Tim Denney
Managing Director

BAL Corporate Immigration

15 April 2013

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

Senate Legal and Constitutional Affairs Committees Inquiry into the Current Framework and Operation of Subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements

Please find enclosed a submission to the Senate Legal and Constitutional Inquiry. The submission primarily focuses on the operation of subclass 457 visas.

Berry Appleman & Leiden Pty Ltd would be pleased to respond to any questions related to our submission. We would also be pleased to answer questions in person at a committee hearing. Any correspondence in relation to this matter should be addressed to Tim Denney

Yours faithfully

Tim Denney
Managing Director
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Submission to the Senate Legal and Constitutional Affairs Committee

Berry Appleman & Leiden Pty Ltd (BAL Australia) is pleased to present a submission to the committee into the Current Framework and Operation of Subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements. Our submission primarily focuses on the framework and operation of subclass 457 visas.

BAL Australia

BAL Australia is a part of the prestigious global corporate immigration firm, Berry Appleman & Leiden (www.balglobal.com). Berry Appleman & Leiden has offices in Australia, Brazil, China, Singapore, Switzerland, the United Kingdom and the United States. We are entrusted by leading international and Australian companies to facilitate the movement of client employees globally with obtaining necessary visas and assisting with global immigration compliance.

BAL Australia represents large multinationals, leading Australian companies and smaller Australian companies. We have substantial experience in assisting clients with subclass 457 visas and assisting with related sponsorship obligations. We regularly assist clients with: residency applications under the employer nomination scheme, advice on the correct use of business visitor visas, monitoring requirements, and assistance in the drafting of corporate immigration policies.

The recent criticism of the subclass 457 visa program in some parts of the community, together with the related introduction of a number of reforms, appear to be on the basis to "*close loopholes in the 457 program to ensure that local jobseekers are not disadvantaged by unscrupulous employers bringing in temporary workers from overseas*"[i] and "*…to stop employers who have routinely abused the 457 system*".[ii]

It is our view that the subclass 457 program is working well. In our and our clients' opinions the criticism of the program are unfounded. BAL Australia has not observed any systemic 'rorting' of the program; in our and our clients' opinion the program is largely meeting the purposes of a temporary skilled migration program. The program is economically important to Australia. .

We have based our comments and recommendations in this submission on our substantial experience in assisting clients in their Australian corporate immigration requirements, together with direct client comments.

This submission is formatted according to the expressed terms of reference of the committee.

a) Subclass 457 effectiveness in filling areas of identified skill shortages and the extent to which they may result in a decline in Australia's national training effort, with particular reference to apprenticeship commencements;

The subclass 457 visa program has generally been operating very well. It is well known that the costs of employing an expatriate on expatriate conditions frequently includes allowances, accommodation and airfares, and is considerably greater than the cost of hiring a local employee. It could be reasonably assumed that employers sponsoring overseas residents would consider hiring suitable local employees if available.

In our opinion and our clients' opinion, the employment of subclass 457 visa holders enhance Australia's national training effort. It should be noted that Australian businesses that wish to access the subclass 457 program must satisfy training benchmarks as part of the sponsorship process if they have been operating for more than 12 months.

The training benchmarks are:

A. recent expenditure to the equivalent of at least 2 per cent of the payroll of the business, in payments allocated to an industry training fund that operates in the same industry as the business

B. recent expenditure to the equivalent of at least 1 per cent of the payroll of the business, in the provision of training to employees of the business who are Australian citizens and Australian permanent residents (your Australian employees).

For the two training benchmark options, A and B, the business is also required to evidence commitment to maintain that level of expenditure in each fiscal year for the term of approval as a sponsor. BAL highlights the Government's 457 reforms—scheduled to come into effect on 1 July 2013— further clarify that the training benchmarks must be maintained by a subclass 457 business sponsor for the life of the sponsorship.

It is effectively the situation that Australian businesses that access the subclass 457 program have a 'training levy' imposed on them by the Australian Government. It should be noted that companies that do not access the subclass 457 program have no levy imposed; an argument can be placed that subclass 457 sponsors are actually in general more committed to Australia's training effort than those companies that are not accessing the subclass 457 program.

Additionally, our clients access the subclass 457 program because the required skills are not readily identifiable within the local labour market. The employment of subclass 457 visa holders is extremely beneficial, as the skill the visa holder possesses is passed to existing and new employees of the Australian sponsor. Subclass 457 visa holders accordingly enhance Australia's skill base and assist in developing Australia's economy to become more efficient on a global comparison.

Australia, as a society, should not deny overseas nationals opportunities under the subclass 457 program if we expect other counties to provide reciprocal opportunities for Australian citizens to work abroad. Australia cannot and should not, stand in the way of globalisation. We cannot expect opportunities for Australians to work overseas as part of their career development and then deny reciprocal opportunities for foreign nationals wanting to come here.

b) their accessibility and the criteria against which applications are assessed, including whether stringent labour market testing can or should be applied to the application process;

In brief the basic criteria for a 457 application to be approved (assuming the sponsoring entity has already been approved as a business sponsor and hence already being assessed as being actively trading, satisfying the training benchmark if the business is in Australia, has a demonstrated commitment to employing local labour and has non-discriminatory employment practices and there is no adverse information known about the business or person associated with the business) is:

Company Nomination

- the occupation is on the Consolidated Skills Occupation List
- if the business sponsor is in Australia the individual being nominated for the subclass 457 visa must directly work for the business or an associated entity of the business as defined in the Corporations Act, on visa approval
- if the business sponsor is outside of Australia the individual being nominated for the subclass 457 is only permitted to work directly for the approved overseas business sponsor
- only if a firm has an approved on-hire labour agreement with the Commonwealth is a proposed subclass 457 visa holder permitted to work for an unrelated company. Essentially a labour contract arrangement.
- market rate salary requirements for the position are satisfied
- The position is paid above the Temporary Skilled Migration Income Threshold amount.

Visa Requirements

- The visa applicant has appropriate skills for the occupation nominated.
- The visa applicant satisfies health and character requirements.
- The visa applicant satisfies English language requirements if required (essentially for occupations in ANSZCO 3 Classification).

We note here, in BAL's opinion and in our clients' opinion that the English language requirement already in effect is sufficient and in some instances already too onerous. English language criteria will be addressed in detail later in this submission.

Labour market testing should not be part of the subclass 457 visa program. Occupations nominated for the subclass 457 program are on the Government's approved list of occupations. Occupations on such a list should be deemed to be sufficiently in demand to not require any additional labour market testing.

Any proposal to re-introduce labour market testing program wide for subclass 457 programs is wrong. Our clients nominate skilled overseas nationals where there is a genuine requirement to source the labour from outside of Australia. Program-wide labour market testing would result in processing delays and an increased cost to businesses, and would not result, for the most part, in a suitable local candidate being identified.

In extremely rare situations, where an employer is identified as adopting unscrupulous hiring activities, it appears a lower skilled occupation is usually involved. BAL would strongly argue against the introduction of any labour market testing for occupations in classification 1 to 3 of the Australian and New Zealand Standard Classification of Occupations (ANZSCO). BAL would consider future labour market testing proposals for occupations classifications 4 and below if the testing was not excessive in its requirements and would not greatly hinder the vast majority of compliant users of the subclass 457 program.

c) the process of listing occupations on the Consolidated Sponsored Occupations List, and the monitoring of such processes and the adequacy or otherwise of departmental oversight and enforcement of agreements and undertakings entered into by sponsors;

As an introduction, it is important to note this 'Committee Inquiry' is reviewing subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements. It is important to highlight at the outset that the Consolidated Sponsored Occupations List (CSOL) is used for a number of visa categories including independent General Skilled Migration, state-sponsored General Skilled Migration, direct entry Employer Nomination Scheme, 457 visas and occupational training visas.

It is therefore a flawed process to examine in isolation the performance of the CSOL in relation to 457 visas only.

The CSOL—in supporting a number of visa categories—is by definition broad in nature. BAL believes restoring confidence to the 457 visa category across all sections of the community is possible, if a separate 457/direct entry Employer Nomination Scheme list be created by the Australian Workplace and Production Agency (AWPA) and Department of Immigration & Citizenship (DIAC) after appropriate consultation with the Australian community.

BAL is also of the opinion that it would be appropriate for the Department of Immigration & Citizenship to adopt a more transparent approach to informing the general public how the current Consolidated Sponsored Occupation List (CSOL) and future newly created occupation list are created, monitored and adjusted. Such an approach would assist in the general population having increased confidence in the Government's management of the migration program as a whole.

We understand that the CSOL was developed in close consultation with Skills Australia. Skills Australia became the Australian Workplace and Productivity Agency (AWPA) on 1 July 2012. According to AWPA[iii] the agency continues to be responsible for the review and to provide advice in regards to a Skilled Occupations List for independent skilled migration. Although AWPA does not explicitly confirm that they are involved in the CSOL, we understand that DIAC consults closely with AWPA in regards to the CSOL, and the list will be amended periodically based on this consultation process.

It is also important to note that the Ministerial Advisor Council on Skilled Migration was convened by the Government on 2 July 2012. The Council is comprised of business leaders, union leaders and academic leaders. The Council has a wide brief and is able to recommend changes on any aspect of the skilled migration including the CSOL.

BAL and our clients are of the opinion that the occupations listed on the CSOL are largely suitable for most industry requirements in respect of subclass 457 visas. It is possible that some lower classification ANZSCO occupations that are currently on the CSOL are more intended for use by other visa categories, such as occupational training and state-sponsored general skilled migration.

BAL suggests that a new subclass 457/direct entry Employer Nomination Scheme unified list be created by AWPA and DIAC. BAL suggests that the list be reviewed annually and occupations added or removed in accordance with the requirements of the Australian economy. A newly created list should include the vast majority of occupations currently on CSOL, and with community agreement obvious unsuitable occupations can be considered for removal. For example, it may be considered to remove the occupation of Flight Attendant ANSZO 451711 from a combined 457/direct entry Employer Nomination Scheme list, but leave the occupation on an occupational list designed for occupational training.

As outlined previously in this submission, businesses that nominate occupations that are approved for the 457 visa program at time of application should be for the most part be exempt from any labour market testing as the Government has already reviewed such occupations as suitable for the subclass 457 program.

457 business sponsors must abide with their sponsorship obligations at all times. It is not possible for subclass 457 visa holders nominated in one occupation to subsequently be employed in another occupation. Any business sponsor that fails to abide by their business sponsorship obligations, including employing subclass 457 visa holders in unauthorised occupations, should be penalised in full accordance with the existing legislation. DIAC may also wish to consider developing a regime in which such non-compliant sponsors are named and shamed.

d) the process of granting such visas and the monitoring of these processes, including the transparency and rigour of the processes;

BAL is satisfied that the current process of granting subclass 457 visa processes is largely appropriate for professional occupations. There are some anomalies to the current process for trade applicants applying for a subclass 457 visa application.

Some trade applications require a positive skill assessment from Trades Recognition Australia to be included as part of the process. The current system is flawed. For example, a subclass 457 visa application from a Fijian carpenter national is required to include a positive skill assessment. There is no such requirement for a Tongan carpenter national. We would submit that skill assessment should not be required for any application for a subclass 457 application. The business sponsor in Australia should make the assessment if an individual possess the required expertise for the position in question.

e) the adequacy of the tests that apply to the granting of these visas and their impact on local employment opportunities;

BAL and our clients believe the existing legislation and related policy is more than adequate to ensure the bona fides of a subclass 457 visa application.

As outlined previously, the total cost of employment associated with employment of a subclass 457 visa holder is more than the employment of an Australian national or Australian permanent resident. Our clients only nominate overseas nationals for a subclass 457 visa when valid reasons exist. In our experience there is no impact on local employment opportunities and in-fact the employment of subclass 457 visa holders are positive on the local employment opportunities. The following positives flow to local employees:

- increased training opportunities by new technologies, techniques and theories being held by the subclass 457 visa holder being disseminated to local employees

- increased efficiencies being developed by the business sponsor through the employment of highly skilled subclass 457 visa holders ultimately resulting in further business opportunities being created and further employment being created for Australians
- reciprocal opportunities for Australian employees to be employed at overseas businesses to further develop their professional development.

It is important to observe that the 457 visa program is a market based program and increases and decreases in size with economic activity. The program has successfully assisted Australia and artificial economic impediments should not be imposed.

f) the economic benefits of such agreements and the economic and social impact of such agreements;

DIAC's own research, as published in 'Population Flows: Immigration Aspects 2010-11 Edition', confirms the economic benefits of the subclass 457 visa. Chapter 6 of the publication titled 'The Economics of Migration' states, "*The fiscal contribution of migrants to Australia's bottom line is significant. According to the Migrants' Fiscal Impact Model the total contribution from the 2010–11 Migration and Humanitarian programs and the Temporary Business subclass 457 program is $1.6 billion in the first year after arrival and $15.4 billion over the first 10 years*".[iv]

Within the same publication DIAC outlines that 457 visas generate a larger immediate return to Australian taxpayers than all other visa categories.

It is also apparent from our observations that temporary skilled migration across all relevant visa categories provides a wide range of benefits including, but not limited to:

- ensuring complex projects— of substantial economic significance and of importance to the nation—may advance even when there are local labour market bottlenecks because of lack of required local expertise or labour shortages in particular occupations
- ensuring the Australian economy has access to world-best technology and practices, to ensure the economy is able to enhance efficiencies and local based knowledge
- sharing of overseas cultures for the enrichment of Australian society as a whole.

g) whether better long-term forecasting of workforce needs, and the associated skills training required, would reduce the extent of the current reliance on such visas;

At the outset it is important to note that neither BAL nor our clients is of the opinion that there is any reliance on subclass 457 visas. Such an assertion in our opinion is wrong.

The facts speak for themselves. DIAC's 'Subclass 457 State/Territory summary report 2012-13 to 28 February 2013' states "*the number of primary visa holders in Australia on 28 February 2013 was 107 510*". The Australian Bureau of Statistics 'Labour Force, Australia, Mar 2013' states the number of employed persons was 11,599,900 and total of unemployed persons was 672,000. The total size of Australia's labour force is therefore 12,271,900. The number of primary subclass 457 visas holders in Australia is therefore approximately 0.08% of the Australian labour force. It is ludicrous to claim there is any reliance on subclass 457 visas.

AWPA is responsible for conducting labour market research and business research. AWPA together with corporate Australia, do as a standard practice already, forecast future workforce needs. BAL believes that AWPA together with business will further refine their forecasting capabilities to enable the Government to identify appropriate areas within the Australian economy requiring further investment in training.

However, as reported in The Australian newspaper on 8 March 2013 "*Australia's relatively small labour market cannot always provide on tap the range of skills industry requires. The country's unemployment rate is already low, suggesting that the education and training system is broadly adequate. Skilled temporary immigration is of substantial economic benefit to Australians, allowing government services to be provided with a lower tax burden for everyone else.*"

Additionally, an aging population will place further pressure on the Australian labour force. Subclass 457 visa holders play an important role in Australia's economy and for Australia's long term prosperity this must, as a necessity, continue for the long term.

h) the capacity of the system to ensure the enforcement of workplace rights, including occupational health and safety laws and workers' compensation rights;

Businesses that nominate subclass 457 visa holders (and other appropriate visa categories) to be employed within their Australian business are required to abide by sponsorship obligations and all Australian and State/Territory industrial relations. It is our experience that all our clients treat foreign temporary workers exactly the same as Australian citizen/permanent resident employees.

All Australian employers—not just those that nominate subclass 457 visa holders—must comply with relevant industrial relations law. Any employer that does not comply with such law must be prosecuted in accordance with the law.

The Fair Work Ombudsman's (FWO) investigative powers are the correct mechanism to enforce both Australians and non-Australians workplace rights. We welcome the recent reform to permit FWO Investigator's being granted enhanced investigative powers under the Migration Act.

i) the role of employment agencies involved in on-hiring subclass 457 visa holders and the contractual obligations placed on subclass 457 visa holders;

On-hire firms are only permitted to on-hire subclass 457 visa holders to an unrelated business if they have an on-hire labour agreement in force. It is a complex process to negotiate and maintain such a labour agreement. We believe that the current process for on-hiring of subclass 457 visa holders is more than adequate.

In the event DIAC or FWO identify on-hiring of subclass 457 visa holders to an unrelated business when there is no labour agreement in place, then the offending business should be penalised accordingly.

j) the impact of the recent changes announced by the Government on the above points

We will comment on the proposed changes. Unfortunately, the Government has yet to release the legislation and policy manual supporting the reforms. Hence, it is difficult to comment on some changes as the information to date is vague.

<u>As outlined on DIAC's website the reforms are written as</u>

- DIAC: introducing a requirement for the nominated position to be a genuine vacancy within the business. Discretion will be introduced to allow the department to consider further information if there are concerns the position may have been created specifically to secure a 457 visa without consideration of whether there is an appropriately skilled Australian available.

BAL in principle supports this change but we need to review the supporting legislation and policy guidelines. It is our experience that all our clients satisfy the above. We would hope that common sense prevails; for businesses with a history of compliance and a history of appropriately utilising the subclass 457 program, unnecessary bureaucratic requirements are not imposed.. It would be unwise for the vast majority of compliant business sponsors to be penalised through increased processing times, and with excessive bureaucratic scrutiny of applications.

- DIAC: introducing a provision to allow the department to take action against sponsors who engage in discriminatory recruitment practices.

BAL in principle supports this change but we need to review the supporting legislation and policy guidelines. This statement is so vague, we decline to comment further.

- DIAC: strengthening the market salary rate requirements to provide discretion to consider comparative salary data for the local labour market when deciding whether a nominated

position provides equitable remuneration arrangements. Additionally, the market salary exemption threshold will be increased from $180 000 to $250 000 to ensure that higher paid salary workers are not able to be undercut through the employment of overseas labour at a cheaper rate.

BAL in principle supports this change, but we need to review the supporting legislation and policy guidelines. The increase in market salary exemption to $250 000 is a substantial increase, and we understand the rationale behind the increase. In situations where our clients do not employ an Australian employee in a corresponding position they may use a variety of source, all of which are valid, to evidence that the proposed salary to the subclass 457 applicant is at market rate level. DIAC must provide appropriate guidelines when their 'discretion' will be used to review 'comparative salary data'.

It is also essential that comparative salary data be in the public domain and appropriate to regions across Australia. It is evident that the salary in Sydney will differ to a salary in Dubbo, NSW. BAL would assume that DIAC will use this 'discretion' for industries of concern or sponsors of concern.

We are looking forward to the release of further information.

- DIAC: strengthening the English language requirements by removing exemptions for applicants from non-English speaking backgrounds who are nominated with a salary less than $92 000 and requiring applicants who were exempt from the English language requirement when granted a visa to continue to be exempt from, or to meet the English language requirement when changing employers. Additionally, the definition of English language will be better aligned with the permanent Employer Sponsored.

BAL does not support this change. The current system for English language testing is already at times too rigorous for a temporary visa program. The further strengthening of English requirements adds unnecessary costs to business and unnecessary delays to securing labour. This change will reduce Australia's appeal to skilled potential visa applications whilst enhancing the appeal of our competitors – including America, Canada, New Zealand and western-European countries.

We understand that English language requirements were originally introduced because of occupational health and safety (OH&S) concerns for a number of trade occupations. It is also important to note that for those occupations, requiring English language competency for licensing or registration, English language requirements are in place.

Many occupations do not have any OH&S concerns relating to English language requirements. It is ludicrous to create a blanket approach to English language requirements based on the passport held by the subclass 457 visa applicant.

Many executives and specialists obviously do not hold passports from America, Canada, Ireland, New Zealand or the United States. An executive from South Africa, an IT professional from Switzerland or a cook from France will all need to have completed an International English Language Testing System (IELTS) examination as part of the subclass 457 program. Such a blanket approach to English language is poorly considered.

A business nominating an overseas national for a subclass 457 visa is best placed to ensure that an individual has requisite language skills for the position in question. The change in English criteria will likely result in the following:

- processing delays resulting from completing necessary IELTS examinations. Additionally, will IELTS have sufficient resources for the increased demand to complete the examination?
- further costs to businesses resulting from the English testing regime
- Australia's competitors for skilled individuals having a competitive advantage. No English testing requirements are in place for skilled visa applications in America, Canada, Ireland and New Zealand. Requirements in the United Kingdom are far more lenient than in Australia. It is probable that the Australian economy will be disadvantaged as some very skilled individuals are lost to our global competitors.

We assume that the heavy handed approach to English language requirements being implemented is because of Government concerns within some industries and some occupations that utilise the subclass 457 program. Rather than having an unnecessary blanket heavy handed approach to English language requirements, it would be more appropriate to identify what industries and occupations are of concern supported by appropriate primary evidence. These identified industries and occupations could then be targeted for appropriate English language testing.

- DIAC: strengthening the requirement for sponsors to train Australians by introducing an ongoing and binding requirement to meet training requirements for the duration of their approved sponsorship.

BAL in principle supports this change but we need to review the supporting legislation and policy guidelines. It is already the situation that a business sponsor must show a commitment to maintain the required expenditure to satisfy the training benchmark for the term of approval as a sponsor. It appears little is changing in this reform apart from more robust wording associated with guidelines already in place. We again are looking forward to actual legislation and policy guidelines being released.

- DIAC: clarifying that 457 workers may not be engaged in unintended employment relationships by requiring workers to be engaged on an employment contract (as opposed to a business contract for services) and not on-hired to an unrelated entity unless they are sponsored under a labour agreement, or in an exempt occupation.

BAL is undecided regarding this change as the information provided currently is vague. It is already the situation that subclass 457 visa holders are prohibited from being employed by an unrelated entity unless they are sponsored under an on-hire labour agreement or are in an exempt occupation.

BAL is somewhat concerned by the statement "requiring workers to be engaged on an employment contract". What does this mean in reality? Will the Australian entity require an employment contract with the subclass 457 visa applicant? What if the visa applicant has a contract with a related overseas entity – will this suffice? Further details are again required before our position can be determined.

- DIAC: strengthening the existing obligation regarding recovery of costs to ensure that sponsors are solely responsible for certain costs.

BAL is undecided regarding this change as the information provided currently is vague. There is already substantial recovery of costs obligations in place within the sponsorship obligations. What is changing? Further details are again required before our position can be determined.

- Fair Work Ombudsman's inspectors being appointed inspectors under the Migration Act

BAL welcomes this change without reservation. Any business not complying with sponsorship obligations or industrial relations requirements should be identified and prosecuted.

The Government's reforms are unfortunately somewhat vague at this time. It is unfortunate that the supporting legislation and policy interpretation have not yet been released. It is quite common, although bad practice, for the substantial information associated with important immigration changes, to be released very close to the commencement date of the intended reforms. Such practice inhibits effective debate on the reforms and leads to unnecessary anxiety within certain sections of the Australian community.

It is also important to note that the announcement of the recent changes have been of a political nature and had a negative impact on how foreign business leaders view Australia. Such politicising is short sighted and hinders Australia in competing with America, Canada, Western European nations, New Zealand and the like with attracting the best foreign talent to develop our economy and attracting foreign investment to develop our economy.

k) any related matters.

BAL has some discussion items that may be considered as part of a review of the subclass 457 program:

1. Sponsorship tiers for the 457 program

Currently large multinational firms, large Australian public firms, large Australian private firms and small business are assessed using common legislation.

Possibly a tiered approach could be developed. Large compliant firms could have a more streamlined 'light touch system' in place. Firms operating in 'high risk' industries or with recent compliancy issues could be reviewed more thoroughly with a 'high touch system' in place.

2. Occupation tiers for the 457 program

From our observations it is clear that the vast majority of the occupations nominated for the subclass 457 visa program involve highly skilled individuals being nominated for temporary residence, and significant benefits flow to the Australian economy.

It appears that in the very rare situation where an issue is identified within the subclass 457 program, it involves a 'lower' occupation category within ANZSCO. Possibly, consideration could be given to having a 'light touch system' for higher ANZSCO occupations and a 'high touch system' for lower ANSZCO occupations.

3. Intra-company applications

Many nominations for the subclass 457 program relate to large multi-nationals transferring existing staff to Australia from related businesses overseas. Possibly, such applications should have a streamlined process in place.

4. Labour Market Testing for lower level appointments

Labour market testing should not be required for large compliant business. Labour market testing should not be required for most eligible occupations for nomination under the subclass 457 program. However, it does appear that in the very rare situations where non-compliance occurs within the 457 program, some occupations are more vulnerable than others. Possibly labour market testing could be considered for such occupations. It is important to be clear that labour market testing would only apply to a very limited number of occupations and to a limited number of businesses of concern.

5. New subclass 400 visa and amendment to business visitor visas

BAL generally welcomes the recent changes to the business visitor regime by clarifying that no work is permitted on such visits. BAL generally welcomes the introduction of the new subclass 400 visa. However, BAL comments that the subclass 400 visa needs to be urgently available for on-line lodgements in order to facilitate expedited visa preparation and lodging. On-line lodgement is essential in order for business to use the 400 visa efficiently; many assignments that are appropriate under this new visa category are very urgent in nature.

Conclusion

BAL believes that in totality the subclass 457 visa program is working well and very much contributing to the development of Australia's economy. BAL would trust that common sense prevails and the value of the program is recognised across the Australian community. BAL is of the opinion that the program should not burdened with unnecessary further bureaucratic requirements that will add further cost to conducting business in Australia, inhibit economic activity and provide other countries in the market for skilled international labour with a competitive advantage in attracting leading executives and specialists away from Australia.

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[i] Minister of Immigration & Citizenship's Media Release of 9 March 2013

[ii] Prime Minister Gillard's speech of 14 March 2013 "Address to the ACTU Community Summit on Creating Secure Jobs and a Better Society"

[iii] Australian Workforce and Productivity Agency Business Plan 2012-13

[iv] Department of Immigration & Citizenship, Population Flows: Immigration Aspects 2010-11 Edition