



LIN 21/041

Migration (Complying Investments) Amendment Instrument (LIN 21/041) 2021

I, Alex Hawke, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, make this instrument under subregulation 5.19C(6) of the *Migration Regulations 1994* (the **Regulations**).

Dated 24 June 2021

Alex Hawke

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

1 Name

This instrument is the *Migration (Complying Investments) Amendment Instrument (LIN 21/041) 2021*.

2 Commencement

This instrument commences on the later of:

- (a) 1 July 2021; and
- (b) the day after registration.

3 Amendment

Schedule 1 amends *Migration (IMMI 15/100: Complying Investments) Instrument 2015* (F2015L01012).

Schedule 1 Amendment

(s.3)

[1] Part 1, heading

omit

[2] Section 3

substitute

3 Authority

This instrument is made under regulation 5.19C of the *Migration Regulations 1994*.

[3] Section 4, heading, note, paragraph (b)

omit

[4] Section 4

insert

fund of funds means a managed investment fund that invests in other funds.

Note An investor can invest in managed investment funds through a fund of funds or investor directed portfolio service if the managed investment funds in which the fund of funds or investor directed portfolio service invests complies with the other requirements of the complying investment framework.

[5] Section 4, definition of *investor*

omit

or 5.19D of the Regulations, as the case requires.

insert

of the Regulations.

[6] Section 4, definition of *visa*, paragraph (c)

substitute

(c) the Investor Stream.

[7] Part 2, heading

omit

[8] After section 4

insert

4A Application and savings provisions

- (1) The amendments of this instrument made by Schedule 1 to the *Migration (Complying Investments) Amendment Instrument (LIN 21/041) 2021* apply to:
 - (a) an applicant who is invited to apply for a Subclass 188 visa if the invitation is made after 30 June 2021; and
 - (b) an applicant who applies for a Subclass 888 visa where the applicant was invited to apply for a Subclass 188 visa after 30 June 2021.
- (2) Part 3 of this instrument, as in force immediately before the commencement of *Migration (Complying Investments) Amendment Instrument (LIN 21/041) 2021*, continues to apply to an application for a Subclass 888 visa if the applicant holds a Subclass 188 visa in the Premium Investor stream that was granted or applied for before 1 July 2021.

[9] Section 5

omit each occurrence of

Part

insert

instrument

[10] Section 5, after note 2

insert

Note 2A The primary criteria for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Investor stream include a minimum total amount for the investment that is required to be made on or after the time of application to satisfy the criteria for grant of the visa—see Regulations, Schedule 2, subclause 188.244(2)(b)(ii).

[11] Section 6

substitute

6 Value of required investments

- (1) The investment must include:
 - (a) at least 20% of the total investment in 1 or more venture capital funds in accordance with section 8; and
 - (b) at least 30% of the total investment in emerging companies investments in accordance with section 9.
- (2) Any remaining portion of the investment must be invested in any of the following:
 - (a) 1 or more venture capital funds in accordance with section 8;
 - (b) emerging companies investments in accordance with section 9;
 - (c) 1 or more balancing investments in accordance with section 10.

[12] Subsections 8(2) and (3)

omit

AUD 500 000 in total

insert

20% of the total investment

[13] Subsection 8(2)

omit

12 months

insert

6 months

[14] Subsection 9(5)

substitute

- (5) The investment must not be made in:
 - (a) securities issued or proposed to be issued by a government; or
 - (b) debentures; or

- (c) securities that otherwise comply with this section but the issuer of the securities invests the proceeds of the issue of those securities in securities that do not meet the market capitalisation requirements under subsection (6).

Example A small exchange traded fund that invests in the securities of large capitalised companies is excluded under this paragraph.

[15] After subsection 9(11)

insert

Auditing requirements

- (12) Beginning financial year 2021–22, an annual audit is required for the emerging companies investment components of the complying investment framework.

[16] After subsection 10(3)

insert

Auditing requirements

- (4) Beginning financial year 2021–22, an annual audit is required for the balancing investment components of the complying investment framework.

[17] Subsection 11(9)

substitute

Derivatives

- (9) An investment may be made in a derivative, other than an option mentioned in paragraph (e) of the definition of ***securities*** in section 3, only if the investment:
 - (a) is made for risk management purposes; and
 - (b) is not a speculative investment; and
 - (c) is not designed to materially reduce or completely eliminate the exposure of an investor to the risk of loss from changes in the market price of an emerging companies investment.

Note Hedging of currency and interest rate risks will be permitted under subsection (9), however capital guarantee products are not permitted.

[18] Subsection 11(11)

substitute

Managed investment fund and venture capital fund investments—fund of funds or investor directed portfolio services

- (11) An investment in a managed investment fund or venture capital fund may be:
 - (a) made through a fund of funds or an investor directed portfolio service, if the investment otherwise complies with this instrument; and
 - (b) held in cash in the fund of funds, or investor directed portfolio service:
 - (i) for up to 30 days after the funds are first made available for investment; and
 - (ii) during any switching period mentioned in subregulation 5.19C(7) of the Regulations.

[19] Part 3

omit
