

MAC Call for Evidence – Tier 1, Tier 2 and dependants under PBS Submission by the London Investment Banking Association

LIBA is the principal trade association for firms which are active in the investment banking and securities industry. The Association represents its members on both domestic and international aspects of this business, and promotes their views to the authorities in the United Kingdom, the European Union, and elsewhere. More information about LIBA is available at www.liba.org.uk.

The London Investment Banking Association (LIBA) is pleased to respond to the Migration Advisory Committee's (MAC) call for evidence on potential changes to Tier 1, Tier 2 and dependants under the Points Based System (PBS) for immigration.

LIBA members appreciate and support the MAC's consideration of a long-term strategy for mitigating the impact of UK unemployment as a result of the recent economic downturn. However, LIBA members are concerned that some of the proposed changes being explored through this most recent consultation fail to take a long term view of the potential unintended consequences on the financial services industry, which is responsible for 8% of UK economic output.

The UK has always benefited from the presence of international talent amongst its workforce. The presence of such a cosmopolitan labour market is one of the key factors underpinning London's position as a leading international financial centre. Inward migration over the past decade has been very strong with a net gain in London of over 800,000 people. The UK economy has benefited immensely from migration and open, flexible policies which foster a diverse workforce, resulting, for example, in increased UK economic growth and an improvement in the quality of the UK labour force.

We strongly believe that in addition to the public service, security and domestic labour market concerns it is meant to address, migration policy should also prioritise economic competitiveness. The UK's migration policy should allow for sufficient flexibility for those employers who wish to remain fully compliant, and have embraced additional responsibilities and administrative burdens as a result of the PBS, yet to whom recruiting and mobilising talent globally are strategically critical.

Dialogue and partnership between industry and UK immigration policymakers is essential and mutually beneficial for both parties. Given that data on trends since the inception of PBS is not accessible from the UKBA's SMS system, several LIBA members have been surveyed, with the collated data being used to underpin explanations of current process utilisation, and of the potential impact of proposed further changes on the financial services industry.

In this document, direct answers to the MAC call for evidence and supplementary context specific to our industry will outline the key concerns for the firms represented and the potential impact of the following proposed changes:

1. **Closure of the Intra-Company Transfer Route**¹: Disabling movement within firms of key talent into the UK, affecting overall performance and competitiveness
2. **Further Restrictions of Tier 2 to Shortage Occupations Only**: Will materially impact global recruitment strategies and mobility of talent
3. **Additional Restrictions to Tier 1**³:
4. **Removing the UK Work Rights of Dependants**⁴: Expected to impact acceptance rate of transfers to the UK

¹ Closure of the ICT route outlined as a possible policy decision in MAC call for evidence, p.28, 5.13

² Our concerns centre on the proposed restriction of Tier 2 to Shortage Occupations only, as outlined as a possible policy option in the MAC call for evidence, p.27, 5.9

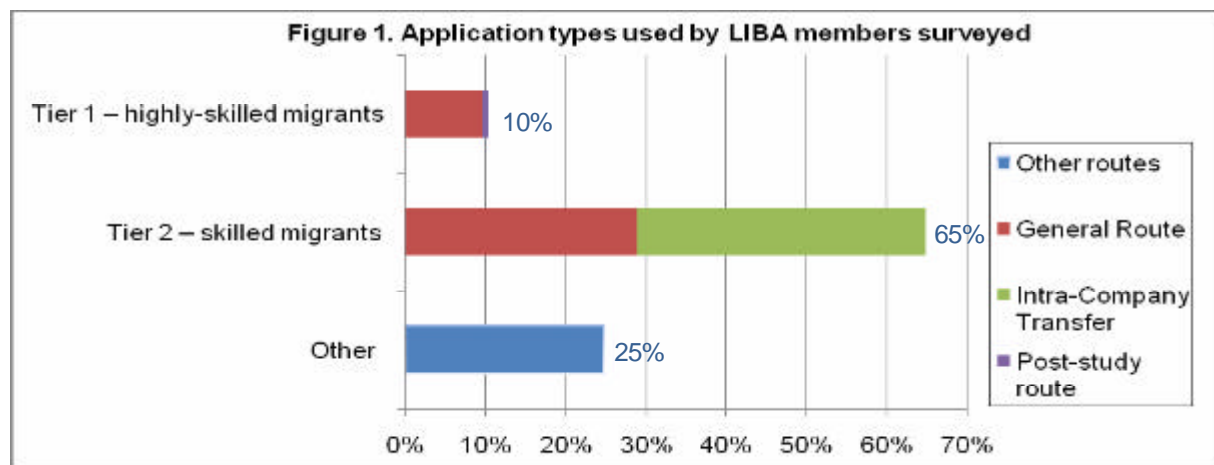
³ MAC call for evidence p.24, 4.22

⁴ Although data on the economic contribution of dependants is not widely reported on in our industry, we will highlight the potential impact on the decisions of principal migrants to come to the UK to work, as set out in the MAC call for evidence, p.33, 7.5

Of the LIBA members surveyed, the average number of employees currently on intra-group assignment globally ('assignees') was only 1.1% of their global workforce. Because of the roles and positions they have within their organisations, a large proportion of these select individuals drive their firm's strategy to success.

The recruitment philosophy governing many of the firms represented is focused on sourcing top candidates from around the globe to ensure that they are continuing to build a pipeline of diverse talent across all levels. The success and, therefore, reputation of LIBA members is fundamentally linked to the quality of their people. LIBA members surveyed reported graduate classes made up largely of UK and EEA nationals (averaging 81.2% of their 2008 classes). Where non-EEA nationals are hired, this is often driven by business need for specific skill sets for example language skills. Restricting recruitment to EEA nationals would, therefore, either result in no hire being made into the specific role, or a dilution of the talent pool. Either would have implications for the firms' future growth, and in turn contribution to the UK economy.

By way of context, non-EEA citizens make up a small percentage of the workforce of LIBA members surveyed, with the number of non-EEA citizens brought to the UK in the last 12 months⁵ averaging just 3.4%. This small population of non-EEA hires and ICTs are brought into the UK under the Tiers represented in Figure 1 below.



1. Closure of the Intra-Company Transfer route

In May 2009, a report⁶ published by the Financial Services Global Competitiveness Group, co-chaired by the Chancellor Alistair Darling and former Citi Chairman Sir Win Bischoff highlighted that ensuring the right skills are available is crucial to the success of any financial centre. Crucially, it also stressed the need to support flexible labour markets, one route being to encourage overseas talent to guarantee the UK's reputation as a world leading financial centre. LIBA members strongly encourage the MAC to consider the commitments made in this report and the impact that abolishing ICTs would have on the financial services industry.

Suspension of the ICT route is a serious strategic concern for LIBA members who utilise this route, with all firms surveyed agreeing that this proposed change would have a 'significant' or 'severe' impact on both the UK and global operations of their businesses. Key reasons for bringing employees into the UK include:

- a) **Greater access to internal talent pool** – particularly for leadership roles
- b) **Knowledge transfer** – specialist, technical and corporate cultural knowledge being acquired / transferred by virtue of an international move
- c) **Provision of specialist skills** – unavailable in resident labour market and those necessary to complete specific projects
- d) **Development** – of managerial potential through the provision of international experience

⁵ 12 month period to the end of April 2009

⁶ The report is found at http://www.hm-treasury.gov.uk/ukinternational_financialservices.htm (p.14)

Due to the nimble nature of the financial services industry, international assignments are often required at short notice to meet a multitude of different business needs, which necessitate different policy types. Some LIBA members surveyed have up to five structured assignment types to meet these various needs (Short-term: 2-12 months, longer-term: 1-3 years).

One survey respondent commented that:

“Allowing our top talent to work on a temporary basis in the UK gives them first-hand exposure to the challenges of working in one of our key markets. This experience allows them to develop many skills that they wouldn't have otherwise obtained had they remained in their home country. At the end of their UK experience, they are well positioned for a global role or are able to take their newly acquired knowledge back to their home country marketplace.”

It is only possible to grasp the strategic importance of mobility to international firms by considering it globally, and in the context of the international reciprocity of talent. On average, firms' assignees are distributed globally across Asia (40%), EMEA (39%), the Americas (17%), and India (8%), with this global cross-fertilization of talent across organizations being a key element of many firms' talent management strategies. On average, 73% of assignees are mid-level or senior managers, demonstrative of the importance of these assignments as key management development platforms.

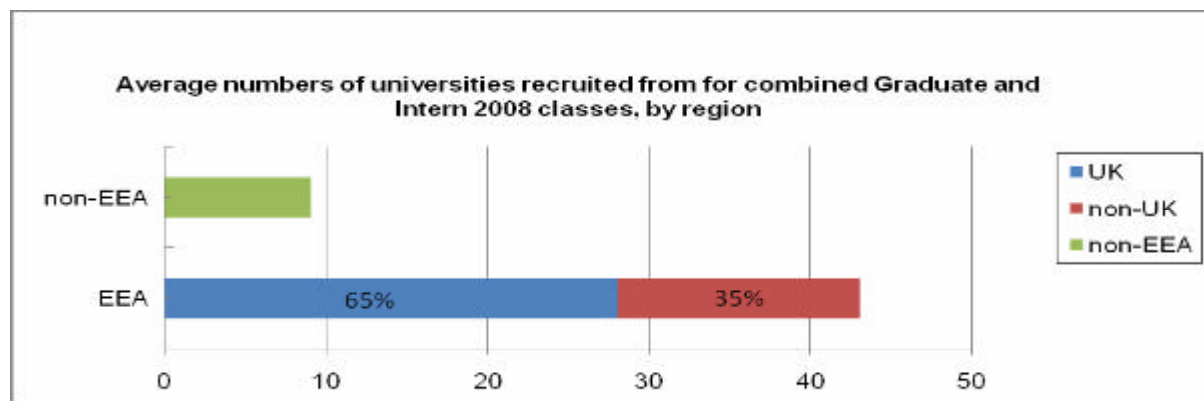
On average, only 9% of assignees globally are entry level employees, and only 17% classed as 'junior' by surveyed firms, indicative of the lack of any 'undercutting'⁷ threat from ICTs to the resident UK labour force. The decision to use an intra-company transfer to fill a specific role or business need is taken carefully by financial services employers, as moving an employee in this way represents a significant financial investment in that individual.

This statistic demonstrates that the vast majority of assignments in the industry are for developmental and technical rather than resourcing reasons and it will not lead to these positions being offered to EEA nationals or the resident labour market. Therefore, prohibiting ICTs in this industry will impact the productivity and competitiveness of firms without any material benefit to the UK or EEA labour market.

2. Further Restriction of Tier 2 to Shortage Occupations Only

On average across the LIBA members surveyed, 65% of all work permit applications were made under Tier 2, of which 44% used the 'General' route. The proposal to restrict this route to Shortage Occupations would have a serious impact on the financial services industry given that no financial services roles currently appear on the shortage occupation list.

If this restriction and the proposed closure of the ICT route were implemented simultaneously, there would be many non-EEA nationals whom we would not be able to hire or move into the UK, a situation which would become increasingly problematic if applicants did not meet the Masters degree and maintenance requirements of Tier 1.



⁷ In exploring the suspension of the ICT route on p.33, 7.4, the MAC specifically ask if there is any evidence of displacement of domestic workers or undercutting.

Given the largely global nature of LIBA members' businesses, it is imperative reputationally that the best person is hired for every experienced, graduate and intern role. The commitment of LIBA members to the EEA labour market is supplemented by strategic hiring for specific roles where there is a significant competitive advantage to be gained from hiring non-EEA nationals (such as language skills relevant to growth market areas). These individuals may be hired through firms' standard recruitment process at British universities.

To the same end, the global mobilisation of talent is a key strategy to ensure banks are positioned at the forefront of markets in which they wish to be leaders. One LIBA member said:

"We expressly welcome diversity and want to attract and retain internationally minded talent and strive for a nationality mix in all financial centres of the Group."

In addition to lateral and graduate hires, Tier 2 may need to be utilised as a workaround if existing problems with Tier 5 are not resolved. Our industry embraced the changes requested by the UKBA at the inception of PBS, and continues to ensure compliance regarding new processes and documentation. We question, however, the necessity for an overarching sponsoring body, the securing of which is proving problematic, thus making Tier 5 unworkable for our industry. Restrictions to Tier 2 would currently leave firms no alternative hiring route for applicants who do not hold a Masters degree or meet the stipulated maintenance requirement under Tier 1.

On the topic of recruitment, one LIBA member commented that:

"...it is vital that the Bank is well placed to react to rapid market changes and flexibility in employing migrant workers is paramount in achieving this. This is particularly important in the UK, with London holding such a vital position within our organisation. It is also our opinion that London's position as a global headquarters for the banking and finance sector is best served by a more flexible approach in this area."

3. Additional Restrictions to Tier 1

Averages from LIBA members surveyed indicate that only 10% of total work permit applications are currently being submitted through Tier 1, and of those that are, 94% are via the general and 6% the post-study routes.

Our major concerns regarding potential changes to Tier 1 therefore only arise if Tier 2 is restricted to Shortage Occupations.

If Tier 2 was no longer open to us, our main recommendations⁸ would centre on the points requirement for the Tier 1 general route as current opinion is that the weighting placed on academic qualifications alone is disproportionate. Earnings should also be taken into account so that those with Bachelor's degrees can still qualify if they meet a higher earnings threshold. The firms represented do not find that those with a Masters degree hold a skill level in excess of those with a Bachelor degree and the majority of roles would only require a first degree. 'Skill' level in the financial services industry is also measured by experience and not exclusively by post-graduate qualifications. From a recruitment and mobility perspective, 100% of LIBA members surveyed agree that Tier 2 is mostly used in preference to Tier 1, which is a less attractive option due to documentary, maintenance⁹ and Masters degree requirements.

⁸ In response to question on Tier 1 General route on p.32, 7.3 which asks how, if at all, the points and/or leave to enter or remain entitlements be adjusted in 2010/11 to respond to changes in economic and labour market conditions.

⁹ 12 months' payslips and bank statements have to be provided and the maintenance requirement can also be difficult to meet, whereas under Tier 2, an employer may certify maintenance, allowing an application to be made quickly.

The post study work route¹⁰ is currently not utilized as frequently as the general route under Tier 1, with reasons for the reduced use of this category including it not being available to non-EEA nationals studying at EEA Universities targeted by the LIBA members, or to fit with the start dates of their graduate programmes. This route is also less attractive to graduates than Tier 2 due to eligibility for Indefinite Leave to Remain (Permanent Residence).¹¹

4. Removing the UK Work Rights of Dependants

All LIBA members surveyed confirmed that the majority of assignees with dependants bring them to the UK. 37.5% of LIBA members surveyed reported a case or cases in the last 12 months in which a migrant worker had been unwilling to transfer to the UK due to entry restrictions now applicable to dependant children over the age of 18.

The potential restriction of spousal / partner working rights of dependants could have a similarly negative impact on employees accepting assignments¹².

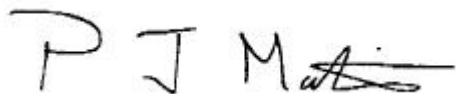
Assignments are usually initiated at the request of the employer to meet business needs rather than self initiated by the employee. For dual career couples, restricting the ability of spouses / partners to work in the UK could conceivably impact the decision to relocate and / or remain with the employer, which is especially problematic given the Masters restrictions for Tier 1 General which precludes many spouses / partners qualifying to work in their own right.

Conclusion

LIBA members contribute to the growth of the UK economy directly as British employers in their own right, and also through their dependence on UK based ancillary services, both as general businesses (e.g., security), and as a by-product of their mobility programmes (e.g., relocation companies). International assignees themselves also make a significant contribution to the UK economy.

For the reasons we have explained, we have serious concerns that at least in relation to this industry, the restrictions on ICT will prove counterproductive and will fail to meet the objectives envisaged by the policy change.

If firms were denied broad access to the international labour market, their growth, productivity and competitive edge in certain areas would be severely impacted. From the perspective of compliant firms who support the PBS and remain dedicated to this, we strongly urge the MAC to recommend that the proposed restrictions outlined above not be implemented, and that focus shifts instead to the governance of the existing policy, which would be more proportionate and ultimately ensure that the aims of the system are met.



Director
19 June 2009

¹⁰ MAC Call for Evidence, Page 32, 7.3, Post-study route question asks how, if at all, the points and/or leave to enter or remain entitlements should be adjusted or changed in 2010/11.

¹¹ Graduates who are granted Tier 2 hold a status which allows them to be granted Indefinite Leave to Remain after 5 years. Tier 1 (Post study work route) does not count towards this 5-year period towards settlement, making this a less attractive option for new hires.

¹² The MAC call for evidence asks: What impact does the policy on dependants have on the decision of principal immigrants to come to the UK to work? on p.33, 7.5.