

EXPLANATORY STATEMENT

Migration Regulations 1994

ELIGIBLE MANAGED FUND INVESTMENTS

(Regulation 5.19B)

1. This Instrument is made under paragraph 5.19B(2)(c) of the *Migration Regulations 1994* ('the Regulations').
2. Subregulation 5.19B(1) of the Regulations provides that an investment by a person (the investor) is a *complying investment* if all of the requirements in the regulation are met.
3. Paragraph 5.19B(2)(c) of the Regulations provides that an investment in a managed fund (directly or through an investor directed portfolio service) is for a purpose specified by the Minister by instrument in writing.
4. The purpose of the Instrument is to specify eligible managed fund investments. It replaces Instrument IMMI 12/117 to expand the list of eligible investments for the purposes of the Significant Investor stream of the Subclass 188 Business Innovation and Investment (Provisional) visa and the Subclass 888 Business Innovation and Investment (Permanent) visa.
5. The Instrument operates to limit investments in complying managed funds to the following:
 - (a) infrastructure projects in Australia;
 - (b) cash held by Australian deposit taking institutions (including negotiable certificates of deposit, bank bills and other cash-like instruments);
 - (c) bonds issued by the Commonwealth Government or a State or Territory Government;
 - (d) bonds, equity, hybrids or other corporate debt in companies and trusts listed or expected to be listed within 12 months on an Australian Stock Exchange;
 - (e) bonds or term deposits issued by Australian financial institutions;
 - (f) real property in Australia;
 - (g) Australian Agribusiness;

- (h) annuities issued by an Australian registered life company in accordance with section 9 or 12A of the *Life Insurance Act 1995*;
 - (i) derivatives used for portfolio management and non-speculative purposes which constitute no more than 20 per cent of the total value of the managed fund;
 - (j) loans secured by mortgages over the investments listed in subparagraphs 2(a) to 2(h) of the Instrument; and
 - (k) other managed funds that invest in the investments listed in subparagraphs 2(a) to 2(j) of the Instrument.
6. Consultation was undertaken before the instrument was made with Stakeholders from the financial services industry including the Financial Services Council.
7. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 2013/14610).
8. Under section 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Human Rights Statement of Compatibility is not required.
9. The Instrument commences on 23 November 2013.