



Investor Visas – Update

Australia • Canada • United Kingdom

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Australia

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SUMMARY The two investment-related visa streams within the Business Innovation and Investment Programme (BIIP) continue to operate in Australia. The Investor visa stream requires people to invest AU\$1.5 million for at least four years in order to qualify for a permanent residence visa, while the investment amount for the Significant Investor stream is AU\$5 million. A departmental review of the Significant Investor visa in 2014 has resulted in changes that will come into effect on July 1, 2015. These include a new “complying investment” framework that aims to steer investments to private, start-up, and publicly-listed Australian companies. The second major change is the introduction of a new Premium Investor stream that requires investments of at least AU\$15 million. Applicants will only need to maintain the investments for a minimum of one year before being eligible for a permanent residence visa. Potential applicants will be nominated by the Australian Trade Commission rather than state and territory governments.

Other aspects of the BIIP have also recently been reviewed by a parliamentary committee, which recommended that the government examine elements of the program further as part of the 2015–16 migration program survey and other reviews.

I. Introduction

The Australian immigration system includes visas that are aimed at attracting applicants who wish to invest and live in the country. In 2012, the relevant visas were amended and consolidated within the Business Innovation and Investment Programme (BIIP).¹ Although there remains a separate Investor permanent residence visa category, this is only available to existing holders of the relevant provisional visa, which is now closed to new applicants.² New applicants who wish to qualify for a visa by way of making investments in Australia must therefore apply under either the Investor or Significant Investor streams of the Business Innovation and Investment (Provisional) Visa (subclass 188) and Business Innovation and Investment (Permanent) Visa (subclass 888) categories.³ A third stream under these categories is the Business Innovation stream.

¹ See *Business Skills Program Reforms – 1 July 2012*, DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION (DIBP), <http://www.immi.gov.au/skilled/business/business-skills-program-reforms-1jul12.htm> (last modified Feb. 13, 2015).

² See *Investor Visa (Subclass 891)*, DIBP, <https://www.immi.gov.au/visas/Pages/891.aspx> (last modified Apr. 29, 2015); *Business Skills (Provisional) Visas (Subclasses 160–165)*, DIBP, <https://www.immi.gov.au/Visas/Pages/160-165.aspx> (last modified Nov. 24, 2014).

³ *Fact Sheet 27 – Business Migration: The Business Innovation and Investment Visa Categories*, DIBP, <https://www.immi.gov.au/media/fact-sheets/27business.htm#categories> (last modified Feb. 13, 2015).

To qualify for a visa under the Investor stream, applicants must want to make a “designated investment of at least AUD1.5million in an Australian state or territory and maintain business and investment activity in Australia.”⁴ The Significant Investor stream is targeted at people who “are willing to invest at least AUD5million into complying investments in Australia and want to maintain business and investment activity in Australia.”⁵ Applicants must submit an Expression of Interest and be nominated by a state or territory government before being invited to apply for a provisional visa under one of these streams. People who fulfill the requirements of their provisional visa can qualify for a permanent visa.⁶ This includes requirements to be in the country for specified minimum amounts of time and to have maintained the relevant investments for at least four years. Further information on these visas and their eligibility requirements was provided in a 2013 Law Library of Congress report.⁷

Over the past year, two reviews have been carried out that relate to the investor streams under the BIIP. One of these, a review of the Significant Investor Visa program by the Department of Immigration and Border Protection (previously the Department of Immigration and Citizenship), has resulted in changes that will come into effect in mid-2015. The second review, conducted by a parliamentary committee, examined other aspects of the BIIP and has not yet resulted in any proposed changes.

II. Review of the Significant Investor Visa Program

In May 2014, the Australian government initiated a departmental review of the Significant Investor Visa (SIV) program with the aim of improving the effectiveness and competitiveness of the program.⁸ In October 2014, the government endorsed the key recommendations that emerged from the review and announced that it would “reform the programme to encourage more high net worth individuals to make Australia home and to leverage and better direct additional foreign investment, while maintaining safeguards to ensure the migration programme is not misused.”⁹ The resulting changes included

⁴ *Business Innovation and Investment (Provisional) Visa (Subclass 188)*, DIBP, <https://www.immi.gov.au/visas/Pages/188.aspx> (last modified Apr. 29, 2015).

⁵ *Id.*

⁶ *Business Innovation and Investment (Permanent) Visa (Subclass 888)*, DIBP, <https://www.immi.gov.au/Visas/Pages/888.aspx> (last modified Apr. 29, 2015).

⁷ KELLY BUCHANAN, LAW LIBRARY OF CONGRESS, INVESTOR VISAS: AUSTRALIA (June 2013), <http://www.loc.gov/law/help/investor-visas/australia.php>.

⁸ See generally, *Enhanced Significant Investor Visa and New Premium Investor Visa – Frequently Asked Questions*, AUSTRADE, <https://www.austrade.gov.au/Invest/enhanced-significant-investor-visa-and-new-premium-investor-visa-frequently-asked-questions> (last visited May 28, 2015).

⁹ Press Release, Hon. Tony Abbott et al., *Enhancing Significant Investor Visa Programme* (Oct. 14, 2014), http://trademinister.gov.au/releases/Pages/2014/ar_mr_141014.aspx. See also *Be Invested – Benefitting Australia Through Investment Immigration*, MIGRATION BLOG, DIBP (Oct. 22, 2014), <http://migrationblog.immi.gov.au/category/temporary-migration-2/significant-investor-visa/>.

- Streamlining and speeding up visa processing, further promoting the programme globally and strengthening integrity measures, to increase the attractiveness of investing and settling in Australia while ensuring Australia’s interests are protected;
- aligning the criteria for eligible investments with the Government’s national investment priorities. The investment eligibility criteria will be determined by Austrade in consultation with key economic and industry portfolios;
- introducing a Premium Investor Visa (PIV), offering a more expeditious, 12 month pathway to permanent residency than the SIV, for those meeting a \$15 million threshold; and
- tasking Austrade to become a nominating entity for the SIV (complementing the current State and Territory governments’ role as nominators) and to be the sole nominating entity for the PIV.¹⁰

The new Premium Investor Visa (PIV) stream will be open to new applicants beginning July 1, 2015. In May 2015, the government released a new complying investment framework for the SIV that will also come into effect on July 1. Nominations for SIV have been temporarily suspended from April 24, 2015, to June 30, 2015, to “ensure clarity for prospective applicants about the investment framework that will apply to them.”¹¹ Further information about the new PIV and the new complying investment framework is provided below.

III. New Premium Investor Visa

The PIV program aims to attract “talented entrepreneurs and innovators” with a minimum of AU\$15 million to invest in Australia.¹² It will be created as a new, fourth stream within the Business Innovation and Investment (Provisional) (subclass 188) and Business Innovation and Investment (Permanent) (subclass 888) visa categories.¹³ Those who obtain a provisional visa will be eligible for a permanent residence visa if they maintain their complying investment of at least AU\$15 million for a minimum of twelve months.¹⁴

People will only be able to apply for the PIV at the invitation of the Australian government.¹⁵ The Australian Trade Commission (Austrade) will be the only nominating agency for the PIV and will have policy responsibility for approving the qualifying investments. State and territory governments will also have “an important role in helping to identify potential applicants.”¹⁶

¹⁰ Press Release, Hon. Tony Abbott et al., *supra* note 9.

¹¹ *Temporary Suspension of SIV Nominations From 24 April 2015 to 30 June 2015*, DIBP, <http://www.immi.gov.au/Work/Pages/temporary-suspension-siv-nominations.aspx> (last modified Apr. 9, 2015); *Is the Significant Investor Visa Being Shut Down?*, DIBP, <http://www.immi.gov.au/faqs/Pages/siv-shut-down.aspx> (last modified Apr. 9, 2015).

¹² *Enhanced Significant Investor Visa and New Premium Investor Visa – Frequently Asked Questions*, *supra* note 8.

¹³ *What is the Significant and Premium Investor Visas*, DIBP, <http://www.immi.gov.au/faqs/Pages/What-is-the-significant-investor-visa.aspx> (last modified May 15, 2015).

¹⁴ *Id.*

¹⁵ Press Release, Hon. Michaela Cash MP & Hon. Andrew Robb MP, *Final Complying Investment Design for the Significant and Premium Investor Visas: Measures Will Promote Investment and Innovation* (May 15, 2015), http://trademinister.gov.au/releases/Pages/2015/ar_mr_150212.aspx.

¹⁶ *Enhanced Significant Investor Visa and New Premium Investor Visa – Frequently Asked Questions*, *supra* note 8.

As indicated above, Austrade will also now be able to nominate applicants for the Significant Investor visa alongside state and territory governments.

IV. New Complying Investment Framework for SIV and PIV

On May 15, 2015, the government released the new “complying investment framework” for the SIV and PIV programs.¹⁷ The departmental review of the SIV program had identified that the relevant investments were going to passive investments that already attracted large capital flows, such as government bonds and residential real estate funds. Under the new arrangements, indirect investment in residential real estate through managed funds will be limited, and direct investments in residential real estate still will not qualify as complying investments.¹⁸

Under the framework, applicants for the SIV will be required to invest at least AU\$5 million over four years in complying investments, which must include

- At least \$500,000 in eligible Australian venture capital or growth private equity fund(s) investing in start-up and small private companies. The Government expects to increase this to \$1 million for new applications within two years as the market responds;
- At least \$1.5 million in an eligible managed fund(s) or Listed Investment Companies (LICs) that invest in emerging companies listed on the Australian Securities Exchange (ASX); and
- A ‘balancing investment’ of up to \$3 million in managed fund(s) or LICs that invest in a combination of eligible assets that include other ASX listed companies, eligible corporate bonds or notes, annuities and real property (subject to the 10 per cent limit on residential real estate).¹⁹

V. Parliamentary Inquiry into the Business Innovation and Investment Programme

In March 2014, the Minister for Immigration and Border Protection asked the federal Parliament’s Joint Standing Committee on Migration to “inquire into and report on the Business Innovation and Investment Programme (BIIP), excluding the Significant Investor Visa stream.”²⁰ The terms of reference stated that the inquiry would

- Assess whether the BIIP is meeting its intended objectives and if any adjustments are necessary.

¹⁷ *Significant and Premium Investor Visa Programmes: Significant and Premium Investor Visas: New Complying Investment Framework Announced*, AUSTRADE (May 15, 2015), <https://www.austrade.gov.au/invest/significant-investor-visa-and-premium-investor-visa-programmes>; Press Release, Hon. Michaela Cash MP & Hon. Andrew Robb MP, *supra* note 15.

¹⁸ *Enhanced Significant Investor Visa and New Premium Investor Visa – Frequently Asked Questions*, *supra* note 8.

¹⁹ Press Release, Hon. Michaela Cash MP & Hon. Andrew Robb MP, *supra* note 15.

²⁰ *Inquiry into the Business Innovation and Investment Programme (BIIP)*, PARLIAMENT OF AUSTRALIA, JOINT STANDING COMMITTEE ON MIGRATION, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/BIIP (last visited May 28, 2015).

- Consider the conditions involved in the decline in rates of application for the BIIP, in light of rates of application for the previous Business Skills Program.
- Evaluate the current eligibility criteria, with particular regard to the operation of the BIIP points test, and its effectiveness in selecting suitable migrants.
- Weigh the size of the current BIIP programme against the emphasis placed on other elements of the skilled stream of the migration programme in generating economic growth.²¹

After receiving submissions and conducting public hearings, the Committee published its report in March 2015.²² The Committee recommended that

the Department of Immigration and Border Protection examine the programme as part of the 2015–16 migration programme survey and in its reviews of the skilled migration and temporary activity visa programmes with a focus on the:

- suitability and attainability of the objectives set for the BIIP;
- role that States and Territories have in administering the BIIP and, specifically, the accountability of these jurisdictions and whether the programme should instead be solely administered by the Commonwealth;
- means of collecting data at the State and Territory level, its dissemination to the Department and evaluation;
- promotion and marketing of the programme;
- application processing and service standards;
- removal of the ability for the secondary applicant to become the primary applicant;
- English language requirements;
- innovation points test; and
- attracting investment in regional Australia, graduates, early-stage entrepreneurs, and venture capitalists.²³

The government has not yet responded to the Committee’s report.

VI. SIV Program Statistics

The Department of Immigration and Border Protection has released statistics for the SIV program covering the period from November 24, 2012, when the program commenced, to March 31, 2015. During that period 2,287 Expressions of Interest were submitted and 1,972 invitations to apply were issued. Of those, 1,679 primary applications were submitted, leading to the

²¹ *Inquiry into the Business Innovation and Investment Programme (BIIP): Terms of Reference*, PARLIAMENT OF AUSTRALIA, JOINT STANDING COMMITTEE ON MIGRATION, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/BIIP/Terms_of_Reference (last visited May 28, 2015).

²² JOINT STANDING COMMITTEE ON MIGRATION, REPORT OF THE INQUIRY INTO THE BUSINESS INNOVATION AND INVESTMENT PROGRAMME (Mar. 2015), http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/BIIP/Report.

²³ *Id.* at viii.

approval of 751 visas as of March 31. On that date, there had been AU\$3.755 billion invested in complying investments.²⁴

The vast majority of applicants and grantees were from China: 90.2% and 88.7%. The remaining top-five source countries for grantees were Hong Kong (3.3%), Malaysia (1.5%), South Africa (1.1%), and Japan (0.7%).²⁵

²⁴ *Significant Investor Visa Statistics*, BIBP, <http://www.immi.gov.au/pub-res/Pages/statistics/significant-investor-visa-statistics.aspx> (last modified Apr. 15, 2015).

²⁵ *Id.*

Canada

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SUMMARY Canada’s federal-level Immigration Investor Program has now been cancelled and replaced with an Immigrant Investor Venture Capital Pilot Program (IIVC). Under the IIVC, applicants must have a minimum personal net worth of Can\$10 million and must make an at-risk investment (nonguaranteed) of Can\$2 million in an IIVC Fund, among other requirements.

The Province of Quebec has its own immigration requirements and investor immigration program. Other provinces and territories have Provincial Nominee Programs to attract qualified investors.

I. Introduction

In Canada, the federal government and the provincial and territorial governments are jointly responsible for immigration.

¹ Thus, both the federal and the provincial and territorial governments have the authority to grant business immigrants and individual investors the opportunity to apply for permanent resident status. Citizenship and Immigration Canada (CIC), the federal department responsible for immigration, has a mandate to work closely with provincial and territorial governments in order to develop immigration programs for the country as a whole, with the exception of the province of Quebec.² Under the Canada-Quebec Accord on Immigration, Quebec “establishes its own immigration requirements and selects foreign nationals who will adapt well to living in Quebec.”³

Canada previously had a federal Immigration Investor Program (IIP) that was terminated in 2014, along with all backlogged IIP applications, on the ground that it had limited economic benefit for the country.⁴ The IIP was replaced by the Immigrant Investor Venture Capital Pilot Program (IIVC),⁵ which began to receive applications in January 2015. To prevent a backlog of

¹ Constitution Act, 1867, 30 & 31 Vict., c. 3 (U.K.), reprinted in R.S.C. 1985, app. II, no. 5, § 95.

² CITIZENSHIP AND IMMIGRATION CANADA [CIC], 2012 ANNUAL REPORT TO PARLIAMENT ON IMMIGRATION 19 (2012), <http://www.cic.gc.ca/english/pdf/pub/annual-report-2012.pdf>.

³ *Applying for Permanent Residence – Business Class Applicants: Quebec Selected Self-Employed and Federal Self-Employed Persons (IMM 4500)*, CIC, <http://www.cic.gc.ca/english/information/applications/guides/4500ETOC.asp> (last modified Mar. 31, 2015).

⁴ *Terminated Programs – Federal Immigrant Investor and Entrepreneurs*, <http://www.cic.gc.ca/english/immigrate/IIP-EN.asp> (last modified Mar. 31, 2015). The Law Library’s 2013 report on investor visas in Canada discussed the previous program. TARIQ AHMAD, LAW LIBRARY OF CONGRESS, INVESTOR VISAS: CANADA (June 2013), <http://www.loc.gov/law/help/investor-visas/canada.php#Update>.

⁵ *Immigrant Investor Venture Capital Pilot Program*, CIC, <http://www.cic.gc.ca/english/immigrate/business/iivc/index.asp> (last modified May 22, 2015).

applications, only a certain amount of applications are received within a specified period.⁶ The program recently reopened and, according to the CIC, applications will be accepted from May 25 to December 30, 2015, the first sixty of which will be processed. The CIC will also accept up to sixty additional applications for its waiting list.⁷

Quebec operates its own immigrant investor program developed by Immigration Quebec.⁸ In addition, Provincial Nominee Programs (PNPs) have been established to attract foreign business investors.

II. Overview of the Immigrant Investor Venture Capital Pilot Program

The IIVC allows qualified investors and their families to receive permanent resident status in Canada.⁹ Applicants seeking permanent residence under the IIVC must first meet the following eligibility requirements:

- Applicants must have a minimum personal net worth of Can\$10 million (approximately US\$8.04 million)¹⁰ that was obtained through “lawful profit-making business or investment activities.”¹¹ The CIC will require applicants whose applications are considered for the CIC’s second stage review to obtain a due diligence report at their own expense from certain designated service providers as proof of their net worth and the means by which it was acquired.¹²
- Applicants must be “willing and able to make an at-risk investment (non-guaranteed) of [Can]\$2 million [about US\$1.6 million] in the Immigrant Investor Venture Capital (IIVC) Fund.”¹³
- Applicants must meet certain minimum language requirements¹⁴ by taking a language test approved by the CIC proving “proficiency in English or French in all four language abilities (speaking, reading, listening and writing).”¹⁵

⁶ *Backgrounder: The new Immigrant Investor Venture Capital Pilot Program*, GOVERNMENT OF CANADA, <http://news.gc.ca/web/article-en.do?nid=915049> (last modified Dec. 16, 2014).

⁷ *Immigrant Investor Venture Capital Pilot Program*, *supra* note 5.

⁸ *Investor Program*, IMMIGRATION, DIVERSITÉ ET INCLUSION QUÉBEC, <http://www.immigration-quebec.gouv.qc.ca/en/immigrate-settle/businesspeople/applying-business-immigrant/three-programs/investors/index.html> (last modified May 22, 2015).

⁹ *Investors*, CIC, <http://www.cic.gc.ca/english/immigrate/business/investors/index.asp> (last modified June 28, 2013).

¹⁰ *Determine Your Eligibility – Immigrant Investor Venture Capital Pilot Program*, CIC, <http://www.cic.gc.ca/english/immigrate/business/iivc/eligibility.asp> (last modified May 22, 2015)

¹¹ *Id.*; see also *What Qualifies as a “Business or Investment Activity” Under the Immigration Investor Venture Capital Pilot Program?*, CIC, <http://www.cic.gc.ca/english/helpcentre/answer.asp?q=969&t=6> (last modified May 11, 2015).

¹² *Determine Your Eligibility – Immigrant Investor Venture Capital Pilot Program*, *supra* note 10.

¹³ *Id.* For information on how investments are managed, see *Immigrant Investor Venture Capital Pilot Program – Investment Terms and Management*, CIC, <http://www.cic.gc.ca/english/immigrate/business/iivc/fund.asp> (last modified May 11, 2015).

- To meet the CIC’s education requirement, applicants must have
 - a Canadian post-secondary degree, diploma, or certificate of at least one year;
 - or
 - a foreign equivalent, as validated by an original Educational Credential Assessment (ECA) report from a CIC-designated organization. The ECA report must indicate that the applicant’s foreign education credential is equal to a Canadian post-secondary education credential of at least one year.¹⁶

However, if applicants can show that they “have a personal net worth of \$50 million or more acquired through lawful, private sector business or investment activities,” they can request an exemption from the education requirement.¹⁷

III. Quebec Investor Program

Quebec has three immigration programs for businesspeople wanting to immigrate to Quebec, one of which is the Investor Program.¹⁸ The government is reopening the program for the intake period of August 31, 2015, to January 31, 2016.¹⁹ The program is also subject to new application processing rules and procedures.²⁰

In order to be eligible for the Investor Program, an applicant must possess net assets of at least Can\$1.6 million (approximately US\$1.3 million), have management experience, and intend to settle in Quebec. In addition, the applicant must sign an agreement to invest Can\$800,000 (about US\$642,441) with a financial intermediary. The assessment of an investor’s application also takes into account other factors, such as the applicant’s age, the nature and duration of his or her professional training, and his or her language skills.²¹

Under the Quebec plan the Can\$800,000 investment is administered by a “financial intermediary (broker or trust company) authorized to participate in the Investor Program.”²²

¹⁴ *Language Testing – Immigrant Investor Venture Capital Pilot Program*, CIC, <http://www.cic.gc.ca/english/immigrate/business/iivc/eligibility/language-testing.asp> (last modified May 11, 2015).

¹⁵ *Determine Your Eligibility – Immigrant Investor Venture Capital Pilot Program*, *supra* note 10.

¹⁶ *Id.*

¹⁷ *Have Your Education Assessed – Immigrant Investor Venture Capital Pilot Program*, CIC, <http://www.cic.gc.ca/english/immigrate/business/iivc/assessment.asp> (last modified May 22, 2015).

¹⁸ *Selecting One of the Three Immigration Programs for Businesspeople*, IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, <http://www.immigration-quebec.gouv.qc.ca/en/immigrate-settle/businesspeople/applying-business-immigrant/three-programs/index.html> (last modified Dec. 19, 2014).

¹⁹ *Immigration Rules and Procedures*, IMMIGRATION, DIVERSITÉ ET INCLUSION QUÉBEC, <http://www.immigration-quebec.gouv.qc.ca/en/informations/rules-procedures.html> (last modified May 1, 2015).

²⁰ *Id.*

²¹ *Investor Program*, IMMIGRATION, DIVERSITÉ ET INCLUSION QUÉBEC, <http://www.immigration-quebec.gouv.qc.ca/en/immigrate-settle/businesspeople/applying-business-immigrant/three-programs/investors/index.html> (last modified May 22, 2015).

²² *Id.*

IV. Provincial Nominee Programs

Apart from the federal investor visa program, the provinces and territories have also implemented Provincial Nominee Programs (PNPs) to encourage foreign business operators to establish or acquire a business in Canada in exchange for accelerating the process of granting permanent resident status to them and their key employees.

For example, the Opportunities Ontario program was designed both to “select economic immigrants whose skills match those needed by businesses in the province. The investment component of the program helps companies making an investment in Ontario to recruit or relocate key employees to ensure the long-term success of the investment.”²³ In terms of the foreign investment component of the program, the investment must be at least Can\$3 million (about US\$2.9 million).²⁴ In addition, the investment “must create at least five, net permanent full-time jobs for Canadian citizens or permanent residents in Ontario.”²⁵ The investment must be endorsed by an Ontario ministry and cannot be an investment prohibited by federal law.²⁶

²³ *Opportunities Ontario: Investors*, GOVERNMENT OF ONTARIO, http://www.ontarioimmigration.ca/en/pnp/OI_PNPINVESTORS.html (last modified May 1, 2015).

²⁴ *Opportunities Ontario: Who Can Apply*, GOVERNMENT OF ONTARIO, http://www.ontarioimmigration.ca/en/pnp/OI_PNPINVESTOR_QUALIFY.html (last modified Oct. 22, 2014).

²⁵ *Id.*

²⁶ *Id.*

United Kingdom

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SUMMARY The United Kingdom is actively seeking foreign investors to enter and remain on its shores through generous provisions in its immigration laws. It provides a fast track system for settlement of only two years, reduced from the standard five years, for individuals who enter as investors and put significant amounts of money into the UK's economy. Further relaxations in the normally stringent immigration requirements include permission for investors to remain outside the UK for up to 180 days each year before losing their ability to apply for citizenship.

I. Introduction

The United Kingdom has a series of provisions to encourage “high-value migrants” to enter and work in the country. High-value migrants are in the Tier 1 category of the UK's points-based system and include exceptionally talented and highly skilled workers, investors, and entrepreneurs.¹ The Tier 1 investor category is designed to attract individuals with a high net worth to come to and invest in the UK, with fast-track possibilities for settlement for those who invest significant amounts of money.²

II. Tier 1 Investor Program

A. Requirements to Obtain a Tier 1 Investor Visa

To obtain a visa to enter the UK as a Tier 1 investor the applicant must be over eighteen years of age and show that he or she

- has access to at least £2 million (approximately US\$3.05 million) in a regulated financial institution (i.e., a bank or building society) and these funds are under his/her control and disposable in the UK;³
- has opened a UK regulated bank account for the purposes of investing at least £2 million in the UK;

* This report updates a prior report prepared by the author in 2013, which is available on the Law Library's website at <http://www.loc.gov/law/help/investor-visas/united-kingdom.php>.

¹ *Tier 1 (Investor)*, GOV.UK, <https://www.gov.uk/tier-1-investor> (last updated May 22, 2015).

² The rules for these individuals are set out in the Immigration Rules Part 6A, ¶¶ 245E–245EF & App. A, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423570/20150424_immigration_rules_part_6a_final.pdf.

³ *Tier 1 (Investor): Eligibility*, GOV.UK, <https://www.gov.uk/tier-1-investor/eligibility> (last updated May 22, 2015).

- Scores seventy-five points for their attributes; and
- does not fall under one of the general grounds for refusal.⁴

Unlike many other visa categories, individuals entering the UK under the Tier 1 investor visa category do not need to show any English language ability.⁵

In addition to the basic requirements, the Secretary of State must not have reasonable grounds to believe that

- the applicant is not in control and at liberty to freely invest the money;
- the money has been acquired by means which would be unlawful in the UK;
- [or] would constitute unlawful conduct if it occurred in the UK;
- the character, conduct or associations of a third party providing the funds are such that approval of the application would not be conducive to the public good.⁶

If either the Secretary of State or Entry Clearance officer believes that any of the above criteria exist, no points will be awarded under the points-based entry system, and the application for the visa will be denied.⁷

Tier 1 visa holders are granted leave to remain in the UK for three years, or two years if they have previously been granted leave to remain as a Tier 1 investor.⁸ This leave may be subject to the following conditions:

- No recourse to public funds
- Registration with the police
- Prohibitions on employment as a doctor or dentist in training, unless the applicant has obtained a medical or dental degree from a UK recognized or registered institution, or holds a sponsor license under Tier 4
- No employment as a professional sportsperson⁹

⁴ Home Office, *Guidance – Tier 1 (Investor)* at 12 (Apr. 10, 2015), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421956/Tier_1_Investor_v5_0.pdf.

⁵ *Id.* at 2.

⁶ *Id.* at 12.

⁷ Immigration Rules Part 6A, ¶¶ 245EB(e) & 245ED(g), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423570/20150424_immigration_rules_part_6a_final.pdf.

⁸ Home Office, *supra* note 4, at 5.

⁹ Immigration Rules Part 6A, ¶ 245EE, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423570/20150424_immigration_rules_part_6a_final.pdf.

B. Curtailment of Leave

The Tier 1 (Investor) migrant's leave to remain may be cut short (curtailed) if the migrant enters the UK and fails to invest at least £2 million within three months of entry in either UK government bonds or share or loan capital in active and trading companies registered in the UK, with the exception of companies that are principally engaged in property investment. Leave to remain may also be curtailed if the migrant does not maintain the £2 million in investment during his or her time in the UK under the terms of this visa.¹⁰

C. Requirements for Settlement for Tier 1 Investors

There are varying levels of requirements for Tier 1 (Investor) visa holders in the UK to apply for permission to settle permanently, depending on the amount of UK-based funds or total assets they have.¹¹

The basic requirements to obtain leave to indefinitely remain in the UK are that the visa holder have at least seventy-five points under the points-based immigration system, must not fall under one of the general grounds for refusal for entry in the UK and must not be an illegal entrant, must demonstrate sufficient knowledge of the English language and life in the UK, and must not be in the UK in violation of any immigration laws.¹²

In 2011 the provisions of the investor visas were adjusted to give applicants “red carpet treatment.”¹³ The aim of the change of rules was to “encourage the brightest and the best to locate to the UK.”¹⁴ The Immigration Minister made a strong statement that the rules were to increase the number of investors entering the country to help aid the recovery of the British economy:

Today I have sent out a clear message – the UK remains open for business and we want those who have the most to offer to come and settle here. Entrepreneurs and investors can play a major part in our economic recovery and I want to do everything I can to ensure that Britain remains an attractive destination for them.¹⁵

The major changes included a fast track for settlement, discussed above, as well as a relaxation of the rules concerning the amount of time investors may spend outside the country, from ninety to 180 days per year. This relaxation was introduced as a result of complaints that prior rules

¹⁰ *Id.* ¶ 245EE(c)–(f).

¹¹ *Tier 1 (Investor): Settlement*, UK BORDER AGENCY, <https://www.gov.uk/tier-1-investor> (last updated May 22, 2015).

¹² Immigration Rules Part 6A, ¶ 245EF.

¹³ House of Commons Library Standard Note, *April 2011 Changes to Tier 1 and Tier 2 of the Points-based System and Indefinite Leave*, SN/HA/5922, Apr. 2011.

¹⁴ Press Release, UK Trade and Investment, *Entrepreneurs and Investors Get Red Carpet Treatment to Set Up in UK* (Mar. 16, 2011), http://webarchive.nationalarchives.gov.uk/20110704144231/ukti.gov.uk/pt_pt/uktihome/home/item/127984.html?null.

¹⁵ *Id.*

reduced the mobility of investors that needed to travel and remain mobile to continue to be successful in their work.¹⁶

To encourage the investment of larger sums of money in the UK, the requirements for continuous residence for citizenship have been relaxed for those who invest more in the country. The standard residency period before a person qualifies for UK citizenship is five years for individuals, who must be present in the country lawfully. For individuals in the UK as Tier 1 investors, however, the residency period may be as low as two years, depending upon the amount they have invested, as follows:

- If a person has lived in the UK for two years he or she must have invested at least £10 million (approximately US\$15.3 million) in the UK, or have personal assets with a value of at least £20 million (approximately US\$30 million) and at least £10 million under his or her control and disposable in the UK that has been loaned by a UK-regulated financial institution.
- The amounts are reduced to £5 million (approximately US\$7.5 million) invested in the UK, or £10 million in assets and £5 million in UK loans, if a person has been in the UK for three years.¹⁷
- The lowest minimum requirements are for £1 million in UK-based funds, or £2 million in assets and £1 million in UK loans, if a person has lived in the UK for five years.¹⁸

D. Numbers of Entrants as Tier 1 Investors

The number of people entering the UK under the Tier 1 investor category has been steadily increasing since the category’s introduction in 2007. The following table was compiled from information provided by immigration statistics that are prepared periodically by the UK Government:¹⁹

	Main Applicant	Dependents
2008	43	95
2009	153	282
2010	211	373
2011	331	529

The statistics for 2013, the latest complete available year, show that 1,849 individuals entered the country on a Tier 1 (investor) visa.²⁰

¹⁶ *Id.*

¹⁷ *Id.*; Home Office, *supra* note 4, at 65.

¹⁸ Home Office, *supra* note 4, at 65.

¹⁹ 14 May 2012, PARL. DEB., H.C. (6th ser.) 10W, <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120514/text/120514w0001.htm>.

²⁰ Migration Advisory Committee, *Tier1 Investment Route: Investor Thresholds and Economic Benefits* ¶ 2.37 (Feb. 2014), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1_investment_Route.pdf.