

Course Providers:

The **PRO**FECTIONAL Company®

Professional Services to the Perfection

KORNERSTONE

Training. Makes a difference.

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

-  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
-  12 - TTPS - 2023
-  13 - Legal Dependents - 2023
-  14 - Defacto Spouse - 2023
-  15 - ESLS - 2023
-  16 - ASSG - 2023
-  17 - TechTAS - 2023
-  18 - Working Holiday - 2023
-  19 - Right of Abode - 2023
-  20 - UCS - 2023
-  21 - Reconsideration - 2023
-  22 - Final Appeal - 2023

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

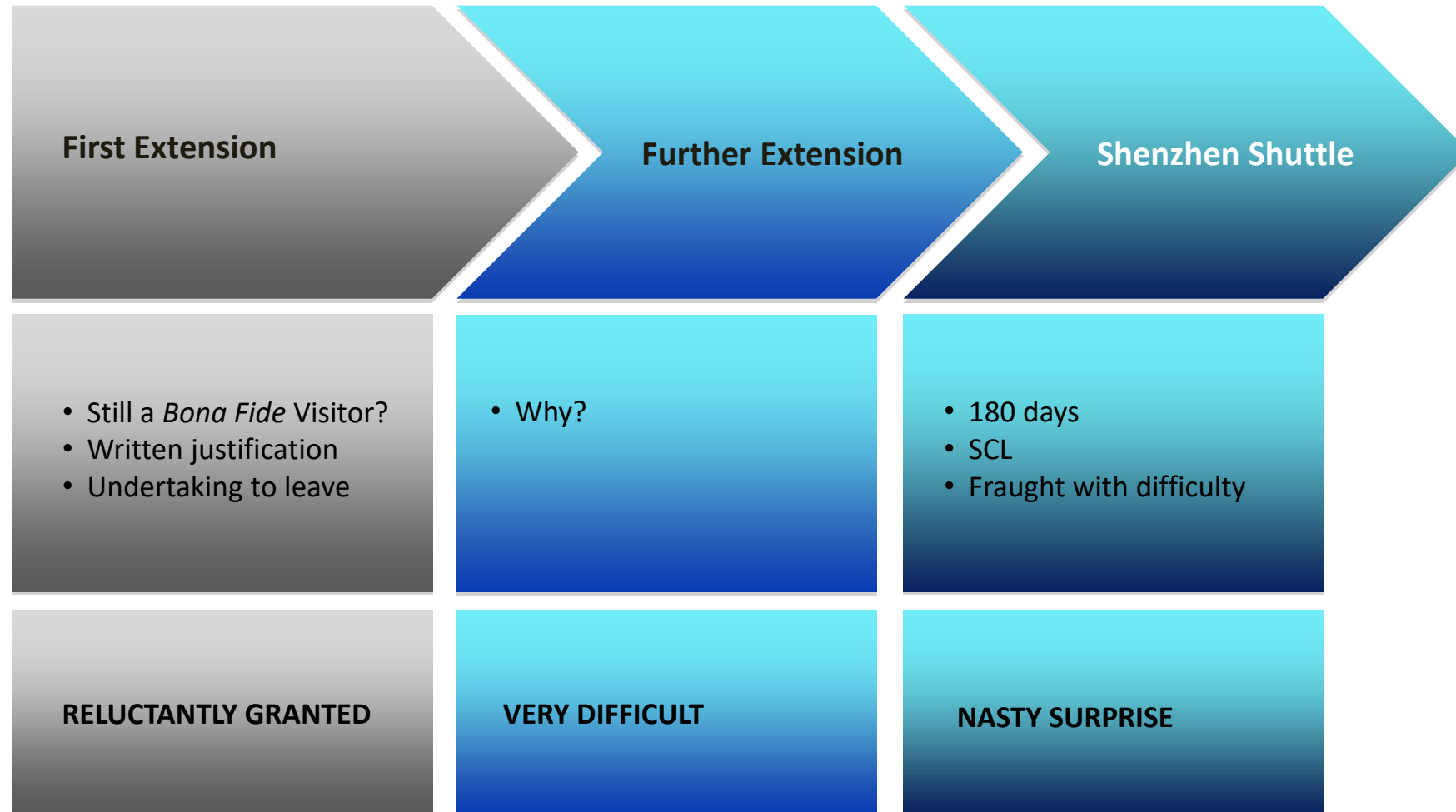


Visa Information



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

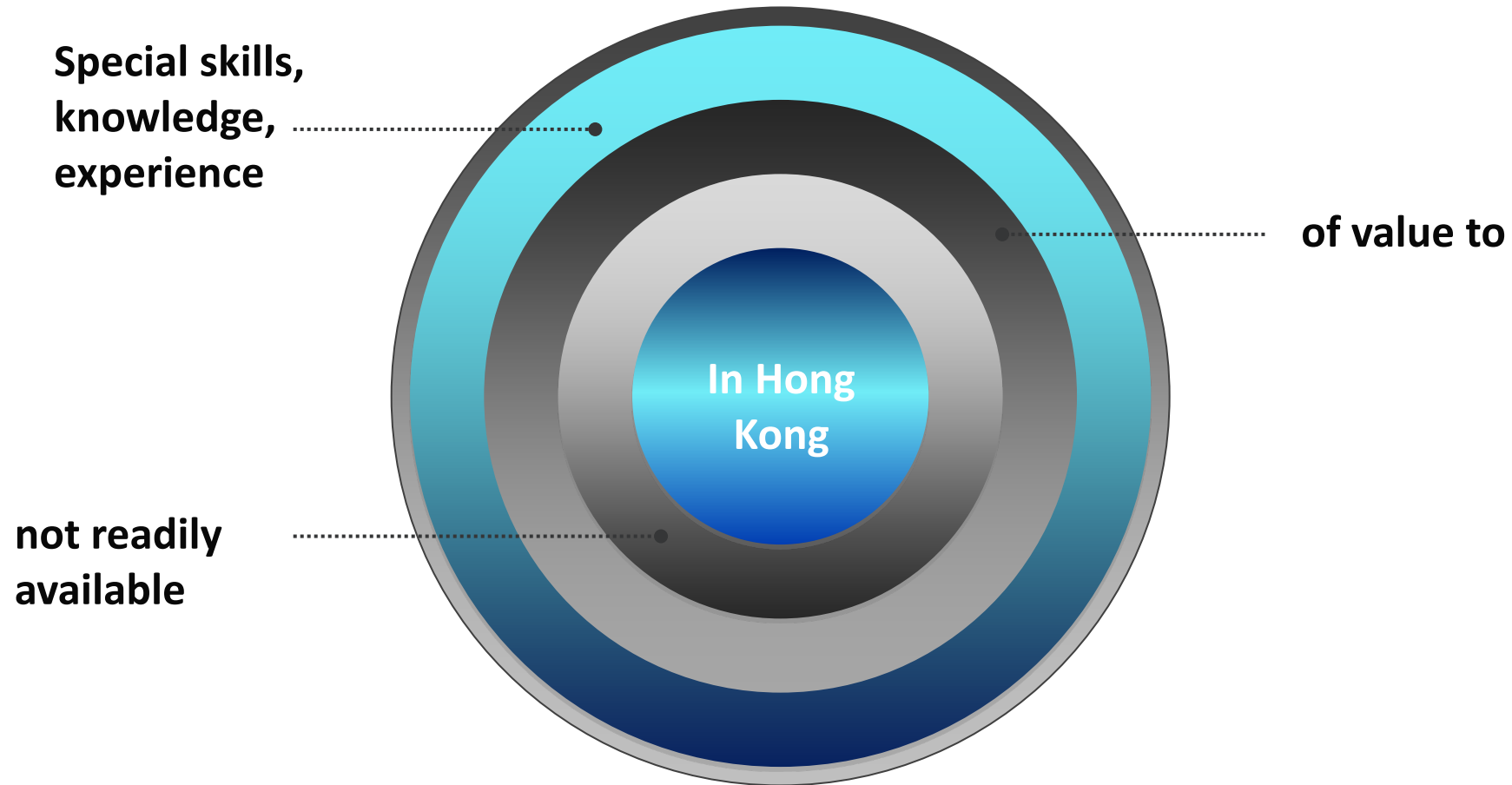
- The Indian national holds an Indian passport valid for at least six months; and
- The Indian national intends to visit or transit (except in direct transit by air and not leaving the airport transit area) the HKSAR for a stay not exceeding 14 days.

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

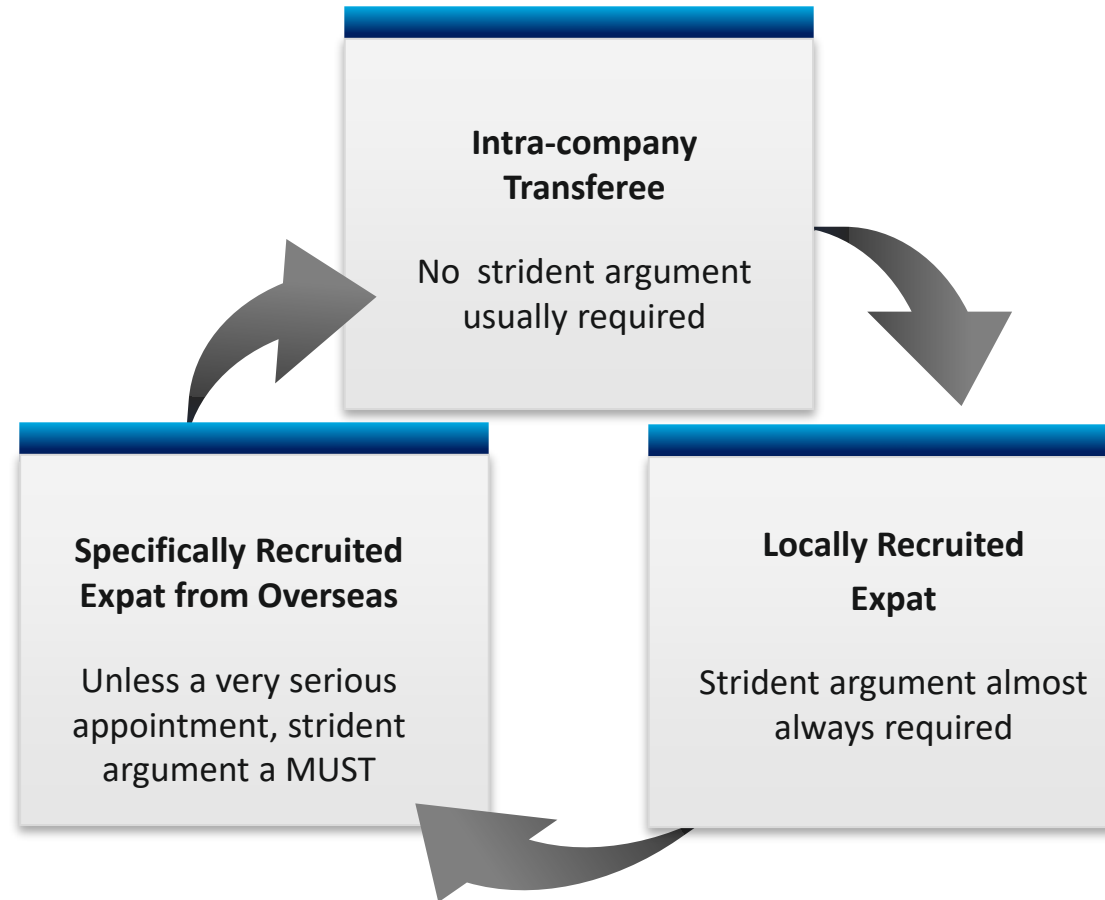


Your employer must be justified in engaging the services of an expatriate

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

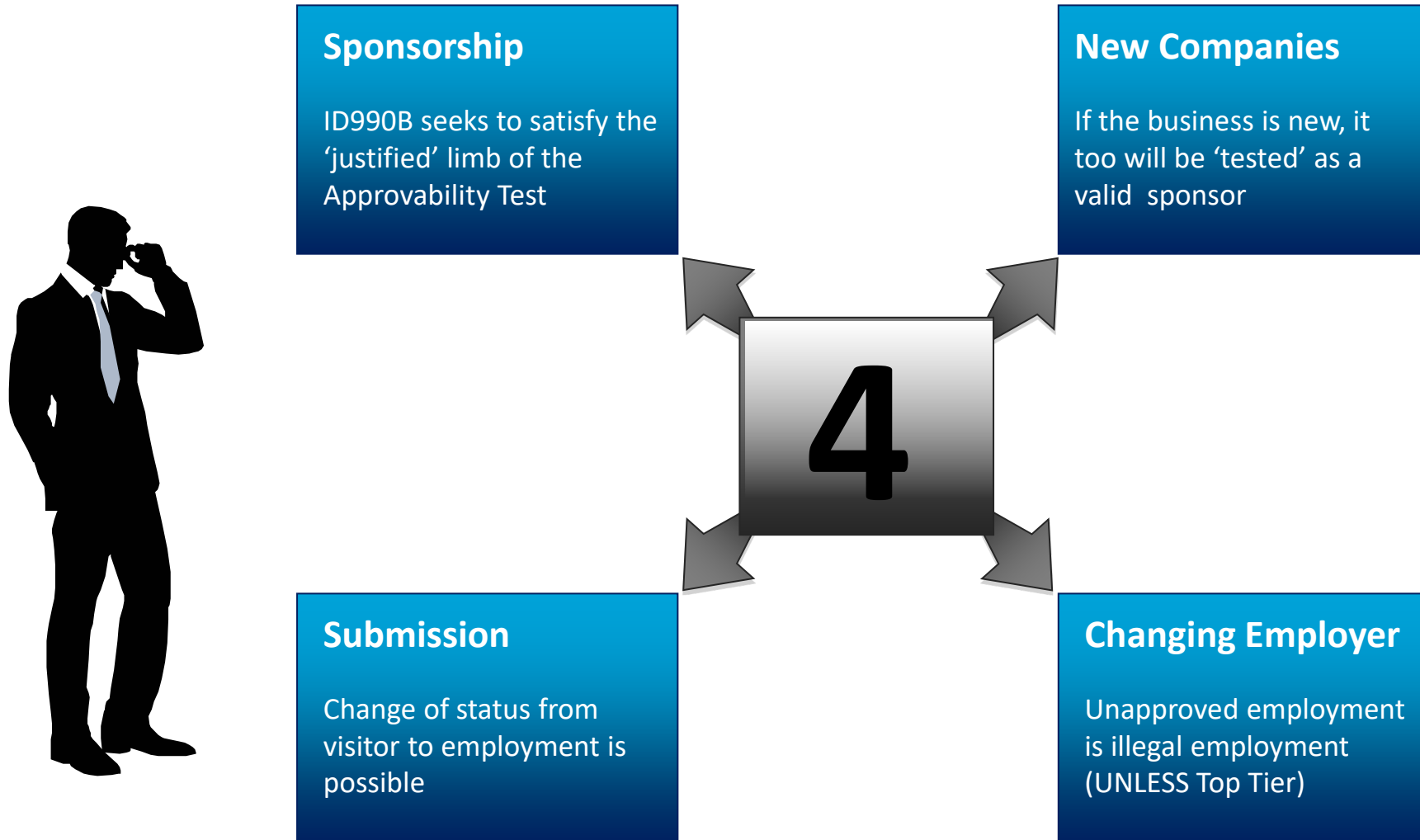
www.talentlist.gov.hk

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

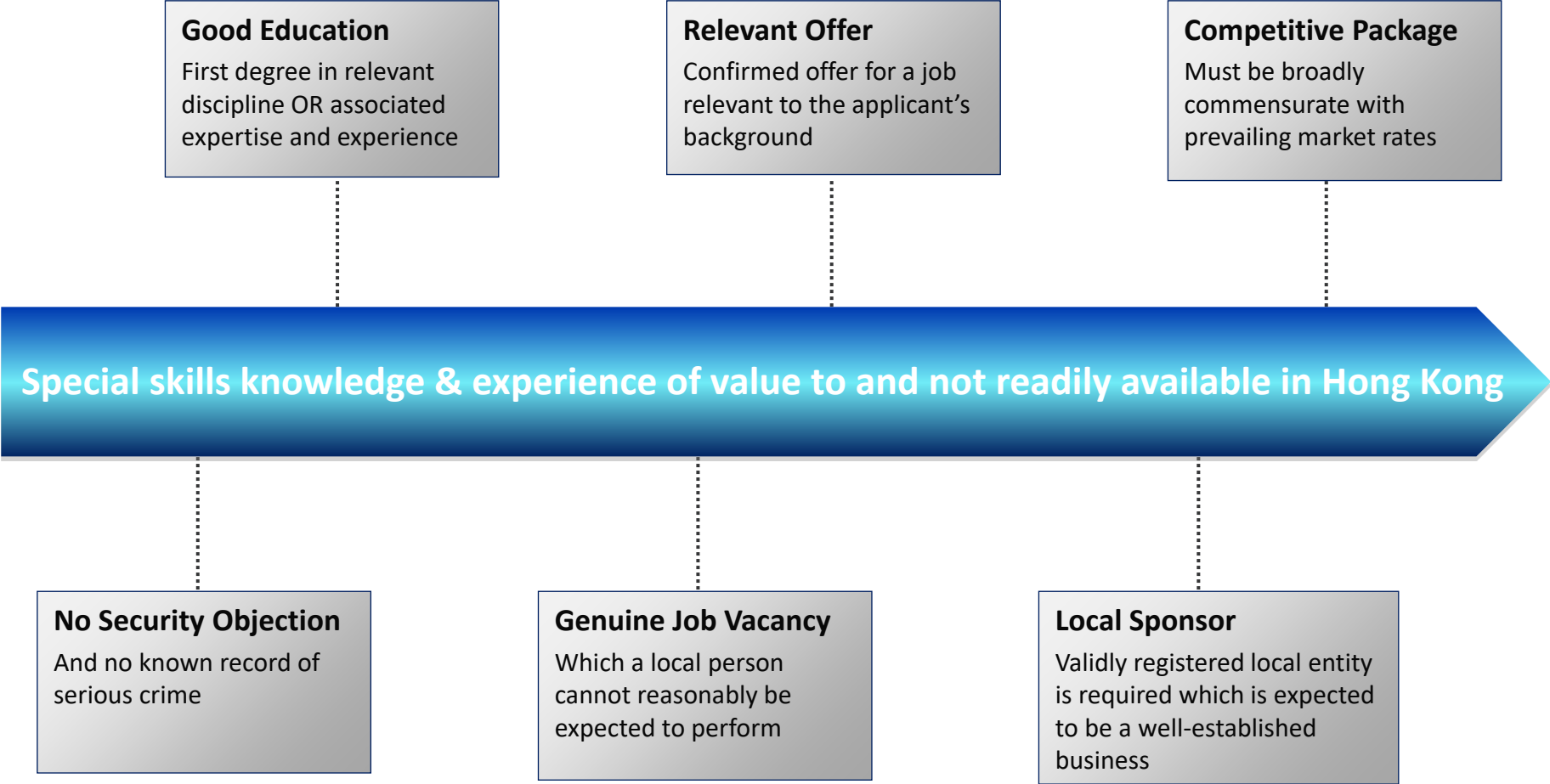
To attract qualified Mainland talents and professionals who possess skills & knowledge not readily available locally.

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

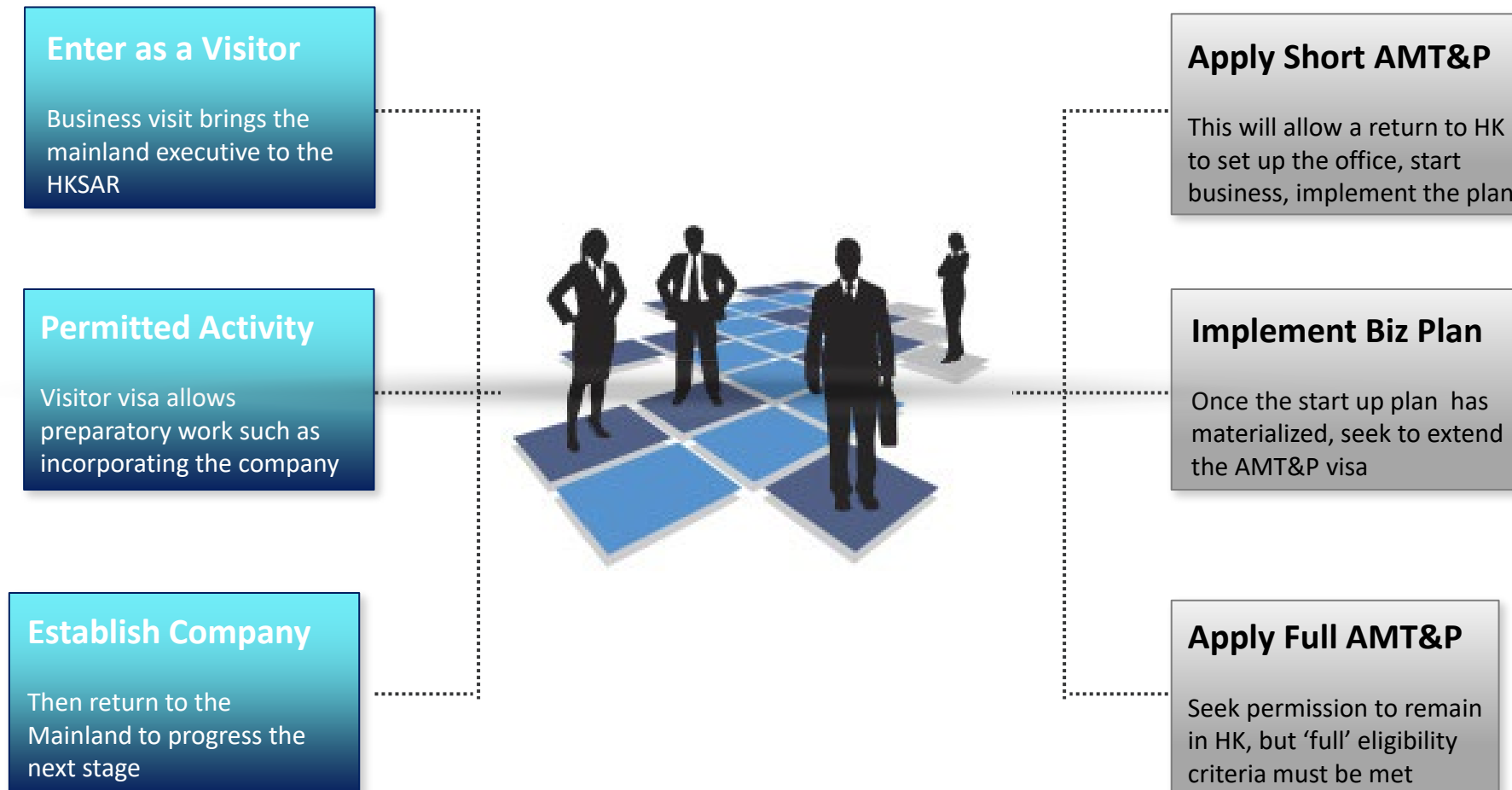


There is no quota nor sector specificity for Admission of Mainland Talents & Professionals

MAINLAND BUSINESS OWNERS



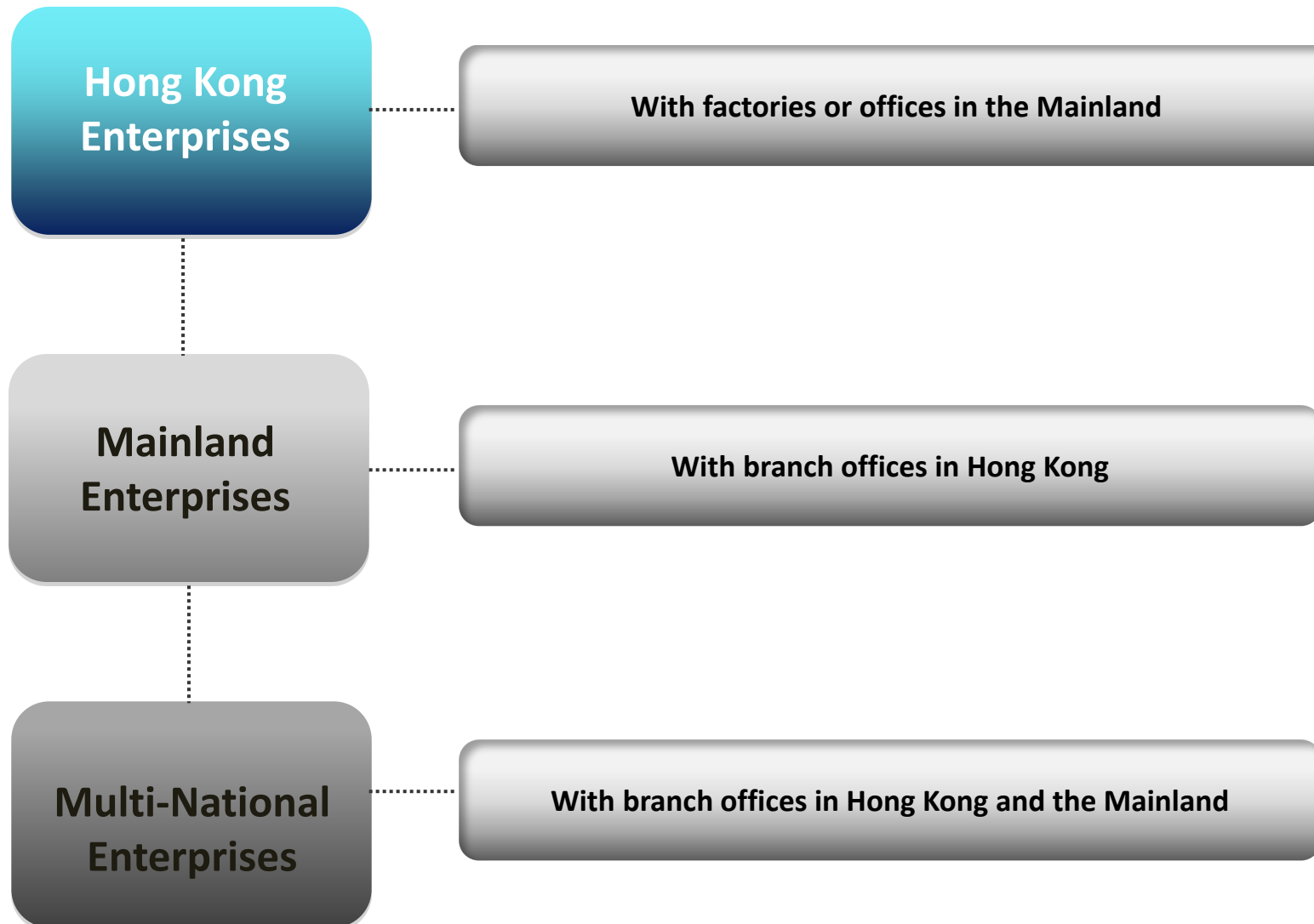
MAINLAND BUSINESS EXECUTIVES



Mainland business executive seeks to set up a new operation in Hong Kong

VisaGeeza.Ai

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

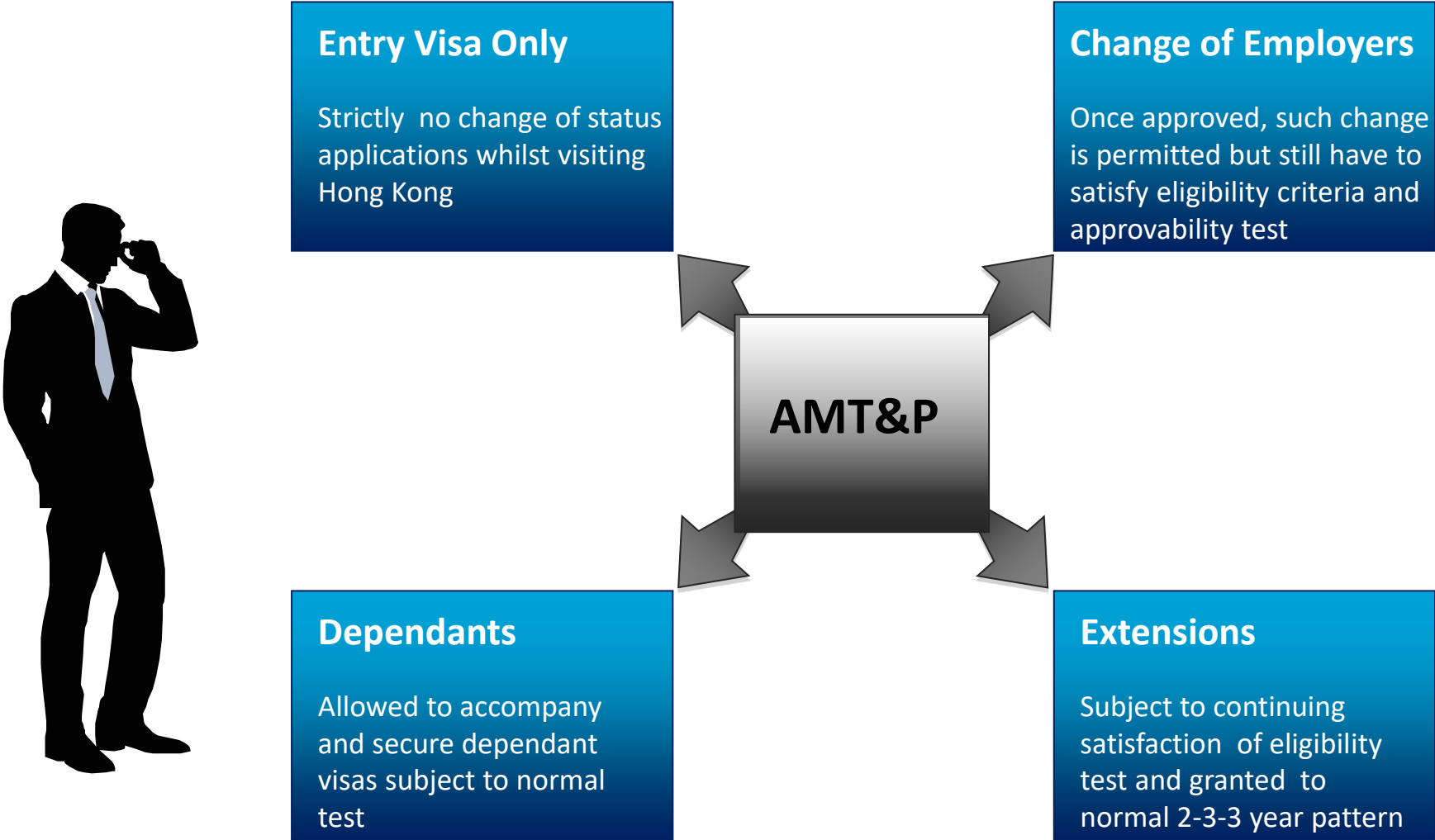
Remuneration Package to be Competitive

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

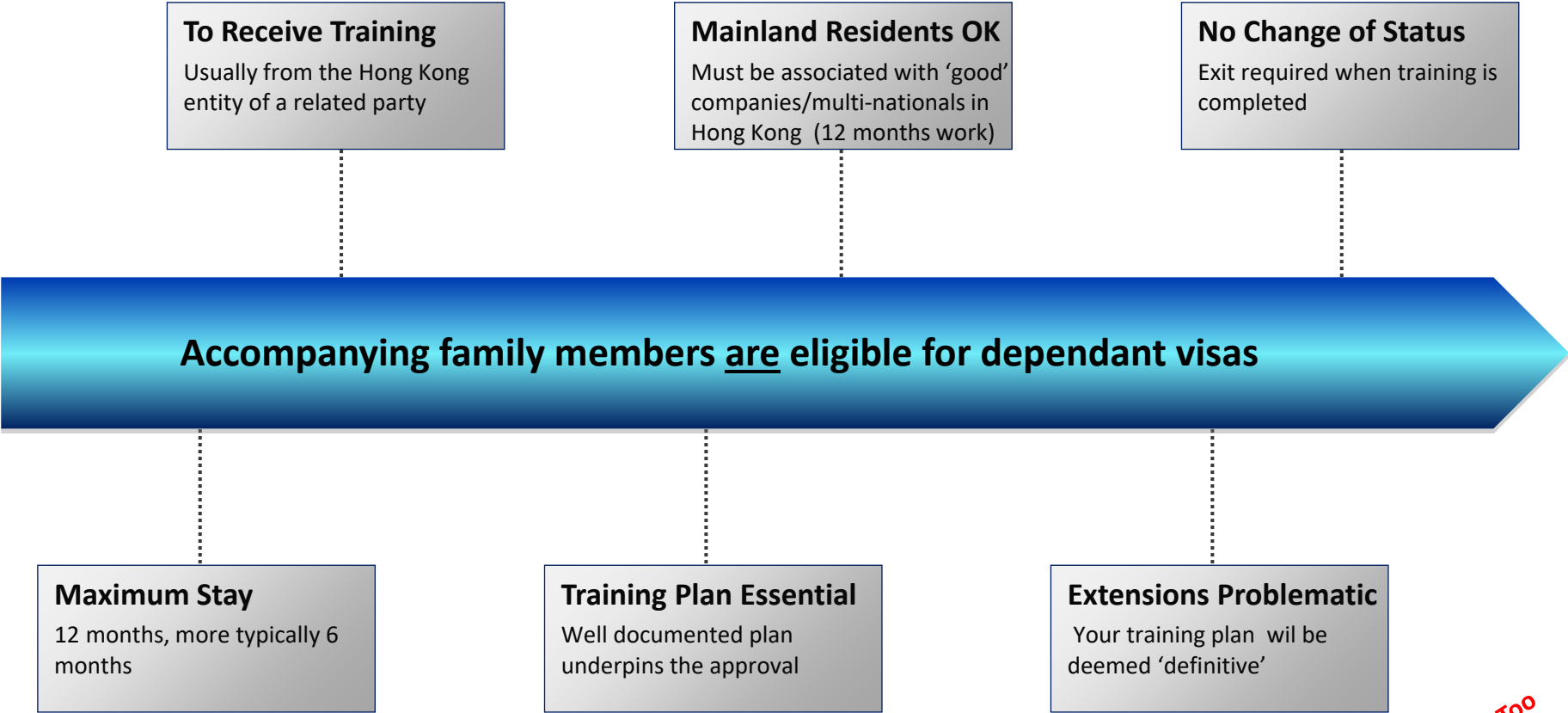
Present your tax bill showing HKD2 million in income in the previous tax year, show you are gainfully employed and you attain 'Top Tier' status

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

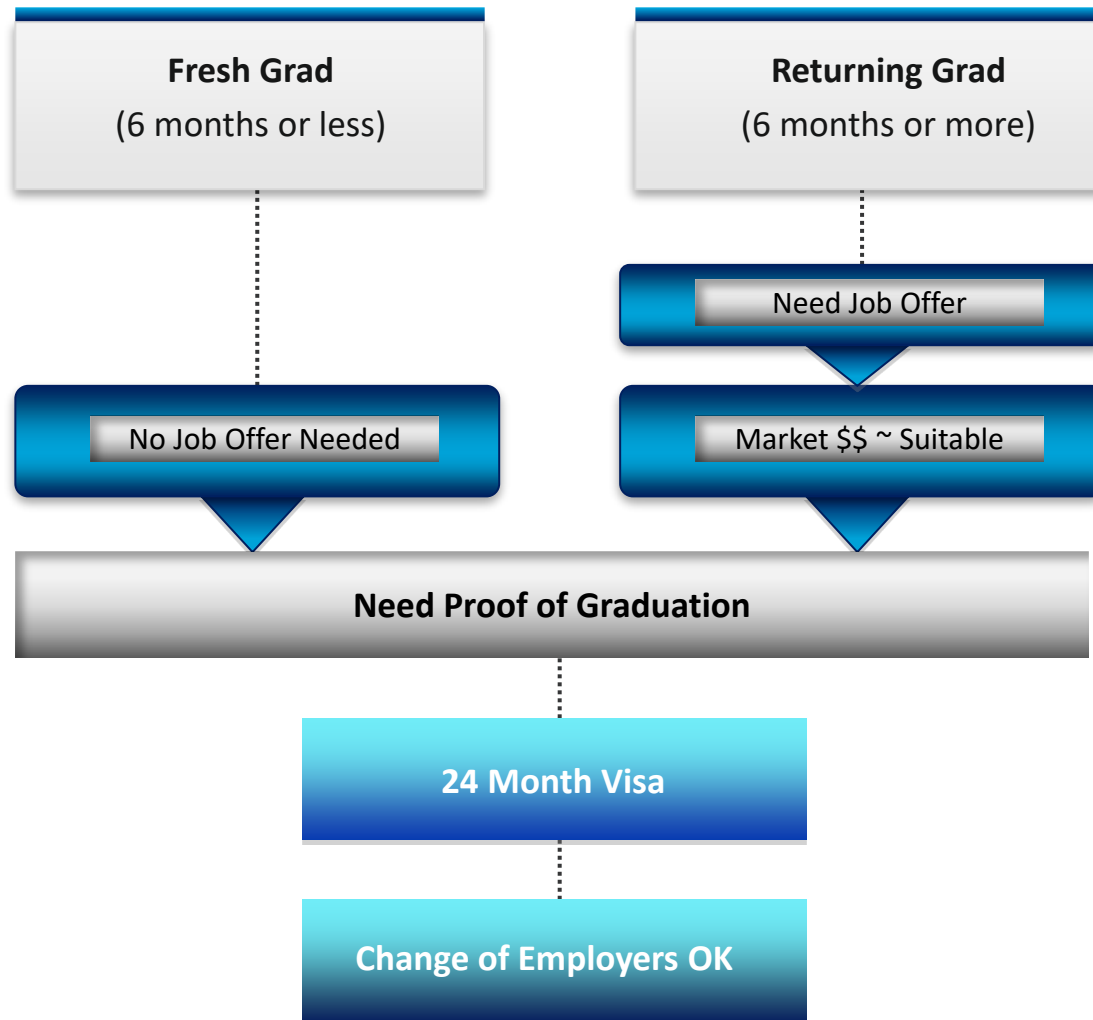


A Version for Interns Too

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



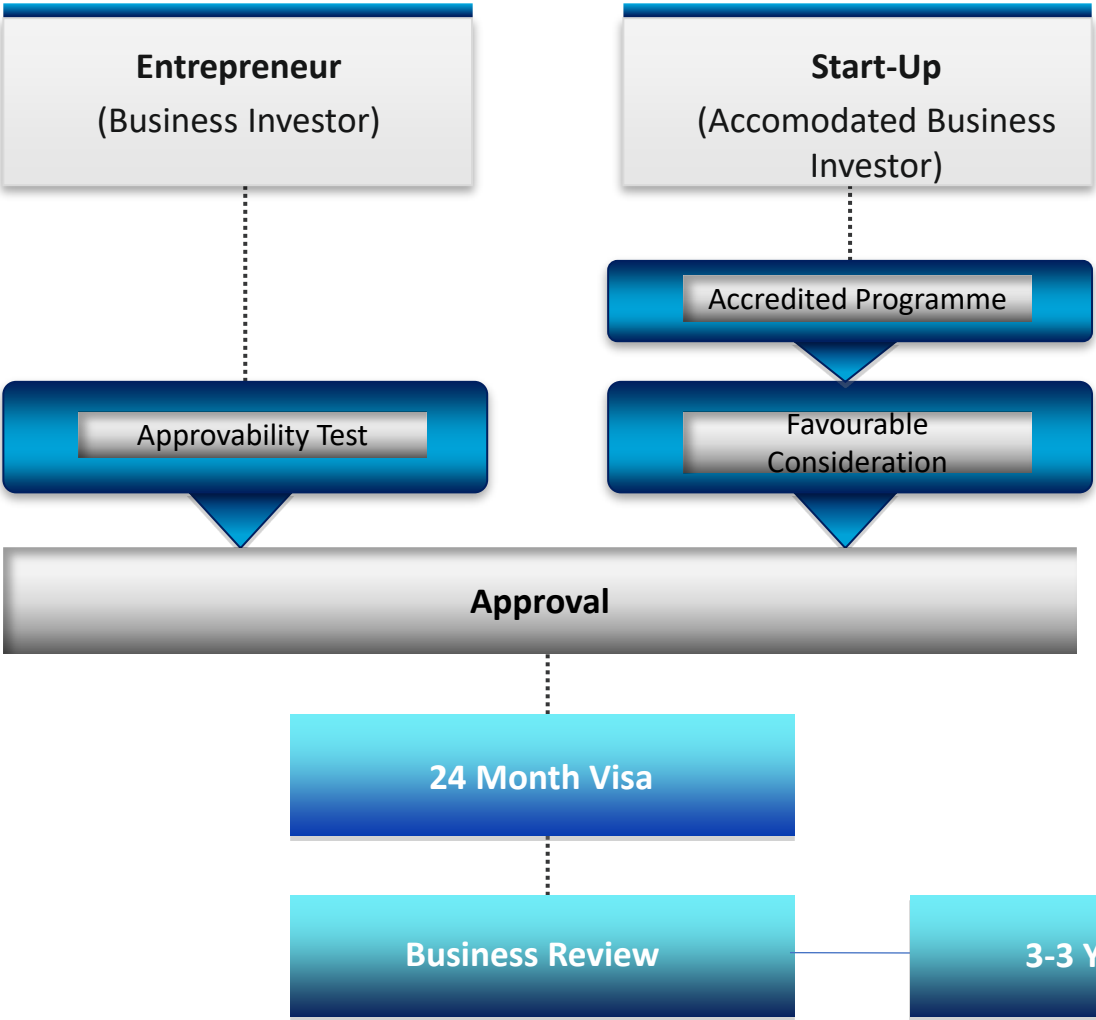
Earn a degree at a HK tertiary education institute and receive Employment visa privileges

VisaGeeza.Ai

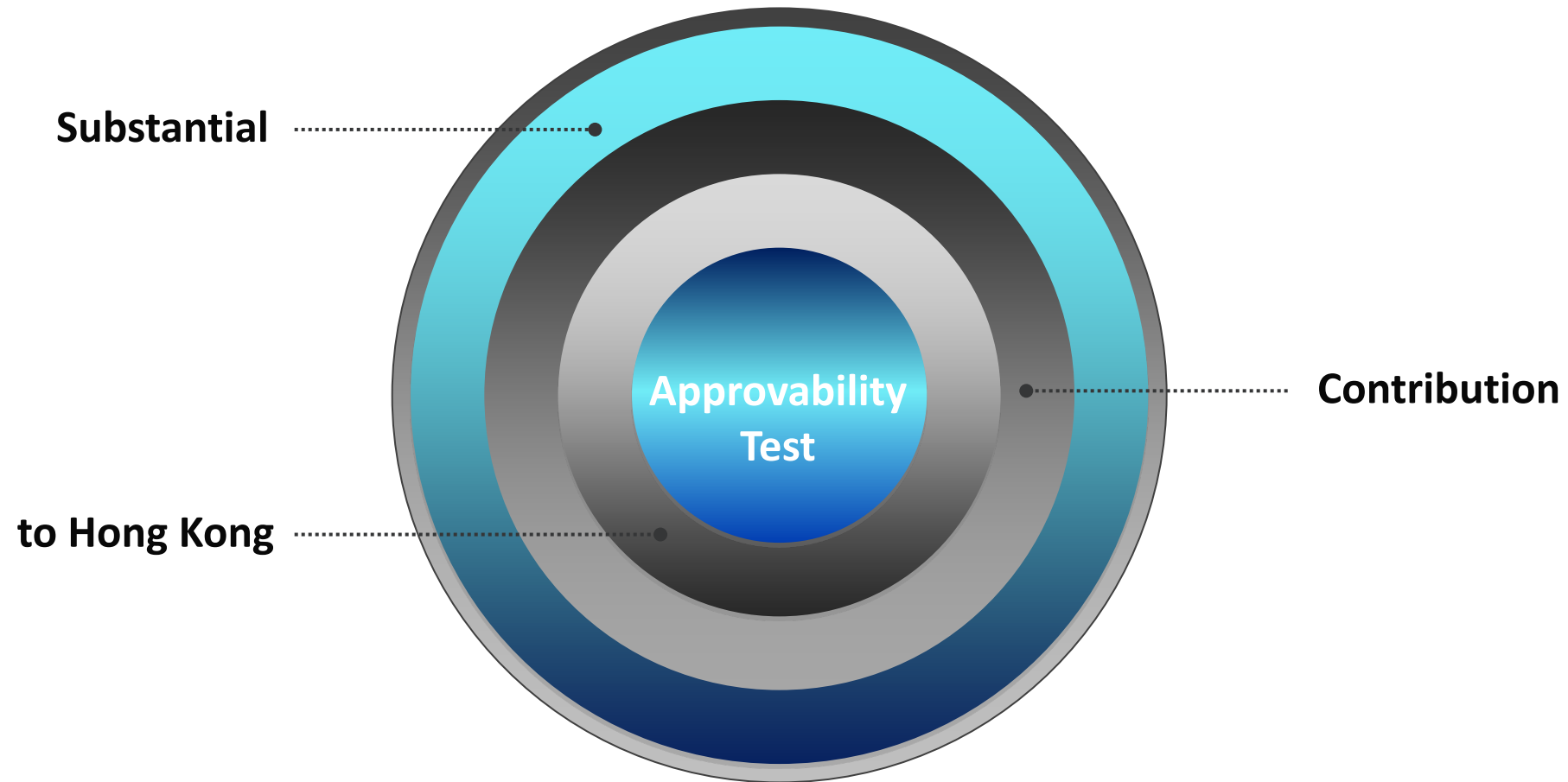
Vocational Professionals Admission Scheme

Visa to Establish or Join In a Business

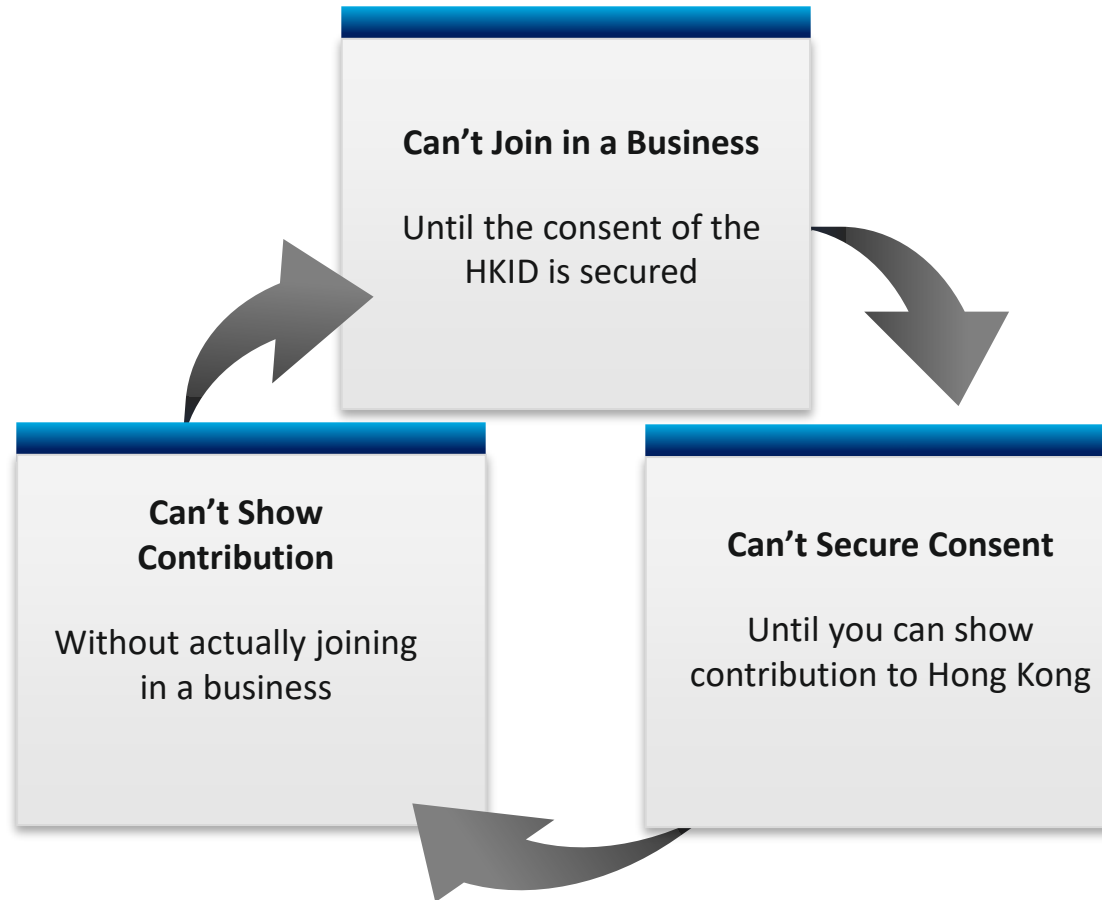
ENTREPRENEUR OR START-UP?



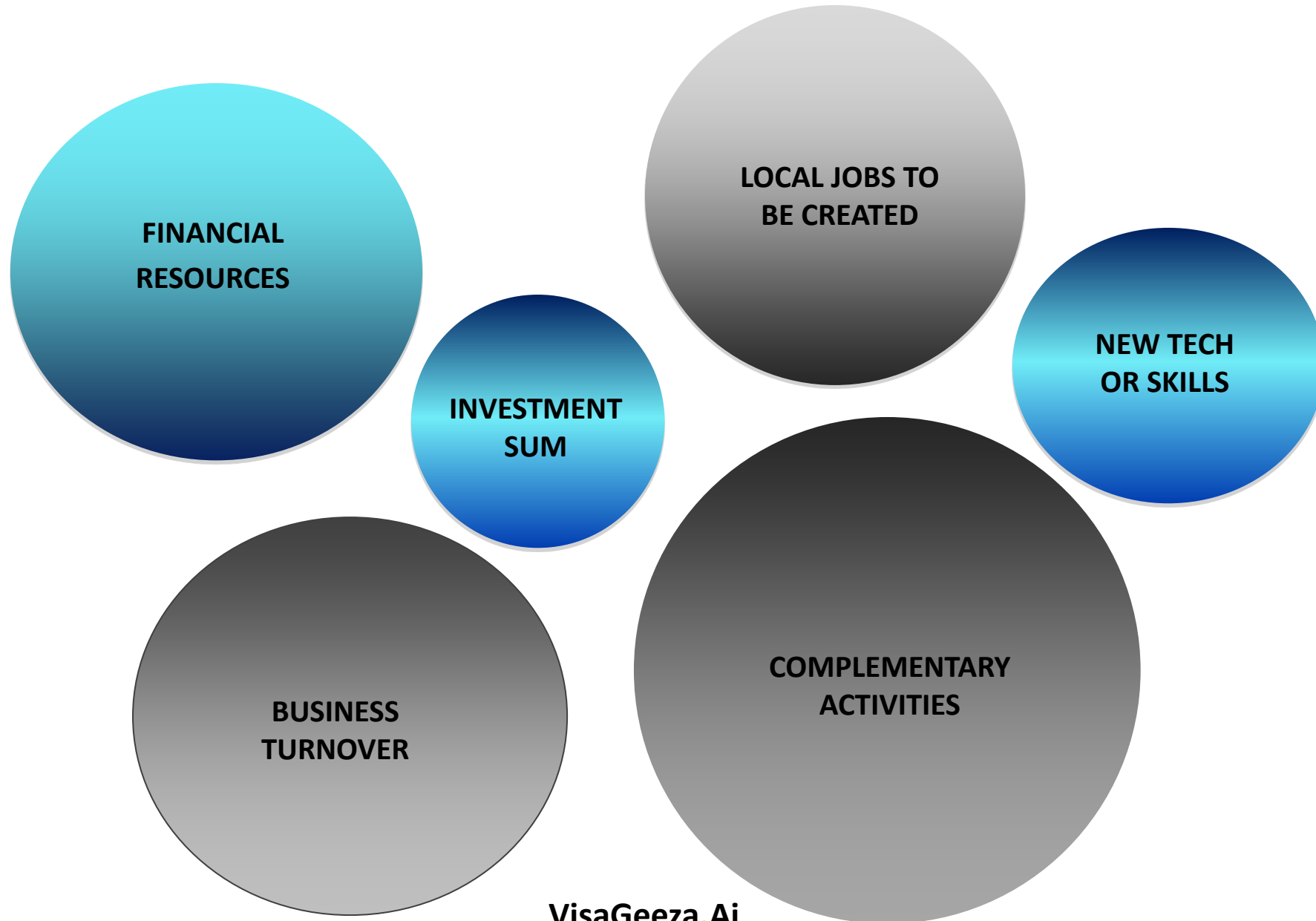
Entrepreneur Visa & Business Investment Visa Are The Same Thing
VisaGeeza.Ai



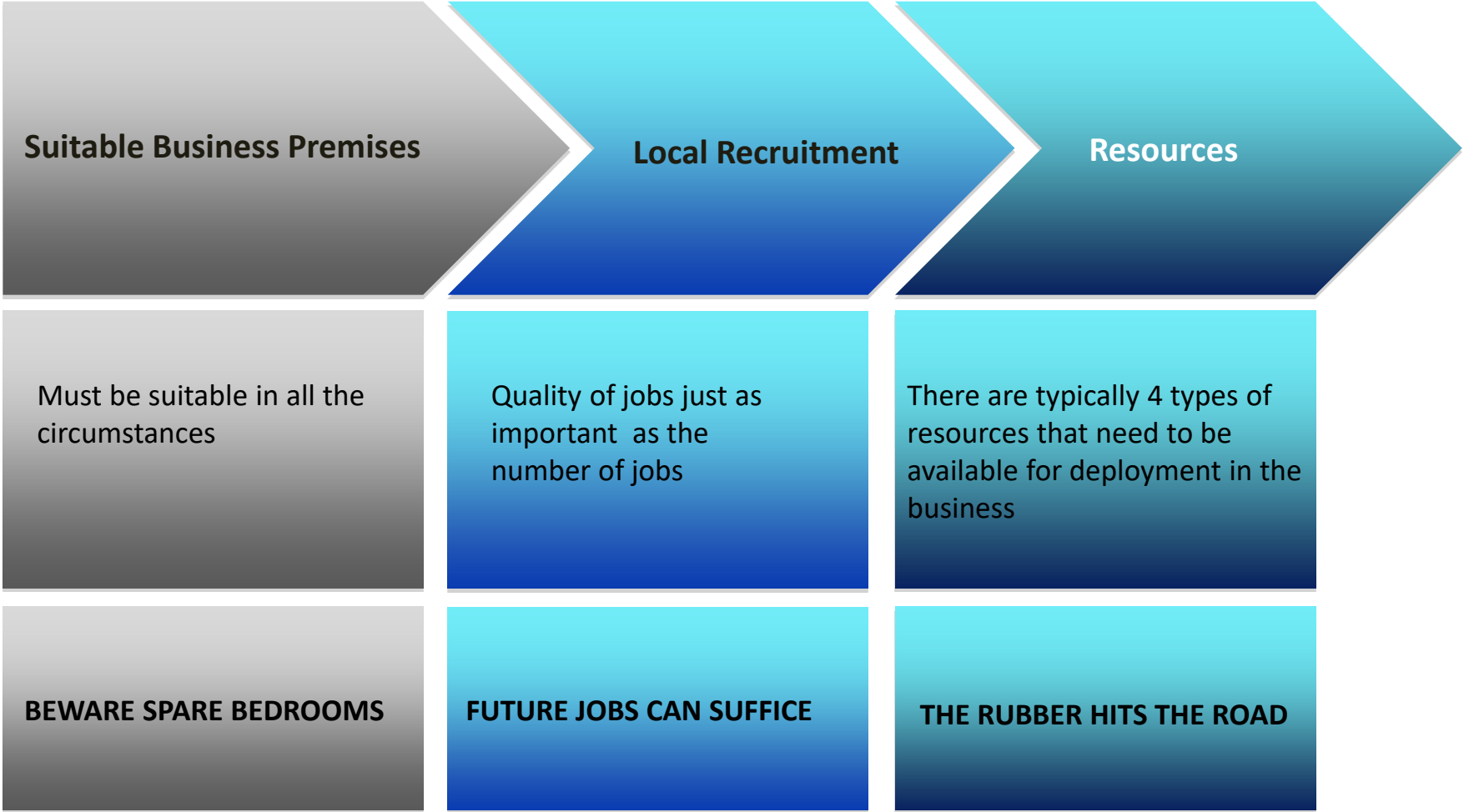
**Will the applicant make a substantial contribution to the economy of Hong Kong?
(or how long is a piece of string?)**



Test requires showing only prospective (not immediately observable) contribution

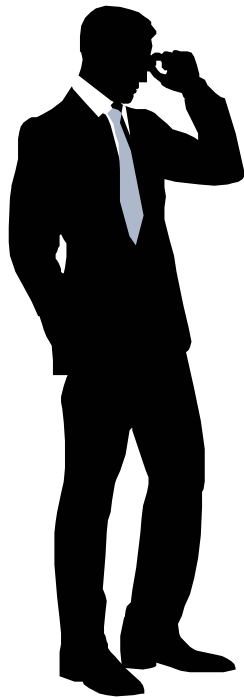


PASSING THE APPROVABILITY TEST



Obvious commitment to the business = manifest commitment to Hong Kong
VisaGeeza.Ai

RESOURCE REQUIREMENTS



“My Successful Business Will be Paying Tax”

“You Need HKD XXX,XXX Minimum”

“My Friend Got Approved &”

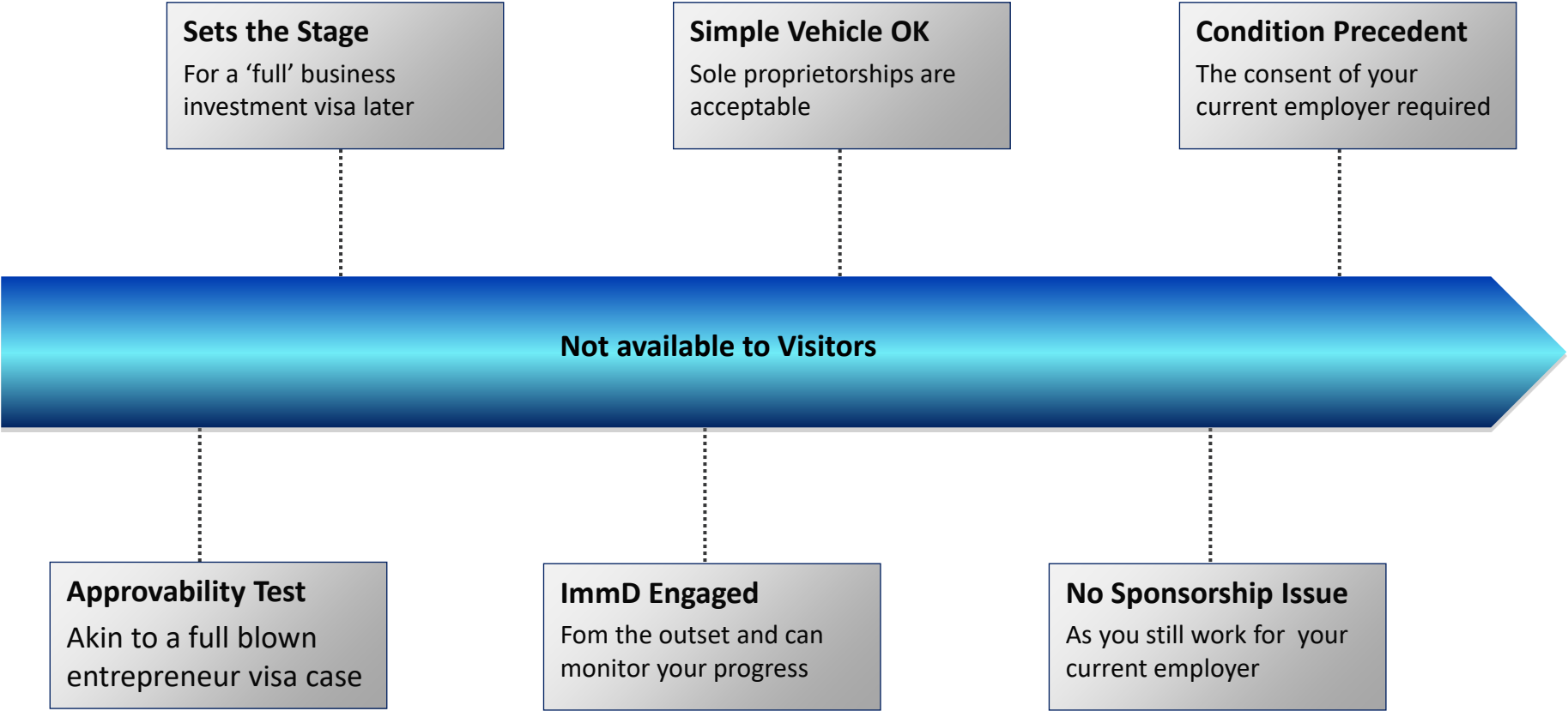
IMPROVE YOUR CHANCES

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

Beware the Catch 22



SIDE BUSINESS



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

VisaGeeza.Ai

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?

VisaGeeza.Ai

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

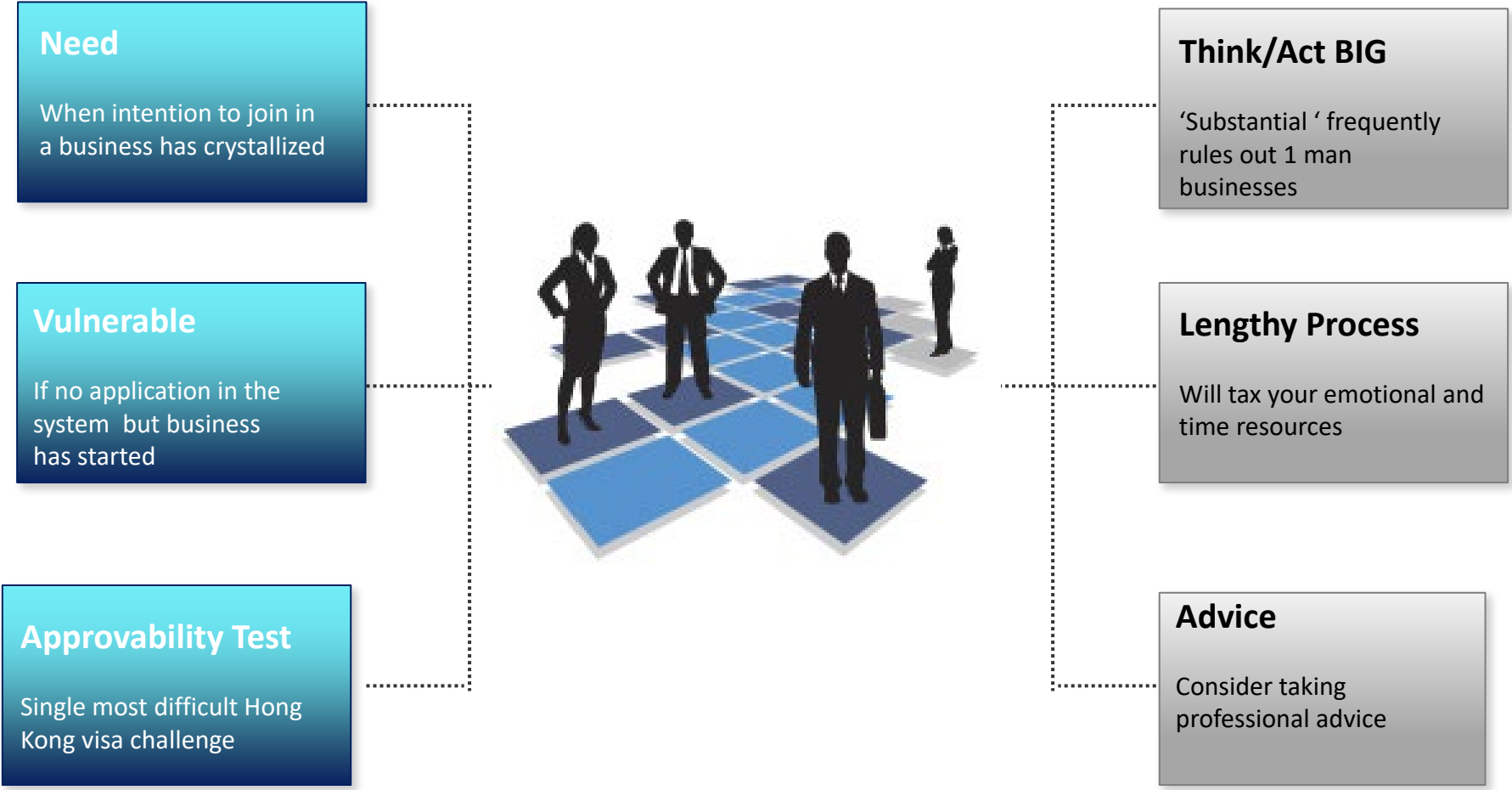
Enhancement Measure December 28, 2022

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



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**

1

10 million Hong Kong Dollars

2

Into qualifying Hong Kong investment asset classes

3

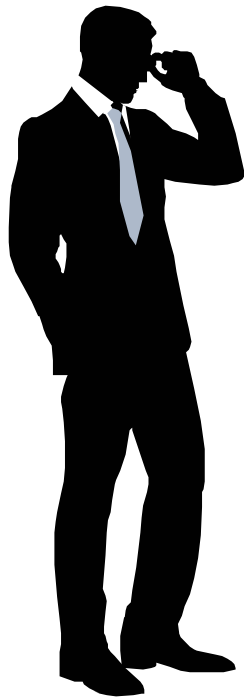
Secure a 2 year period of stay extendable every 2 years for 7 years

4

Right of Abode or Unconditional Stay available after 7 years

Invest hard cash in Hong Kong and secure residency permissions
VisaGeeza.Ai

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

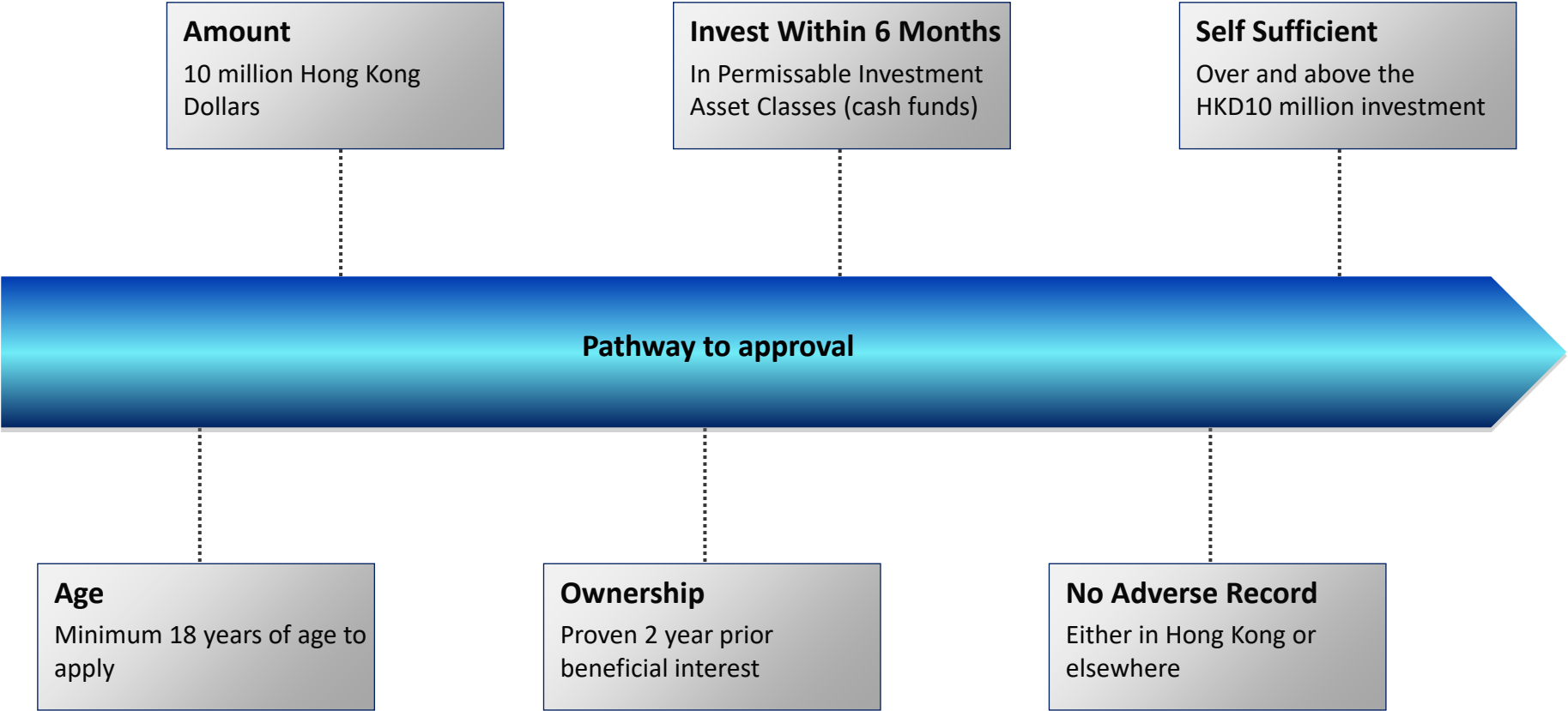
Qualifying Nationalities

- 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

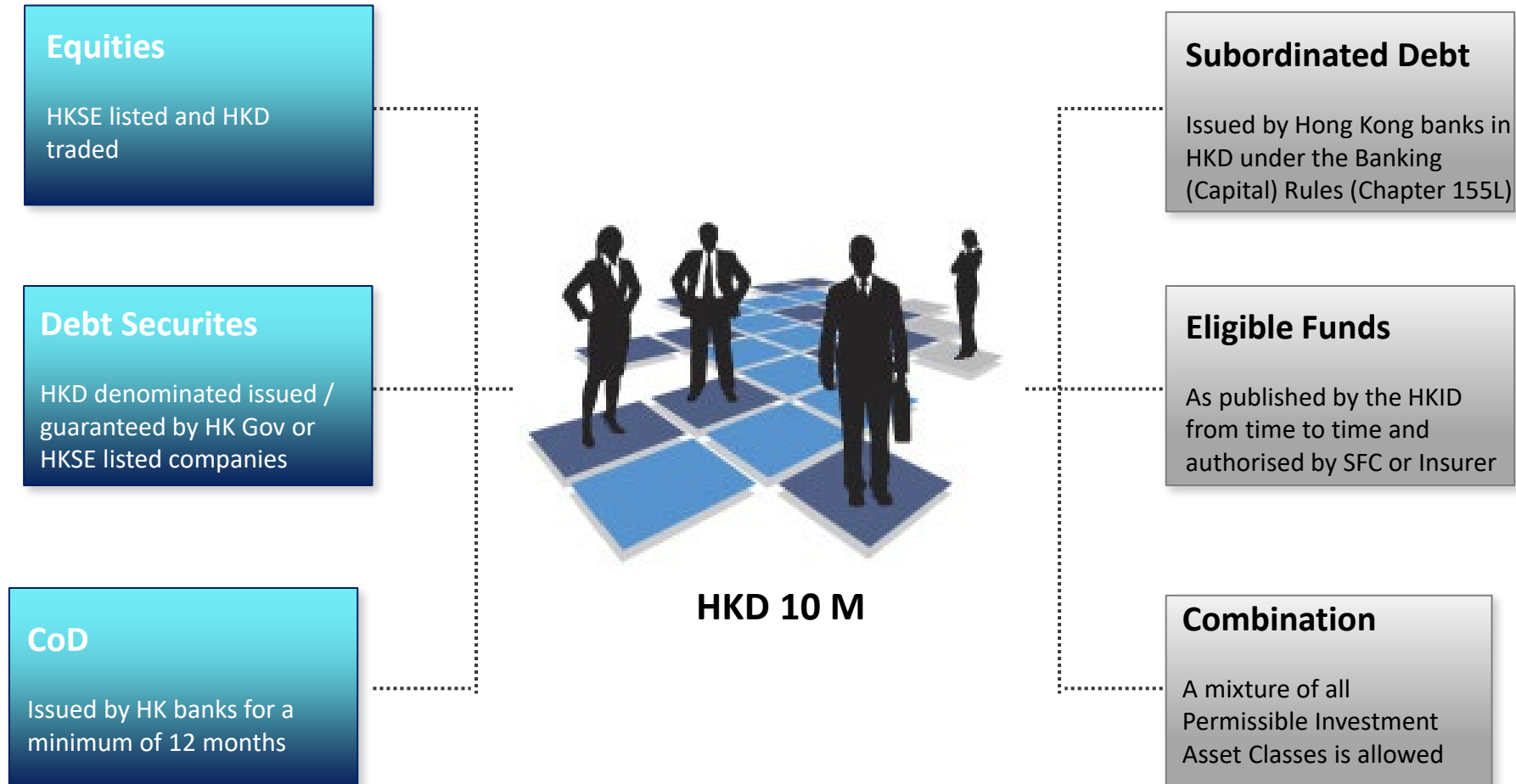


OLD ELIGIBILITY CRITERIA

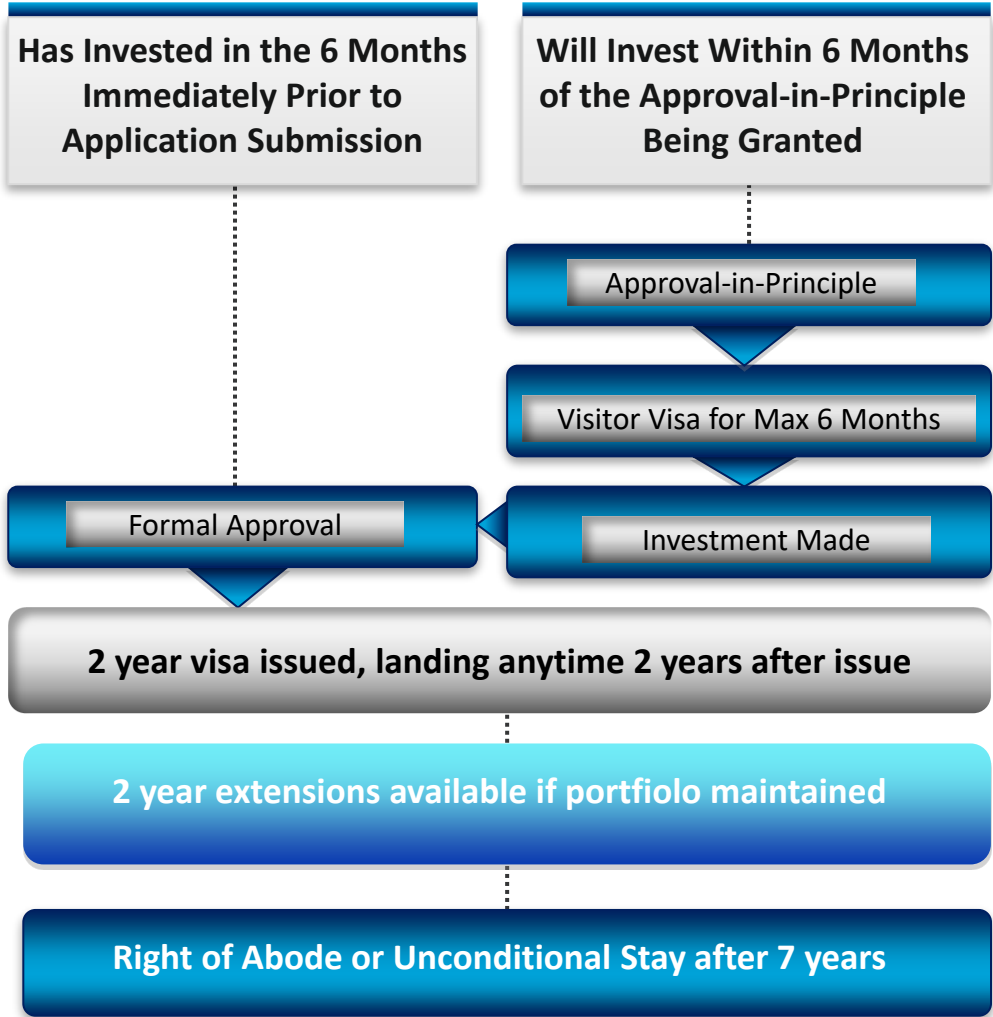


A visa programme for the very well heeled
VisaGeeza.Ai

OLD PERMISSABLE INVESTMENT ASSET CLASSES



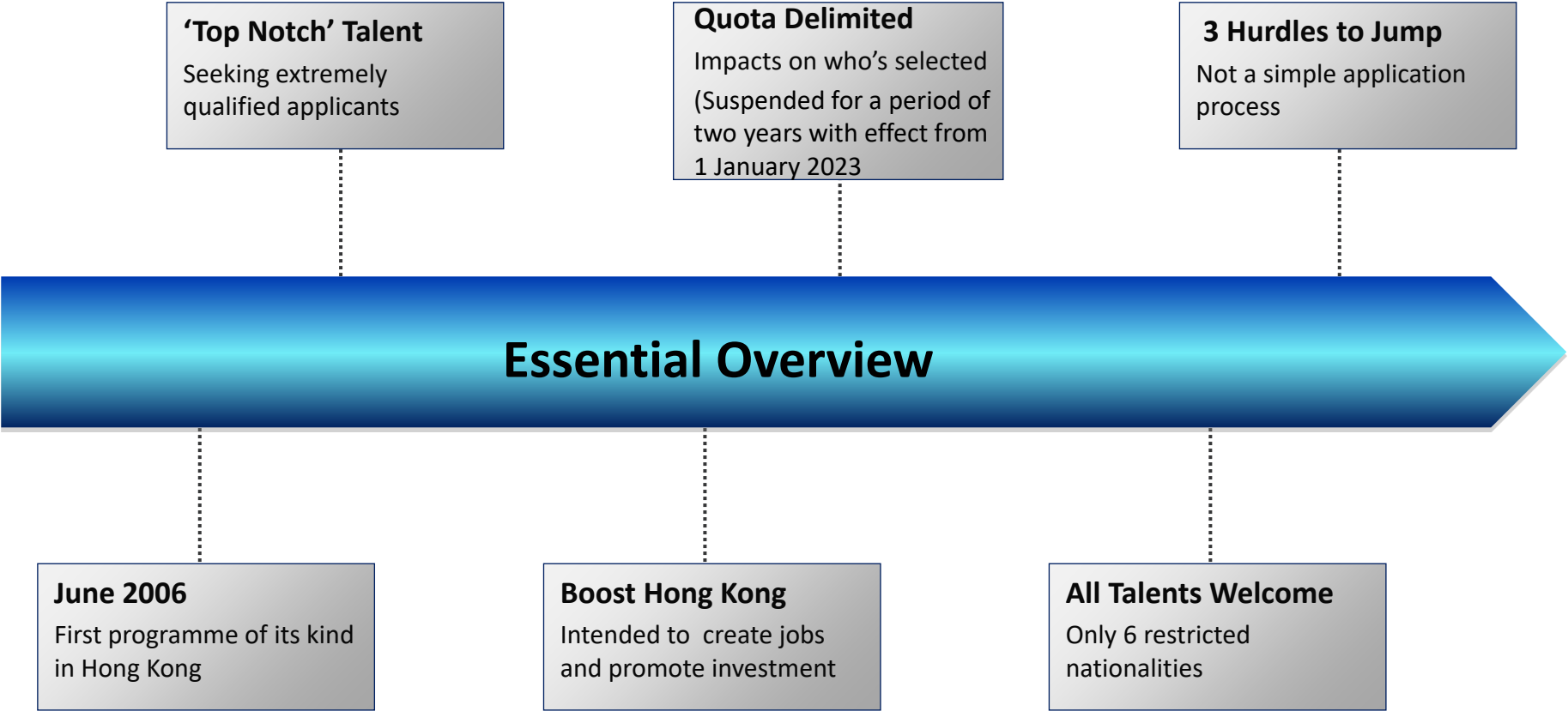
APPROVAL OUTCOMES



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

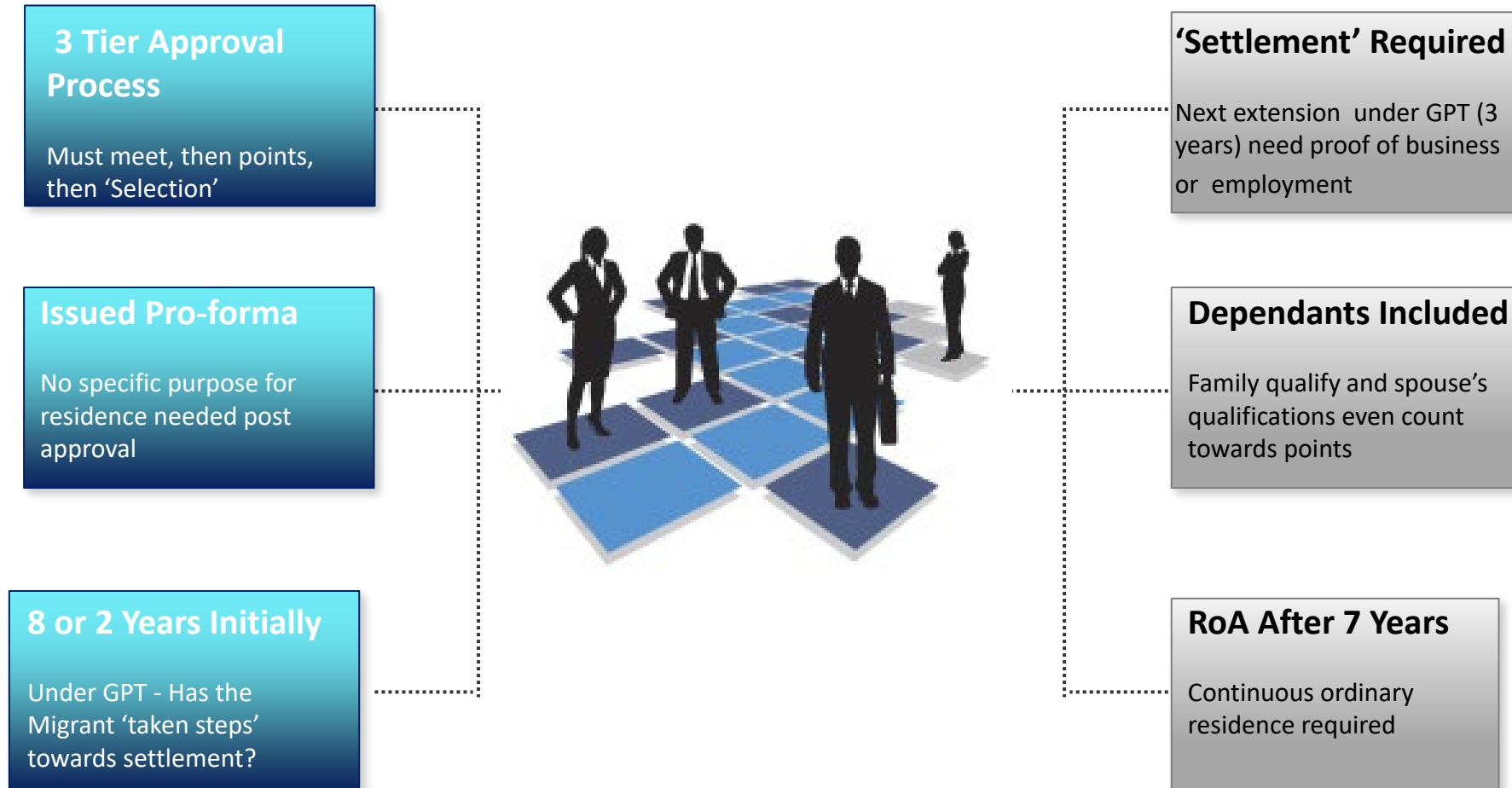
A Visa for 'Top Notch Talent' to Live & Work in Hong Kong

QUALITY MIGRANT ADMISSION SCHEME



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

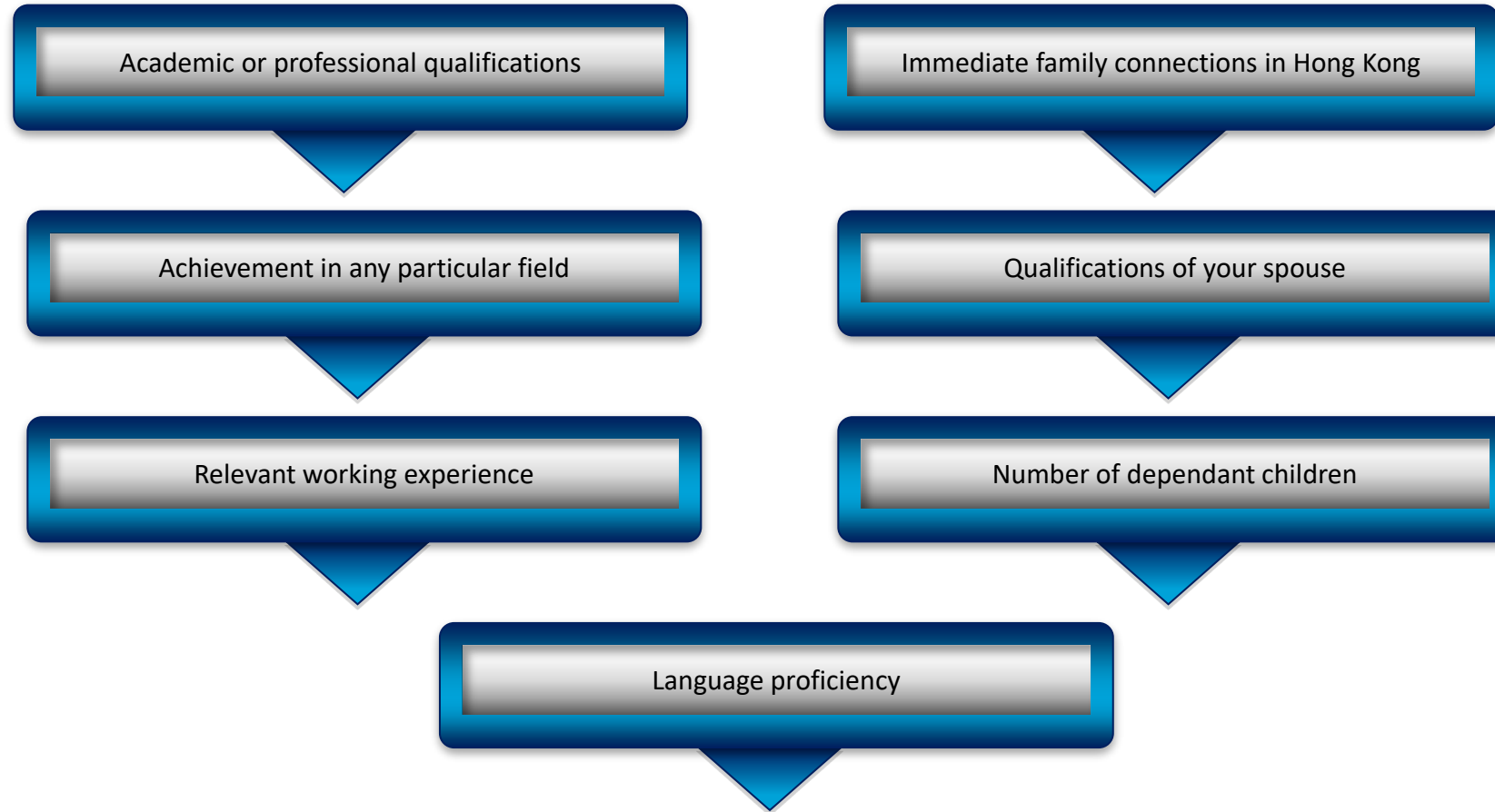
ESSENTIAL ELEMENTS



MUST MEET CRITERIA



GENERAL POINTS TEST



The *General Points Test* tallies up

VisaGeeza.Ai

(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...

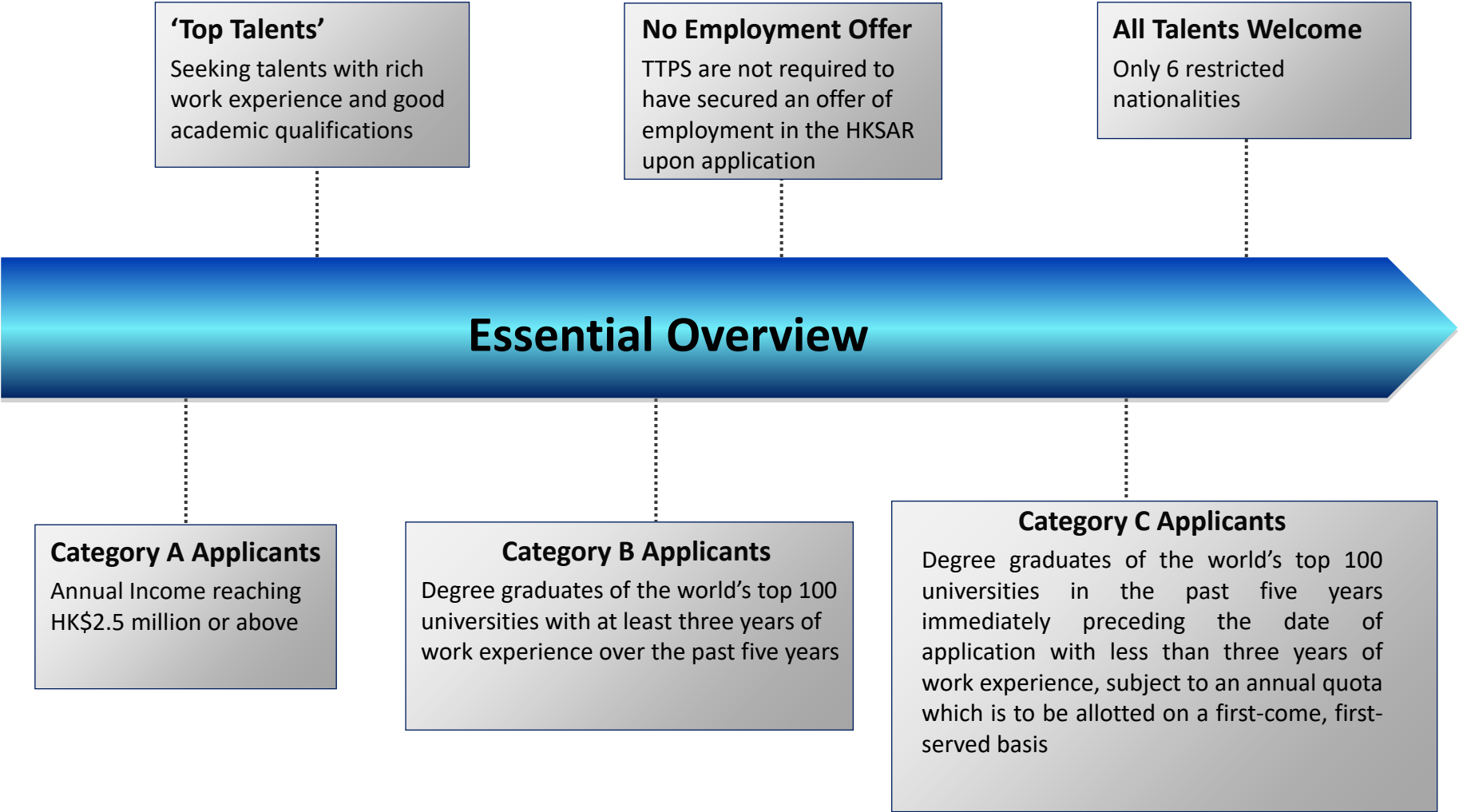
Employment with duties and compensation commensurate with qualifications, or
Establishment of a business of a 'reasonable size'
APTs get a Slam Dunk 8 year limit of stay straight up



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

Top Talent Pass Scheme (TTPS)

TOP TALENT PASS SCHEME

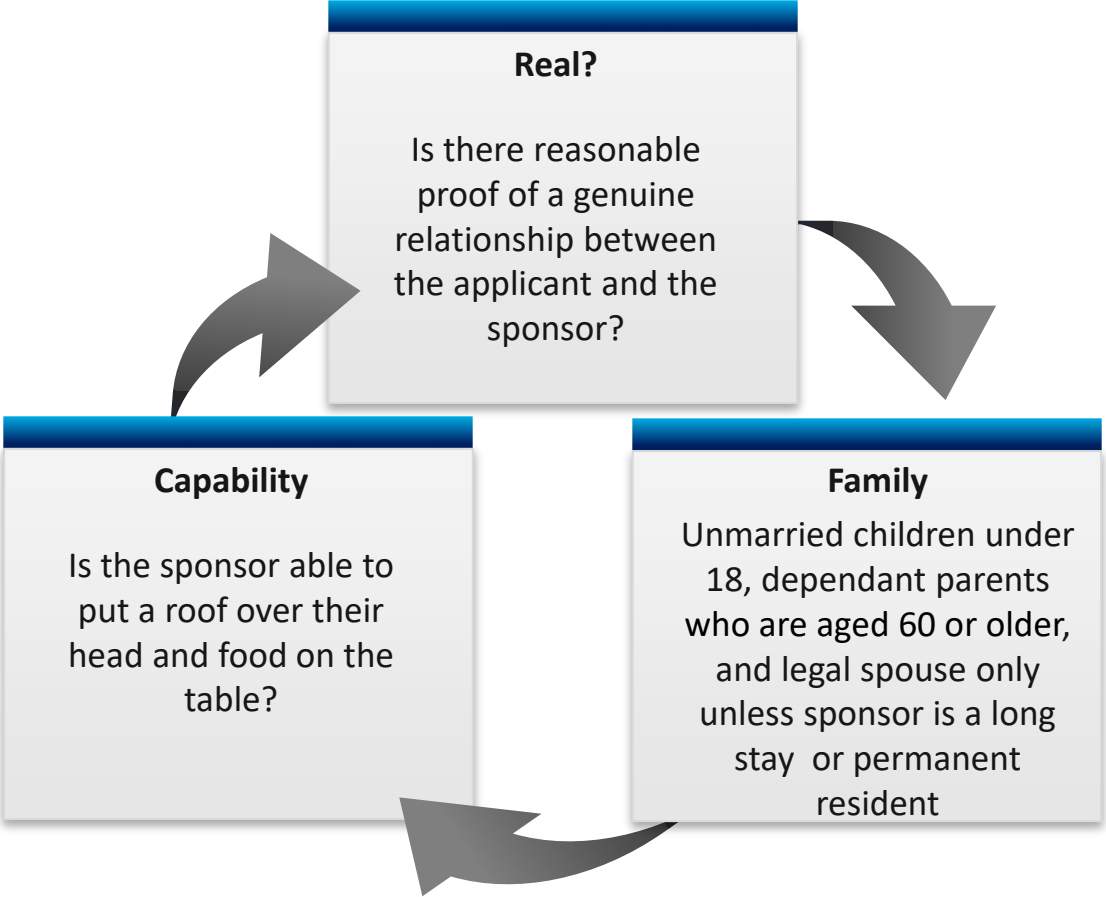


The TTPS seeks to attract top talents with rich work experience and good academic qualifications from all over the world to explore opportunities in Hong Kong.

VisaGeeza.Ai

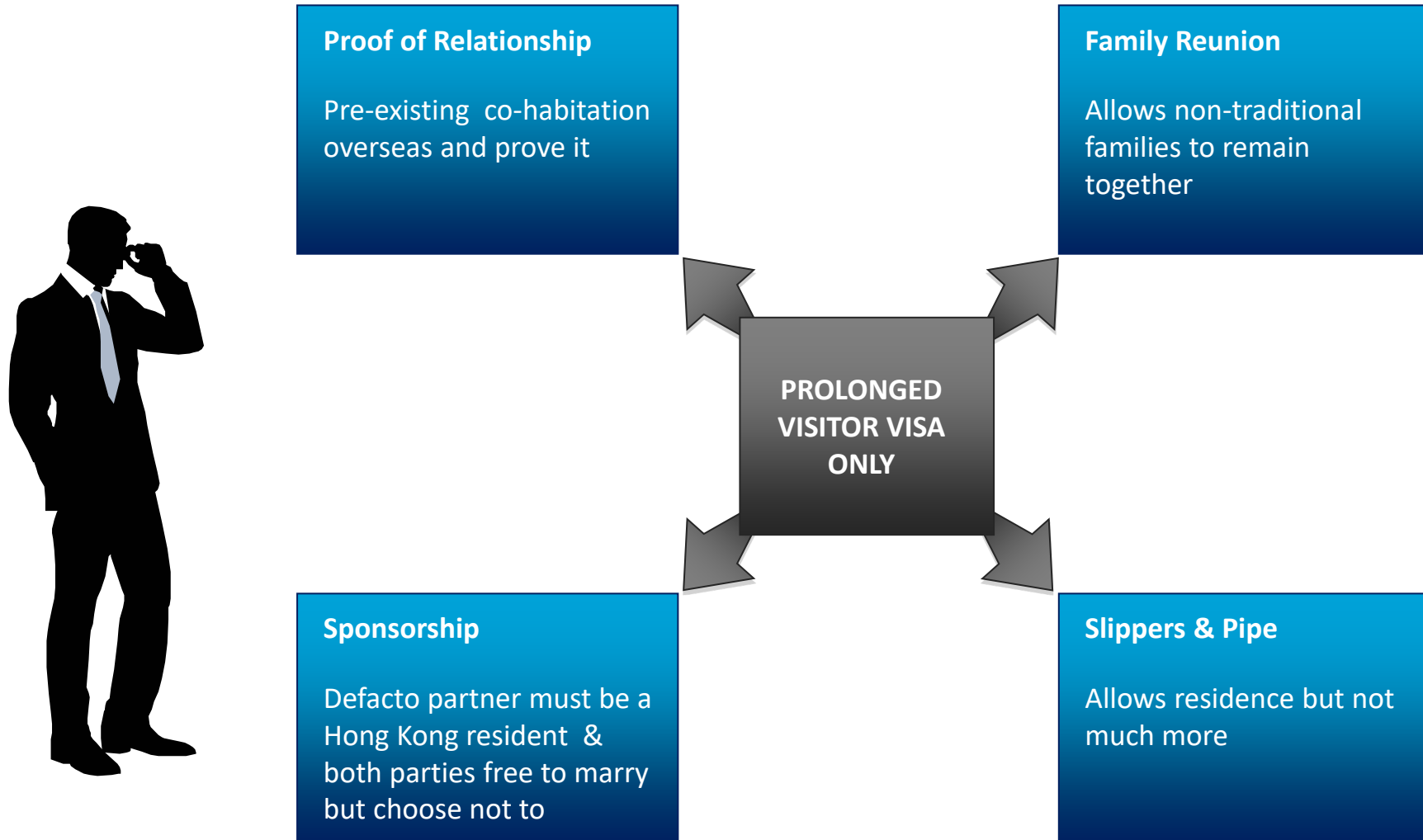
Visa to Join Your Heterosexual/Same-Sex Spouse or Your Parents in Hong Kong

LEGAL DEPENDANTS



Visa to Join Your Hong Kong Resident Defacto Spouse

DEFACTO SPOUSE ARRANGEMENTS



The Enhanced Supplementary Labour Scheme (ESLS)

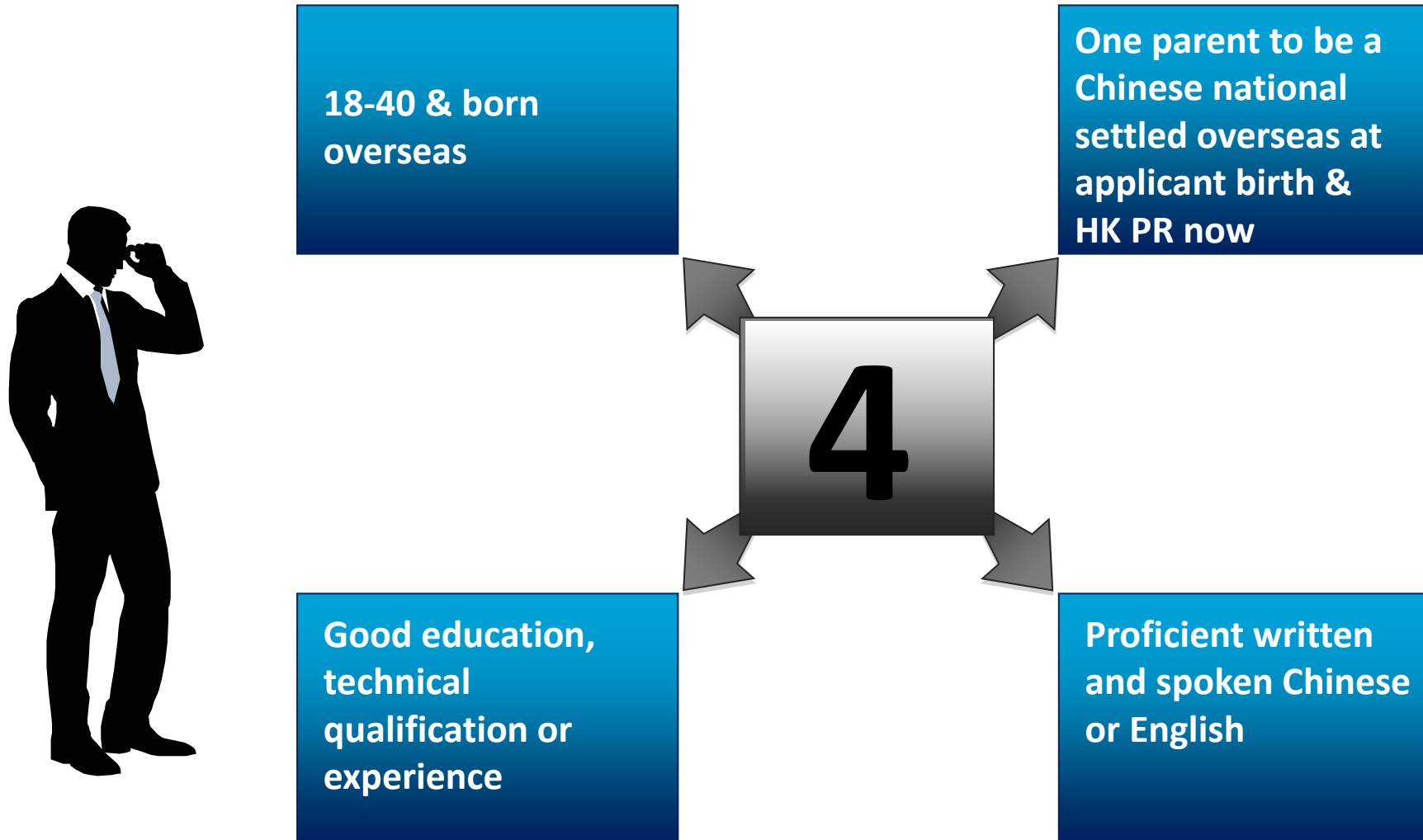
ESLS



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.

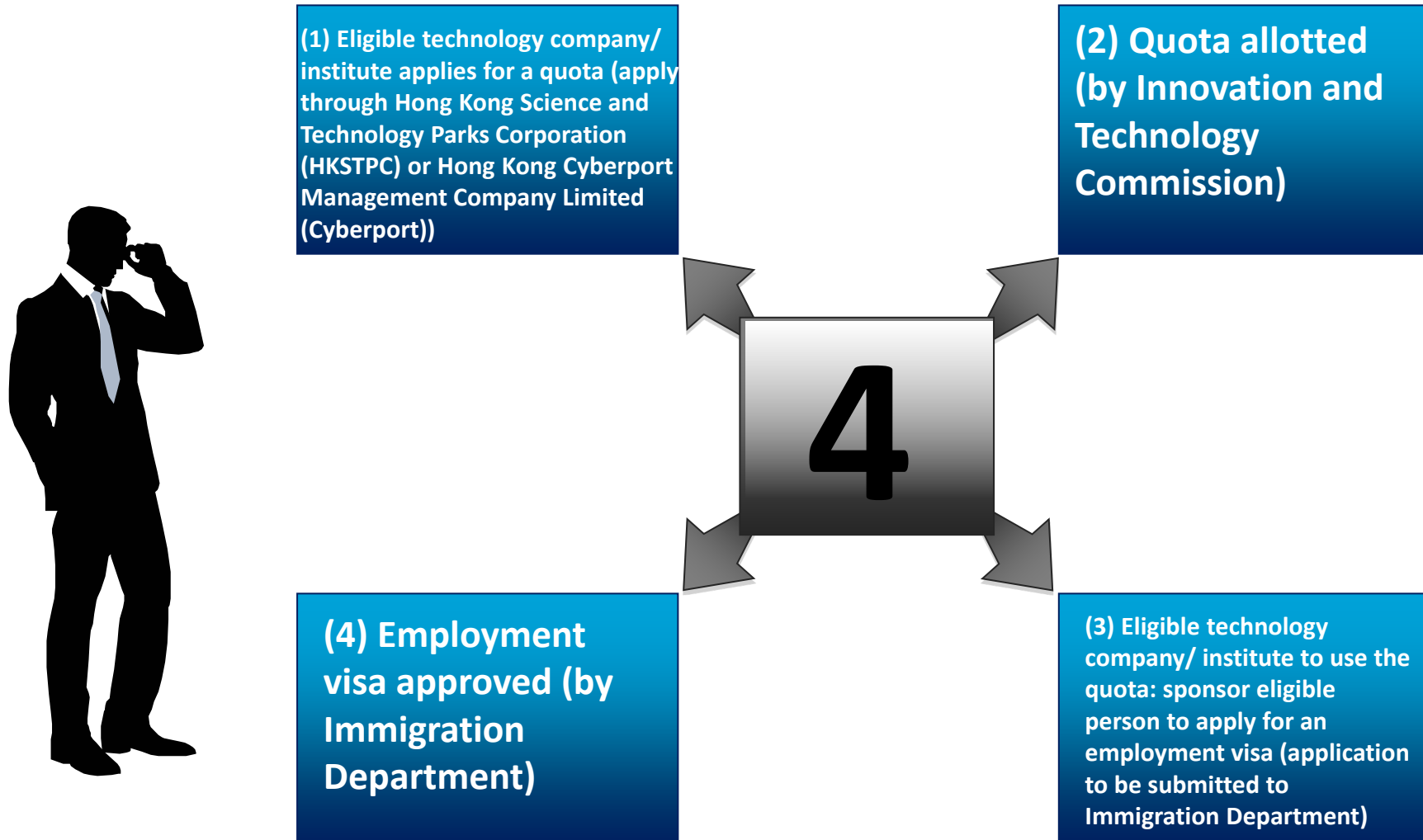
Admission Scheme for 2nd Generation of Hong Kong Chinese Permanent Residents (Commenced May 6, 2015)

QUALIFYING APPLICANTS



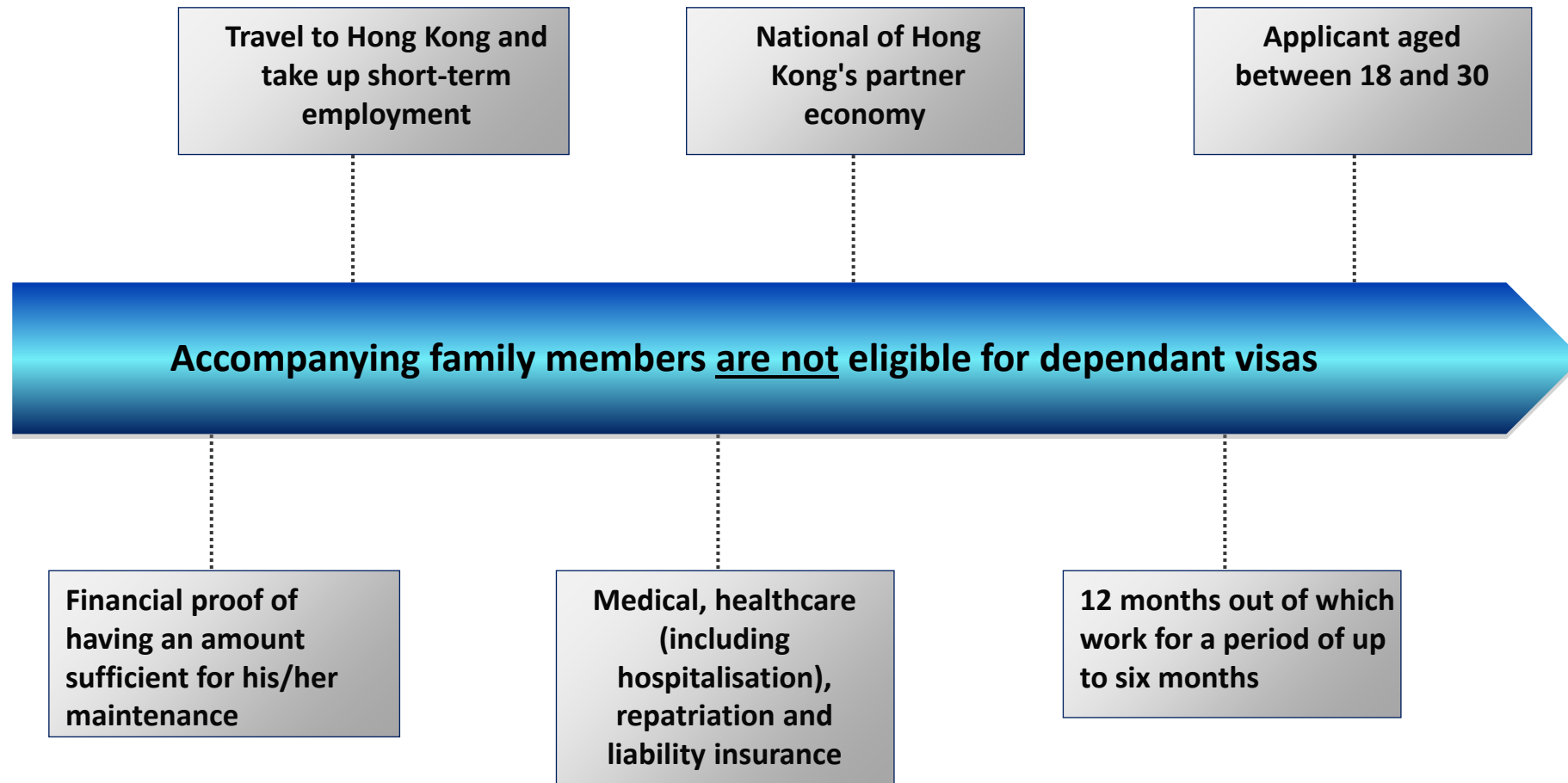
Technology Talent Admission Scheme (TechTAS)

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

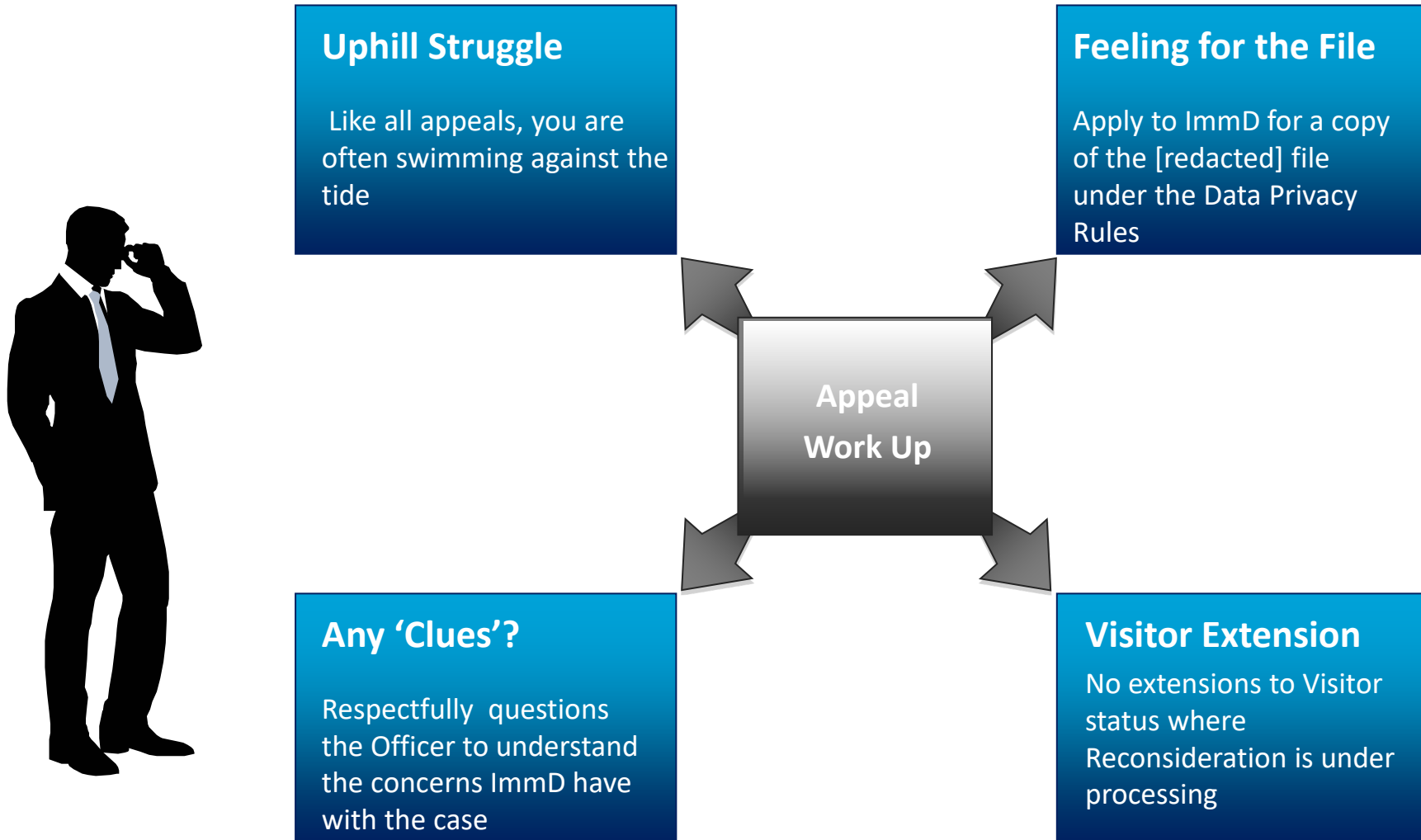
If ImmD request it, they need it – so get it to them – no questions asked!

Applicant Caught Breaching Conditions of Stay

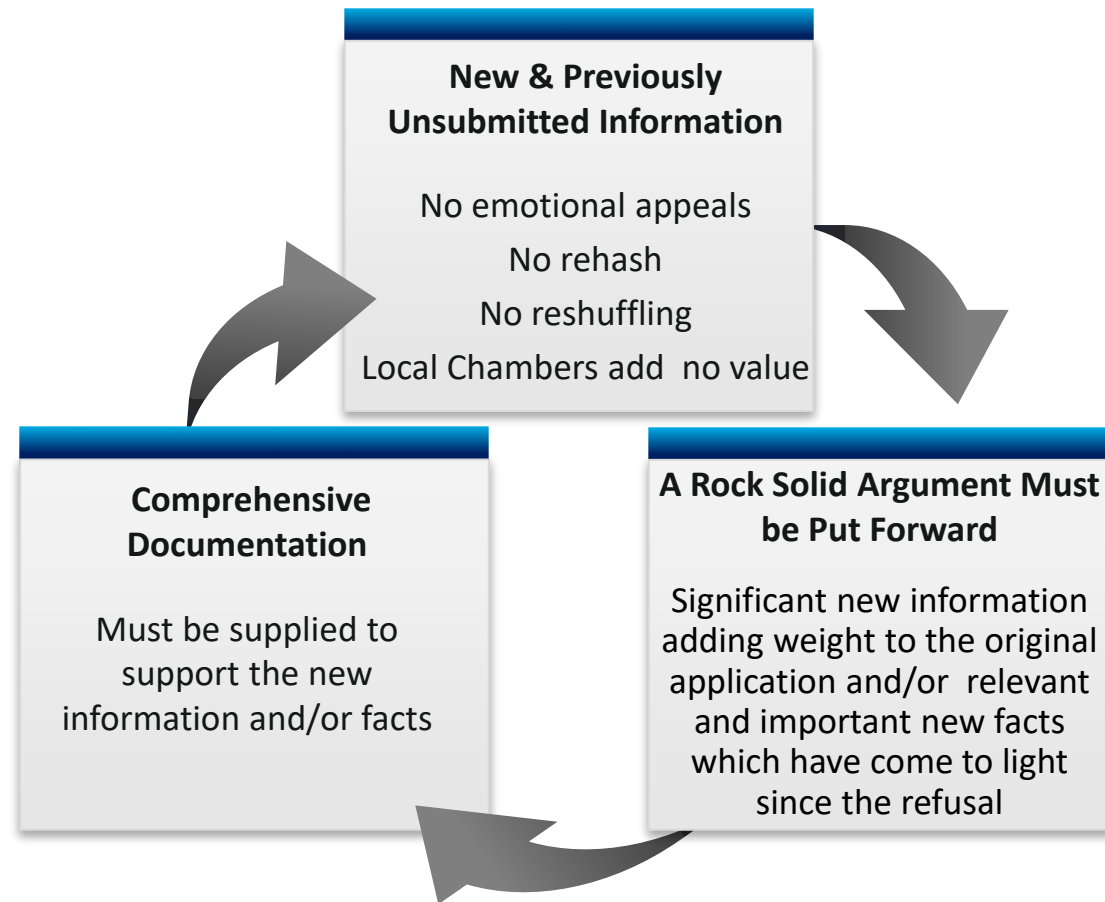
During the application consideration process whilst remaining in Hong Kong as a Visitor or pre-taking up of unapproved employment



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**



~ 12 Weeks

**Reconsideration Application
Without Merit**



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

