AUSTRALIAN INVESTMENT COUNCIL

17 February 2021

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

By Email: ICAP@homeaffairs.gov.au

Complying Investment Framework for the Business Innovation and Investment Program

Dear Sir / Madam,

As the voice of private capital, the Australian Investment Council is pleased to present this response to the consultation on the Complying Investment Framework **(CIF)** for the Business Innovation and Investment Program **(BIIP).**

Private capital investment has played a central role in the growth and expansion of thousands of Australian businesses and represents a multi-billion-dollar contribution to the Australian economy. Our members are the standard-bearers of professional investment and include private equity (**PE**)**,** venture capital (**VC**) and private credit (**PC**) funds, alongside institutional investors such as superannuation and sovereign wealth funds, as well as leading financial, legal and operational advisers. Our members include both Australian domestic and offshore-based firms.

Private capital fund managers invest billions of dollars into Australian companies across every industry sector of the economy every year. Australian-based PE and VC assets under management reached $33 billion in 2019 with an additional $13 billion in equity capital available to be invested in the short-term. The private capital industry is contributing to Australia's economic recovery and the development of Australia's industries of the future. Companies that partner with private capital fund managers contribute 1 in every 9 new jobs in Australia and provide 2.6% of our nation's GDP.[1]

The Australian Investment Council is supportive of policy initiatives and reforms that help to ensure our economy is competitive, innovative and able to support Australia now and into the future. In particular, we encourage reforms that help to expand the pipeline of talent and entrepreneurship to support fast-growth businesses that will sustain employment across all sectors of the Australian economy and contribute to economic growth.

The effective management of the COVID pandemic has placed Australia in a favourable position for attracting a greater market share of investment and skills that are critical for supporting investment into businesses that will drive innovation and transition our nation to a highly skilled knowledge-based economy. The BIIP can play a pivotal role in harnessing this window of opportunity by attracting sophisticated investors and establishing the right investment mix to maximise Australia's emergence from the COVID environment.

We look forward to participating in any future discussion about the themes set out in this submission as part of the government's work on the BIIP. If you have any questions about specific points made in our response, please do not hesitate to contact me or Brendon Harper, the Australian Investment Council's Head of Policy and Research, on 02 8243 7000.

Yours sincerely

Yasser El-Ansary
Chief Executive

[1] Deloitte Access Economics (2018) *Private equity: growth and innovation*, April

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Summary of recommendations

1. **Should the ratios currently applied by the CIF to SIVs remain?**
   Recommendation 1: Increase the ratio of Venture Capital and Private Growth Equity funds **(VCPE)** to 20%. Retain investment into emerging companies at 30% and decrease balancing investments to 50%.
   Rationale: Investment into jobs and growth and no impact on the volume of capital into the program.

2. **How should the CIF be applied to the Investor Visa?**
   Recommendation 2: Apply the same CIF ratios for SIV to the Investor Visa **(IV)**. Increase the ratio of VCPE to 20%. Retain investment into emerging companies at 30% and decrease balancing investments to 50%.
   Rationale: Maintain consistency with the SIV, maximise investment into fast-growth businesses, keep the investment approach simple to ensure confidence is retained in the BIIP.

3. **a) Should all eligible funds be limited to ASIC registered funds only?**
   Recommendation 3: Maintain the current status for VC and PE.
   Rationale: This would create another layer of unnecessary red tape and cost. PE fund operators and managers are already required to hold an Australian Financial Services Licence **(AFSL)** and to lodge audited accounts in compliance with the Corporations Act. VC funds operate under the well-established Early-Stage Venture Capital Limited Partnership **(ESVCLP)** and Venture Capital Limited Partnership **(VCLP)** regimes which are administered through the Department of Industry, Science, Energy and Resources.

   b) Should the threshold of funds under management be increased to further improve the integrity and function of the CIF?
   Recommendation 5: Do not increase the threshold amount of FUM for VC funds.
   Rationale: This VC sector is continuing to mature in Australia. Increasing the threshold could significantly impact funds in the growth phase.

4. **a) Provide a clear definition of Fund of Funds (FoF). Currently FoFs is referred to in the general requirements of the instrument but is not defined.**
   Recommendation 6: Clarify the definition of FoF by amending clause iii) to allow vertical integration within the FoF structure. Ensure the definition is consistent with the requirements outlined in the Australian Venture Capital Fund of Funds (AFOF) program.
   Rationale: Vertical integration is typically how investments are structured. Removing this structure would impact the flow of capital for SIVs.

   b) Can the 12-month option for Venture Capital funds investments be removed or reduced as the market is now more mature?
   Recommendation 7: Remove the 12-month option.
   Rationale: The VCPE industry is at a sufficiently mature stage where the 12-month option can be removed. As the time frame for investments are generally 5 years it will ensure the investment period can be maximised for the investor.

   c) Under the Balancing Investment component should investments be limited to bonds or notes issued by a company that is quoted on the Australian securities exchange?
   Recommendation 8: Do not remove (ii) and (iii) from the definition of bonds and notes from (section 10 (3) (b) of IMMI 15/100. Allow investment to continue in bonds or notes issued by ASX-listed companies and their subsidiaries.

Rationale: Most bonds issued by ASX-listed companies are via wholly-owned subsidiaries. Limiting subsidiaries would reduce the number of companies that complying bond funds could invest in and would limit the capital flow to ASX companies and reduce diversification options.

d) Ensure the emerging companies' investment is made into securities that properly meet the market capitalisation requirements for the emerging companies' component of the CIF.
Recommendation 9: Mandate Investment into genuine small cap and emerging companies to achieve the intended outcome of the BIIP.
Rationale: This would provide clarity and ensure the investment is made into emerging companies as intended.

e) Clarify the use of derivatives for risk management and ensure hedging is only used to manage currency and interest rate movements and not used to guarantee investment value.
Recommendation 10: Prohibit the use of derivatives designed for capital guarantee or risk management under the CIF.
Rationale: Exploitation of this issue has resulted in that SIV capital being invested into derivatives as a risk management tool for capital protection which is incongruous with the intent of the regime which is to invest into Australian emerging companies.

f) Clarify that venture capital investments (in addition to emerging and balancing investments) may be made through a fund of funds structure.
Recommendation 11: Allow VC investment through fund of funds structures.
Rationale: This is in line with established investment practices.

5. **Should fund managers be required to have an annual audit of their CIF compliance completed and a copy of this report attached to each IV or SIV application at both the provisional (subclass 188) and permanent (subclass 888) stages?**
   Recommendation 12: All SIV funds undergo an annual financial audit to confirm compliance with the CIF.
   Rationale: This will help to mitigate the risk of fraud and also create more certainty and clarity around compliance with the CIF.

Introduction

The impact of the COVID-19 pandemic on every corner of the Australian economy has clearly been significant. The comprehensive nature of the government's public health response has allowed Australia the opportunity to benefit from being part of the 'first-mover' group of nations emerging from the COVID-19 pandemic, while many other developed economies continue to endure ongoing widespread shutdowns and restrictions on business activities. Given the competitive position in which Australia finds itself, there is a unique opportunity to reimagine and reshape the nation for the future and to support this by continuing to grow investment into innovation and technology as building blocks for a more dynamic and agile economy. To effectively capitalise on Australia's comparative advantage, the recovery must be underpinned by a comprehensive plan by government to bring about meaningful policies and economic reforms for long-term prosperity. In our view, the three pillars of Australia's future economic prosperity must be:

1. maximising the penetration and utilisation of technology as an enabler of economy-wide productivity growth and job creation;
2. going 'narrow and deep' in developing industries where Australia is, or could be, a world leader; and
3. supporting Australia's entrepreneurs and fast-growth businesses to create Australia's next generation of world leading businesses. The recommendations outlined in this submission focus on these pillars and opportunities to secure Australia's future prosperity.

Australia's visa regime can form part of the Government's policy initiatives to drive our future economic growth and prosperity. Our recommendations below aim at aligning the CIF and BIIP to the government's goal of further developing Australia as an innovation-focused, knowledge-driven economy.

Australia in a global context

Through strong leadership and fortuitous geographical separation, Australia has weathered the COVID-19 storm relatively well. While the pandemic halted Australia's record period of uninterrupted economic growth, strong and decisive government intervention appears to have prevented a deep recession. This provides an opportunity to accelerate our transition into a more knowledge-based, high value-adding economy. The government's modern manufacturing initiatives are a positive step in this regard.

Despite a high standard of living, Australia has a long way to go in its journey into a knowledge-based economy. The latest available rankings of economic complexity, developed by Harvard University's Center for International Development, ranked Australia 87th globally – the lowest ranked of all developed economies and lower than many developing countries. Since 1996, when Australia was ranked 57th globally for economic complexity, our standing has continued to deteriorate. Furthermore, Harvard University concludes that "Australia is less complex than expected for its income level. As a result, its economy is projected to grow slowly",[2] with Australia's growth projection to 2027 ranked 94th out of the 133 countries assessed.

This result is backed by the 2019 Global Innovation Index (GII), which ranked Australia 22nd globally, down from 20th in 2018, behind nations such as the USA, Republic of Korea, China and Iceland. "The 2019 GII found Australia to be weak across knowledge and technology outputs, creative outputs, and business sophistication, relative to the top 25 innovation nations globally." [3]

These respected economic measures show much more needs to be done if Australia wants to build and future-proof a sustainable and growing economy that can attract talent and capital from international markets. It is therefore

[2] Harvard University's Center for International Development *Atlas of Economic Complexity*, accessed at 25 January 2021
[3] Senate Select Committee on Financial Technology and Regulatory Technology, (2019) Issue Paper, p.3

important that the economic challenges Australia faces are recognised and tackled through leadership in long-term and visionary policy reforms.

Industry as a whole has a role to play in informing and engaging with all sides of politics on these challenges. This includes the private capital industry, which invests in a wide range of Australian businesses, be they early-stage tech start-ups or long-established agricultural or manufacturing businesses. In particular, the Council's members seek to invest in high-growth companies that use that capital to expand their workforce, increase sales growth and engage in new research and development.

Private capital and job creation

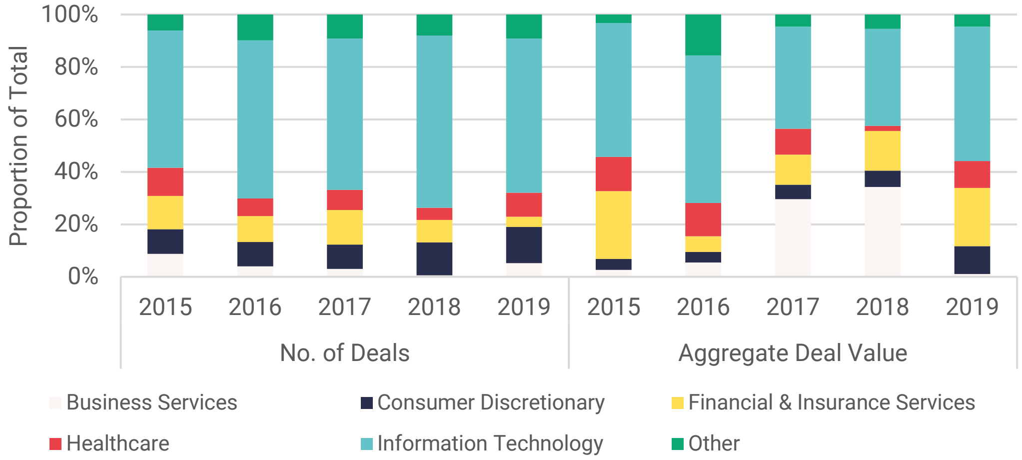
More broadly, Australian jobs and industry rely on a steady flow of foreign capital to support investment into growing businesses across all sectors of the economy. Australia's demand for capital continues to be greater than the domestic supply. As a result, Australia is a net importer of capital. Private capital firms are an important vehicle for attracting (domestic and) foreign capital into Australia and into Australian businesses.

The private capital industry has been a consistent and significant contributor to economic activity and job creation through the role of investment capital being deployed to support the growth and expansion of thousands of Australian businesses across every sector of the national economy. Australia's private capital industry represents 2.6 per cent of Australia's GDP output each year, and private capital-backed businesses create 1 in 9 new Australian jobs according to independent analysis by Deloitte Access Economics.[4]

The Australian Investment Council's own analysis shows that the VC sector alone is a large potential employer of highly-skilled jobs that are aligned to the future knowledge-based economy. The portfolio companies of Australia's 8 largest VC funds had 1548 job vacancies of which 536 were in IT-related jobs such as IT and data security, web design and IT engineers, at 31 December 2020. [5]

This is consistent with the investment into venture capital over the past decade which shows IT has been the main investment sector for the industry **(Figure 1.)** [6]

Figure1: Venture Capital Deals in Australia by Industry, 2015 - 2019



Source: Preqin & Australian Investment Council Yearbook 2020

[4] Deloitte Access Economics (2018) Private equity: Growth and Innovation, April
[5] Australian Investment Council Analysis, 31 December 2020
[6] Preqin & Australian Investment Council Yearbook 2020

Venture capital drives innovation

At this critical juncture it is essential to support the transition of our economy to provide for the prosperity of generations of today and into the future. Innovation draws upon knowledge and skills that build competitive and sustainable businesses that create highly skilled jobs and increase productivity. It has the ability to generate high-value economic output and to lift global competitiveness. Achieving material gains in innovation and technology will generate sustainable economic and income growth for all, and position the Australian market with a competitive edge against other developed economies around the world. In turn, this will enhance the attractiveness of Australia to domestic and offshore investment capital.

Innovation investment in Australia is driven by VC funding. This funding that is matched with highly valuable strategic and operational advice and guidance to the founders and management teams of early-stage and fast-growth businesses. This model of working in partnership is often the 'x-factor' that can help innovative early-stage businesses realise their domestic and global expansion ambitions. The expansion and growth of such businesses leads directly to more revenue and sales, greater levels of investment into innovative market-leading research and development, and ultimately, is the key driver behind the creation of new jobs.

Australia has a history of successful companies originating from Australia's VC ecosystem; companies like Airwallex, Afterpay, Atlassian, Canva and 10x Genomics, which today are each worth more than $1 billion. To put this into perspective, **52** companies founded by Australians since 2011 are each worth more than **$100 million, 14** are worth more than **$500 million** and **6** are worth more than **$1 billion**. The majority of these companies (**75%**) have continued to retain their headquarters in Australia.[7] These are the companies that employ local talent and contribute to local employment and economic growth.

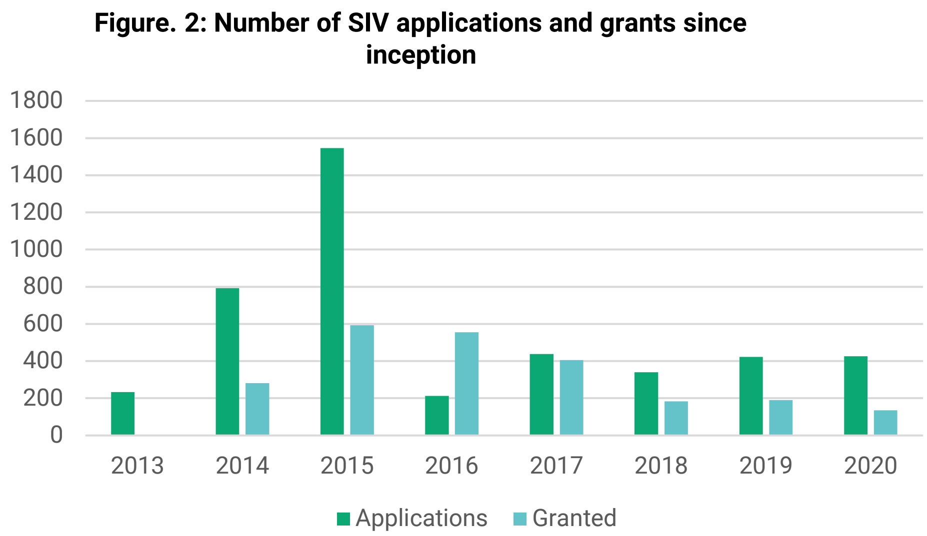
Australia's comparative advantage

While the latest available figures on the number of significant investor visa applications and grants remained steady from June 2019 to June 2020 [8] **(Figure 2.)** our members experienced an uptick of visa applications in the second half of 2020 and early part of 2021. Australia's track record in the effective management of COVID and as being a "safe haven", has placed it above traditional rivals of the UK and USA as the most favourable destination for significant investors.

Australia has a window of opportunity to capitalise on this competitive position to actively promote the SIV to investors who would otherwise have gone to competitive jurisdictions. These are the investors who have net wealth that exceeds the $5 million SIV requirement and who have a deep understanding of alternative investment and investment ecosystems. These investors are coming from locations such as Hong Kong which has seen an exodus of US and European expatriates seeking to relocate to other jurisdictions due to geopolitical tensions in the region.

With a clear path to permanent residency, significant investors are likely to continue to invest into Australian businesses for the long term after they have met the visa requirements. These are the small to medium-sized businesses that will generate real jobs and economic growth.

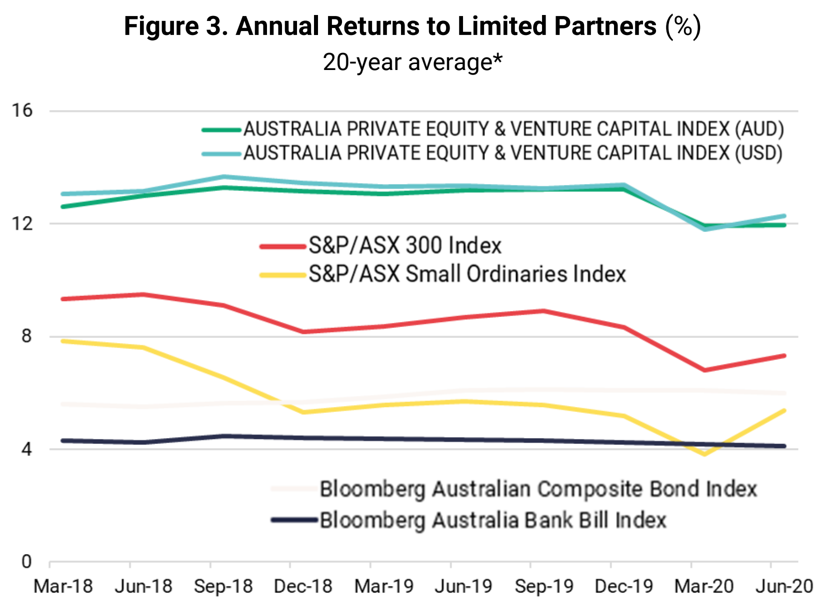
[7] A unicorn a year: More than 50 Australian startups founded since 2011 are valued over $100 million: *Smart Company*, May 24, 2019
[8] *Department of Home Affairs, Significant Investor Visa Statistics, 30 June 2020*



Source: Department of Home Affairs, 30 June 2020

Return on Investment

Over the last 10 years, the private capital investment asset class has delivered investors a net return after fees of 12.43% per annum and has consistently outperformed the S&P/ASX 300 and S&P/ASX Small Ordinaries Indexes over 1, 3, 5, 7 and 10-year timeframes **(Figure 3)**. [9]



* 15 year average for March and June 2018
Source: Cambridge Associates Benchmark data

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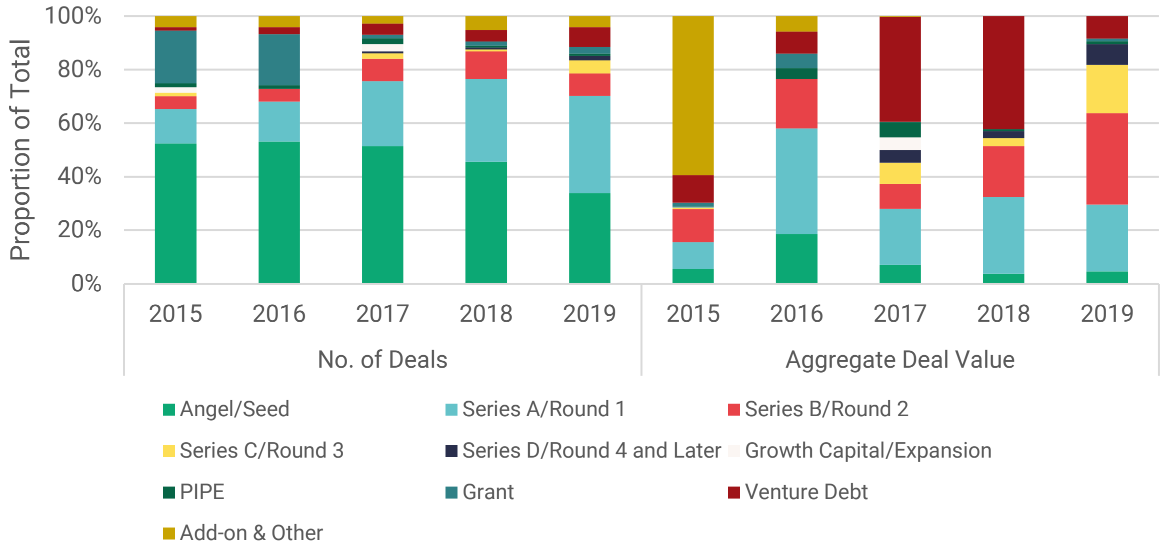
[9] Cambridge Associates, Australia Private Equity & Venture Capital Index and Selected Benchmark Statistics (Q2 2020)

Risk mitigation

As highlighted above, over the past decade, VCPE investment has consistently out-performed key Australian indices. VC fund managers, who are members of the Australian Investment Council have the scale and professional management expertise to invest into start-ups who are beyond the seed funding stage and work with them to expand and grow their businesses **(Figure 4.)**[10] These are the fund managers who have invested into the likes of Canva, Credible, Freelancer and Upguard who are actively employing in the Australian marketplace. It is also worth pointing out that the requirements of the SIV and VC are to invest into VC or PE. VC invests much earlier in the life cycle of the business whereas growth PE invests later in the cycle capital to expand the business. Increasing investment in VCPE from 10% to 20% will not materially increase the risk exposure. Combining PEVC (20%) with balancing investments (50%) and emerging companies (30%) will serve to further diversify the investment portfolio with PE providing more steady returns and VC higher growth opportunities.

Figure 4: Venture Capital Deals in Australia by Stage, 2015 - 2019



Source: Preqin & Australian Investment Council Yearbook 2020

[10] Preqin & Australian Investment Council Ibid

CIF consultation responses

Significant Investor Visa

Question 1: Should the ratios currently applied by the CIF to SIVs remain?

Recommendation 1: Increase the ratio of VCPE to 20%. Retain investment into emerging companies at 30% and decrease balancing investments to 50%.

Background

The private capital industry continues to view the SIV program as an important part of the Government's plan to reposition Australia as an innovation-focused, knowledge-driven economy. The Australian Investment Council (formerly AVCAL) was very supportive of the Government's changes to the SIV program which came into effect on 1 July 2015, whereby a minimum of $500,000 (out of $5m) must be invested by SIV applicants in eligible Australian venture capital or growth private equity (VCPE) funds which invest in start-up and small private companies.

The changes also required that at least $1.5m be invested in an eligible managed fund or listed investment company that invests in emerging companies. The Council notes that this policy position was taken following a comprehensive review led by the Department of Immigration and Border Protection in 2014 and reflected the Government's desire to encourage "new investment in innovative Australian ideas and emerging companies" through the program. [11] The Council further notes that when the Enhanced SIV regime was announced, the Government indicated that it expected that the compulsory VCPE investment component would increase to $1m, (20%) within two years (that is, by mid-2017). Currently, a gap remains in our nation's capacity to provide VCPE investment into high growth potential Australian businesses that are on the verge of commercialising and 'taking-to-market' breakthrough technologies. Creating a deeper pool of capital that is available to support the investment that is required by those businesses should therefore be a priority for our economy as Australia emerges from the COVID pandemic.

Rationale

This recommendation follows the initial intent of the program to increase the direct investment into VCPE to 20% to drive innovation and jobs growth.

Investment into VCPE will provide more direct benefits to job creation and growth, the development and expansion of innovative companies and flow-on benefits to the economy than passive investments through the Securities Exchange.

Over the past 5 years, investors have become accustomed to the VCPE component of the program and have benefited through numerous successful investments.

An increase from 10% to 20% was originally contemplated in 2015 and most industry participants have been expecting an increase in the mandatory investment in VCPE since the 2015 announcement.

Investor Visa

Question 2: How should the CIF be applied to the Investor Visa?

Recommendation 2: Apply the same CIF ratios for SIV (Option 1) to the Investor Visa (IV). Increase the ratio of VCPE to 20%. Retain investment into emerging companies at 30% and decrease balancing investments to 50%.

[11] Media release, The Hon Andrew Robb AO MP, Minister for Trade and Investment, 15 May 2015

Background

Implementing the CIF for the IV investment requirement would maximise the value of the overall BIIP, deliver significant economic benefits to Australia and enhance the development of Australia as a viable competitor with jurisdictions like Singapore as a financial services hub.

In the early stages of the program there were some concerns around the integrity of the framework and whether or not more regulation would be required. Providing consistency and certainty around the CIF ratios for the SIV and IV will ensure the investments are managed under a framework that is well-regulated.

Rationale

Now the SIV CIF has been widely accepted my investors, adopting the same framework for the IV will add a layer of familiarity and confidence in the regime. There are benefits in maintaining consistency with the SIV through making the system easier to monitor, administer and audit and in maintaining confidence in the regime by keeping the investment approach simple.

Using the same recommended investment criteria for the SIV and IV will ensure Australia gets the best possible deal through injecting capital into businesses that are best-positioned to create jobs and directly contribute to economic growth.

ASIC registered funds

Question 3: a) Should all eligible funds be limited to ASIC registered funds only?

Recommendation 3: Maintain the current status for VC and PE fund managers.

Background

ASIC is the corporate regulator in Australia, and is the principal regulatory body that has authority over the operation of PE and VC funds in Australia. PE and VC fund operators and managers that hold an Australian Financial Services Licence **(AFSL)**, or operate as an authorised representative of an AFSL holder, are required to prepare and publicly lodge audited accounts and comply with stringent ASIC requirements regarding compliance and compliance auditing under the Corporations Act. ASIC has the right to inspect accounts and records of the AFSL licence holder at any time to ensure compliance.

ASIC also has the power under the Corporations Act to exempt a person from the requirements to register a scheme, hold an AFSL or provide a Product Description Statement to retail clients.

Managers of SIV capital must hold an AFSL, manage a minimum of $100m and be Australian managed and controlled.

Rationale

The requirement for all SIV fund managers to be registered with ASIC would have wide-ranging and unintended consequences for the regulation of investments in Australia. In addition to creating more red tape and adding cost to the management of investments this proposal would significantly change how investments are regulated under the Corporations Act.

PE fund operators and managers are already required to hold an AFSL and to lodge audited accounts in compliance with the Corporations Act. VC funds operate under the well-established Early-Stage Venture Capital Limited Partnership **(ESVCLP)** and Venture Capital Limited Partnership **(VCLP)** regimes which are administered through the Department of Industry, Science, Energy and Resources.

b) Should the threshold of funds under management be increased to further improved the integrity and function of the CIF?

Recommendation 5: Do not increase the threshold amount of FUM for VC funds.

Background

The VC sector is continuing to mature in Australia. Some of the more recently established VC funds will not yet be at the stage of having FUM of more than $100m. This does not suggest the fund is operating at sub-optimal levels of governance and integrity, it is more that the fund is a newer market entrant and has scope to grow and make a significant contribution to jobs and economic growth. Members of the Australian Investment Council are closely screened before their membership is accepted which helps to provide a degree of certainty around the integrity and capability of the fund.

Rationale

This VC sector is continuing to mature in Australia. Increasing the threshold could significantly impact funds in the growth phase.

Question 4: a) Provide a clear definition of Fund of Funds (FoF). Currently FoF is referred to in the general requirements of the instrument but is not defined.

Recommendation 6: Clarify the definition of FoF by amending clause iii) to allow vertical integration within the FoF structure. Ensure the definition is consistent with the requirements outlined in the Australian Venture Capital Fund of Funds (AFOF) program.

Background

The AFOF program encourages investment in a portfolio of ESVCLPs and VCLPs. It offers tax incentives and provides diversification and flexibility for the fund and its investors.

The AFOF program provides a structure that encourages investment in a portfolio of registered ESVCLPs and VCLPs. An AFOF can also invest in eligible direct investments of those funds.

Fund managers can apply to Innovation and Science Australia to register a partnership as an AFOF. The Department of Industry, Science, Energy and Resources and the Australian Taxation Office (**ATO**) jointly administer the program on behalf of the Australian Government.

Rationale

Vertical integration is typically how investments are structured. Removing this structure would impact the flow of capital for SIVs. Consistency in the approach with the AFOF program will contribute to a more consistent and robust investment framework.

b) Can the 12-month option for Venture Capital funds investments be removed or reduced as the market is now more mature?

Recommendation 7: Remove the 12-month option.

Background

The current requirement allows the SIV Investor to hold $500,000 in cash for up to 12 months after the visa has been granted. There is some confusion around this requirement which can lead to unintended consequences such as making rapid investments as the deadline looms which lead to a sub-optimal investment outcome.

Rationale

The VCPE industry is at a sufficiently mature stage where the 12-month option can be removed. As the time frame for investments are generally 5 years it will ensure the investment period can be maximised for the investor.

Auditing for compliance would be a positive step in helping to alleviate the situation of reaching the end of 5 years, discovering the fund is non-compliant and having to start again. Integrity is essential for the success of the program.

c) Under the Balancing Investment component should investments be limited to bonds or notes issued by a company that is quoted on the Australian securities exchange?

Recommendation 8: Do not remove (ii) and (iii) from the definition of bonds and notes from (section 10 (3) (b) of IMMI 15/100. Allow investment to continue in bonds or notes issued by ASX-listed companies and their subsidiaries.

Background

The majority of bonds issued by ASX-listed companies are issued via wholly owned subsidiaries. For a range of reasons, this has been a long-standing practice. Allowing investment in these bonds is an important part of the balancing investments options and in achieving the policy goal of maximising the economic contribution of high-value investors.

Rationale

Most bonds issued by ASX-listed companies are via wholly-owned subsidiaries. Limiting subsidiaries would reduce the number of companies that complying bond funds would invest into and in turn would limit the capital flow to ASX companies and reduce diversification options.

d) Ensure the emerging companies' investment is made into securities that properly meet the market capitalisation requirements for the emerging companies' component of the CIF.

Recommendation 9: Mandate Investment into genuine small cap and emerging companies to achieve the intended outcome of the BIIP.

Background

The policy intent of the SIV and IV regimes is to 'get a better deal for Australia' through investment that drives innovation, creates jobs and delivers economic growth. The current framework allows investment into passive options such as Exchange Traded Funds (ETFs) and Listed Investment Companies (LICS) which provide no direct benefits to the Australian economy.

Rationale

Mandating investment that has a direct contribution to the economy will strengthen the integrity of the BIIP and lead to real jobs and economic growth. This investment needs to be directed towards investment into genuine small cap and emerging companies.

e) Clarify the use of derivatives for risk management and ensure hedging is only used to manage currency and interest rate movements and not used to guarantee investment value.

Recommendation 10: Prohibit the use of derivatives designed for capital guarantee or risk management under the CIF.

Background

Derivatives can be complex and are often used to offer capital guarantees for the emerging companies as part of the CIF. The use of derivatives in this way for risk management purposes is not consistent with the objectives of the SIV program as this investment method provides no direct benefit to the Australian economy.

Rationale

Exploitation of this issue has resulted in that SIV capital being invested into derivatives for capital protection which is incongruous with the intent of the regime which is to invest into Australian emerging companies.

f) Clarify that venture capital investments (in addition to emerging and balancing investments) may be made through a fund of funds structure.

Recommendation 11: Allow VC investment through fund of funds structures.

Background

The proposal to add venture capital fund to (section 11(11) of IMMI 15/100) would provide clarification on the parameters of the CIF and enhance confidence for investors that the investment process is consistently applied.

Rationale

This is in line with established investment practices and would provide clarity and certainty on the investment framework.

Question 5: Should fund managers be required to have an annual audit of their CIF compliance completed and a copy of this report attached to each IV or SIV application at both the provisional (subclass 188) and permanent (subclass 888) stages?

Recommendation 12: All SIV funds undergo an annual financial audit to confirm compliance with the CIF.

Background

The SIV investment rules are relatively complex and the consequences of non-compliance are high such as loss of residency.

Rationale

An annual SIV compliance audit would ensure the investor is on track in meeting the requirements of the regime. It would engender confidence in the CIF and help to alleviate issues such as nearing the end of the 5-year investment period to discover the investment is non-compliant. It would also help to mitigate the risk of fraud and also create more certainty and clarity around compliance with the CIF. However, this should be implemented in a way that is easy to administer and does not lead to unnecessary, additional costs.