

Tier 1 Investor rule changes – how do they affect me?

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The rules surrounding the Tier 1 (Investor) visa category have been reviewed and amended to address concerns about corruption and money laundering. Here we help you consider how the new rules affect you.

New applicants

If you are making your first application for a Tier 1 (Investor) visa, you must now ensure that:

- the investment money has been held by you for at least two years, instead of the previous 90 day period;
- if your investment money was transferred between countries unlawfully or will be transferred in this way, it cannot be relied on; and
- the UK bank letter supporting the application must also include a statement that 'the bank has carried out all required due diligence checks and Know Your Customer enquiries'.

If you have not held the funds in your account for at least two years, but have received them through another acceptable source (such as a gift, trust distribution or divorce settlement) it is still possible for you to apply as long as additional evidence of these funds can be provided in support of your application.

Investments once in the UK

UK Government bonds or treasury bills are no longer considered to be UK qualifying investments and, once in the UK, new applicants will need to invest their money in the share or loan capital of active and trading UK registered companies.

Individuals who have already invested some money in the UK within the 12 month period before they apply for the Tier 1 (Investor) visa will also be unable to rely on this if the investment was made in UK Government Bonds.

A positive change in the new rules is that money invested in pooled investment vehicles are now permitted, so long as they are regulated by the FCA and have received funding from a UK government department or through an intermediary vehicle. Investments made through an intermediary vehicle will be considered to have been made in the company in which they are finally invested.

Active and Trading UK registered companies

There is a new definition of active and trading UK registered companies for investments made by new applicants, as well as for Tier 1 (Investor) visa holders submitting an extension application after 6 April 2023 or settlement application after 6 April 2025.

The new definition requires a UK company to:

- be registered with Companies house
- be registered with HMRC for Corporation Tax and PAYE
- have accounts and a UK based bank account showing regular trading of its own goods and services
- have at least two UK-based employees (not including directors)

If you intend on, or have made, your investment in a limited company you will be required to submit documents to show that the company meets this definition. However, the Home Office has confirmed that no additional documents will be needed if your investment is made in a public limited company registered in the UK with Companies House.

Extension and settlement applications

If you are already in the UK on a Tier 1 (Investor) visa granted under the pre-29 March 2019 rules, you can continue to hold your investments in UK Government Bonds for the time being, but will need to reallocate them if you are submitting an extension application after 6 April 2023 or a settlement application after 6 April 2025.

If you were granted your visa under the requirements in place before 13 December 2012 and have made your investments in an offshore company or these have been held in offshore custody, you will not be able to rely on these investments in any application being submitted after 6 April 2020.

The Home Office is also now able to refuse a new application involving money or investments that are not under your control and that you are not free to invest, even if these led to a previously successful application.

Accelerated settlement applications

If you are thinking of applying for settlement under the £5 million or £10 million investment route, you should be aware that the Home Office can refuse an application if they consider:

- the money to have been transferred between countries illegally; or
- that you were not free to invest the money or the funds were not under your control.

This is in respect of any additional money you have transferred to the UK and any funds you previously relied on in your initial application.

Indefinite extensions

One attraction of the Tier 1 (Investor) visa category under the previous rules was the ability to continuously extend the visa without having to apply to settle in the UK permanently.

For those that were granted their first Tier 1 (Investor) visas under the old £1 million route, this will no longer be possible after 6 April 2020 unless the level of investment is topped up to £2 million. So long as you get your next extension application in before this date, you will be able to remain in the UK for another two years under this route.

Whilst the wording in the current UK immigration rules is confusing, the Home Office has confirmed to us that individuals will be able to continue to extend their Tier 1 (Investor) visa in the UK beyond 6 April 2022 so long as their investments are topped up to £2 million. The application can be made from inside the UK and individuals will not need to wait for a 12 month period to lapse after the expiry of their visa granted under the £1 million. We are informed by the Home Office that these details will be clarified in a future change to the rules.

Individuals who initially entered the UK under the old £1 million route will, therefore, need to apply for settlement or reconsider your UK visa options by 6 April 2022.

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