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

FSC submission

February 2020

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1 About the Financial Services Council

The FSC is a leading peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing $3 trillion on behalf of more than 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world.

2 Introduction

The Financial Services Council ("FSC") welcomes the opportunity to make a submission to the Department of Home Affairs ("DHA") consultation paper. The FSC represents the leading financial services and legal firms offering and advising on managed funds under the SIV complying investment framework. Our members have collectively been responsible for managing the investments of many investors currently holding the SIV and are well placed to provide feedback to the DHA on our experiences of dealing directly with SIV investors and other intermediaries.

Consultation Process:

The DHA are undertaking a consultation process to seek views on whether:

- there are opportunities to streamline the Business Innovation and Investment program ("BIIP") to maximise the value the program generates; and
- increased investment thresholds and different investment types could provide better economic benefits to Australia compared to the current settings used for the Investor visa ("IV") and Significant Investor visa ("SIV")

DHA have asked for written submissions which answer the following six questions:

1. How can the investment thresholds be increased to provide the best outcome for Australia?
2. How could we achieve better outcomes for the Australian economy through the composition of designated investments for the Investor and Significant Investor visas?
3. How could a simplified BIIP framework make the program more efficient and effective in maximising benefit to Australia?
4. How can the points test be adapted to encourage investments above the minimum threshold?
5. How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?

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

Given that the members of the FSC mainly operate in the area of the SIV this submission will focus primarily on this visa subclass which is where our members expertise lies and on four of the six questions.

2.1 Background to the Significant Investor Visa (SIV):

The SIV program was originally introduced in late 2012 has been an outstanding success and is now regarded as one of the world's premium investment migration programs. The program has delivered substantial investment of financial and human capital into the Australian economy leading to the following benefits to the economy:

- long-term capital investment which is critical to the success of the Australian economy;
- attraction of highly successful business talent;
- job creation and development of export markets;
- "multiplier" benefits to key Australian industries (such as tourism, finance and professional services; and
- further development of Australia as an Asian financial hub to compete with regional centres like Singapore.

Since its introduction over 2,312 primary SIV visas have been granted to high net worth (HNW) applicants and their families resulting in over A$11.56bn being invested in the Australian economy in complying investments alone[1]. The SIV accounts for only a very small percentage of the total BIIP each year (which itself only accounts for 4% of the total migration program). Last year only 191 primary SIVs were granted to applicants, representing only 0.1% of total visas granted[2], however the SIV has delivered a disproportionally high level of benefits to Australia.

2.2 Background on business investment in Australia

As important context for this submission, Australia currently has a problem with business investment being at historically low levels. New private business investment as a share of GDP is shown in Figure 1 below – the only time investment has been lower was in the depths of the 1990–91 recession.

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[1] DHA SIV statistics for 31st December 2019 - https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/work/significant-investor-visa

[2] Deloitte Access Economics report –"Impact of the Significant Investor Visa Program" – June 2019

Source: ABS National Accounts, Table 24.

Any adverse change in the IV or SIV would further add to these problems.

2.3 List of Recommendations

The FSC recommends to the Government:

- that a material increase in the investment threshold will significantly reduce the flow of long-term capital into Australia that is available under the SIV program (and the follow-on capital from SIV investors outside the program) which will certainly not be the best outcome for Australia.
- that the investment threshold for the Investor Visa (IV) be increased from the current level of $1.5m to $2.5m.
- that the IV investment allocation should be amended to proportionally mirror the asset allocations under the SIV.
- that no material changes should occur to the SIV complying investment framework ("CIF") which would further complicate the process and result in a loss of confidence in the program and significant reduction in demand.
- that given the lengthy consultation process which was undertaken to enhance the SIV CIF and the undoubted benefits it is now delivering to the Australian economy the SIV CIF should also be proportionally applied to the IV.
- that these three visa subclasses should be discontinued:
  a. Business Innovation and Investment (provisional) visa (subclass 188) - Premium Investor stream ("188D");
  b. Business Innovation and Investment (Provisional) visa (subclass 188) - Entrepreneur stream ("188E"); and
  c. Business Talent (Permanent) visa (subclass 132) - Venture Capital Entrepreneur stream ("132B").
- that the DHA should allocate additional resources to the processing of the SIV and IV. The return on such investment would be significant. If it were certain that an increase in application fees would be used to hire additional processing resources and reduce processing times, this would be supported by our members.

- should the Government seek to increase the threshold amount for the SIV any increase should not only be modest (our preference would be for no increase) but it should also be phased in over at least a two-year period. This will allow the industry to adjust and for the DHA to closely asses the elasticity of demand for this visa.

3 How can the investment thresholds be increased to provide the best outcome for Australia?

SIV:

- The FSC urges to Government to be extremely cautious when considering whether to increase the investment threshold for the SIV.
- While the consultation paper mentions "*continued and increasing demand"* for the program it is important to consider each BIIP visa subclass in isolation. While subclasses such as the 188A continue to experience large demand, others such as the SIV have seen a material drop in visas granted since the program was first introduced in 2012.
- DHA statistics show that only 191 primary SIVs (primary being applications for each family unit not including dependents) were granted in FY2019 and 183 in FY2018. The FSC understands there are approximately 600 primary applications 'on hand' at the DHA at the moment, however we know based on historic trends that only about 400 of these are likely to be successful.
- A further increase in the SIV threshold threatens to significantly reduce demand for the program and will result in a significant drop in capital invested in Australia under the program. Feedback from our members involved in the SIV program indicates that investors and prospective investors have told them that an increase in the threshold, to say $7.5m, would result in a significant reduction in demand for the SIV. These investors, irrespective of their net investible wealth, are very conservative. The SIV investment is typically their first foreign financial investment and usually their first via a third-party manager. Investors are very sensitive to both the total investment amount, asset allocations and investment duration.
- It is important to note that Australia operates in a globally competitive marketplace for HNW investor migrants and the SIV already has one of the highest investment thresholds of any other global investor migration program. It also requires investors to take more risk on their investment than most other programs in order to ensure benefits are delivered to the wider Australian economy. Currently only the New Zealand Investor Plus visa has a higher threshold (NZ$10m but allows investment in risk-free Government bonds and residential real estate over a much shorter period) and the SIV investment threshold is also five times higher than the popular US EB5 program. A material increase in the investment threshold will drive migration investment away from Australia.
- Feedback from members also suggests that an increase in the investment threshold may have the unintended consequence of reducing the number of applications considerably from outside China. A large percentage of applications from Hong Kong, South Africa and Europe for example come from applicants (such as professionals) for whom a $5m investment is a material part of their net worth.

FSC Recommendation 1: The FSC is of the view that a material increase in the investment threshold will significantly reduce the flow of long-term capital into Australia that is available under the SIV program (and the follow-on capital from SIV investors outside the program) which will certainly not be the best outcome for Australia.

Investor Visa (IV):

- Unlike the SIV the IV did not undertake a review in recent years and the investment threshold of $1.5m is considered low especially when taking into account the fact that investors can invest in risk-free Government bonds.
- These passive investments are not materially contributing to the Australian economy. As noted by the DHA's consultation paper investments in state government bonds under the IV only account for less than 0.7% of the value of all state government bonds currently on issue.[3]

FSC Recommendation 2: The FSC recommends that the investment threshold for the IV be increased from the current level of $1.5m to $2.5m. The IV investment allocation should also be amended to proportionally mirror the asset allocations under the SIV.

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

SIV:

- The SIV was subject to a comprehensive review in 2015 overseen by Austrade which resulted in adjustments to the SIV complying investment framework ("CIF") which helped to direct investment into Australian emerging companies instead of "passive" investments, improved integrity measures for fund managers and removed certain loopholes which were preventing the program from achieving its objectives.
- These changes resulted in a material reduction in the number of applications for the program however they have helped to improve the integrity of the SIV and to ensure it continues to meet its objectives of stimulating the Australian economy and creating jobs.
- SIV applicants are now more familiar with the SIV CIF and now have the benefit of a track record of applicants for over 4 years and are now applying for permanent residency ("PR") under the program.
- However, our members still report that investors are extremely cautious about the investment in emerging companies (especially venture capital "VC") and have a major focus on this component when considering whether to invest or apply for the SIV. A material increase in the VC component would likely result in further reduction in demand for the SIV program.
- Our members have suggested broadening the number of asset categories which can be invested in the balancing investment component of the CIF. This could include investment in credit and debt which in turn is provided to small and medium businesses to support their growth. Investment in sectors of investment such as aged care or the NDIS should also be considered for the balancing investment component.

[3] Department of Home Affairs, https://www.homeaffairs.gov.au/reports-and-pubs/files/biip-getting-better-deal-australia-discussion-paper.pdf

FSC Recommendation 3: The FSC recommends no material changes to the SIV CIF which would further complicate the process and result in a loss of confidence in the program and risk resulting in a significant reduction in demand for the SIV.

IV:

- We would support the Government's objective to direct investment away from "passive" investments such as State or territory Government bonds. This is an asset class which does not need to attract further investment and delivers a relatively low benefit to Australia.

FSC Recommendation 4: The FSC recommends that given the lengthy consultation process which was undertaken to enhance the SIV CIF and the undoubted benefits it is now delivering to the Australian economy the SIV CIF should also be proportionally applied to the IV.

- This would ensure that investments under the IV are managed under a highly regulated system which is already well understood by applicants and intermediaries.

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

- There are benefits to the simplifying the BIIP which now comprises seven different subclass categories (188A, 188B, 188C, 188E, PIV, 132A and 132B) not including the extension streams.
- There is little doubt that certain visa classes such as the Premium Investor stream ("188D") and Entrepreneur stream ("188E") have been poorly received for various reasons and not attracted many applications. Other visa classes such as the "132B" Venture Capital Entrepreneur stream have been subject to exploitation from unscrupulous managers and resulted in a very low approval rate for this visa class.

FSC Recommendation 5: The FSC recommends that these three visa subclasses should be discontinued.

- A reduction in the number of visas being offered under the BIIP should increase demand for preferred visas such as the IV and SIV where Australia obtains its maximum investment migration benefits.

6 Other comments and observations

- **Processing times**
  - Our members have reported that processing times for the SIV have blown out in recent years and applicants can now expect an average processing time for their visa to be 15 months or more. We believe that Australia should be the preferred destination for HNW investors from all over the world and processing times for this visa should be given priority.

- At the same time, we would encourage the DHA to continue to apply the stringent background and source of funds checks which are important to the overall integrity of the programs.

FSC Recommendation 6: We would encourage the DHA to allocate additional resources to the processing of the SIV and IV. The return on such investment would be significant. If it were certain that an increase in application fees would be used to hire additional processing resources and reduce processing times, this would be supported by our members.

- **Phasing in any proposed changes**
  - Our members have made significant investments in the SIV program including considerable investment in resources, fund structures and strategies. Any major changes including any changes that are not phased in over reasonable periods of time will be detrimental to the finance industry (and we assume the migration industry). This will most likely result in a reduction in the number of applicants but also the number of our members offering investments under the program. This will not only reduce competition but will ultimately be harmful to Australia's aspiration to be a key participant in the region's growing asset and wealth management industries.

FSC Recommendation 7: The FSC recommends that any increase in the threshold amount for the SIV not only be modest (if any) but that it be phased in over at least a two-year period. This will allow the industry to adjust and for the DHA to closely asses the elasticity of demand for this visa.

The FSC would welcome the opportunity to discuss this submission and the broader policy matter further. For further discussions please feel free to contact us on (02) 9299 3022.

Kind regards,

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