

Appendix 4

Information about the Significant Investor Visa

Source: Department of Immigration and Citizenship, 'Significant Investor Visa', November 2012, http://www.immi.gov.au/skilled/business/_pdf/significant-investor.pdf



Significant Investor Visa

The Australian Government has announced a new visa pathway for migrant investors coming to Australia. This visa is scheduled to commence on 24 November 2012.

Significant Investor visa

The Significant Investor visa will be introduced as a new stream within the Business Innovation and Investment (Provisional) (Subclass 188) visa and the Business Innovation and Investment (Permanent) (Subclass 888) visa.

Visa applicants must:

- submit an expression of interest in SkillSelect
- be nominated by a State or Territory government
- make investments of at least five million Australian dollars into complying investments.

Visa applicants do not need to satisfy the innovation points test and there are no upper age limits. The visa stream features a residence requirement of 160 days spent in Australia over four years while holding the Business Innovation and Investment (Provisional) (Subclass 188) visa.

Visa holders can extend their visa term if they would like to given that they satisfy the extension requirements. They will be allowed to extend their provisional visa by an additional two years, with a maximum of two extensions permitted.

Complying investments

Complying investments for the Significant Investor visa include:

- Commonwealth, State or Territory government bonds
- Australian Securities and Investment Commission (ASIC) regulated managed funds with a mandate for investing in Australia; and
- direct investment into Australian proprietary companies.

Visa applicants may hold investments in each of the above investment options and may also change between complying investments, provided they meet specified reinvestment requirements.

The investment must be made and held:

- directly by the applicant or together with their spouse or de facto partner; or
- through a company where the total amount of issued shares are owned by the applicant or together with their spouse or de facto partner; or
- through a valid trust where the trustees and beneficiaries include the applicant or their spouse or de facto partner together.

Australian Securities and Investment Commission regulated managed funds

An ASIC regulated managed fund for the purpose of the Significant Investor visa is a managed investment scheme defined in the *Corporations Act 2001* and regulated by the Australian Securities and Investment Commission. Any interests issued in the fund must not be able to be traded on a financial market and must be covered by an Australian Financial Services Licence.

Investments in ASIC regulated managed funds include any investments made through an Investor Directed Portfolio Service.

For an ASIC regulated managed fund to qualify as a complying investment it must be limited to categories of investments specified by the Minister in a legislative instrument in writing.

These categories include:

- infrastructure projects in Australia
- cash held by Australian deposit taking institutions
- bonds issued by the Commonwealth or a State or Territory government
- bonds, equity, hybrids or other corporate debt in companies and trusts listed on an Australian stock exchange
- bonds or term deposits issued by Australian financial institutions
- real estate in Australia; and
- Australian agribusiness.

The managed fund must be open to the general public and the fund manager must provide a compliance declaration on Form 1413 that their services would be limited to the categories of investments in Australia specified by the Minister in the legislative instrument.

Direct investment into Australian proprietary companies

For a direct investment into an Australian proprietary company to qualify as a 'complying investment', the following criteria must be met:

- the company must genuinely operate a qualifying business in Australia
- the applicant must obtain an ownership interest in the company
- the company must be registered with ASIC; and
- the business must have an Australian Business Number.

Qualifying business

The *Migration Regulations 1994* define a qualifying business as an enterprise that:

- (a) is operated for the purpose of making profit through the provision of goods, services or goods and services (other than the provision of rental property) to the public; and
- (b) is not operated primarily or substantially for the purpose of speculative or passive investment.

Ownership interest

The *Migration Act 1958* defines ownership interest:

In relation to a business, means an interest in the business as:

- (a) a shareholder in a company that carries on the business; or
- (b) a partner in a partnership that carries on the business; or
- (c) the sole proprietor of the business.

Including such an interest held indirectly through one or more interposed companies, partnerships or trusts.

Residence Requirement

To be granted a permanent Significant Investor visa, primary visa holder must be resident in Australia for at least 40 days for every year or part year that they have held a provisional Significant Investor visa. The residence period does not need to be met per year but can be met cumulatively over the time the primary visa holder held the provisional visa.

About the program

The Business Innovation and Investment program is for migrants who have demonstrated experience and success in business or investment. The program will attract prominent business people and investors from across the globe and increase economic growth and innovation in Australia.

SkillSelect

SkillSelect is an online service that enables skilled workers, business people and investors interested in migrating to Australia to record their details to be considered for a relevant visa through an Expression of Interest.

Intending applicants for a provisional Business Innovation and Investment visa will record their proposed investment in Australia and once nominated by a State or Territory government will be issued an invitation by the Australian Government to lodge a visa application.

See: www.immi.gov.au/skills/skillselect/

Further information

Information on the Significant Investor visa can be found on the Department of Immigration and Citizenship's website.

See: www.immi.gov.au/skilled/business/whats-new.htm

Email: business.innovation@immi.gov.au