

# **Investigation report on IPIM's vetting and approval of “major investment immigration” and “technical immigration”**

## **Introduction**

1. On 4<sup>th</sup> April 2005, the Macao SAR Government promulgated Administrative Regulation no. 3/2005 on *Temporary Residency Regime for Investors, Management Personnel and Specialised Technicians*. According to the regime, non-local residents may apply for temporary residency in Macao by making “major investments” or “purchasing immovable property”. Those employed as management personnel and specialised technicians by local employers may also apply for temporary residency.
2. On 3<sup>rd</sup> April 2007, the Macao SAR Government promulgated Administrative Regulation no. 7/2007, where it suspends the implementation of the provision which allows temporary residency to be applied through purchase of immovable property. Since then, under this regulation, non-local residents may only apply for temporary residency through “making major investments” or being employed as management personnel or specialised technicians, which are commonly known as “major investment immigration” and “technical immigration”.
3. The system of obtaining temporary residency through “major investment immigration” or “technical immigration” has been put into practice for more than a decade, which has helped attract inward investments and professionals to the Macao SAR to a certain extent. Nonetheless, problems arising from the implementation of the system have sparked different opinions and debates in society. Members of the community including legislators have also expressed grave concern over those issues.
4. In recent years, the Commission Against Corruption (CCAC) has continuously received reports and complaints pertaining to “major investment immigration” and “technical immigration”. The legality of the vetting and approval procedures, criteria and decisions related to some temporary residency applications was queried. They also revealed the situation of obtaining temporary residency through fake investment, employment, academic qualifications and Social Security Fund contributions.
5. As there were indications of problems in the “major investment immigration” and “technical immigration” systems and in the relevant implementation, in December 2015, the Commissioner Against Corruption, in accordance with the *Organic Law*

*of the Commission Against Corruption*, ordered an enquiry into the vetting and approval procedures for “major investment immigration” and “technical immigration” applications carried out by the Macao Trade and Investment Promotion Institute (IPIM).

6. The enquiry aimed to analyse the internal procedures, criteria and supervisory mechanisms of the IPIM for vetting and approving “major investment immigration” and “technical immigration” applications, find out loopholes and defects in the legislation and the handling process of the department. It also aimed to put forward recommendations on how to improve the mechanisms and enhance supervision. The CCAC also handled the cases involving criminal offences lawfully and in a timely manner during the investigation.

## **Part I: Laws of “major investment immigration” and “technical immigration”**

1. Administrative Regulation no. 3/2005, *Temporary Residency Regime for Investors, Management Personnel and Specialised Technicians* regulates the individuals to whom the policy of “major investment immigration” and “technical immigration” is applicable, the application procedures and the vetting and approval criteria. Amendments to the regime were made by Administrative Regulation no. 7/2007 to suspend the implementation of the stipulation of temporary residency application by purchase of immovable property.
2. According to Article 1 of Administrative Regulation no. 3/2005, the individuals who may apply for temporary residency under the category of “major investment” include holders of major investments projects already implemented and holders of major investment plans which have been submitted to the administrative authority. Therefore, the category of “major investment” covers the situations of application for temporary residency by “major investment” and by “major investment plan”.
3. According to Article 2 of Administrative Regulation no. 3/2005, the following investment plans or investments are considered major:
  - (1) Establishment of industrial entities of which the activities shall be beneficial to the economic development and economic diversification of Macao SAR;
  - (2) Establishment of service entities, especially those providing financial services, consultation services, transportation services and auxiliary services provided for industries and businesses which shall be beneficial to the economic development and economic diversification of the Macao SAR;
  - (3) Establishment of hospitality entities and other similar entities which are considered beneficial to tourism.
4. Article 1 of Administrative Regulation no. 3/2005 provides that the management personnel and specialised technicians employed by local employers, with academic backgrounds, professional qualifications and experience considered beneficial to the Macao SAR, may apply for temporary residency in the Macao SAR. Therefore, “technical immigration” is applicable to “management personnel” and “specialised technicians”.
5. Article 5 of Administrative Regulation no. 3/2005 stipulates that the spouse,

co-habiting partner or child under 18 of the applicant for temporary residency by “major investment/ major investment plan” or as “management personnel/ specialised technician” may also apply for temporary residency at the same time.

6. Article 7 of Administrative Regulation no. 3/2005 stipulates that when the administrative authority exercises the discretionary power to assess the applications, it shall take into account various important factors, especially:

- (1) Value and category of the investment plan or investment;
- (2) Background of the interested parties;
- (3) Professional category of the management personnel and specialised technicians;
- (4) The situation, needs and security of the Macao SAR;
- (5) Number of family members that the application for temporary residency will be beneficial to.

7. According to Article 17 of Administrative Regulation no. 3/2005, if the application for temporary residency is approved, the holder of major investment plan and his family members will be granted a permit of 18-month temporary residency which may be renewed once. The holders of major investment projects already implemented, the management personnel, the specialised technicians and their family members will be granted a renewable permit of 3-year temporary residency.

8. According to Article 18 of Administrative Regulation no. 3/2005, the applicant shall ensure that the important legal situations which the approval is based on are maintained during the period of authorised temporary residency. If there are adjustments of the investment and or changes in the legal status or job, it is necessary to notify the IPIM within 30 days. Those who fail to promptly fulfil the obligation to notify without justified reasons may result in cancellation of the temporary residency permit.

9. According to Article 19 of Administrative Regulation no. 3/2005, if the applicant maintains the situations which the approval of his initial application is based on, he may apply for renewal of temporary residency. When the applicant and his family members have resided in Macao as temporary residence permit holders for seven years, they are eligible to apply for permanent residency in Macao in accordance with Law no. 8/1999, *Law about Permanent Resident and Right of Abode in the Macao Special Administrative Region*.

## **Part II: Vetting and approval of applications for “major investment immigration” and “technical immigration”**

### **D) Applications for “major investment immigration” and approval situations**

Since Administrative Regulation no. 3/2005 only provides the basic principles of the vetting and approval of applications for temporary residency by “major investment/ major investment plan”, the administrative authority has set up the rules on the criteria and the relevant factors in accordance with Article 7 of the Administrative Regulation in order to make the criteria more concrete.

According to the latest information on the IPIM’s website, when processing the applications for “major investment immigration”, the IPIM mainly takes into account the following factors:

#### **1. Category of investment plan**

There is a list of advantageous investment plans in different categories, such as manufacturing of pharmaceutical products, food products and high and innovative technology products in the category of manufacturing entity, financial services and e-commerce in the category of service entity, while the plans which will cause pollution or with low energy efficiency are considered disadvantageous.

#### **2. Implementation status of the investment plan**

Whether the investment plan has been implemented or not will be taken into consideration. If the investment plan has been implemented, the applicant should provide the documentary proof of the commercial registration of the company, the investment amount and the turnover. However, if the investment plan has not yet been implemented, the applicant should provide documentary proof of the feasibility of the relevant project.

#### **3. Investment plan already implemented or to be implemented in Macao by the applicant**

In principle, the higher the actual investment amount, technology level, registered capital, intended investment amount and share-holding proportion contributed or to be contributed in the investment plan, the more advantageous it is for the application. If the investment plan has been implemented, the applicant should provide documentary proof of the various investments or investment amount, operation status and taxation records. If the investment plan has not yet been implemented, the applicant should provide details of the investment plan, the intended investment amount and its

distribution, technology level, registered capital, intended investment amount and shareholding proportion. The amount should be in line with the requirements of the confirmed project.

#### **4. Contribution to Macao's labour and employment market**

The creation of more local job opportunities symbolises more contribution to Macao's labour market. If the investment plan has been implemented, the number of registered local/non-local employees will be mainly considered. If the investment plan has not yet been implemented, the intended number of locals/non-locals to be employed by the company will be considered, assessment will also be based on the size of business involved in the investment plan.

#### **5. Other beneficial factors that the investment plan will contribute to the long-term development of Macao's economy**

The IPIM will take into account the business nature and uniqueness of the project under the investment plan, whether or not the enterprise is better than similar enterprises in Macao, whether or not the plan will be tally with the Government's policy and Macao's long-term development. There are 13 criteria for vetting and approval in this aspect including whether or not it will introduce new technology and competition within the same industry, and so on.

#### **6. Status of the applicant**

The academic and professional qualifications, previous work and investment experience, and share-holding proportion of the applicant, as well as the number of family members who will apply for temporary residency together will also be taken into consideration.

#### **7. The situation, security and demands of the Macao SAR**

To facilitate the comprehensive and objective analysis of the investment plan, opinions from related departments, competition within the industries as well as local economic development will also be taken into consideration during the assessment process. There are conditions of the applicants which are disadvantageous to the temporary residency application, including previous criminal convictions, confirmed non-compliance with the laws of the Macao SAR and previous deportation record.

According to the information on the IPIM's website, between 2008 and 2017, the IPIM received a total of 574 applications for temporary residency by "major investment/major investment plan", of which 186 were approved and 410 people were granted temporary residency.

<b>Applications for temporary residency by “major investment/major investment plan” and approval situations</b>											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
<b>Number of Applications</b>	20	31	36	65	84	105	80	79	24	23	574
<b>Number of Approved applications</b>	22	17	22	10	8	41	45	7	4	10	186
<b>Number of people granted temporary residency</b>	63	34	41	18	18	83	104	14	11	24	410
Note: The number of approved applications and the number of people granted temporary residency include those processed in the year and those yet to be processed previously.											

The statistics above show that there were only 20 to 30 applications for “major investment immigration” every year between 2008 and 2010. Starting from 2011, there has been a year-by-year increase in the applications. In 2013, the applications surged to 105. In 2014, although the applications decreased to 80, the approved applications reached its peak to 45 with 104 people granted temporary residency.

Although the number of applications remained 79 in 2015, the approved ones decreased sharply to 7, with 14 people granted temporary residency. The decrease in applications went on in 2016 and 2017.

## **II) “Technical immigration” application and the approval situation**

Similarly, since Administrative Regulation no. 3/2005 only provides for general provisions for the vetting and approval criteria for temporary residency applications made in the name of “management personnel and specialised technicians”, the public administration also laid down implementation details of the relevant criteria. According to the most updated information available on the IPIM’s website, the bureau will also holistically consider the following elements when vetting and approving “technical immigration” applications:

### **1. Academic background**

In principle, the applicant should have completed tertiary education. The academic qualifications provided by the applicant must be recognised by the country/region of the issuing institution. Assessment will focus on whether the academic qualifications possessed by the applicant are beneficial to Macao, e.g. whether there is a shortage of staff with related qualifications in Macao.

## **2. Professional qualifications/publications/awards**

Consideration will be given to whether the applicant's professional qualifications, publications or awards are internationally/regionally recognised, and whether the professional qualifications possessed are work-related. In principle, the more professional qualifications, publications and awards possessed the more advantageous it is to the application.

## **3. Work experience**

Consideration will be given to whether the work or managerial experience of the applicant is equivalent to the academic or professional standards possessed.

## **4. Job position**

Consideration will be given to whether the position held by the applicant is of a professional or managerial nature particularly beneficial to Macao and whether the business nature and size of the employing company is particularly beneficial to Macao. During the analysis, special consideration will be given to whether the qualities of the applicant are an advantage compared to local job seekers and also whether there is a shortage of personnel in the industry concerned.

## **5. Basic salary**

In principle, the salary of the applicant should not be lower than the median salary of the industry concerned (with reference to the statistical data provided by the Statistics and Census Service).

## **6. The situation, security and demands of the Macao SAR**

Previous criminal convictions, incompliance with the laws of the Macao SAR and previous deportation records are disadvantageous to the application for temporary residency.

According to the information from the IPIM's website, from 2008 to 2017, the IPIM received a total of 5,039 temporary residency applications made in the name of management personnel and specialised technicians, of which 3,296 applications were approved and a total of 5,376 people were granted temporary residency:



<b>Temporary residency applications made in the name of management personnel and specialised technicians and approval situations</b>											
	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Total</b>
<b>Number of applications</b>	596	753	542	490	540	587	436	482	305	308	5039
<b>Number of approved applications</b>	618	549	538	412	240	251	277	81	99	231	3296
<b>Number of people granted temporary residency</b>	938	836	847	643	382	453	506	150	209	412	5376
Note: the number of approved applications and the number of people granted temporary residency include those processed in the year and those yet to be processed previously											

The statistics above show that the number of “technical immigration” applications per year between 2008 and 2015 remained 500 to 700, and it reached as many as 753 in 2009. However, the numbers of applications in 2016 and 2017 went down to some 300 per year. There were over 400 approved applications per year from 2008 to 2011, representing an approval rate of over 70%. The number of approved applications per year between 2012 and 2014 reduced to 250 or so, yet still representing an approval rate of nearly 50% or more.

Although 482 applications were received in 2015, only 81 of them were approved. In 2016, the number of applications dropped to 305, of which 99 were approved. There were 308 applications in 2017 but the number of approved ones went up to 231. While the approval rates for “technical immigration” applications in 2015 and 2016 plummeted to 17% and 32% respectively, it bounced back to 75% in 2017.

### **III) Review of the vetting and approval criteria for “major investment immigration” and “technical immigration”**

According to the information provided by the IPIM to the CCAC, in February 2010, the IPIM started to carry out a study on how to optimise the vetting approval criteria for “major investment immigration”. In August 2012, the IPIM started to conduct a trial run of a “major investment evaluation worksheet”, where a points scheme was adopted to decide whether the applications involved significant investment. On 24<sup>th</sup> April 2013, the IPIM officially implemented the relevant evaluation worksheet. From 17<sup>th</sup> November 2015, the IPIM increased the reference minimum investment amount for “major investment immigration” from MOP1.5 million to MOP13 million.

In addition, in July 2014, the IPIM started to conduct a trial run of the “management personnel and specialised technicians evaluation worksheet”, where a

points scheme was adopted to vet and approve the applications for technical immigration. On 17<sup>th</sup> March 2015, the IPIM officially implemented the evaluation worksheet and part of the relevant criteria were adjusted and given an overhaul on 15<sup>th</sup> September 2016.

### **Part III: Problems found in the vetting and approval procedures for “major investment immigration”**

According to the investigation of the CCAC, during the possessing of “major investment immigration” applications, the IPIM lacked stringent vetting and approval and checking mechanisms for the investment amount and implementation of the investment projects. This not only easily gave rise to the situation of attempting to obtain temporary residency through making fictitious investments, but also, to some extent, caused the “major investment immigration” policy to deviate from its original legislative intent that aims to foster diversifications of Macao’s industries through attracting significant inward investments. The major problems found in the investigation are summarised as follows:

#### **D) Investment amount of some “major investment immigration” investment projects being too low**

1. “Major investment immigration”, as its name suggests, requires the applicants to make significant investment before temporary residency may be granted. When it comes to significant investment, either the field of the investment project should be a more important one or there is a larger investment amount. In fact, Article 2 of Administrative Regulation no. 3/2005 provides for which fields of investment may be considered significant.
2. Article 2 of Administrative Regulation no. 3/2005 provides for the three types of investment projects that may be considered significant, namely: industrial projects that contribute to the development and diversification of Macao’s economy; service provision projects beneficial to Macao, such as financial services, consultancy and transportation; hotels and similar projects with recognised benefits to the tourism industry.
3. From the above provisions, investment projects that may be considered significant covered three main areas, namely industry, service industry, and tourism. Since the Public Administration does not have any detailed measures to decide if the projects “contribute to the development and diversification of Macao’s economy” or if they are “beneficial to Macao”, it is difficult for the CCAC to judge whether the vetting and approval of an investment project is appropriate or not.
4. Although Administrative Regulation no. 3/2005 does not have definite provisions for the minimum investment amount for “major investment immigration”,

according to the IPIM's internal guidelines, the reference minimum investment amount used to be MOP1.5 million prior to 2015 - same as that required for the application for immigration through purchase of immovable property. The IPIM lifted the reference minimum investment amount to MOP13 million from 17<sup>th</sup> November 2015.

5. According to the data from the IPIM, there were a total of 186 approved initial applications for temporary residency by "major investment (plan)". The statistics based on the investment amounts stated by the applicants are shown below:

<b>Statistics of approved initial applications for major investment/major investment plan</b>				
<b>Investment amount stated by applicant (MOP)</b>	<b>Major investment plan</b>	<b>Major investment</b>	<b>Number of applications</b>	<b>Percentage</b>
<b>More than 13,000,000</b>	14	42	56	30.11%
<b>8,000,000 to 13,000,000</b>	17	18	35	18.82%
<b>5,000,000 to 8,000,000</b>	10	15	25	13.43%
<b>1,500,000 to 5,000,000</b>	16	25	41	22.03%
<b>1,000,000 to 1,500,000</b>	4	10	14	7.53%
<b>500,000 to 1,000,000</b>	0	10	10	5.38%
<b>250,000 to 500,000</b>	1	1	2	1.08%
<b>100,000 to 250,000</b>	0	2	2	1.08%
<b>Unspecified</b>	1	0	1	0.54%
<b>Total</b>	<b>63</b>	<b>123</b>	<b>186</b>	<b>100%</b>

6. The statistics above shows that in the approved applications for temporary residency under the mechanism of "major investment immigration", the invested amounts declared in 28 of the applications were less than MOP1.5 million, accounting for 15.07% of the total. The investment amounts in many of these applications were obviously lower than the reference minimum investment amount (MOP1.5 million) laid down in the internal guideline of the IPIM.
7. There are five applications in which the investment amounts were the lowest: The investment amount in a performance production company was MOP142,376 and MOP379,686 was invested in the shares in a laundry company limited. The investment amount in a company running the businesses of investment, advertising and food and tobacco purchasing was MOP496,000. The investment amount in a company running money exchange business was MOP639,724 and MOP727,406 was invested in the shares in a travel agency.

8. The cases mentioned above reflect that the investment amount stated by the relevant applicants were far lower than the reference minimum investment amount (MOP1.5 million) laid down in the internal guideline of the IPIM. The investment amounts were, in fact, not huge. In addition, the investments were placed into traditional business such as performance production, goods purchasing, laundry, money exchange and travel agency instead of the fields that the SAR Government strives to develop, such as high-technology and cultural and creative industries.
9. In fact, a single investment project may serve as the basis for applications by different investors. Therefore, although there were 186 applications for “major investment immigration” between 2008 and 2017, there were only 131 investment projects actually involved. According to the data from the IPIM, there were six cases in which a single investigation project served as the basis for four different applications for temporary residency. The businesses involved included hotel investment, construction, sales of digital products and catering, etc.
10. For example, the total investment amount of an investment and trading company running a business of retail and wholesale of stainless steel and construction materials was MOP6 million. There were four applicants who applied for temporary residency respectively based on this investment project. In this sense, the investment amount of every application was MOP1.5 million in average. Since the scheme of “major investment immigration” may also be applied to family members of the applicants, apart from the four applicants, there were a total of 18 family members who were granted temporary residency.
11. Although the law does not expressively provide the minimum investment amount required for “major investment immigration” and the social and economic benefits brought by an investment cannot be evaluated merely by the investment amount. However, when the investment amount is too low, it can be afforded by ordinary inward or even local investors. In this sense, the sense of attracting major inward investments by means of granting temporary residency would inevitably be lost.
12. The CCAC considered that before increasing the reference minimum investment amount to MOP13 million in November 2015, the investment amounts in the approved applications of “major investment immigration” were, in general, relative low, while many of them involved traditional businesses such as catering, tourism, trading, investment and construction. These investment projects could not fully reflect the “significance” of the investments and made it difficult to

achieve the legislative objective to enhance the economic development and diversify the industries of Macao.

**II) Too large proportion of the investment amounts in some of the projects in “major investment immigration” applications were about immovable property investment**

1. When processing the applications for “major investment immigration”, the IPIM includes the expenses of purchase or rental of immovable property and refurbishment of operation facilities into the investment amount. Since the investment amounts were relatively low in general and the prices and rentals of immovable properties in Macao were relative high, a very large proportion of the investment amounts in the investment projects in the “major investment immigration” applications was related to property.
2. In addition, according to the data from the IPIM, in the 186 approved initial applications for temporary residency by “major investment immigration” between 2008 and 2017, the businesses run by 11 companies included “real estate investment and development” or similar ones. Moreover, in one application, the business ran by the relevant company was merely “property investment”.
3. The CCAC found in the investigation that some applicants firstly submitted a so-called “investment plan” and were granted temporary residency. When applying for renewal, they submitted the property registration certificates proving purchase of immovable property under the name of the companies in order to made use of the IPIM’s practice of attaching importance to immovable property investment when processing the applications and managed to obtain temporary residency with fictitious investment projects.
4. For example, an applicant submitted to the IPIM a “major investment plan”, which was to establish a construction company. The intended investment amount was MOP2,842,290. Following vetting, the applicant and his three family members were granted temporary residency. When applying for renewal, the applicant submitted property registration information about the purchase of two office units under the name of the construction company as proof of implementation of the investment plan.
5. However, without carrying out any site inspection to confirm whether or not the aforementioned units were used as the office of the company and further verifying the authenticity of other documents proving the operation of the

company, the IPIM approved the application for renewal of temporary residency. However, the CCAC found in the investigation that the two units had been leased out since the purchase and never served as the office of the company as claimed by the applicant.

6. For another example, two applicants who were sisters respectively submitted “major investment plans” of establishing an electronics import and export trading company. The investment amounts were MOP2,920,500 and MOP2,623,500. Following assessment, the two applicants and three family members were granted temporary residency. When applying for renewal of temporary residency, the two applicants respectively submitted property registration information about purchase of properties as the documentary proof of implementation of the plans.
7. The information show that they bought an office unit and a residential unit respectively and claimed to the IPIM that the office unit and the warehouse served as the office and the warehouse of each of their companies respectively. However, the CCAC found in the investigation that they purchased the units together with lease contracts. The units continued to be leased out since the purchase and were never used as the office and the warehouse of the company.
8. When processing the investment amount in the major investment projects, although the IPIM did refer to the requirements for application for temporary residency by purchasing immovable property provided for in Administrative Regulation no. 3/2005, which is, purchasing immovable property at a price of no less than MOP1 million and possessing a time deposit of no less than MOP500,000. However, “major investment immigration” and “immigration by purchase of immovable property” are two totally different schemes.
9. Taking into account the change of real estate market and the future population policy of Macao, on 3<sup>rd</sup> April 2007, the Macao SAR Government promulgated Administrative Regulation no. 7/2007, which suspended the implementation of the regulation on application for temporary residency by purchasing immovable property. According to the data from the IPIM, there were 12 applications for “major investment immigration” in 2006. In 2007, the number of applications reached 35 and kept increasing after that.
10. Although it is difficult to judge whether the increase of applications for “major investment immigration” was directly related to the suspension of the policy of immigration by purchase of immovable property. However, the above cases reflected that some people might not truly intend to invest in Macao. Instead

they packaged purchase of property into a major investment project. The ultimate purpose of “disguising purchase of property as investment” was to obtain the right of abode in Macao.

11. In addition, the CCAC also found that some real estate agents turned “major investment immigration” and the services derived from it into a business. Firstly, the person-in-charge of an agency established and registered a company and sold the shares to the applicant. The agency then submit the application to the IPIM on his behalf based on these actions. At the same time, it also provided “one-stop service” which comprised tax declaration, recruitment of workers, sales, purchase and lease of property.
12. The CCAC considered that the IPIM should strictly assess the investment projects when vetting and approving the applications for “major investment immigration”. It should not consider an investment project as “major” simply because the applicant has purchased immovable property as major investment. Otherwise, “major investment immigration” would simply become “immigration by purchase of property”. In this sense, such practices have contradicted not only the legislative intention to attract major investments from other places but also the SAR Government’s policy of suppressing property price.

### **III) Lack of stringent vetting and approval and checking mechanisms**

1. According to the requirements of the IPIM, applicants of “major investment immigration” should provide business registration, business licences, financial statements and tax payment confirmation of their companies as well as proof of the investment amount and business revenues. The IPIM usually conducts formality checking on these documents submitted by the applicants only. It does not verify the authenticity of the documents and the truthfulness of the facts in a serious manner.
2. As an example, an applicant submitted the “financial statements” of his company between 2009 and 2014 in order to prove that the investment plan was already implemented. During the investigation, the CCAC found that when comparing these “financial statements” with the tax return submitted to the Financial Services Bureau and the Social Security Fund contribution records, one can easily find that there were such situations as fictitious incomes and expenditure, false declaration of undistributed profits and wage rolls of employees on these statements.
3. Another example, for instance, in order to prove his company was in operation, the applicant, when making a renewal application, submitted to the IPIM the



supply orders and the relevant contracts for another two companies. The CCAC found that although there was a time lag of more than a half year between the order dates and the delivery dates on the contracts, the relevant order numbers and document numbers on the receipts were the same. Moreover, it was found that the signatures of both parties appeared at wrong places on the contracts. Therefore, there were strong indications of fictitious operation and document forgery.

4. The IPIM evaluates if the investment plans of the applicants have been implemented mainly through checking their business registrations, company accounts and Social Security Fund contributions. They do not send staff off to the claimed operating locations of the companies to verify their operations. There is no regular inspection mechanism either. Beyond doubt, this has provided a convenient avenue for those who intend to obtain temporary residency through fictitious investments or even setting up shell companies.
5. The CCAC found in the investigation that some applicants allegedly declared salaries tax and made Social Security Fund contributions using false information to create the illusion that the companies had employed workers and were in operation. For instance, the two previously mentioned electronics import and export trading companies set up by two sisters submitted to the IPIM the salaries tax and Social Security Fund contribution documents for 19 employees, but they actually did not hire any workers.
6. Another example is that someone applied to be a non-resident worker through a trading company of which he was a shareholder and the application was approved. Later, he set up a liquor import, export, retail and trading company, through which he applied for “major investment immigration”. The application was approved. However, it was found that the person was in fact a casino junket operator. Among the 23 local employees the trading company claimed to have hired, 19 of them did not work there.
7. During the investigation, the CCAC also discovered the following situations: the companies claimed by the applicants had no actual operation or had stopped operation; the locations of the claimed companies were left empty for a long while or used for other purposes; phone calls made to the claimed companies were unanswered or the phone numbers were not in service; no information about the claimed companies could be found on the internet, etc. As a matter of fact, the IPIM should not find it hard to know whether the companies are operating or not if they carry out verifications or inspections.
8. It was also found that the actual investment projects of the applicants were

completely irrelevant to the claimed investment plans. For instance, as mentioned earlier, there was a trading company engaging in retail and wholesale of stainless steel and construction materials. As having not operated any steel materials business in Macao, the company, in order to meet the investment amount already promised in the investment plan, bought a sauna at a price of MOP6 million as a gesture of realising its investment project before renewing the temporary residency application, which was later approved by the IPIM.

9. In response to the aforesaid phenomena, the IPIM once opined that the bureau itself was just an administrative department without inspection and law enforcement powers. It was therefore difficult for them to carry out holistic inspections and verifications. However, in the CCAC's opinion, as a department responsible for vetting "major investment immigration" applications and making approval suggestions, the IPIM is duty bound to verify the authenticity of the application documents and check the implementation status of the projects. After all, such issues are not only the prerequisites for application approval but also the duties of a public department.

#### **Part IV: Problems found in the vetting and approval procedures for “technical immigration”**

According to the investigation of the CCAC, during the IPIM’s processing of the “technical immigration” applications, there were such problems as lacking stringent vetting and approval criteria, applicants not staying in Macao for a long period of time and obtaining temporary residency by means of fictitious employment. The relevant problems found in the investigation are summarised as follows:

##### **I) Lack of stringent vetting and approval criteria for “technical immigration”**

1. According to Article 1 of Administrative Regulation no. 3/2005, the category of “technical immigration” covers two types of persons, namely management personnel and specialised technicians. The prerequisite for approval is that the academic qualifications, professional qualifications and experience possessed by the applicant are particularly beneficial to the Macao SAR. To put it simply, the approved “technical immigrants” should be “professionals” beneficial to Macao.
2. According to the elements publicised by the IPIM, when vetting and approving the “technical immigration” applications, it will consider whether the academic qualifications of the applicants are “professional skills” that Macao is lacking and whether the professional or managerial positions of the applicants are particularly beneficial to Macao. Considerations will also be given to the professional qualifications and work experience of the applicants.
3. When vetting the “technical immigration” applications, the IPIM will use a detailed evaluation worksheet and assess the applications with a points scheme. However, after the investigation, the CCAC still found that there were applicants who did not possess professional/academic qualifications, whose professional backgrounds did not match with their work positions, or whose jobs had nothing do with managerial or professional skills.
4. Among the “technical immigration” applications received, a certain number of them were made by those as directors, general managers or chief financial officers of offshore companies established in Macao. During the investigation, the CCAC found that the positions of some applicants were questionable and some applicants lacked tertiary education qualifications. In the latter case, the IPIM presumed, through their claimed past work experience, that the applicants possessed professional skills particularly beneficial to Macao and approved their applications.

5. Another example is that a person applied to the IPIM for “major investment immigration” through becoming a shareholder of an offshore company operating apparel production and sales business. The application was however rejected as the project was not considered a significant investment. Two years later, the applicant applied for technical immigration as the general manager of the same offshore company and the application was approved. However, the relevant business registration information showed that the general manager of that offshore company was someone else, and the applicant was only a director of it.
6. Also, an applicant applied for “technical immigration” as the general manager of an offshore company operating plastic product business, while he only had a graduation certificate issued by a secondary school in Guangdong province; a general manager of an offshore laminates company claimed that he had graduated from a secondary school in Hong Kong but had lost the certificate; another applicant, a director of an offshore copper foils company, did not have any academic qualification documents in his application dossier for “technical immigration”.
7. When vetting and approving the applications, the IPIM usually requires the applicants to submit statements and proof of their work experience. However, during the investigation, the CCAC found that some applicants only listed their past work experience without submitting any proof, while the IPIM, without making any verification, directly based on the work experience and seniority claimed by the applicants and suggested approvals for their “technical immigration” applications.
8. During the investigation, the CCAC also found that the professional backgrounds of some applicants did not match with their job positions. For instance, someone made an application for “technical immigration” as a deputy director of a medical centre and it was approved. As the medical licence of the centre was terminated by the Health Bureau, the applicant left the position less than one month of joining it. He was then employed as a security manager at a construction company, where he claimed to receive a monthly salary of MOP50,000 as remuneration.
9. The applicant claimed that he was “responsible for healthcare management of all the staff members of the company and organising regular medical seminars for staff”, but the fact was that there were only a dozen workers in the construction company, and his professional healthcare management background was a far cry from that of a security manager. Despite that the applicant had not notified the IPIM of his change of position and that he stayed for no more than 14 days each

year during three years' time, his renewal application for temporary residency was still approved by the IPIM.

10. Another example is that the IPIM once approved the “technical immigration” application of a person with Filipino nationality who worked as a security officer at a law firm. However, the applicant did not have any security management experience and the only academic qualification certificates he had submitted were a “sailor training programme” certificate and a “practical electricity knowledge” certificate. After investigation it was found that the applicant was actually a private bodyguard of one of the lawyers at the law firm.
11. With regard to the aforesaid application, the IPIM suggested in the relevant opinion letter that although the applicant's job position was not a managerial or professional one, considering that private property and personal safety of citizens should be protected by the law and taking account of the behaviour of the applicant and the submitted recommendation letters, the temporary residency application should be approved based on the applicant's position as a security officer.
12. However, in the CCAC's opinion, the technical immigration application should not be approved now that the work performed by the applicant is not considered a “professional skill”. There should not be any room for exercising discretion, or it will only blur the boundary between management personnel/specialised technicians and non-resident workers. This will also be a departure from the original intention of attracting managerial and technical professionals through “technical immigration”.

## **II) Applicants for “technical immigration” rarely stayed in Macao**

1. Administrative Regulation no. 3/2005 does not regulate the length of time that the management personnel and specialised technicians shall stay in Macao during the period of temporary residency. Also, the IPIM never considers it as the basis for approval or rejection of renewal of temporary residency. The CCAC found in the investigation that a certain number of applicants rarely stayed in Macao after they were granted temporary residency.
2. The CCAC has analysed the travel records of over 600 applicants for “technical immigration” and discovered that over 100 of them rarely stayed in Macao or only stayed for a very short period of time every year after their initial applications were approved. Following an in-depth investigation, the CCAC found the situations in which the actual duty of the applicant was not consistent

with his job title as declared in the application or he was doing a job which was not related to Macao. These should have drawn the attention of the vetting and approval department.

3. For example, an applicant was granted a “technical immigration” permit as the deputy general manager and chief financial officer of a fresh food and grocery trading company. However, he only stayed in Macao for only 37 days between 2010 and 2014 and was even away in the entire year of 2015. It was found in the investigation that the person usually resided in Mainland China and his job was simply to provide the information about tendering and opinions to the owner of the company.
4. Another applicant was granted a “technical immigration” permit as the chief financial officer of a travel agency. Although the employment contract indicated that the work location was in Macao and that he worked for fixed hours. However, between 2013 and 2016, the applicant stayed in Macao for no more than 37 days every year. It was found in the investigation that actually he was not responsible for financial works. In fact, his job was to promote group travel for the agency in Mainland China.
5. A petroleum engineer employed by a local real estate development company was granted a “technical immigration” permit, but he worked in the branch in Indonesia for a long period of time. Between 2013 and 2015, he only stayed in Macao for seven days in total. An energy company running petroleum coal business employed a person as the project manager of a coal project in Mongolia. After being granted temporary residency by “technical immigration”, the person only stayed in Macao for eight days in average every year between 2008 and 2013.
6. According to the internal legal opinions of the IPIM, the law presumes that Macao SAR Resident Identity Card holders usually reside in Macao. Also, the law on residency by investment does not deem the length of time the applicant stays in Macao as one of the criteria for the vetting and approval of application for “technical immigration”. Therefore when processing the applications for renewal of temporary residency, the IPIM did not check whether or not the applicant had stayed in Macao and the length of time of his stay.
7. The policy of “technical immigration” attracts high-profile talents to Macao. Indeed, under this policy, it is difficult to set requirement for the length of time of the stays of the famous scientists or artists in Macao. However, the fact that the applicants for “technical immigration” rarely resided in Macao after

obtaining the temporary residency permit has gone against the legislative intent of attracting management personnel and specialised technicians to Macao in order to enhance the local economic and social development.

8. The CCAC considered that only when the applicants for “technical immigration” stay in Macao to serve local companies and institutions can realise the objective of the policy of “technical immigration” to attract talented people who are beneficial to Macao. If the applicant can work for a Macao company outside the territory, normal employment is enough and it is not necessary to apply for temporary residency in Macao by “technical immigration”.

### **III) Obtaining temporary residency through fictitious employment**

1. The CCAC discovered in the investigation that some applicants for “technical immigration” obtained temporary residency permits through alleged fictitious employment relationship. For example, a person who used to study a course in design in Macao applied for “technical immigration” as the “business development manager” of a shop selling mobile phones and electronic products and his application was approved. When applying for renewal, he claimed himself as the “chief executive officer” of the shop.
2. According to the employment contract, the applicant’s monthly salary was MOP50,000. However, according to the documents submitted for the application, the total after-tax profit of the shop in the previous year only amounted to MOP520,000. Following investigation, the CCAC discovered that the applicant was not in Macao for years and the staff of the shop never seen the “CEO” or even knew there was such a person. Moreover, the shop owner even failed to provide the proof of payment of his salary, raising many doubts on the employment.
3. For another example, a person was granted a “technical immigration” permit as the general manager and deputy editor-in-chief of a newspaper publisher and claimed that his monthly pay was MOP40,000. However, the newspaper was a weekly newspaper which was not issued regularly. Sold at around MOP2 for each copy, the newspaper had a yearly circulation of 4,000 to 5,000. It was found in the investigation that the yearly pay of the owner and president of the publisher was only MOP60,000, but the applicant’s annual pay reached MOP480,000.
4. According to the contract signed between the applicant and the publisher, his working place was located at a shop in a building in the northern district of

Macao and his working hours were fixed. The CCAC viewed the applicant's travel record between 2013 and 2017 and found that the longest period of his stay in Macao was only 10 days every year. These signs showed that the relevant employment relationship did not exist.

5. If the IPIM had paid more attention when processing the applications for "technical immigration" or renewal, it would have easily found the doubts about alleged fake employment in the above cases. The CCAC considered that the IPIM should be very alert to the illegal acts which might exist in the applications for "technical immigration" and promptly follow up the doubtful cases. If necessary, it may seek help from the departments with criminal investigative competence to investigate whether the situations of "fake talent" or "fake employment" exist in order to ensure that the legal regime of "technical immigration" will not be abused.



## **Part V: Opinions and suggestions**

The Macao SAR Government's policy of "major investment immigration" and "technical immigration" is of great significance to the social and economic development of Macao. The purpose of the inquiry carried out by the CCAC into the IPIM's vetting and approval of applications for "major investment immigration" and "technical immigration" is to review the problems existing in the relevant administrative procedures and the operation of the department and thus enhance the improvement of the relevant mechanisms. To sum up, the CCAC considered that the following matters deserve the attention of the relevant department:

### **I) To timely revise the law in order to plug the loopholes in the mechanisms**

1. The policy of "major investment immigration" and "technical immigration" into Macao is attractive to investors and professionals from other places. As the department responsible for the implementation of the policy, the IPIM shall be strict when exercising the competence to make a proposal about the vetting and approval of an application in order to avoid those who are unqualified or have ulterior motives fish in troubled waters, that is, make use of the loopholes to illegally obtain the right of temporary residence in Macao.
2. In the aforementioned examples, the initial applications for "major investment immigration" and "technical immigration" were all approved but the renewal of some of them were not approved. The reason for the disapproval included that the IPIM received reports of the relevant fraudulent behaviours or reports from other government departments apart from the internal inspections conducted by the IPIM, but we still can see the problem existing in those cases nevertheless - that the vetting and approval criteria and procedures were not stringent enough.
3. In the investigation, the CCAC noticed that over the recent years, the policy of "major investment immigration" and "technical immigration" and the assessment and approval of the applications have been stricter. Also, the IPIM has conducted stricter analysis and investigation of the cases with doubts, which reflects that the relevant department has already realised certain problems existing in the implementation of the investment immigration law and is seeking ways to solve the problems gradually.
4. However, the loopholes existing in the mechanisms cannot be plugged simply by restricting and processing the applications in a more stringent way. The legal regimes of "major investment immigration" and "technical immigration" have

been implemented for over ten years. The Government should comprehensively review the idea of the regimes and the implementation and make amendments to the outdated stipulations and solve the problems existing in the regulations as soon as possible.

## **II) To make the procedures transparent in order to minimise the occurrence of irregular situations**

1. “Major investment immigration” and “technical immigration” serve as important measures of the SAR Government to attract investments and talents from other places. Therefore, apart from external introduction and promotion, the IPIM should also carry out necessary publicity for the general public of Macao so that the citizens will understand the stipulations, the application procedures, the processing criteria, the implementation of the policy and the benefits it brings to the society.
2. The CCAC found in the investigation that the public lacked of understanding of “major investment immigration” and “technical immigration” and the IPIM merely took the initiative to publicise the policy in Macao over years. At the same time, it was often necessary for applicants for temporary residency to seek help from relevant agencies. This has not only affected the result of the implementation but also given rise to irregular and even illegal acts.
3. The IPIM strictly assesses the applications for “major investment immigration” and “technical immigration”, but being strict does not mean that the policy and related information may be made secret. Otherwise, it will be difficult to achieve the goal to attract investments and talents from other places. Only ensuring the transparency and openness of the application procedures and the results of vetting and approval to the largest extent may prevent the illegal cases of irregular and even illegal acts.

## **III) Attracting talents to Macao through mechanism overhaul**

1. “Major investment immigration” may attract investments into industries that are beneficial to Macao’s development and foster industrial diversification. However, industrial diversification will be empty talk without the support of quality human resources. Therefore, to achieve this objective, it is becoming more important to attract talents through “technical immigration” aside from nourishing and training local talents.
2. In the CCAC’s opinion, doubting the effectiveness of the “technical immigration” system or denying its significance simply because there are problems in the

vetting and approval process is just a case of “not eating for fear of choking” or “trimming the toes to fit the shoes”. To sustain development Macao should not exclude the idea of introducing talents from other places. Being too complacent with its existing talent policy or making it confined to locals will be no different from giving up its own competitiveness.

3. The development of Macao needs not only local talents but also outside talents, as they will be complementary to each other and make improvement together. Today, the surrounding regions are faced with fierce competition for talents and would employ different means to lure talents. Integrating itself into the Guangdong-Hong Kong-Macao Greater Bay Area, Macao is facing competition for talents too. Therefore, how to utilise and optimise the current “technical immigration” policy and how to create a synergistic effect by introducing outside talents and nourishing locals will have considerable impact on the future development of Macao.

**To conclude, based on the investigation into the vetting and approval process for “major investment immigration” and “technical immigration” by the IPIM, the CCAC has the following recommendations:**

1. The IPIM should improve the vetting and approval procedures for “major investment immigration” and “technical immigration” applications;
2. The IPIM should establish checking mechanisms for “major investment immigration” and “technical immigration” cases;
3. The IPIM should conduct promotion of the “major investment immigration” and “technical immigration” policies. It should also publicise the relevant vetting and approval criteria and results;
4. The SAR Government should make timely amendments to Administrative Regulation no. 3/2005 so the legal regime on “major investment immigration” and “technical immigration” may be improved.

**We hereby present the report to the Chief Executive for his perusal.**

Commission Against Corruption, 22<sup>nd</sup> June 2018

The Commissioner Against Corruption

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Cheong Weng Chon