

DISCUSSION PAPER

IMPROVING THE PERFORMANCE OF BUSINESS SKILLS MIGRANTS

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The purpose of this paper is to investigate some of the issues associated with the performance of migrants in the Business Skills category (BSC). Research and analysis has shown that the contribution of migrants in the Business Skills category of the Migration Program continues to be of benefit to Australia. We know that BSC arrivals during 1996/97 and 1997/98 have invested a total of \$436 million in businesses in Australia and have directly generated employment for more than 8,611 people. There are, however, some emerging issues that need to be examined and properly addressed. While we know that BSC has delivered well on some indicators, there are others that continue to be of concern, for example, the lack of dispersal of business migrants across Australia, in particular to regional, rural and low growth areas of Australia, as well as a declining business engagement rate.

2. In designing the ideal Business Skill visa category, the key outcomes we would like to see are:

- improved success rates in setting up business in Australia;
- better dispersal, through:
 - improved links to State and Regional Development Plans,
 - State/Territory Government sponsorship; and
 - State Government business support;
- greater clarity and certainty of the pathways to permanent residence;
- more consistent decision making, through
 - objective/transparent criteria
 - centralised processing centres
 - more rigorous quality control
- reduced scope for abuse, through
 - temporary residence grant in the first instance
 - monitoring
 - site visits to assess business activity.

BACKGROUND

3. DIMIA has noted that there are numbers of permanent business migrants who do not get into business or whose business activities did not fulfil the definition and policy intent of an “eligible business”. It has also been noted that a number of subclass 845 Established Business in Australia visa holders, who obtained their residence after establishing a business in Australia, are performing better than Business Owner

migrants. This paper examines the pathways and performance of both these categories and notes specific issues identified by DIMIA.

4. In addition, there are two other significant and related issues for consideration in the context of maximising the benefit to Australia of the BSC category of the Migration Program. Firstly, how can we best address the complaints from business migrants that they do not understand the business requirements in Australia? Almost 20 per cent of 1996-97 business migrant arrivals surveyed at the end of their first three years, who were not in business, cited lack of business information as the principal reason for failing to engage in business. The crucial policy issue here is how to engage appropriate pre-visa and post arrival support to maximise the chances of success in getting into business. The second important issue is the quest for better distribution of BSC migrants to those areas of Australia seeking a greater share of skilled and business migrants. This issue has been highlighted recently in the September 2001 report of the Joint Standing Committee on Migration's Review of State Specific Migration Mechanisms "New Faces, New Places".

Current Business Skills Migration Pathways

5. There are currently two pathways for business people to settle in Australia:

(i) Direct permanent entry

6. Business people may apply for direct migrant entry to Australia under the Business Skills category (offshore or onshore). Applicants must meet criteria for one of the subclasses of visa, which focus on the applicant's track record in business or investment or, in the case of senior executives, in employment at a senior level of a major business.

7. Migrant entry through the Business Skills category (offshore or onshore) carries an obligation, set down in the *Migration Act 1958*, (the Act) that BSC holders:

- obtain a substantial ownership interest in an eligible business; and
- use their skills in actively participating in a senior level in the management of that business, or at least make a genuine effort to achieve this.

8. Business Skills migrants are required to contact DIMIA within one month of arrival to notify their address in Australia, are surveyed at 24 months and 36 months after arrival, and information on their business activity is assessed, with the prospect of visa cancellation if they have not made a genuine effort to get in to business within three years of their arrival in Australia. Investment-linked visa holders are not required to go into business after arrival in Australia, but must maintain their designated investment for the three year period.

9. BSC visa holders are entitled to all the benefits of permanent residence, including access to Australian citizenship after two years residence (including the residence concession for residence outside Australia if engaged in activities of benefit to Australia), fee-free education for school and tertiary study-aged dependants and access to Medicare.

(ii) Temporary entry leading to possible permanent residence

10. Temporary entry as the holder of a four-year Business (Long Stay) visa as an Independent Executive (the 457IE visa) provides for applicants who generally cannot meet the BSC criteria, but who have a genuine commitment to establishing, or obtaining an interest in, and actively managing a business which is of benefit to Australia. These visa holders are eligible to apply for permanent residence in the Established Business in Australia (EBA) category (or the regional version - REBA) on the basis of the business they own and manage in Australia. Temporary visa holders do not have access to the same entitlements as permanent residents.

Differences in avenues to permanent residence

11. There are major differences in these two avenues to permanent residence, in terms of the level of and focus on the threshold eligibility criteria and in terms of the post arrival requirements and entitlements. BSC migrants are selected through an assessment of their “proven track record in business” in managing a business of a reasonable size, and are assessed via a calibrated points test for age, English language ability, net assets available for transfer to Australia and the attributes of their business. One of the key criteria for this category - the net assets in business requirement - was reduced from \$300,000 to \$200,000 in November 1999 following a recommendation by the Business Advisory Panel, in order to attract more applicants.

12. As BSC migrants are selected on the basis of their proven business acumen, they are expected to be well equipped to meet their visa obligations within the three-year monitoring period. The post-arrival requirements for business migrants form an integral part of a system of monitoring the achievement or otherwise of program goals administered by the Commonwealth Government. The previous lack of monitoring of the former Business Migration Program was noted in the 1991 Joint Committee of Public Accounts (JCPA) report on that program as a shortcoming in the accountability framework for this visa category and hampered the effective administration of the program.

13. The temporary entry Independent Executive category pathway is an alternative pathway to permanent residence. The criteria for this visa category focus primarily on the applicant’s prospective commitment to owning and directly managing a business in Australia and having a “background relevant to the proposed business activity”. The criteria for this visa category have been criticised by the Australian National Audit Office (ANAO) in the Performance Audit of Business Entry Program as being highly subjective, leading to inconsistent and poorly documented decision making. With lower threshold criteria, shorter processing times and a temporary entry visa application charge, the 457 Independent Executive visa has been actively promoted by some migration agents as the simpler, cheaper, faster way of obtaining business migration entry to Australia.

14. There has been a steady rise in the number of 457IE visa holders in Australia. There are some concerns, however, about the low application rates for the permanent EBA/REBA visa, by holders of the 457IE visa.

Number of Independent Executives in Australia:

At 30 June 1998	At 30 June 1999	At 30 June 2000	At 30 June 2001
1066	3312	5320	6619

Number of EBA/REBA applications:

1997/98	1998/99	1999/2000	At 30 June 2001
455	661	1178	1516

15. The refusal rate for EBA/REBA applications of around 35 per cent (higher in some DIMIA processing centres), combined with the low application rate, has led to some concern that there may be a growing stock of potentially unsuccessful business people who may not meet EBA/REBA eligibility requirements. There are also 457IE visa holders in Australia who are unable to meet permanent residence criteria, notwithstanding that they have established a successful business in Australia. In many such cases applicants are unable to meet the Business Skills (Residence) points test, because they score zero points for the age factor, or have not employed the requisite number of employees. These concerns, combined with the BAP review of the 457IE category, provided the impetus for the proposal for reform of the 457IE/EBA/REBA categories on which a number of stakeholders have been engaged.

Variations in performance between BSC migrants and 457IE visa holders

16. There appears to be some disparity in performance between BSC migrants who receive permanent residence on initial entry to Australia and those who obtain residence via the 457IE/EBA/REBA route. EBA visa holders are surveyed three years after visa grant in order to measure business activity (they are exempt from the cancellation provisions). Data collected from the latest cohort of 36 month surveys shows that while 86 per cent of EBA visa holders and 87 per cent of BSC migrants are engaged in business:

- EBA visa holders after three years employ on average 9.4 people (median 8 people) compared with an average of 7 employees (median 3) for Business Owner/Senior Executive visa holders;
- EBA visa holders invest on average \$596,000 (median \$300,000) compared with \$316,000 for Business Owner/Senior Executive visa holders (median \$100,000);
- 33 per cent of these EBA businesses have an annual turnover of more than one million dollars, compared to 11 per cent of all Business Owner/Senior Executive owned businesses.

17. It is notable that BSC applicants who have been selected on the basis of their proven track record in business and who have met higher eligibility thresholds at the

application stage, are outperformed on some indicators by EBA visa holders who have come through the lower-standard 457IE category. It should be noted, however, that EBA holders only comprise one per cent of the total of 36 month survey responses, that many 457IE visa holders are not applying for EBA at all (only 1,178 EBA applications were lodged from the stock of 5,320 457IE holders in 1999-2000) and that overall there has been a high (35 per cent) refusal rate for EBA applicants. It is evident, therefore, that while the measurable EBA business outcomes are positive and more impressive than BSC against some indicators, the actual proportion of the Business Skills migration program numbers which are EBA visas is very small.

Access to Australian Citizenship

18. An issue that has aroused some concern is the ability for BSC visa holders (ie permanent residents) to take out Australian citizenship before the three-year monitoring period has elapsed. Faster processing times for citizenship applications means that this can be done quickly after two years physical presence in Australia. Based on advice from Citizenship processing areas, it is estimated that there are possibly up to 500 applicants for citizenship per annum - some 8 per cent of the current annual BSC intake - who lodge a citizenship application after two years in Australia, but within the three year monitoring period. Our cancellation records show that from July 2000 to the end of June 2001 there was a total of 101 BSC visa holders who would have been subject to cancellation action, because of a failure to establish a business, but who had already obtained Australian citizenship within the three year monitoring period.

19. There is also evidence that numbers of business migrant spouses and dependents apply for citizenship as soon as the two year residence requirement is met, although the principal business migrant is absent from Australia for considerable lengths of time. This may suggest that the intention or commitment to establishing a stable business is either low or non-existent for these people. From an examination of a number of monitoring cases, DIMIA notes that numbers of primary visa holders have not made a genuine effort to get into business and would therefore have been liable for visa cancellation with all family members consequentially cancelled, except that they have already obtained Australian citizenship within the monitoring period. There has been one such case of a dependent applying for citizenship where the principal business migrant had never even made initial entry into Australia.

20. There has also been considerable increased pressure on s13(4)B1 of the *Australian Citizenship Act 1948*. Business skills and other applicants are applying on the basis that they are engaged in activities beneficial to the interests of Australia. Increased monitoring activity drew to our attention the irregularities in rapid access to citizenship, despite a very limited stay in Australia, that were the subject of a departmental investigation. Instances of this nature highlight the importance of DIMIA maintaining a strong response to any intended malpractice.

21. A further concern in access to Australian citizenship is that a Business Skills visa cancellation does not come into effect until 28 days after the cancellation decision is upheld by the AAT (s134(8) of the Act) if the cancellation decision is appealed. At present, the time taken for appeals against cancellations to be heard by the Administrative Appeals Tribunal (AAT) is between 12 months and two years. Should a BSC visa holder who has received a cancellation decision apply for Australian

citizenship prior to appealing to the AAT, deferral of the citizenship application under s14A of the *Australian Citizenship Act* cannot exceed 12 months. A decision must be made at the end of the 12-month period and an application can only be refused if the applicant does not meet the requirements of s13(1). A decision to cancel a BSC visa, made by an officer in the Business Skills Section, which is not yet in effect, is insufficient to prevent the grant of citizenship.

22. While DIMIA has developed interim measures, within the existing legal framework, to address the issue of access to Australian citizenship within the monitoring period, a more strategic approach to this issue is required in order to deliver the intended benefits to Australia.

Access to fee free education for dependants

23. The age profile and family composition of business migrants indicates a large proportion of them have tertiary education age dependents (average family size of BSC visa holders is 4 people). Business Skills monitoring survey responses indicate that access to education for their children is a major factor in the decision of business people to migrate. Of the 115 cases (439 persons) cancelled from July 2000 to the end of June 2001, 181 children were included, of whom 74 (41 per cent) were dependents aged over 18 years old at the time of the cancellation. In most of these cases the principal business migrant had been absent from Australia for such a considerable length of time that a decision-maker determined that it would not be possible for that person to be able to be making a genuine effort to establish a business in Australia.

Other Issues for the Business Skills Program

(i) Senior Executives

24. Subclasses 128 and 841 of the BSC class provides for Senior Executives from one of the top three levels of management of a major business (turnover greater than \$50m) to apply for business migration on the understanding that they will meet the same obligations as other business owners, ie obtain a substantial ownership interest in an eligible business and participate in monitoring. The expectation is that this group will use their high-level strategic management skills acquired in running a business to own and manage a business in Australia.

25. Through more rigorous monitoring of Business Skills migrants, the Business Skills Section has identified a small but growing number of Senior Executive visa holders who have failed to engage in business in Australia. Of the latest cohort that have completed a 36 month survey, only 78 per cent self-reported to be in business (compared with 87 per cent in the Business Owner category). Some of these migrants have, however, gained senior level employment of benefit to Australia. DIMIA has not cancelled visas in those cases where there is clear benefit to Australia and the individual would qualify under other permanent entry categories (such as the Employer Nomination Scheme (ENS)). DIMIA has, however, counselled the migration agents involved, although there is no evidence that agents have actively encouraged applicants to come through the Senior Executive route in order to secure employment in Australia, rather than set up a business. With a growing number of cases coming to attention, it is timely to consider whether changes need to be made to the pathways for Senior Executive applicants to ensure more appropriate outcomes.

(ii) Investment Linked Category

26. Reservations were expressed at the establishment of the Investment-linked (subclasses 131 and 844) category - in which applicants must lodge a designated investment of at least AUD\$750,000 - that it could be seen as a "buy a visa" category. The expectation has been that applicants selected on the basis of their proven investment skills, who invested in Australia, would also, in the longer term, engage in business activities of benefit to Australia. While not required to obtain a substantial ownership interest in an eligible business (as are Business Owner and Senior Executive visa holders), Investment Linked visa holders are surveyed at 36 months after arrival to measure their business contribution to Australia. Survey data for the 1996-97 arrivals has shown that only 23 per cent of Investment Linked visa holders were engaged in business three years after arrival.

27. While some Investment Linked visa holders may be supported by investment activity separate to the designated investment lodged, it is timely to query whether this adequately reflects the desired outcome for this category. There has been a steady increase in the application rate for this category. Rejection rates remain fairly high in this category (varying from 30 per cent to 50 per cent since the category began). Anecdotal evidence provided by some posts is that this category is becoming increasingly attractive as an alternative to the Business Owner category as DIMIA monitoring activities have increased, as this group is not subject to the same monitoring requirements (cancellation liability only applies if the designated investment is withdrawn within three years).

28. Visa grants in this category increased by 70 per cent in the 2000/01 program year (965 in 2000/01 compared to 569 in the previous year). To ensure that Government objectives are being met, assurance is required that visa holders in this category are not seeking a "soft option" with no intention of using their business/investment skills. Interim measures have been developed, within the existing legal framework, to address the issue of access to Australian citizenship within the monitoring period, however a more strategic approach is required to address this issue. The key issue is how to improve the performance of the Business Skills Class by strengthening the framework for encouraging performance consistent with the expected outcomes of the program.

(iii) Dispersal of Business Migrants

29. The Commonwealth has worked in close partnership with State and Territory Governments and regional authorities to enable more business migrants to settle in regional Australia. Two key mechanisms for this are:

- the Regional Established Business in Australia (REBA) visa, to enable long-term temporary business entrants to set up successful business ventures in regional Australia and thereby obtain permanent residence; and
- the State/Territory Sponsored Business Owner/Senior Executive categories. This mechanism enables State and Territory Governments to directly sponsor business migrants to their jurisdiction as a means of encouraging potential applicants to establish businesses in regional areas.

Both of these mechanisms provide significant concessions to people wishing to set up a business in regional Australia, if they are supported by the relevant state/territory

government. The REBA category also has provision for a waiver of the points test if exceptional circumstances are put forward by the sponsoring state.

30. These mechanisms, however, have had only modest success in dispersing business migrants to regional, rural or low growth areas of Australia. The following table shows the distribution of business migrants settler arrivals by state/territory as at June 2000:

Settlers Arrivals - Business Skills for 1999-00

State/Territory of Residence		per cent
New South Wales	2015	35.78
Victoria	1030	18.29
Queensland	839	14.90
South Australia	92	1.63
Western Australia	1612	28.63
Tasmania	14	0.25
Northern Territory	7	0.12
Australian Capital Territory	22	0.39
Other Territories	0	0.00
Australia	5631	100

REFORM OF BSC

31. In order to address the issues raised above and in the context of clear public policy objectives of a higher level of success, better dispersal of business migrants and greater integrity in business entry categories, the following is an outline of the aims of the proposal for reform of the BSC category.

Aims of BSC Reforms

32. The major objectives for reform of the BSC category are:

- Improved success rates in terms of setting up successful businesses in Australia;
- Better dispersal and links into state and regional development plans, via:
 - State/Territory sponsorship
 - State Government business support ;
- Greater clarity/certainty of pathway to permanent residence;
- More consistent decision-making, through:
 - Objective/transparent selection criteria
 - Centralised processing centres
 - More rigorous quality control;
- Reduced scope for abuse, through:

- temporary residence
- monitoring of performance
- site visits of businesses.

Provisional Business Skills Visa Proposal

33. A two-stage processing arrangement starting with a “provisional visa” could be the appropriate strategy for addressing the issues outlined above. Under this arrangement, a business skills applicant could be granted a four year temporary visa on the basis of specified criteria, and could, after a specified period of time, having established or bought into a business in Australia, be eligible for permanent residence. The advantage of this approach is certainty for the applicant if appropriate business activity is pursued, and greater certainty for the Government that business activity will be pursued. This would, in effect, enable the current monitoring function to become the basis for the second stage permanent residence application.

34. Having two similar Temporary Business Entry (Long Stay) visas - a Provisional Business Skills visa and the Independent Executive visa – would nevertheless present difficulties and possible confusion in the minds of prospective applicants, especially if the criteria were set at different levels. Better marketing of the category would be achieved by rolling these two visas into one category and adopting the best features from both. This approach raises the issue of appropriate criteria for the provisional visa. Criteria would need to be developed carefully to ensure that there are no adverse program consequences.

35. This arrangement would remove the incentive for abuse by those BSC applicants who do not intend to use their business skills in Australia. As such, it is likely to have the strongest effect in guaranteeing performance of BSC migrants as neither permanent residence nor citizenship would be available to “non-performing” business skills migrants. This would remove access to high cost Australian residence benefits, such as fee-free education for dependents, until the business migrant establishes a business, which is appropriately assessed at the second stage application. This would increase integrity to the process of acquiring Australian citizenship, in that access is not possible until business efforts have been verified and two years permanent residence has been achieved after the grant of the second stage visa.

36. The provisional visa arrangement would shift the emphasis of the BSC category to proven outcomes in Australia rather than prior performance offshore and would in this way overcome the current disparity in performance that frequently occurs between BSC migrants and Independent Executive temporary entrants in establishing their EBA business.

State/Territory Sponsorship to Promote Dispersal

37. The Government is strongly committed to providing visa arrangements that are responsive to the economic development needs of the states and territories. Such arrangements need to balance flexibility with the need for integrity of the BSC category. The provisional visa model should therefore provide for an optional State/Territory sponsorship arrangement at both the temporary and permanent entry stage. The JSCM Report “New Faces, New Places” recommended that DIMIA provide temporary business

entrants with information about contacting local agencies (Recommendation 13) to improve the level of support for prospective business migrants. Early linkage to state and territory governments would greatly assist the level of support for provisional Business Skills migrants and, in turn, lead to improved success rates in getting into business.

38. The state sponsored visas should have criteria set at a slightly lower level than the non-sponsored visa. DIMIA is of the view that linking prospective applicants to sponsorship arrangements increases the visa applicant's chance of success in getting into business, as several state and territories have well-designed business support services that would be accessed via sponsorship arrangements. In general, the provisional visa arrangement would deliver better outcomes to regional and low growth areas of Australia via this State/Territory sponsorship arrangement. This would be achieved because provisional business visa holders would be required to remain in the region in order to qualify for permanent residence. Having established their residence and a business in a regional area, they would be more likely to remain there in the longer term.

Simplification

39. In addition to addressing some of the concerns about the BSC category outlined above, the provisional visa arrangement would also encompass the BAP recommendations regarding rationalisation and simplification of the Business Skills visa categories. The proposal is consistent with the BAP review Recommendation 35 which sought a restructure/simplification of the current BSC visas including a reduction of the number of subclasses.

40. To some extent, the provisional visa may introduce a stronger element of uncertainty for business migrants – but only for those who may not intend to establish a business. For some prospective business migrants it may be seen as an added layer of assessment and therefore may act as a deterrent and reduce demand. However, while it may reduce Australia's competitive advantage over other countries for some applicants, it is estimated that, overall, it will have little impact on program numbers. Business people who want permanent residence in Australia and genuinely intend to establish and run an eligible business in Australia would continue to apply. In addition, the pull factors to Australia which already exist for business migrants will continue to exist. Those BSC applicants who have no serious intention of business performance in Australia would be deterred from applying.

Possible visa structure for consideration

41. The provisional visa arrangement for BSC migrants would envisage the replacement of the permanent Business Skills Class and the temporary Independent Executive stream of the Business (Long Stay) visa with a new temporary visa. As with the current 457IE visa, the temporary visa would provide applicants with a four-year visa to enter Australia to set up and manage a business. Provision would then be made for the holders of the temporary visa to be eligible to apply for permanent residence once they had established a business in Australia for a period of time. The length of time proposed in which an applicant would be eligible to apply for their permanent residence visa would be up to four years after arrival, but definitely sooner if they have established a business which they are actively managing. It would be appropriate under such an

arrangement to achieve alignment of criteria between the temporary and permanent visa classes. This could be achieved by ensuring adequate assessment of applicants against core threshold criteria, such as age and English, at the temporary entry stage. A key aim would be to ensure there was a greater chance of success for permanent residence, given assessment of key criteria up front and more flexibility in assessing business attributes at the permanent entry stage. Such an approach would clearly address some of the difficulties with the existing 457IE/EBA/REBA route to permanent residence.

42. The following table sets out the different backgrounds applicants can have under the existing Business Skills and 457IE categories and the different obligations placed on them after arrival in Australia:

Current subclass	Background	Post-arrival obligations
Business owner	Owner and manager of own business	Must make genuine effort to own and manage business of benefit to Australia
Senior executive	Senior employee in major business	Must make genuine effort to own and manage business of benefit to Australia
Investment-linked	Owner and manager of own business or eligible investments	Must maintain designated investment for 3 years
Independent Executive	Relevant to business proposal	Must own and manage business of benefit to Australia, including meeting legislated business attributes to be eligible for permanent residence

43. The two-stage processing option would simplify this visa structure, in line with Recommendation 35 of the BAP Report and provide greater consistency in the expectations of business people after arrival in Australia. It would also provide an opportunity to address concerns in the senior executive category, whereby a number of applicants find employment as senior executives in major Australian firms. Such applicants could be given the option of applying for permanent residence under the Employer Nomination (ENS) category, while those senior executives who do go into business could proceed with a residence application under the Business Skills category.

44. The post-arrival requirements of the Investment-linked category are also out of step with the other subclasses. The increasing number of Investment-linked applications has led to concern that this category is being chosen as the “easy option”, as there is no requirement to engage in business activity. The original intention of the

category was to attract active investors with larger portfolios who did not fall within the business owner or senior executive subclasses, yet had a wide range of business and/or investment skills to offer Australia. It may now be appropriate to consider whether the category still meets its original policy intention and/or whether there should be other post-arrival requirements placed on Investment-linked visa holders to bring them into line with other migrants under the Business Skills category.

45. Under the provisional visa option it is proposed that the category target business people with the following backgrounds and intentions in Australia:

Background	Post-arrival obligations	Sponsorship requirements
Business owner/manager meeting set minimum business thresholds	Own/manage a business in Australia meeting set minimum business thresholds	Un-sponsored entry
Business owner/manager with lower level minimum business thresholds	Own/manage a business in Australia with lower level minimum business thresholds	State/Territory Sponsored entry
Senior employee with a major business	Own/manage a business in Australia meeting set minimum business thresholds OR seek sponsorship under ENS	Un-sponsored entry
Senior employee with a non-major business	Own/manage a business in Australia meeting set minimum business thresholds	State/Territory Sponsored entry
Owner/manager of large investment portfolio with minimum thresholds	Own/manage a business in Australia meeting set minimum business thresholds OR seek sponsorship under ENS	Un-sponsored entry

46. This approach would enable the creation of a temporary and permanent visa class, each with a state/territory sponsored and unsponsored option. Applicants who did not meet criteria for unsponsored entry would be eligible to seek sponsorship from a State/Territory government for consideration against sponsored entry criteria. This sponsored/unsponsored option would be replicated at the permanent entry stage ie those applicants who met certain business thresholds would be eligible to be granted permanent residence without sponsorship; other applicants would need to seek endorsement from the State/Territory in which their business was located to access concessionary visa criteria.

47. In setting the criteria, it is proposed that threshold criteria for the unsponsored visa be set at levels around the same as or slightly lower than those for the existing Business Skills category. This would also allow high-quality Independent Executive applicants to be eligible to enter Australia as unsponsored applicants. Proposed criteria for the sponsored visa would be set at levels similar to or slightly higher than the existing

457 Independent Executive visa criteria, but would allow sufficient flexibility for States/Territories to sponsor applicants who have demonstrated an interest in, and solid proposal, of benefit to their jurisdiction. Criteria relating to age, English, net assets and certain other background attributes for the state sponsored category of the provisional visa would also need to be set.

48. This proposal aims to address the range of issues which have been identified in relation to both the Business Skills and 457IE categories, noting the ANAO analysis of the 457 IE category and requests from State/Territory governments for greater input into the selection of business migrants for their respective jurisdictions. In addition, the provisional visa option would address the need for greater clarity for Independent Executives of the pathway to permanent residence by ensuring key criteria are met at the temporary entry, rather than the permanent residence, stage and by providing greater flexibility in the criteria for permanent residence. The provisional visa option would also enable simplification of the Business Skills visa structure by streamlining the number of visa classes, the routes by which permanent residence can be obtained and the post-arrival obligations of Business Skills migrants to get into business.

Issues for Further Consideration

49. A number of issues require further detailed consideration under this proposal for reform. Options papers are currently being prepared addressing these.