

5 May 2017

Review of the Skilled Occupation List (MLTSSL & STSOL)  
Department of Immigration & Border Protection  
6 Chan Street  
Belconnen ACT 2617

*via email: employerpolicy@border.gov.au*

Dear Sir/Madam

The Australian Institute of Company Directors (**AICD**) is writing to request amendments to the classification of certain occupations announced in the changes to the Temporary Work (Skilled) (subclass 457) visa (**457 visa**) program on 18 April 2017.

The AICD is committed to excellence in governance. We make a positive impact on society and the economy through governance education, director education, director development and advocacy. Our membership of more than 40,000 includes directors and senior leaders from business, government and the not-for-profit sectors.

We note the Government's announcement of its intention to abolish the 457 visa and replace it with a new Temporary Skills Shortage (**TSS**) visa in March 2018, and, effective from 19 April 2017, operation of new skilled occupation lists for 457 visas being:

- The significantly reduced Medium and Long-term Strategic Skills List (**MLTSSL**), which allows for visas of up to four-years with a path to residency; and
- The reduced Short-term Skilled Occupation List (**STSOL**), which now allows for visas of up to two-years with no path to residency.

AICD members have raised significant concerns with the 457 changes already commenced, in particular with the transfer of CEO, CIO and senior executive positions to the STSOL. We understand that the Department of Immigration and Border Protection is currently reviewing the MLTSSL and STSOL with a view to updating the lists on 1 July 2017. As part of this review the AICD recommends that the Government:

- Move CEO, c-suite and senior executive positions to the MLTSSL from 1 July 2017;
- Provide certainty that these roles will be in the medium-term Skills stream for the TSS; and
- Undertake consultation with directors and boards on the impact of changes to the 457/TSS visa streams, including any further changes in lists or thresholds.

### **CEO, CIO & Corporate General Manager roles should move to the MLTSSL**

AICD members from across a range of sectors, including board members of large listed firms as well as education, research and arts organisations, have raised significant concerns about the implications of CEO and c-suite positions being placed on the STSOL.

A two-year visa period with once only renewal and no path to residency will make Australia far less attractive to global candidates for c-suite roles, reducing the ability of Australian firms to draw on the global marketplace for specialised experience or skills in corporate leadership. Anecdotally, the changes announced to date are already negatively impacting senior executive recruitment, retention and succession planning for large companies.

The AICD considers it vital that the boards of Australian organisations have the ability to draw on global talent, experience and skills in recruiting senior executive leaders for their organisations. Limiting this capacity will harm Australia's competitiveness and presents a significant governance issue for the nation, with negative impacts for stakeholders.

Examples of some of the unintended consequences of this change include:

- For Australian firms operating in specialised sectors or with substantive international operations, having CEO and c-suite roles on the STSOL will create real barriers to drawing on the direct experience and skills needed for international competitiveness;
- A short visa period is expected to drive up remuneration and incentives outside of normal market and competitive pressures, to compensate non-Australian residents for the uncertainty and instability of accepting a temporary c-suite position in Australia;
- The two-year term available under the STSOL is shorter than the contract terms required for CEO and senior executive roles to implement the strategic priorities which they would be required to deliver, raising further governance challenges for boards; and
- Placing CEO and senior executive roles on the STSOL represents a significant departure from previous practice, especially for firms operating internationally or in globally competitive markets, without the benefit of consultation with industry groups or directors.

- a) The AICD recommends that c-suite and senior executive positions be placed on the MLTSSL effective from the 1 July 2017 update to the lists as a priority.
- b) The AICD encourages the Government to commit to including these roles on the medium term stream under the TSS visa from 2018, to provide certainty to industry and boards.
- c) The AICD also encourages Government to undertake consultation with directors and boards on potential governance and competitive impacts of any further temporary visa changes impacting the recruitment of CEOs and senior executive positions (including amendment to the thresholds included in Note 17 of the relevant legislative instrument).

#### **Additional unintended consequences**

In addition to the challenges for boards dealing with CEO and senior executive recruitment, the AICD has concerns with other impacts of the reforms to date. These include challenges for organisations with significant global operations or employees seeking to run transfers or placements for skills development and training, directors of arts organisations seeking senior artistic roles, technology and research groups seeking to access global expertise, and governance arrangements for the Skilling Australia Fund. The AICD will be making representations to the Minister on these and related matters.

We hope our comments will be of assistance to the update of the occupation lists. Please contact me on [lpetschler@aicd.com.au](mailto:lpetschler@aicd.com.au) or (02) 8248 8446 with any queries.

Yours sincerely



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