



# **Evaluation of the Australian Significant Investor Visa program**

## **Submission to**

### **The Business Innovation and Investment Programme**

### **Joint Standing Committee on Migration Australian Parliament House**

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## Executive Summary

The aim of this submission is to comparatively analyze Australia's Significant Investor Visa program ('SIV') with Canada's Immigrant Investor Program ('IIP'), and find whether the SIV program meet its intended purpose for Australia and whether the SIV program will meet the same fate as our Canadian counterpart.

This evaluation examines investor migration to Australia and Canada. It finds that investor migration policies constitute offers to potential investors, in a discourse of competition and simultaneously regulate the process.<sup>1</sup> In the resembling process of potential investors across countries many investors have a choice of the country they wish to emigrate.

This paper highlights different investor migration programs and offers a more in-depth comparison of that seek to maximize their economic utility and grant citizenship to investors by waiving some of the requirements, such as residence, age and language.<sup>2</sup>

Since the SIV program started on 24 November 2012, it has received 545 applications in its first year<sup>3</sup> and has granted visas to 116 applicants in just over a year,<sup>4</sup> with more than A\$720 million in complying investment funds as at 7 March 2014.<sup>5</sup>

The findings in this evaluation concludes that the discourse and practice of SIV program have fundamental implications for the economic, political and social future of Australia and the key reasons for its success to date has been its unique legislative framework and effective review system.

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<sup>1</sup> Wong, L L 2003, Chinese Business Migration to Australia, Canada and the United States: State Policy and the Global Immigration Marketplace

<sup>2</sup> Dzankic, J 2012, The Pros and Cons of IUS Pecuniae: Investor Citizenship in Comparative Perspective

<sup>3</sup> Young, I 2014, Canadian investor visa scheme much more popular than other countries

<sup>4</sup> Cranston, M 2014, '\$5 million visas' for Chinese rich could be invested in start-ups

<sup>5</sup> McDowell, G 2014, "Review should recommend an expanded significant investor visa program"



## 1. Introduction

Australian government introduced the SIV program on 24 November 2012. It has received 545 applications in its first year<sup>6</sup> and has granted visas to 116 applicants in just over a year,<sup>7</sup> with more than A\$720 million in complying investment funds as at 7 March 2014.<sup>8</sup>

There are two different views about the Australian SIV program: the 'optimistic view' from the business communities who see what is happening as a story of amazing growth and potential to expand the Australian economy and workforce. This view perceives the SIV program as integral to Australia expanding its skills base whilst remaining a competitive economy within the Asia Pacific Basin. Whilst the 'pessimistic view' often expressed by members of the general communities who consider what is happening as a story of continual erosion of the local market for traditional Australian economy.

According to the research,<sup>9</sup> most countries seeking wealth-bearing and entrepreneurial immigrants will not hesitate to adjust their immigration laws to suit elite migrant, especially the significant investors.<sup>10</sup>

This submission starts with a brief introduction of the investor visa program in the world, then describes the key futures for IIP and SIV, followed by examination of the pros and cons for IIP and reasons for IIP's failure, finally concludes the SIV has meet its intended purpose and some future suggestions to avoid the same fate as the IIP.

## 2. A Brief Investor Visa Programs in the World

The primary purpose and intent of the Investment Visa Program is to provide streamlined visa options to applicants willing to make investments and maintain there in the country for a specified period. Countries from all over the world offer a similar investor based scheme to potential migrants (refer to Table 1).

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<sup>6</sup> Young, I 2014, Canadian investor visa scheme much more popular than other countries

<sup>7</sup> Cranston, M 2014, '\$5 million visas' for Chinese rich could be invested in start-ups

<sup>8</sup> McDowell, G 2014, "Review should recommend an expanded significant investor visa program"

<sup>9</sup> Ong, A 2005, '(Re)Articulations of Citizenship'

<sup>10</sup> Walzer, M 1983, *Spheres of Justice* U.S.



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Table 1. Investor visa program in the world<sup>11</sup>

| Country               | Program/<br>Law                   | Investment  | Residence                    | Duration/<br>Extension                                       | Citizenship                     |
|-----------------------|-----------------------------------|---|------------------------------|--|---------------------------------|
| <b>Australia</b>      | Migration Act                     | AU\$1,500,000 to \$5,000,000                        | Permanent Residence          | Up to 8 years  | 4 Years <sup>12</sup>           |
| <b>Austria</b>        | Domiciliation and Residence Act   | €50,000 to €100,000 per adult                       | Private Residence            | Individual   | 10 years                        |
| <b>Canada</b>         | Immigrant Investor Program        | C\$ 800,000 to be maintained for 5 years            | Landed Status                | 5 years  | 3 years                         |
| <b>Hong Kong</b>      | Capital Investment Entrant Scheme | HK\$ 6,500,000 for 7 years in real estate           | Permanent Residence          | 2 years, to be extended for 2 years until year 7             | 7 years                         |
| <b>Jersey</b>         | High Value Residence Scheme       | £ 500,000 in £ 100,000 tax                          | 1 K- Category                | 3 years, extension of 3 years possible                       | 5 years                         |
| <b>Monaco</b>         | Franco-Monegasque convention      | 'sufficient funds'                                  | Carte de Sejour              | 1 year, extended annually in the first 3 years               | 10 years                        |
| <b>Panama</b>         | Reforestation program             | \$40,000 or \$80,000                                | Reforestation Visa           | \$40,000 after 5 years<br>\$80,000 after 1 year              | 5 years                         |
|                       | Investor Program                  | \$150,000 and three employees                       | Investor Visa                | Granted provisionally, after renewal is granted permanently  |                                 |
|                       | Small Business Investor Program   | \$40,000 and three employees                        | Small Business Investor Visa | Granted provisionally, after three times granted permanently |                                 |
| <b>Singapore</b>      | Global Investor Scheme            | S\$ 1,000,000 for 3 years                           | IC Card                      | Permanent residence  | 2 years                         |
|                       | Capital Investor Scheme           | Net worth S\$20,000,000 and investment S\$5,000,000 |                              |  |                                 |
| <b>Switzerland</b>    | Federal Act on Foreign Nationals  | Investment annually generates CHF 150,000 tax       | Swiss Residency              | Depends on canton, investment, applicant's nationality       | 12 years                        |
| <b>United Kingdom</b> | Immigrant Investor Permit         | £ 1,000,000 for 5 years                             | Tier 1 Work Permit           | 3 years, extension of 2 years possible. ILR after 5 years    | 1 year after ILR, 6 years total |
| <b>United States</b>  | EB-5 visa program                 | \$500,000 in Regional Center                        | Green Card                   | 2 years, PR can be granted                                   | 5 years                         |

<sup>11</sup> Table constructed in line with Henley and Partners 2011. Contents have been changed accordingly.

<sup>12</sup> Australian Citizenship Act 2007 (Cth)



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The investor visa programs have a clear economic rationale, which is based on financial priorities of the country. Such investment yields both tax revenue and economy benefits for the recipient country through the multiplier effect of the capital into the country.<sup>13</sup>

### 3. The Key Futures for the Investor Visa Program

Table 2 .Current Requirements for the investor visas<sup>14</sup>

| Country                 | Capital Requirements                 |   |
|-------------------------|--------------------------------------|---|
|                         | Human Capital                        | Financial Capital   |
| <b>Australia</b>        |                                      |   |
| 1. Business Innovation  | Successful track record, points test | None  |
| 2. Investor             | Successful track record, points test | AU\$1,500,000   |
| 3. Significant Investor | Successful track record, points test | A\$5,000,000  |
| <b>Canada</b>           |                                      |   |
| 1. Investor             | Successful track record, points test | C\$1,600,000 net worth,<br>C\$800,000 investment                          |
| 2. Entrepreneur         | Successful track record, points test | Enough capital to start a business to<br>create employment for one person |
| 3. Self-Employed        | Successful track record, points test | Enough capital to start a business to<br>employ self                      |

#### 3.1 Canadian Investor Visa Program (IIP)

Canada was the first country to establish the investor visa program 25 years ago. Canadian government terminated this program on 11 February 2014.<sup>15</sup> It was the excellent immigration tool that specifically focused on attracting global entrepreneurs and investors to Canada.<sup>16</sup>

The IIP targeted towards experienced business people who are likely to contribute to Canada's growth and long-term prosperity<sup>17</sup> by investing in Canada's economy. The key futures for IIP are:

- have business experience
- have a net worth of C\$1,600,000

<sup>13</sup> Dzankic, J 2012, The Pros and Cons of IUS Pecuniae: Investor Citizenship in Comparative Perspective  
<sup>14</sup> Website of Australian Department of Immigration and Border Protection and Canadian Department of Citizenship and Immigration  
<sup>15</sup> Marchi, S 2014, *Why has Canada given up competing for immigrant investors, Feb 25 2014*  
<sup>16</sup> CIA 2014, "Building a Fast and Flexible Immigration System."  
<sup>17</sup> <http://www.cic.gc.ca/en/IIsh/immigrate/business/investors/index.asp>



- invest C\$800,000
- CIC will return the investment without interest, about five years and three months
- investment of C\$800,000 must be made within 30 days of approval of the visa application, and prior to the granting of a permanent resident visa

### **3.2 Australian Investor Visa Program (SIV)**

The SIV was introduced on 24 November 2012 as part of the Business Innovation and Investment visa scheme. The SIV program gives an exceptional new opportunity for wealthy non-Australians to obtain Australian temporary residency, then permanent residency by investing in Australia. The key features for SIV are:

- obtain the approval of state nomination
- invest A\$5 million in an eligible investment category for 4 years
- no English language skills and no educational qualifications
- physical presence in Australia of 160, 240 or 320 days over four, six or eight years respectively<sup>18</sup>
- will grant a temporary Subclass 188 visa
- can apply for the permanent residence who meet the criteria<sup>19</sup>

### **4. The Pros and Cons of the Canadian Investor Visa Program**

Table 3 summarizes the statistics of business migrants (including investors) into Australia and Canada over the past 3 decades. Canada has received the large number of business migrants; however the numbers and proportion have decreased. Australian has fluctuated with the largest flows occurring from 1988 to 1991 and has since remained relatively stable at approximately 7,000 business immigrants annually.<sup>20</sup>

In terms of business migrants' percentage of total immigration Canada has the higher

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<sup>18</sup> Pereire, V 2013, A Significant Investment

<sup>19</sup> *Migration Regulations 1994*, Schedule 1 and 2

<sup>20</sup> Wong, L L 2003, Chinese Business Migration to Australia, Canada and the United States: State Policy and the Global Immigration Marketplace



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proportion, but in recent years Australia’s figures are comparable. Business migrants to Canada has fluctuated from 4.9 to 12.7 percent of total immigration over the past 3 decades while for Australia the percentage is ranged from 1.3 to 7.4 percent.

Business immigration to Canada has been an important aspect of economic and population growth in Canada although there was no official program until the late 1970s.<sup>21</sup> In 1986, the program expanded to investors.

Table 3. Business migrations to Australia<sup>22</sup> and Canada,<sup>23</sup> 1983 - 2012<sup>24</sup>

| Year | Country         |                        |                 |                        |
|------|-----------------|------------------------|-----------------|------------------------|
|      | Australia       |                        | Canada          |                        |
|      | N <sup>25</sup> | % of Total Immigration | N <sup>26</sup> | % of Total Immigration |
| 1983 | 1200            | 1.3                    | 6225            | 7.0                    |
| 1984 | 1500            | 2.1                    | 6260            | 7.1                    |
| 1985 | 1400            | 1.8                    | 6481            | 7.7                    |
| 1986 | 2500            | 2.7                    | 7518            | 7.6                    |
| 1987 | 5200            | 4.6                    | 11069           | 7.3                    |
| 1988 | 8900            | 6.2                    | 15112           | 9.4                    |
| 1989 | 10700           | 7.4                    | 17564           | 9.2                    |
| 1990 | 9000            | 7.4                    | 18445           | 8.5                    |
| 1991 | 8118            | 6.7                    | 17043           | 7.3                    |
| 1992 | 6444            | 6.0                    | 28143           | 11.0                   |
| 1993 | 3607            | 4.7                    | 32501           | 12.7                   |
| 1994 | 1770            | 2.5                    | 27430           | 12.2                   |
| 1995 | 2087            | 2.4                    | 19452           | 9.1                    |
| 1996 | 4270            | 4.3                    | 22464           | 10.1                   |
| 1997 | 5609            | 6.5                    | 19927           | 9.2                    |
| 1998 | 5086            | 6.6                    | 13776           | 7.9                    |
| 1999 | 5433            | 6.4                    | 13015           | 6.9                    |
| 2000 | 5631            | 6.1                    | 13660           | 6.0                    |
| 2001 | 5600            | 5.2                    | 14580           | 5.8                    |
| ...  |                 |                        |                 |                        |
| 2008 | 7397            | 4.3                    | 8966            | 6.2                    |
| 2009 | 6789            | 4.0                    | 8735            | 5.9                    |
| 2010 | 7796            | 4.6                    | 9614            | 5.8                    |
| 2011 | 7202            | 3.9                    | 8364            | 5.7                    |
| 2012 | 7010            | 3.7                    | 7248            | 4.9                    |

<sup>21</sup> Kunin, R. and C, Jones 1995, “Business Immigration to Canada.”

<sup>22</sup> Sources: OECD (1992: Table 27); Bureau of Immigration and Population Research (1994); Department of Immigration and Multicultural Affairs (2000); Department of Immigration and Multicultural and Indigenous Affairs (2002); Department of Immigration and Border Protection (2014)

<sup>23</sup> Sources: Employment and Immigration Canada (1985; 1986; 1987; 1988; 1989; 1990; 1992); Citizenship and Immigration Canada (1993; 1994; 2000; 2001; 2002); Facts and figures 2012 – Immigration overview: Permanent and temporary residents”

<sup>24</sup> All figures include dependents

<sup>25</sup> Based on settler arrivals in the Business Migration Program and subsequently Business Skills Migration

<sup>26</sup> Based on Business Immigration Program





In the mid-1990s accusations of irregularities by some investment fund managers and the lax monitoring by the government were often heard and some were proven. Throughout these controversies the Canadian government, unlike the Australian, did not move to a serious review or change the program, but rather, made modifications to deal with the related concerns.

According to a research done on business immigration to Canada, it finds that there is no consensus by academic researchers on the value and effectiveness of the program.<sup>27</sup> The financial ventures that were initially created did have an impact on the Canada's economy but long term it was being discovered that it has almost become a burden for the country. That is why the Canadian Government decided that it would have to change quite drastically.<sup>28</sup>

Research shows that investor migrants pay less in taxes than other economic immigrants and are less likely to stay in Canada over the medium to long term and often lack the skills, including language proficiency to integrate.<sup>29</sup>

## 5. Why the IIP Program Fail

In the early 1990s a publication by the Canadian government on managing immigration, cited that:

*The Immigrant Investor Program facilitates the immigration of experienced business persons who can contribute to Canada's economic development.*<sup>30</sup>

In the mid-1990s, a study commissioned by the Canadian government to review the program recommended, among others, for tax incentives to be created for business immigrants in their first five years in Canada to make it more attractive than other countries.<sup>31</sup>

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<sup>27</sup> Nash, A 1996, "The Economic Impact of Canada's Business Immigration Program: A Critical Reappraisal of Theory and Practice."

<sup>28</sup> Cooper, S 2014, 'Will cancellation of Immigrant Investor Program spark flight of Chinese money?'

<sup>29</sup> CIC 2014, "Building a Fast and Flexible Immigration System."

<sup>30</sup> Employment and Immigration Canada 1992, *Evaluation of the Immigrant Investor Program: Interviews with Investors, Businesses and other Stakeholders*

<sup>31</sup> Green, A G 1999, *The Economic Goals of Canada's Immigration Policy: Past and Present*



The hope was that investors would relocate to Canada where they would set up businesses and help grow the economy.<sup>32</sup> However, this is not the case. Many investors, especially the wealthy Chinese nationals who came under the scheme would send their wife and children to Canada while continuing to live overseas themselves.

The second reason the IIP had failed was that the expectations of the investors were not giving the financial turn over that was anticipated with the original program. Almost all initial investments made through the program come from loans of Canadian banks to provincial governments.<sup>33</sup> 25 years after provinces were factored into the equation, less than half of the funds are actively invested.

Another reason that the IIP had failed is that most investors are not making a long-term positive economic contribution to Canada. They pay significantly less tax over decades than other economic immigrants. As reported by the Canadian government, over a 20 year career, an investor pays about \$200,000 less in income taxes than a federal skilled worker.<sup>34</sup>

The fourth reason for the failure is that IIP has an unacceptable inventory of more than 65,000 persons on the waiting list, larger than any other economic immigration program. At current levels, it would take more than six years to process this inventory.

## **6. Why the SIV Program Success**

There is a discourse of competition used in the rationalization and promotion of business migration programs by Australia and Canada. Historically, the discourse of competition in Australia has been very prevalent.

Australian business immigration started officially in 1976. In 1981 the program became known as the Business Migration Program and business persons had to have

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<sup>32</sup> <http://immigrationsage.com.au/2014/03/cancellation-of-investor-program-raises.html>

<sup>33</sup> Cooper, S 2014, 'Will cancellation of Immigrant Investor Program spark flight of Chinese money?'

<sup>34</sup> CIC 2014, "Building a Fast and Flexible Immigration System."

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sufficient personal capital to transfer and to carry out a proposed business. The amounts of capital were related to age.

The Joint Committee of Public Accounts in Australia that evaluated the Australian program as follows:

*The Business Migration Program forms part of the economic stream of migration to Australia and is designed to facilitate the entry of people with business skills and capital.*<sup>35</sup>

In 1995, when Canada's investor program was under review and New Zealand's investor category was being tightened up, an Australian government statement regarding the objectives of the program stated:<sup>36</sup>

*In our key markets, the Australian range of government securities are seen as highly secure and of public benefit. We can therefore expect continued substantial interest in this visa by migrants that may have previously focused on the Canadian or New Zealand product.*

Australian government takes very careful steps to review foreign investment proposals against the national interest in the way of case-by-case. The government prefer this soft approach to hard rules. Rigid laws that prohibit a class of investments too often also stop valuable investments. The case-by-case approach maximizes investment flows, while protecting Australia's interests.

The government also recognizes community concerns about foreign ownership of certain Australian assets. The effective review system allows the government to consider these concerns when assessing Australia's national interest.

The current SIV program seems to be more realistic than those expectations that Canada had. Yet the Australian government can learn from Canada's mistakes.

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<sup>35</sup> Joint Committee on Public Accounts 1991, *Business Migration Program - Report 310*.

<sup>36</sup> Department of Immigration and Ethnic Affairs 1996, *Investing in the Future*



- 1) make sure that investors have the required experience as well as the combined skills that will make their unique role in the current market
- 2) make sure that investors have the required education standard that will allow them to expand on their current knowledge, and creating a more skilled employee or employer
- 3) make sure that investors have the required communication skills which will benefit the investor as well as Australia as it will result in fewer obstacles that will prevent future business ventures

## 7. Conclusion

The announcement by the Australian government on 7 March 2014 that it intends to conduct a review into SIV program is an important opportunity to address key issues in the current program. The SIV program is now an essential component of the policy framework that helps to make Australia an attractive destination for foreign capital from high net worth individuals, especially from China.<sup>37</sup>

In the attempt to examine the investor migration, this submission offered a comparison between Australia and Canada that offer citizenship on grounds of investment. By considering the different approaches, the paper examined whether the country waives some of the basic criterion when offering citizenship by investment.

The findings in this evaluation concludes that the discourse and practice of SIV program have fundamental implications for the economic, political and social future of Australia and the key reasons for its success to date has been its unique legislative framework and effective review system.

The SIV program has helped build Australia's economy and will continue to enhance the wellbeing of Australians by supporting economic growth and prosperity. It supports existing jobs and creates new jobs, it encourages innovation, it introduces new technologies and skills, it brings access to overseas markets and it promotes competition amongst our industries.

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<sup>37</sup> McDowell, G 2014, "Review should recommend an expanded significant investor visa program"



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Trying to attract global investors is a highly competitive game, and Australian government needs to take further step to prevent the same fate as the IIP in Canada. For the current SIV program; if the demand is too higher, it is recommended to increase the investment amount; if the residency was being undervalued, then deepen the commitments and increase the residency periods; if additional economic heft need to be delivered, then introduce particular investment proposals to target new national and regional projects.



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