



Australian Private Equity & Venture Capital Association Limited

11 April 2014

Dear Sir/Madam,

Enhancing the Significant Investor Visa programme

The Australian Private Equity and Venture Capital Association (AVCAL) welcomes the opportunity to make a submission to the review of the Significant Investor Visa (SIV) programme being conducted by the Australian Department of Immigration and Border Protection.

AVCAL represents the venture capital (VC) and private equity (PE) industry in Australia, which has a combined total of over \$24 billion in funds under management for domestic and offshore investors. VC and PE firms invest billions of dollars in early stage and established businesses spanning right across almost every corner of our national economy. These investments help to support around half a million jobs, and contribute over four per cent every year to our national economic output every year.

The structural shift that is currently taking place across our economy right now is serving to highlight the critically important need confronting Australia to re-calibrate our existing policies to drive much-needed capital investment into innovative sectors that will boost economic and employment growth into the future.

AVCAL has consistently maintained for some time that the current SIV regime should be expanded in order to facilitate more capital investment into Australian businesses from offshore sources. In an increasingly globalised marketplace where the race to attract capital is highly contestable, Australia should be taking every opportunity possible to position itself to compete with other jurisdictions that are adopting deliberately targeted policies to improve their capacity to source investment from offshore.

Pleasingly, recent comments made by the Australian Government suggest to us that there is now a preparedness to look at opportunities to sharpen our focus on attracting capital from offshore investors.

In particular, the Government has said that it is looking for a "more flexible approach that could see more of the investment capital attracted under that [SIV] programme being available to more small and medium sized businesses, including entrepreneurial start-ups"¹. AVCAL is very supportive of policy measures that have the effect of opening up funding channels for Australian businesses that otherwise may not have access to other financing options such as capital market raisings or debt.

The current programme

The SIV programme is an important component of the policy framework that helps to make Australia an attractive destination for foreign capital from high net worth individuals. This review is a timely opportunity to further enhance the practical application of the programme, which will amplify the current Government's strategy of promoting Australia as being "open for business" to offshore investors.

As you will be aware, the current SIV regime requires applicants to invest at least A\$5 million into one or more 'complying investments'. However, in our view there currently exists an important inconsistency in that list of 'complying investments'.

¹ Minister for Immigration and Border Protection, Migration Institute of Australia National Conference, 21 October 2013

The current regime allows for applicants to invest directly in unlisted Australian proprietary companies, but there is no clear corresponding provision that allows for investments into managed funds that invest into such companies (such as PE and VC funds) to fall within the definition of a 'complying investment': there does not appear to us to be any justifiable policy basis to exclude managed funds from falling within the definition.

This anomaly means that SIV holders do not currently have the opportunity to invest in domestic businesses through professionally managed Australian PE and VC funds, which are widely regarded as being among the most developed and well-regarded in the broader Asia-Pacific region.

This shortcoming in the existing regime also means that the number of Australian businesses (such as 'start-ups') who could directly benefit from SIV investment capital will be much more limited and constrained than would otherwise be the case if the list of eligible 'complying investments' were broadened. AVCAL understands that around A\$720m of 'complying investments' have been made into Australia since the commencement of the SIV programme in late 2012. While that level of overall investment is not insignificant, a broader list of complying investments would, in our view, potentially open-up a much larger level of offshore investment into a variety of industry sectors right across the Australian economy.

It is worth noting that there have been some suggestions in the past that investment into PE and VC funds could currently fall within the list of complying investments by virtue of the category that allows for managed funds invested in Australian companies that are "listed or expected to be listed within 12 months on an Australian Stock Exchange". AVCAL does not support such an interpretation, however, because in most instances PE and VC funds will typically constitute 10-year funds that allow for a range of possible liquidity events over the life of the fund; a stock market listing would only ever be one possible exit option for those funds.

Recommendations for an enhanced SIV programme

AVCAL proposes that the categories of 'complying investments' for the purpose of the SIV regime be further expanded to include the PE and VC asset classes. This will give greater flexibility to fund managers to tailor SIV-compliant funds to meet investors' risk-reward appetites, while at the same time boosting access for unlisted Australian businesses' to capital from non-bank sources.

A broader regime will also allow SIV applicants greater flexibility in matching the characteristics of their Australian investments with their own entrepreneurial expertise, and help attract risk capital to areas where their 'know-how' can add greatest value in the marketplace.

An enhanced SIV regime will also help to re-position Australia to compete more effectively with other jurisdictions that have more expansive SIV-equivalent regimes in place.

The broadening of the list of complying investments would potentially also allow high net worth business migrants to play a more significant role in supporting investment in small and medium sized enterprises across all sectors of the Australian economy. Additionally, it would boost the availability of investment capital, which is vital to allowing businesses to expand and make a sustainable contribution to the economy.

Many other countries, including the United States, United Kingdom and New Zealand, use similar programmes to attract foreign investment capital into their domestic economies. Some jurisdictions, such as Singapore, have put in place deliberate policy measures to aggressively compete for capital by allowing permanent residency visas for individuals who have invested into approved PE and VC funds. While AVCAL is not endorsing or recommending such an approach here in Australia at this point, it is worth noting the extent to which other developed jurisdictions are advancing their policies in this area to continue to compete for investment capital in the globalised marketplace.

AVCAL believes there is a compelling case for an expanded SIV regime to be adopted by the Government as a result of this review. An enhanced SIV regime will help to support the Government's over-arching strategy of making Australia an attractive destination for foreign capital investment, which is vitally important to safeguarding our future economic prosperity.

If you would like to discuss any aspect of this submission further, please do not hesitate to contact me or Dr Kar Mei Tang on 02 8243 7000.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Yasser El-Ansary', written over a horizontal line.

Yasser El-Ansary
Chief Executive
AVCAL