



BRIEFING

Update on Active Investor Plus visa category

Date:	15 July 2022	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2223-0060

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister for Economic and Regional Development	Agree to the recommendations in this paper	20 July 2022
Hon Michael Wood Minister of Immigration	Indicate your preference for a start date in September	
	Refer this briefing to the Minister of Research, Science and Innovation	

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

The following departments/agencies have been consulted
NZTE

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



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Purpose

This briefing provides you with an update on key pieces of work and upcoming milestones for the new Active Investor Plus visa ahead of its announcement on 20 July 2022. It also seeks agreement to a start date in September.

Executive summary

The Active Investor Plus visa will be announced on 20 July through a joint press release. The Minister for Economic and Regional Development will also host an event at a company that has benefited from an active investor migrant.

The new visa is intended to attract skilled and experienced investors to invest in New Zealand businesses, particularly in high-growth potential firms that support the creation of high-value jobs and exports. The new visa settings also incentivise a greater proportion of direct investment to be made upfront compared to the existing Investor 1 and Investor 2 visa settings.

The existing visa categories will close to new applications on 27 July, one week following announcement. We seek your agreement to a start date in September (either 1 September or 19 September).

On 9 May, Cabinet agreed to the final policy settings for the new visa and delegated authority to the Ministers for Economic and Regional Development and Immigration to take further decisions on minor policy and technical details ahead of implementation. In August, Ministers will be invited to:

- approve detailed eligibility criteria that determine the list of acceptable investments under the new visa (the Minister of Research, Science and Innovation is one of the authorised Ministers)
- seek approval to amend the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010 to set a fee for the new visa and close Investor 1 and 2 categories, and
- the Minister of Immigration will be invited to certify immigration instructions setting out the detailed criteria for the new visa.

MBIE is preparing a paper for the Minister of Immigration to take to Cabinet Legislation Committee on 4 August, seeking approval to the regulation changes referred to above. To meet a 1 September implementation date, timeframes for Ministerial consultation would need to be shorter than the standard preferred by Ministers' offices. The 28-day rule would also need to be waived on administrative grounds to enable the new visa to go live on 1 September.

We are also seeking Ministers' endorsement for the processing of new Active Investor Plus visas to be prioritised, relative to on-hand investor visas (noting that decisions about the order and manner of processing visas are ultimately determined by the Deputy Secretary, Immigration New Zealand).

Recommendations

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

- a **Note** that Cabinet agreed to a new Active Investor Plus visa category to attract skilled and experienced high-value investors and incentivise direct investment in New Zealand firms [DEV-22-MIN-0098 as confirmed by CAB-22-MIN-0162]
Noted
- b **Note** that the Active Investor Plus visa will be announced on 20 July by the Minister for Economic and Regional Development, and that the existing Investor visa categories will be closed one week following that announcement on 27 July 2022
Noted
- c **Agree** that the Active Investor Plus visa will go live on:
EITHER
i. Thursday 1 September, as signalled in previous advice
Agree / Disagree
OR
ii. Monday 19 September, to provide more time for implementation readiness
Agree / Disagree
- d **Note** that Cabinet authorised the Minister for Economic and Regional Development, the Minister of Immigration, and the Minister of Research, Science and Innovation to approve acceptable investments that investors can make under the Active Investor Plus visa
Noted
- e **Note** that authorised Ministers will receive the advice on the eligibility criteria and list of acceptable investments for approval in early August
Noted
- f **Note** that immigration instructions for the Active Investor Plus visa will be submitted to the Minister of Immigration for approval in late August and that these will include a number of

technical changes that better reflect market realities than the existing investor visa requirements

Noted

- g **Agree** to endorse prioritisation of new Active Investor Plus visas, relative to on-hand investor visas (noting that decisions on the order and manner of processing are ultimately decided by the Deputy Secretary of Immigration)

Agree / Disagree

- h Constitutional conventions

Noted

- i **Forward** this briefing to the Minister of Research, Science and Innovation

Agree / Disagree

Privacy of natural persons

George Whitworth
Manager (Acting), Investment Policy
Labour, Science and Enterprise, MBIE

15/07/2022

Privacy of natural persons

Kirsty Hutchison
Manager, Immigration Policy
Labour, Science and Enterprise, MBIE

15/07/2022

Hon Stuart Nash
Minister for Economic and Regional Development

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Hon Michael Wood
Minister of Immigration

..... / /

Active Investor Plus visa background

The new Active Investor Plus Visa, targeting more active investors, will be announced on 20 July...

1. Cabinet has agreed to create a new Active Investor Plus visa category to attract skilled and experienced high-value investors to make more active and upfront investments in New Zealand [DEV-22-MIN-0098 confirmed by CAB-22-MIN-0162].
2. The visa (which replaces the existing Investor 1 and 2 visa categories) is intended to attract investment to high-growth potential firms where capital is most needed and to incentivise investors to bring their skills and connections to positively impact New Zealand businesses.¹
3. The following threshold and weighting system recognises that direct investment (the most active category) is more impactful but also riskier:

Table 1: Active Investor Plus investment weighting system

Investment category	Weighting
<i>Indirect investments</i>	
Listed equities (i.e. NZX) (50% cap)	1x
Philanthropy (50% cap)	1x
Acceptable private funds	2x
<i>Direct investment</i>	
Acceptable direct investment	3x

4. Applicants who make acceptable direct investments and meet other visa conditions will be eligible for the new visa with a \$5 million minimum investment. A higher investment threshold of \$15 million will apply for indirect investments (e.g. in listed equities) which tend to be more passive.
5. The new visa also places a 50 per cent cap on investments in listed equities, sets a higher level of English language skills and requires investors to spend at least 117 days in New Zealand over a three-year investment period. These settings are intended to increase the benefit to New Zealand from the visa category. A table attached at Annex One compares criteria under existing Investor 1 and 2 categories with the new Active Investor Plus visa.
6. Investor attraction and aftercare functions were transferred from MBIE to New Zealand Trade and Enterprise (NZTE) on 1 July 2022. The transfer of functions complements NZTE's current focus on supporting domestic businesses to access international capital, knowledge, and skills. Immigration New Zealand (INZ) will continue to process visa applications.

¹ Investors generally shift to more active investments, as they gain knowledge of New Zealand's economy and business environment. Premium Research. 2016. Immigration New Zealand Investor Migrant Research 2016: Report on Quantitative and Qualitative findings. Wellington: Ministry of Business, Innovation and Employment

7. In preparation for the launch of the new Active Investor Plus visa, NZTE is developing promotional strategies for key markets involving a multi-channel approach (e.g. in-person events, digital media, private sector engagement, and NZ Inc partner referrals). In the short-term, and once the new policy is announced, a programme of both domestic and in-market events is being planned for. These will include key stakeholders in the domestic investor migration 'system' such as economic development agencies, immigration lawyers and advisors, banks and investment funds. In-market 'launch' events for the new visa are planned to be held in September.
8. Your offices have agreed to announce the new visa on the afternoon of 20 July 2022, with the Minister for Economic and Regional Development leading the announcement at Syft Technologies in Christchurch. The existing Investor 1 and 2 visas will close one week following announcement on 27 July 2022.

A small number of technical policy decisions and regulatory steps remain in order to implement the new visa

9. Cabinet has delegated decisions on minor policy and technical details to implement the new visa to the Minister for Economic and Regional Development and the Minister of Immigration.
10. Several decisions that are needed ahead of implementation, including:
 - confirmation that the new visa will open to applications on 1 September 2022, as signalled in previous advice
 - approval from joint Ministers (the Minister for Economic and Regional Development, the Minister of Immigration, and Minister of Research, Science and Innovation) on the eligibility criteria and list of acceptable investments under the new visa
 - amendments to regulations to set a fee for the new visa and close Investor 1 and 2 categories, and
 - certification of immigration instructions setting out the detailed criteria for the new visa.

Go-live date

11. Previous briefings have noted potential go-live dates of 1 September and 1 November. When the new visa is announced, Ministers are likely to be asked when the new visa will be open for applications.
12. INZ would prefer a slightly later go-live date of 19 September as this might enable an online application form to be developed (the current investor visa forms are paper based). NZTE also prefers a mid-September start date as it would allow them to run planned September international attraction activities ahead of the launch date and gives more time for engagement and education of the New Zealand investment ecosystem.
13. The advantage of a 1 September launch date is that it is closer to the date of the policy announcement and will keep the market engaged and provide focus for the forthcoming promotion and attraction activities. There are benefits to an online application process. However, for such a low volume visa category there may be limited operational benefit from

having the online application stood up immediately. Most people who seek to enter New Zealand under this visa category will contract someone to manage the process.

The list of acceptable investments

14. A key aspect of the new visa is a weighting system for different investment classes. Developing clear, accessible, and workable criteria to inform potential migrant investors on what constitutes an acceptable investment is critical to the success of the new policy.
15. NZTE (with the assistance of a cross-agency working group and selected licensed immigration advisors and lawyers) has led the development of the eligibility criteria that will be used to generate a list of acceptable investments. A draft of the eligibility criteria proposed by the working group is attached in Annex Two. We will provide authorised Ministers with the final eligibility criteria, along with a list of acceptable investments, for approval in early August. Following approval by Ministers, acceptable investments will be published and available on NZTE's website, prior to the go live date in September.

A change to immigration regulations is needed to create a fee for the new category

16. Immigration fee and levy rates are set out in the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010 (the Regulations). Amendments to the Regulations are required so that fees can be charged to Active Investor Plus visa applicants.
17. MBIE is preparing a paper for the Minister of Immigration to take to Cabinet Legislation Committee on 4 August, seeking approval to these regulation changes before the new investor visa category opens for applications. References to Investor 1 and 2 categories will also be removed through these amendment regulations in order to formally close them.
18. To meet the 4 August deadline, the timeframes for Ministerial consultation will be shorter than the standard preferred by Ministers' offices. The 28-day rule would also need to be waived on administrative grounds to enable the new visa to go live on 1 September.
19. Officials have not been able to progress amendment regulations ahead of having a confirmed announcement date as the Gazettal and publication of regulations would have inadvertently announced the new policy.

Amendments to immigration instructions

20. The new Active Investor Plus visa will be implemented through immigration instructions, which are the rules and criteria for the grant of visas and entry permission to New Zealand and are set out in the Immigration New Zealand Operational Manual online. Section 22 of the Immigration Act 2009 authorises the Minister of Immigration to certify changes to instructions. MBIE is currently working through implementation detail for the new visa and will provide the Minister of Immigration with draft immigration instructions for certification in August.
21. As part of work to determine acceptable investments, stakeholders have raised a number of technical questions about the new visa category and have recommended improvements to the new visa based on lessons learned from the existing Investor categories. Officials are continuing to work through these and consider that some of technical criteria used in Investor 1 and 2 categories could be amended to improve the new category for applicants and better reflect market realities. A preliminary list of the technical amendments raised by working group stakeholders is included in Annex Three for information.
22. Some of the changes officials will recommend include extending the three-month timeframe to transfer nominated funds to New Zealand to six months, with the possibility to extend by an additional six months if there is clear evidence that the investor has made reasonable

efforts to transfer funds to New Zealand within the initial six-month period. This provides investors with time, which market participants have said is realistically required, to liquidate and transfer funds to New Zealand.

23. Officials also recommend that visas are granted with travel conditions that align to the four-year investment period, rather than for two years as per current settings. While travel conditions are granted for two years across most residence class visas, officials consider that requiring investor visa holders to apply for a variation of travel conditions after two years could duplicate the existing assessment that INZ undertakes 18 months after the grant of the visa to ensure that visa holders are meeting the conditions of their visa. There is little downside to this change, and it is likely to make the visa more attractive to potential investor migrants.

Transitional policy matters

Processing and prioritisation of the new and existing Investor categories

24. Work is underway to consider how the Active Investor Plus visa will be processed and prioritised relative to on-hand Investor 1 and 2 visa applications. The Deputy Secretary, Immigration New Zealand determines the order and manner of processing visa applications under section 26(4) of the Immigration Act 2009. This enables the prioritisation of processing effort. There is currently no specified prioritisation set out for investor category visas. However, INZ has a team with specialist skills who only process these visas.
25. There is a question about whether applications for the new Active Investor Plus visa should be prioritised over existing applications for Investor 1 and 2 categories. As of 22 June 2022, INZ had 472 Investor 2 applications and 109 Investor 1 applications on hand to be processed. It can take up to three years to process applications made under Investor 1 and 2 categories, which includes a 12-month investment period for applicants to complete their investment in New Zealand. Ninety per cent of applications are currently completed within this time.
26. The announcement of the new visa provides a clear direction that the Government wants to target investors who are making more active and upfront investments in New Zealand's economy. In light of this, officials consider that there may be a case to prioritise Active Investor Plus visa applications. We do not consider that there will be a large volume of applications made under the new settings in the short-term, which will mean existing queues for Investor 1 and 2 visas are unlikely to be significantly lengthened by prioritising Active Investor Plus processing.
27. We recommend that you endorse the proposal that priority be given to applications for the Active Investor Plus visa.

Some existing applicants may wish to transfer their application to the Active Investor Plus visa

28. Officials are also currently working through options on how best to facilitate applicants who wish to transfer their applications under the Investor 1 or 2 categories to the new visa, including level of fees that will be charged. The criteria for the new visa set a higher level of investment than the existing Investor 2 criteria, and would require a considerably re-worked application. Officials consider that there are unlikely to be any Investor 2 applicants who would wish to transfer to the Active Investor Plus category and that those who wish to do so will need to make a new application under the Active Investor Plus category.

29. There may be a small number of Investor 1 applicants who wish to transfer to the new category. However, a recent review of immigration fee and levy rates means that the fees for applications under the new category are considerably higher than the current rates. Current charges for Investor 1 and 2 visa applications are \$4,960, which will increase to \$7,780 from 31 July.² The new, higher rate will apply to the Active Investor Plus visa, consistent with Cabinet's earlier decision [DEV-21-MIN-0162 confirmed by CAB-21-MIN-0318]. These increases reflect cost recovery principles and are competitive with comparable countries.
30. We will provide further advice to the Minister of Immigration on options for the treatment of fees and levies for applicants who have a current Investor 1 application being processed but may wish to transfer to the new Active Investor Plus visa.

Evaluation of the new visa

31. Cabinet directed officials to undertake an implementation review of the Active Investor Plus visa 12 months after it goes live and to undertake an impact evaluation of five years after it goes live, with report backs to DEV. Constitutional conventions

Next steps

32. Officials will continue to work on the detailed design and implementation details for the Active Investor Plus visa. The table below outlines upcoming milestones.

Date	Milestone
18 July	Minister of Immigration receives immigration instructions to close the existing Investor 1 and 2 categories
20 July	Announcement of the new Active Investor Plus visa
27 July	Existing Investor 1 and 2 categories close
4 August	Cabinet Legislation Committee considers changes to immigration regulations to implement a fee for the new visa
Early-August	Acceptable list of investments provided to the Minister for Economic and Regional Development, Immigration and Research, Science and Innovation for approval and then published on NZTE's website. Constitutional conventions
Late-August	Minister of Immigration receives immigration instructions to certify, along with further advice on options for transitional arrangements for those applicants wishing to transfer their applications under Investor 1 or 2 categories to the new visa.
1 September	Active Investor Plus visa goes live

Annexes

Annex One: Comparison of Active Investor Plus category with existing Investor 1 and 2 visa categories

Annex Two: Draft list of acceptable investments

Annex Three: Issues raised during consultation relating to technical details

² Note that applications made onshore are charged a slightly higher rate of \$7,900, which is inclusive of GST.

Annex One: Comparison of Active Investor Plus category with existing Investor 1 and 2 visa categories

	Investor 1	Investor 2	Active Investor Plus
Minimum investment	\$10 million	\$3 million	\$5 – 15 million, depending on investment type
Investment period	Three years	Four years	Four years (funds can be invested over three years and must be held for the fourth)
Annual cap	None	400, with a weighted points system	None
Time spent in New Zealand	88 days over investment period	146 days in New Zealand per year over investment period	117 days over investment period
Language requirements	None	Applicants with an IELTS score of 3 or below must undertake 20 hours of English language tuition over the investment period	IELTS 5 or equivalent (a moderate level of English language skills)
Business experience or skills	None required	Applicants can earn points for years of business experience	More direct investment carries greater risk to investors, but also greater responsibility to that company. The weighting system is intended to incentivise investor migrants to bring more of their skills, connections and experience to enhance the firm's growth opportunities.
Value of initial investments since 2009	\$6.78 billion (679 investors)	\$5.184 billion (2,385 investors)	

Annex Two: Draft eligibility criteria to be on the list of acceptable investments

Investment class	Eligibility criteria
Listed equities	<p>Investment in New Zealand equities, being firms that are:</p> <ul style="list-style-type: none"> Publicly listed on the NZX; and New Zealand domiciled. <p>Exchange traded or index funds in New Zealand equities (ETFs) which consist only of the above securities are acceptable.</p> <p>Investments can be made through managed funds, brokers and platforms, provided the underlying securities meet the above criteria.</p> <p>When an investment changes where it is domiciled or is delisted, the investor has 30 days from the change being made to trade/reinvest the funds back into an acceptable investment.</p>
Philanthropy	<p>Up to 50% of the total investment portfolio can be put into:</p> <ul style="list-style-type: none"> A registered charity with at least two years annual returns and Inland Revenue donee status
Private funds	<p>Any New Zealand domiciled private funds which:</p> <ul style="list-style-type: none"> are on the funds whitelist;³ or are confirmed by New Zealand Growth Capital Partners (NZGCP)/NZ Super as an acceptable fund [note: detail still being worked through]. <p>A fund cannot invest in publicly listed securities (equities or debt). A fund which makes private debt (as opposed to equity) investments is still acceptable (but the investment by the investor in the fund itself cannot be structured as debt).</p> <p>As long as the investor has entered into a binding and non-revocable commitment to the fund, the total commitment of the investor to the fund is treated as invested for the purposes of the visa conditions (not just the amount called by the fund).</p>
Private direct investments	<p>Investment in a private New Zealand domiciled firm,⁴ which:</p> <ul style="list-style-type: none"> has previously or will receive capital from an eligible fund (approved per the private funds eligibility criteria); or is listed on the NZTE Live Deals platform; or is being promoted for investment by NZTE Investment or has otherwise been determined by NZTE to be an acceptable direct investment.

³ The whitelist will initially consist of any fund that has received investment from NZGCP, NZ Super Fund, ACC Accident Compensation Corporation, or any other Government fund (and will be published on NZTE website).

⁴ Entity must be New Zealand domiciled at the time the investment transaction took place (using the NZGCP Policy Statement definition of an NZ domiciled investment per the Venture Capital Fund Act 2019).

	<p>Only equity and convertible equity investment instruments are permitted for direct investments. Pure debt instruments are not acceptable.</p> <p>Draft NZTE criteria:</p> <ul style="list-style-type: none">• New Zealand legal entity (including Māori entity) with a New Zealand Business Number (NZBN)• compliant with NZTE’s internal Know You Customer process• adheres to NZTE Investment’s Environmental, Social, and Corporate Governance (ESG)/responsible investment principles• the capital must be to support growth of the business, or creation/saving of jobs (which will have economic or other benefits to New Zealand) as determined by NZTE, and• entity is already trading/operating (see additional criteria where proposed investment is a greenfield, “start-up” or involves significant property assets). <p>Additional factors which NZTE may consider where the proposed direct investment is a greenfield, “start-up” or involves significant property assets:</p> <ul style="list-style-type: none">• the investment clearly contributes to the Government’s economic strategy (e.g., aligns with focus of NZTE Investment, MBIE Innovative Partnerships programme and foreign investment attraction, Kānoa, Callaghan Innovation or Ministry for Primary Industries)• if subject to Overseas Investment Office (OIO) approval, such approval having been provided by the OIO, and• business case developed and evidence of market validation, feasibility, or other reasonable diligence having been completed.
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Annex Three: Issues raised during consultation relating to technical details

Issue raised	Initial view from officials
<p>Investments already made in New Zealand should qualify under the Active Investor Plus visa</p>	<p>Previous investments can qualify for an Active Investor Plus visa, provided they meet the requirements for an acceptable investment. The investment would also need to comply with the holding period and other conditions of the visa and any previous investment period would not count towards meeting the Active Investor Plus policy.</p>
<p>Investors need time to liquidate and transfer their funds to New Zealand.</p> <p>Stakeholders have requested that the three-month timeframe to transfer nominated funds to New Zealand be extended to six months, with an option to extend if there is evidence of reasonable efforts to transfer funds.</p>	<p>The three-month timeframe to transfer nominated funds should be extended to six months, with the possibility to extend by an additional six months if it is clearly evidenced to INZ that the investor has made reasonable efforts to transfer funds to New Zealand within the initial six-month period.</p>
<p>Requiring investor migrants to apply for travel conditions after two years adds undue cost and complexity.</p> <p>Stakeholders have requested that travel conditions be granted for the duration of the resident visa</p>	<p>Travel conditions should be granted to align to the four-year investment period.</p> <p>INZ assesses if an investor has met their visa conditions across the four-year investment period at 18, 36 and 48 months. While two-year travel conditions is standard across most residence class visa categories, requiring investors to apply for a variation of travel conditions when their visa conditions expire after two years duplicates this process.</p>
<p>Investors should be able to transfer nominated funds into equities as a 'holding' investment before being invested</p>	<p>Holding investments should be limited to low-risk investments, including bonds, bank account and term deposits. Bonds should be limited to low-risk options, including government and local authorities.</p>
<p>The total investment value should include 'investment-side' fees.</p>	<p>The investment value can include 'investment-side' fees (for example, management fees charged on invested capital). However, this should not include</p>

Issue raised	Initial view from officials
<p>Stakeholders have noted that there is additional complexity when an investment falls short of the required amount and visa conditions are breached and investors need to 'top-up' their investment and INZ needs to revalidate additional funds, as a result of investment-side fees being excluded from the invested amount.</p>	<p>'investor-side' fees, for example legal or advisory costs outside of the investment.</p>
<p>Constitutional conventions</p>	