



## 1. Introduction

1.1 In Hong Kong, Mainland residents who wish to settle here must apply for a One-Way Permit ("OWP") from the relevant Mainland authorities. Ever since 1997, there has been an annual average entry of 48 300 OWP holders into Hong Kong, giving an aggregate number of 990 000 over the past two decades, representing about 13% of the overall population in 2017.<sup>1</sup> This apart, an annual average of some 53 500 non-local professionals are allowed to settle whilst working in Hong Kong under three major talent admission schemes in recent years.<sup>2</sup> Injection of new blood is deemed to be important for Hong Kong, not only because it can sustain local population growth amidst an ageing society, but also provide a steady supply of highly skilled manpower for continued development of the local economy. That said, there are concerns in the community that some of these entrants have committed immigration frauds (i.e. false identities, forged documents or bogus marriages) for obtaining the residence rights. This undermines the integrity of the immigration system of Hong Kong on the one hand, and poses an undue burden on public services (e.g. medical, education and housing services) on the other.

1.2 At the request of Hon Gary FAN Kwok-wai, the Research Office has undertaken a study on policy measures taken to tackle immigration frauds in residence application in selected places.<sup>3</sup> The scope of this study is confined to the fraudulent behaviours of those migrants submitting applications to

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<sup>1</sup> Between mid-1997 and end-2017, the cumulative inflow of 990 000 OWP holders was even more than the concurrent growth of 923 800 in local population, indicating that OWP holders are the most significant source of population growth. As local labour force is projected to shrink by some 204 100 persons or 6% during 2021-2041 amidst ageing, inflows of OWP holders could alleviate the downward pressure on labour force. See Census and Statistics Department (2017).

<sup>2</sup> These three major talent admission schemes are Admission Scheme for Mainland Talents and Professionals; the General Employment Policy for professionals from Taiwan, Macao and other places; and Immigration Arrangements for Non-local Graduates. During 2013-2017, there were an annual average inflow of 53 500 entrants under these three schemes. See GovHK (2018e).

<sup>3</sup> The request was made under a formalized scheme of a new initiative to strengthen research support to individual Members of the Sixth Legislative Council.

change their usual residence to the host countries through formal channels.<sup>4</sup> The United Kingdom ("UK") and Australia are selected for further study because they are the major target destinations of global migrants and both governments have stepped up measures against such immigration frauds in the more recent years.<sup>5</sup> This notes begins with a concise review of major residence schemes for immigrants in Hong Kong, followed by a discussion of key measures against immigration frauds and implications of such frauds for public services. It then switches to the two selected places, outlining their settlement and citizenship policies, fraud prevention measures and implications of immigration frauds for public services. A concise table is also appended for ease of reference (**Appendix**).

## 2. Fraud prevention in residence application in Hong Kong

2.1 Mainland residents who wish to settle in Hong Kong for family reunion can do so through the **OWP Scheme**, under which "the application, approval and issuance of OWPs fall within the remit of the Mainland authorities".<sup>6</sup> While the daily quota for OWPs has been fixed at 150 since 1995, actual daily entry averaged at only 132 over the past 20 years, with an utilization rate of 89% (**Figure 1**). About 90% of the OWP holders came to Hong Kong over the past decade for reunion with their spouse, parents and children settled in Hong Kong.<sup>7</sup> These OWP holders can apply for permanent residence in Hong Kong after continually residing here for at least seven years.

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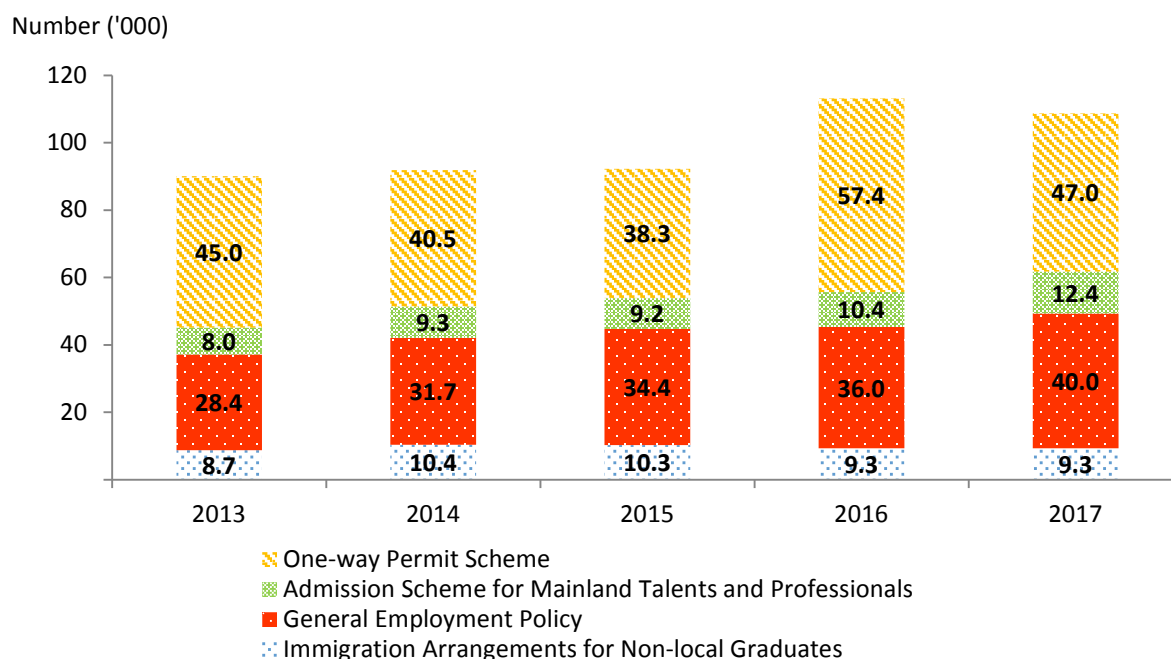
<sup>4</sup> It covers only those frauds in application for settlement/citizenship, excluding other immigration issues such as refugees or asylum seekers seeking international protection outside their country of origin, visitors violating their conditions of stay and working illegally in a place.

<sup>5</sup> There were 9.4 million foreign-born people in the UK in 2017, while the proportion of foreign-born population was 28% in Australia. Both figures are amongst the highest in advanced places.

<sup>6</sup> Under Article 22 of the Basic Law, Mainland residents "must apply for approval for entry into Hong Kong".

<sup>7</sup> For the rest of 10% of OWP holders, they are holders of Certificate of Entitlements who are persons of Chinese nationality born outside Hong Kong to a parent who had right of permanent residence in Hong Kong at birth.

**Figure 1 – Annual inflows of OWP holders and non-local talents, 2013-2017**



Source: Immigration Department.

2.2 On top of that, qualified professionals from other places are allowed to settle and work in Hong Kong under **talent admission schemes**, filling those vacancies that cannot be readily taken up by the local workforce. There are three such major schemes at present.<sup>8</sup> **First**, the General Employment policy ("GEP") is designed for professionals from Taiwan, Macao and overseas places other than the Mainland for settlement in Hong Kong, provided that they have job offers from local employers or detailed start-up plan beforehand. **Secondly**, there is a similar scheme tailor-made for Mainland professionals introduced in 2003, namely the Admission Scheme for Mainland Talents and Professionals ("ASMTP"). **Thirdly**, for those non-local students having completed a full-time degree programme or higher qualifications in Hong Kong, they may apply to work here under the Immigration Arrangements for Non-local Graduates ("IANG") since 2008. During 2013-2017, annual

<sup>8</sup> On top of these three major schemes, there are three other schemes of a smaller scale, including Quality Migrant Admission Scheme (QMAS), the Second Generation of Chinese Hong Kong Permanent Residents ("ASSG") and the Technology Talent Admission Scheme ("TechTAS"). QMAS was introduced in 2006 for admission of highly skilled or talented persons without securing an offer of local employment beforehand. There were 411 such entrants in 2017. ASSG was introduced in 2015, allowing children of the Hong Kong permanent residents who have emigrated elsewhere to return to Hong Kong for work. There were 315 such approvals by 2017. TechTAS was introduced in 2018 as a three-year pilot scheme, providing a fast-track arrangement for eligible technology companies/institutes to admit non-local technology talent to undertake research and development work for them in Hong Kong.

inflows of such talents under these three schemes averaged at 53 500, 17% more than the OWPs.<sup>9</sup> Based on the past trends, about one fifth of these non-local talents are granted permanent residence in Hong Kong after residing here continuously for seven years.

2.3 Reportedly, the major risks of immigration frauds in Hong Kong are summarized below:

- (a) **Bogus cross-boundary marriages:** Bogus marriages appear to be the biggest challenge faced by the OWP Scheme.<sup>10</sup> According to the Immigration Department ("ImmD"), there were altogether 10 649 arrestees in 6 971 cases of bogus marriages registered in Hong Kong during 2008-2017, representing about 4% of local registration of cross-boundary marriages (**Figure 2**).<sup>11</sup> Yet only 1 733 or 16% of these arrestees were successfully prosecuted, because it is "not easy to prove the false husband-and-wife relationship" in courts;<sup>12</sup>
- (b) **False identities or forged documents:** ImmD has not released specific statistics on false identities or forged documents used under the OWP Scheme, but it had declared the Hong Kong identity cards ("HKID") of 66 OWP holders invalid during the period from 2013 to May 2016 because of "furnishing false information or fraudulent means";<sup>13</sup> and
- (c) **Frauds under talent admission schemes:** So far, ImmD has released very limited information on admitted talents abusing the immigration system. In 2016, the Audit Commission raised the concern of a possible risk of applicants submitting forged

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<sup>9</sup> Taking GEP and ASMTF together, there was an entry of 52 333 admitted talents in 2017. Most of them worked in academic research and education, with a share of 14%. This was followed by arts/culture (14%), financial services (12%), recreation and sports (11%), and commerce and trade (8%).

<sup>10</sup> Bogus marriage is a marriage of convenience entered into purely for the purpose of gaining a residence and/or citizenship in other places, usually resulting in divorce after a period.

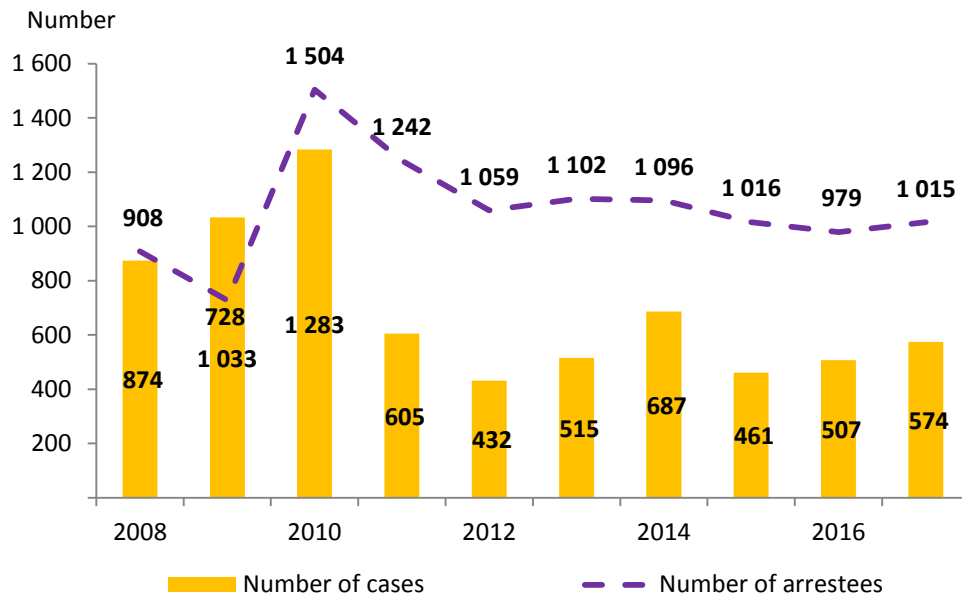
<sup>11</sup> During 2008-2017, there were a total of 187 702 cross-boundary marriages registered in Hong Kong, representing 35% of overall marriage registrations. Moreover, some 56 300 Hong Kong residents applied for Certificate of Absence of Marriage Records for marrying in the Mainland over the same period.

<sup>12</sup> For those successful prosecutions, ImmD needs solid evidence such as financial payments over bogus marriages arranged by the intermediary syndicate members or the suspects pleaded guilty themselves. See GovHK (2018g).

<sup>13</sup> GovHK (2016).

documents under IANG, prompting an undertaking by the Government to carry out strict verification of supporting documents.<sup>14</sup>

**Figure 2 – Number of bogus marriages in Hong Kong, 2008-2017**



Source: Immigration Department.

2.4 In combating such immigration frauds, ImmD has taken the following measures. **First**, under the Immigration Ordinance (Cap. 115) enacted in 1972, offences in such frauds (e.g. using forged travel documents, making false statement to ImmD personnel) are liable to a maximum fine of \$150,000 and imprisonment of 14 years. **Secondly**, a special task force has been set up within ImmD since 2006 to tackle bogus marriages. While the Marriage Registries have stepped up vigilance over suspected cases, the task force investigates each suspected case thoroughly, with a view to prosecuting the suspected persons with substantiated evidences. **Thirdly**, ImmD has long been taking enforcement action against those intermediary criminal syndicates inducing people to engage in bogus marriages for remuneration, along with enhanced intelligence exchange and cooperation with Mainland authorities.<sup>15</sup> **Fourthly**, for those substantiated cases with immigration frauds, ImmD has the authority to declare HKID of the convicted persons invalid and remove them

<sup>14</sup> The Government agreed with the suggestions of the Audit Commission to step up verification of authenticity of supporting documents submitted by IANG applicants and considered establishing a database to facilitate assessment of applications. See Audit Commission (2016).

<sup>15</sup> GovHK (2018c).

from Hong Kong, regardless of their years of residence in Hong Kong. **Fifthly**, for those suspected immigration frauds under the OWP Scheme committed in the Mainland, ImmD plays a facilitative role in assisting the Mainland authorities to process OWP applications at case level, such as verification of the documents and the claimed relationship between applicants and relatives in Hong Kong.<sup>16</sup>

2.5 On public services available to new arrivals under the above schemes, they are essentially the same as those for local residents, though some may be subject to residence requirements. In short, new arrivals are entitled to **free education services** up to 15 years from pre-primary to senior secondary levels, and are eligible for subsidized **healthcare services** in the public sector. In **public housing**, at least half of their family members in the application "must have lived in Hong Kong for at least seven years" when a public rental housing flat is allocated.<sup>17</sup> In **social security**, new arrivals need to live here for at least one year before application for Comprehensive Social Security Assistance ("CSSA"), after a landmark ruling by the Court of Final Appeal ("CFA") in December 2013.<sup>18</sup> However, if these new arrivals are convicted of immigration frauds, they will no longer be eligible for such public services, as their residence right in Hong Kong is also revoked.

### 3. Fraud prevention in residence application in the United Kingdom

3.1 By virtue of its long history, economic and racial diversity, the UK has been one of the key destinations of global migrants. As many as 9.4 million or 14% of the UK population were born overseas, the third highest amongst the 36 members of the Organisation for Economic Co-operation and

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<sup>16</sup> Taking bogus marriages as an example, the Mainland authorities will pass the particulars of the OWP applicants and their spouses in Hong Kong to ImmD for identity verification. ImmD will notify the Mainland authorities of the verification results for their follow-up actions. See GovHK (2017a).

<sup>17</sup> Under the following circumstances, all children under the age of 18 are deemed to have fulfilled the seven-year residence rule of public rental housing: (a) one of the parents, regardless of the children's place of birth, has lived in Hong Kong for seven years; or (b) the children are born in Hong Kong with established permanent resident status.

<sup>18</sup> The Government had raised the eligibility threshold on residence requirement from one year to seven years for CSSA application in January 2004, but CFA came up with a judgment on a judicial review case in December 2013 that such a change was unconstitutional. As such, the residence requirement reverted to one-year. There were 16 155 new arrivals having resided in Hong Kong for less than seven years receiving CSSA in 2017. Relative to the entry of 326 200 OWP holders over the past seven years, it suggests that some 5% of new arrivals were CSSA recipients.



Development ("OECD") in terms of the absolute magnitude, just after the United States and Germany. More specifically, the European Union ("EU") has been the most important source of people inflows into the UK, especially after its expansion to cover 10 more member states in May 2004.<sup>19</sup> During 2004-2017, the number of EU nationals in the UK has surged by 148% to 3.7 million, taking up about 6% of UK population in 2017. This gave rise to public concerns on immigration issues in the country, precipitating the release of a White Paper on tighter immigration system by the UK government in December 2018.<sup>20</sup>

3.2 On **settlement** application procedures, foreign nationals who wish to change their usual residence to the UK need to meet the following requirements. First, they need to enter into the UK either through work visas or through family visas. Having resided there for five years, they can apply for settlement in the UK under the Immigration Rules.<sup>21</sup> According to the UK government, about 25% of non-European work-visa holders and 77% of non-European family-visa holders are granted settlement after staying in the UK for five years.<sup>22</sup> In case these foreign nationals wish to apply for **UK citizenship**, they need to reside there for at least one more year after settlement.<sup>23</sup> Taking both settlement and citizenship together, the total number of grants had doubled to 436 300 during 2000-2010, but it subsequently has fallen by a total of 57% in the next seven years to 188 200 in 2017, along with a tightening in immigration policies in the more recent years (**Figure 3**).

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<sup>19</sup> Office for National Statistics (2018).

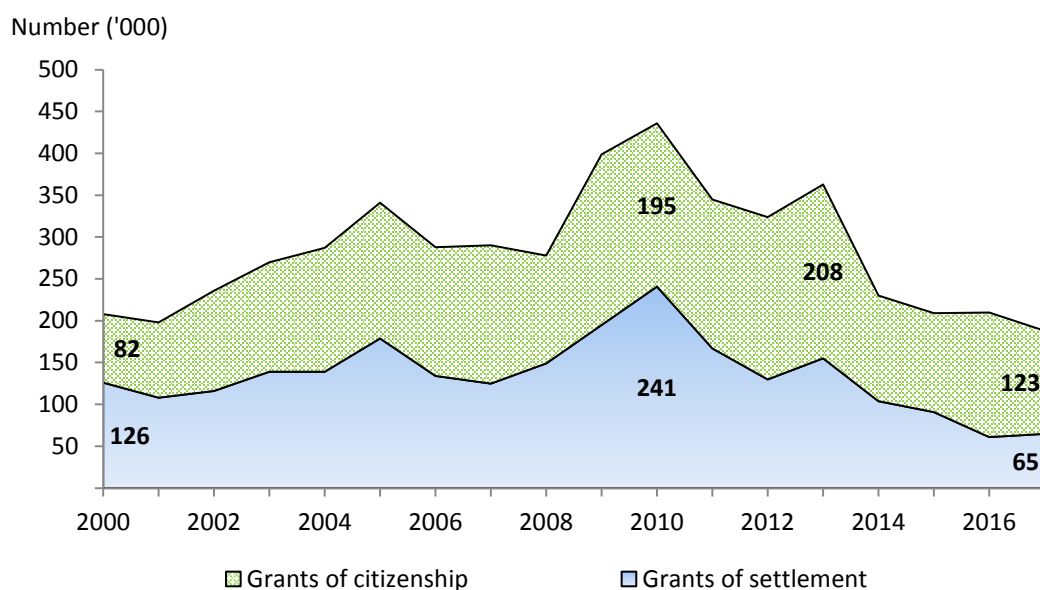
<sup>20</sup> On 19 December 2018, the UK government released the White Paper on "the UK's future skills-based immigration system", proposing immigration arrangement for the entry of EU citizens after the exit of the UK from the EU in March 2019. The UK government aims to reduce net inflows of migrants from 273 000 in 2018 to below 100 000 in the future. See GovUK (2018a).

<sup>21</sup> In application for settlement, holders of work visas must: (a) have employer's sponsorship; and (b) earn at least £35,500 (HK\$362,100) each year. For holders of family visas, they must: (a) have a two-year genuine marriage or partnership for a spouse visa; (b) have a pass in a test on "Life in the UK"; (c) meet English language requirement; and (d) have a proof of finances.

<sup>22</sup> This is based on a tracking exercise conducted by the UK government on the cohorts of non-European migrants entering into the country on the grounds of family reunion and work in 2009, and whether they have applied for permanent residence in 2014. See GovUK (2016).

<sup>23</sup> For those who obtained settlement right through marriage, they can apply for citizenship without waiting for one more year.

**Figure 3 – Grant of settlement and citizenship in the UK, 2000-2017**



Source: Home Office.

3.3 On major immigration frauds in settlement/citizenship applications in the UK, they comprise bogus marriages (named as sham marriages there), forged documents and false statements. Reportedly, most of these frauds have involvement of the organized crime syndicates.<sup>24</sup> Listed below are some of the major policy measures adopted by the UK government to tackle such frauds:

- (a) **Revoking settlement and citizenship:** Under the Immigration Act 1971, British Nationality Act 1981 and the Immigration Rules, the Home Office can revoke visa, settlement and citizenship in the event of immigration frauds. Moreover, fraud offenders are liable to a maximum imprisonment of two years, and those assisting or facilitating immigration frauds of 14 years;<sup>25</sup>
- (b) **Applying biometric information in immigration documents:** As some of the settlement applicants may hold multiple identities and submit multiple applications, the UK government introduced biometric immigration documents ("BID") to foreign nationals in 2008, facilitating confirmation of the identity of a person and quick establishment of a link between identities and documents.

<sup>24</sup> The UK government estimated that organized crime syndicates were involved in about three quarters of immigration frauds in the UK. See Home Office (2018).

<sup>25</sup> House of Commons (2017).



This specifically includes issuing Biometric Residence Permit to migrants, embedding a chip containing the facial image and finger prints of the holders along with their immigration status linked to the database of the Home Office. In 2015, application of biometric information to tackle frauds was extended to the citizenship applicants after consultation and public engagement;

- (c) **Online verification of identities tackling work-related frauds:** Under the Immigration, Asylum and Nationality Act 2006, it has become a statutory responsibility for the UK employers to check BIDs of foreign nationals and clarify their rights to work before offering jobs to them in 2008. Job applicants who are under immigration control should submit their BID number onto a Home Office online platform to receive a share code for employers' verification on the same platform;<sup>26</sup>
  
- (d) **Establishing a dedicated team to tackle organized immigration crime:** In 2015, the UK government established the Organised Immigration Crime Taskforce ("OICT"), consisting of more than 100 officers from several enforcement agencies deployed in 17 countries. This enhances capability of intelligence collection and enforcement action when such immigration frauds involve organized crime groups.<sup>27</sup> In 2016-2017, 63 organized immigration crime groups were disrupted by the intelligence work and joint operations of the OICT.

Besides, the Intelligence Management System was developed in 2012 to provide a centralized intelligence database for recording and processing all incoming allegations of immigration offences reported by the public and other government departments.<sup>28</sup> With the help of the system, the UK government could take quick enforcement action once an allegation had been initially assessed;

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<sup>26</sup> Employers not conducting document checks and hiring persons with no rights to work are liable to a fine of up to £20,000 (HK\$204,000) for each worker. See Home Office (2011).

<sup>27</sup> Organized immigration crime is the illegal facilitation of migrants across borders by organized crime groups, involving criminal activities such as production of false/fraudulent documents and illegal movement of migrants. The UK government has committed more than £50 million (HK\$510 million) for the operation of the OICT until 2020. See GovUK (2015).

<sup>28</sup> Independent Chief Inspector of the UK Border Agency (2014).

- (e) **Regulation of intermediary advisers on immigration:** It is alleged that some fraudulent activities are partly related to immigration advisers in the UK. In 2001, the Office of the Immigration Services Commissioner ("OISC") was established, imposing control on such immigration advisers to ensure they comply with the statutory standards. All immigration advisers must register with OISC and pass the competence assessments before practice. OISC can discipline or prosecute unqualified advisers. Altogether 162 prosecutions were made during 2008-2017;<sup>29</sup> and
- (f) **Global cooperation on fraud prevention:** The UK is one of the five members of the Five Country Conference ("FCC") established in 2009 for matching biometric data in those suspicious cases of forged documents or identity frauds.<sup>30</sup> The other four members are Australia, Canada, New Zealand and the United States. Each year, each of these five members shares the fingerprints of up to 3 000 individuals amongst them for biometric data-matching so as to combat immigration fraud on the global front.

3.4 More specifically on bogus marriages, the UK government estimated that there were about 4 000-10 000 of such marriages each year, representing 1-4% of all registered marriages in the country.<sup>31</sup> After a policy review and public consultation, there is a tightening in statutory marriage procedures after the enactment of the Immigration Act 2014 to combat bogus marriages. In March 2015, the "Marriage and civil partnership referral and investigation scheme"<sup>32</sup> came into effect, with the following salient features:

- (a) **Lengthening the notice period of all marriages to 28 days:** The notice period of a marriage before wedding ceremony used to be 15 days in the UK, but it is deemed to be too short for investigation of suspected cases of bogus marriage. As from

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<sup>29</sup> In 2017-2018, there were 3 337 registered immigration advisers in the UK.

<sup>30</sup> The Five Country Conference formed in 2009 aims to enhance the integrity, security and efficiency of the immigration and border services including the sharing of certain overseas visa application centres among the member states. See Home Office (2016).

<sup>31</sup> According to the UK government, there were a total of 292 200 marriages in the UK in 2011. Some 35 000 of such marriages involved a non-European national each year.

<sup>32</sup> In the UK, the reunion of same-sex couples (named as civil partnership) can obtain essentially the same rights and responsibilities as marriage. For presentation convenience, marriage in this section also applies to civil partnership.

2015, the statutory notice period for all marriages has been lengthened to 28 days;

- (b) **Investigation of suspected cases:** All proposed marriages in the UK involving a person with limited or no immigration status in the UK will be referred to the Secretary of State for initial assessment, along with other intelligence and evidence-based risk profiles; and
- (c) **Extension of notice period further to 70 days for suspected cases:** In case there are reasonable grounds to suspect a bogus marriage, the Secretary of State can extend the notice period of marriage further from 28 days to 70 days, allowing more time for the Home Office to investigate and take enforcement action.<sup>33</sup> A couple will be unable to get married if they do not comply with the investigation.

3.5 The effect of these tightening measures on immigration frauds in the UK seems to be rather mixed, however. For instance, the number of suspected bogus marriages was 6 626 in 2017, broadly similar to those of 6 909 in 2013.<sup>34</sup> Regarding frauds on seeking residence by deception, both the number of prosecutions and convictions has plunged by 75% and 88% respectively over the past decade, but those on assisting unlawful immigration has surged by 204% and 194%.<sup>35</sup> Between 2006-2015, only 45 cases of citizenship were revoked on the ground of immigration frauds.<sup>36</sup> This mixed picture on policy effectiveness could be attributable in part to budget and staffing constraints faced by the enforcement agencies.<sup>37</sup>

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<sup>33</sup> A couple under investigation may be required to provide information, evidence or photographs and explain about their relationship, living arrangement and future plans to the investigators during an interview. The result of the investigation should be released five days before the end of the 70-day notice period.

<sup>34</sup> Immigration Enforcement (2018) and House of Commons (2014).

<sup>35</sup> GovUK (2018b).

<sup>36</sup> The figure was released by the Home Office in response to a request made under the Freedom of Information in June 2016. More recent figure on deprived citizenship is not available, however.

<sup>37</sup> A parliamentary inquiry into the immigration policy in 2018 revealed that the enforcement agencies are not well resourced leading to staffing gaps and delays in decisions on case referrals from other departments as well as limiting the intelligence. During 2013-2017, spending on Immigration Enforcement has decreased by 9%. See House of Commons (2018).

3.6 Turning to public services available to migrants with settlement rights in the UK, they are broadly similar to those of the UK citizens. They are entitled to free access to education services (i.e. admission of state-funded schools) and healthcare services (i.e. National Health Service). They can also apply for social security payments and social housing. However, those migrants with conviction of immigration frauds are not eligible to such public services, as their settlement status will also be withdrawn.

#### 4. Fraud prevention in residence application in Australia

4.1 Australia is widely considered as a major "immigration nation" in the world, on the back of its migrant-friendly history and more relaxed entry requirements. In 2017, there were 6.9 million foreign-born population in Australia. With a share of 28%, this proportion of foreign-born population was the second highest in OECD, just after Switzerland.<sup>38</sup> However, there are increasing local concerns in the country whether there is an excessive annual inflow of permanent immigrants, which has more than doubled from 67 100 in 1997-1998 to 162 400 in 2017-2018. Coupled with an outbreak of a serious terrorist incident in 2014 to be discussed later, the Australian government has tightened its immigration policy somewhat in the more recent years.

4.2 On residence application, overseas applicants can apply directly for **permanent residence** in Australia before entry into the country through the Migration Programme ("MP").<sup>39</sup> Put it very simply, MP comprises a (a) skill stream which is essentially a talent admission scheme requiring the applicants to have three-year work experience in qualified occupations with employer's sponsorship;<sup>40</sup> and (b) family stream for family reunion requiring sponsorship from the Australian spouse or parent. Under the Migration Act 1958, annual quota of MP is capped at 190 000, of which 69% is allocated to the skill stream and 31% to the family stream.<sup>41</sup> After staying in Australia for four years and passing other requirements, these permanent residents may apply for

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<sup>38</sup> Organisation for Economic Co-operation and Development (2018).

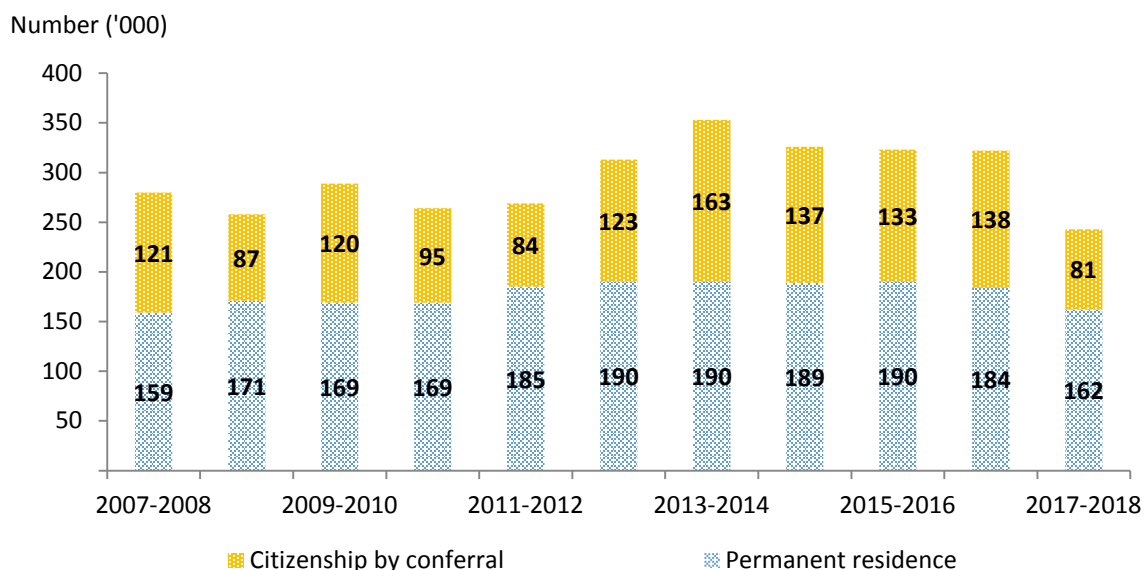
<sup>39</sup> There is another channel for those foreigners who enter into Australia on temporary work visas or student visas to apply for permanent residence in the country, after staying there for three years via skill stream or family stream of MP, known as "two-step migration".

<sup>40</sup> Or else, the applicants should have three-year work experience with an employer's sponsorship in Australia for holders of temporary work visa.

<sup>41</sup> Both the annual size and composition of MP are decided in the Government Budget, after broad consultation with stakeholders across the country. The Australian government has reiterated that the ceiling of 190 000 is not an obligatory target. See Department of Home Affairs (2018b).

**citizenship.**<sup>42</sup> Taking both MP and citizenship by conferral together, the number of approved applicants has fallen by a total of 31% from a peak of 353 000 in 2013-2014 to 243 000 in 2017-2018, upon a tighter immigration stance adopted by the Australian government (**Figure 4**).<sup>43</sup>

**Figure 4 – Grant of permanent residence and citizenship in Australia, 2007-2018**



Source: Department of Home Affairs.

4.3 On immigration frauds in residence and citizenship applications, they include frauds on identity, false travel documents and bogus marriage.<sup>44</sup> Below are major long-established measures to tackle immigration frauds in residence application in Australia:

- (a) **Sanctions on applicants committing frauds:** In 2011, the Australian government amended the Migration Act, allowing the Minister to refuse visa applications based on bogus documents or false information.<sup>45</sup> In addition, a three-year exclusion period is imposed on such applicants to prevent them from resubmitting

<sup>42</sup> Taking citizenship by conferral as an example, the applicant must live in Australia for four years including one-year permanent residence, pass the citizenship test and be of good character.

<sup>43</sup> According to the Australian government, such a decline was due to enhanced checks on the applications with fraudulent claims. See The Guardian (2018).

<sup>44</sup> Australian Criminal Intelligence Commission (2018).

<sup>45</sup> Before 2011, the Minister can cancel a person's visa if incorrect information is supplied in connection with a visa application. The amendment was mainly due to a large-scale visa fraud discovered where an entrepreneur was pleaded guilty of 777 counts of fraud in Melbourne. See Parliament of Australia (2018a).

applications for chain visa shopping.<sup>46</sup> In 2014, a 10-year exclusion period was extended to those applicants with visas refused on identity ground to align with the related punishment seen in other FCC partners. Moreover, those convicted are liable to a maximum imprisonment of 10 years and a fine of A\$210,000 (HK\$1.2 million);

- (b) **Regulation of intermediary migration agents:** Similar to the UK, migration agents in Australia are regarded as facilitators of migration fraud.<sup>47</sup> In response, the Government established the Office of the Migration Agents Registration Authority ("OMARA") in 2009, with a statutory function to monitor the integrity of immigration assistance provided by such agents. OMARA can discipline those agents who breach the Code of Conduct. Possibly due to establishment of OMARA, it is estimated that less than 0.1% of migration agents engaged in dubious business;<sup>48</sup> and
- (c) **Global cooperation on fraud prevention:** Similar to the UK, Australia is also a member of FCC and agreed in 2009 to send up to 3 000 fingerprints per year to each of the other FCC countries for checking against their respective biometric data holdings.

4.4 In February 2015, there was a review on the Australian immigration policy, after a terrorist attack by a naturalized migrant at Martin Place in Sydney in December 2014, resulting in three deaths and a few injuries.<sup>49</sup> In a national consultation conducted on citizenship in May 2015, most of the Australians supported the recommendations of tightening eligibility of citizenship and enhancing identity checks of applicants.<sup>50</sup> A package of new measures in fraud prevention was thus introduced in the more recent years:

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<sup>46</sup> Chain visa shopping refers to the action of making application after application with fraud until his or her application is approved ultimately.

<sup>47</sup> Australian Criminal Intelligence Commission (2018).

<sup>48</sup> As at June 2018, 7 402 migration agents were registered in Australia. About 75% of them have never been complained. See Parliament of Australia (2018b).

<sup>49</sup> On 15 December 2014, a terrorist who was formerly an asylum seeker from Iran yet successfully attained Australian citizenship held 18 hostages. Three people including the terrorist were killed. It resulted in a comprehensive review of immigration system to safeguard national security in Australia.

<sup>50</sup> The review of Martin Place siege also recommended enhancing internal connectivity and information sharing capability for vetting visa applications and the greater use of biometrics in identifying suspects. See The Guardian (2015) and Department of Immigration and Border Protection (2017).



- (a) **Enhancing identity checking and biometrics collection:** According to the Australian government, some 8 000 or 5% of the annual citizenship applications need additional integrity checking. In an attempt to tackle duplicate records and multiple identities, the Australian government moved from multiple client data entry to single identity-centric, biometric-anchored client system.

Moreover, the Australian government extended the offshore biometric enrolment programme to 60 countries in 2018 to collect fingerprint scans and digital photographs of applicants.<sup>51</sup> In 2018, the National Facial Biometric Matching Capability ("NFBMC") is launched for a centralized biometric database, storing biometrics of visa, citizenship, passport and driving licence across the country, as a part of an A\$630 million (HK\$3.5 billion) package of counter-terrorism and anti-identity fraud measures. NFBMC can match facial images for identity verification and detect multiple fraudulent identities within a shorter time;<sup>52</sup>

- (b) **Establishing dedicated teams to tackle organized immigration crime:** In June 2016, the Criminal Exploitation of Australia's Migration System ("CEAMS") Special Operation was established by the national criminal intelligence agency as a special intelligence operation to enhance investigations over migration frauds committed by the organized crime groups. The CEAMS can (i) deliver intelligence to check the vulnerabilities in the migration system; (ii) coordinate with other investigation agencies; and (iii) make recommendations to prevent exploitation of the migration system. In 2016-2017, CEAMS produced 35 intelligence products and shared them with partners 97 times;<sup>53</sup>

- (c) **Online verification of identities and operations tackling work-related frauds:** An inter-departmental Taskforce Cadena was jointly established in June 2015 with enforcement agencies and the Department of Home Affairs, targeting

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<sup>51</sup> According to the Australian government, biometrics have 98% to 99% accuracy which is more precise than document based checks of biographic detail. See Parliament of Australia (2015b) and Department of Immigration and Border Protection (2016).

<sup>52</sup> Commonwealth Ombudsman (2017) and Department of Home Affairs (2018).

<sup>53</sup> Australian Criminal Intelligence Commission (2016).

those criminals involved in visa fraud and work-related fraud. In 2017-2018, Taskforce Cadena completed 17 operations and executed 24 warrants across multiple states and industries. Besides, visa holders can use an online verification platform to check and send their immigration status to their employers in Australia for checking since 2015.<sup>54</sup> Similar to the UK, Australian employers have the responsibility to verify the rights to work of foreign applicants through the online checking platform. Offenders will be liable to a fine of up to A\$315,000 (HK\$1.75 million) per illegal worker;

- (d) **Inter-departmental risk assessment system:** In December 2016, the Department of Home Affairs deployed the Citizenship Caseload Prioritization Tool ("CCPT") for identification of high-risk cases in citizenship applications through an expanded 25 risk indicators as a policy response to Martin Place siege. Not only can CCPT provide more information about broader high-risk cohorts requiring enhanced integrity and identity checks on applicants other than former refugees, it also links up various departmental systems for alerting other departments of a suspected case identified by one department. The officers must investigate and resolve the flagged risk shown in CCPT before the applications can proceed so as to ensure the identified risk will not be missed by any departments;<sup>55</sup>
  
- (e) **Combatting bogus marriages:** In May 2015, the Australian government set up an inter-departmental data-matching system from the then Department of Immigration and Border Protection and Department of Human Services for fraud detection and prevention. The system targeted those welfare recipients who fraudulently claim higher-paying welfare payments for singles but have declared sponsorship of a partner for immigration purposes. It helps the Australian government reduce welfare spending, identify fake couples, and facilitate enforcement over bogus marriage. Moreover, migrants paying for bogus marriage are criminalized in 2015, subject to a maximum imprisonment of

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<sup>54</sup> Such measure was resulted from the cessation of issuing visa labels aligning with the strategy of promoting digital service delivery channels for public access to Australian government services including visa information.

<sup>55</sup> Commonwealth Ombudsman (2017).

two years and civil penalties of up to A\$378,000 (HK\$ 2.1 million) per offence, along with visa cancellation; and

- (f) **Enhancing the ministerial power to revoke citizenships of those committing frauds:** Under the Australian Citizenship Act 2007, the Minister has the power to revoke citizenship on the ground of migration-related fraud. However, as this can be done only when there is a conviction for a specified offence, it is deemed to be too restrictive. An amendment bill had been introduced by the Australian government in June 2017 to enhance the ministerial power to revoke citizenship without conviction, but this was struck down in the Senate in October 2017 due to parliamentary objection to such enhanced power. The Australian government indicated that it would submit a revised package to the Parliament again in the near future.<sup>56</sup>

4.5 There is limited information to assess the effectiveness of the above fraud prevention measures. **First**, given that only a total of 33 people had their Australian citizenship revoked over the past 70 years since 1949, the deterrent effect seems to be quite limited. **Secondly**, total number of disciplinary actions against intermediary migration agents had tripled from 11 during 2013-2015 to 34 during 2015-2017, suggesting that it could address some of the frauds from such agents. **Thirdly**, the number of prosecutions relating to Australian Citizenship Act and Migration Act dropped by 56% from 239 charges in 2013-2014 to 106 charges in 2017-2018, partly due to insufficient manpower for identity checks in visa and citizenship applications and for intensive investigations.<sup>57</sup>

4.6 As regards public services available to migrants with permanent residence in Australia, their entitlements are the same as those of citizens, including free public healthcare services with subsidized prescriptions, free education services for public schools and access to social housing after satisfying income threshold. However, this is not so for social security benefits, as new permanent residents need to live in Australia for two more

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<sup>56</sup> According to the Australian government, the proposal to enhance the Minister's power to revoke a citizenship without a conviction is mainly due to the fact that the government has limited resources to make prosecutions, and it takes long time to establish the conviction. Consequently, this power is rarely used, even where the evidence of fraud is strong. See Department of Immigration and Border Protection (2017) and SBS News (2018b).

<sup>57</sup> Commonwealth Ombudsman (2017) and Department of Home Affairs (2018a).

years to draw on social security. Similar to the UK and Hong Kong, those new entrants with immigration frauds will be denied such public services.

## 5. Observations

5.1 Regulatory authorities around the globe face increasing challenges arising from various immigration frauds (e.g. false identities, forged documents or bogus marriages) committed by those overseas applicants for permanent residence or citizenship. To combat bogus marriages, the UK government enacted a new legislation in 2014 to lengthen the notice period of marriage from 15 days to 28 days (and further to 70 days for suspected cases) to facilitate investigation, while the Australian government has stepped up inter-departmental cooperation for identification of suspects in such marriages.

5.2 For other common fraud prevention measures taken in both the UK and Australia, they include (a) using biometric information to tackle multiple bogus identities; (b) using an online identity verification platform to tackle work-related frauds; (c) establishing a dedicated team to tackle organized crime on such frauds; (d) enhancing regulation of improper business practices of intermediary immigration advisors; and (e) engaging in global cooperation.

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**Fraud prevention in residence application  
in Hong Kong, the United Kingdom and Australia**

	Hong Kong*	The United Kingdom	Australia
<b>1. Key legislation</b>	<ul style="list-style-type: none"> <li>• Immigration Ordinance</li> <li>• Crimes Ordinance</li> </ul>	<ul style="list-style-type: none"> <li>• British Nationality Act 1981</li> <li>• Immigration Act 1971, 2014 and 2016</li> </ul>	<ul style="list-style-type: none"> <li>• Australian Citizenship Act 2007</li> <li>• Migration Act 1958</li> </ul>
<b>2. Major immigration frauds</b>	<ul style="list-style-type: none"> <li>• Bogus marriage</li> <li>• Forged documents</li> <li>• False statement</li> </ul>	<ul style="list-style-type: none"> <li>• Bogus marriage</li> <li>• Forged documents</li> <li>• Identity fraud</li> </ul>	<ul style="list-style-type: none"> <li>• Bogus marriage</li> <li>• Forged documents</li> <li>• Identity fraud</li> </ul>
<b>3. Major fraud prevention measures</b>			
<b>(a) Biometric technology</b>	✓	✓	✓
<b>(b) Intelligence network</b>	✓	✓	✓
<b>(c) Inter-departmental database</b>	N.A.	✓	✓
<b>(d) Joint-departmental operation</b>	✓	✓	✓
<b>(e) Measures against bogus marriage</b>	✓	✓	✓
<b>(f) Online system for verification of identities of foreign workers</b>	✗	✓	✓
<b>(g) Dedicated authority on regulating migration intermediaries</b>	✗	✓	✓
<b>(h) Global cooperation</b>	✓	✓	✓
<b>(i) Revoking residence due to fraud</b>	✓	✓	✓

Notes: (\*) They refer to immigration frauds committed in Hong Kong only. For enforcement against immigration frauds under the OWP Scheme committed in the Mainland, it falls within the remit of the Mainland authorities.

(N.A.) Information not available.

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