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Significant Investor Visa – opportunities for migrants and managed funds

The Australian government's new Significant Investor Visa commenced on 24 November 2012 with the enactment of the Migration Amendments Regulation 2012 (No 7) (**Regulations**). The visa is targeted at high net worth foreign investors who wish to invest in and migrate to Australia.

The visa is by way of invitation and requires an investment of \$5 million (AUD) into a 'complying investment' in Australia for a period of four years, and may ultimately provide the holder with permanent residence.

The visa is part of a program aimed at attracting high quality investments into Australia to drive economic and innovative development. It will exist as a new stream within the business innovation and investment (provisional) (subclass 188) visa and the business innovation and investment (permanent) (subclass 888) visa.

Complying investments

There are a number of complying investments, including:

- an investment in a government bond;
- a direct investment in an Australian proprietary company that is not listed on the Australian Stock Exchange; or

- an investment in a managed fund (directly or through an investor directed portfolio service).

Visa holders may switch between complying investments as long as the total sum of investment remains consistent.

Government bonds

At this stage there has not been an announcement regarding a list of approved funds in Victoria; however the New South Wales government has identified that the Investor Migrant Waratah Bonds are a complying investment for the purposes of this new visa and requires applicants to invest a minimum of 30% of total investment into this bond.

Investment in an Australian proprietary company

For an investment in an Australian proprietary company to be eligible, the applicant must have an ownership interest in the company and the company must:

- genuinely operate a qualifying business in Australia;
- be registered with ASIC; and
- have an Australian Business Number.

Managed funds

The new visa creates opportunities for managed funds to attract foreign investment; however there are a number of criteria that must apply:

- the investment is a managed investment scheme in which members acquire interests in the scheme;
- the interests are not traded on the financial market;
- no representation has been made to any member of the managed investment scheme that the interests will be able to be traded on the financial market;
- the issue of the interests covered by an Australian financial services licence –

Categories of investment for managed funds

The managed funds are limited to categories of investment specified by the Minister, which include:

- infrastructure projects in Australia;
- cash held by Australian deposit taking institutions;
- bonds issued by the commonwealth or a state or territory

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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.

Eligibility

To apply, applicants must submit an expression of interest through the Department of Immigration's online service, SkillSelect. The investment of \$5 million (AUD) will be verified to ensure that it is unencumbered and lawfully acquired, and then the applicant will need to be nominated by the applicable state or territory government. Each state and territory may also apply its own criteria for nomination.



There is no innovation points test, upper age limit or English language requirement, which are generally required for business-related visas. The removal of the English proficiency requirement in itself will open the market for investment.

The provisional visa will operate for an initial term of four years, with up to two extensions of two years permitted. A low residency requirement of 160 days over four years will apply to successful applicants. This makes the visa attractive to those who still want to maintain business operations in their country while having the ability to migrate to Australia. Upon successful application there is no requirement to remain in the state or territory that sponsored the applicant.

The new visa, which streamlines the process of migration, is consistent with visas in the United Kingdom, Canada and New Zealand. It will present exciting new opportunities for Australian fund managers and companies to market investment products to wealthy and highly skilled investors throughout the Asian region. There is a particular emphasis on infrastructure and real estate, which is likely to be welcomed by the retail and hospitality industries. The visa has great potential to boost economic growth, innovation and tourism.

If you would like to know more about this visa or complying investments, please contact Antony Chung.

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