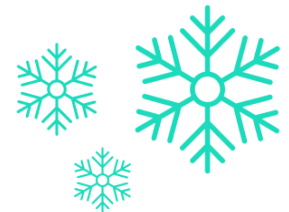


## Immigration and mobility round-up 2022

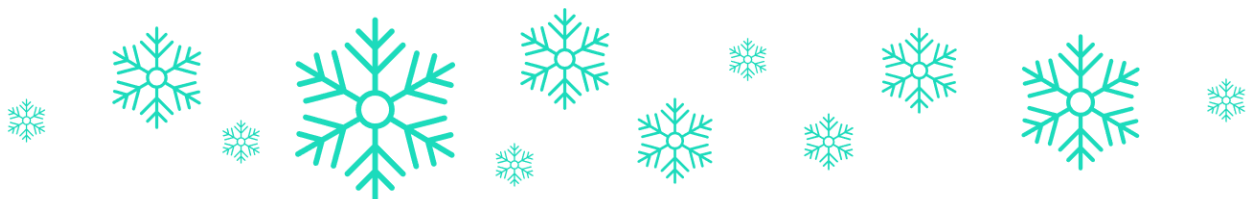
### Season's Greetings from Vialto Partners!

We wish you all a happy holiday season and look forward to working with you in the new year!



It has been an eventful year in immigration and mobility, with the pandemic restrictions ending at the start of the year and travel re-opening fully. The world was then met with the Russian invasion of the Ukraine in February, and significant changes to the UK Government in the Summer. The cost of living crisis became a reality for many people across the country and the year is closing out with industrial actions in the public sector.

Vialto Partners has put together a comprehensive end of year news alert that highlights all the key changes over the past 12 months, covering the UK as well as global immigration and mobility perspectives, and how this has affected employers.



## Key trends:

Mobility has bounced back to pre Covid volumes and this year has also brought a number of positive changes for employers and employees impacted by new ways of working, skills shortages balanced with the greater need for compliance via digitisation. The pandemic has increased the complexity of immigration moves globally whilst also driving creativity and innovation in global mobility.

What is clear is that despite the current economic difficulties the demand for migrant workers remains high. Many countries, including the UK, continue to focus on digitisation of the immigration governance process and processing times globally are slowly returning to timescales seen prior to the pandemic.

Employers remain focused on increased compliance requirements in multiple countries that they currently operate in. This is further compounded by immigration systems no longer being fit to meet the needs of a rapidly changing world and working patterns. As new business travel systems are introduced in 2023, there will be a new risk added on to how employers continue to monitor their mobile workforce, and how governments in the EU and UK manage these new requirements.

In 2023, the Electronic Travel Authorisation (ETA) and the European Travel Information and Authorisation System (ETIAS) are to be implemented. This will significantly change the business travel landscape and employers are already taking active steps to prepare.

**Some key trends have been summarised below:**

### Working routes

- Global Business Mobility Senior or Specialist route replaced the Intra Company Transfer visa with an increase in the minimum salary for this route
- Introduction of High Potential Individual Visa non-sponsored route, allowing eligible individuals who have completed a degree from a recognised university to be granted a visa for up to 2 or 3 years.
- August 2022 introduced the Scale-up visa route, making it more efficient for businesses who can evidence high growth to hire skilled talent to progress the future of the business with only 6 months of sponsorship required.
- Numerous new nomad visas and digital skills routes across the globe including Argentina, Malaysia, Portugal and Spain
- Remote working legislation easements, permitting short term temporary work

- Increased and relaxed routes for students and highly skilled workers across the globe e.g The UAE's Golden Residency Visa

## Immigration compliance

- Introduction of new digital compliance checks as part of or instead of on-site compliance visits by the Home Office.
- Right to work changes from 1 October 2022 and the introduction of identification Validation Technology
- Relaxation of rules surrounding delay of start dates post 28 days of the issuance of vignette or date of CoS, whichever is later.
- Creating a flexible and more efficient sponsor management system to ensure easier use for existing sponsors and new sponsors who wish to apply for a sponsor licence.

## Digitisation

With digital compliance checks on sponsor licences and digital right to work checks, we see further digitisation by the UK authorities with the introduction of Electronic visas (ETA) and contactless travel.

## Social security

The pandemic is now becoming a thing of the past but the measures put in place still remain, meaning, the Authorities are recognising more that businesses and employees want to keep remote working an option. Social security relaxations are one example.

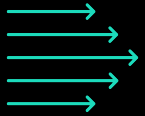
- New guidelines allow the flexibility to interpret the rules to enable remote working
- Extension of 'Teleworkers' remain until 2023
- 'Workations' which came about from remote working does not prohibit home social security

## Rest of the world

Similar to the UK, globally we can expect to see reform and changes. Some changes have already taken affect:

- Further sanctions against Russia means further unsettling for Ukrainian nationals who have fled their country. To allow Ukrainian nationals to have some stability, the European Commission have launched their EU Talent Pool pilot programme for Ukraine to allow access to employment
- We also expect to see some reform to the Australian immigration system with the new Government

If you are looking for something to fill your time, while waiting for your festive meal to be cooked, you can read on to see in more detail about what has happened this year!



# UK Immigration



## 2022 Net migration figure highest on record

Expectedly, the Covid-19 pandemic had a significant impact on migration figures over 2020 and 2021, however, it is reported that net migration this year was at a record high with approximately 504,000, surpassing the historic figures witnessed before the pandemic. The Ukraine visa scheme and the Hong Kong BN(O) routes have contributed to around 45% of the increase this year.

### → What does this mean for you?

The Home Office has come under strain as a result of the increase in net migration, causing longer delays to application processing times. They have reported that a large backlog of cases are being cleared and processing times are progressively returning to normal. Going forward, we suspect implementation of stricter immigration rules in 2023 as the Government tries to curb the higher figures.

## Intra Company Transfer (ICT) visa rebranded and tweaked

In April 2022 the long standing ICT visa was replaced with the Global Business Mobility - Senior or Specialist Worker visa (GBM SSW). Like the ICT route, the new GBM SSW is designed for senior or specialist overseas workers who are undertaking a temporary work assignment at a UK entity in the same group of companies.

### → What does this mean for you?

There are very few differences between the two routes, other than the minimum salary increasing from £41 500 to £42 400, businesses should continue to use this route as normal.

## Introduction of the High Potential Individual visa route

A new UK immigration route introduced by the Home Office to allow individuals to live and work in the UK without the need for employer sponsorship. This route is designed for recent graduates from

recognised top global universities who wish to work or look for work in the UK, following the successful completion of study equivalent to a UK bachelor's degree level or above. The study must have been with an institution listed on the [Global Universities List](#).

### → What does this mean for you?

Employers will have the opportunity to recruit from this talent pool. While this visa is only restricted to 2 years stay, employers can switch individuals into a skilled worker visa.

## Scale-up Visa Route launched

The Scale-up route is intended to make it easier for high growth businesses to recruit the talent who have the skills and qualifications to enable their businesses to continue to grow.

The applicant must have a high-skilled job offer from a qualifying Scale-up sponsor. Unlike other sponsored visa routes, the Scale-up will only require applicants to be sponsored for an initial six-month period before the possibility of transiting into an unsponsored route. This route can also lead to settlement.

### → What does this mean for you?

If you are a company that can demonstrate an annualised growth in either turnover or staffing of at least 20% from the previous three-year period and had a minimum of ten employees at the start of the period, you may be able to apply for a Sponsor Licence and use this route.

## 'Outdated' Police Registration Scheme Abolished

### Summary

The UK Government announced on the evening of Friday 5th August 2022, that the Police Registration Scheme was to be abolished with immediate effect. This scheme originally required nationals of certain countries, (such as Brazil, China, and Russia) issued with UK immigration permission to register with the police within 7 days of arrival in the UK.

### → What does this mean for you?

In light of this very welcomed announcement, this has simplified the visa process for the relevant nationals and prevented potential issues and delays to the processing of further UK immigration applications.

## Implementation of digital compliance inspections

The Home Office has introduced new digital compliance checks which may be undertaken as part of, or instead of, an on-site compliance visit.

The Home Office can at any time throughout the duration of a sponsor licence, carry out a compliance visit to a sponsor licence holder's business premises to ensure that the business is appropriately carrying out its sponsor duties.

### The new online inspections will include:

- verifying a business's digital trading presence.
- conducting remote video interviews with sponsor licence holders or sponsored workers.

### → What does this mean for you?

Sponsors should be aware of their duties and responsibilities as sponsor licence holders. If you would like further guidance surrounding sponsor duties or compliance, please do get in touch.

## Changes to Right to Work Checks

On 30th September 2022, the COVID-19 adjusted right to work checks, allowing all checks to be carried out virtually via video call, ended. From 1st October 2022, employers are required to adopt digital right to work check processes or revert back to manual in-person checks, depending on each circumstance.

Right to work checks for British and Irish nationals and for those individuals that only hold a vignette (visa sticker) in their passport, must be done using Identification Validation Technology or employers must revert back to the process of manually checking and certifying original documents in person.

Checks using Identification Validation Technology must be carried out by a digital service provider (IDSPs). The Home Office would prefer employers to use a certified Identification Service Provider as this will provide assurance that their chosen IDSP meets relevant scheme guidance and standards.

### → What does this mean for you?

For employers who wish to continue carrying out right to work checks remotely they must find a digital service provider (IDSPs) and implement their technology and processes to ensure the required checks are completed. Alternatively, the business must revert to completing some of their Right to Work checks manually in person. Vialto Partners has developed its own [Identification Documentation Verification app that has been certified by the UK Home Office](#) - registered under "Paycasso Verify Ltd trading as Xydus". It can quickly and efficiently read and verify

identification documents. Please contact us if you would like to arrange a demonstration of this technology.

## Reporting delays to work start dates

The rules have been relaxed regarding reporting a delay to a sponsored worker's start date. If the delay is **less** than 28 days, a sponsor does not have to report a delay to a sponsored worker's start date. A concession has been added to allow sponsors to continue sponsoring migrants if their start date has been delayed by **more** than 28 days but only with an acceptable reason e.g. travel disruption, pandemic, working a notice period or illness/bereavement. Sponsors previously had to stop sponsoring a worker and update the Home Office if the start date was delayed by more than 28 days.

### → What does this mean for you?

There is no need to submit a notification on the SMS where a sponsored worker's start date is delayed by less than 28 days. If it is delayed by more than 28 days, please speak with your Vialto contact so we can assess if there is an acceptable reason for this delay before you notify the Home Office.

## UK government plans for further digitisation of UK immigration system

The UK government has announced further plans for the digital transformation of the UK immigration system, which they are aiming to achieve in the next 24 months. We have set out their key plans below:

### More smartphone biometric capture

Attending a Visa Application Centre may become a thing of the past as the UKVI plans to further expand the use of smartphones to provide facial biometrics to establish or verify identity to more applicants. During 2022 and 2023 the reuse of fingerprint biometrics that have previously been captured will be applied to more immigration routes.

### Further expansion of eVisas

Physical visas (e.g. vignettes and Biometric Residence Permits) will be phased out by December 2024 and all visas will be electronic. Applicants will however continue to receive written notification of immigration status alongside an eVisa, which they can retain for their own records.

Those that already hold physical visas will need to register for a digital customer account and convert to an eVisa. Full guidance on how to do this will be provided by the UKVI.

## A transformed sponsorship system

To ensure a smoother and flexible immigration experience, improvements will be made to the online management system for sponsors to carry out post licence activities by late 2023. For example sponsors will be allowed to make changes themselves such as adding users to their licence.

The lengthy and cumbersome process of applying for a sponsor licence will also be changed to make it easier for new sponsors to acquire a licence, which will include automated data checks simplifying the evidence requirements. These changes are expected in early 2024.

## New customer support channels

There will be new investment in building out call centres where applicants and their legal representatives will have greater access to UKVI operators.

Chatbot and voicebot functionality are also being developed with the aim of implementation from 2023, giving further means to resolve queries quickly and effectively.

There will be further instructional 'how to' videos to support compliance requirements such as proving identity, supporting sponsors with their right to work checks and monitoring obligations.

### → What does this mean for you?

Businesses and individuals can expect to see a quicker and more efficient process both at application stage and travel stage.



## Business Travel



## Electronic Travel Authorisation (ETA) to be implemented in 2023

The UK government is working towards rolling-out the requirement for visa-exempt travellers visiting the UK to obtain an ETA. The ETA is not the same as a visa, it authorises an individual to board a carrier to travel to the UK. On arrival at the UK border, an individual will still need to obtain leave to enter, as per the existing process.

Phase one of the roll out will be the BETA testing which will focus on specific groups having to apply for the ETA prior to travelling to the UK, and is scheduled to go-live in Q1 of 2023, with Nationals of



Gulf Cooperation Countries (Qatar, Kuwait, UAE, Oman Bahrain and Saudi Arabia) needing to apply in the second quarter of 2023 and the rest of the world by the end of 2023.

The aim of the ETA is to increase the UK government's knowledge about those seeking to come to the UK, provide better tracking and prevent overstaying and the arrival of those who present a threat.

### **Contactless travel**

There will be further pilots of automated services for those who have the correct biometric identification documents and eVisas. This means that a great number of travellers will be able to utilise e-gates upon entry to the UK.

By 2025 reconfigured, 'smarter arrival halls' will be in place with automation as the default, limiting the number of people funnelled through to border officers to just those who require verification checks or have been flagged for further checks.

#### **→ What does this mean for you?**

The future of UK immigration policy is digital and this will help businesses to streamline their visa policies, tracking expiry dates, business travellers and global mobility generally. Vialto is at the forefront in Global Mobility Technology as well as rapid and sustained investment into process automation. We will update you further in the coming months.

### **The European Travel Information and Authorisation System (ETIAS) to be implemented in late 2023**

The ETIAS is being implemented by the EU to strengthen security checks for non-EU nationals who do not need a visa to enter the Schengen zone. It is expected to enter into operation in November 2023. Similar to the ETA, the ETIAS is not a visa, it is an electronic travel authorisation.

The application process is anticipated to take less than 10 minutes, cost EUR 7 per application and be required by individuals between the ages of 18 and 70. The majority of cases should receive automatic approval, however in certain cases the process could take up to 4 weeks. The ETIAS is expected to last 3 years from issuance.

Whilst a 6 month grace period is expected to apply, travellers will need to be educated in the need to file the ETIAS ahead of travel.

## Croatia to join the Schengen Area from 1st January 2023

Croatia will become a member of the Schengen Area from 1st January 2023 and begin issuing Schengen visas as well as all lifting checks at internal land and sea borders on individuals who move freely throughout the area. From 26 March 2023, all internal air borders will also allow individuals to pass through without checks.

The Schengen Area allows nationals of member countries to travel freely, and without checks, across borders. Moreover, non-EU nationals who hold a Schengen visa are entitled to the same freedoms. It is estimated that 400 million people can travel freely in the Schengen zone, while 1.25 billion people make journeys within the area every year.



## Social Security



## Social Security Updates

### New guidelines for teleworkers within the EU/EEA

With the COVID-19 exceptional situation coming to a close, the EU social security relaxation measures driven by the pandemic were expected to come to a close by the end of June 2022 and new guidelines for managing social security for cross-border teleworkers within the EU/EEA were agreed upon. These new guidelines are non-binding and different EU Member States take different approaches in terms to applying them, thus making it essential to look at individual country-by-country combinations in order to assess the applicability among certain EU/EEA countries.

### Extending relaxation measures beyond Covid-19

As noted above, the relaxation measures put in place as a result of COVID-19 were meant to expire in mid-2022, however in acknowledgment that new ways of working have emerged during the pandemic that are not adequately covered by existing legislation, the Administrative Commission of the EU decided to recommend extending the relaxation until 30 June 2023 for those individuals that are classified as “Teleworkers” (ie who uses IT to remain connected to their employer and carry out their normal day to day role as they would have done had they physically been in the office) . This impacts workers who have experienced working from home without any constraints during the COVID pandemic and employers who have implemented new ‘working from home’ policies and are struggling with how to deal with employees living outside their country of original employment.

## **New guidelines for a new normal**

New guidelines were issued on how to interpret and apply the general European social security coordination rules to the new normal of remote work and working from home. The guideline provided for the rules to be interpreted in a flexible manner to enable remote work to the widest possible extent. Full details of these guidelines can be found in our article [here](#).

## **Managing Workcations**

With remote work becoming the new normal, employees are looking to extend vacation into a mix of vacation and work – a workcation. Workcations are an evolution of ‘bleisure’: travel that combines business trips with leisure trips. A new guideline confirmed that the concept of workcation does not prohibit home social security and an A1 certificate should be issued, although not all EU/EEA countries follow the guideline.

## **Avoiding discriminatory remote work company policies**

In a bid to ensure both compliance and consistency when dealing with remote work, employers started to look into the necessity to design policies to manage working from home arrangements, especially in an cross-border environment. Where possible, employers are trying to avoid triggering social security obligations in the locations where their employees are working remotely, however employers need to be mindful of not setting different limits for foreign vs domestic employees as this is likely to create discrimination.

## **New rules on transparent working conditions**

A EU directive mandates EU countries to update rules on transparent working conditions by 1 August 2022 (see further details in our EU Posted Worker update below), impacting how employers should design employment contracts. The rules also contain a ban on employers prohibiting employees from taking a secondary job - which could have a substantial impact on social security by pushing more employees into the ‘multistate working’ category. For such workers, more complex rules apply in order to determine the country where social security contributions are due, with potential new reporting and payment obligations for their main employer in a different Member State.

## **Court case on state-of-work principle**

In October 2022, the European Court of Justice issued a new judgment on the principle that an individual is covered by social security in the EU/EEA country in which work is performed. For employees governed by a sequence of numerous short-term contracts, the employee is instead covered by social security in the country of residence, for the periods when no contract is in place. This could impact temporary agency workers and individuals working in the rising gig economy.

## **Increased processing times for Certificates of Coverage on the authorities’ side**

Although we continue to see authorities that have very short processing times for certificates of coverage issuance (up to 10 days), we also see examples of processing times continuing to build up with some authorities, reaching up to 6 months for standard certificates. Based on our understanding this is part due to operational reasons (e.g. application process - in post / online / in person or the certificate of coverage method) and part due to the process itself (e.g. the ability to issue certificates

unilaterally or not, communication and responsiveness between authorities etc.). Potential issues are delays to the immigration process, restrictions on accessing the work site in the host location, risks relating to potential audits and compliance under the EU Posted Workers Directive and restrictions in accessing healthcare risks.



## EU Posted Worker Directive



### EU Posted Worker Directive updates

On 1 August 2022 EU Member States had a deadline to enact the Directive on transparent and predictable working conditions (2019/1152/EU). By the end of 2022 around 16 EU Member States have either fully enacted the Directive or have legislation drafted to be approved in Q1 2023. This Directive covers a range of areas ensuring more transparent and predictable working conditions for all European employees (see some explained in the Social Security update above).

**With respect to Posted Workers, it requires employers to issue the individual with written confirmation of the following conditions prior to commencement of the posting:**

- the countries where employment activities are performed and the expected duration;
- currency in which salary is being paid;
- benefits awarded for the specific employment activities during the posting;
- information with respect to repatriation after the posting;
- minimum wage requirements in the work location that are applicable;
- additional allowances and travel/housing allowances that apply;
- reference to governmental website(s) on where to find the host EU country employment law conditions applicable for the duration of the posting.

The 2018 Directive included some very material updates that employers should be aware of, including limiting the posting period to a maximum of 18 months and widening the definition of 'minimum salary' to instead cover 'remuneration'. This later update means employers need to consider mandatory pay elements included in the host EU country national law and/or collective bargaining agreements.

## → What does this mean for you?

What this means for employers is that the ink is still drying from legislative updates from the 2018 Directive, while at the same time the 2019 Directive needs enacting. Employers need to ensure that their processes for identifying Posted Workers and handling the related compliance obligations remain appropriate.

The pace of change has meant that outside of particular high risk industry sectors, levels of local EU country labour authority inspections remain low. But the European Labour Authority, which is a governing body responsible for overseeing many aspects of EU Labour Law, has been very active in supporting local labour authorities to undertake inspections on a wider basis, including helping authorities from multiple countries collaborate on targeted inspections. Labour authorities have also started to cross check notifications submitted against records of their largest employers.



## Global Immigration



### Global Updates

#### **Europe | EU Talent Pool & Extension Temporary Protection Directive for another year expected - October 2022.**

The European Union (EU) has continued to impose sanctions on Russia following the invasion of Ukraine in end-February 2022. On 6 October 2022, the EU agreed on the eighth package of sanctions against Russia. This new package responds to Russia's continued escalation and the current situation in Ukraine and one of the key measures is to take further steps in providing certainty and access to employment to beneficiaries of the Temporary Protection Directive (TPD) that was introduced in March 2022. Specifically, the European Commission confirmed this week that they will propose to extend the validity of the TPD until March 2024 and that they have launched their innovative EU Talent Pool pilot programme for Ukraine.

#### **SINGAPORE | Overseas Networks and Expertise (ONE) Pass and Updates to the Work Pass Framework**

Effective 1 January 2023, global top talent from all sectors can apply for a new type of work pass - the Overseas Networks and Expertise (ONE) Pass.

The ONE pass, together with further enhancements to the existing work pass framework, underscore Singapore's commitment to remain open to the world and strengthen Singapore's position as a Global Hub for Talent.

The shortening of application processing time to 10 business days will be much welcomed by the business community and is in line with the recent trend observed by Vialto Partners.

## AUSTRALIA | A NEW OUTLOOK FOR SKILLED MIGRATION POST THE FEDERAL ELECTION - May 2022

In May this year, Australia's Federal Election has ushered the Labor Party back into power after nearly ten years in opposition. We expect to see significant reforms as the new Government seeks to impose its values and agenda on the skilled migration program. The Australian visa system has certainly been overdue for an update, with issues such as the rise of remote work and retaining top talent ripe for change.

Now more than ever it is important to take stock of your current and future skills requirements and to map out a future talent pathway. This will help put businesses in the best position to navigate anticipated changes to Australia's skilled visa program.

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### Contact us

For a deeper discussion on the above, please reach out to your Vialto Partners point of contact. Further information on Vialto Partners can be found here: [www.vialtopartners.com](http://www.vialtopartners.com)



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