



Australian Government

Australian Trade and Investment Commission

AUSTRALIAN TRADE AND INVESTMENT COMMISSION SUBMISSION 1

JOINT STANDING COMMITTEE ON MIGRATION INQUIRY
INTO SKILLED MIGRATION

19 March 2021



Terms of Reference

The Joint Standing Committee on Migration shall inquire into and report on Australia's skilled migration program, with reference to:

1. The purpose of the skilled migration program and whether it is meeting its intended objectives, including
 - 1a) if any immediate adjustments are necessary in the context of the future of work and pandemic recovery, and
 - 1b) if more long-term structural changes are warranted;
2. Australia's international competitiveness in attracting entrepreneurs, venture capital, start-ups, and the best and brightest skilled migrants with cutting edge skills;
3. Skills lists and the extent to which they are meeting the needs of industries and businesses and keeping pace with Australia's job landscape;
4. The administrative requirements for Australian businesses seeking to sponsor skilled migrants, including requirements to prioritise job opportunities for Australians and job creation;
5. The costs of sponsorship to businesses seeking to sponsor skilled migrants;
6. The complexity of Australia's skilled migration program including the number of visa classes under the program and their requirements, safeguards and pathways; and
7. Any other related matters.

Introduction

The Australian Trade and Investment Commission (Austrade) **helps Australian businesses** access international markets and **attracts productive international investment** to Australia to drive jobs creation, innovation and economic growth.

Austrade's comments on the skilled migration program are based on **business intelligence** gathered from clients, involvement in Government **policy processes** and our **knowledge of global markets**. This initial submission addresses terms of reference 1, 1(a) and 2. A further submission will respond to the wider issues being considered by the Committee.

One year on from the start of COVID-19 in Australia, it is timely to consider how pandemic restrictions have impacted global mobility and highlighted the importance of the skilled migration program to economic growth and recovery. Access to skills and workers is part of the "why Australia" equation for companies considering investing and building their business in Australia. To be internationally competitive, Australia needs a skilled migration program that facilitates business and investment, is responsive to changing economic conditions and adaptive to the needs of emerging industries. This submission provides the Committee with insight Austrade has gathered from its trade and investment clients on skilled migration and how this influences their decision-making. The submission also argued for a targeted risk-based resumption of the skilled migration program in the COVID recovery phase.

Objectives of the program

The primary aim of the skilled stream is to **attract migrants** who make a significant contribution to the Australian economy, and fill positions where no Australian workers are available. The program helps **support Australia's global competitiveness and economic growth** by facilitating business access to the skills and investment needed to build new global industries and attract foreign direct investment (FDI).

The skilled migration program has been the subject of many reviews and changes. There's a need to balance the program's economic objectives with the ensuring the jobs and safety of Australians, security of our borders and integrity and compliance with visa conditions. From 2017-18 the skilled migration program went through **significant changes to tightened up integrity provisions**, including more stringent labour market testing, higher salary thresholds and identifying eligible occupations and skills shortages based on improved labour market analysis.

These changes have potentially created a "one size fits all" approach. A more nuanced approach might enhance the program's capacity to respond to opportunities and dynamic economic conditions. Program design rightly places a high priority on protecting Australian jobs and encouraging migrants to settle in regional areas. More flexibility to respond to economic opportunities and job creation elements of valuable projects would help support economic goals. Applying **more streamlined procedures and policies for high return/low compliance risk cohorts** – such as individuals transferring to Australia to support significant FDI projects, would also assist.

Austrade clients mainly use the employer sponsored **Temporary Skill Shortage (TSS, subclass 482) visa** (which replaced the subclass 457 visa in 2018) to transfer their international executive, management and technical staff to their Australian operations. They also use the TSS visa to sponsor workers recruited internationally to fill positions that cannot be filled locally due to skill shortages. Although not technically part of the Skilled Migration program, Austrade clients also rely on the **Temporary Work (Short Stay Specialist) visa (subclass 400)** to bring in technical personnel to commission equipment and support their Australian operations.

Short-term COVID measures

The decision to close the border and introduce the travel exemption system in March 2020 was an emergency response taken in difficult circumstances. These measures effectively closed visa processing for skilled and other business visas and introduced a two-step process administered by two different areas of the Home Affairs portfolio – the immigration area which issues visas and the Australian Border Force which determines travel exemptions.

In September 2020, the **Priority Migration Skilled Occupations List (PMSOL)** and additional labour market testing requirements were introduced aimed at allowing small numbers of skilled workers to fill urgent skills needs in critical sectors. The **Critical Skills/Critical Sectors** were also introduced to determine eligibility for visas and streamlined travel exemptions. Austrade's clients report these measures have created administrative burden and uncertainty when recruiting internationally. Companies are also **deferring foreign investment decisions** due to the border situation, which is impacting Australia's ability to compete internationally for FDI.

The emergency visa and border restrictions were appropriate at the time, given the unknown economic and health impacts of COVID and anticipated high levels of domestic unemployment. However, these measures may now be restricting growth and foreign investment projects that have the potential to generate significant economic return and employment, including in regional areas.

One year on, it is appropriate to reconsider the impact and appropriateness of these measures. Removing the COVID restrictions on the skilled migration program, and instead adopting approaches that provide more flexibility to low risk cohorts would help to support businesses in the recovery phase.

FDI crucial to economic recovery

The skilled migration program is an important part of facilitating foreign investment. Foreign investment makes a significant contribution to our economy [\$1 trillion at end of 2019], and supports one in 10 jobs in Australia.

Investing companies:

- contribute one quarter of total Australian business output
- pay wages and salaries to workers in Australia valued at \$82 billion
- contribute 14 per cent of Australia's total tax revenue from business.

FDI is crucial in ensuring Australia's economy rebounds quickly from COVID-19. Austrade is promoting Australia as a safe haven and attractive destination with foreign investors. Australia's management of the pandemic is an added draw-card for both investors and migrants. UNCTAD estimate the world economy experienced a 42 percent decline in FDI in 2020. In this environment it is important Australia adopts internationally-competitive policy settings that promote FDI.

Prioritise most valuable migrants in the employer-sponsored scheme

The skilled-migration program encompasses a range of sub-groups, with the employer-sponsored program being the most important to Austrade's clients. In 2019-20, the employer-sponsored program represented 40,000 of the total number of 108,682 places in the skilled migration program (these figures include the dependents of primary applicants). **Employer-**

sponsored skilled workers have high migration outcomes in terms of employment and earning capacity. The provisional to permanent model of this program provides a pipeline of highly skilled potential migrants who are well adjusted to life in Australia before being eligible to apply for permanent residency and citizenship. The employer-sponsored cohort should be considered a priority if border and visa restrictions are eased for different groups.

Foreign companies using the program are **supporting large scale projects in priority sectors**, such as mining and agriculture, which are important to post-COVID-19 economic recovery and provide employment to many Australians, including in regional areas. Access to highly skilled tech talent is also important for companies building new **innovative industries** in the technology and creative sectors.

Within the high-value employer-sponsored sub-group, it's possible to identify and prioritise cohorts that deliver the **highest economic return to Australia** when setting visa and exemption policies. This could be done by occupation and/or salary requirements. Managers and their dependents represented 4,724 of all skilled migrants in 2018-19, yet their movement into Australia delivers significant economic return.

The Priority Migration Skilled Occupation List (PMSOL) and additional labour market testing

The PMSOL accords priority to **only 18 of the 678 occupations** on the Skilled Occupations List (SOL) and is based on a list of critical skills and sectors and labour market analysis. The list is predominately for health related occupations – **only five of the 18 positions are for non-health industries**.

An alternative approach would be to open the program to the full SOL and **let the market and companies decide what skills and people they need**. Alternately the PMSOL could be expanded to include high value cohorts. The time and expense required to recruit internationally and relocate staff to Australia (including compulsory quarantine and high-cost airfares) is a further incentive to sponsor only the most essential workers. Additional labour market testing introduced in September 2020 could also be removed for high value cohorts.

Prioritise intra-company transfers

The COVID border restrictions have created challenges for some of Australia's most significant foreign investors, posing **risks to business continuity** for companies. For example, executive presence in Australia is necessary to meet corporate governance requirements in Japan and Australia, including filling Board positions in joint venture companies. The absence of executives has jeopardised the pipeline of investment which will support economic recovery.

Under the PMSOL, **only the CEO or MD are eligible for priority processing** and streamlined travel exemptions. Austrade is seeing **pent up demand** among some of Australia's most significant foreign investors needing to move management and technical teams to Australia to support their projects. These roles cannot usually be filled by an Australian. Introducing intra-company transfer provisions to help **support business continuity, maintain foreign investor confidence** and interest would be helpful.

Streamline travel exemption processes

The current two-stage visa/travel exemption system is adding administrative burden and cost to businesses. Austrade understands some third party agents (migration agents, lawyers, advisers etc.) are charging companies up to \$3,000 to facilitate the additional exemption/visa process. This process could be better streamlined to better support businesses needing to relocate workers to Australia for an extended period.

The visa and travel ban exemption are given to the primary visa holder, and **dependents are not eligible to enter Australia if they travel separately**. It is common for families relocating for an extended period for the primary visa holder to travel first and the family to follow (to accommodate children's schooling, spouses work commitments and attending to personal affairs). Some clients report workers are reluctant to take up positions or remain in Australia when separated from family. Ideally all employer-sponsored skilled migrants and their dependents should receive a travel exemption.

Australia's competitiveness in attracting entrepreneurs, venture capital, startups, and the best and brightest skilled migrants

As noted above, Austrade works with companies and clients who use the employer-sponsored scheme to develop their businesses, rather than individuals seeking migration under specific visa programs. We do not have detailed knowledge or a nomination role in visas aimed at selecting individuals for migration under the entrepreneur, venture capital or Global Talent Independent schemes.

We note the Senate Select Committee into Financial Technology and Regulatory Technology is also considering how the visa system enhances Australia's ability to attract and retain highly skilled workers in these and related fields. Austrade has made a submission to that inquiry.

Programs supporting business preferable to programs targeting individuals

To date, visa programs targeting individual entrepreneurs have had mixed success. The **Entrepreneur visa** introduced in September 2016 has resulted in **only a small number** of visa grants and is being replaced by a revised program being trialled in South Australia. Following a review of the Business, Innovation and Investment Program (BIIP), the **Venture Capital Entrepreneur visa will be closed** from 1 July 2021.

Eligible occupations lists do not support emerging industries

Our clients report the skilled migration program is not meeting the needs of the emerging tech and innovation industries, which is impacting Australia's ability to compete for global talent, raise capital and commercialise our ideas and discoveries.

The eligible occupations in the SOL is based on the **Australian and New Zealand Standard Classification of Occupations (ANZSCO)**. This list was last updated in 2013, and has not kept pace with the skills in demand by our most progressive tech companies. Investors have raised concerns the **SOL does not reflect the more contemporary skills required by tech industries**. **Only two occupations on the PMSOL** are relevant to the tech sector (software engineer and developer programmer).

Two talent schemes have been introduced to help tech companies access newer skills not covered by the SOL: **the Global Talent Employer Sponsored (GTES) Program** in 2018, and the pilot **Global Talent Independent (GTI) Program** in November 2019. Austrade was a member of the Industry Advisory Committee established by Home Affairs when designing these programs. We also worked closely with Home Affairs on the rollout of the GTI in late 2019 and more recently through the Global Business and Talent Attraction Taskforce.

Global Talent Employer Sponsored (GTES)

The GTES is intended to allow employers to sponsor overseas workers for highly-skilled niche positions that are not on the SOL for the TSS visa. There are two streams: **established businesses and start-ups**.

To date, the **GTES Program has had a low take-up, particularly in the target start-up stream**. Business report the qualifying criteria are too restrictive and the administrative requirements are too onerous for small companies. This program could be reviewed to ensure it meets industry needs.

Global Talent Independent program

The Global Talent Independent (GTI) Program commenced as a **pilot program** in late 2019 and has quickly grown to 15,000 allocated places in FY 2020/21. This visa **targets individuals highly skilled in 10 target high priority sectors**.

Unlike the employer sponsored scheme which requires a worker to complete a four year provisional visa period before being eligible for a permanent residency visa, the 'direct to permanent residency' feature of the GTI visa affords limited scope to assess the economic contribution or program migration outcomes. Other direct-to-permanent visas (such as the sub-class 132) have been removed due to integrity risks and difficulty assessing migration outcomes. As a new scheme it will be important to access ATO or other data sources to evaluate the migration outcomes of the GTI. Establishing criteria to recruit and assess talent would also help ensure this program attracts the calibre of individuals intended.

Compared to the Temporary Skills Shortage (TSS) visa, the GTI is a quicker, more streamlined process that offers exemption-free entry to Australia and is not bound by occupations lists. However, the GTI is riskier for employers recruiting internationally, as individual workers attain automatic permanent residency and are not required to stay with their employer once they arrive in Australia. The **TSS visa could be reviewed to ensure it meets business needs** by offering similar outcomes to the GTI: streamlined travel exemption-free entry for talented migrants recruited to high value projects.

Venture capital raising through investor visas

The Significant Investor Visa (SIV) under the BIIP is making an important contribution to venture capital raising. Since July 2015 the required \$5 million investment must include \$500,000 invested in Venture Capital and Private Equity (VCPE) funds. The SIV has now raised almost **\$450 million for the VCPE sector since 2015**.

In 2019, the then Innovation and Science Australia, reported an increase in the number of applications for VCPE partnership registration since 2015, with SIV limited partners now likely representing over ten per cent of all partnerships. SIV funds are estimated to represent four per cent of all VCPE raised in Australia. The SIV program is providing a new source of venture capital and supporting many innovative industries and start-ups.

Conclusion

The Australian Trade and Investment Commission will provide feedback on other terms of reference in a follow-up submission.