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Course Title:

**Business Immigration to Hong Kong: A Practical Guide**

Course Code:

**EVT000000418**

Course Presenter(s):

**Mr. Stephen D. Barnes**

Course Date:

**31 October 2023 (Tuesday)**

Course Time:

**14:30 - 17:45**

Course Venue:

**Online via Zoom**

# CPD.HK™

## Business Immigration to Hong Kong: A Practical Guide

*by*  
Mr. Stephen D. Barnes

**OCTOBER 31, 2023**

[www.hongkongvisageeza.com/biz-immigration-2023](http://www.hongkongvisageeza.com/biz-immigration-2023)

-  1 - Visitor Visa - 2023
-  2 - Visitor Visa Extension - 2023
-  3 - Travel Pass - 2023
-  4 - Indian Nationals PAR 2023
-  5 - Employment Visa - 2023
-  6 - Mainland Talents & Professionals - 2023
-  7 - Training Visa - 2023
-  8 - IANG - 2023
-  9 - Business Investment (Entrepreneur) - 2023
-  10 - CIES - 2023
-  11 - QMAS - 2023
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# Entry Visas for Nationals Not Enjoying Visitor Status Upon Arrival

(or otherwise seeking a longer limit of stay)

## GENERAL RULES

### **Permitted Activity**

- Genuine business or leisure visit – ‘do your thing’ then finally depart
- Pre-relocation for business residence subsequently
- Trade fair participation, speaking at conferences

### **Has ‘Intention to Reside’ Crystallized?**

- If so, your Visitor Visa is no longer appropriate.
- Need to approach ImmD and change status.
- Possible inadvertent breach of conditions of stay.

### **ImmD Ultimately Decide**

- If challenged, they will assess your actions and intentions
- Prosecution, removal or cancellation of Visitor visa consents all possible
- Short Conditional Landing a real possibility

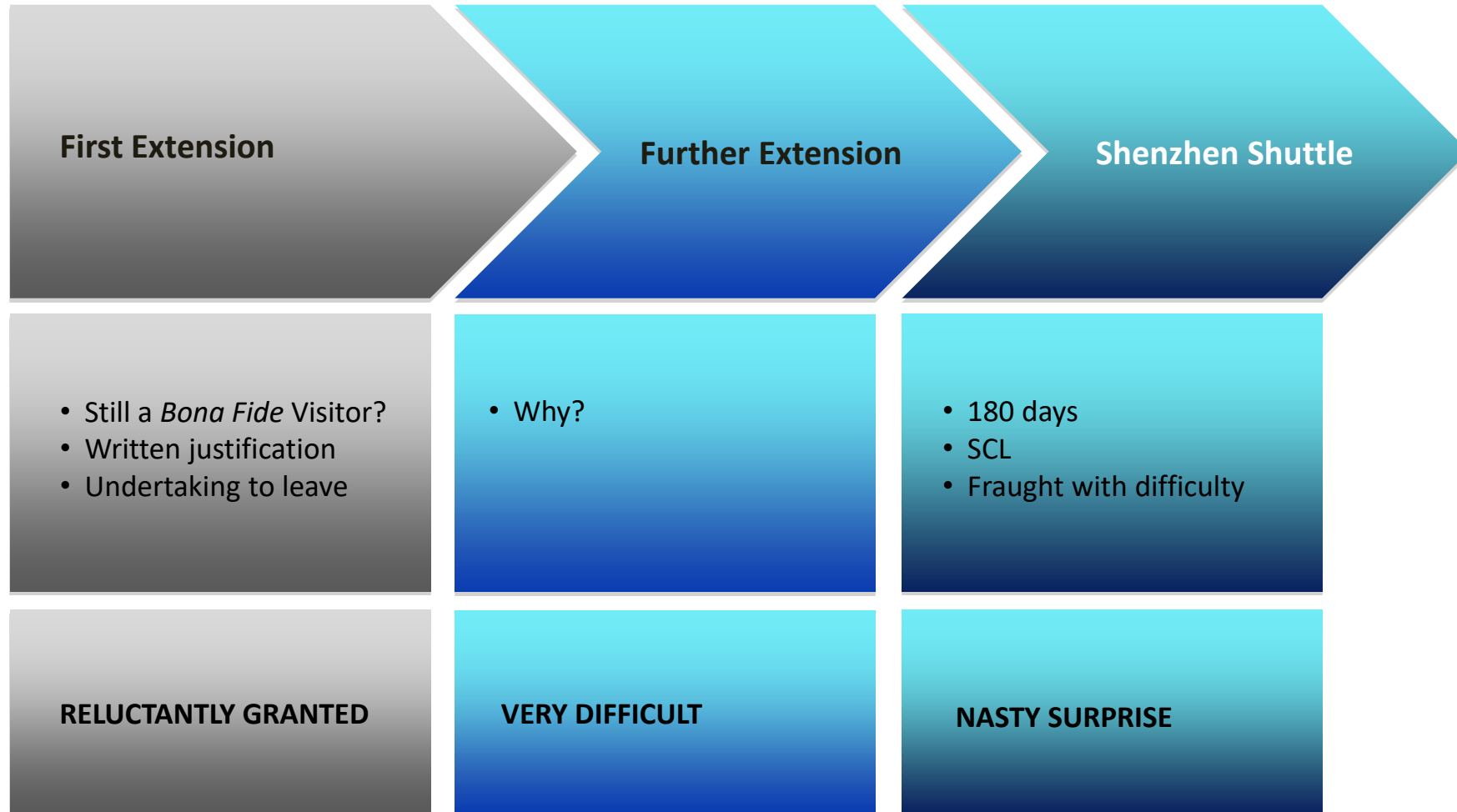


## Visa Information



# Applying for an Extension to a Visitor Visa

# VISITOR VISA EXTENSIONS



# The Hong Kong Travel Pass

(a super-charged Visitor visa)



# TRAVEL PASS



# Pre-Arrival Registration for Indian Nationals

## GENERAL RULES

### Who Can Apply

Indian nationals must apply for and successfully complete pre-arrival registration online before they can visit or transit the HKSAR visa-free (if seeking to enter the HKSAR during transit). Pre-arrival registration is not required for Indian nationals in direct transit by air and not leaving the airport transit area.

### Eligibility Criteria

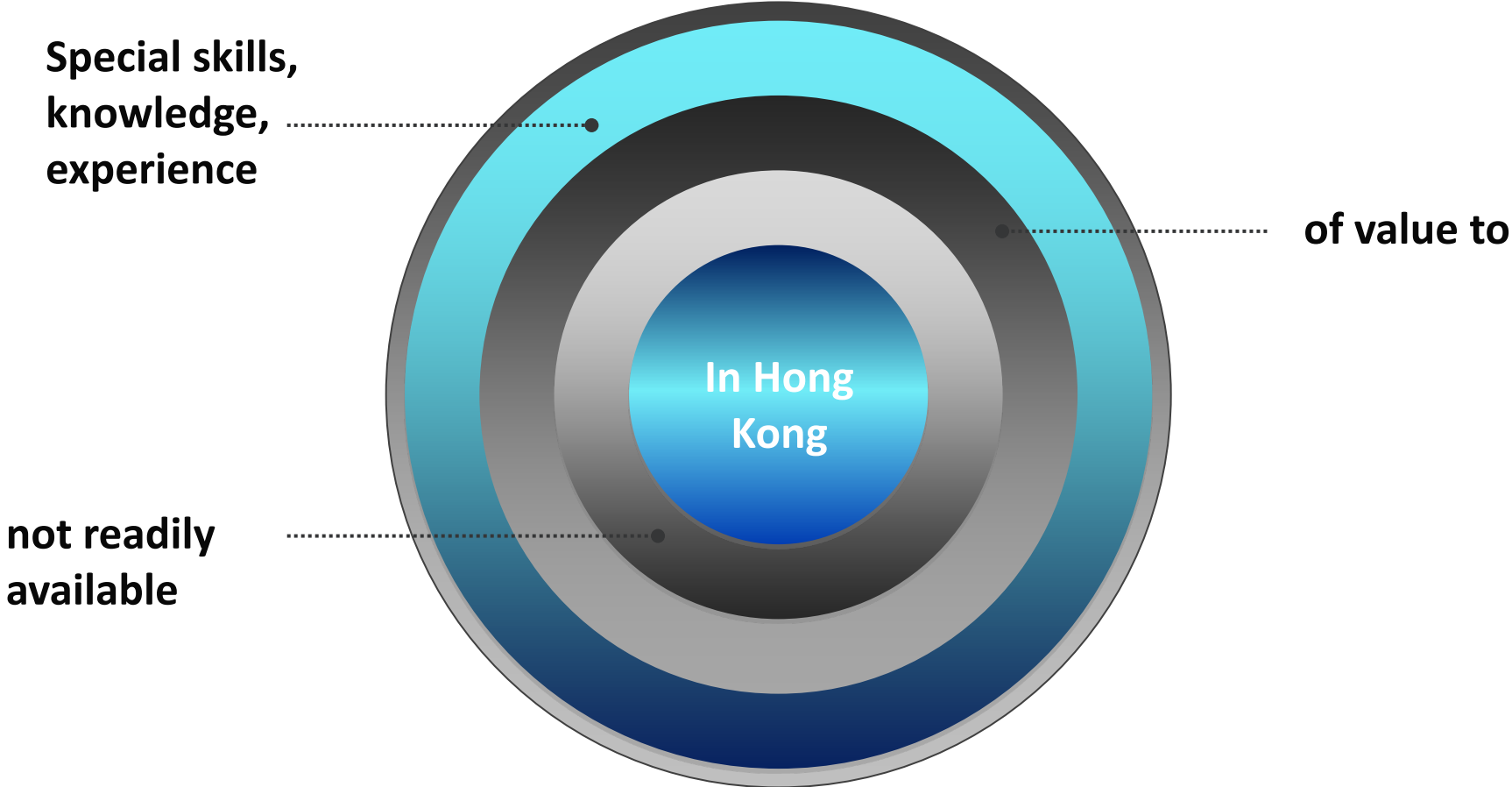
- The Indian national holds an Indian passport valid for at least six months; and
- The Indian national intends to visit or transit (except in direct transit by air and not leaving the airport transit area) the HKSAR for a stay not exceeding 14 days.

### Exception

Pre-arrival registration is not applicable to Indian nationals who have the right of abode or the right to land in the HKSAR, are on unconditional stay in the HKSAR or have a valid permission to remain in the HKSAR for employment, study or residence.

# Visa to Take Up Employment in the HKSAR

ANALYSING THE APPROVABILITY TEST

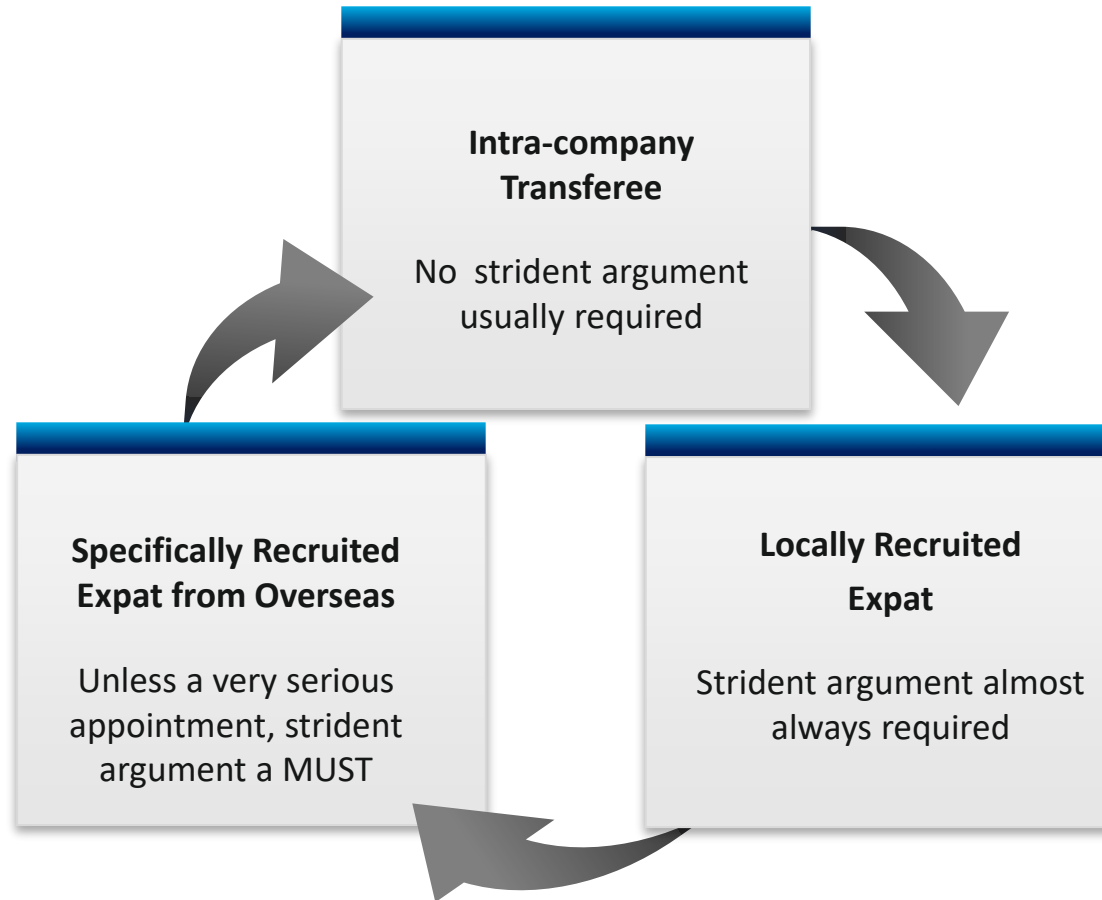


**Your employer must be justified in engaging the services of an expatriate**  
VisaGeeza.Ai

**The Talent List =  
No Local Recruitment  
Exercise Needed**

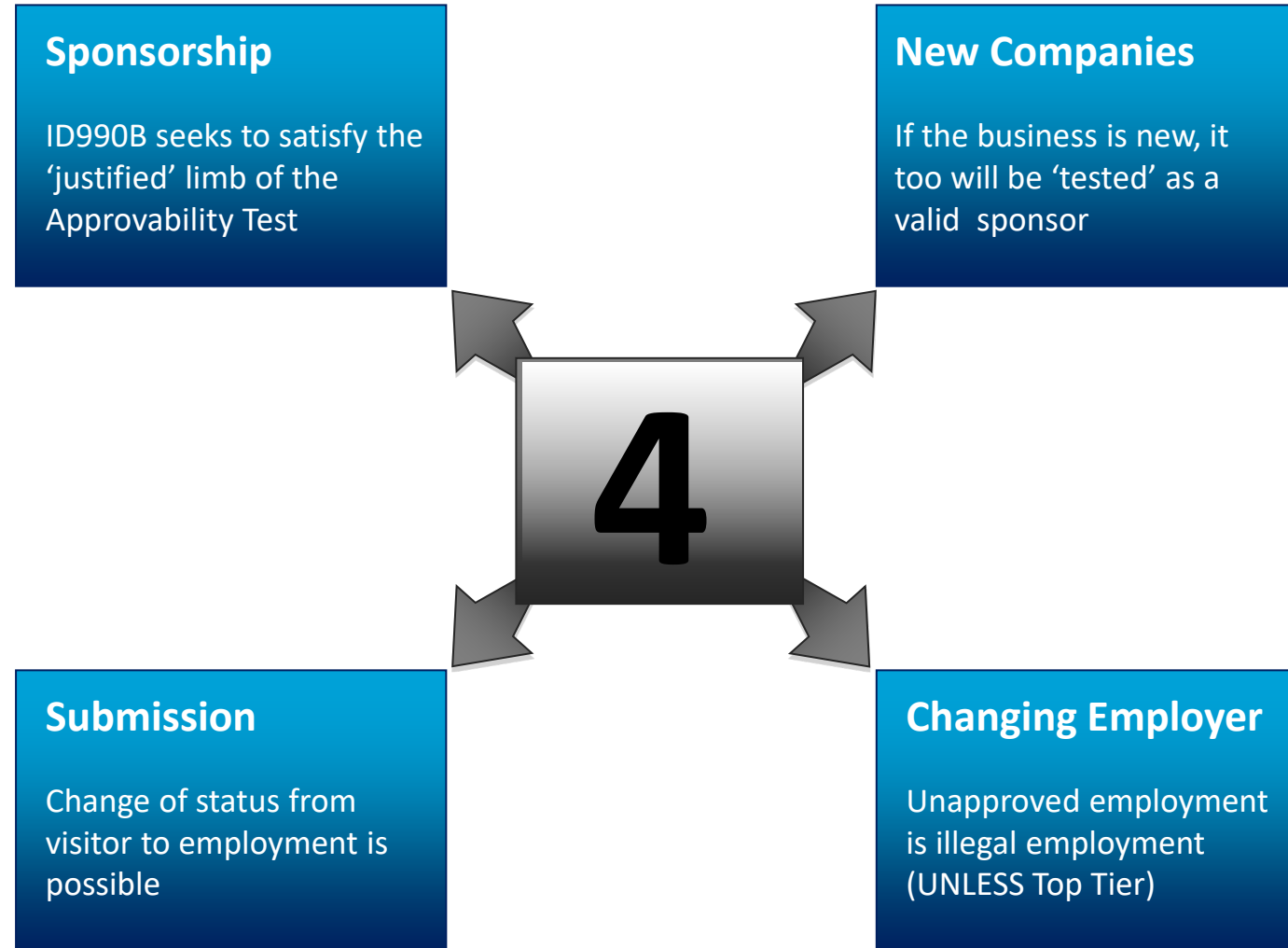
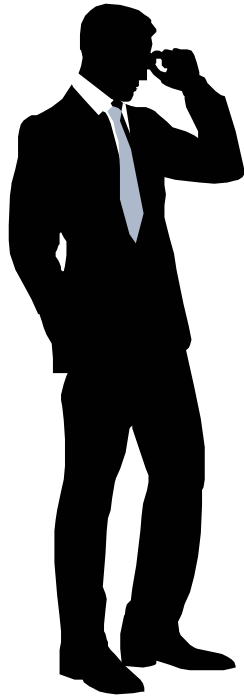
[www.talentlist.gov.hk](http://www.talentlist.gov.hk)

## THREE TYPES OF APPLICANT



Ensure you know the case type and where it sits on the admin/argue axis

## FURTHER CONSIDERATIONS





## OWNER 'EMPLOYEE'

1

You cannot 'self sponsor'

2

You are an 'investor' if you own 50%+ of the shares in your 'employer'

3

Don't play games with ImmD – they always get to the bottom of business ownership

4

If the situation genuinely stacks up, you will receive an approval

**Do you own the business or merely going to work for it?**

## TOP TIER 'EMPLOYEE'

### **Enhancement Measure**

New policy designed to attract and retain Entrepreneurs, Professionals and Talents

### **HKD2 million Assessable Income**

Present your tax bill showing HKD2 million in income in the previous tax year, demonstrate you remain gainfully employed and you attain 'Top Tier' status

### **Ticket to Ride**

Once assessed as Top Tier you get an immediate 6 year limit of stay with the only limit of stay in force being that of time and a requirement to notify ImmD of any change of employment in writing within 30 days

# Employment Visas for Chinese Nationals Resident on the Mainland

## ADMISSION OF MAINLAND TALENTS & PROFESSIONALS

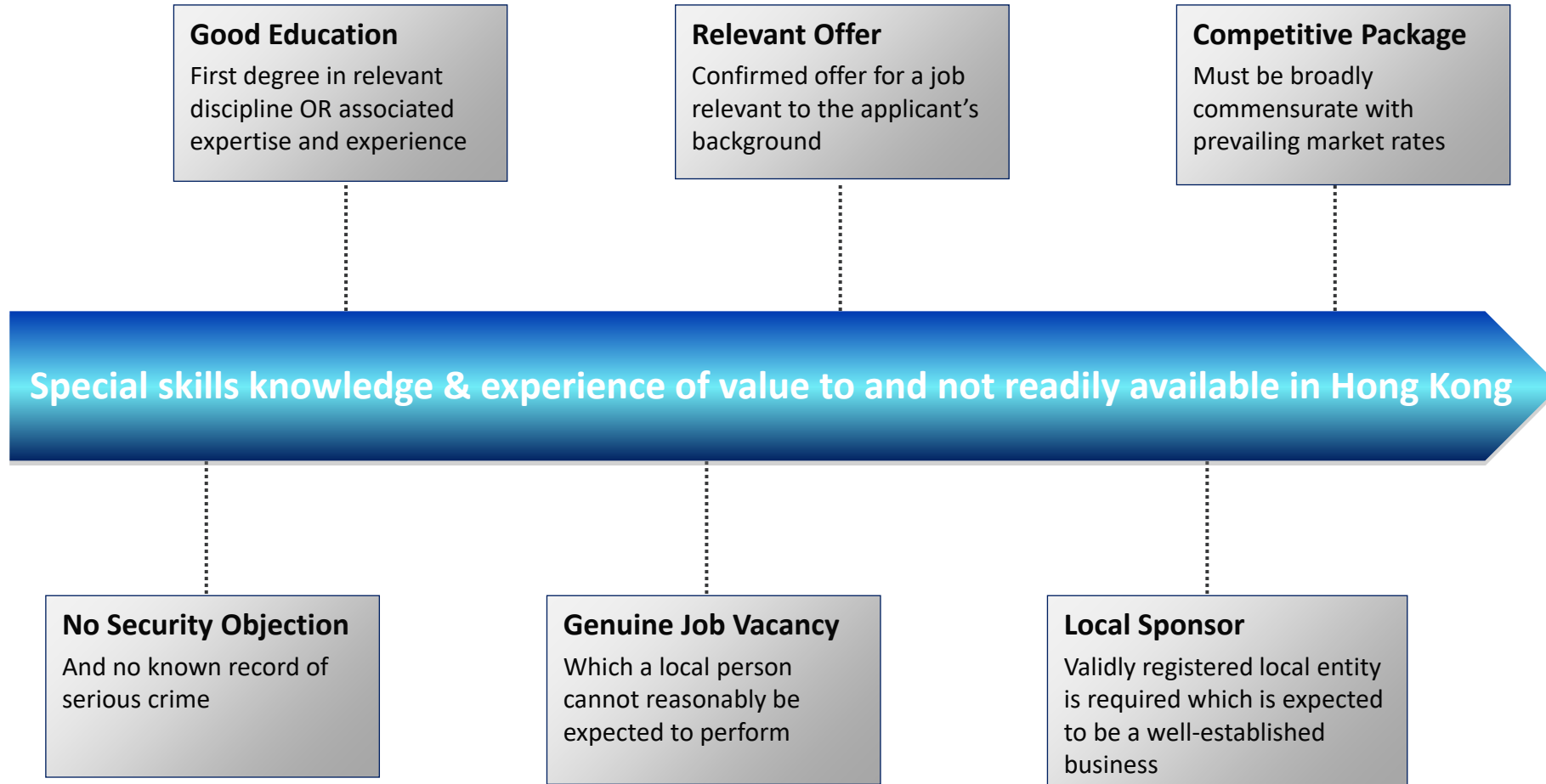
To attract qualified Mainland talents and professionals who possess skills & knowledge not readily available locally.

Such talents must contribute with a view to facilitating Hong Kong's economic development, the arts, culture, sports and the culinary profession.

**The objective of the Scheme = to enhance HK's status as an Asian world city**

**VisaGeeza.Ai**

## GENERAL ELIGIBILITY CRITERIA



**There is no quota nor sector specificity for Admission of Mainland Talents & Professionals**

## MAINLAND BUSINESS OWNERS

### The Mainland Owner

- Comes as a business visitor
- Establishes a new company
- Leaves Hong Kong
- Applies for AMT&P Visa

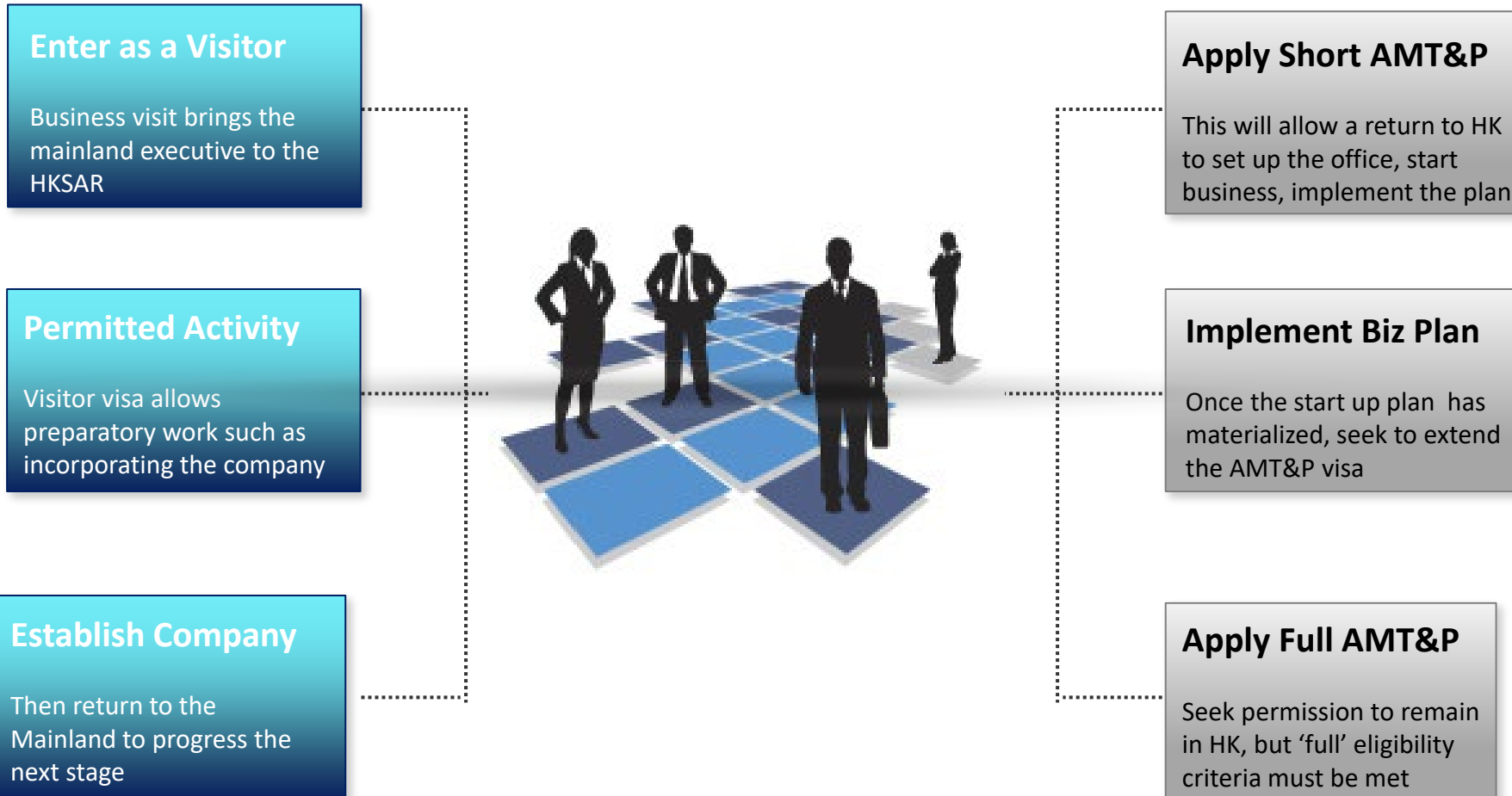
### Transfer to Hong Kong

- ImmD considers the application
- Applies the approvability test
- Owner must be 'skills eligible'
- If OK, AMT&P visa issued

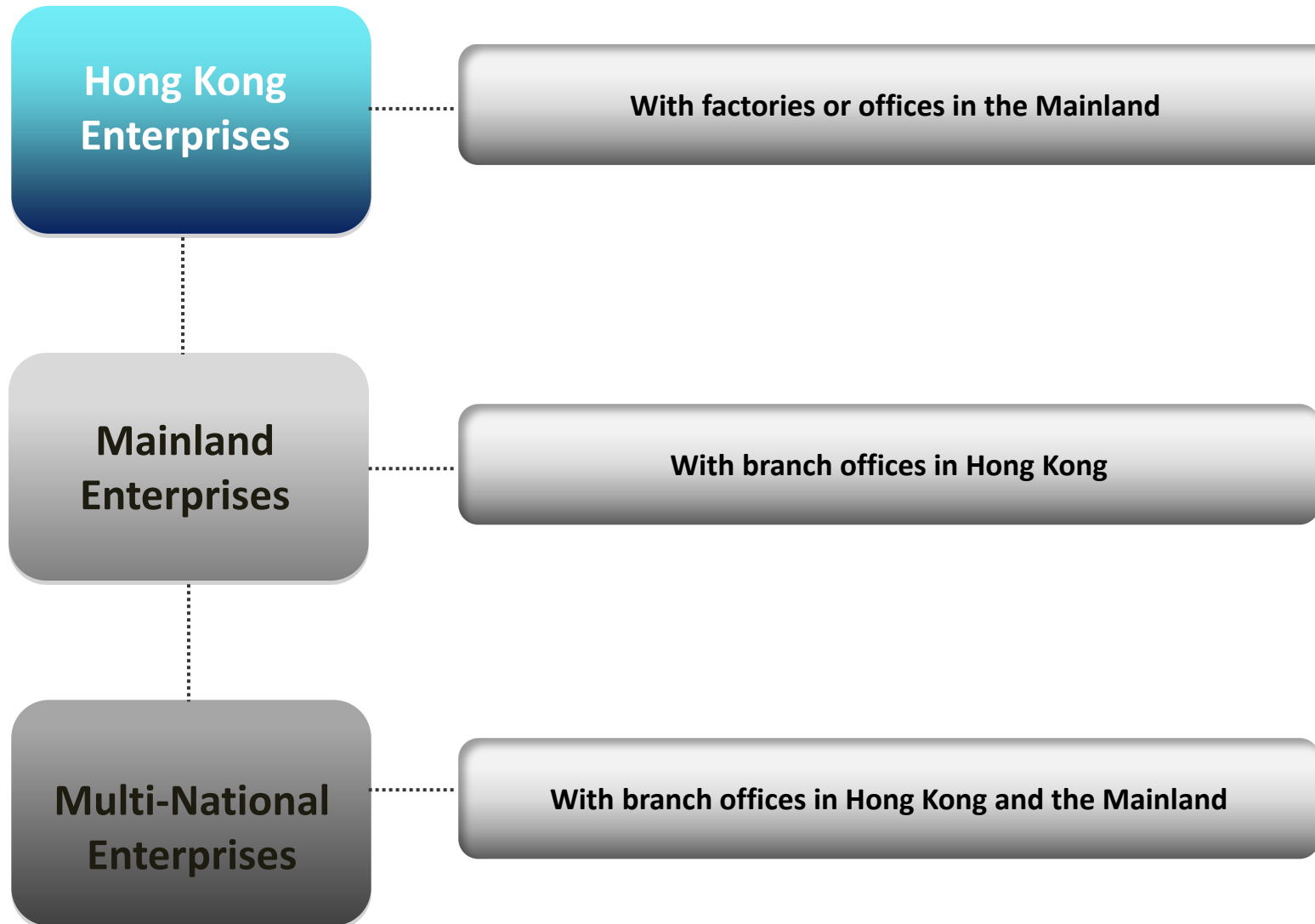
**Establishing a new Hong Kong operation & seeking to relocate to the HKSAR**



# MAINLAND BUSINESS EXECUTIVES



# MAINLAND INTERCOMPANY TRANSFEREE 1





## MAINLAND INTERCOMPANY TRANSFEREE 2



### **Managerial or Professional Staff**

Supervisory duties, at a minimum, are expected and skills set must be high

### **12 Month Prior Employment on the Mainland**

Necessary precondition for consideration under the MICT approvability criteria

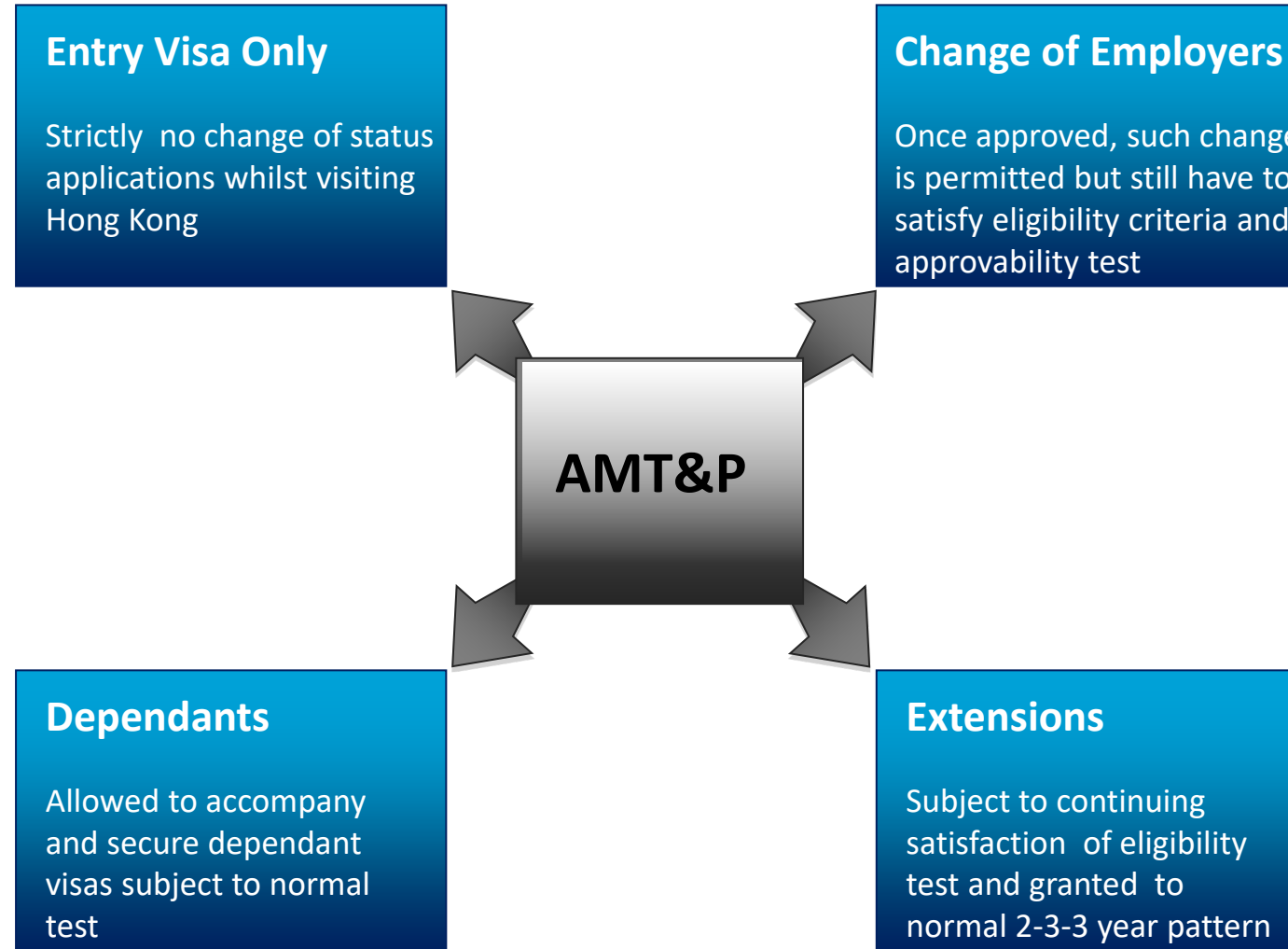
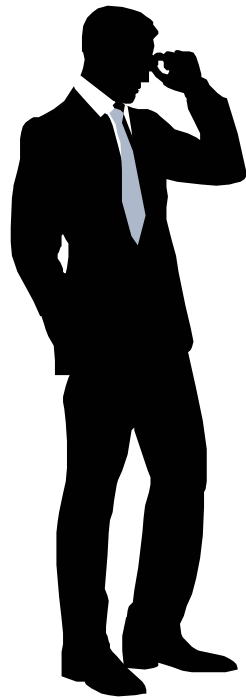
### **Remuneration Package to be Competitive**

Compensation to be broadly commensurate with prevailing market rates in Hong Kong

### **MICT Numbers to be Reasonable**

When compared to the total employment and the nature of the business operations

# LOOSE ENDS



## TOP TIER MAINLAND TALENT OR PROFESSIONAL

### **Enhancement Measure**

New policy designed to attract and retain Entrepreneurs, Professionals and Talents

### **HKD2 million Assessable Income**

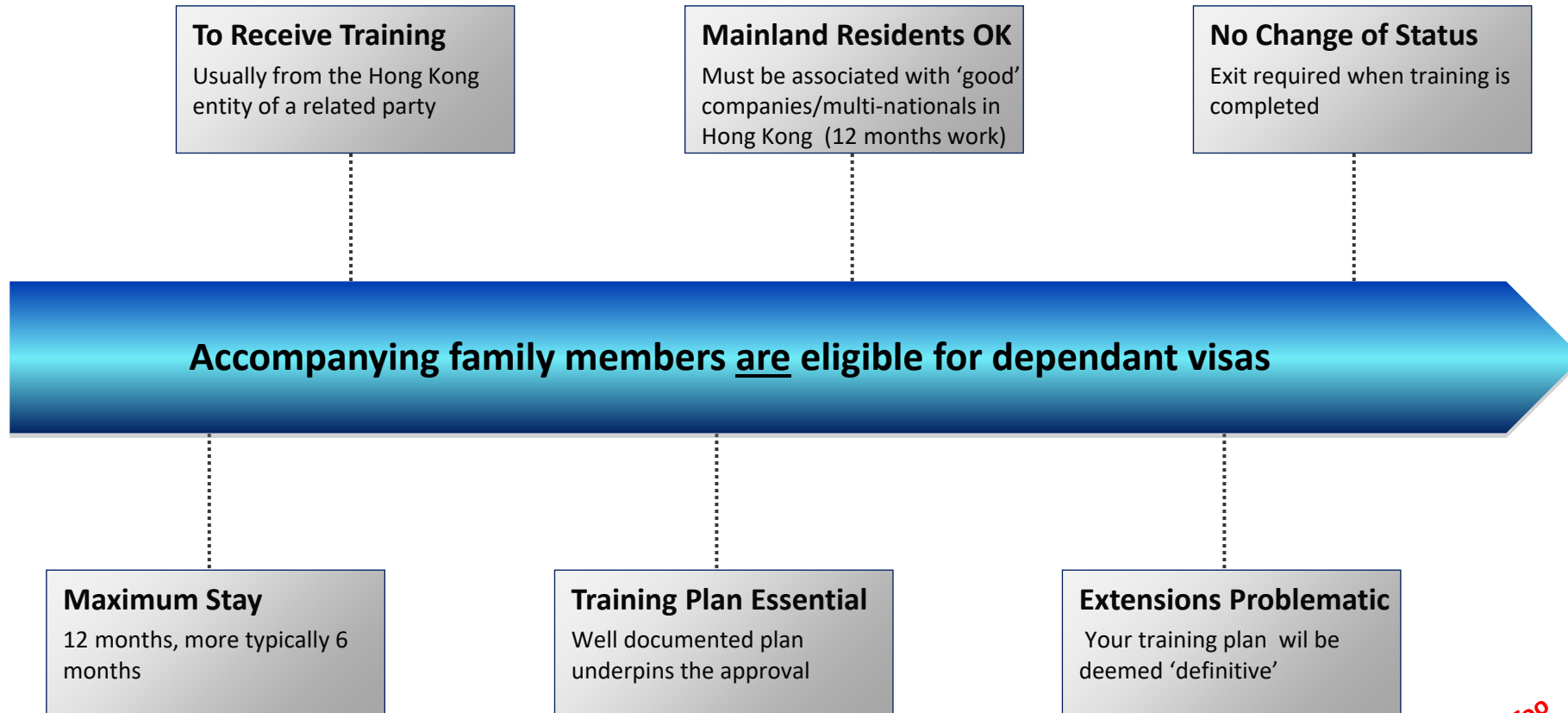
Present your tax bill showing HKD2 million in income in the previous tax year, show you are gainfully employed and you attain 'Top Tier' status

### **Ticket to Ride**

Once assessed as Top Tier you get an immediate 6 year limit of stay with the only limit of stay in force being that of time and a requirement to notify ImmD of any change of employment in writing within 30 days

# A Visa to Receive Training in Hong Kong

# TRAINING VISAS

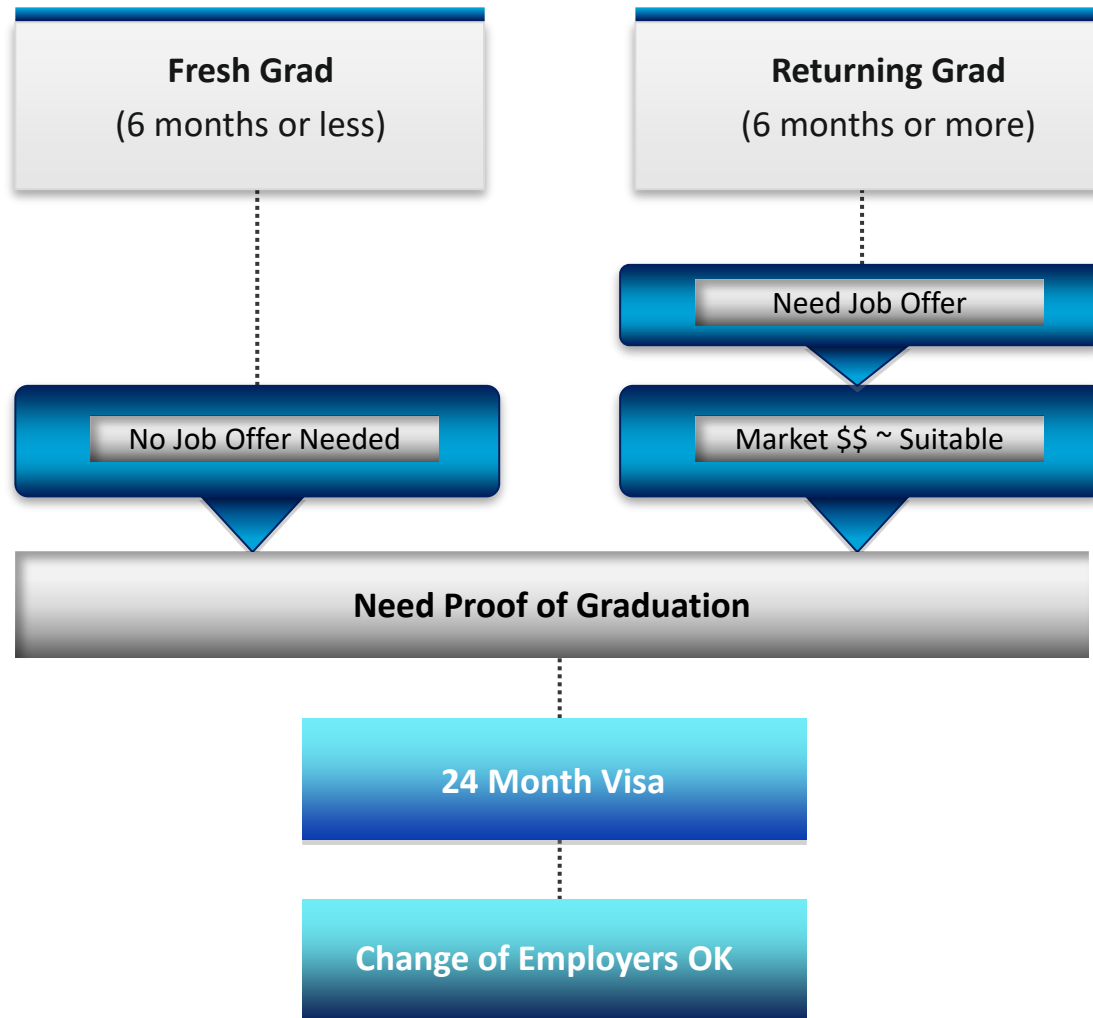


*A Version for Interns Too*

Undergo training in Hong Kong to acquire special skills and knowledge not available in the applicant's country/territory of domicile

# Employment Visa for Non- Local Graduates of Hong Kong Universities

# NONLOCAL GRADUATES

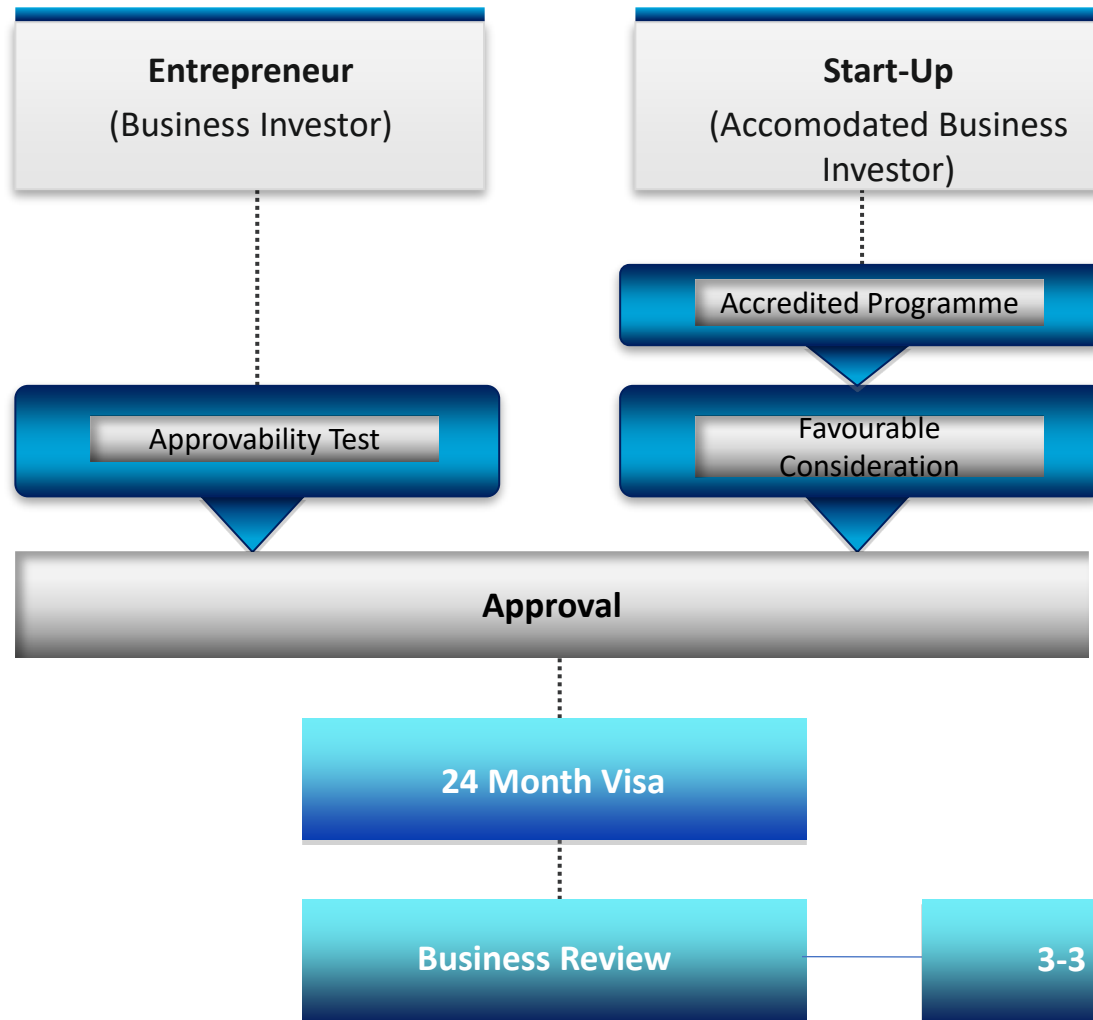


Earn a degree at a HK tertiary education institute and receive Employment visa privileges  
VisaGeeza.Ai

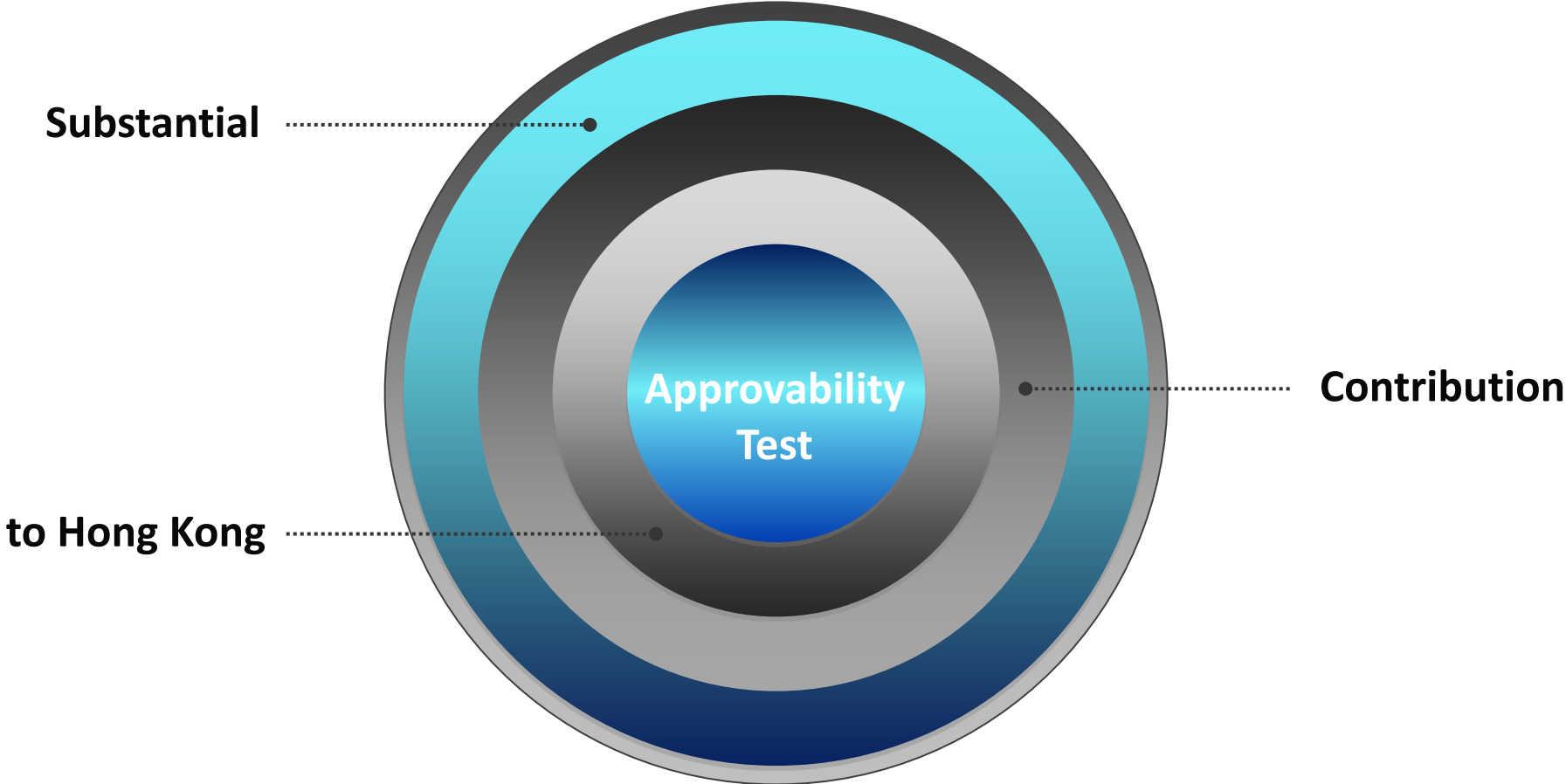
# Visa to Establish or Join In a Business



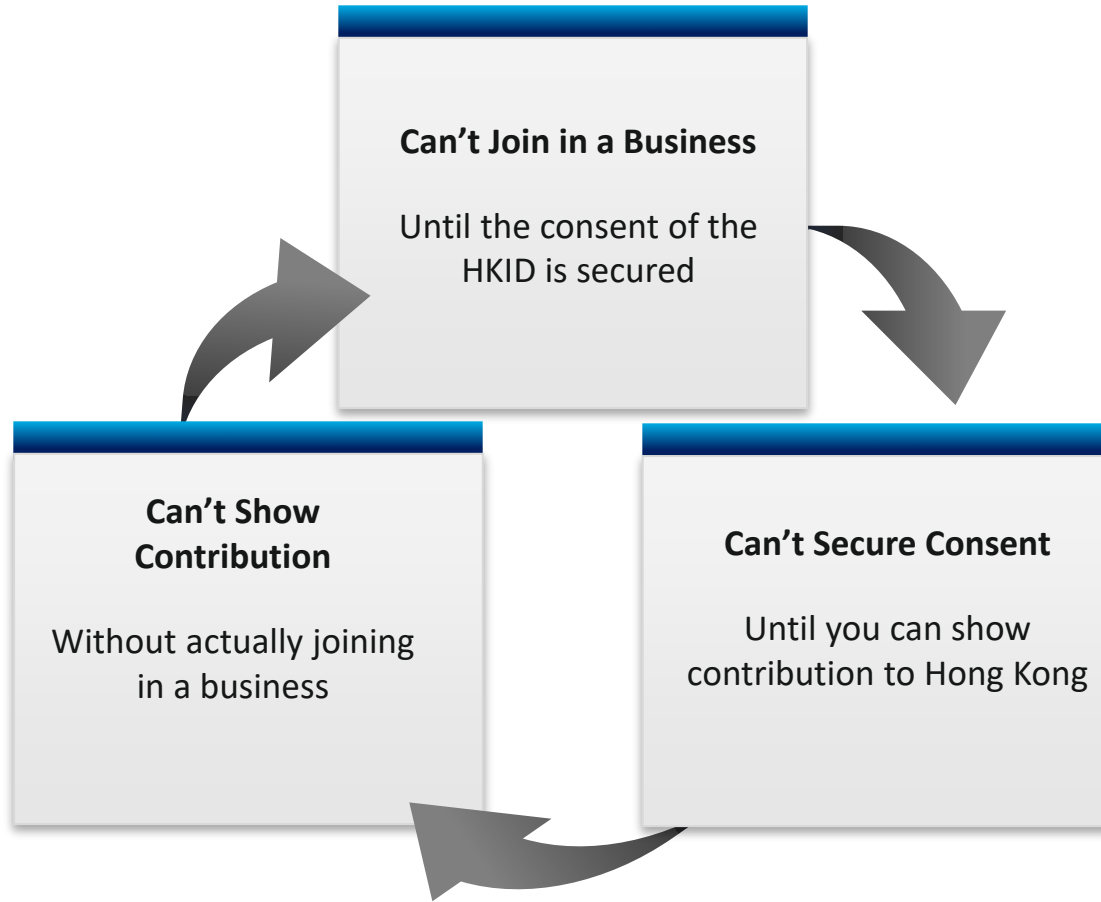
# ENTREPRENEUR OR START-UP?



**Entrepreneur Visa & Business Investment Visa Are The Same Thing**  
VisaGeeza.Ai

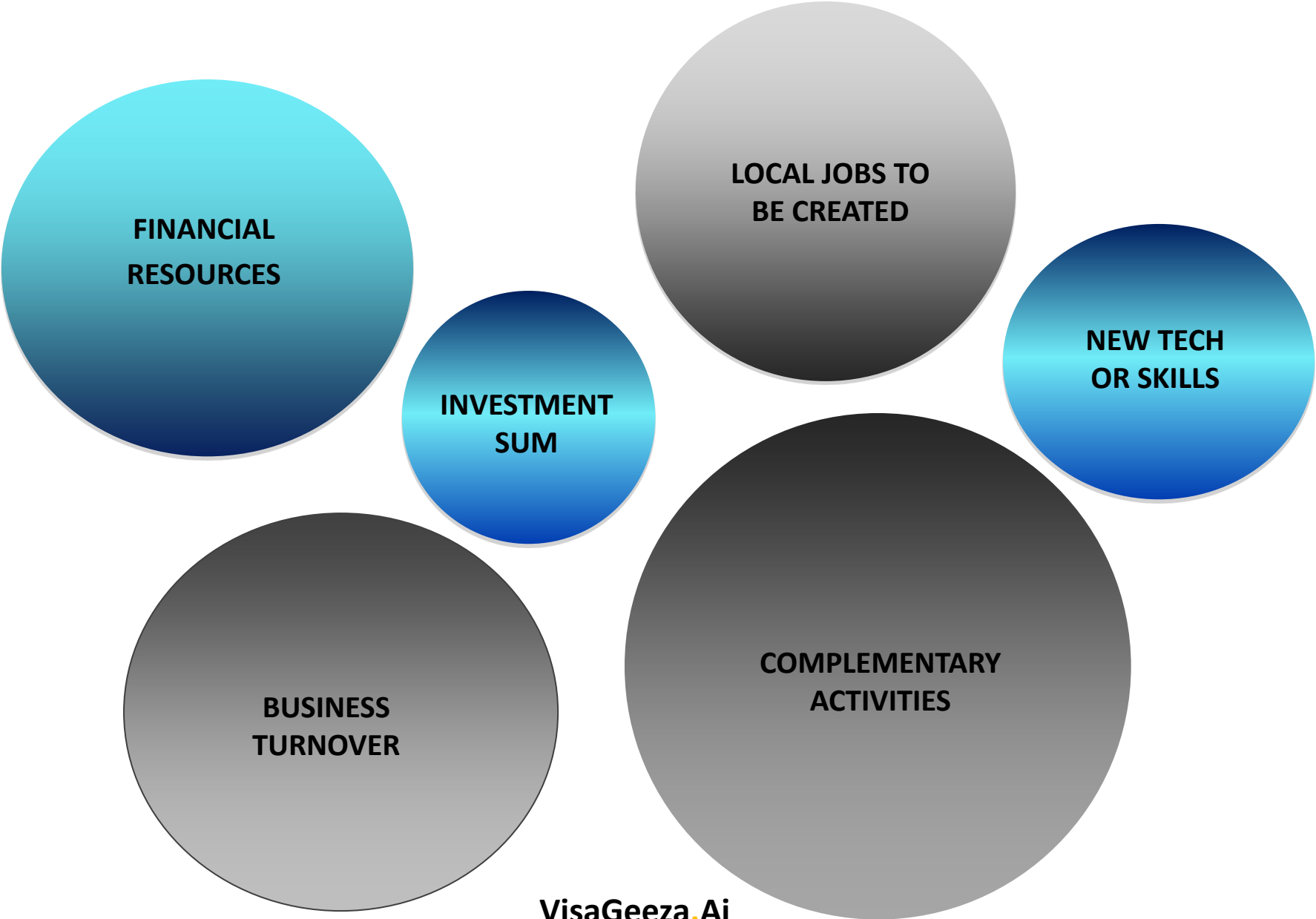


**Will the applicant make a substantial contribution to the economy of Hong Kong?  
(or ..... how long is a piece of string?)**  
VisaGeeza.Ai

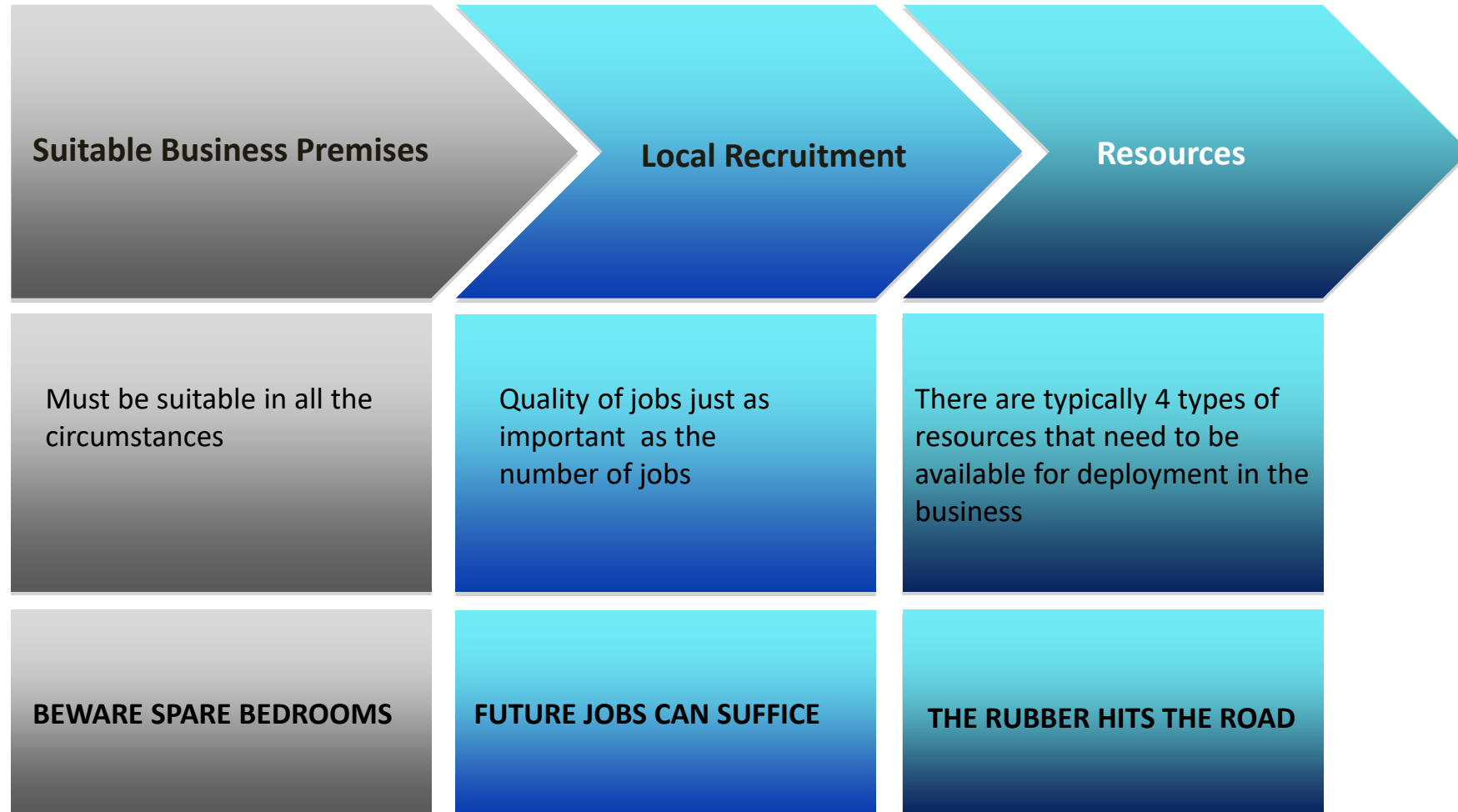


**Test requires showing only prospective (not immediately observable) contribution**  
**VisaGeeza.Ai**

# BUSINESS PLAN REQUIREMENTS

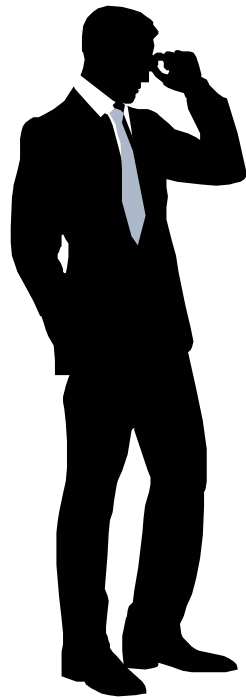


# PASSING THE APPROVABILITY TEST



**Obvious commitment to the business = manifest commitment to Hong Kong**

# RESOURCE REQUIREMENTS



## OLD CHESTNUTS

**“My Successful Business Will be Paying Tax”**

**“You Need HKD XXX,XXX Minimum”**

**“My Friend Got Approved & .....”**

# IMPROVE YOUR CHANCES

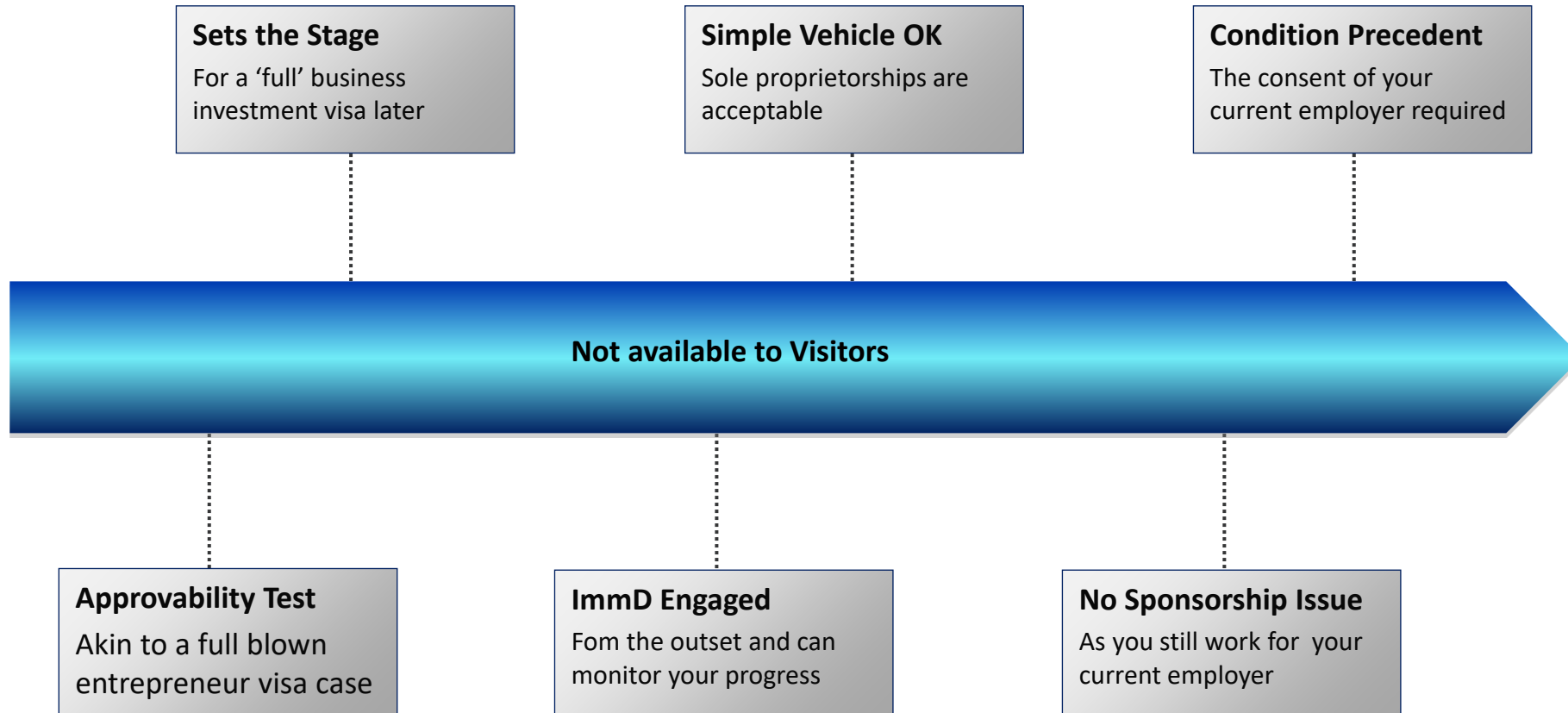
| CURRENT VISITOR   | CURRENT EMPLOYEE  |
|---|---|
| <ul style="list-style-type: none"><li>• Think BIG</li><li>• Behave BIG</li><li>• Take Advice</li><li>• Get a Good Sponsor</li></ul> | <ul style="list-style-type: none"><li>• Wait 3 Years</li><li>• Think BIG</li><li>• Behave BIG</li><li>• Take Advice</li><li>• Join In a Side Business First</li></ul> |

**Beware the Catch 22**





## SIDE BUSINESS



Joining in a side business is a real solution for currently employed, one-man operations

## SPECIAL CONSIDERATIONS

1

Your existing employment visa is not transferrable to your new business

2

You must apply to change your visa category to Business Investment

3

The Approvability Test is just as onerous BUT given the benefit of the doubt

4

The Catch 22 still applies

**Currently Hong Kong resident with an Employment visa sponsored by another firm?**

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## SPONSORSHIP CONSIDERATIONS

**WHY?**

Technical mechanism to fund repatriation if necessary

**WHO?**

Any 'bona fide' Hong Kong resident (related party preferred)

**WHEN?**

Arrange at the outset and be strategic

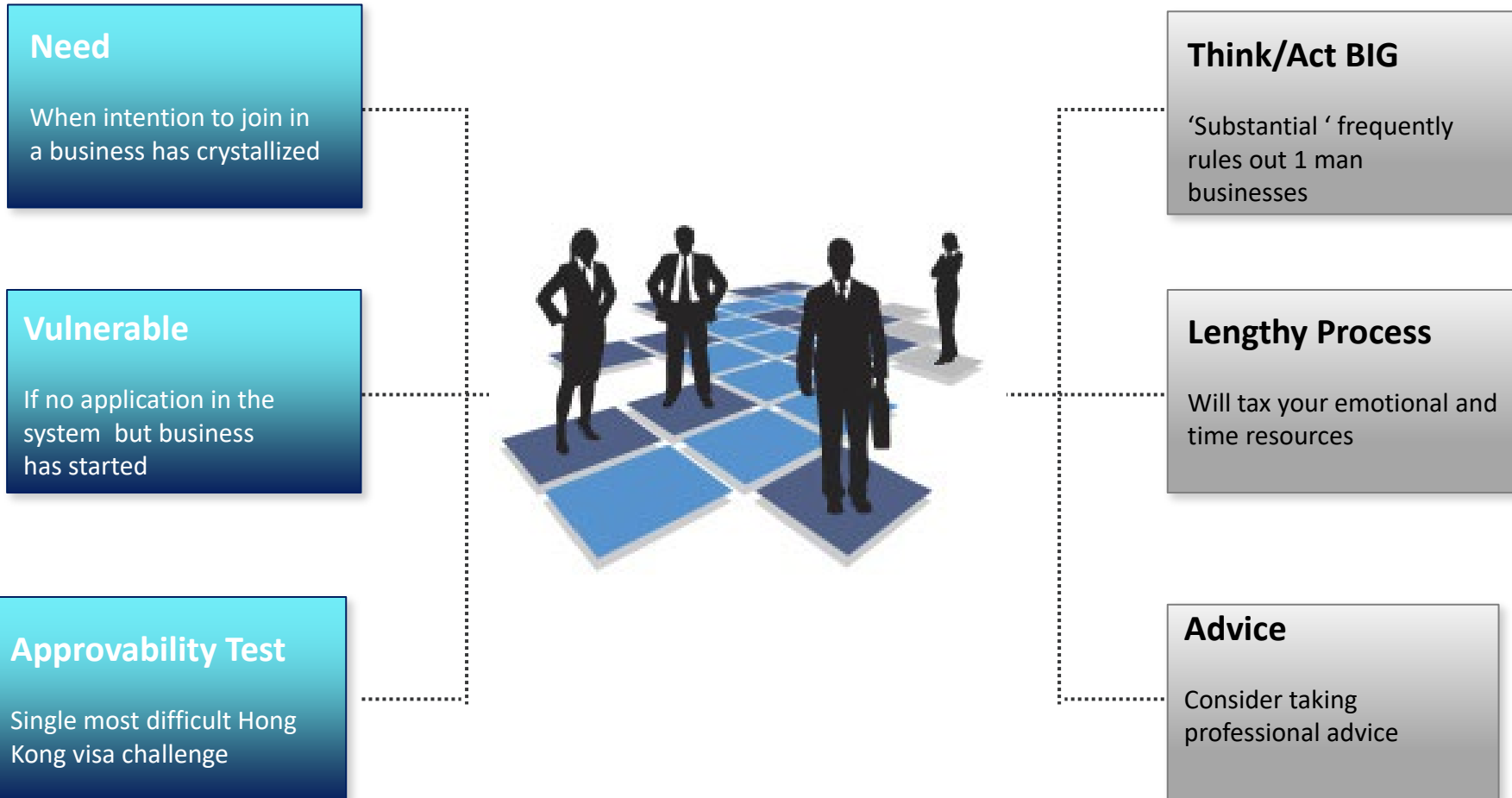
**Enhancement Measure December 28, 2022**

Updated policy designed to attract and retain Entrepreneurs,  
Professionals and Talents

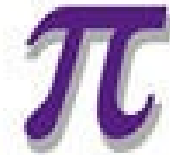
**Applicability**

Does not apply to Business Investors

## IN SUMMARY



START-UP SLAM DUNK



創新科技署  
Innovation and  
Technology Commission



Hong Kong 香港科技園  
Science & Technology Parks

# The Capital Investment Entrant Scheme

CIES SUSPENDED (FOR NOW)



- 24,000 Approvals
- 23,000 From Mainland
- 20,000 Applications Still Being Processed
- To Be Reinstated 'Soon'

**HKD30  
MILLION**



## OLD CIES OVERVIEW

1

10 million Hong Kong Dollars

2

Into qualifying Hong Kong investment asset classes

3

Secure a 2 year period of stay extendable every 2 years for 7 years

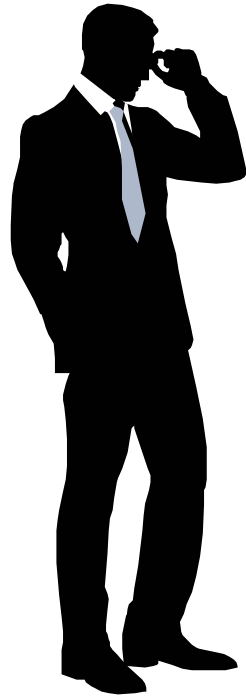
4

Right of Abode or Unconditional Stay available after 7 years

**Invest hard cash in Hong Kong and secure residency permissions**

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## PRIOR KEY CONSIDERATIONS



**Jake van der Kamp, Monitor, SCMP, October 1, 2004**

*“ Let us get it straight about this initiative to give foreigners Hong Kong identity cards if they bring a certain amount of money with them. It represents a complete misunderstanding of how our balance of payments system works. Foreigners who come here do not bring Hong Kong dollars. They do not have them at home. They bring their own currencies and we then exchange them for Hong Kong dollars. This results in our holding their foreign currency denominated money, which we then spend or invest in their countries ...*

*... Net gain to us?*

*... Nothing. ”*

## PREVIOUSLY ELIGIBLE INDIVIDUALS

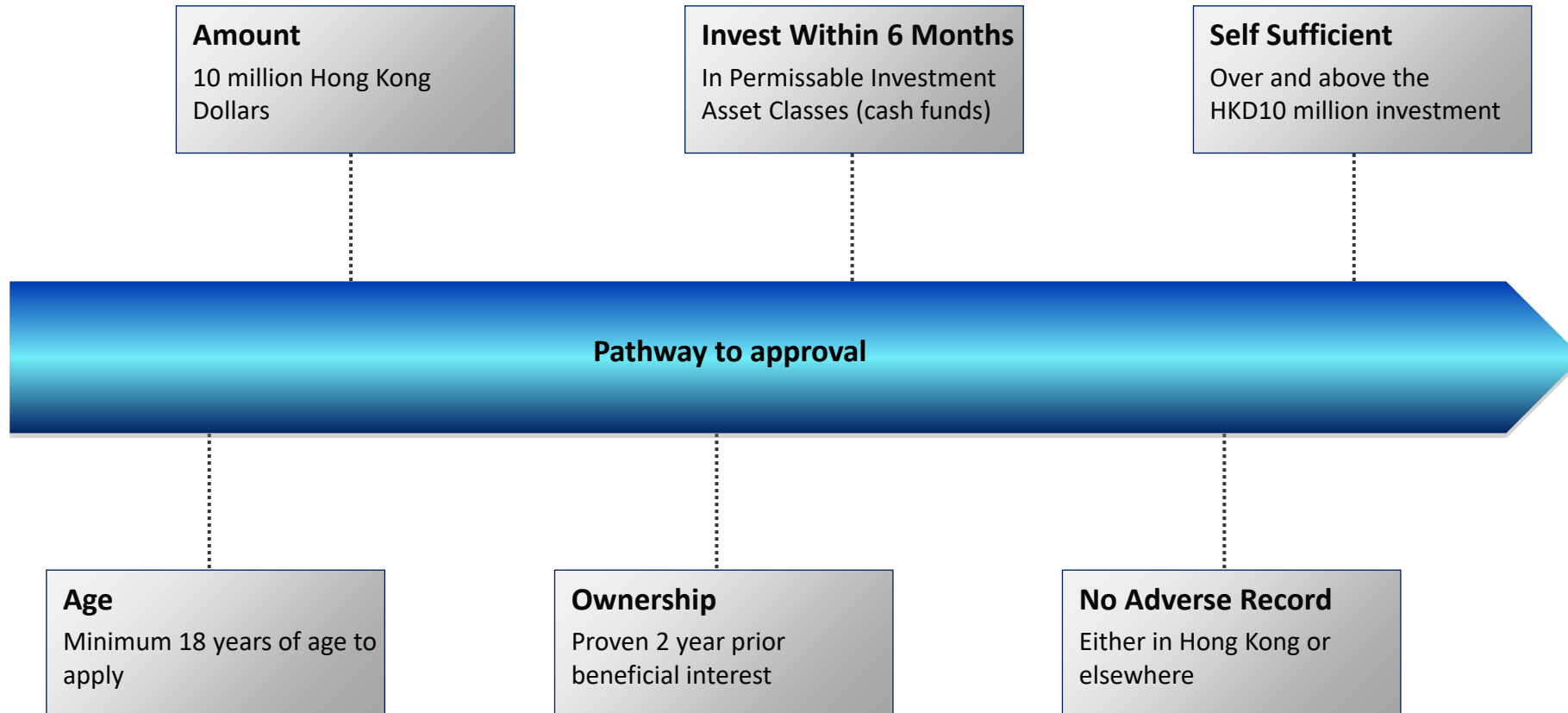
### Qualifying Nationalities

- Foreign nationals (except Afghanistan, Cuba, North Korea & Albania)
- Residents of Macau & Taiwan
- Chinese nationals with PR overseas
- Stateless people holding PR overseas with proven re-entry facilities

**FX issues preclude Mainland residents from inclusion in the programme**

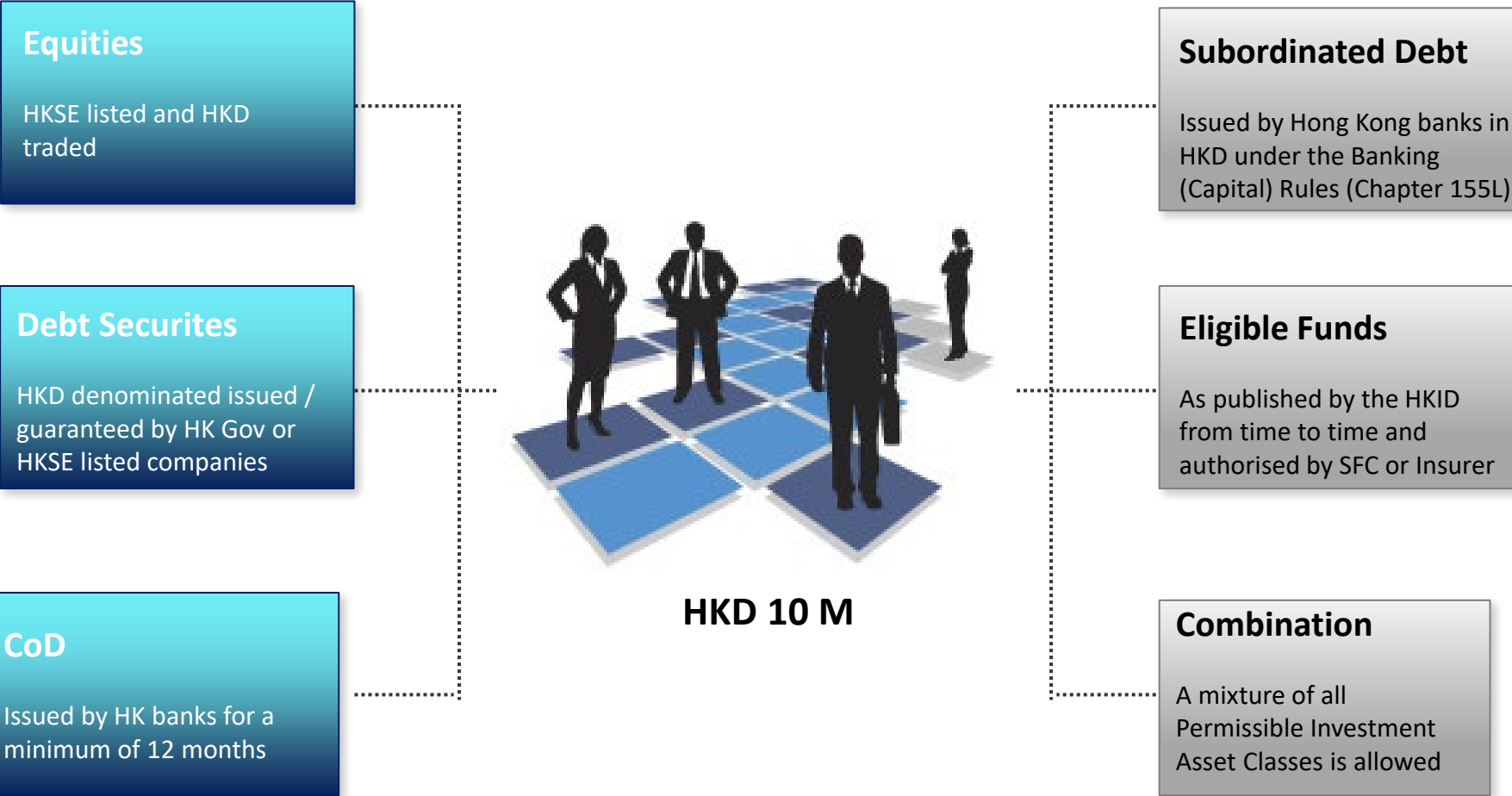


## OLD ELIGIBILITY CRITERIA

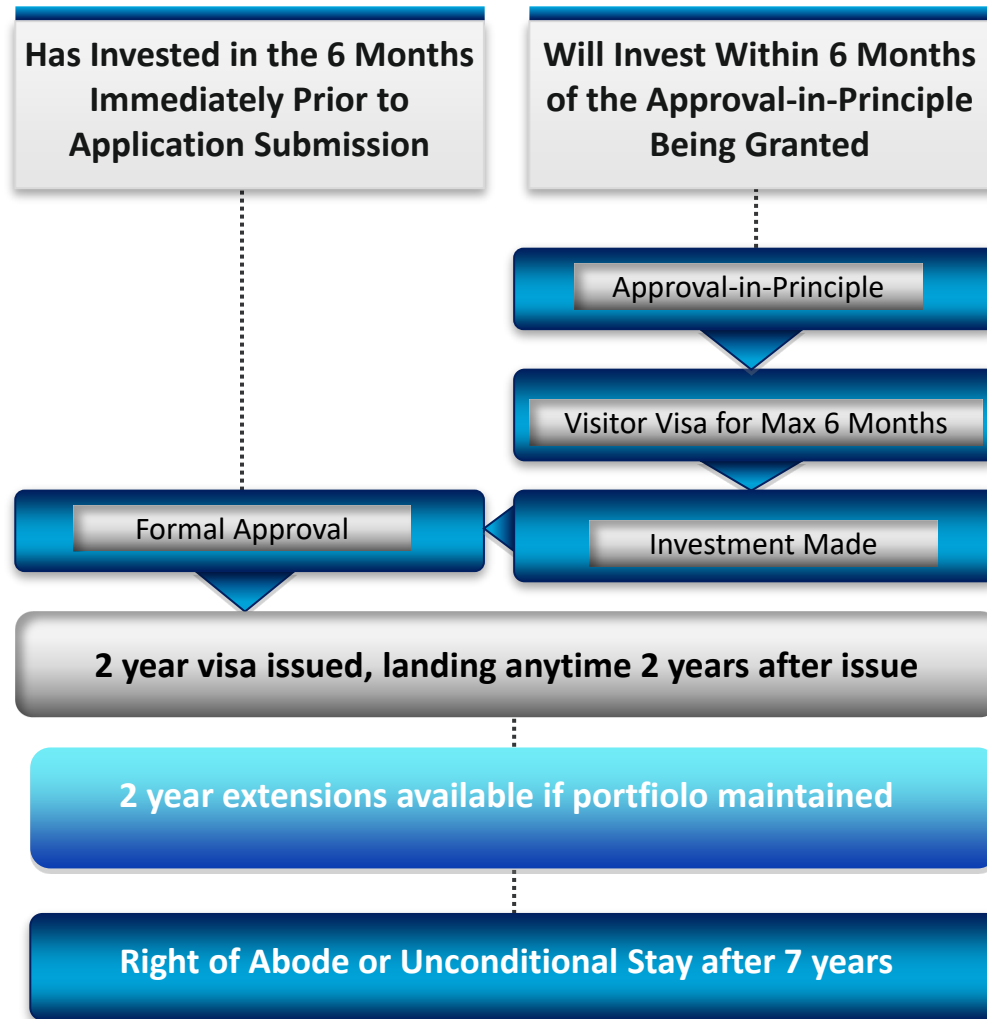


A visa programme for the very well heeled  
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# OLD PERMISSABLE INVESTMENT ASSET CLASSES



## APPROVAL OUTCOMES



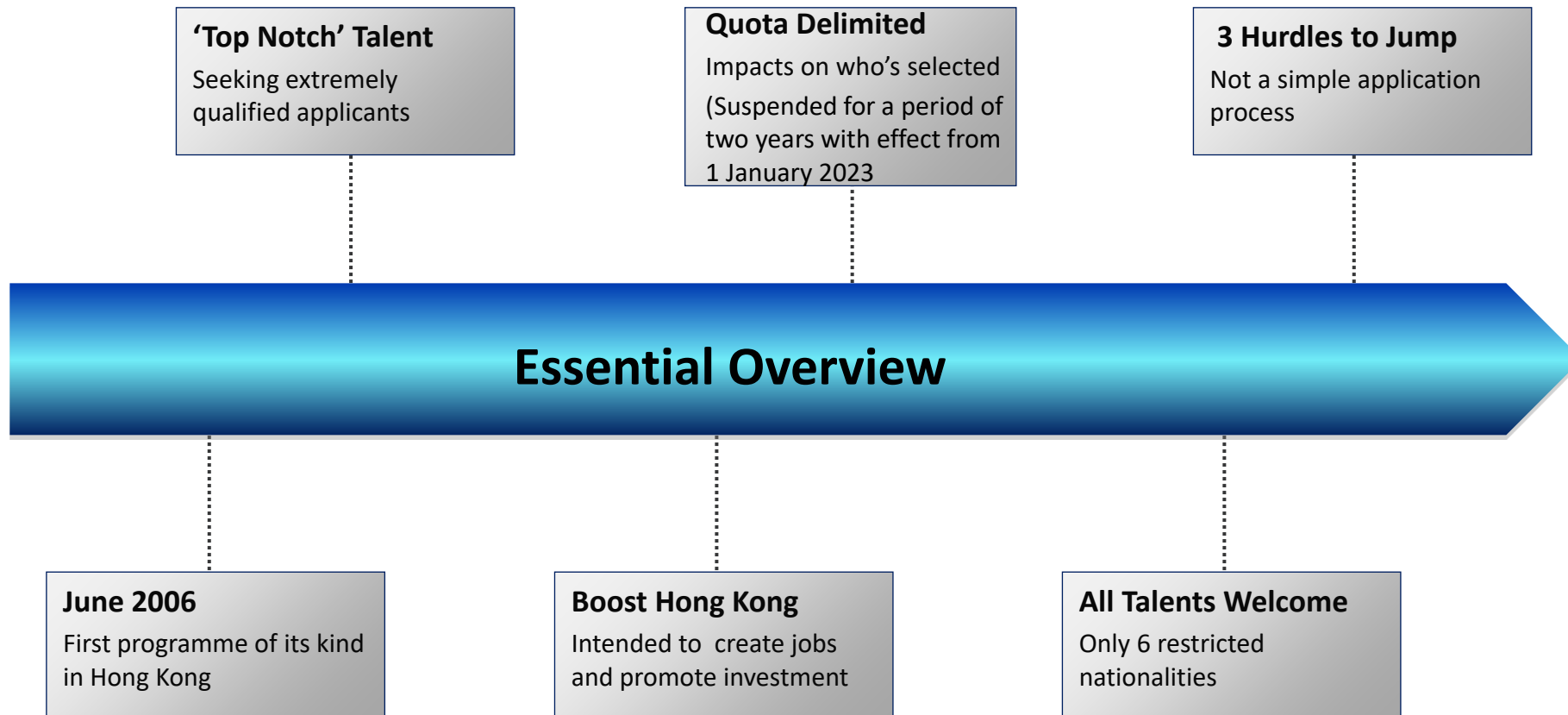
The CIES visa allows any lawful permitted activity in Hong Kong by the holder and his family  
VisaGeeza.Ai

# Vocational Professionals Admission Scheme



**A Visa for  
'Top Notch Talent' to Live  
& Work in Hong Kong**

# QUALITY MIGRANT ADMISSION SCHEME



The programme undergoes frequent review to ensure it is meeting Hong Kong's needs

# ESSENTIAL ELEMENTS

**3 Tier Approval Process**  
Must meet, then points, then 'Selection'

**Issued Pro-forma**  
No specific purpose for residence needed post approval

**8 or 2 Years Initially**  
Under GPT - Has the Migrant 'taken steps' towards settlement?

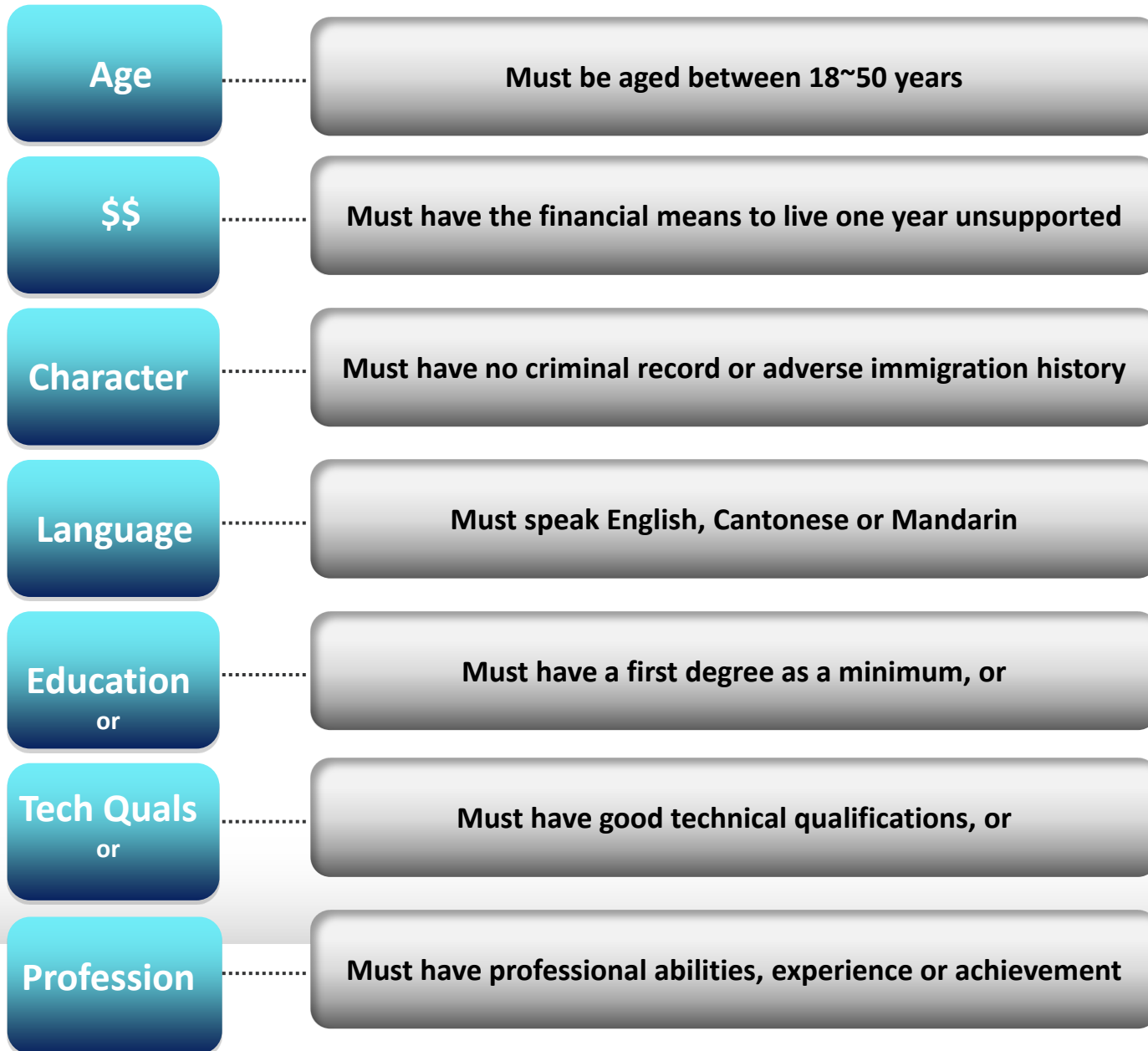


**'Settlement' Required**  
Next extension under GPT (3 years) need proof of business or employment

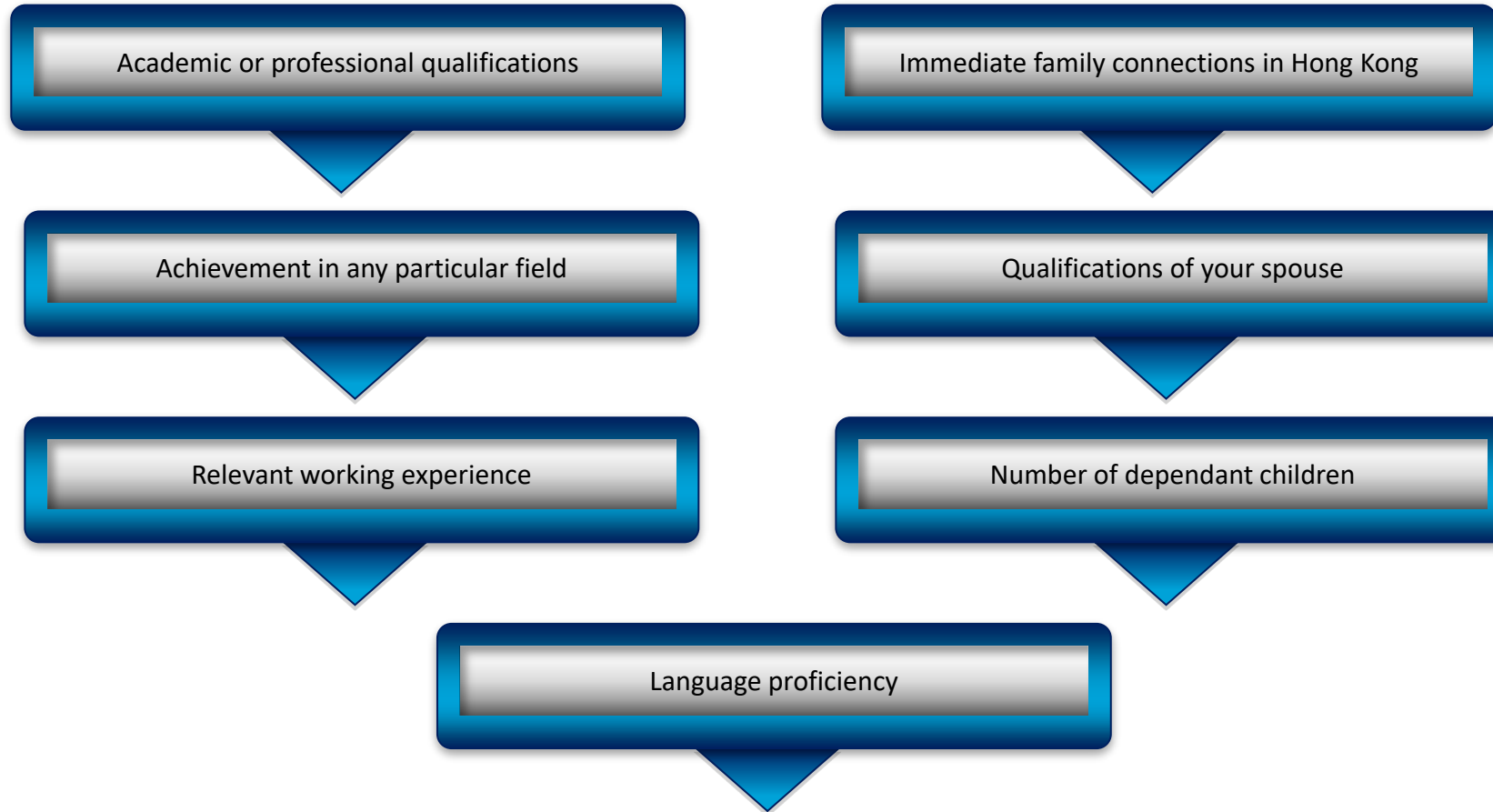
**Dependants Included**  
Family qualify and spouse's qualifications even count towards points

**RoA After 7 Years**  
Continuous ordinary residence required

## MUST MEET CRITERIA



## GENERAL POINTS TEST



*The General Points Test tallies up*

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**(1) Additional 30 points awarded to graduates of renowned institutions recognized internationally and an additional 15 points to applicants with not less than 2 years of graduate or specialist level international work experience. Also, additional points on the basis of the professions under the Talent List.**

**(2) 2-3-3 Year under GPT OR 8 Year Pattern of Approval under APT**

**(3) Top Tier resident status available for HK\$2 million income earners under GPT**

**Satisfy Must Meet Criteria & Score Sufficient Points...-**

GPT's entered into 'approved pool' and ranked by points total



**80 Points is the Minimum Pass Mark**

Under the APT superior talents  
gets 225 maximum points (or fail outright)



**Subsequently, GPT 'Settlement' is Demonstrated by...**

Employment with duties and compensation commensurate with qualifications, or  
Establishment of a business of a 'reasonable size'  
APTs get a Slam Dunk 8 year limit of stay straight up

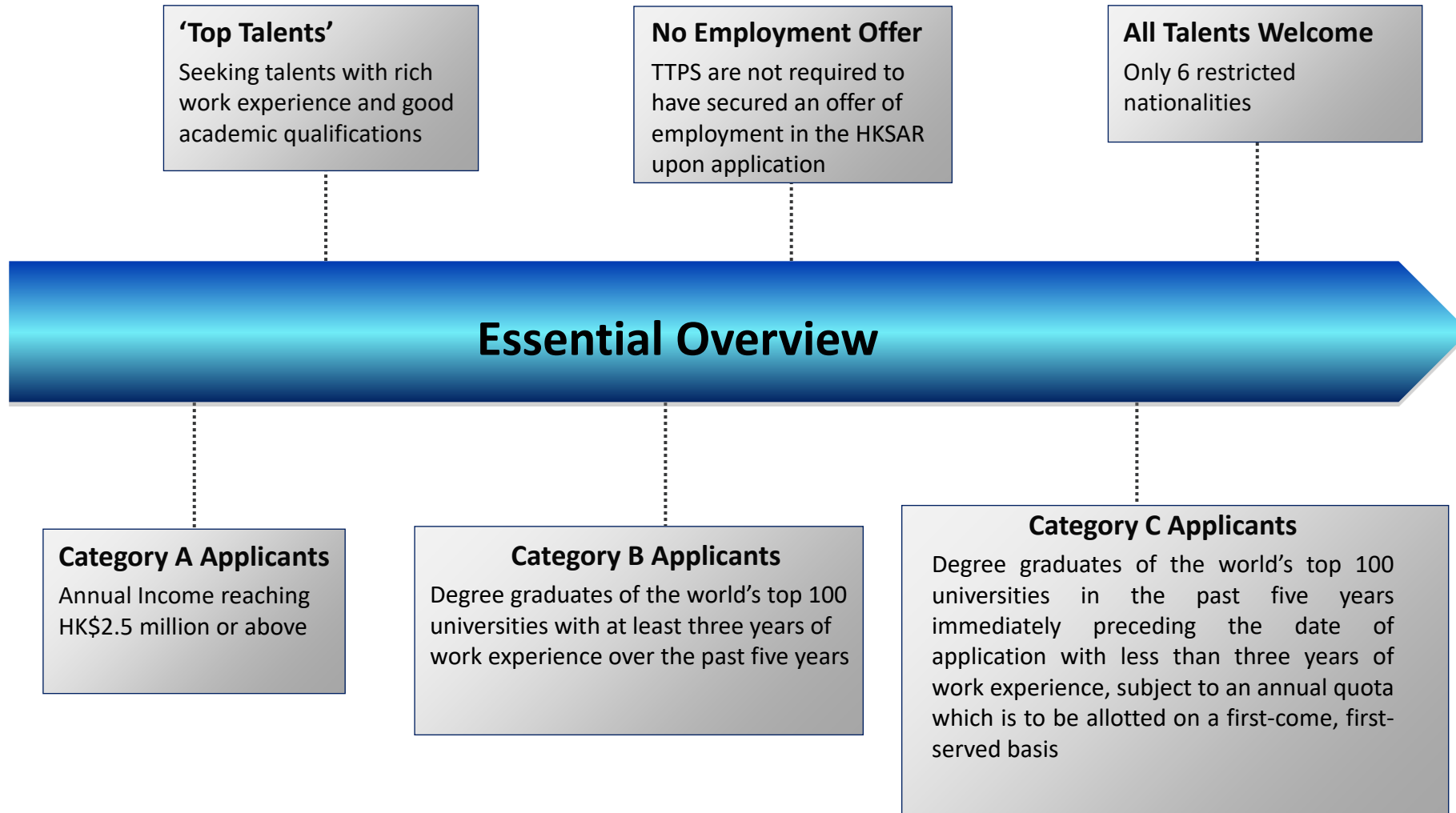


**The *Achievements Test* is a 225 Points 'Home Run'**  
**VisaGeeza.Ai**

# Top Talent Pass Scheme (TTPS)



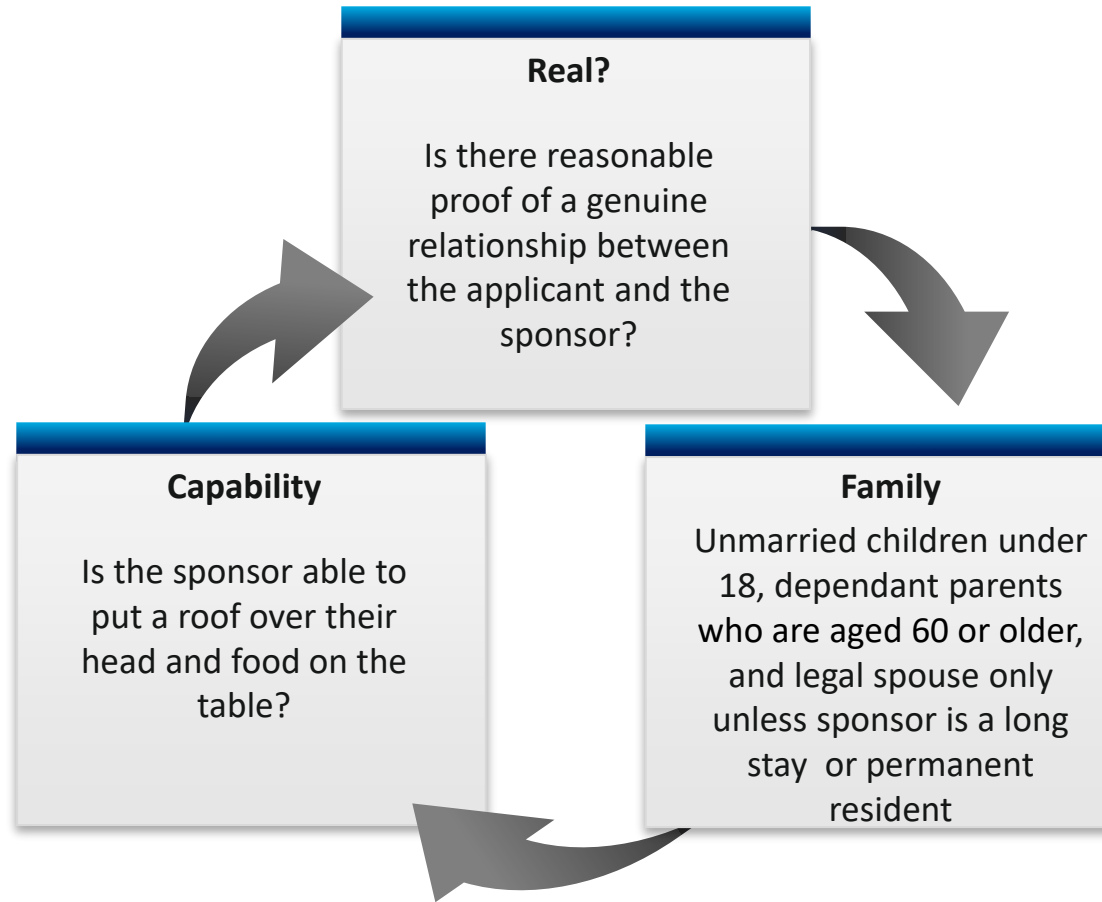
# TOP TALENT PASS SCHEME



The TTPS seeks to attract top talents with rich work experience and good academic qualifications from all over the world to explore opportunities in Hong Kong.

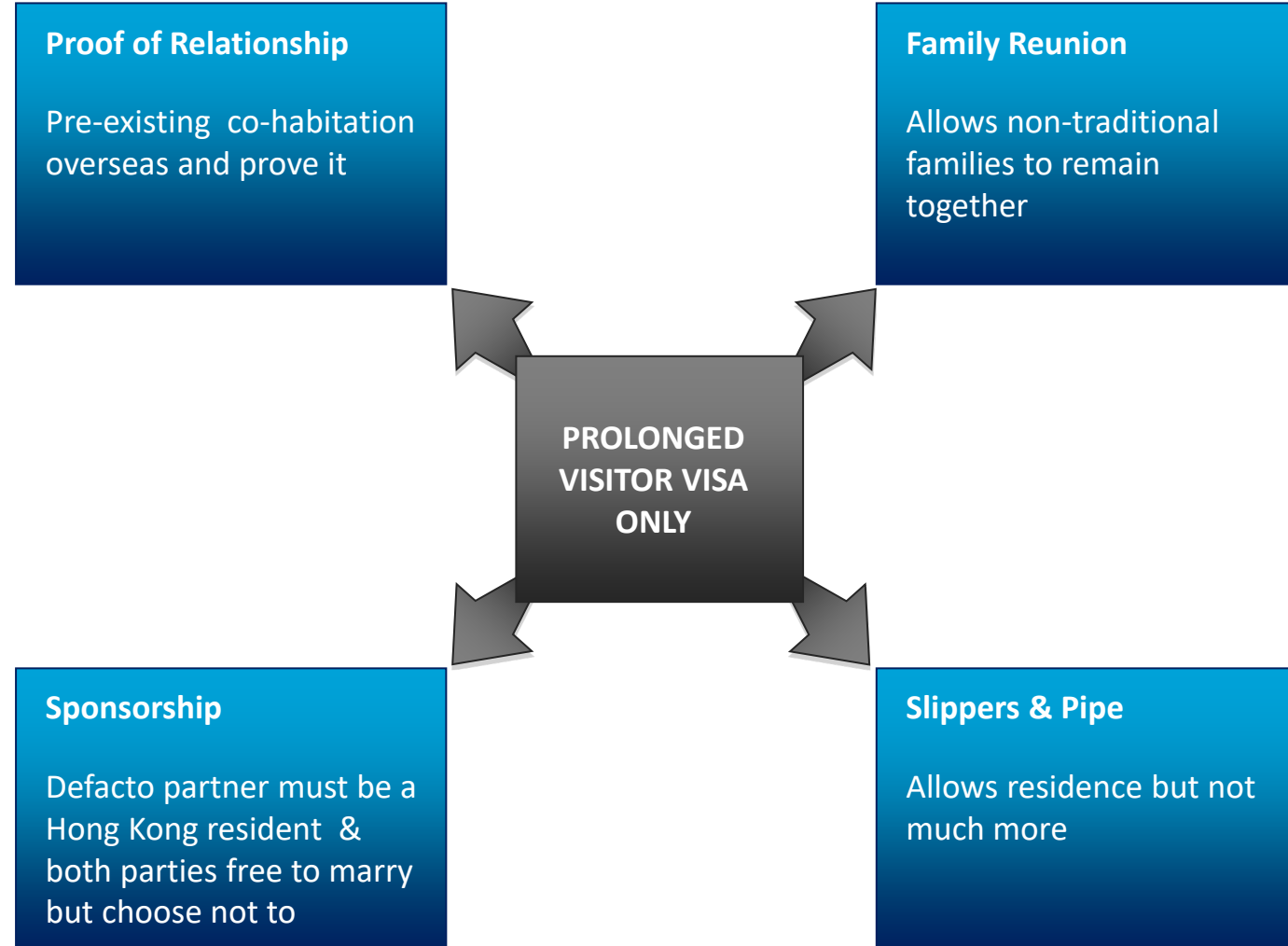
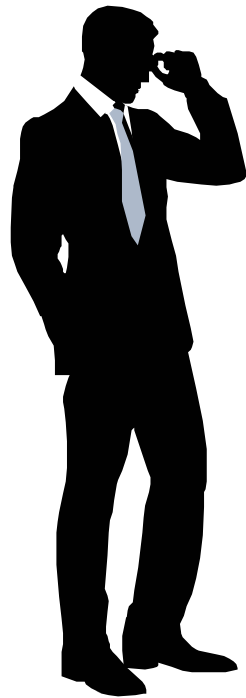
# Visa to Join Your Heterosexual/Same-Sex Spouse or Your Parents in Hong Kong

# LEGAL DEPENDANTS



# Visa to Join Your Hong Kong Resident Defacto Spouse

# DEFACTO SPOUSE ARRANGEMENTS



# The Enhanced Supplementary Labour Scheme (ESLS)

# ESLS

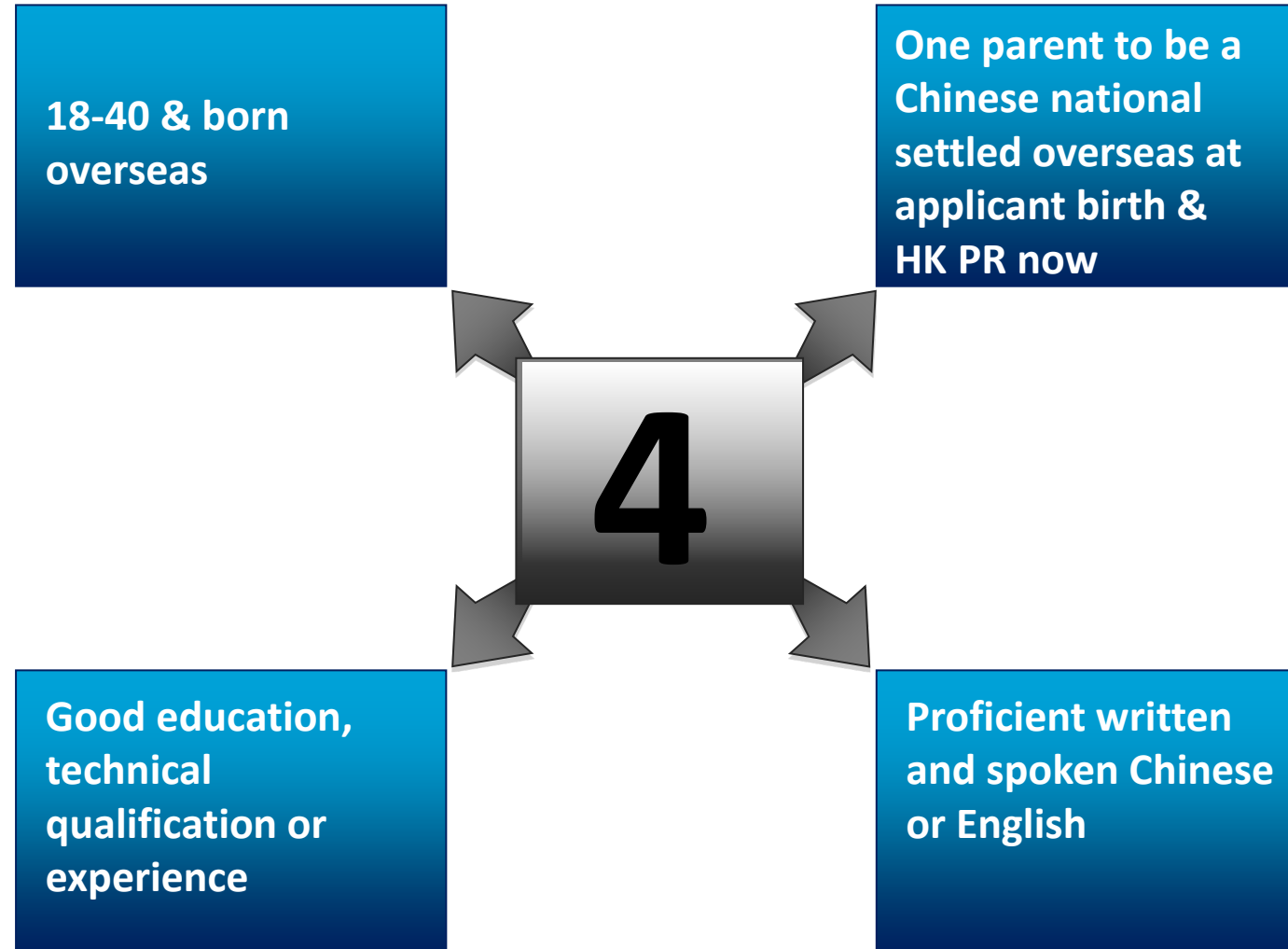
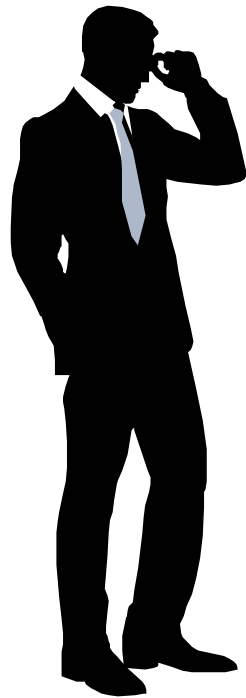


ESLS is a scheme which allows employers carrying on businesses in Hong Kong with genuine difficulties in finding suitable staff locally to import workers at technician level or below.

**Admission Scheme for 2<sup>nd</sup>  
Generation of Hong Kong  
Chinese Permanent  
Residents**  
(Commenced May 6, 2015)

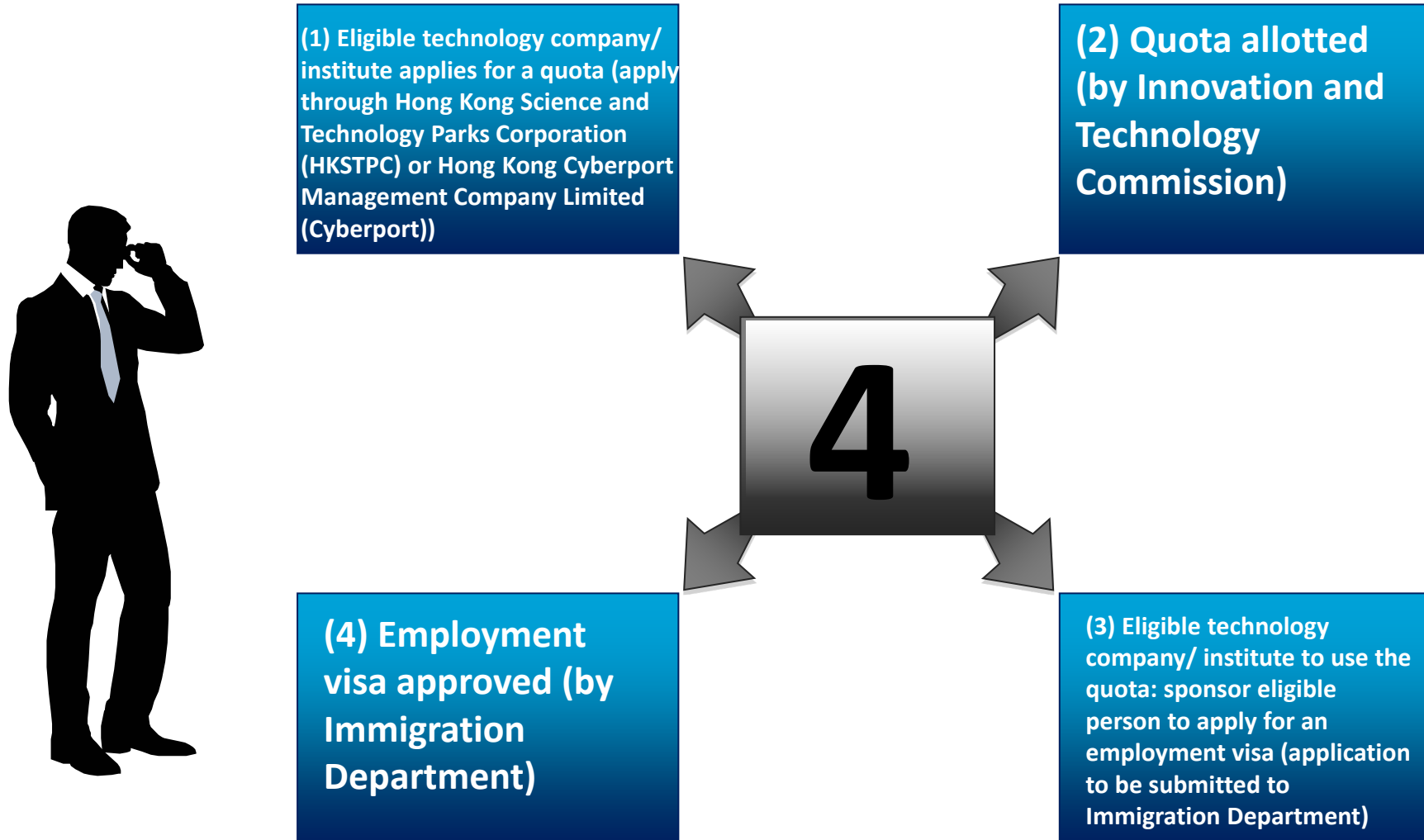


## QUALIFYING APPLICANTS



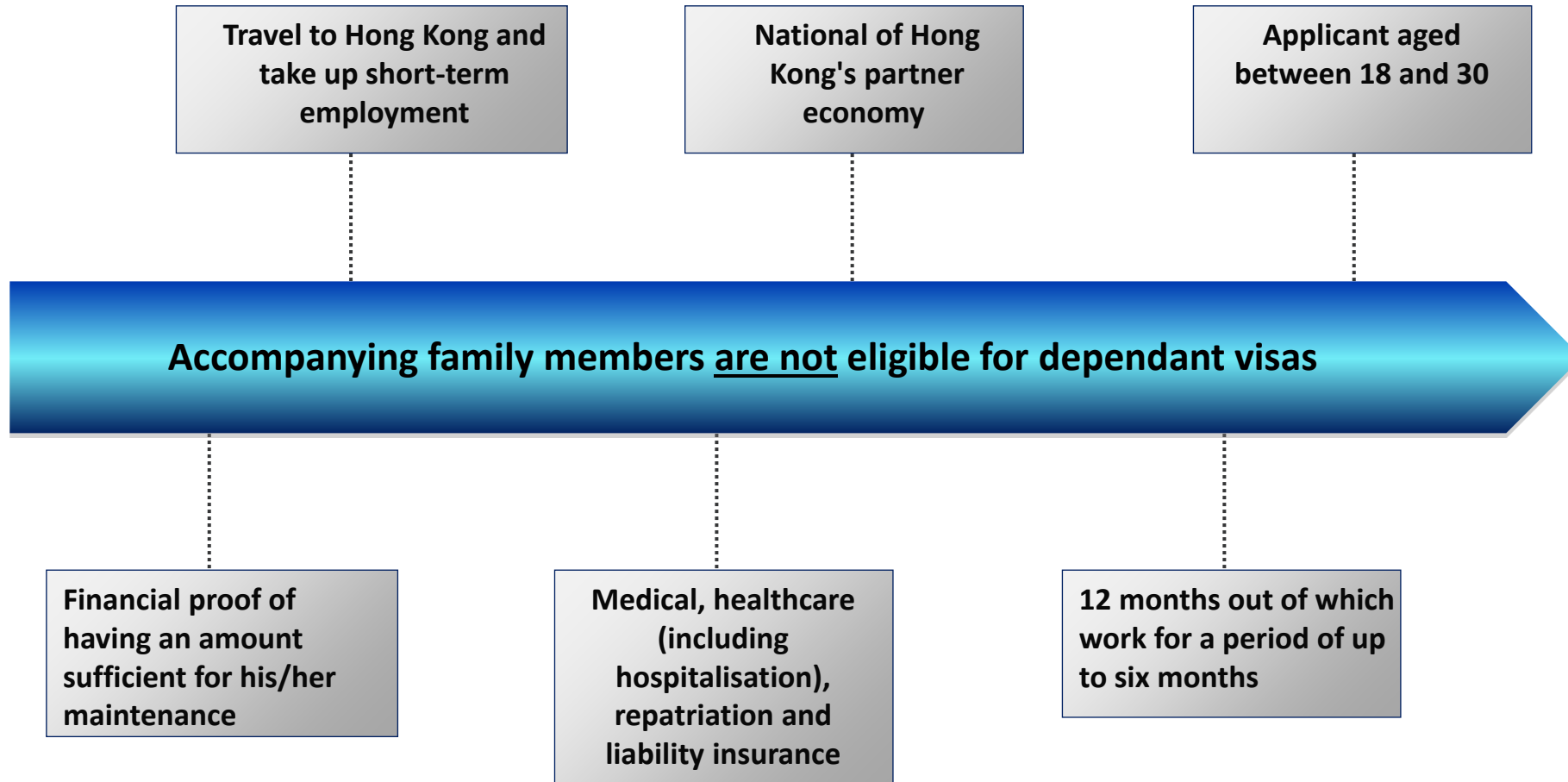
# Technology Talent Admission Scheme (TechTAS)

## HOW DOES IT WORK?



# Working Holiday in Hong Kong

## WORKING HOLIDAY VISA



Applicant must hold a valid national passport issued by the partner economy and is ordinarily residing in that partner economy

**Permanent Residency After  
7 Years Continuous  
Ordinary Residence in the  
HKSAR**

## RIGHT OF ABODE

1

Claim the RoA by applying to verify your eligibility for a HKPID Card

2

For our purposes, you are a non-Chinese citizen resident in HK for not less than seven years

3

Need to show 7 years continuous ordinary residence for a settled purpose

4

No outstanding taxation liabilities nor security objections

**The RoA is manifested in a Hong Kong Permanent Identity Card**

# Residence in Hong Kong With No Conditions Attached

(not entirely true)



## QUALIFYING FOR UNCONDITIONAL STAY

1

7 years continuous ordinary residence

2

Holding a 'qualifying visa'

3

Need to argue away periods of missing residence

4

UCS = all conditions removed (except one)

**UCS is an administrative convenience – it is NOT the same as RoA**

# Trying Again After Your First Application is Refused

## WHY DO APPLICATIONS GET DENIED?

### Case Fatally Flawed From the Outset

Approval markers, incorrect relationships, security considerations, not approvable *ab initio*, previous denials, poor history with HKID

### Very Poor Preparation & Approvability Analysis

Treating all cases the same, argument not persuasive, argumentative not administrative

### Insufficient Supporting Documentation

Critical paperwork missing, laziness

### Requests of ImmD Not Afforded Significance

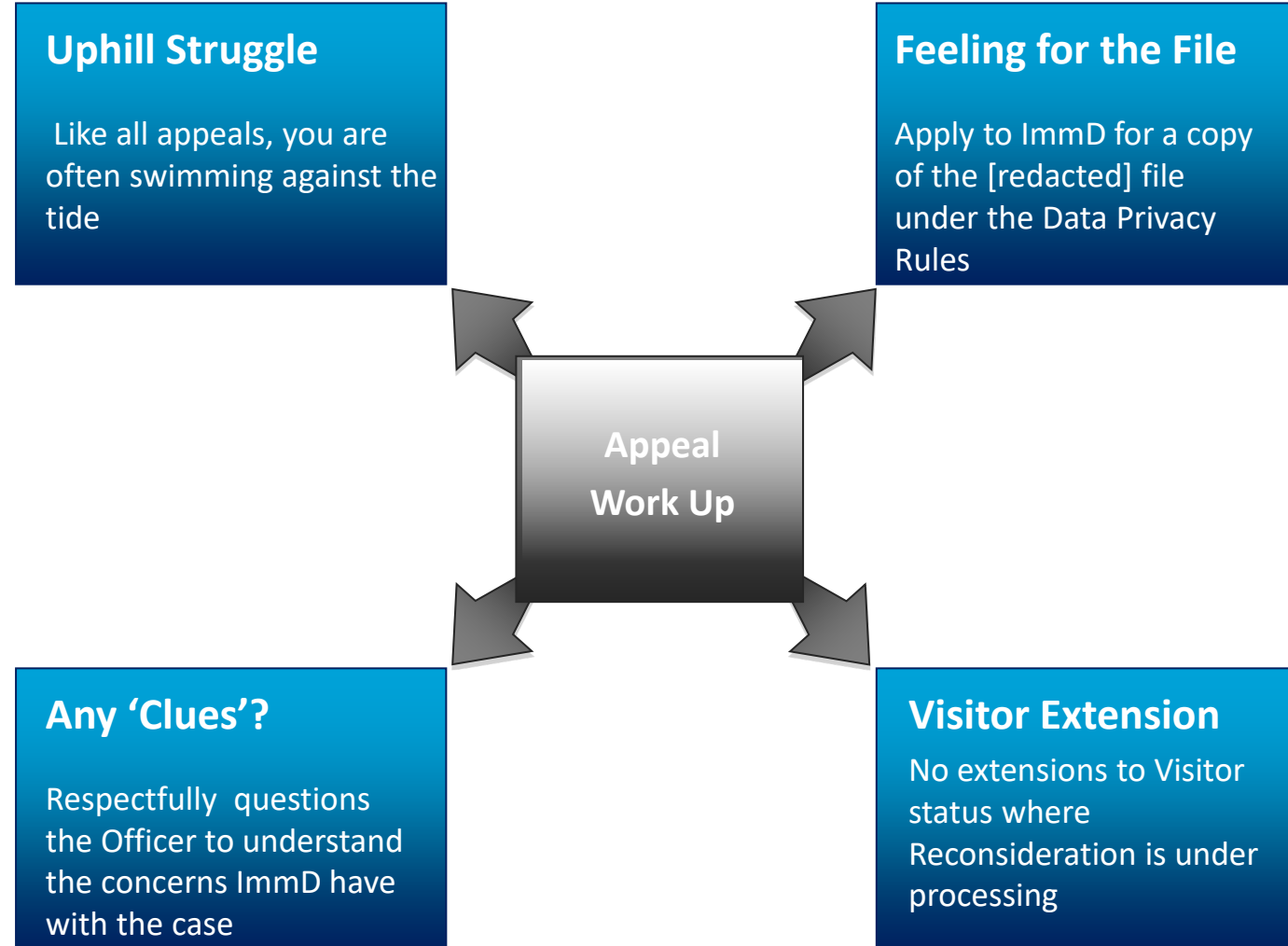
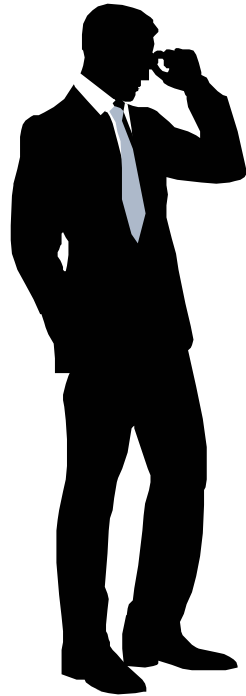
If ImmD request it, they need it – so get it to them – no questions asked!

### Applicant Caught Breaching Conditions of Stay

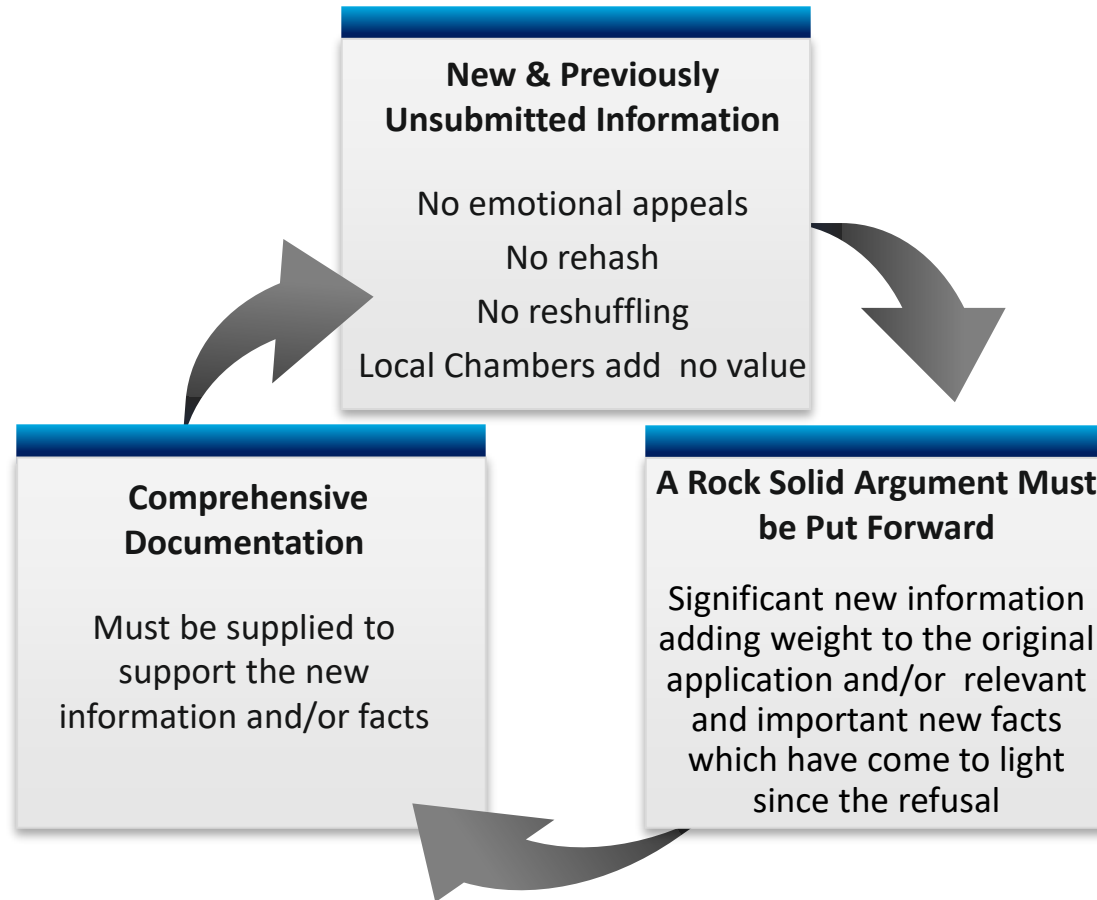
During the application consideration process whilst remaining in Hong Kong as a Visitor or pre-taking up of unapproved employment



# REQUESTING A CASE RECONSIDERATION



# ARGUING THE RECONSIDERATION



**You have only one good chance to fix a previously denied case - make it count!**

**VisaGeeza.Ai**

**Reconsideration  
Application Has Merit**

**Reconsideration Application  
Without Merit**



**~ 12 Weeks**

**Within 4 Weeks**



# Appeal Options – When Reconsideration Fails

## TWO OPTIONS FOR FURTHER APPEAL

### s.53 Review

Any person aggrieved by a decision, act or omission of any public officer taken, done or made in the exercise or performance of any powers, functions or duties under this Ordinance may by notice in writing lodged with the Chief Secretary for Administration within [14 days] object to that decision, act or omission.

### Direct Intervention by the Chief Executive

**BUT ONLY IF THERE IS  
A SIGNIFICANT  
MATTER OF PUBLIC  
INTEREST AT ISSUE**

Both are problematic!



**Alternatively you can instruct a solicitor and seek a  
Judicial Review of Administrative Action**





## Visa Information

