

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

14 February 2020

Dear Sir or Madam

**Review of Australia's Business Innovation and Investment Program: Getting a better deal for Australia**

Southmore Capital Pty Ltd (Southmore), of which I am the Managing Director, is a small venture capital funds management business that has operated since 2006. We have invested mostly in early- and expansion-stage businesses which are commercialising new technologies and taking innovative business models into global niche markets. We have invested just over AUD 20 million in sixteen businesses to date and these businesses have secured additional funding in the form of co-investment and government grants amounting to more than AUD 90 million. Growth in many of our investee businesses has been strong and rapid: the businesses have added approximately 280 new full-time-equivalent positions since our initial investment. All our investee businesses target global markets for their products, services and intellectual property. In FY18, export revenues generated by Southmore investee businesses exceeded AUD 30 million.

Our initial fund (which commenced investments in 2006 and had the traditional ten year target life span for a venture capital fund) has wound down and, among other initiatives, we are now working with business migrant entrepreneurs and investors to create our next cohort of investee companies and have launched the Innovative AustralAsia Fund II (a conditionally registered as a venture capital limited partnership with the Department of Industry).

While there have been significant recent investment allocations to *larger* venture capital funds (forming new funds with around AUD 200 million in committed capital and a later-stage investment focus) from large superannuation funds, there has been only very limited investment into *smaller*, early-stage venture capital funds (with less than AUD 50 million in committed capital). Southmore, like many of its peers, has had difficulty in attracting new investment for its second fund from institutional sources such as superannuation funds. Feedback received indicates that this is partly because the small scale of our activities means that institutional funding sources are unable to cost-effectively deploy investment amounts that are worthwhile for them.

Southmore therefore welcomed the introduction of new measures to support early-stage venture capital and angel investment activity contained in the National Innovation and Science Agenda announced in December 2015. We have also been pleased with the increasing recognition of the role that venture capital activity can play in supporting the policy objectives of the Business Innovation and Investment Program (BIIP). Primarily, we see this role as professionally intermediating between sophisticated individual investors and seasoned entrepreneurs (with one or both parties potentially being business migrants).

Southmore, together with several other small venture capital fund management businesses, has repositioned itself to align its business creation and investment management activities with this increasingly supportive overall policy framework. For Southmore, this repositioning commenced in late 2012 (with the introduction of the Venture Capital Entrepreneur Stream of the subclass 132 business talent visa) and has steadily gathered momentum since then (with the introduction of the current complying investment framework for the Significant Investor Visa in July 2015 and the Entrepreneur Visa in September 2016).

Southmore and its peers have therefore invested heavily in terms of time, effort and resources in this realignment of our activities. We are therefore hopeful that this review will result in enhancement of the BIIP and its policy settings in support of entrepreneurship and investment in active assets. Southmore looks forward to building further on the experience it has gained and lessons it has learned from its nearly fourteen years of operation. We believe that the Australian Government can further leverage the skills and experience of early-stage venture capital fund managers such as Southmore to identify and attract the highest quality migrant entrepreneurs and investors who will create the new businesses and jobs that our economy needs.

In our view, the BIIP is very much worthy of allocation of further resources within DHA to expedite processing of applications because of its strong positive economic and community impacts. One of the most important steps that Australia could take to boost its competitiveness as a destination for the highest quality entrepreneurial talent and sophisticated investors in active assets would be to significantly expedite the processing of BIIP visa applications. Feedback received from the migration professionals that we work with suggests that high quality candidates have many options open to them globally and that the times taken to process BIIP visa applications ends up deflecting a significant number of applications to other jurisdictions. These same sources have also pointed out to us that the time taken by the Department of Home Affairs (DHA) and its predecessors to process BIIP applications through the Adelaide office has approximately doubled over the last eight years to around 24 months with applicants processed through the Hong Kong office taking about 50% longer than this to process.

This issue of processing delays appears to be exacerbating and needs to be addressed urgently. Steps also need to be taken to ensure that the applications from Mainland China, Taiwan, Hong Kong and Macao, which are processed through the Hong Kong office, are decided within transparently similar timeframes to other applications (especially given that applicants from these jurisdictions account for more than 80% of BIIP applications).

It is difficult to understand from a policy perspective why applicants for BIIP visas (most of whom will become employers or support significant employment creation through investment) are not prioritised for processing over applicants for employer sponsored visas (or at least accorded equal priority and processed in similar time frames).

There is also a problematic lack of transparency in the way that BIIP applications are handled: once an application is acknowledged, the applicant usually receives no further contact from DHA until a Case Officer is assigned to their application (often 12 to 20 months after submission). Even at that point, the likely timeframe for processing of the application remains unclear and, in practice, is highly variable. There are often multiple commercial stakeholders in a pending BIIP application such as local partner businesses, collaborating research institutions and professional investors. Since these stakeholders often need to make commercial judgements and decisions based on the potential timing and likelihood of visa grant, it is highly desirable to have the strongest, most current and most specific factual basis for these judgements and decisions. Furthermore, the visa applicant is usually very actively involved in business activities in her or his home country and also needs to make commercial and personal judgements and decisions on the same basis. Other Commonwealth Government evaluation services which are provided on a user pays basis offer significantly more visibility, structure and certainty around how submissions will be processed – particularly where substantial economic interests are at stake. For example, the Therapeutic Goods Administration (TGA) handles applications for the registration of prescription medicines based on a series of specified milestones where outcomes are clearly communicated, timelines associated with remaining milestones are anticipated, and the progress of applications can be actively tracked by applicants.<sup>1</sup> To take this example further: there is a legislative requirement that the TGA provide notice of a decision to accept (or reject) an application for further processing within 40 days of submission and then to decide applications within 255 working days from the date of a positive notice. It therefore seems worth considering how the handling of BIIP applications might be improved to enable stakeholders to make better-informed judgements in light of the practices adopted by other arms of government that face similar challenges.

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<sup>1</sup> <https://www.tga.gov.au/prescription-medicines-registration-process>

Finally, in our experience, there are a substantial number of service providers to visa applicants (including some “pop-up” venture capital fund managers) who operate in ways that undermine BIIIP policy objectives and create reputational risks for Australia’s overall migration program both domestically and internationally. We are therefore strong advocates of the introduction of increased integrity measures which would target visa applicants and visa holders who participate in scheme- or transaction-based “businesses” that are essentially passive in nature and deliver little economic or community benefit. There now appears to be significant abuse of the BIIIP by promoters of such schemes and transactions - highlighting the need for more extensive pre-grant scrutiny of applicant intentions and post-grant monitoring of the activities actually undertaken by visa holders.

The issues associated with current approaches to the resourcing, handling, prioritisation, scrutiny and monitoring of BIIIP applications outlined above tend to strongly undermine the core policy objective of the BIIIP: contributing to Australia’s innovation system and economy. This is because genuinely innovative businesses operate in a very time-sensitive opportunity environment. Any delay that such businesses experience in securing the leadership, talent or investment that they require to develop will negatively impact their ability to create value and compete globally and, sometimes, render a business that was highly attractive at the time a visa application was lodged inviable at the time of visa grant. For this reason, most venture capital fund managers that we have dealings with continue to encourage the international entrepreneurs that they work with to apply for non-BIIIP visas (particularly employer sponsored visas). This is unfortunate since Australia misses out when the talent and potential investment associated with many of these applicants is either lost or diverted to areas of the economy where they have less impact.

Our responses to the consultation questions follow.

*1. How can the investment thresholds be increased to provide the best outcome for Australia?*

We would agree with the view expressed in the consultation paper that demand for the IV and SIV does not appear to be sensitive to investment thresholds and there is clearly scope for a significant increase in the thresholds. In our experience, investor applicants are generally staking 2% to 10% of their total net worth as the basis for their application. Australia already has significantly higher thresholds for investment visas than most other countries offering such visas (the striking exception being our neighbour New Zealand, which requires investment of NZD 3 million for its IV equivalent and NZD 10 million for its SIV equivalent). Despite having thresholds that are effectively twice as high and less than one fifth of Australia’s population, New Zealand has received more than 1,600 Investor 1 (SIV equivalent) and 9,600 Investor 2 (IV equivalent) visa applications over the last ten years (when population differences are allowed for these application numbers compare favourably to those seen for the IV and SIV in Australia).<sup>2</sup> New Zealand has recognised that it is highly prized by the wealthiest and most sophisticated applicants for its ease of doing business, economic openness and political stability. It has therefore consciously decided to set its expectations of intending applicants as high as reasonably possible. Anecdotally, New Zealand appears to be benefiting from its decision through the attraction of high calibre entrepreneurs and active investors.<sup>3</sup> There is therefore a clear opportunity for Australia, which is already perceived as a destination with a similar level of attractiveness to New Zealand as a destination for business migrants, to progressively reset total investment thresholds for the IV and SIV to AUD 3 million and AUD 10 million. While creating something of a shock, a staged increase of this size would be unlikely in the medium term to result in a significant drop in application numbers (and of course any modest drop will be more than offset by the increased investment amounts anyway). It is highly likely that increasing thresholds will also have the beneficial effect of selecting for applicants that find business, economic and political conditions in Australia particularly

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<sup>2</sup> <https://www.immigration.govt.nz/documents/statistics/statistics-residence-applications-accepted>

<sup>3</sup> <https://www.forbes.com/sites/andyisemotiuk/2018/08/03/why-top-investor-immigrants-choose-new-zealand/#5f959a84310a>

attractive (with the result that they are much more likely to retain their investment in Australia after obtaining their permanent visa and that they are much more likely to engage in other business and investment activities in Australia in addition to what is required for their visas). We are also of the view that geopolitical, macroeconomic and other forces are generally working to increase the attractiveness of Australia as a destination for investor and business migrants at present.

In any case, DHA will have access to data regarding individuals applying for these visas and should be able to use the median declared net worth of applicants as a rough guide when predicting demand sensitivity and setting thresholds (by simply determining what percentage of net worth the visa investment currently represents and plotting the overall net worth distribution to see what proportion of applicants might fall away if thresholds were increased).

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

In previous submissions we have strongly argued requiring funds from IV applicants to be invested in Australian state government bonds delivers very little benefit to the Australian economy and community and seems to be a source of frustration for the more sophisticated and desirable investor applicants (this frustration seems to have been partly responsible for the proliferation of schemes that encumbered these bond investments until this practice was expressly forbidden). We consider that the IV should be positioned in a similar way to the SIV (while retaining the current requirement that applicants spend two out of four years inside Australia). This could be achieved very simply by recasting the IV as a visa with an AUD 3 million investment threshold and with allocations made in accordance with the SIV complying investment framework. Given that the lower investment threshold of this new IV will be more attractive and accessible than the SIV (even at the current investment threshold), consideration could be given to reducing or even eliminating the potential allocation to Balancing Investments required of applicants for this new IV. This proposal dovetails with our suggestion below that lower risk Balancing type allocations could be made available or increased within portfolios associated with Regional IV and Regional SIV applications.

We, while admittedly having an obvious vested interest, would support previous suggestions from DHA and others that the minimum VCPE allocation required for SIV applicants could be comfortably raised to 20% of the minimum total investment required without there being a dramatic impact on demand. While it is not possible to produce objective proof of that assertion, the solid and relatively rapid recovery in numbers of SIV applications following the introduction of the current complying investment framework (which required much more aggressive allocations to risky assets) evidences the willingness of more sophisticated applicants to invest much more actively if required to do so in the context of their SIV application. We note that SIV applications for the current fiscal year appear likely to exceed 500 and that this number is very similar to numbers seen in “normal years” prior to introduction of the current complying investment framework. Given the policy imperative to direct funds toward more active investments, this increased allocation to VCPE would logically reduce the maximum possible allocation to Balancing Investments. Thus, under the current framework, the portfolio composition based on minimum allocations to VCPE and Emerging Companies would be AUD 1 million to VCPE, AUD 1.5 million to Emerging Companies, and AUD 3.0 million to Balancing Investments (with those allocations being doubled if the investment threshold is raised to AUD 10 million as we advocate above).

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

In a previous submission we have argued for some remodelling of the BIIP, rather than “streamlining” (which we understand to mean the elimination of visa streams). For example, we have argued that the Business Innovation Stream of the 188 visa incentivises applicants to take on the operations of essentially stagnant existing businesses rather than start new ones that might create new employment and economic activity.

We consider that there is a need to retain and maximise the flexibility of the BIIP in attracting entrepreneurs and investors of widely varying backgrounds (since diversity is an important cornerstone of innovation and economic transformation).

One must therefore be careful that in any “streamlining” of the BIIP, there is not a reduction in the pool of potential entrepreneurial talent or in the appetite for sophisticated active investment.

The BIIP needs to remain open to:

- Proven builders of small and medium businesses of any age who wish to start a new business in Australia (our proposed remodelled Business Innovation Stream of the 188 and 888 visas).
- Young, unproven but credible entrepreneurs who wish to start an innovative new business in Australia (present Entrepreneur Stream of the 188 and 888 visas). Many highly innovative and successful businesses have been started by unproven, first time entrepreneurs (Canva and Atlassian in Australia for example). A stream with similar eligibility criteria is an important tool in retaining innovative and business-minded international graduates and postgraduates who have studied in Australian (particularly those with STEM backgrounds). This stream is not widely understood or promoted however and more needs to be done to encourage potential applicants and funding sources to participate.
- Proven builders of significant businesses of any age who wish to start a new business in Australia (our proposed remodelled Significant Business History Stream of the 132 visa). This stream has proven to be highly attractive to a fairly broad range of applicants and, as mentioned in the preamble above, there has been a proliferation of essentially passive schemes that undermine its policy intent. This is not reason to discard what has generally proven to be a winning offering but it does suggest a need for more rigour and monitoring pre- and post-visa grant.
- Older, proven entrepreneurs *who may not necessarily have recently held high levels of ownership in the businesses that they have grown* (present Venture Capital Entrepreneur Stream of the 132 visa). (We note that there is a very large pool of successful entrepreneurial business builders who, for a wide variety of reasons, do not meet the “ownership interest” requirements of the Significant Business History Stream). This stream has also proven to be highly attractive to a relatively small niche of applicants who despite being extremely successful business builders would otherwise be ineligible for a BIIP visa. Some examples of such applicants would include seasoned senior executives from very large companies looking to embark on a new entrepreneurial career or highly successful serial entrepreneurs who have sold their businesses well and are looking to start a new one in Australia. As mentioned in the preamble above, there has been a proliferation of essentially passive schemes that undermine the policy intent of this stream. However, this is not reason to discard a stream which captures some exceptionally high quality applicants that no other stream presently does. It does, however, suggest a need for more rigour and monitoring pre- and post-visa grant.

In our, admittedly conflicted, view we see a valuable role for experienced and skilled venture capital fund managers in selecting/qualifying entrepreneurs and business ideas as part of the BIIIP and also would like to emphasise the enabling assistance, local knowledge and networks that Australia's private investment ecosystem provides to migrant entrepreneurs. We consider that the current emphasis on the role of venture capital funders in BIIIP streams targeting entrepreneurs is both valuable and appropriate. We would like to see it retained.

Finally, we note, as we did in our previous submission, that there is need for DHA and/or Austrade to more coherently explain the purpose of the Premium Investment Visa to a wider audience and to start inviting more applications if it is to be retained (noting that we would advocate an increase in the PIV investment threshold to AUD 30 million, in line with our proposed doubling of the SIV investment threshold above).

*4. How can the points test be adapted to encourage investments above the minimum threshold?*

This should be relatively straightforward – and would perhaps be especially appropriate now that the more popular (and populous) states (e.g. Victoria) are preferentially selecting applicants with significantly higher scores. The threshold could be increased to say 85 and an extra category for investment amount added which allocated up to a further 20 points. Calibrating this at intervals of 5 points should be effective.

As noted in a previous submission, we are not however in favour of retaining the current points test unmodified (we feel that there is too much emphasis on business turnover and assets and not enough on more innovative metrics like business capital raised, exports generated, offshore subsidiaries operated and the like). In short, the points test needs a significant overhaul with more detailing, diversity incorporated (this needs to be done in consultation with industry bodies in the sectors targeted for growth and investment).

*5. How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?*

For the IV and the SIV (as modified as suggested above) we would propose that the Balancing Investment allocation (which is lower risk, more diversified flexible and generally more attractive to applicants) be made available or made available in greater proportions to applicants nominated by state and territory governments that presently only contain regional postcodes (or perhaps IV and SIV nomination could be devolved to Regional Development Australia bodies or similar). Consideration could be given to mandating that IV and SIV applicants invest some threshold amount of their funds in fund structures that are investing in businesses with the majority of their operations in regional areas (as some state governments initially attempted to do with SIV nominations). This would obviously be challenging to implement and monitor but it could encourage a healthy reorientation of Australia's fund management industry to areas where there may be some degree of "market failure".

When it comes to incentivising migrants to operate businesses in regional areas, it is probably more a question of harmonising and coordinating present practices at state government level. Migrants proposing to start or operate businesses in regional areas quite logically already have their applications assessed based on more lenient eligibility criteria, reduced investment amounts and the like. They are also monitored for compliance with their visa conditions based on a less ambitious set of deliverables. Unfortunately, however, the present system tends discourage equitable coordination between states and to push state governments into a "race to the bottom" when setting BIIIP visa application and monitoring criteria. Remedying this dysfunction would seem to require intervention/arbitration at either a federal or CoAG level. Clearly, part of the solution should be the introduction of increased requirements for migrants wanting to operate businesses in the most desirable/populous metropolitan postcodes.

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

We have proposed some rather sweeping and dramatic changes to the BIIP above. Of course, we would not want to see such changes introduced at short notice or implemented without an appropriate set of transitional provisions. We see the example of the introduction of the new complying investment framework for the SIV as being helpful. The Australian fund management industry was given ample notice and opportunity to align with the new framework. There was a perhaps unfortunate consequence of providing notice whereby there was a flood of SIV applications ahead of the introduction of the new framework. A simple way to provide notice of increasing and changing requirements while avoiding application gluts would be to set a quota on new applications after changes are announced based on application rates at the time the changes were announced (this seems to strike an appropriate balance between equity for applicants in the “current pipeline” relative to the “future pipeline”). A notice period of six months would seem to be generally appropriate. Transitional provisions would need to be tailored in the case of each stream that changes are applied to. For example, the doubling in investment thresholds for IV and SIV investment amounts recommended could be introduced in six monthly increments over a two year period.

We feel that - on the whole - DHA should be congratulated on its management of the BIIP along with its foresight and courage in introducing its own internationally distinct measures to support the development of Australia’s innovation economy. We are particularly appreciative of the way policy makers have recognised the pivotal role of venture capital fund managers in developing the innovation economy and supporting entrepreneur and investor business migrants to successful outcomes that significantly benefit the broader Australian community.

Sincerely,



Dr Roger Voyle  
Managing Director