



RISK & VERIFICATION NETWORK

RISK REPORT: RISK MONITORING AND REVIEW OF HIGH-VOLUME ACCREDITED EMPLOYERS

15 February 2023

KEY POINTS

1. The purpose of this report is to communicate findings of targeted Risk Monitoring and Review (RMR) activity on a sample of high-volume Accredited Employers that were approved through the Accredited Employer and Job Check Gateways. The RMR activity assessed whether risk controls were operating as intended in relation to financial risk management.
2. It should be noted that the applications reviewed have been assessed by Immigration Officers (IO) under policy settings which support risk management post-decision and that high-volume Accredited Employer applications will be subject to Accredited Employer Risk Monitoring and Review (AERMR) activities.
3. Overall, the findings were largely consistent with the 2022 [RMR activity](#) for triangular and franchisee employer accreditation. There was, however, less identifiable financial risk associated with the high-volume sample due to employer characteristics which included entities operating in the utilities, healthcare, local and national government sectors. Risk indicators were diminished through the tenure of operations, size of the entities, nature of the business operations and capital requirements and public ownership regulatory requirements.
4. The review findings note:
 - a) Financial viability checks are reliant on declarations made in the employer accreditation form, with adverse responses informing whether a manual assessment of viability is required at the Accredited Employer Gateway (AEG). For the 67 reviewed applications, no financial viability assessments were required under this process.
 - b) There was a lack of financial viability evidence provided by employers at the application stage, (4%, n=3), or requested by IOs during the application process (3%, 2). The lack of financial information diminishes the ability to assess against financial requirements in both the application assessment and any subsequent AERMR assessment.
 - c) Where the genuine business assessment (GBA) risk rule was triggered (39%), IOs have appropriately considered checking the Companies Office, Labour Inspectorate stand down list and insolvency registers.
 - d) 91% (61) of high-volume Accredited Employers declared the business had not made a loss in the previous 24 months. The 9% (n=6) that declared losses claimed to meet financial viability through positive cashflows for each of the previous six months or access to sufficient financial reserves.

- e) 27% of the high-volume Accredited Employers did not list in their application all their directors as key people¹ when compared to the information held with New Zealand Companies Office (NZCO) register. Only one Director name is mandatory on the Accredited Employer application form which creates a potential risk of a director with adverse government system holdings being intentionally omitted.
- f) 18% of applications had a Risk Advice Referral raised to R&V for further risk treatment advice.
- g) The criteria for Job Check instructions were appropriately followed, with IOs continuing to demonstrate good understanding of the assessment criteria requirements. These include labour market tests, genuine advertising, individual employment agreements etc.
- h) 39% of the high-volume Accredited Employers had not previously interacted with INZ through supporting migrant employees.
- i) One high-volume Accredited Employer had an active warning in AMS that had not transferred to ADEPT and the adverse information does not appear to have been considered in the accreditation decision.

ANALYSIS

- 5. A sample of 67 decided accredited high-volume Accredited Employers was received from the Risk and Verification (R&V) Business Analyst that were selected with a 90% confidence level² for the period 23 May to 31 October 2022.
- 6. An Accredited Employer application must meet the requirements specified in [WA2.10](#) of the INZ Operations Manual (included in [Appendix 1](#)).
- 7. System-triggered risks (medium or high risks triggered by the business rules engine (BRE)) are listed and summarised in the Assessment Activities and RFI section of the Accredited Employer application, as a Risk Assessment Activity. The Risk Assessment Activity section specifies the Risk Area and provides an Advice Link with additional risk information and mitigations.
- 8. 27% (18) of high-volume Accredited Employers had at least one active warning including for employer misrepresentation. All apart from one³ AMS system warning transferred to ADEPT as expected.
- 9. Ten warning cases were referred to R&V for support out of which five resulted in a recommendation that the risk be managed at the Job Check Gateway (JCG). After review, it is considered that in two instances risk would have been more appropriately managed at the AEG based on the particulars outlined in each warning. These cases will be raised with the R&V Practice Lead for consideration of training.

¹ A key person is defined in WA2.60.10 and for an incorporated company includes any director and any other person that occupies a position in relation to the organisation that allows the person to exercise influence over the organisation or undertaking.....

² A confidence interval displays the probability that a parameter will fall between a pair of values around the mean. Confidence intervals measure the degree of certainty in a sampling method.

³ Commercial information

10. Eight warning cases were managed by the IO through undertaking verification. These warnings related to employer non-compliance, and allegations of employees working additional hours without remuneration. It appears the verification undertaken mitigated the identified risks.
11. 4% (3) of the high-volume Accredited Employers provided bank statements with the application. 3% (2) of employers were requested to provide financial statements to support an assessment of financial viability. 93% (62) of employers provided no evidence of financial viability during the assessment process. [WA2.10.1\(d\)](#) provides examples of the type of acceptable evidence to demonstrate financial viability including GST, Tax returns and financial statements.
12. IOs completed the GBA activity well, using checks of the New Zealand Companies Office (NZCO), Labour Inspectorate stand down lists and Insolvency registers to assess whether the instruction had been met.
13. 39% (26) of high-volume Accredited Employers applications triggered the manual GBA activity in ADEPT. This is when the application may have triggered one or more of the three evaluation rules, as observed in all the cases reviewed:
 - Maintenance of the law
 -
 -
 -
14. When a GBA activity was triggered, IOs undertook the required business structure checks, insolvency checks, physical or online presence checks so the risks to mitigate identified risks. However, no financial information was available or obtained to assess the financial viability aspect of WA2.10.1 instructions.

Key People

15. The ADEPT team advised that the names of employer's key people are prompted for on the application form but only one name entered is mandatory for the Employer to move through the rest of application question stream.
16. In terms of directors of companies, the fields to enter key people are not pre-populated with the NZCO Director details (that information is stored separately, as it does not include date of birth data). Comparing the number of Directors (as key people) declared to the number pulled from the NZCO register and raising a manual assessment concern if there was a mismatch was suggested during development, but this was not something prioritised and has not been delivered.
17. 27% (18) high-volume Accredited Employers that were companies did not list all their directors as key people when compared to the NZCO register.
18. SBFAs consider that all Directors (being key people) listed by the NZCO should be captured for the Employer at the Accredited Employer application stage (or at a later stage when discovered) as not having this data in ADEPT has the potential to disguise a "bad actor" within the business, that then obtains accreditation to employ many migrants.

19. Additionally, it is noted that the NZCO is developing legislation to support transparency and accuracy in the identification of beneficial ownership and control of companies⁴ in alignment with other global regulators.
20. In future, changes to the Accredited Employer application form may need to be considered to make it mandatory to list all directors of a company as key people to mitigate this potential risk.

Job Check Gateway observations

21. All 67 high-volume Accredited Employers applied for job checks accounting for 772 job check roles.
22. Overall, the criteria for job check instructions were appropriately followed as IOs are assessing criteria familiar to them. These include labour market test, genuine advertising, individual employment agreements etc.

RECOMMENDATIONS

Based on the review findings SBFAs see potential opportunities to improve high-volume Accredited Employers processing in the future with our recommendations below:

1. Communicate to the R&V network that where there is an identified employer financial risk, in most instances this should be mitigated at the AEG rather than the JCG or the Work Visa gateways. The two identified cases will be raised with the R&V Practice Lead for learnings.
2. Engage with BVO and Op Policy to determine the extent to which 'viable' is being assessed as expected against Immigration Instructions across Franchise, Triangular and High Volume accreditation.
3. R&V to engage with ADEPT to determine whether changes can/should be made to the accreditation form to more clearly outline the requirement to list all key persons, the definition of a key person and the potential consequences of not doing so.
4. SBFAs to conduct the same exercise again focussed on the key areas where risk was identified on a more recent sample size following engagement with BVO and ADEPT.

⁴ Additional information [Govt cracks down on misuse of NZ companies | Beehive.govt.nz](#)

APPENDIX ONE: IMMIGRATION INSTRUCTIONS

The relevant requirements for all Accredited Employers related to financial risk are shown below:

WA2.10.1 Viable and genuinely operating business or organisation

- a. A viable and genuinely operating business or organisation is one where:
 - i. it is registered as an employer with the Inland Revenue Department; and
 - ii. if the employer is a general partnership or sole trader, the partners or sole trader must not be bankrupt or subject to a No Asset Procedure; or
 - iii. if the employer is a limited partnership, the general partners must not be bankrupt or subject to a No Asset Procedure.

- b. The employer must:
 - i. have not made a loss (before depreciation and tax) over the last 24 months; or
 - ii. have a positive cash flow for each of the last 6 months; or
 - iii. have sufficient capital and/or external investment (for example funding from a founder, parent company or trust) to ensure the employer's business remains viable and ongoing; or
 - iv. have a credible, minimum two-year plan (for example by having contracts for work) to ensure the employer's business remains viable and ongoing.

- c. "Viable and ongoing" includes being able to:
 - i. meet financial obligations such as paying wages or salaries and all other operating costs and expenses; and
 - ii. purchase inventory (if relevant).

- d. Evidence of meeting the requirements set out at (a) to (c) above may include, but is not limited to:
 - i. financial statements such as an annual report and profit and loss statements;
 - ii. evidence of start-up capital and/or funding;
 - iii. a cash-flow statement and/or credible revenue forecast;
 - iv. contracts for work;
 - v. GST returns;
 - vi. income tax returns;
 - vii. PAYE returns;
 - viii. bank statements;
 - ix. stock lists/orders;
 - x. lease agreements for business premises or space.

ADMINISTRATION

Production

	<i>Author:</i>	<i>Review:</i>	<i>Released:</i>
<i>Name</i>	Privacy of natural persons	Privacy of natural person	Privacy of natural persons
<i>Role</i>	Senior Business and Finance Advisor	Senior Business and Finance Advisor	RVM
<i>Date</i>	08/12/2022	07/02/2023	15/02/2023
<i>Phone</i>			Privacy of natural persons

RVTG

<i>RVTG Required</i>	<i>Date sent to RVTG</i>	<i>Outcome of RVTG</i>	<i>Description of Change</i>
Yes	17 February 2023	Approved	Approved with minor changes to recommendations all captured in this version.

Document Control

<i>Version</i>	<i>Date</i>	<i>Author:</i>	<i>Description of Change</i>
0.1	08/12/2022	Privacy of natural persons	Original
0.2	07/02/2023	Privacy of natural persons	Revised the document after review from RVM
1.0	15/02/2023	Privacy of natural persons	Final review and send for review to MGR ON RV

Dissemination List

<i>For Action:</i>	<i>For Information Only:</i>
RVTG – For noting R&V Network AEWV Programme Team (Head of AEWV, BVO, ADEPT).	

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