

# Global Immigration Update

## Introduction

From the new Prime Minister and Home Secretary in the UK; to changes in the EU approach to Russian nationals; and an increased focus on attracting and retaining skilled talent in Asia-Pacific, there have been significant changes to immigration policy and legislation over the last 3 months. Please do read on for further details.

## Australia - Outcomes From Australia's Jobs And Skills Summit

The Australian government's Jobs and Skills Summit has lifted the permanent migration cap to 195,000 places effective immediately. \$36.1 million in additional funding has been pledged to accelerate visa processing and resolve the current backlog. This includes a surge capacity of 500 staff over the next nine months. Ideas from the Summit will be used to rebuild Australia's migration program in the national interest.

The long-awaited Jobs and Skills Summit was held in Canberra last week bringing together Australian businesses, governments, unions and individuals to address the challenges facing the Australian labour market and economy today.

A key area of focus was Australia's migration programme. A snapshot of key initiatives agreed to during the Summit include:

- Increasing the permanent Migration Programme ceiling to 195,000 in 2022-23 to help ease widespread, critical workforce shortages. These increased caps are effective immediately
- Providing \$36.1 million in additional funding to accelerate visa processing and resolve the visa backlog. This includes a surge capacity of 500 staff over the next nine months
- Increasing the duration of post study work rights by allowing two additional years of stay for recent graduates with select degrees in areas of verified skills shortages to strengthen the pipeline of skilled labour in Australia
- Extending the relaxation of work restrictions for student and training visa holders until 30 June, 2023 to help ease skills and labour shortages.

Within the overall planning level of 195,000 places, allocations have been made to various visa streams as follows:

- 142,400 places allocated to the Skill visa stream
- 52,500 places allocated to the Family visa stream; and
- 100 places allocated to the Special Eligibility stream.

The Summit also laid out priorities for further work, with a focus on reviewing the purpose, structure and objectives of Australia's migration system to ensure it meets the challenges of the next decade. The following items have been flagged for consideration:

- Assessing the effectiveness of the skilled migration occupation lists
- Expanding pathways to permanent residency for temporary skilled sponsored workers
- Raising the Temporary Skilled Migration Income Threshold ('TSMIT'). The current TSMIT of \$53,900 has not increased since 2013
- Reforming the current labour market testing process following consultation with unions and business
- Examining the potential for industry sponsorship of skilled migrants
- Embedding a role for Jobs and Skills Australia, a newly formed statutory body providing independent advice on workforce, skill and training needs. Jobs and Skills Australia's analysis of skills shortages will set priorities for the skilled migration programme
- Policies to address critical labour shortages across regional centres and how to improve access to skilled migration by small business.

In the coming weeks, the government will task three eminent Australians to consider how Australia's migration program can be rebuilt in the national interest. Submissions from the wider community will be sought over the next 12 months to contribute to a national white paper on employment.

### What This Means

We welcome the wholesale review of Australia's migration programme with the view to tackling the critical skills shortage being experienced across the country. Attention to long-term solutions and simplification of the migration programme will help to address the key concerns expressed to us by businesses and individuals. As an independent immigration and global mobility business, we are actively involved in the national debate and will be contributing to the national white paper later this year.

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## Brazil - Temporary Visa And Residence Permit For Ukrainian Nationals And Stateless Persons

On 30 August, 2022, an Inter-ministerial Ordinance (number 30) was issued by the Brazilian Ministry of Justice and Public

Security and Ministry of Foreign Affairs, which detailed the conditions for granting temporary visas and residence permits for the humanitarian reception of Ukrainian nationals and stateless persons, who have been displaced by the war in Ukraine.

As a result of the conflict in Ukraine, the Brazilian government had already positioned itself on the humanitarian reception and consequent granting of residence permits to Ukrainian nationals and other immigrants impacted by resulting security conditions causing their displacement. This latest inter-ministerial ordinance details the conditions for obtaining a residence permit, which will come into force on the date of its publication.

It is important to mention that the provisions of this Ordinance will be in force until March 3, 2023, and do not rule out the possibility of other measures that may be adopted by the Brazilian State for the protection of Ukrainian nationals and stateless persons impacted by the war in Ukraine.

The temporary visa provided for in the Ordinance, will be issued for 180 days. In addition, the immigrant holder of the visa must register at one of the Federal Police units within 90 days after entering the national territory. The period of temporary residence following this registration will be for a period of 2 years.

Further, Ukrainian nationals in Brazilian territory, regardless of the migratory condition in which they have entered the country, may apply for a residence permit for humanitarian reception before one of the Federal Police units, with the period of residence also granted for 2 years.

The immigration status granted under the Ordinance also permits productive work activities in Brazil, under the terms of the current legislation.

### What This Means

With the inter-ministerial ordinance coming into force on the date of its publication, 30 August, 2022, the temporary visa and the residence permit for the purpose of humanitarian reception, is already active as an option for Ukrainian nationals and stateless persons who have been impacted and displaced by the war in Ukraine.

Our immigration team in Brazil remains available to provide migratory assistance to those who find themselves in these conditions.

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## European Union To Make Visa Applications Stricter For Russian Nationals

In August, EU member states decided to stop applying a 2007 agreement that facilitated entry visa requirements for Russian nationals. This means that applications for short-stay visas for up to 90 days will be subject to stricter requirements, longer processing times and increased fees.

In response to the war in Ukraine and following calls from certain member states, EU foreign ministers have agreed to disapply an agreement made with Russia in 2007 that made it easier for Russian nationals to apply for entry visas to the EU. While this falls short of the calls by some member states for an outright entry ban, it is viewed as a significant step towards restricting the entry of Russian nationals to the EU.

Especially countries bordering on Russia, such as Finland, Estonia, Latvia and Lithuania, have seen an increased influx of Russian nationals. Many of those entering the EU in the past months have done so for leisure and/or holidays, which has been seen as problematic in light of the conflict in Ukraine. The new measures will not change the policy in such a way as to impact this group of travellers, however, member states have the discretion to implement measures that further restrict visa issuance.

For example, the Finnish foreign affairs minister has announced that they will be restricting visa issuance to 10% of normal volumes, citing "normal tourism should not continue as business as usual". Meanwhile, Estonia had already announced its ban on entry for Russian nationals holding valid Schengen visas (in addition to their wider visa restrictions). It is likely that other member states in the region will follow suit with similar measures that will go further than what has now been agreed at EU level.

On the other hand, countries like Germany and France have called for a more moderate approach, arguing that students, journalists and family members of EU residents should be able to continue to travel to the EU. Jointly they stated "while understanding the concerns of some member states in this context we should not underestimate the transformative power of experiencing life in democratic systems at first hand, especially for future generations."

Meanwhile, Belgium advises member states to ensure some form of harmonisation in order to avoid a situation where "Russians could do a kind of visa shopping among the countries of the European Union". Whether this will mean Belgium will implement additional restrictions is not yet clear.

The measures agreed by EU foreign ministers will now go through the legislative process and are expected to enter into force in the coming days.

### What This Means

Russian nationals will be subject to stricter requirements, longer processing times and increased fees when applying for short-stay entry visas to the EU. In addition, it may be that they will be subject to additional restrictions depending on which EU country is processing the application or they will be travelling to.

While the current approach highlights the differences in approach between EU member states, it also shows their willingness to work together to implement certain measures against Russia and Russian nationals.

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## Malaysia - Introduction Of Premium Visa Programme (PVIP)

The Malaysian Ministry of Home Affairs (MOHA) has recently announced the introduction of a new programme called the Premium Visa Programme (PVIP), to attract foreign businessmen and high income individuals to invest and reside in Malaysia for a period of up to 20 years.

This 'Residency Through Investment' programme, the first of its kind introduced by the Malaysian government to drive the country's economic growth, will be open for applications beginning 1 October, 2022.

Holders of PVIP are granted a long-term pass on a 5+5+5 year basis and are permitted to reside, work, study, invest, open and run businesses, as well as purchase real estate, subject to other prevailing laws and rules. The rationale behind the 5+5+5 year method is based on the following factors:

- The validity period of passports issued by most countries is limited to 5 years only
- Allows the immigration authorities to monitor and assess the PVIP whereby the PVIP holders are required to update their latest information to the authorities every 5 years
- Allows continuous engagement with PVIP holders and applicants to ensure their concerns and feedback are recorded and considered.

The PVIP is a self-sponsored programme which is not tied to any employer, university, etc., hence the holder may change employers, universities, etc. without any immigration restrictions so long as the PVIP remains valid. Spouses, children under 21, parents and parents-in-law, and domestic helpers of the principal PVIP holder are also eligible for the PVIP. Children 21 years old and above will need to apply as a principal PVIP holder in their own right or obtain other relevant visa or pass in Malaysia.

The PVIP is renewable 6 months prior to the end of the 20 year period.

### Eligibility

Below are the key eligibility criteria for the PVIP:

- Individuals of all ages and nationalities, except nationals of Israel and other countries without a diplomatic relationship with Malaysia, are eligible for the PVIP
- The principal PVIP holder must have offshore income, i.e. income sourced from outside Malaysia of at least MYR40,000 a month or MYR480,000 a year
- The principal PVIP holder must deposit MYR1,000,000 in a fixed deposit account with a Malaysian bank and withdrawal on the principal sum is not allowed. After 1 year of holding the PVIP, he/she may withdraw up to 50% of the principal sum in the fixed deposit to purchase real estate in Malaysia or for medical and education expenses
- A one-off participation fee of MYR200,000 for the principal and MYR100,000 for each dependent is applicable. Additionally, a yearly fee of MYR2,000 is applicable for each PVIP holder
- Other requirements include submitting a Personal Bond and Certificate of Good Conduct, passing a background check by the Royal Malaysia Police, undergoing a medical examination by a registered clinic or hospital in Malaysia and having a valid medical insurance coverage in Malaysia.

The complete checklist and detailed application process are only expected to be issued closer to the launch date of 1 October, 2022.

### What This Means

The PVIP is an initiative by the Malaysian government as it seeks to attract high income individuals to reside and invest in Malaysia and a move which aims to ultimately strengthen the country's economy and increase job opportunities among local talents. Eligible individuals will now have a new option for long-term residency in Malaysia which does not require a sponsorship by a local entity or individual. The PVIP is expected to garner more interest from high income individuals as compared to the Malaysia My Second Home (MM2H) programme which is a retirement-based programme that does not provide work and study rights in Malaysia.

While the Malaysian government encourages the participation of eligible individuals in the PVIP, the combined number of PVIP holders and MM2H holders is capped at 1% of the total number of Malaysian citizens, as part of MOHA's policy in ensuring that the PVIP does not undermine national security and the country's sovereignty. Furthermore, PVIP holders are not eligible to apply or change status to Malaysian citizens.

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## Singapore - Overseas Networks And Expertise (ONE) Pass And Updates To The Work Pass Framework

Effective 1 January 2023, global top talent from all sectors can apply for a new type of work pass - the Overseas Networks and Expertise (ONE) Pass.

The Ministry of Manpower also announced further updates to the Work Pass Framework:

1. Fair Consideration Framework ("FCF") job advertisement period for Employment Pass (EP) has also been shortened from the current 28 days to 14 days effective from 1 September, 2022;
2. Salary exemption to FCF advertisement and Compass will increase to S\$22,500 from 1 September, 2023;
3. Pass application processing time to be shortened to 10 business days with immediate effect;
4. New 5-year Employment Pass (EP) for experienced tech professionals with skills in shortage.

The ONE pass, together with further enhancements to the existing work pass framework, underscore Singapore's commitment to remain open to the world and strengthen Singapore's position as a Global Hub for Talent.

### How The ONE Pass Will Work

Applicants can apply for the ONE Pass from 1 January, 2023, under two criteria:

1. **Salary:** earning or will earn at least S\$30,000 in fixed monthly salary in the last 1 year or with future Singapore employer respectively; Overseas candidates must work for established company with market cap of at least US\$500 million or annual revenue of at least US\$200 million;
2. **Outstanding achievement:** Further details to be released around 1 January, 2023 for individuals with outstanding achievements in arts and culture, sports, science and technology, and academia and research, who can also qualify for Overseas Networks & Expertise Pass, even if they do not meet the salary criterion.

The duration of the first ONE Pass is for up to 5 years and renewable for subsequent 5 years per extension. Reporting of professional activities and salary will be requested by MOM yearly to facilitate the renewal process.

The ONE Pass will also allow an accompanying spouse to obtain a Letter of Consent (LOC) to work without obtaining a work pass in their own capacity.

### What This Means And Recommendations

Singapore is committed to welcoming talents from around the world, these changes send a strong signal to the world that Singapore remains open and a global hub for talent.

The shortening of application processing time to 10 business days will be much welcomed by the business community and is in line with the recent trend observed by us.

In order of effective date, employers are recommended to:

- Review existing FCF job advertisements period for current roles
- Revisit existing employee population and identify individuals below S\$22,500 who may be subject to COMPASS rules for their renewal
- Review existing policy to align on company position to support new pass types and identify key talents who may be eligible for these passes
- Establish downstream reporting and processes to ensure ongoing pass compliance.

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## South Africa - Centralised Adjudication And ZEP Extension

The Department of Home Affairs in South Africa has revoked the centralised adjudication process implemented early this year such that all visa applications submitted abroad will now be adjudicated at the relevant South African mission abroad.

Moreover, the grace period granted to Zimbabwean Exemption Permit holders to obtain a mainstream visa has been extended until 30 June, 2023.

The Department of Home Affairs made the following two important announcements late last week:

### 1. Centralised Adjudication: Withdrawn

Following significant business stakeholder interaction with the Department of Home Affairs and Department of Trade & Industry, including recent media reports, the decision to centralise the adjudication of long-term visa applications to the Head Office in South Africa, since January 2022, has been rescinded with immediate effect due to the needs of the South African economy and detrimental impact thereof to employers and foreign national applicants.

It is understood that pending long-term visa applications submitted from abroad between 12 January, 2022 and 1 September, 2022 will not be returned to the South African Consulate of submission and will continue to be adjudicated under the previous centralised process in South Africa.

Accordingly, the ongoing business and personal impact of the current 8+ month adjudication delays will not be immediately resolved through this reversal as a significant adjudication backlog

remains within temporary residence, permanent residence and appeals with no communication around the measures to be taken to resolve the same - the ongoing inability of new foreign national skills to receive visas to address urgent needs of our local economy thus remains.

A positive impact should be realised for new applications submitted abroad (from 2 September, 2022) which could return to the standard processing times, however, the implementation of a new checklist to be adhered to by the adjudicators abroad could result in short-term uncertainty.

While the Department of Home Affairs may extend the current concession (expiring 30 September, 2022) to enable ongoing legality and ability to reside/work/study in the country for applicants whose visas expired while awaiting adjudication (submitted in South Africa), this provides minimal relief to impacted foreign nationals when travelling or being exposed to potential challenges as to status in the country.

It is hoped that a decision around the extension of the concession will be made timeously to remove additional uncertainty for foreign nationals and employers around continuity of services and potential travel arrangements given the risk of being declared undesirable.

### 2. Zimbabwean Exemption Permit ("ZEP"): Extension Until 30 June, 2023

The Department of Home Affairs has extended the current grace period afforded to expired ZEP visa holders until 30 June, 2023 (previously 31 December, 2022) to provide additional time for impacted individuals to lodge applications for standard temporary residence visas to remain in South Africa.

The Department's statement refers to receiving minimal applications from impacted ZEP visa holders for standard visas/waivers, however, the Department has provided limited guidance on the options available for applicants who do not qualify for a Critical Skills Work Visa.

The Department has previously advised that Waivers against the Department of Labour requirement in respect of General Work Visas will only be considered within the sporting, religious and art fields with all other disciplines mandated to follow the Department of Employment and Labour process.

We continue to engage with the Department as to whether there is an alternative Waiver solution for ZEP holders in line with the recent statement.

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## United Kingdom - Liz Truss Becomes The New UK Prime Minister

On 6 September, 2022, Liz Truss won the Conservative Party leadership election, beating former Chancellor Rishi Sunak, in a contest spanning most of the summer and became the new Prime Minister of the United Kingdom. During her leadership campaign, she has promised tax cuts, including changes to National Insurance.

### What Does This Mean For Employers And Employees?

**Cost Of Living Crisis** - the expectation is that we will imminently hear the government plans to assist with soaring energy bills. For employers and their employees, rising cost of living is clearly a huge concern and many employers are considering how to offer support to domestic and expat populations (particularly acute for expats to the UK as the UK's inflation rate is currently higher than any other G7 country). To make these decisions, it'll be crucial to understand what government support there may be and who it will impact.

**General Election** - in her acceptance speech, she mentioned the next general election being in 2024, so it seems that there are no current plans to call for an early general election.

**Immigration Policy** - There was little discussion about the mobility of migrant workers, in particular, those arriving in the UK as skilled workers or investors. The Prime Minister appointed a new Home Secretary, Suella Braverman. She has not said a great deal about business immigration so we do not expect any significant reforms in this area of corporate immigration policy, in the near future. That may change as the cost of living crisis bites, if the government moves towards a protectionist position.

More directly, as new policy announcements are made in the next few weeks, we will continue to review, analyse, and update you on all the latest developments.

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## United States - Flexibility For RFEs And NOIDs Further Extended & Reproduced Signature Flexibility Becomes Permanent

On July 25, 2022, US Citizenship and Immigration Services (USCIS) announced that it will continue to extend certain flexibilities to assist applicants, petitioners and requestors. USCIS will continue to accept certain types of responses received

within sixty (60) calendar days after the due date. Further, in accordance with USCIS' evaluation, it has determined that the reproduced signature flexibility announced in March 2020 will become a permanent policy on July 25, 2022.

USCIS announced that it has further extended the flexibilities announced in March 2020 due to the COVID-19 pandemic to applicants and petitioners when responding to certain requests and notices, including Requests for Evidence (RFE), Notices of Intent to Deny (NOID), Notices of Intent to Revoke (NOIR), and filing date requirements for Form I-290B, Notice of Appeal or Motion.

USCIS will consider a response to requests and notices as timely filed if received within 60 calendar days after the due date set out in the notice or request, or in the case of Form I-290B, 60 calendar days from the date of the decision. The extension deadline applies to requests and notices with an issuance date between March 1 2020, and October 23, 2022 inclusive.

On March 20, 2022, USCIS announced that it would accept all benefit forms and documents with reproduced original signatures, including the Form I-129, Petition for Nonimmigrant Worker, for submissions dated March 21, 2020, and beyond. For forms that require an original "wet" signature, USCIS would accept electronically reproduced original signatures for the duration of the National Emergency. This means that a document may be scanned, faxed, photocopied, or similarly reproduced provided that the copy must be of an original document containing an original handwritten signature. On July 25, 2022, after evaluation, USCIS announced that the reproduced signature flexibility announced on March 20, 2020 will become a permanent policy on July 25, 2022.

### What This Means

Applicants, petitioners and requestors will have additional time to respond to agency requests as long as the issuance date listed on the request, notice or decision is between March 1, 2020, and October 23, 2022 inclusive. In addition, individuals and entities will now be permanently able to submit benefit forms and documents with an electronically reproduced original signature.

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Vialto Partners Global Advisory immigration team continues to monitor and share global immigration updates. Further information on Vialto Partners can be found here: [www.vialtopartners.com](http://www.vialtopartners.com)

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