



Significant investor visa

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

Significant investor stream

The significant investor visa will be part of 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. 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 stream include:

- state or territory government bonds
- Australian Securities and Investment Commission (ASIC) regulated managed funds with a mandate for investing in Australia
- direct investment into private Australian companies not listed on the Australian stock exchange.

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 held in the name of the applicant, or together with the name of their spouse or de facto partner and must be made:

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

Investments cannot be held within the superannuation regime.

Australian Securities and Investment Commission regulated managed funds

Complying managed fund investments must be regulated by ASIC.

The mandate for the managed fund must be in Australian assets only and limited to the following:

- infrastructure projects in Australia
- cash held by Australian deposit taking institutions
- bonds issued by a state or territory government
- bonds or equity in Australian companies listed on the Australian stock exchange
- bonds or term deposits issued by Australian financial institutions
- real estate property in Australia
- other ASIC regulated managed funds that invest in the above list of assets.

The fund must be open to the general public and the fund manager must provide a compliance declaration adhering to the Department's investment requirements.

Direct investment into non-listed Australian companies

For direct investment into non-listed Australian companies to be classed 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
- the company must have an Australian Business Number (ABN).

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

Investors are required to spend a minimum of 160 days in Australia over four years while holding the Business Innovation and Investment (Provisional) (subclass 188) visa. If an investor chooses to extend their provisional visa additional time spent in Australia is required. The residence requirements for the three possible periods of the visa are;

- 160 days over four years for the initial provisional visa, or
- 240 days over six years for the first extension, or
- 320 days over eight years for the second extension.

Investors will be able to satisfy the residence requirement at any time while holding a Business Innovation and Investment (Provisional) (subclass 188) 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 (EOI).

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.

Intending applicants may submit an EOI in SkillSelect from 24 November 2012.

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

Further information

More information about the business innovation and investment program is available.

See: <http://www.immi.gov.au/skills/skillselect/index/visas/subclass-188/>