



CERC Immigration Symposium  
Administrative Monetary Penalties  
December 15, 2015

# Thank You to Our Sponsor



# Agenda

8:30 – 8:45 Welcome and introductions: **Stephen Cryne**, President & CEO, CERC

8:45 – 10:30 Presentation: Administrative Monetary Penalties:

**Heather Moriarty**, Deputy Director, Temporary Resident Policy NHQ IRCC (CIC)

**Nadine Faulkner**, Program Integrity Division, Employment and Social Development Canada

10:30 – 11:00 Case Presentation & Open Discussion **Stephen Green**, Green and Spiegel LLP

11:00 Closing Remarks: **Stephen Cryne**

# CERC Immigration Survey

October – November 2015

Professional Scientific &  
Technical Services – 17 %

Financial Services – 15%

Mining, Quarrying and Oil &  
Gas – 12%

Collectively, employ over  
400,000 people

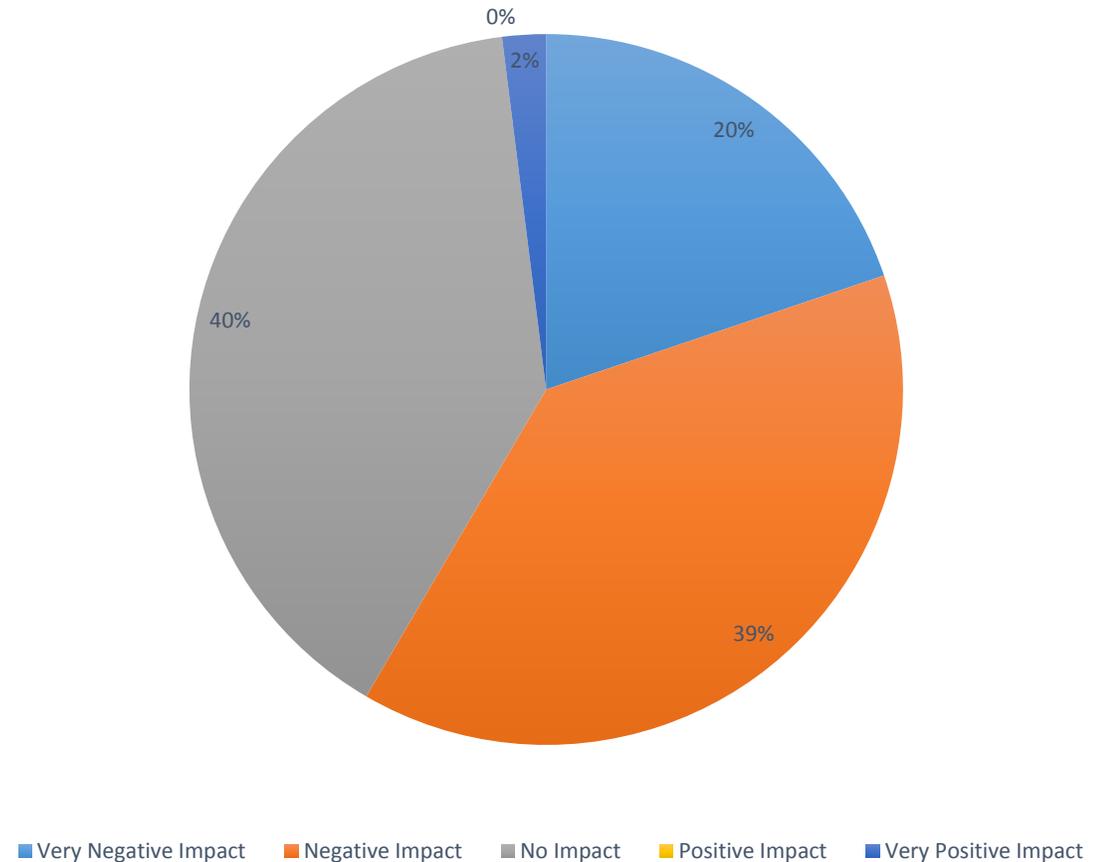


*“The approach and the rules for high skilled and low skilled applications need to be significantly different. The transition plan does not even make sense for high skilled applications. We are not going to replace the position with a Canadian by having an Aboriginal Program in place, or by granting scholarships. The application process needs to make sense for the role. Also, forcing us to use the job bank for high skilled positions again serves no purpose in the application. That is not our target market for high skilled positions. The applicants are not looking on the job bank so why are we posting there?”*

## Key Findings

*“Significant impact to the timeframe to onboard our very highly skilled foreign talent. The impact has been so significant that our Canada offices have changed hiring strategy, and positions are instead being moved to other countries with less immigration lead times (Germany, Ireland, UK, India).”*

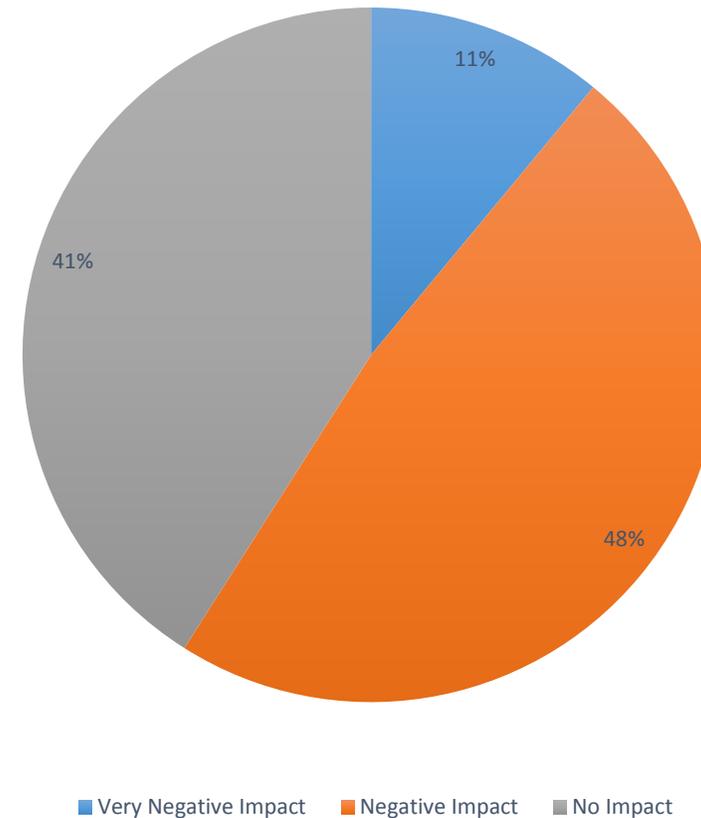
Impact of TFW Program changes on business planning



## Key Findings

*“We have always looked first to Canada to hire. Very often, though, we have no choice but to conduct a global search, as we need people with largescale deal experience and/or other very specialized experience that is not found in Canada. The new rules for the TFWP have made it even more difficult to find the kind of talent we need to maintain our investment returns.”*

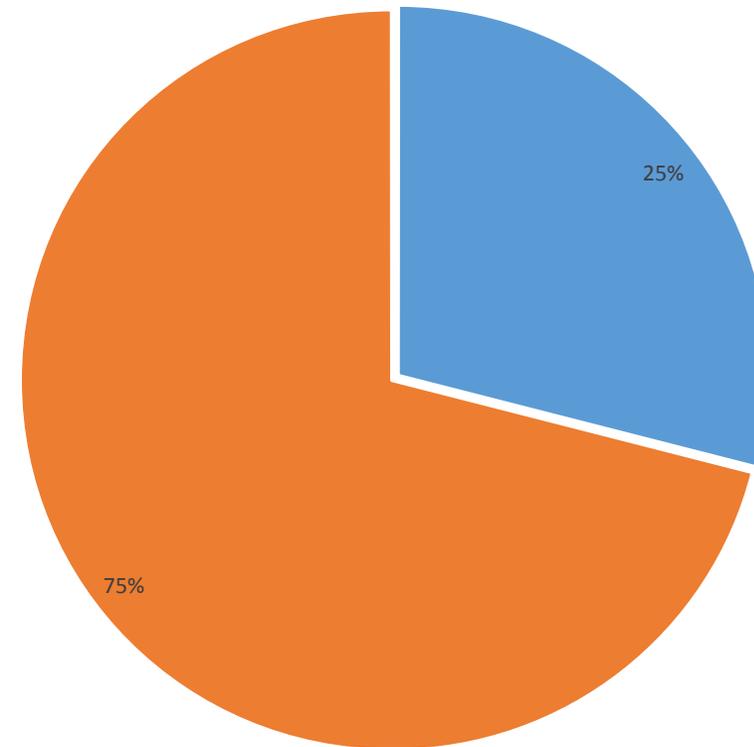
Impact of TFW Program changes on ability to hire skilled workers



## Access to information from ESDC to manage programs

### Key Findings

*“It is very difficult to get a straight answer. One rep might say one thing while another says the opposite. You can almost never get anything in writing, so it is near impossible to know right from wrong.”*



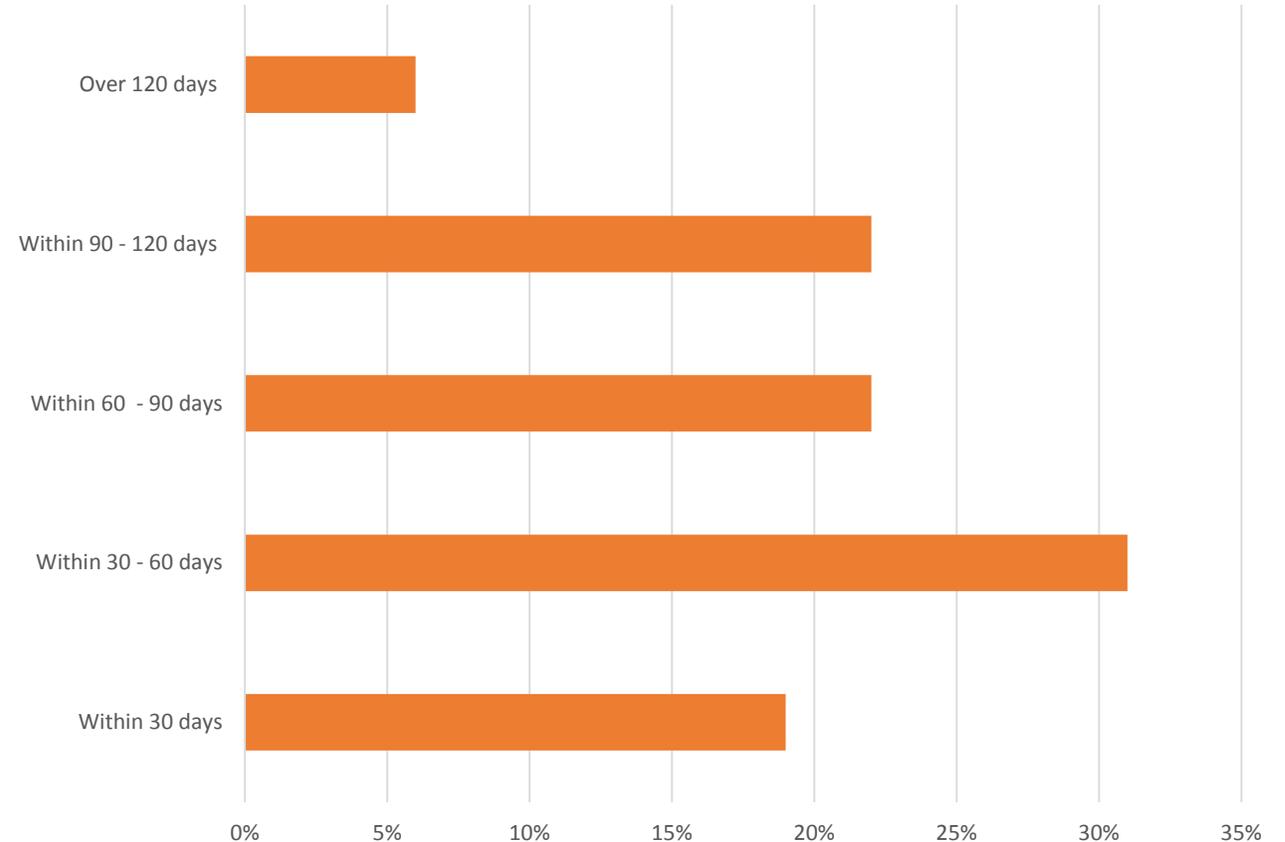
■ Yes ■ No ■

## Key Findings

In filing LMIA applications, employers must provide details regarding comparable positions and wages. The National Occupation Codes (NOC) published by ESDC are used as the guide for providing this information.

Over one third of the companies surveyed said the NOC was not at all reliable, and 40 per cent said the NOC was reliable only on occasion. *“The data is more than a decade old and not reliable for evolving tech roles.”*

Average length of time to receive a decision about a LMIA Application



# Key Findings

*“The programs change with little heads up.”*

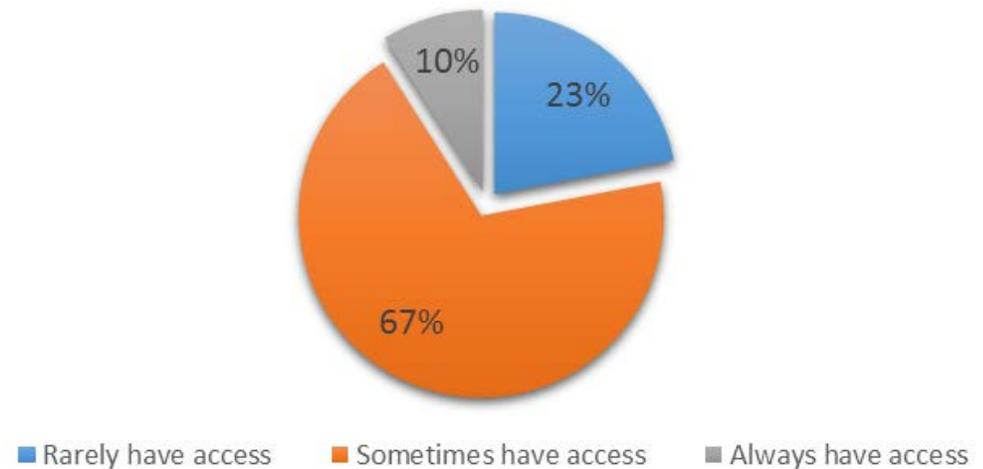
*“The CIC call centre gives wrong information out to applicants all the time.”*

*“The CIC took away program manuals which was vital to navigating the immigration system.”*

*“Businesses should be given a lengthier grace period to adapt its processes with the changes implemented.”*

*“Projects typically last 6- 12months. If it takes 6 months + to bring in staff then opportunities are lost.”*

Access to information from CIC to manage programs



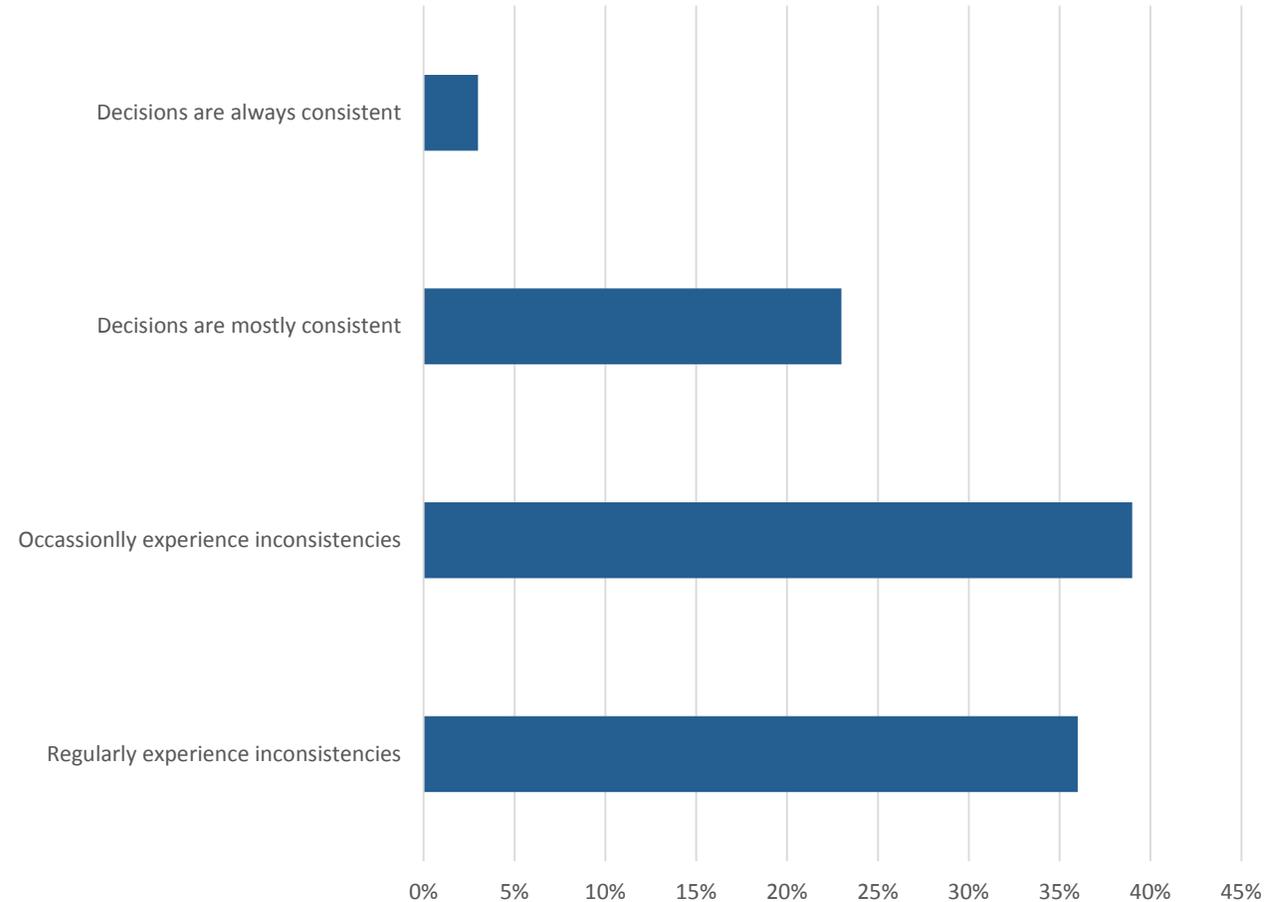
# Key Findings

*“I get the feeling we are not the only ones confused. Those on the front lines honestly do not seem to know the answers any better than we do.”*

*“Depending on the situation and case manager we often are denied (we then questions this) and then are approved with little explanation.”*

*“Work permits have been approved for one person and refused for another when the applications where exactly the same. It seems like the officers don't have clear enough guidelines for approvals and are just making decisions ad hoc.”*

Consistency in decisions from CIC



# CERC'S 13 POINT PLAN

HOW TO IMPROVE CANADA'S ECONOMIC & INTERNATIONAL MOBILITY PROGRAMS



- **Trusted Employer Program:** Implement a Trusted Employer Program (TEP) modelled after successful programs: Ireland, UK. Australia.
- **Immigration Advisory Committee:** An Advisory Committee for Economic Immigration.
- **Industries experiencing rapid growth and high demand for skilled workers:** Create industry based immigration pathways or programs.
- **Labour Market Impact Assessments (LMIA):** Expedited processing for high skilled workers, relax market testing and job advertising for executives and other high pay occupations.
- **Express Entry: Bridge work permits; Age restrictions:** Provide bridge work permits: Relax age factors for senior and skilled workers; allocate more points for employed applicants.
- **Expedited processing stream to PR for graduate students:** Provide more flexible pathways to permanent residency for international students studying full time in Canada.
- **Clarify rules around the International Mobility Program for Significant Benefit:** Develop clearer guidelines that expand and clarify the rules for significant benefit to Canada.

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- **International Mobility Program:** Clarification regarding who is the employer?
- **International Mobility Program: Employer Portal:** Improve access for employers.
- **Compliance reviews:** These random STS compliance reviews should not be triggered at the time of re-application for an LMIA.
- **Compliance and Administrative Monetary Penalties (AMP):** improve program management & education develop an independent appeals body.
- **Address inconsistent processing in regions and provinces:** Improve staff training; implement a case review process and modernize the National Occupation Codes.
- **Access to training manuals and open publication of program changes / policy updates:** Provide more open access to documentation on both the ESDC and CIC websites.

# Speakers

Nadine Faulkner is the Acting Director of the Program Integrity Division of the Temporary Foreign Worker Program (TFWP) Directorate at Employment and Social Development Canada (ESDC). With responsibility for employer compliance and integrity policy, she has a key role leading major TFWP legislative and regulatory change.

Nadine joined the federal public service in 2008. Previous to her service on the Temporary Foreign Worker Program, she served in Heritage Canada, Status of Women. Before entering the public service, Nadine was a lecturer in the Department of Philosophy at Carleton University.