



Mobility: immigration thought leadership

March 2017

Global outlook

Mobility in a protectionist world

Executive summary

Mobility of an organization's workforce continues to be a key competitive advantage and operational necessity in today's global market. Whilst there might be less traditional long term moves, particularly in mature markets, business travel is significantly increasing the volumes of employees who regularly cross borders as part of their employment.

Labour cost arbitrage along with supply and demand factors regarding talent and employee expectations for a global work experience all add to the business dynamic and associated workforce planning. Against this backdrop, governments globally are increasingly taking a more protectionist view of labour markets and national borders.

Nick Pond, People Advisory Services, Global Mobility Leader and Wayne Parcell, EY's Global Immigration Leader, share EY's perspectives on the potential impact to global immigration of the entry of the Trump White House and the exit of Britain from the European Union.

Has globalization been given a bad name?

Globalization is often blamed for job losses, disaffected citizens and social alienation, but it is not by itself the problem. The offshoring of production, automation, rapidly advancing technology and the distribution of wealth are all intrinsic elements of globalization that are contributing to economic and social disruption that is showing itself through public expression, that is, for example, through the US election outcome and Brexit. The free flow of people and trade has many positive effects too, such as lifting 600 million people in China out of poverty.

How can businesses help their employees deal with the disruption that is happening in immigration regulation around the globe so that they remain committed in their roles, particularly when that involves travel and mobility?

This current disruption arises particularly in the US through border security enhancements and in the UK with Brexit and the impact for European nationals working in the UK and British nationals living and working in Europe.

Alignment, focus and inclusion are key for investors, employers and employees. In particular, for employees in uncertain times a clear sense of purpose can, amongst other things, motivate individuals. The Harvard Business Review Analytics Services Report produced by the Harvard Business Review and supported by EY, reiterates this: "Since the financial crisis, nearly 60% of Americans want companies to play a bigger role in solving social problems."

EY is focussed on the role business can play in solving big issues in collaboration with other stakeholders. Uschi Schreiber, EY Global Vice Chair - Markets says: "The world is in transition and a clear focus on your purpose can help to navigate through turbulence. Responsive and responsible leaders are integrating their organization's purpose into their business model to build trust and provide guidance for decision making."

Employees who believe that they or their colleagues may be the targets of global change, particularly in an immigration context, are likely to be the same people who could feel excluded or discriminated against. The business would do well to reinforce principles such as tolerance and fairness and the unacceptability of discrimination. To this end, the business should consider conducting an opportunity and risk assessment and identify priorities for action to address potential marginalization of different employee groups. This would allow policy to be set globally with implementation calibrated to local conditions.

What level of risk do individuals face in a rapidly changing environment that might see them excluded from their country of residence or stranded in a third country?

Risks to travellers are greater where there is no risk framework to support business decisions. Travellers will look to their employer for guidance or assistance if in the course of their employment they find themselves in difficulties due to changes in immigration rules. These situations can become even more difficult when the personal risk profile of the individual traveller brings potential risks to business through employer-employee responsibilities.

How can business be better prepared for unexpected changes in immigration rules?

In answering this question current attention immediately turns to both the US and the UK, but this commentary is equally applicable to other countries whose rules may change without a great deal of notice. There are three elements a business must consider:

- ▶ If the business hasn't already got it, gathering data on what nationals they employ, the passports they hold, any former nationalities, their roles and their locations
- ▶ Use that data to undertake workforce planning based on potential outcomes. Which roles are mission critical in each location, what is the current talent pipeline and where historically are these critical roles sourced? Leveraging the demographic trends (specific nationalities or profiles) will help identify or indicate associated immigration risk
- ▶ Keep employees informed, with factsheets, webinars, training sessions, etc. Generally speaking there is an appetite amongst our clients to keep employees informed about what is going on, and to offer general information as to how they can update or change their immigration status if they want to, but not to help financially at the individual level, e.g. pay for personalised advice or applications.

The criteria for decisions about the grant of visas and admission through a border are complex and varied between categories of entry and across jurisdictions. The controls that arise from the decisions of a government about its borders will always have some impact on business. Business needs to be agile so that unexpected or urgent needs can be accommodated. This problem can only be dealt with by contingency analysis and advance planning so that the impact of unexpected or significant change can be better managed.

What would be covered by a governance framework for immigration compliance?

Immigration compliance shapes a governance framework that pivots to the employee lifecycle to deal with:

- ▶ Recruitment and on-boarding - this includes transactional compliance associated with visas for foreign workers and work authorisation for local hires
- ▶ Talent management and development - dealing with occupations in shortage will require workforce planning and skills analysis that takes account of the mobility risk profile of employees
- ▶ Business travel - with the inherent issues associated such as Base Erosion and Profit Shifting (BEPS), individual, corporate tax and social security obligations triggered by the travellers presence in other jurisdictions
- ▶ Exit and departure - end of trip compliance is essential, particularly in countries that require completion of tax filings and settlement of tax liabilities before departure. Unfinished compliance can lead to problems for both the business and the individual at a later time and in other jurisdictions
- ▶ Security - personal security issues can become corporate compliance issues if there is a lack of understanding of the risks posed by an individual's travel and immigration compliance history.

Importantly, ownership and visibility will determine the effectiveness of the framework through establishment of where responsibility sits, either at the Board or Managerial level.

Can the legal framework in the US and the UK be equally responsive to the needs of individuals and global business when it comes to setting immigration rules that might be considered to be unfair for individuals or inflexible for business?

The Brexit outcome and the US presidential election campaign both responded and reacted to localised concern about the impact of globalisation. There has been an increasing use of free trade agreements and trading blocs as vehicles to drive change in government policy on the movement of skilled people. Add to this, global labour arbitrage with jobs moving to lower cost environments. Technology advances, robotics and offshoring have created an expectation of job losses ahead of innovation. All this was undertaken within the legal framework of different jurisdictions and in the context of international law.

In the US and most other countries, around the world the rule of law governs the behaviour of government, its officials and its agents. Individuals and private entities are also accountable under the law. Ultimately, the law and the decisions that flow from it are subject to review by the courts. This has been evident in both the US and the UK with the judicial system operating to review the executive actions of government in respect of Presidential Executive Orders and the triggering of Article 50 of the Treaty on European Union that would enable Britain to exit the union. Ultimately, due process prevails and this provides certainty for individuals and for business.

The clear message from the new US administration is to “put America first” and “bring back jobs to America”. How can business reconcile this position with their need for internationally mobile talent?

Millions of people around the world are making clear their disenchantment with business and government institutions. The 2016 US elections produced a message that was loud and clear and underscored the need for a new dialogue. At the World Economic Forum Annual Meeting 2017, Mark Weinberger, Global Chairman & CEO, EY made some observations that are worth recounting:

“[We] should support those who are being left behind and that means acknowledging that some parts of our economy are never going to be the same. For example, the vast majority of lost manufacturing jobs will never return. More than 85% of recent job losses in America were not caused by outsourcing or trade, they were the result of technological innovations that made the manufacturing process more efficient. In fact, compared to three decades ago, today American manufacturers produce twice as much with only a third of the workforce.

This is why the movement toward inclusive growth is so important: in the past decade, the top 1% of earners have seen a disproportionate amount of wealth accumulation. That’s not sustainable. Since economic growth is largely driven by consumption, if we expanded income and opportunities to the broader population, we’d see far more robust global economic growth. It’s imperative that business and government work together to speed up the rate of inclusive growth and improve economic security for a broader population, even as the global economy continues to change.

For instance, we can help train displaced workers for new jobs that are in demand. Manufacturing jobs are disappearing, but middle-skill jobs, which require additional training or credentials but not a Bachelor’s degree, are not. In the next seven years, 16 million of these jobs - like electricians, dental hygienists, teaching assistants and a long list of others - will become available in the United States alone. These are the jobs that will make the economy work for everyone, but only if workers have access to the training programmes they need.”

What will happen after Brexit?

For many businesses there will be a greater level of certainty now that the decision has been made for Britain to leave the European Union. Business can start to plan being outside the single market, and clearly the impact will differ by sector. But the Rule of Law in the UK will not change with Britain’s legal framework supporting business as it has done before and during Britain’s membership of the European Union. There is no getting away from the fact that the European Union’s biggest trading partner is the UK.

For European nationals living and working in Britain it is most likely they will need to go through a yet to be determined process to regularise their status in the UK when Britain ceases to be a member of the European Union. In the meantime, many European nationals are applying for residence documentation now, even though there’s currently no requirement to do so.

The British Prime Minister has been clear that there will not be free movement into Britain for Europeans after Brexit. This suggests that European Union nationals will need some type of visa. However, such fundamental change can only be effected through legal processes which will commence following legislation enacted by the British Parliament, as confirmed by the 24 January 2017 judgment of The Supreme Court in the UK.

How important are the various humanitarian crises for business in terms of government reaction and behaviour regarding immigration policy and processes?

The consequences of the humanitarian crisis that we have seen impacting Europe, and to a lesser extent, the attempts by asylum seekers to reach Australia by boat and the illegal entry of people to the US, creates challenge in the mobility of people for three reasons:

- ▶ Unprecedented numbers of asylum seekers, refugees and economic migrants can overwhelm government administration in delivering support services
- ▶ Immigration operations are impacted, leading to slowdown in visa and entry processes, as government resources are directed to the humanitarian response
- ▶ Support for immigration wanes as debate and the public discourse ranges from sympathy and empathy to resistance and protectionism as government funds are diverted, the prospect of local employment opportunities are impacted and public security issues become conjoined to the issues through localised incidents of terrorism and organised crime.

The Hon Malcolm Turnbull MP, Prime Minister of Australia, made the point strongly about community support for border control in a Press Statement on 30 January 2017 referencing “...the very principles that I raised at the United Nations last year when I made the point there that our strong border protection - which the Coalition Government, under the leadership of PM Abbott in 2013, continued under my Government and enhanced under my Government - our strong border protection gives Australians confidence in the immigration system, gives them confidence in our humanitarian programs, underpins the commitment in our - the most successful multicultural society in the world.”

Summary

In the current political environment, sentiment is increasingly focused on reducing the extent to which business-based immigration is permitted. Increasing protectionist behaviour represents a significant challenge for our clients.

Although current legal constraints have focused on immigration to and from specific countries, this trend could likely increase.

New regulations will have an impact on organizations across all industries. All companies with substantial mobility programs should consider the impact of regulatory movements such as Brexit, immigration policy shifts in the US, and the anti-immigrant sentiment across a number of European countries.

By proactively engaging in dialogues and workshops with clients and government, EY can help our stakeholders achieve inclusive growth.

Reach out to your EY advisor for advice or assistance with any of the matters raised in this alert.

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