrade has three primary ongoing responsibilities under the SIV and PIV programmes:

- Nominate potential SIV applicants (along with the states and territories)
- Develop the new PIV programme and be the sole nominator
- Assess the complying investment framework design on an ongoing basis to ensure the programme achieves its objectives over time.

It is important to note that while Austrade was tasked with developing the new complying investment framework for the PIV and enhanced SIV, it is DIBP that is responsible for the management of the migration programme, including regulatory changes, implementation, compliance and ongoing administration.

Consultation process

Since the policy announcement was made in October 2014, Austrade has consulted openly and extensively with any interested stakeholder on the design of a new complying investment framework for the SIV and the design of a new PIV.

In addition to consultation with relevant Federal and State and Territory government agencies in partnership with the DIBP, Austrade consulted with interested industry stakeholders, peak bodies, financial service providers, migration agents and interested members of the public.

Austrade conducted two rounds of formal consultation, inviting any interested parties to comment on possible investment requirements. The consultation process was announced in Ministerial media releases, advertised in major newspapers and accessible through the Austrade website. Any interested party was able to email a dedicated email address for further information (investorvisas@austrade.gov.au) or to be added to the stakeholder consultation list.

The second round of consultation invited stakeholder comment on a detailed ‘one-pager’ of design options that reflected the first round of stakeholder consultations. Around 170 written submissions were received in these two rounds. The consultation process considered both how complying investments should be allocated, and a range of compliance and integrity measures.

The Minister for Trade and Investment has issued four media releases and made a number of public comments to outline the government's thinking and advice of consultation processes. He has updated State and Territory colleagues at two Trade Investment Ministers Meetings.

About the SIV and PIV

The enhanced SIV and new PIV, which commenced on 1 July 2015, are intended to attract applicants who genuinely want to settle in Australia and to invest in areas where it can make a material difference in promoting investment into innovative Australian businesses.

Minister Robb said on 27 November 2014 that the "objective is to see greater investment from the SIV in areas where there tends to be thin capital flows. We are particularly interested in seeing investment in innovation and the commercialisation of high quality Australian ideas, research and development". The Government's 15 May 2015 media release noted that the Government was "keen to attract international investors with business and entrepreneurial skills, who will bring the necessary capital to enhance investment into innovative Australian businesses".

<u>SIV</u>

Under the new complying investment framework that commenced on 1 July 2015, SIV applicants are required to invest at least $5 million over four years in complying investments, which must now include:

- At least $500,000 in eligible Australian venture capital and private equity (VCPE) fund(s) investing in start-up and small private companies. The Government expects to increase this to $1 million for new applications within two years as the market responds;
- At least $1.5 million in an eligible managed fund(s) or Listed Investment Companies (LICs) that invest in emerging companies; and,
- A 'balancing investment' of up to $3 million in managed fund(s) or LICs that invest in a combination of eligible assets that include Australian listed securities, eligible corporate bonds or notes, annuities and real property (subject to the 10 per cent limit on residential real estate).

<u>PIV</u>

The Government introduced the PIV programme with the intention of attracting a very small number of highly talented innovators with proven entrepreneurial skills and the ability to pass on these skills to emerging Australian entrepreneurs. The focus of the PIV is not on an individual's 'wealth accumulation' so much as their proven talents and the long-term economic benefit they can deliver to Australia.

The PIV will be available at the invitation of the Australian Government only, with potential recipients to be nominated by Austrade. The Government will be selective in determining who is offered the opportunity to apply for a PIV, and unsolicited expressions of interest will not be accepted. Austrade will draw on its international network and work closely with federal government agencies and state and territory governments to identify and engage with potential candidates.

Productivity Commission draft finding and recommendation on SIV and PIV

Austrade notes that the draft report includes a draft finding and draft recommendation (at page 354) that concern the SIV and PIV:

DRAFT FINDING 10.3

The economic benefits of the Significant Investor Visa and Premium Investor Visa streams accrue mainly to the visa holders and to fund managers. The benefits to Australian businesses seeking investment and the economic benefits to the broader Australian community are likely to be very small or non-existent. Overall the case for retaining the Significant Investor Visa and Premium Investor Visa streams is weak.

DRAFT RECOMMENDATION 10.3

The Australian Government should abolish the Significant Investor Visa and Premium Investor Visa streams

Austrade comments on the draft finding and recommendation on SIV and PIV

<u>It is early in the implementation of the new SIV and PIV programmes to draw substantial evidence-based conclusions about their economic impact, and visa applicants under the former SIV design are yet to complete their provisional visa term</u>

The revised SIV and new PIV commenced on 1 July 2015. Having been in operation for less than six months, it may be premature to draw conclusions at this stage on the economic impact of these programmes. Only very early data is available on the take-up of the programmes; where and how SIV funds are being invested; and what flow-on economic and migration benefits SIV visa holders may bring to Australia. The data on these programmes may not span a sufficient period of time to support a robust empirical analysis of the impact of the SIV and PIV programmes at this early stage.

Changes to visa programmes often result in an initial decline in applicant numbers while clients adjust to new policy settings. The Government recognises that restricting investment in residential real estate, tightening compliance and integrity measures and requiring some investment in areas like VCPE funds may impact the demand for the programme to some of those attracted to the previous framework's openness to residential real estate schemes and very low risk assets such as government bonds.

Austrade, along with other relevant agencies, will continue to assess the enhanced SIV and new PIV complying investment framework design on an ongoing basis to ensure the programme achieves its objectives over time, and welcomes independent analyses such as that undertaken by the Productivity Commission. Austrade is working with relevant Commonwealth Government agencies and with states and territories to encourage collection of more detailed information on the direct and related benefits of these programmes. This is intended to help in assessing where investments are being made, applicants' preferred asset classes, the type of applicants receiving visas, re-investment levels, level of further investment made beyond the minimum qualifying investment, flow-on economic effects, and migration outcomes. More detailed data is intended to inform regular evidence-based reviews, which are expected to commence from mid-2016 when investments under the revised programme begin to flow.

While the previous SIV programme has been in place for a longer period (since November 2012) it is yet to complete a full cycle, with the earliest applicants under the old rules not yet having come to the end of their four year provisional visa period (this will occur from late 2016). Assessments of the impact of the programmes should consider whether applicants have invested beyond the complying investment framework; what levels or reinvestment are arising; and whether positive flow-on economic effects and migration outcomes are resulting from the programme.

While the level of SIV funds invested should not be the only measure of the economic and migration impact of the SIV programme (see below), Austrade suggests that when quoting total SIV investments, the most recent figures from the DIBP website should be used in the final report (as at 30 November 2015, complying investments stood at $5.625 billion) rather than figures from the DIBP FY2014 annual report, which are now significantly out of date.

<u>Potential to create economic benefits to Australia, extending beyond the value of the minimum complying investment</u>

The draft report notes that the “SIV and PIV streams could lead to economic benefits if complying investment reduces the cost of capital to Australian businesses” (p 351). Minister Robb’s media release dated 15 May 2015 noted that the SIV and PIV were part of a suite of policy initiatives intended to “promote investment, innovation and commercialisation of Australian ideas and development which are critical to our economic future”. The programme is intended to create economic benefits, including but also extending beyond the value of the minimum complying investment (being $5 million for the SIV and $15 million for the PIV).

Business and entrepreneurial skills

The Government’s 15 May 2015 media release noted that the Government was “keen to attract international investors with business and entrepreneurial skills, who will bring the necessary capital to enhance investment into innovative Australian businesses”. The new requirements are designed to deliver on the Government’s objectives to attract migrants who genuinely want to settle in Australia and to invest in areas where it can make a difference in promoting innovation and supporting innovative Australian businesses.

Austrade also notes that there are key differences between the programme objectives of the SIV and PIV, which are not reflected consistently in the draft report. The Government introduced the PIV with the intention of attracting a very small number of highly talented entrepreneurial individuals who can translate those skills and talents into areas which deliver a long-term economic benefit to Australia. The ability to make a $15 million complying investment is a mandatory eligibility criterion, but in selecting who to invite to apply for a PIV, Austrade’s primary focus will be to identify individuals who can translate their exceptional entrepreneurial skills and talents into areas which deliver a long term economic benefit to the country. States and territories will play an important role in helping to identify potential applicants.

Minister Robb announced that the programme would help promote “investment into innovative Australian businesses” and “in areas where there tend to be thin capital flows”

As the Minister for Trade and Investment stated in a media release on 27 November 2014, an objective of the SIV programme is “to see greater investment from the SIV in areas where there tends to be thin capital flows”.

Following extensive consultation, the final SIV complying investment framework requires visa applicants to invest at least $0.5 million into AusIndustry registered fund(s) (either ESVCLP or VCLP), with the Government expecting to increase this to $1 million for new applications within two years as the market responds; and at least $1.5 million into eligible managed fund(s) or LICs that invest in emerging companies (being companies with a market capitalisation of less than $500 million).

The availability of capital is a major theme of the National Innovation and Science Agenda announced 7 December 2015, which includes a range of measures to address funding issues in venture capital to help foster innovation and entrepreneurship in Australia and to support the commercialisation of Australian research. An objective of the SIV complying investment framework is to make a positive contribution to VCPE investment levels in Australia.

As part of its ongoing role to assess the complying investment framework design on an ongoing basis, Austrade will continue to monitor the implementation of the VCPE and emerging companies components of the SIV, to review the design and to make adjustments as necessary in consultation with other agencies, including to ensure that SIV flows to the VCPE sector have a positive impact on the availability of funds but are sustainable in the long term. The process of registration and monitoring the reporting and performance of venture capital funds is the responsibility of the Department of Industry, Innovation and Science, which is also monitoring how the SIV programme will affect VCLP and ESVCLP funds.

VCPE funds are important sources of equity capital for the commercialisation of Australian research and development, and for new and innovative Australian businesses. AusIndustry's *Venture Capital in Australia* publication notes that when "innovative early-stage companies have access to adequate capital and to people skilled and experienced in the commercialisation process, the chances of success are greatly enhanced". The VCLP and ESVCLP funds work with private venture capital fund managers to provide capital and professional expertise to innovative companies, to assist them through the high-risk period often referred to as the 'valley of death' or the 'equity gap'.

The *Venture Capital in Australia* publication notes that "innovation is a key driver of economic performance. Venture capital has been shown to be an effective mechanism for commercialising innovative technologies and turning research into new products, services and processes". This benefit accrues more broadly to Australian industry, and does not just benefit fund managers (who are nonetheless important intermediaries in enabling new business to get access to VCPE funds).

In determining the economic benefit of the SIV programme, the draft Productivity Commission report (at page 351) quotes the potential scale of the programme as compared against a broader venture capital investment figure of $18.5 billion (ABS series 5678.0). Austrade consulted extensively with the venture capital market and considered a wide range of submissions on venture capital during the redesign of the SIV, and provides the following observations on this market for the Productivity Commission's consideration.

The ABS figure of $18.5 billion quoted in the report is the total accumulated stock of committed capital for venture capital and later stage private equity investment vehicles and includes capital commitments to fund larger private equity deals, including leveraged buyouts. This segment of the market is not targeted by SIV investment (which is focused at the smaller end of venture capital and growth private equity). The AusIndustry-administered venture capital limited partnership programmes (ESVCLP and VCLP) target start-up and smaller private companies rather than later stage private equity. In the ABS statistics, when later stage private equity is excluded the amount of committed capital to venture capital is $4.3 billion (FY2014).

The ABS statistic of $4.3 billion figure for venture capital is a total accumulated stock level of committed capital. This committed capital is accumulated over a number of years and by itself does not indicate the trend of investment into venture capital. To gain an indication of the level of investment into venture capital would be to observe the level of annual investment flows. The venture capital component of the ABS statistics (pre-seed, seed, start-up and early expansion of series 5678.0) indicates that the level of new and follow on investment into venture capital investee companies has fallen by more than 50 per cent since the years prior to the global financial crisis of 2008, and is now in the vicinity of $300 million per annum. This is down from between $600 and 900 million in the years leading up to 2008 (ABS series 5678.0).

The Department of Industry, Innovation and Science's *Australian Innovation System Report 2015* noted (at page 7) that "[u]nlike in the United States, Israel and many other countries, Australian venture capital investment has not bounced back to levels reached before the global financial crisis. While Australia is performing slightly above the OECD median for later-stage investment, early-stage investments at 0.007 per cent of GDP are just half the OECD median"; and that (at page 21) "access to various forms of finance is a key issue for entrepreneurs. Innovation active start-ups are particularly reliant on equity finance. The limited scale and scope of venture capital, in particular, may be hindering these start-ups in reaching their full potential".

The industry association for venture capital, the Australian Private Equity and Venture Capital Association (AVCAL), conducts annual surveys of venture capital fund raising, investment deals and exits and would be well placed to inform the Productivity Commission's work on the trends and activity levels of venture capital investment across the levels (pre-seed, seed and early expansion) in the marketplace.

<u>The legislation governing the administration of SIV and PIV include measures to protect the integrity of the programmes and compliance with the policy intent</u>

Austrade consulted widely with other government agencies, states and territories and industry on compliance measures during the redesign of the SIV and design of the new PIV. Austrade will continue to monitor the design of the new SIV framework including in relation to performance, compliance and impact. In doing so, Austrade will continue to consult with stakeholders and relevant agencies, and recommend changes to the programme design where appropriate.

The new measures included in the programme design following extensive consultation include following:

- Excluding 'loan-back' arrangements where the investment is used as collateral by applicants
- The SIV VCPE component must be invested through VCLP and ESVCLP funds that are registered by the Innovation Australia Board, and that have ongoing reporting requirements under these programmes
- SIV investments must be provided by an Australian Financial Services (AFS) licensed manager(s) who are domiciled in Australia; and are independent of the applicant, the applicant's spouse or de facto partner, and any associate (within the meaning of the *Corporations Act 2001*) of the applicant. Fund managers have reporting obligations to the Australian Transaction Reports and Analysis Centre (AUSTRAC) under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006*.

DIBP is responsible for maintaining the integrity of the visa process, and applies robust integrity and compliance measures in its management and delivery of the Investor Visa programmes. Applicants will undergo rigorous assessment, prior to the grant of a provisional visa and any subsequent grant of permanent residency, using information available to the DIBP from various external sources. Applicants also undergo mandatory character and security checks. Integrity measures also provide for referrals to law enforcement authorities in source countries for background checks on applicants that have been identified as suspicious. Austrade works closely with DIBP to assist in ensuring the integrity of the SIV programme, and will continue to review the design of the complying investment framework and to make adjustments or recommendations as required, including on integrity and compliance matters.