

IMMIGRATION UPDATES November 2012

SIGNIFICANT INVESTOR VISA

SUMMARY: The Significant Investor visa, a new stream within the Business Innovation and Investment Program (Subclass 188 and Subclass 888) opened for applications on 24 November 2012.

Australia opened the much-anticipated Significant Investor Subclass 188 visa on 24 November 2012. The purpose of this new visa stream is to effectively attract applicants who are over 18 years old and prepared to invest AUD5 million into “Complying investments” in Australia for 4 years. It is expected these applications will be given processing priority. Holders of a Subclass 188 – Significant Investor visa are eligible to apply for permanent residence under Visa Subclass 888 after they have maintained their qualifying investments in Australia for 4 years and spent at least 160 days in Australia over the 4 year period.

This visa stream does not have upper age limits or English language threshold requirement. Applicants do not need to satisfy the Innovation points test, do not have to have a business background and are not required to directly manage their qualifying investments in Australia.

The key requirements of the Subclass 188 - Significant Investment Visa are as below:

<i>Criteria</i>	<i>Business Innovation & Investment (Provisional) Subclass 188 Visa</i>
State/Territory Government	Sponsorship by appropriate regional authority is required.
Express of Interest – SkillSelect	Required.
Investment	Make investments of at least AUD5 million into Complying investments . The assets or funds used to make the complying investment must be unencumbered and lawfully acquired by the applicant or together with their spouse or de facto partner.
Points test	Not applicable.
Age	No upper age limits.
Investment Requirement	The investment must be made and held: <ul style="list-style-type: none"> • 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 trustee and beneficiary are the applicant or the applicant and their spouse or de facto partner.
Complying Investments	Complying investments for the Significant Investor visa include: <ul style="list-style-type: none"> • Commonwealth, State or Territory government bonds ; • Australian Securities and Investment Commission (ASIC) regulated

	<p>managed funds with a mandate for investing in Australia; and</p> <ul style="list-style-type: none"> • Direct investment into Australian proprietary companies. <p>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.</p>
ASIC regulated managed funds	<p>To qualify as a complying investment, an ASIC regulated managed fund must limit their investments to the following categories:</p> <ul style="list-style-type: none"> • 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; • Australian agribusiness; and • Other ASIC regulated managed funds that invest in the above list of investments.
Direct investment into Australian proprietary companies	<p>For a direct investment into an Australian proprietary company to qualify as a complying investment, the following criteria must be met:</p> <ul style="list-style-type: none"> • The company must be registered with ASIC; • The company is not listed on an Australian stock exchange; • The applicant must obtain an ownership interest in the company ; • The business must have an Australian Business Number; and • The company must genuinely operate a qualifying business in Australia.
Residence Requirement	<p>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.</p>
After 4 years	<ul style="list-style-type: none"> • Apply for a Permanent Significant Investor (Subclass 888) visa; OR • Apply to extend the provisional Significant Investor visa twice, valid for 2 years on each extension.

Should you have any questions concerning these changes, please contact:

Monique Ly – Tel: 02 9146 5288 - mly@ambermigration.com.au

Melody Li – Tel: 02 9146 5282 – mli@ambermigration.com.au

Important: Clients should not act solely on the basis of the material contained in this Newsletter. Items herein are general comments only and do not constitute or convey advice per se. We therefore mend that our formal advice be sought before acting in any of the areas.

MARN: 9251174