



**Submission to the Senate Education  
and Employment Legislation  
Committee**

**Migration Amendment (Skilling  
Australians Fund) Bill 2017 and  
Migration (Skilling Australians Fund)  
Charges Bill 2017**

**Cross Cultural Communications and  
Management**

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## 1. Introduction

On 18 October 2017, the Hon Peter Dutton MP, the Minister for Immigration and Border Protection introduced the Migration Amendment (Skilling Australian Fund) Bill 2017 and the Migration (Skilling Australians Fund) Charges Bill 2017 into the Australian Parliament.

On 16 November 2017 the Senate referred an inquiry into the provisions of the Migration Amendment (Skilling Australians Fund) Bill 2017, and the Migration (Skilling Australians Fund) Charges Bill 2017 to the Senate Education and Employment Legislation Committee (SEELC) for report by **9 February 2018**.

The closing date for submissions to the SEELC is **15 December 2017**. The secretariat to the SEELC granted this submission an extension until close of business 18 December 2017. If required, Cross Cultural Communications and Management can discuss this submission and other related issues with SEELC.

### Box 1: The Skilling Australians Fund and Charges

The Australian Government proposes to introduce a nomination training contribution charge to be paid by all employers who make a nomination relating to a temporary or permanent skilled visa for an overseas skilled worker. The Bill indicates the nomination training contribution charge limit for a nomination made in the financial year beginning on 1 July 2017 is:

- (a) for a nomination relating to a temporary visa— \$8,000;
- (b) for a nomination relating to a permanent visa— \$5,500.

These amounts will be indexed and increase each year.

## 2. Cross Cultural Communications and Management

Cross Cultural Communications and Management is a specialist management consultancy based in Canberra that focusses on:

- Facilitating market access and exports for Australian business;
- Assisting higher education providers, registered training organizations and other training providers with their internationalisation agenda;
- Identifying and developing transnational education opportunities for education and training providers;
- Identifying education and training assets in Australia and Asia for acquisition by investors;
- Assisting Australian businesses to access overseas skilled workers and professionals to work in Australia.

The consultancy is led by Tony Mitchener, who has had a long career as a senior Australian Government official focusing on a range of policy issues including higher education, employment and vocational training policy and trade issues. In particular, Tony has been:

- a Departmental Adviser on vocational education and training to an Australian Government Minister;
- an Australian diplomat in Thailand and Indonesia (where he developed the bilateral education and training relationship, worked closely with education agents, undertook generic marketing of Australian education and represented Australia on multi-lateral education and training bodies);
- a Trade and Investment Commissioner to Indonesia;
- a General Manager (South East Asia) for the University of New South Wales based in Indonesia and General Manager International for a large registered training organization.

Tony was seconded to the Department of Prime Minister and Cabinet (PM&C) in 2012 to work on the rewrite phase of the *Australia in the Asian Century White Paper* and continued at PM&C to assist with implementation of the key pathways.

Tony is the Chair of the ACT Branch of the Australia Indonesia Business Council, is a member of its national executive and a member of the Canberra Business Chamber's International Business Task Force. Tony is also an Asia Link Asia Literacy Ambassador.

CCCM is pleased to be able to make this submission to the SEELC as it concerns an important matter relating to training across various industries, the lack of commitment by businesses to train their staff and unintended consequences for businesses that seek to employ overseas skilled workers, in particular for those businesses in relation to overseas skilled workers that are on low annual salary and/ or are not professionals (ie tradespersons).

### 3. Current Arrangements

Businesses seeking to recruit overseas skilled staff to work in Australia are required to be approved as standard business sponsors (SBS). One of the requirements for SBS is that the business spends at least 1 per cent of their payroll on training. The temporary skilled visa subclass 457 programme has always required sponsors to demonstrate their commitment to, or record of, training Australian citizens or permanent residents in their business operations. The intent behind this requirement is to ensure that employing overseas skilled visa holders is not seen as an alternative to training Australians in particular skill areas.

This expenditure can include occupational health and safety training, apprentice wages, OEM or product specific training. Certain training expenditures relating to owners and their families are excluded. There are over 35,000 businesses approved for SBS.

Many businesses, however, are ineligible for SBS due to:

- an inability to spend at least 1 per cent of their total payroll on eligible training (particularly SMEs);
- training for their professional staff may be a private, rather than a business, expense (ie accountants, engineers, doctors);
- being unwilling to provide their financial statements to the Department of Immigration and Border Protection (DIBP) due to concerns about confidentiality;

Other businesses make the conscious decision not to train their staff (it is a cost, not an investment !) and are able to recruit new staff by poaching them from competitors by paying higher remuneration packages. These businesses are able to provide more generous remuneration packages as they are effectively funded by the savings that accumulate by not providing adequate training for their staff. For these businesses, the only way to address their skills shortages is to poach staff off competitors that have provided training for their staff.

### 4. Proposed Arrangements

The 2014 report, *ROBUST NEW FOUNDATIONS: A Streamlined, Transparent and Responsive System for the 457 Programme, An Independent Review into Integrity in the Subclass 457 Programme* noted that the:

“...Despite this important training outcome, we found that there was strong support for the principle that employers who wish to sponsor 457 visa holders make some form of contribution to training Australians in return. However, we also found that there was little support for the

current training benchmarks and stakeholders questioned whether they were achieving the desired training outcomes and were too complex.

The MCA, for example, observes that “there is no evidence the training benchmarks have induced more training of Australian workers”, and that they are “more symbolic than effective”.

The ACTU described the training benchmarks as “ineffectual” and that they “have failed to ensure that employers are investing in the up-skilling of their Australian workforce, particularly in the occupations where they are using 457 visa workers”.

Furthermore, we note that that Training Benchmark A is not a proportional payment and does not reflect the number of 457 workers employed in a business. This can result in similar size companies paying the same contribution despite one of them employing fewer 457 visa holders, and provides no training disincentive to employ a large number of 457 visa holders. Additionally, there is some inequity in that certain sponsors such as universities and professional service firms, by their very nature, have easily been able to demonstrate compliance with Training Benchmark B, whereas smaller firms may have to use Benchmark A as it is hard to provide evidence of spend on informal training.

...In lieu of the current training benchmarks we propose a simpler model. We are attracted to the concept of a ‘social licence’ whereby, in return for being able to sponsor an overseas worker under the 457 programme, sponsors help to contribute to the broader issue of providing employment and training opportunities for disadvantaged Australians and apprentices, as well as facilitating specific assistance to high user 457 visa industry sectors such as IT and nursing. This could be done by the sponsor making a training contribution on the basis of each 457 visa holder that they have in their employ. **We believe that this contribution could be in the order of, say, \$400 p.a. per visa holder...**” (emphasis added)<sup>1</sup>

A review of the submissions does not support a training levy nor a nomination training contribution charge. There was a consistent view that businesses seeking to recruit overseas skilled staff should be required to make a contribution to training Australians. There was no unanimity about how this should be achieved and many submissions suggested there were effective mechanisms to ensure compliance for which DIBP has not been adequately resourced.

Indeed, the views of businesses are similar to that of the submission by the Australian Motor Industry Federation, which while praising the effectiveness of the 457 visas program, it focussed on criticising the ‘one size fits all’ approach used by DIBP and the exclusion of certain training expenses. The submission:

“...expresses similar concern for the ‘one size fits all’ approach to labour market testing and the auditable training benchmarks. Under the current integrity requirements ‘Mum and Dad’ SME’s are disenfranchised from the 457 process as the training expenditure upon their adult children who apprentice under the business are excluded from the training budget...”<sup>2</sup>

In March 2015, the Government announced that it supports or supports-in-principle the majority of the review’s recommendations, with the exception of the recommendation to abolish the requirement for labour market testing (Recommendation 2) which is noted, and the sub-recommendation (Recommendation 7.4) to expand the list of nationalities that are exempt from the English language requirement which is not supported. The recommendation relating to the introduction of a training contribution was accepted, but was modified with a change in emphasis.

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<sup>1</sup> ROBUST NEW FOUNDATIONS: A Streamlined, Transparent and Responsive System for the 457 Programme, An Independent Review into Integrity in the Subclass 457 Programme, 2014, p 60.

<sup>2</sup> Submission of the Australian Motor Industry Federation to the Independent Review into Integrity in the Subclass 457 Program, p 4.

There are issues by policy makers in 2015 relying on a review which was finalised in mid-2014 and relied on data which at that time of the review was already at least 12 months old. This is particularly important since the number of temporary skilled subclass 457 visas have declined significantly in recent years due to a number of policy changes: the 2014 review relied on data when there were 68,481 temporary skilled 457 subclass visas issued in FY 2012-13, where as in FY 2015-16, this had declined by more than 33 per cent to 45,395 temporary skilled 457 subclass visas.

The review, also does not comprehensively reflect the views of business, as it received only around 180 submissions mainly from unions, employer associations and migrations agents. Whilst this may be more than adequate compared to many other government policy reviews, given the serious implications of a number of recommendations, it would be expected that DIBP's response would test the views of business and other stakeholders regarding implementation and any identified unintended consequences. This is particularly important, since there were no business submissions that supported or proposed the training levy nor nomination training contribution charge at \$8,000.

At no time have the proposals been tested with businesses (as distinct from employer associations), let alone SMEs which will be seriously disadvantaged by the proposals.

By the time the broad thrust of the recommendation of the review is implemented (ie March 2018) almost four years will have expired since the recommendations were made. It is opportune to revisit this recommendation to reflect on changes that have occurred, the dramatic drop in visas issued and the views of businesses that will actually employ the skill visa holders (rather than migration agents, the unions and employer associations).

It is also noted that the recommendations were made in the context of around 75 per cent of 457 visa holders in Australia working in the professions and as managers, rather than as technicians or vocational trades (less than 18 per cent). Unfortunately, a situation that applies to more highly paid professionals has been generalised to also apply to more lowly paid trades persons.

It is also a dangerous precedent for DIBP to rely on the broad thrust of a recommendation as justification for charging \$8,000 per applicant for a skilled visa holder (rather than \$1,200 proposed in the report) almost four years later.

On 18 April 2017, Prime Minister Malcom Turnbull and the Hon Peter Dutton MP, Minister for Immigration and Border Protection jointly announced that the Temporary Work (Skilled) visa (subclass 457 visa) will be abolished and replaced with the completely new Temporary Skill Shortage (TSS) visa which will support businesses in addressing genuine skill shortages. As part of this announcement, it was noted (bold emphasis added):

“...The (2014) review identified opportunities to introduce a less complex training contribution scheme that could provide the desired training outcomes while being easier to monitor.

**Subject to further consultation**, the government proposes to replace the current complex 'training benchmarks' provisions.

The current provisions require employers sponsoring a 457 worker to ensure that at least one per cent of their business' payroll is spent on the training of Australians, or two per cent is contributed to an industry training fund. This **current system is complex, costly, and open to misuse**. The government is exploring options for implementation of this recommendation.

**The government will work with key stakeholders** to implement a more transparent and effective system that directly links the ability to employ a 457 visa holder with increased training opportunities for Australians...”

The further consultation and key stakeholders by DIBP does not appear to have occurred: there has been no public consultation with the general public, businesses, migration agents nor with recruitment agencies since March 2017. A scan of the internet does not provide any evidence by DIBP calling for submissions nor holding seminars/workshops relating to implementation of the proposal, the proposed amount of the training levy, nor how to identify and address unintended consequences et al.

Further the 'current system' need not be '...complex, costly and open to misuse...' (this will be addressed later in this submission).

The proposed nomination training contribution charge is likely to generate some \$363.2 million per year (assuming that the number of skilled visas issued remained the same as in FY 2015-16).

#### **Box 2: Impact of Making Skilled Visas too Expensive**

Without adequate and cost effective access to overseas skilled visa holders, normal supply and demand will suggest that the resultant skill shortages will lead to sudden and unnecessary wage increases which will not be conducive to Australia's ongoing economic growth.

Providing business with the option to recruit skilled workers from overseas is applauded as it generally reduces the likelihood that businesses will poach skilled workers off other employers who have trained and invested in training and engaging apprentices. Where the upfront costs of skilled visas appear to be too expensive and the nomination training contribution charge is beyond the capacity of the business to absorb, the implications will be:

- increased poaching of staff from competitors, who usually have skilled staff through their commitment to training (including recruiting apprentices): poaching tends to be contagious and reduces a business' commitment to training;
- pressures on wage increases (and wage inflation) as businesses offer higher remuneration packages to attract staff (usually funded by accumulated savings from not training staff);
- wages increases will feed into inflation and create pressures cross the economy;
- price inflation due to increases in prices for goods and services due to passing on to the consume increased government charges;
- significant delays for customers in being to access services: for example, ie shortages of cooks/chefs will lead to closure of restaurants or delays in being served, and shortages of motor mechanics will lead to delays in booking vehicles for services;
- lesser skilled and less experienced staff being required to undertake the work, which will have significant implications for quality, effectiveness, accuracy and safety of the services being undertaken.

## **5. Analysis**

The proposed legislation and its nomination training contribution charge provides those businesses that have been prevented from sponsoring skilled overseas workers because they could not satisfy the current 1 per cent training threshold, to do so. This is a positive development and should be supported.

The rationale is that this now provides an option for these businesses to recruit skilled staff from overseas, rather than only poaching trained staff from their competitors. For these businesses an outlay of \$8,000 per applicant seeking to be skilled visa holder is a small price compared to the alternate costs of training staff (particularly if skilled staff are developed through apprenticeships).

The proposed legislation, however, unfairly punishes those businesses that do spend at least 1 per cent of their payroll on training. In addition to training their own staff, these business will now be required to pay an additional \$8,000 for the nomination training contribution charge for each skilled overseas worker.

The main issues with the proposed nomination training contribution charge is that it is intended to be an allegedly simple and standardised response to a complex issue about training caused by skills shortages in general and for certain occupations which are not generic, nor standard and involve many

variables. The main issues with the design of the proposed nomination training contribution charge are that it does not take account of:

- **business size:** irrespective of whether the business is an SME or a micro business it is charged the same flat rate for each skilled visa holder as a major corporation or multinational:
  - the proposal does not appear to take account of the factors unique to small businesses that need to be addressed relating to the seven regulatory impact statement questions listed in the *Australian Government Guide to Regulation* issued by the Department of Prime Minister and Cabinet and the Guidance Note on Small Business;
  - nor does the proposal take account of the *Small Business Engagement Principles*<sup>3</sup>
  - this is particularly an important issue for regional Australia where business predominantly comprises SMEs;
- **the salary of the skilled visa holder:**
  - the nomination training contribution charge of \$8,000 may be inconsequential to a business recruiting from overseas a person on \$200,000 (ie a 4 per cent upfront on-cost), but is a significant cost to a business paying only \$54,000 (ie almost 15 per cent upfront on-cost);
  - salary is a good indicator of the value to the business of the position and its ability to generate income for the business: a flat nomination training contribution charge fails to take account of this issue;
  - Businesses requiring overseas visa holders for positions at the lower end of the pay scale, are unfairly discriminated against as the proposed nomination training contribution charge is likely to lead to a reduced likelihood of them using the Government's program designed to address skill shortages by recruiting skilled visa holders from overseas;
  - The implications for the economy will be serious and include: poaching trained staff from competitors, wage increases and disruption to workplace relations as labour supply pressures embolden segments of the workforce to press for increased wages;
- **differences between industries:**
  - some industries are very committed to training and apprenticeships, but social change has meant that fewer young people are seeking employment in those trades (ie apprenticeships for motor mechanics, diesel mechanics and panel beaters);
  - other industries (ie information technology) have larger profit margins and tend to use the current scheme more extensively than others;
- **the number of positions required to be filled:** it is moot whether large corporations or industries recruiting large number of overseas staff be required to pay more for larger numbers of skilled visa holders;
- **whether training for the occupation is normally funded as a private expense, by business or by government.** This will influence whether the industry already generates sufficient training expenditure to meet the 1 per cent training threshold:
  - ongoing and developmental training for professionals is normally a private expense (ie in the case of accountants and engineers);
  - ongoing OEM training is normally funded by the manufacturer or by the business due to levies imposed on the sale of equipment (ie in the case of trucks and cars); or
  - funded by government (as in the case of apprenticeships) and complemented by business expenses for training wages and additional supervision costs;
- **the differences between professionals and tradespeople:**
  - whilst 75 per cent of visa holders are professionals/managers may be able to train others as envisaged by the legislation, a significant proportion of the remaining visa holders are tradespeople: training for trades positions is normally carried out through a combination of on and off the job training, funded by government, through apprenticeships at TAFE colleges.
  - Coupled with the increased difficulty in attracting young people to work as apprentices in Australia, this proposal unfairly discriminates against businesses that are experiencing skills shortages in occupations requiring trade qualifications;

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<sup>3</sup> See <https://www.pmc.gov.au/regulation/best-practice-regulation>

- **businesses that have made a significant investment in training** staff and those that do not: in particular, the impact on the employment of apprentices:
  - this provision will lead to a down turn in the employment of apprentices as business focuses on their short term skills needs;
  - any funding for medium terms skills needs (ie through apprenticeships) is redirected to pay for the increased costs for short term skills caused by the nomination training contribution charge (see more detail below);
- **the \$8,000 nomination training contribution charge is paid upfront contributing to cash flow issues for the business:**
  - depending upon the inflation rate and prevailing interest rates, the cost to a business of an upfront charge is significantly more due to the time value of money (ie prepaying \$2,000 for each year before the benefits come due);
  - the actual cost to the business is around \$9,200 over four years for each overseas skilled visa holder due with a 10 per cent discount rate: this reflects the cost to the business as it could have used the \$8,000 elsewhere in the business to generate higher returns and income for the business;
  - again, this is a major issue for SMEs;
- businesses are already suffering from a lack of skilled labour and the proposed nomination training contribution charge was seen as a cash grab of around \$320 million from businesses that have no choice but to pay the charge in order for their business to continue;
- **quarantining funds raised through the nomination training contribution charge from a particular industry to be returned as training investment for that industry:**
  - SMEs in many industries have expressed concerns that the funds would not be quarantined to be used in their sector to address the training challenges that contributes to Australians not considering the occupations for employment.

A number of businesses (predominantly SMEs) which require skilled workers with trade qualifications have expressed concern about the proposed nomination training contribution charge. Their concerns relate to the unintended consequences resulting from:

- failure to take account of business size and treating SMEs the same as larger corporations:
  - the proposed nomination training contribution charge unfairly discriminates against SMEs that have reduced capacity to pay and by their very nature have a smaller market presence than the larger corporates and multi nationals;
  - the proposed nomination training contribution charge should differentiate charging rates by taking into account business size (ie either a lower rate or an exemption from the charge for SMEs);
- salary of the skilled visa holder:
  - the proposed nomination contribution charge will significantly increase upfront business on-costs and will have a greater impact on businesses offering overseas applicants position smaller salary packages;
  - these businesses have less capacity to absorb these on-costs;
  - the proposed nomination training contribution charge should differentiate its charging rate by taking into account the differences in salary packages: either a lower rate or an exemption from the charge for skilled visa holders earning less than a specified amount. A suggested amount would be average weekly ordinary time earnings which is currently around \$80,300 per annum;
- failure to take account of the training history of the business:
  - as an additional cost for businesses, the proposed nomination contribution charge will force businesses to trim costs: usually the easiest target for cost cutting is the budget for training;
  - since businesses will be required to pay a nomination training contribution charge, this confuses the business why they should also pay for training their own staff;
  - reduced profitability due to the proposed nomination training contribution charge will lead to a reduced commitment by businesses to training;



- the proposed nomination training contribution charge should not be imposed on those business that are already addressing the issues that the proposed nomination training contribution charge seeks to address;
- businesses that meet the 1 per cent training threshold should be exempted for the nomination training contribution charge;
- treats skilled visa holders that are professionals/managers and those with vocational qualifications the same:
  - 75 per cent of skilled temporary visa holders are professionals and only 18 per cent hold vocational qualifications;
  - the reality is that the training, responsibility for funding training, the degree of responsibility in the workplace, income levels, opportunities for advancement are more limited for those with vocational qualifications (particularly those working as tradespeople);
  - the proposed nomination training contribution charge does not recognise the differences between professionals/managers and those with vocational qualifications;
  - It is proposed that those occupations that require vocational qualifications (in particular those working as tradespersons) should be exempted from the proposed nomination training contribution charge.

In particular, a major issue for the SMEs who already meet the 1 per cent training requirement and have 457 skilled visa holders, was that if they were faced with a choice between obtaining additional skilled visa holders from overseas (for which there will be the proposed nomination training contribution charge) and recruiting and training apprentices and other staff to be available as skilled staff at some future date, then apprentice recruitment will suffer. The reality for businesses is accessing skilled staff and the consequential benefit for their business now (or in the next six months by the time the skilled visas are approved) is more important than some benefit that may accrue to the business four years hence.

This view of business is also consistent with business behaviour elsewhere: from a behavioural economics perspective the experience in other areas of government, where governments impose fees or charges like the nomination training contribution charge, is that the response by business is not neutral and that there are significant unintended consequences, including substitution effects.

Indeed, in many instances the imposition of fees like the nomination training contribution charge leads to business responses which have negative multiplier effects:

- the message that the nomination training contribution charge conveys is that business does not have to train, but the government will levy fees and will take care of the training requirements for business;
- the Australian Government moved away from this old style approach to policy making some 30 years ago);
- This is not a policy space that any government should want to venture back into even as an option, let alone design a scheme which takes government policy making back into what has been referred to as 'the Stalinist days of government training, where the government knew what was best for business'.

There are three possible outcomes for business that will result from the introduction of the nomination training contribution charge:

- businesses that historically have been free riding and poaching off other business will continue to do so and will regard the nomination training contribution charge as a small 'price' to pay for not providing adequate training (and meeting the former 1 per cent threshold) where the local labour market lacks adequate supply of skilled workers to poach:
  - these businesses are effectively being 'rewarded' vis a vis other businesses that have met the training requirement;
  - \$8,000 per skilled visa holder is significantly less than the costs of wages and the supervision costs for an apprentice over a period of four years before the person is fully skilled (these costs are in the order of at least \$50,000 over four years);

- This is the wrong signal to be sending to these businesses;
- businesses that have been meeting their training threshold of 1 per cent may decide to offset the costs of the nomination training contribution charge by reducing their training effort:<sup>4</sup>
  - the main area for savings to offset the new charge will be training costs since addressing short term needs through recruiting overseas skilled workers and paying the nomination training contribution charge is a more immediate and important solution compared to training apprentices;
  - this will lead to a downturn in training (and apprentice numbers) for these businesses and will have a contrary effect to what the Government is seeking; and
- businesses that have been meeting their training threshold of 1 per cent and will continue to train at the same level, but are required to 'pay again' for training through the nomination training contribution charge:
  - these businesses will be significantly worse off (and less profitable) and it is a matter of time, before their accountants dissuade the owners from major significant commitments in training.

### Box 3: The Motor Trades

The Motor Traders Association of Australia released a report on the future of the motor trades in Australia in August 2017: in that report it was noted that Australia currently has a shortage of over 16,000 motor mechanics and over 2,500 diesel mechanics and that these shortages are expected to continue for a number of years.

Young people are not coming forward to be apprentices in the same numbers as was the case previously in the motors trades (currently there are only 9,600 motor trades apprentices) and those that do become apprentices often leave before they complete their trade qualification (attrition rates are currently around 50 per cent: NCVER). Coupled with the impending retirement of a number of skilled mechanics, this means the current skills shortage will progressively grow larger every year and the new apprentices completing their apprenticeships will be unable to replace all of the retiring mechanics.

Historically, young people interested in 'cars' was the basis for recruiting most apprentices to become motor mechanics. Nowadays, most young people do not aspire to become motor mechanics, due to outdated perceptions of what a mechanic does in the workplace. Workshop service managers and dealer principals advise that most of the young people that are interested to becoming motor mechanics, are usually not suited as they do not have the skills, aptitude or attitude for the work: the occupation of motor mechanic has evolved into highly skilled diagnostic work.

It is noted that most car dealerships would easily meet the 1 per cent training threshold due to their commitment to training apprentices and paying training levies to the vehicle manufacturers for OEM training on the latest make of vehicle.

## 6. Proposed Revisions

To address the unintended consequences through the introduction of the nomination training contribution charge, it is proposed that there is some flexibility in its design rather than a 'blanket, one size fits all' proposal that has been put forward by DIBP.

The flexibilities that could be considered include:

- exempting business that are able to, or already meet, the 1 per cent training commitment;
- exempting SMEs (or small businesses);
- exempting occupations which require trade qualifications;
- exempting occupations, where the salary is less than a specified amount: ie \$80,300 (average weekly ordinary time earnings);
- or combination of the above;

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<sup>4</sup> Behavioural economics strongly suggests that businesses will focus on the short term provision of skills to address their immediate skills shortage and pay the nomination training combination charge, but will not offer as many opportunities for apprentices to help solve their long term skills requirements: this will only worsen the current apprentice situation and make the skills shortage self-fulfilling.

If the Australian Government wants to increase training, then this is more likely if businesses are given choice:

- the choice to pay \$8,000 over four years to the Government (without any return on the expense, other than obtaining a skilled visa holder more quickly); or
- be exempted if the business meets the 1 per cent training threshold (ie a skilled visa holder and obtain a return on their investment by developing future skilled workers).

Of course, this does not apply to all businesses by virtue of their industry, since many are unable to meet the 1 per cent training threshold.

If businesses are able to demonstrate that they meet the minimum training threshold, in lieu of paying the nomination training contribution charge, it is expected that the amount of training and the number of apprentices employed will actually increase. Behavioural economics would very strongly suggest that businesses would prefer not paying a nomination training contribution charge and would seek to increase their training to meet the minimum training requirement and/or engage apprentices (most businesses spend less than \$8,000 per employee per year).

It is further proposed that measuring the 1 per cent training threshold be retained and that DIBP shift the responsibility to determine whether a business does or does not meet the training threshold. DIBP staff are not experts in reading financial statements and ascertaining whether a business meets the requirements. It is proposed that external accountants and/or auditors make this assessment for DIBP.

Shifting this responsibility to external accountants/auditors will:

- lead to more informed assessments;
- quicken the process as it is being undertaken by experts;
- lead to resource savings for DIBP which could be re-allocated to processing skilled visa applications.

**‘current system’ need not be ‘...complex, costly and open to misuse...’**

It was claimed by Minister Dutton on 17 March 2017, that the current system is complex, costly and open to misuse: this need not be so.

The reality is that DIBP designed the current system and has spent most of its time adjusting and tinkering with one model of how the training expenditure could be measured: this is also considered the most intrusive model where businesses are required to submit their detailed financial information and financial statements to DIBP for them to determine whether the business has met the minimum training threshold. Many business are concerned about providing financial information in addition to that provided to the Australian Taxation Office, due to the possibility of leaking of their commercially sensitive information as has occurred in recent years.

There are alternate ways of administering and determining whether a business has or has not met the minimum training expenditure.

One simple alternative is that a business’s external accountant or auditor or an independent accountant or auditor could certify the amount of the employer’s payroll, the amount spent on eligible training and whether this has or has not met the minimum training threshold. The professional standards of accountants and auditors indicates that this would be accurate and completed truthfully.

This certification could then be used by DIBP to determine whether the employer met the requirement and could be exempted from the nomination training contribution charge.

## Conclusion

The policy initiative to enable employers that have been unable to demonstrate their ability to meeting the 1 per cent minimum training threshold in order to recruit skilled visa holders, should be applauded.

The initiative, however, should not become a blanket approach for all industries, for all skilled visa holder positions and for all business as it ignores the reality of behavioural economics and the negative impact on businesses, particularly SMEs.