MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Michael Wood	**Portfolio**	Immigration
Title of Cabinet paper	Investor migrants policy settings	**Date to be published**	7 October 2022

List of documents that have been proactively released		
Date	**Title**	**Author**
May 2022	*Investor migrants policy settings*	*Office of the Minister of Immigration*
9 May 2022	*CAB-22-MIN-0162.01 Minute*	*Cabinet Office*
10 December 2021	*2122-2175 Potential enhancements to the Active Investor Plus visa*	*Ministry of Business, Innovation and Employment*
16 December 2021	*2122-1943 Active Investor Plus visa: potential design changes*	*Ministry of Business, Innovation and Employment*
4 March 2022	*2122-2596 Investor migrant attraction and aftercare services*	*Ministry of Business, Innovation and Employment*
18 March 2022	*2122-2969 Investor migrants policy settings – draft Cabinet paper for Ministerial consultation*	*Ministry of Business, Innovation and Employment*

Information redacted **YES / NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of constitutional conventions and privacy of natural persons.

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

BRIEFING

Active Investor Plus visa: potential design changes

Date:	16 December 2021	**Priority:**	Medium
Security classification:	In Confidence	**Tracking number:**	2122-1943

Action sought		
	Action sought	**Deadline**
Hon Kris Faafoi **Minister of Immigration**	**Agree** to amend the Active Investor Plus visa settings to better target active investment **Direct** officials to prepare a draft Cabinet paper	21 January 2022
Hon Stuart Nash **Minister for Economic and Regional Development**		

Contact for telephone discussion (if required)			
Name	**Position**	**Telephone**	**1st contact**
Kirsty Hutchison	Manager, Immigration (Border and Funding) Policy	Privacy of natural persons	
Landon McMillan	Manager, Investment Policy		

The following departments/agencies have been consulted
New Zealand Trade and Enterprise, Callaghan Innovation, Immigration New Zealand

Minister's office to complete:

- ☐ Approved
- ☐ Declined
- ☐ Noted
- ☐ Needs change
- ☐ Seen
- ☐ Overtaken by Events
- ☐ See Minister's Notes
- ☐ Withdrawn

Comments

BRIEFING

Active Investor Plus visa: potential design changes

Date:	16 December 2021	**Priority:**	Medium
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Purpose

This paper:

- proposes changes to the settings of the Active Investor Plus visa, including the minimum investment threshold and targeting of active investors, reflecting further consultation with relevant government agencies and our discussion with the Minister for Economic and Regional Development on 13 December [aide memoire 2122-2175 refers], and
- seeks your agreement to test the proposals in this briefing with selected non-government stakeholders over January and February 2022.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a **Note** that Cabinet approved the creation of the Active Investor Plus visa to replace the existing Investor 1 and Investor 2 visa categories, with the following parameters [DEV-21-MIN-0162]:

- Minimum funds threshold of $25 million.
- A weighting system according to the type of investment:
  - Angel/seed: 3x
  - Venture capital/private equity: 2x
  - Shares: 1x.
- Requirement to invest in active investment, though funds could be held in bonds for the first 12 months.
- English language requirements.
- Allow up to 40% philanthropy.

Noted

b **Note** that we have since been working through the implementation of the visa with New Zealand Trade and Enterprise and Callaghan Innovation, who have suggested changes to the visa's settings to better meet the Government's objectives

Noted

c **Note** that we discussed potential enhancements to the visa at the Minister for Economic and Regional Development's officials' meeting on 13 December 2021 and the Minister agreed to consider lowering the minimum investment threshold to $15 million and to change the weighting system so it better incentivises active investment

Noted

d **Note** that officials recommend lowering the minimum investment threshold from $25 million to $15 million to better reflect the changing market environment and context and better align with investor visa schemes of international peers

Noted

e **Note** that we also propose enhancing the targeting of active investors by including direct investment (i.e. investing directly in New Zealand businesses) as a new investment category with a 3x weighting for every dollar invested

Noted

f **Direct** officials to develop a draft Cabinet paper seeking approval to:

a. replace the minimum investment threshold of $25 million with an upper investment threshold of $15 million (and maintain the tiered weighting system)

Agree / Disagree / Discuss

b. enhance the targeting of active investment (e.g. by creating a new investment category for direct investment)

Agree / Disagree / Discuss

g **Agree** that officials undertake targeted consultation with some selected non-government stakeholders (and the Productivity Commission) over January/February 2022 to ensure the proposals are appropriately configured to target active investors

Agree / Disagree / Discuss

h Note we anticipate the visa could be operational by mid-2022, subject to other competing demands for immigration resource through 2022

Noted

Privacy of natural persons

Kirsty Hutchison
Manager, Immigration (Border and Funding) Policy
Labour, Science and Enterprise, MBIE

16/12/2021

Privacy of natural persons

Landon McMillan
Manager, Investment Policy
Labour, Science and Enterprise, MBIE

16/12/2021

Hon Kris Faafoi
Minister of Immigration

..... / ...... / ......

Hon Stuart Nash
Minister for Economic and Regional Development

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Background

1. In August, Cabinet approved the creation of the Active Investor Plus visa to replace the existing Investor 1 and Investor 2 visa categories [DEV-21-MIN-0162]. The aim of the Active Investor Plus visa is to attract investors with a genuine desire to invest in innovative New Zealand businesses, and to contribute their knowledge and skills to support our frontier firms.

2. Cabinet agreed to the following parameters:

   - Minimum funds threshold of $25 million.
   - A weighting system according to the type of investment:
     - Angel/seed: 3x
     - Venture capital/private equity: 2x
     - Shares: 1x.
   - Requirement to invest in active investment, though funds could be held in bonds for the first 12 months.
   - English language requirements.
   - Allow up to 40% philanthropy.

3. Cabinet also noted that the Active Investor Plus visa would require investors to spend at least 88 days in New Zealand over the three-year investment period and delegated to joint Ministers final decision-making power on the technical details of the visa.

Revisiting the investment threshold

4. The policy process that informed the initial proposal occurred at pace to respond to New Zealand's enhanced international reputation to investors during the early phase of the COVID-19 pandemic. This limited our opportunity to thoroughly test the design with stakeholders.

5. We have since been working through the implementation of the visa with New Zealand Trade and Enterprise (NZTE) and Callaghan Innovation. They are strongly supportive of the objective to attract investors who have a genuine desire to grow innovative New Zealand businesses, and to contribute their capital, knowledge and skills.

6. NZTE and Callaghan, however, suggested lowering the minimum investment threshold. This would better reflect the changing market environment and context and align with investor visa schemes of international peers and align with our international peers, particularly Australia.

7. For example, they both thought a $10 million threshold would more suitable than $25 million. However, the threshold itself is only one aspect of the visa's targeting. A higher threshold is more relevant to wealthier investors who may only be interested in making indirect investments (and philanthropic donations). A weighting system, or lower threshold, is where we can target less wealthy investors who are willing to be more active in our investment community.

8. One potential approach would be to set an upper $15 million threshold, but with a weighting system or range of thresholds, that allow the most active investors to only invest $5 million. This captures both ends of the spectrum, but for those we are particularly keen to attract the capital required is broadly similar to the new Australian investor visa schemes.

9. Given the previous Cabinet agreement, you would need to take an amended proposal to Cabinet to change the threshold and weighting system.

Targeting the most active investors

10. After further consultation (in particular with NZTE) we recommend that officials explore further enhancing the targeting of active investors, for example by:

    - Changing the investment categories to be based on the style of investment (direct or indirect) as opposed to the stage of the investment (i.e. private equity, venture capital, or seed) as this is a better proxy for the degree of "activeness" (e.g. the level of involvement in running and growing the business by bringing to bear not only their capital, but also their skills and networks, i.e. 'smart capital'). Indirect investments would be those that are done through a third-party manager (i.e. a fund, whether that is a PE, VC or seed fund). A direct investment could be where an investor takes a direct stake in the company.

    - Giving higher weighting to direct investments if the investor takes a number of smaller investments in a range of smaller companies, which represent a relatively significant shareholding. This is because an investor is likely to be more active in a company that they own a larger stake in (e.g. they may sit on the Board or otherwise be involved in the business' decision-making).

    - Limiting the amount of investment in listed equities (e.g. to 50%), as an investor who only invests in listed equites may end up with no active role in supporting any New Zealand businesses.

    - Facilitating active investment by allowing investors to make their investments progressively over the three years, rather than all up front as is the case under current settings. This encourages active involvement in the investment ecosystem and recognise that it takes time to understand the market and find good opportunities.

11. A potential set of additional categories and weighting that takes into account all these factors is shown in Annex One. This is a straw person example to give a general sense of what some potential changes could look like. We would look to test these proposals through consultation with selected stakeholders.

12. This approach is consistent with some of the suggestions from the Productivity Commission's interim report on New Zealand's immigration system. In particular, the Productivity Commission has suggested that we refine the investor visa categories to better target smart capital. They have also suggested reviewing the Investor 1 and Investor 2 visa categories, as they do not seem well-aligned with New Zealand's economic needs. For example, these categories largely reward investment in passive assets for which there is no shortage of funds (e.g. bonds or shares), and which do not obviously contribute to productivity growth in New Zealand.

The visa should involve a partnership between INZ and other government agencies

13. There are a range of agencies across government that specialise in business development, most notably NZTE, Callaghan Innovation and New Zealand Growth Capital Partners (NZGCP). We consider that the Active Investor Plus visa should utilise the expertise of these agencies to verify acceptable investments and to direct investors towards growth areas of the economy.

14. Our proposal is to leverage off the current work that Crown Entities (NZTE, Callaghan Innovation and NZGCP) do to in ensuring that any nominated funds or programmes only involve legitimate high-growth potential businesses.

15. We want to continue to leverage capabilities and skills of reputable private sector businesses to help match investors to legitimate high-growth potential businesses. However, such a system would be more complex (compared to using government agencies) to set up in a manner that achieves government objectives without being overly burdensome.

16. Further detail on how we can utilise the expertise of Crown Entities is provided in Annex Two.

Closing the Investor 1 and Investor 2 visa categories

17. Since the borders closed, INZ has been receiving applications for Investor 1 and Investor 2 visas and processing them up to a decision-ready point. INZ has not been able to grant visas, as visa holders have not been able to legally enter New Zealand.

18. On 22 November 2021, the High Court ruled that the border entry immigration instructions that prevent first time resident visa holders who applied for residence before the border was closed from travelling to New Zealand are ultra vires[1]. Instructions have since been amended, which means that INZ will begin granting Investor 1 and Investor 2 visas.

19. This will see people entering New Zealand on Investor 1 and Investor 2 visas. We recommend Investor 1 and Investor 2 remain open until the new visa is close to implementation, as this ensures that a pathway remains open for investors while we finalise the details of the new visa. Closing the pathway too early may also make it harder to promote the new visa when it is implemented, as investors may read that New Zealand is closed for business.

Next steps

20. If you agree to revisit the investment threshold (and other settings), we would like to test assumptions and settings with select stakeholders from the private sector. We also see value in working closely with the Productivity Commission as they develop their final report on New Zealand's immigration system, which is due in April 2022.

21. Following these discussions, we will come back to you with a draft Cabinet paper by March 2022.

22. We anticipate the visa could be operational by mid-2022.

Annexes

Annex One: Straw person revised settings

Annex Two: Utilising the expertise of Crown Entities

[1] *Afghan Nationals v The Minister of Immigration* [2021] NZHC 3154.

Annex One: Straw person revised settings

NZTE has proposed that we reconfigure the weightings Cabinet agreed to by rewarding direct investment over indirect investment to better meet the objective of encouraging investment in high growth potential businesses.

Indirect investments would be where the investment is made into an investment vehicle that is managed by someone else (such as a PE, VC, or Seed fund) whereas direct investments, would be where the investor migrant makes an investment into a business directly (although this can be through a trust, or similar standard investment vehicle that that the visa holder controls).

The table below provides an example of how this could operate.

Investment category	**Weighting and conditions**
Indirect investments	
Equities (any NZ entity on a NZ regulated market)	1x Should limit listed equities' contribution to the threshold, e.g. to 50%
Philanthropy	1x Maximum of 40% (List of approved charities could be put together in consultation with Philanthropy NZ)
Seed/VC/PE Funds (i.e. indirect investment managed by someone else)	2x
Direct investments	
Direct VC, direct private equity or direct seed (i.e. angel) An investment would need to be a *significant* stake in *small* businesses. This avoids the investor migrant taking a small passive stake in a large business, but encourages having active roles in a number of smaller firms	3x We could require that investors must invest a minimum amount in direct investment, e.g. $1.5m

This means that the effective thresholds would be $15m if the investor invests in a diverse portfolio including shares and philanthropy, $10m if the investment is via a seed or Venture capital fund, and $5m if the investor invests directly in high growth potential businesses.

We think the distinction between indirect and direct investments is potentially a better proxy for the level of "activeness" of the investment (as opposed to the current approach of relying on the stage of the investment, e.g. Angel/VC/PE).

This is because any investments into a fund managed by an independent manager are less likely to see the migrant involved in the individual running of the businesses the fund invests in, whereas when the investor migrant makes a direct investment, they are more likely to be actively involved in the running of the business.

Investing more actively (where there are capital gaps and in more risky, newer sectors) is beneficial to the New Zealand economy, as it provides the economy with smart capital from investors with unique capability and it attracts capital to spaces where there is not sufficient capital already. We can attract more people with the skills to be an active investor with a lower capital requirement (i.e. by weighting more active investments). This rewards the hard work and risk inherent in investing in early-stage businesses by requiring a lower level of capital than more passive investments.

In addition, we need to take into account that investors will on average only want to invest a maximum of 20 per cent of their wealth into high risk investments (to have a diversified portfolio). This also supports a lower capital requirement for more active, direct investments.

Investments into listed equities, either direct or indirect are not going to see the investor migrant involved in helping to run or support businesses. There is also no capital shortage in listed equity markets. We therefore think the migrant should only be able to invest a maximum amount of their total qualifying investments in listed equities (e.g. 50 per cent), but are able to invest more in listed equities as a ‘holding’ investment while they are waiting to make more active investments.

There is still a policy rationale for encouraging investment into indirect seed/VC/PE funds, as even investors with indirect investments in VC/PE/angel can be quite active. These funds tend to be higher risk, and hence there is more incentive on the investor to take an active interest. In addition, fund managers, especially if their offers are oversubscribed (which is increasingly common in a world awash with capital), look to only accept investments from investors who will add to the skill pool they can draw on to support the business the fund invests in. In other words, even if an investor only invested in funds, they may still end up being “active”, depending on the type of fund. We therefore suggest a higher weighting (e.g. 2x) for investments in these types of funds.

If you want to further incentivise active investment, we could consider a requirement for a minimum level of direct investment in any investor’s portfolio (e.g. $1.5 million).

A truly active investor migrant is likely to invest in a number of relatively small businesses with strong growth prospects, over the course of the visa. The amount invested in each business would be significant enough that the investor wants to get involved and help the business grow. We note if the investor migrant was to put all their money into one business, but this was only a small stake in a large business, then this may also end up as quite a passive investment.

The system needs to carefully balance the desire to target active investment with a set of rules that is simple to operationalise and communicate. These rules can also lead to a system that is inflexible, which can result in perverse outcomes and increase the risk for the investor.

Facilitating active investment

We consider that investors should be able to make their investments progressively over the three years. This allows active involvement in the investment ecosystem to happen, as we need to recognise that it takes time to understand the market and find good opportunities. The current investor visa settings require all investments to be made up front and maintained over the three year investment period. This does not encourage them to be active over the three year period, though some may choose to.

We consider that investors should be able to get their money away progressively over the three years, incentivising active involvement in the investment ecosystem. For example, we could set minimum levels of investment that increase progressively over the three year period. Investors could still opt to make all of their investments at the start, but they would have the option of taking their time if they wish to. This reduces the risk that investors see the rules as too inflexible, and therefore too risky, which would otherwise disincentivise them from applying.

At the final check, INZ would also (amongst other things) assess whether the investor has spent the minimum required time in New Zealand (at least 88 days over the three-year period).

Types of investment

The table below helps to show the underlying rationale for targeting different types of investments. Where we see most value for an investor migrant to contribute is in investments that are very active, fill a gap in the market, and are high risk.

Type of investment	How Active	Gap in the market	Risk
Many direct investments with a significant shareholding in businesses	Very high	High - if SMEs (with revenues between $3m-$30m) or certain start-ups	High - Very high (Seed highest)
One or a few direct investments with a significant shareholding	High	High - particularly for SMEs (with revenues between $3m-$30m)	Low-high (depending on stage/size)
Direct investments but with a small shareholding	Med-low	Med (More follower Angels)	High (unless large firms)
Alternative listed shares (eg Catalyst)	Med-low	Untested	Med-high
Seed Funds[2]	Med-low	High - few funds, and gap in pre-seed/seed particular sectors (e.g., deep tech)	Very high
VC Funds	Med-low	Low (currently)	High
PE Funds	Low	Low	Med-high
Listed Shares (eg NZX)	Low	No gap	Low
Bonds	Very low	No gap	Very low

** Philanthropy can be low to high activeness, depending on the nature of the donation.*

2 Seed and VC f+C2:F17unds often only invite large investors into the fund if they are able to bring expertise, connections to the underlying businesses in the fund.

Annex Two: Utilising the expertise of Crown Entities

We see an opportunity for the Active Investor Plus visa to utilise the expertise of the range of investment functions across government in verifying acceptable investments and in directing investors towards growth areas of the economy. We set out below some initial thinking on how this could be done in practice.

Verifying acceptable investments

Qualifying **indirect** investments would only be in seed, VC or PE funds that are managed by Crown Entities or have been verified by Crown Entities. A list of acceptable funds would be listed on NZTE's website.

Qualifying **direct** investments would be those that are in businesses which are either NZTE customers or businesses in which NZGCP or a qualifying indirect investment fund has invested. The list of acceptable investments will not reference individual businesses; rather, it will include funds in which investors may invest their funds and programmes that identify businesses seeking capital.

NZTE and other agencies would be required to only nominate programmes that result in:

- investment into New Zealand entities that clearly contribute to the Government's economic strategy (by being a high growth potential business)
- providing assurance that proper verification is done on the business and its governance (ensuring that the business is legitimate, not a test of its financial health and growth potential – which is for the investor to ascertain)
- avoiding prejudice to New Zealand's reputation as a responsible member of the world community.

To avoid limiting the list of acceptable investments to those decided at a point in time, we recommend that a process is created for other funds or platforms to be added as qualifying investments. This creates a living framework that can pivot to include new opportunities as they are identified. We propose applying the criteria above for additions, with final decisions on whether to add a fund or platform resting with the Minister of Immigration, the Minister for Economic and Regional Development and the Minister for Research, Science and Innovation. Ministers would receive cross-portfolio advice from MBIE.

This could represent a change from the types of investor who have been attracted to the existing investor visa categories, as they may have looked to invest in businesses that are not seen as contributing to the Government's economic strategy.

Once the investor has made their investments, we propose that they must obtain a letter from NZTE confirming that the businesses or funds invested in meet the criteria of the visa. This letter would be used to support the investor's case to INZ (providing a summary of the investments), with INZ having final decision-making authority.

Having an approved list of funds and platforms streamlines the process. INZ does not need to conduct detailed assessments of whether an investment is acceptable, as by definition if an investment is in a fund or programme that is on the list, it is an acceptable investment. INZ's role would instead focus on the integrity of the system, ensuring investors meet the conditions of their visa and that funds are legitimately committed or transferred and are legal.

Limiting qualifying investments to those where Crown Entities have some form of involvement does not cover all potential opportunities for investment. We note that this would reduce the number of potential applicants. However, it ensures that criteria are targeted. The alternative is to set criteria that capture as many opportunities as possible, however this would risk opening loopholes for less desirable investments and make for a complicated assessment process.

With a more restricted set of qualifying investments, we expect lower volumes of applicants than there had been for the Investor 1 and Investor 2 categories prior to the border closure. The intent of the new visa, however, is to increase the quality of investment coming in through investor visas, rather than the quantity. We consider that a smaller number of committed investors, who participate actively in New Zealand's start-up ecosystems, is of more value to New Zealand's economy than a large number of high net worth individuals who invest large sums of money in less productive areas of the economy.

Roles and responsibilities

This would mean that INZ is responsible for checking that funds are legally acquired, investors are healthy and of good character, making final assessments to ensure all conditions of the visa have been met, and granting visas. NZTE's role would be to help support investors to integrate into the investment ecosystem, and to ensure the programme makes the most of investment opportunities in New Zealand.

Callaghan Innovation and NZGCP's (and other Crown Entities whose programmes may be added in time) role would be to nominate qualifying funds and platforms via which investor migrants will invest their money. In doing this, they would need to continue to undertake suitable processes which ensure that any nominated funds or programmes only involve legitimate high-growth potential businesses.

NZTE have also noted the importance of the investors being required to share information with responsible agencies and actively engage throughout the term of the visa. From a "customer experience" perspective having a single point of contact who is responsible for connecting the investor to the ecosystem and high quality investment opportunities will also be important in NZTE's view.

We also see an opportunity for Crown Entities, in particular NZTE, to have an active involvement with investors as they work their way through New Zealand's investment ecosystems. For example, once an investor arrives in New Zealand on a Specific Purpose Work Visa they could be assigned an NZTE investment manager, who can guide them through New Zealand's investment ecosystems and point to opportunities for investment.

We see a case for increasing NZTE's involvement in aftercare arrangements for investors, such as by assigning an NZTE investment manager to each investor migrant. This creates an overlap with INZ's existing aftercare activity; however, we see value in NZTE utilising its investor networks and platforms to guide investor migrants towards investment opportunities that the Government considers high value.