

Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State

Deliverable B.II Investors' Residence Schemes in Latvia

JUST/2016/RCIT/FW/RIGH/0152 (2017/06)



July 2018

This Report has been prepared by Julija Sproge and Linda De Keyser for Milieu Ltd under the contract JUST/2016/RCIT/FW/RIGH/0152 (2017/06).

The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

Milieu Ltd (Belgium), Chaussée de Charleroi 112, B-1060 Brussels, tel.: +32 2 506 1000; e-mail: emma.psaila@milieu.be; ana.gomez@milieu.be and vanessa.leigh@milieu.be; web address: www.milieu.be.

Factual analysis of Member States Investors' Schemes granting citizenship or residence to third-country nationals investing in the said Member State

TABLE OF CONTENTS

I.	GENERAL BACKGROUND	1
II.	PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA	3
1	APPLICATION PHASE	3
2	TYPE OF INVESTMENT	13
3	RESIDENCE PHASE.....	16
4	DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS	18
III.	RIGHTS GRANTED BY THE PERMITS.....	21
1	RIGHTS GRANTED TO INVESTORS	21
2	RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS.....	21
3	OTHER BENEFITS.....	22
IV.	INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES	23
V.	ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS.....	24

I. GENERAL BACKGROUND

■ *Legal background:*

The **investors' residence scheme** in Latvia was introduced by amending the **Immigration Law**¹ in 2010. This step was taken as a reaction to the financial crisis that hit Latvia in 2008. The main idea behind this scheme was to attract foreign investors in order to facilitate Latvia's economic recovery and growth by activating the real estate market and creating new jobs.

The amendments to the Immigration Law allowed third-country national investors to obtain **temporary residence permits** after purchasing real estate in Latvia, investing into the equity capital of a capital company (i.e. limited liability or joint stock company), establishing a new capital company or investing in subordinate obligations with a Latvian credit institution (i.e. lending money to a bank). Since then, it is also possible to obtain a residence permit to invest in State securities² and innovative products³.

For each case, the conditions for obtaining a residence permit in exchange for investment are set out in the Immigration Law⁴. The **minimum level of investment** and other charges are showed in Figure 1 Overview of the main conditions (main investment and other charges) under the Latvian investors' residence scheme. The application procedure in detail is laid down in the Cabinet **Regulation No 564** of 21 June 2010 on Residence Permits⁵.

Figure 1 Overview of the main conditions (main investment and other charges) under the Latvian investors' residence scheme

Type of investment	Minimum investment	Residence permit
a. Real estate	At least EUR 250,000 + 5% payment to the State budget	Up to 5 years
b. Business	At least EUR 50,000 or EUR 100,000 investment into capital companies depending on the company's size (i.e. turnover and the number of persons employed) + EUR 10 000 payment to the State budget	Up to 5 years
c. Subordinate liabilities of credit institutions	At least EUR 280,000 + EUR 25,000 payment to the State budget	Up to 5 years
d. State securities	At least EUR 250,000 + EUR 38,000 payment to the State budget	Up to 5 years
e. Innovations	At least EUR 30,000 within the first 6 months At least EUR 60,000 within 18 months	Up to 3 years
Renewal of a residence permit for investors in points a, b and c – EUR 5000		

The overview above reflects the currently required minimum investment to obtain a temporary residence permit, that is, up to 3 to 5 years of residence in Latvia.

Before the scheme was reviewed in March 2014, the rules for foreign investors to obtain a residence

¹ Immigration Law (*Imigrācijas likums*), OP: "Latvijas Vēstnesis", 169 (2744), 20.11.2002, last amended on 4 July 2018, available at: <https://likumi.lv/ta/en/en/id/68522-immigration-law>.

² As of 1 January 2015.

³ As of 2 March 2017. Innovative products are defined as a product or service with a high added, *inter alia*, technological value, which ensures development of a specific new product or service, or a significant improvement of the existing product or service.

⁴ Points 28, 29, 30, 31 and 33 of Article 23(1) of the Immigration Law.

⁵ Regulation No 564 of 21 June 2010 on Residence Permits (*Uzturēšanās atļauju noteikumi*), OP: "Latvijas Vēstnesis", 101 (4293), 29.06.2010, available at: <https://likumi.lv/ta/en/en/id/212441-regulations-regarding-residence-permits>.

permit in Latvia were more lenient. The required investment levels were relatively low and there were few other conditions attached. For instance, the required investment in real estate in high-price locations (i.e. in Riga, the capital of Latvia) was LVL 100 000 (approx. EUR 140 000). There were no one-time payments to the State budget in addition to the investment (now ranging from EUR 10 000 to EUR 38 000) and no charges for renewing the residence permit (now set at EUR 5 000).

The above changes to the law were motivated by political reasons. Public discontent with the programme was growing due to the large numbers of residence permits issued to foreign investors. These changes however proved to be far reaching – the number of applications decreased to the lowest level, essentially ending the programme⁶. The number of applications under this scheme in 2014 was 2,532 while in the first half of 2017 – only 64⁷. **The scheme therefore no longer serves as an instrument attracting foreign investment.**

■ *Competent authorities:*

The competent Latvian authority for the granting of residence permits is the **Office of Citizenship and Migration Affairs (OCMA)**⁸, which is a State institution operating under the supervision of the Latvian Ministry of Interior. The OCMA develops and implements the State policy on migration and asylum; ensures the maintenance of the Population Register and registration of residents; determines the legal status of individuals in the country (by granting visas, residence permits, citizenship via the naturalisation procedure) and issues personal identification and travel documents⁹.

As part of the tasks described above, the OCMA receives and processes applications under the Latvian investors' residence scheme. Latvian diplomatic and consular missions act as intermediaries between the applicant and the OCMA when residence permit applications are submitted by applicants abroad. Based on a positive decision of the OCMA, the missions abroad issue applicants' visas (if required), but the residence permits must be collected at the OCMA in person.

In the decision process of granting residence permits, the OCMA cooperates with the Security Police, which carries out due diligence checks for all potential investors. It also relies on information verified and stored (usually, in public registers) by other State authorities and non-public bodies: the State Land Service in relation to investment in real estate; the State Enterprise Register – in relation to investment in business, Latvian central securities depository – in relation to investment in State securities; and the Latvian Investment and Development Agency – in relation to investment in innovations. For evidence of investments in liabilities of credit institutions, the OCMA relies on information provided by the credit institution in whose liabilities the investor has invested.

In relation to due diligence checks, the Office also relies on financial institutions involved in transfers of investment funds. Under the Law on the Prevention of Money Laundering and Terrorism Financing¹⁰ financial institutions must freeze funds when suspecting a suspicious activity and report that to the Latvian Financial Investigation Unit.

⁶ News article of 24 October 2017 "Migration Service: Demand for the investors' residence permit – almost non-existent", LTV dienas ziņas, available at: <https://www.lsm.lv/raksts/zinas/latvija/migracijas-dienests-pieprasijums-pec-investoru-uzturesanas-atlaujam-praktiski-beidzies.a254822/>.

⁷ The Office of Citizenship and Migration Affairs (OCMA) 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 un 31 of the Immigration Law, available at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

⁸ The website of the Office of Citizenship and Migration Affairs, available at: <http://www.pmlp.gov.lv/>.

⁹ The website of the Office of Citizenship and Migration Affairs, available at: <http://www.pmlp.gov.lv/en/home/about-ocma/>.

¹⁰ The Law on the Prevention of Money Laundering and Terrorism Financing (*Noziedzīgi iegūtu līdzekļu legalizācijas un terorisma finansēšanas novēršanas likums*), OP: "Latvijas Vēstnesis", 116 (3900), 30.07.2008, available at <https://likumi.lv/doc.php?id=178987>.

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

1.1 PROCEDURES

Under the Latvian investors' residence scheme, the conditions of which are set out in the **Immigration Law**, third-country nationals investing in Latvia may request **temporary residence permits**. This document gives foreigners the right to reside in Latvia for a definite period of time. For most types of investment, the law allows granting a residence permit for up to five years; the stay of investors contributing to start-ups is limited to three years.

Cabinet **Regulation No 564**¹¹ sets out detailed application procedure. There is no specific procedure for foreign investors – all applicants (including thus investors and their family members) must follow the same standard procedure.

■ *Criteria*

Generally, to qualify for a temporary residence permit, a foreigner must have a valid travel document, visa (if required¹²), clean criminal record, health insurance, sufficient means of subsistence and an address for his or her stay in Latvia (however, the **physical presence** of the applicant is not required).

The **specific conditions** for granting temporary residence to investors depends on the type of investment – that is, whether it is an investment in business, real estate, subordinate liabilities of credit institutions, State interest-free securities or innovative products (start-ups). These conditions are specified **Article 23(1) of the Immigration Law** and in particular:

- Point 28 lays down conditions for investment in business;
- Point 29 – investment in real estate;
- Point 30 – investment in subordinate liabilities with credit institutions;
- Point 31 – investment in State securities;
- Point 33 – investment in start-ups.

Investment in business

Pursuant to Point 28 of Article 23(1) of the Immigration Law, enacted on 1 July 2010, third-country nationals may obtain a temporary residence permit for **up to five years** if the person has invested in the equity capital of a capital company (limited liability or joint stock company¹³) or has established a new capital company. The required minimum investment is the following:

- < **EUR 50 000** to a capital company employing no more than 50 employees with the annual turnover/ annual balance not exceeding EUR 10 million; or
- < **EUR 100 000** to a capital company employing more than 50 employees with the annual turnover/ annual balance exceeding EUR 10 million, or
- < **EUR 100 000** to a capital company which together with one or more subsidiaries registered in Latvia employ more than 50 employees with annual turnover/ annual balance exceeding EUR 10

¹¹ Regulation No 564 of 21 June 2010 on Residence Permits (*Uzturēšanās atļauju noteikumi*), OP: "Latvijas Vēstnesis", 101 (4293), 29.06.2010, available at: <https://likumi.lv/ta/en/en/id/212441-regulations-regarding-residence-permits>.

¹² Third-country nationals may be exempt from the requirement to hold visas based on visa waiver agreements between Latvia and other States and Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 81, 21.3.2001, p. 1–7.

¹³ Article 134(2) of the Commercial Law (*Komerclikums*), OP: "Latvijas Vēstnesis", 158/160 (2069/2071), 04.05.2000, available at: <https://likumi.lv/doc.php?id=5490>.

million;

Besides the investment, foreign investors must pay a **one-time fee of EUR 10 000** to the State budget.

The rules that regulate increasing of equity capital or establishing a new capital company are set out in the Commercial Law¹⁴.

In essence, foreign investors must either conclude an investment contract with an existing company and then transfer the funds to the company's bank account, or open a bank account to deposit the equity capital to establish a new company¹⁵. In both cases, the proof of the transaction is provided to the **State Enterprise Register**, which verifies and registers this information in a public register. The OCMA, based on this information, verifies whether the applicant has made the required minimum investment and, if all the general conditions are also met, issues the investor with a temporary residence permit.

Acquisition of real estate

Pursuant to Point 29 of Article 23(1) of the Immigration Law, enacted on 1 July 2010, foreign investors may obtain a temporary residence permit for the duration of **up to five years** if they have acquired for a value of at least **EUR 250 000**:

- one immovable property in a high-price location¹⁶ specified by law; OR
- one or two immovable properties in any other location.

Besides the investment, foreign investors must pay **five percent of the property value** to the State budget.

The following **additional requirements** must be fulfilled by investors:

- The third-country national does not have any property **tax debt**;
- The total value of the real estate is paid by a **non-cash** means of payment;
- The real estate is acquired from:
 - (a) a **legal entity** registered in Latvia or another EU or EEA Member State or the Swiss Confederation considered a resident for tax purposes;
 - (b) a **natural person** who is a Latvian citizen or Latvian non-citizen¹⁷, EU citizen or a third-country national residing in Latvia with a valid residence permit issued by Latvia;
- The **cadastral value** of the property in high-price locations, calculated by the State Land Service and registered in the State Land Register, at the time of its acquisition is at least EUR 80 000; in other locations at least EUR 40 000. If the cadastral value is less than the specified, the estate's market value, determined by a certified real estate appraiser, cannot be less than EUR 250 000; if the person purchased two properties, the market value of a single property cannot be less than EUR 125 000;
- The property does not include **agricultural land or forest land**.

¹⁴ The Commercial Law (*Komerclikums*), OP: "Latvijas Vēstnesis", 158/160 (2069/2071), 04.05.2000, available at: <https://likumi.lv/doc.php?id=5490>.

¹⁵ Articles 147-149, 153-154 of the Commercial Law.

¹⁶ This condition applies to the following administrative territories: *Rīga, Jūrmala, Ādaži, Babīte, Baldone, Carnikava, Garkalne, Ikšķile, Ķekava, Mārupe, Olaine, Ropaži, Salaspils, Saulkrasti or Stopiņi*.

¹⁷ The status of a non-citizen of Latvia is a temporary status granted to former USSR citizens according to the Law on the Status of those Former USSR Citizens who do not have the citizenship of Latvia or that of any other State (*Par to bijušās PSRS pilsoņu statusu, kuriem nav Latvijas vai citas valsts pilsonības*), "Latvijas Vēstnesis", 63 (346), 25.04.1995, available at: <http://likumi.lv/doc.php?id=77481>. Non-citizens enjoy equal protection under the law both in Latvia and while living or travelling abroad, and are the only group of persons, in addition to citizens, who are granted permanent residence in Latvia ex lege. Non-citizens have the same social guarantees as Latvian citizens. As to political rights, however, non-citizens have no right to vote in elections and are not allowed by law to take up work in the civil service or occupy posts directly related to national security. See, for instance, information provided by the Latvian Ministry of Foreign Affairs, available at: <http://www.mfa.gov.lv/en/policy/society-integration/citizenship-in-latvia/citizenship-policy-in-latvia/basic-facts-about-citizenship-and-language-policy-of-latvia-and-some-sensitive-history-related-issues>.

Some further restrictions are set out in Article 29 of the Law on Land Privatisation in Rural Areas¹⁸. Third-country nationals are also not allowed to acquire land in the border zone of Latvia, land in nature reserves and other protected nature areas; land in the protected zones of coastal dunes of the Baltic Sea and the Gulf of Riga; land in the protected zones of public reservoirs and water sources; land in the mineral deposits of national significance.

The basic rules governing purchase and sale are set out in the Civil Law¹⁹. Article 1477 of the Civil Law and Article 2 of the Law on Recording of Immovable Property in Land Registers²⁰ require that each real estate transaction involving a change in ownership is registered in the **State Land Register**. The State Land Register is a public register accessible to the OCMA, which verifies the acquisition of property by a foreign investor against the data stored in this register.

In addition to the above, the investor must submit evidence to the OCMA that all the other investment specific criteria are met. This applies to the proof of non-cash payment, absence of tax property debt, and, if the cadastral value is less than the minimum set out in law, a statement by a certified real estate appraiser confirming the estate's market value over EUR 250 000.

Subordinated liabilities of credit institutions

Pursuant to Point 30 of Article 23(1) of the Immigration Law, enacted on 1 July 2010, foreign investors may be granted a temporary residence permit for **up to five years** if:

- they have invested **at least EUR 280 000** in subordinated liabilities of a Latvian credit institution;
- the duration of the contract with the credit institution is not less than **five years**.

Besides the investment, foreign investors must pay a **one-time fee of EUR 25 000** to the State budget.

The Law on Credit Institutions²¹ in Point 59 of Article 1 defines the term 'subordinate liabilities' as liabilities stemming from a loan agreement between the credit institution and a customer (e.g. foreign investor) where the customer is the lender and the credit institution is the borrower. The customer does not have the right to withdraw the loan before the term specified in the agreement.

Investors must submit to the OCMA a document issued by the credit institution confirming the required level of investment in subordinate liabilities²².

Investment in interest-free State bonds

Pursuant to Point 31 of Article 23(1) of the Immigration Law, enacted on 1 January 2015, foreign investors may be granted a temporary residence permit for **up to five years** if they **commit** to invest:

- **EUR 250 000** in interest-free State securities dedicated to a specific purpose.

Besides the investment, foreign investors must pay a **one-time fee of EUR 38 000** to the State budget.

The procedure that applies to investment in State securities is set out in **Regulation No 237** of 6 May 2014 on the Issuance of State Securities²³. Investors have to submit the OCMA a signed request to acquire State securities. According to Point 73.4 of Regulation No 564 this request is **final and may**

¹⁸ The Law on Land Privatisation in Rural Areas (*Par zemes privatizāciju lauku apvidos*), OP: "Ziņotājs", 32/33/34, 20.08.1992, available at: <https://likumi.lv/ta/en/en/id/74241-on-land-privatisation-in-rural-areas>.

¹⁹ Articles 2002 to 2090 of the Civil Law (*Civillikums*), OP: "Valdības Vēstnesis", 41, 20.02.1937, available at: <https://likumi.lv/ta/en/en/id/225418-the-civil-law>.

²⁰ The Law on Recording of Immovable Property in Land Registers (*Par nekustamā īpašuma ierakstīšanu zemesgrāmatās*), OP: "Latvijas Vēstnesis", 52/53 (767/768), 20.02.1997, available at: <https://likumi.lv/ta/en/en/id/42284-on-recording-of-immovable-property-in-the-land-registers>.

²¹ The Law on Credit Institutions (*Kredītiestāžu likums*), OP: "Latvijas Vēstnesis", 163 (446), 24.10.1995, available at: <https://likumi.lv/ta/en/en/id/37426-credit-institution-law>.

²² See OCMA website: <http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/a-credit-institution.html>.

²³ Regulation No 237 of 6 May 2014 on the Issuance of State Securities (*Valsts vērtspapīru izlaidšanas noteikumi*) OP: "Latvijas Vēstnesis", 89 (5149), 10.05.2014, available at: <https://likumi.lv/doc.php?id=266064>.

not be withdrawn.

The OCMA cooperates with the Latvian central securities depository (Nasdaq CSD, SE) and the Treasury, authorising the issuance of securities, in verification of the request. Once verified, the payment terms (the bank account details and the deadline for the transfer) are specified in the OCMA's decision on granting the permit. When the investor collects the permit at the OCMA, it is double checked that the payment has been made²⁴.

Investment in start-ups

Pursuant to Point 33 of Article 23(1) of the Immigration Law, enacted on 2 March 2017, foreign investors may be granted a temporary residence permit for **up to three years** if they **commit** to invest in the development of an innovative product (start-up) as a **qualified venture capital investor** (an experienced investor providing risk capital to businesses) at least:

- **EUR 30,000** within the first six months from granting of the initial residence permit;
- **EUR 60,000** within 18 months from granting of the initial residence permit.

The term 'innovative product' is defined in the Law on the Support for Start-up Companies as a product or service with a high added value, which ensures development of a specific new product or service, or significantly improves the existing product or service²⁵.

Access to venture capital is of particular importance to start-ups as they often find it difficult to get the funding they need to start and grow their business (e.g. bank loans are not available to most due to the requirement to provide a collateral).

To be listed as a qualified venture capital investor one must meet one of the following requirements²⁶:

- be **registered** as an alternative investment fund in Latvia in accordance with the Law on Alternative Investment Funds and their Managers²⁷ or in another country in accordance with equivalent legislation on the registration of alternative investment funds, and having made an early stage venture capital investment in at least **three capital companies** in the last **three years** of at least EUR 30 000 in each, not acquiring more than 30 per cent of the company's equity, or
- be a **legal entity specialised** in attracting investment for start-ups, having been involved in three such short term (less than 12 months) projects, and having made an early stage venture capital investment in at least **10 companies** in the last **three years** of at least EUR 15 000 in each, not acquiring more than 15 per cent of the company's equity; or
- a **natural person** with experience in business having made an early stage venture capital investment in at least **two companies** in the last **five years** < EUR 15 000 in each, but in total not less than EUR 60 000, not acquiring more than 30 per cent of the company's equity;
- a **legal person** whose equity, more than 50 per cent, is owned by persons each of whom have made an early stage venture capital investment in at least **two companies** in the last **five years** of at least EUR 15 000 in each, but in total not less than EUR 60 000, not acquiring more than 30 per cent of the company's equity.

Investors whose investments have been recognised as proceeds of crime within the meaning of the Law

²⁴ Information obtained from the OCMA; 16 July 2018.

²⁵ Point 4 of Article 1 of the Law on the Support for Start-up Companies (*Jaunuzņēmumu darbības atbalsta likums*), OP: "Latvijas Vēstnesis", 241 (5813), 10.12.2016, available at: <https://likumi.lv/ta/en/en/id/287272-law-on-aid-for-the-activities-of-start-up-companies>.

²⁶ Article 5 of the Law on the Support for Start-up Companies.

²⁷ The Law on Alternative Investment Funds and their Managers (*Alternatīvo ieguldījumu fondu un to pārvaldnieku likums*), OP: "Latvijas Vēstnesis", 142 (4948), 24.07.2013, available at: <https://likumi.lv/doc.php?id=258477>. This law, inter alia, implements Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds, OJ L 115, 25.4.2013, p. 1–17.

on the Prevention of Money Laundering and Terrorism Financing²⁸ may not be qualified venture capital investors.

Once investors have proven that they meet all the requirements to the Committee assessing activities of start-up companies²⁹, they are listed as qualified venture capital investors in a list kept by the Latvian Investment and Development Agency according to **Regulation No 74** of 7 February 2017 on the Application and Administration of the Programme Supporting Activities of Start-up Companies³⁰. This confirms the status of the investor as a qualified venture capital investor and is thus a precondition to be granted a residence permit.

To the OCMA these investors should only submit a description of the intended activities. Whether the minimum investment criteria are fulfilled is verified in the residence phase as any residence permit allowing a stay of more than one year must be annually registered at the OCMA³¹. Failure to comply with this registration requirement is a reason to annul the residence permit³².

■ *Application procedure*

Cabinet **Regulation No 564** sets out detailed application procedure for foreigners to obtain a residence permit. There is no specific procedure for foreign investors – all applicants must follow the same **standard procedure**. Only in relation to the required investment do the required specific **supporting documents** vary depending on the type of investment.

Pursuant to Regulation No 564, any applicant for a residence permit is required to present or submit **in person** the following **standard documents** to the OCMA³³:

- An application requesting a residence permit (a standard form, which is available online but has to be printed out to hand it in person);
- A valid travel document (e.g. passport);
- Proof of subsistence/ sufficient funds (for example, a bank statement);
- A document proving that the applicant has a place to stay in Latvia (such as rent agreement);
- Certificate on the absence of criminal record (for applicants over 14 years of age; applies only to those third-country nationals who need visa to enter Latvia); others must provide information on any convictions in the standard application form;
- A document certifying the payment of the State fee (document review within 30 days – EUR 150; 10 days – EUR 300; 5 days – EUR 450).

The **investment specific evidence** that must be submitted in the **application phase** is as follows:

- Investors in **credit liabilities** must submit a document issued by the Latvian financial institution confirming the foreigner's investment in the institution's subordinated liabilities³⁴;
- Investors in **real estate** must submit a document which attests the non-cash payment for the real estate; a document attesting the absence of property tax debt, the opinion of a certified property appraiser about the market value of the property (if the value of the property is below its cadastral

²⁸ The Law on the Prevention of Money Laundering and Terrorism Financing (*Noziedzīgi iegūtu līdzekļu legalizācijas un terorisma finansēšanas novēršanas likums*), OP: "Latvijas Vēstnesis", 116 (3900), 30.07.2008, available at: <https://likumi.lv/doc.php?id=178987>.

²⁹ This Committee consists of representatives from the Latvian Investment and Development Agency, Ministry of Economics and the State Revenue Service. See the By-law of 17 January 2017 of this Committee (*Jaunuzņēmumu darbības vērtēšanas komisijas nolikums*), OP: "Latvijas Vēstnesis", 16 (5843), 19.01.2017, available at: <https://likumi.lv/ta/id/288149-jaunuznemumu-darbibas-vertesanas-komisijas-nolikums>.

³⁰ Regulation No 74 of 7 February 2017 on the Application and Administration of the Programme Supporting the Activities of Start-up Companies (*Jaunuzņēmumu atbalsta programmu pieteikšanas un administrēšanas kārtība*), OP: "Latvijas Vēstnesis", 44 (5871), 28.02.2017, available at: <https://m.likumi.lv/doc.php?id=289027>.

³¹ Article 22(2) of the Immigration Law.

³² Point 21 of Article 35(1) of the Immigration Law.

³³ Point 28 of Regulation No 564.

³⁴ Point 49 of Regulation No 564.

- value)³⁵;
- Investors in **State securities** must submit a signed request submitted to the depository to acquire securities³⁶;
 - Investors in **start-ups** must submit an application describing the products to be created or developed, and the information on the planned business activities in the next three years.

There are no extra documents required for **business investors** as the increase of equity capital or the establishment of a new company is registered in a State Enterprise Register, which is publicly accessible, thus also to the OCMA.

Applications may be submitted in person either to the OCMA in Latvia or to Latvia's diplomatic and consular missions abroad. If the application is submitted abroad, the consulate will send the application to the OCMA. The OCMA has 30 days since the date of the submission of the application to issue a decision³⁷. If the decision on issuing residence permit is positive³⁸, the consulate will inform the applicant and issue the corresponding **visa (if required)**. The applicant can receive the permit in person at the OCMA within three months after the positive decision³⁹. This deadline, at the discretion of the OCMA, can only be extended for investors in start-ups.

When **collecting the permit at the OCMA**, the person must also present:

- a valid health insurance policy for a year,
- a health certificate issued by a Latvian health care institution stating that the foreign national does not suffer from tuberculosis in active phase⁴⁰
- proof of having paid the required one-time payments to the State budget ranging from EUR 10 000 to 38 000 (see previous section)⁴¹; details such as the bank account number are specified to investors in the OCMA's decision to grant the permit.

There is no specification in Latvian laws and regulations of what 'valid health insurance' implies. Nonetheless, it can be implied that valid health insurance must be obtained either in the country of origin, or in Latvia.

■ **Grounds for refusing applications**

The Immigration Law contains both **general and specific grounds to refuse applications** for residence permits. General grounds can be applied to refuse any application. Specific grounds can be used to refuse an application when related to the reason for which the application is made (employment, family, investment, etc.).

According to Article 34(1) of the Immigration Law the issue (or the annual registration of a residence permit⁴²) must be refused if:

General grounds for refusal

- **all the required documents have not been submitted**, or the person refuses to cooperate and provide explanation in relation to the request for permit;

³⁵ Point 56 of Regulation No 564.

³⁶ Point 73.4 of Regulation No 564.

³⁷ Article 33(1) Immigration Law.

³⁸ Decisions on temporary permits are taken within 30 days from the day application was submitted based on Article 33(1) of the Immigration Law.

³⁹ Point 75 of Regulation r No 564.

⁴⁰ Point 73 of Regulation No 564.

⁴¹ Point 73.¹ of Regulation No 564.

⁴² Any residence permit allowing a stay of more than one year should be annually registered (Article 22(2) of the Immigration Law). Failure to comply with this requirement is a reason to annul the residence permit (Point 21 of Article 35(1) of the Immigration Law). In relation to investors, those investing in State securities are exempt from the registration requirement.

- the person has provided false information or the submitted documents which are obtained unlawfully or have been forged, or have been tampered with;
- the foreigner does not have the necessary financial means to stay in Latvia;
- the foreigner does not have a valid travel document;
- the foreigner has such a health disorder or disease that endangers the safety of the public;
- the foreigner has been illegally residing in Latvia or another Schengen State during the last year or has helped another foreigner to enter Latvia or another Schengen illegally;
- the foreigner has been included in the list of those who are prohibited to enter Latvia or the Schengen territory;
- the foreigner has been found guilty of committing a criminal offence;
- the foreigner has received compensation to leave Latvia;
- the foreigner has joined a foreign military service;
- **competent State institutions (e.g. Security Police) have provided information constituting grounds for prohibiting the foreigner from entering and residing in Latvia;**
- there are grounds to believe that the **real reason** of the foreigner applying for a residence permit **is not what has been indicated in the submitted documents;**
- the foreigner has been employed during the last year, but had no right to employment (in particular, investors contributing to start-ups have limited rights to employment);
- it has been established that **the issuance of a residence permit does not conform to the conditions referred to in the Immigration Law;**

Specific grounds for refusal

- the foreigner has received a temporary residence permit in accordance with **Point 33 of Article 23(1)** (investment in start-ups) and the capital company **has not fulfilled the conditions** referred to in this Law;
- the foreigner has received a temporary residence permit in accordance with Point 33 of Article 23(1) (investment in start-ups) and the provisions laid down in Point 12 of Article 23(1) have not been complied with (only five interrelated investors have the right to request a permit to invest in one company);
- a foreigner has requested or received a temporary residence permit in accordance with Points 2, 3, 6, **28 or 33 of Article 23(1)** (investment in business and start-ups) and the company has a registered **tax debt** exceeding EUR 150.

■ *Appeals*

Pursuant to Article 40(1) and (2) of the Immigration Law, third-country nationals may contest the decision regarding the refusal to issue (or register annually) a residence permit to the Head of the OCMA within 30 days after the day of entry into force of the decision. All decisions of the Head of the Office can be further appealed before the Administrative Court.

In relation to other persons' right to challenge or appeal an administrative act, including successful residence applications, the Law on Administrative Procedure⁴³ allows this provided the act affects the person's legal rights and interests. This is determined on case-by-case basis by the competent authority or court.

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

The OCMA is the only State authority competent to decide on granting residence permits and visas. Latvian diplomatic and consular missions in other countries support the OCMA by acting as intermediaries between applicants and the OCMA.

⁴³ Article 28(1) and (3) of the Administrative Procedure Law (*Administratīvā procesa likums*), OP: "Latvijas Vēstnesis", 164 (2551), 14.11.2001, available at: <https://likumi.lv/doc.php?id=55567>.

When deciding on the issuance of a residence permit to an investor, the OCMA closely **cooperates** with the Security Police, which carries out due diligence checks for all potential investors.

The OCMA also **relies on information** verified and stored (usually, in public registers) by other State authorities and non-public bodies,⁴⁴ in particular:

- in relation to investment in real estate, the State Land Service registers every change of ownership of real estate;
- in relation to investment in business, the payment or increase of the equity capital must always be registered in the State Enterprise Register;
- in relation to investment in innovations, the Latvian Investment and Development Agency verifies that the investor fulfils all the requirements to qualify as a qualified venture capital investor, recording this accordingly;
- in relation to State securities, the Latvian central securities depository records all issued public securities.

In relation to investments in liabilities of credit institutions, the OCMA relies on information provided by the credit institution in whose liabilities the investor has invested.

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

Annual reporting

As any State institution also the OCMA reports annually about its work to the Government. The Office prepares a general overview of its work results as well as detailed overviews per subject matter.

The most recent report on the investors' residence scheme for the period from 1 July 2016 to 30 June 2017 was presented to the Government in November 2017⁴⁵. This includes information on the number of successful and refused applications per type of investment, trends compared to previous reporting periods, economic impact and financial revenues related to residence of foreign investors and other information.

Since the Government is accountable to the Parliament, it reports annually also to the competent committees of the Parliament.

Parliamentary scrutiny

In addition to annual reporting, Article 27 of the Constitution authorises the parliament to exercise parliamentary scrutiny. The Parliament and its committees have the right to submit requests to the Government. The Government must respond to these requests by providing all the relevant information.

In relation to migration matters and, thus, the investors' residence scheme, there are two main committees which conduct parliamentary scrutiny. These are the Citizenship, Migration and Social Cohesion Committee⁴⁶ and the Defence, Internal Affairs and Corruption Prevention Committee⁴⁷.

The Defence, Internal Affairs and Corruption Prevention Committee has been actively scrutinising the investors' residence scheme and, in particular, the number of successful applications. It has proposed various amendments to the Immigration Law to prevent abuse of the scheme and to limit the number of

⁴⁴ For more details on the authorities and non-public bodies consulted, please see Sections II.1.1 and II.2.

⁴⁵ The Office of Citizenship and Migration Affairs (OCMA) 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 un 31 of the Immigration Law, available at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

⁴⁶ Website of the Citizenship, Migration and Social Cohesion Committee, available at: <http://saliadetiba.saeima.lv/en/>.

⁴⁷ Information about the Defence, Internal Affairs and Corruption Prevention Committee, available at: http://www.saeima.lv/faktulapas/2501_Aizsardzibas_komisija_faktu_lapaENG_SCREEN.

successful applications. One of such proposed changes involved setting a **scheme cap**⁴⁸, however, this proposal was not supported. Therefore, there is **no cap** for the investors' residence scheme in Latvia.

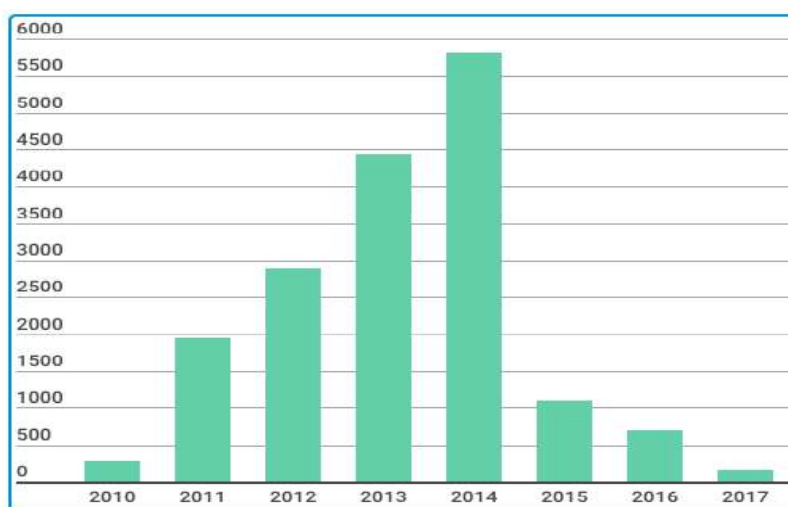
1.4 INFORMATION ON APPLICATIONS

Information on successful applications is reported by the OCMA in its annual overviews. The information is limited to basic statistics. For instance, from 1 July 2010 to 30 June 2017 a total of 17 342 resident permits were issued to investors and their family members. There is no obligation to disclose the names of successful applicants.

Figure 2 Statistical overview of requests, successful and turned down applications for temporary residence permits by investors and their family members against the total of all temporary residence permits issued in Latvia

Year	Total no. of all issued residence permits	No. of requests for residence by investors (family members)	No. of successful applications investors and family members	No. of turned down applications investors and family members	Sources
2012	6365	1 226 (2918)	2890	18	OCMA ^{49 50}
2013	8170	1 922 (4508)	4438	29	OCMA
2014	10504	2 532 (5944)	5822	54	OCMA
2015	7210	398 (1209)	1101	30	OCMA
2016	6581	262 (763)	692	13	OCMA
2017	7191 ⁵¹	64 ⁵² (225)	161 ⁵³	0 ⁵⁴	OCMA

Figure 3 Temporary residence permits issued to investors and their family members in Latvia by year (1 July 2010 – 30 June 2017).



⁴⁸ Proposal to amend the Immigration Law submitted by the Defence, Internal Affairs and Corruption Prevention Committee, available:

<http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/0/7FF90A1790265A8DC2257C05003EE74E?OpenDocument>.

⁴⁹ See Annex 1 of the OCMA 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 un 31 of the Immigration Law, available at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>, on the number of requests, successful applications and turned down applications for temporary residence permits for investors and their family members.

⁵⁰ Data on the total number of issued temporary residence permits is available on the website of the OCMA:

http://www.pmlp.gov.lv/lv/assets/documents/vizuāli/VISI_ES_01.01.17.pdf.

⁵¹ Data for the whole year of 2017.

⁵² Data available only for the first half of the year.

⁵³ Data available only for the first half of the year.

⁵⁴ Data available only for the first half of the year.

Source: OCMA⁵⁵

In 2014, when the number of applications reached the peak, 53 per cent of all the residence permits issued by Latvia were granted under the investors' residence scheme⁵⁶.

After the Immigration Law was **made stricter** in 2014 by considerably raising the minimum investment levels and introducing one-time payments to the State budget, the number of applications decreased sharply. In 2014, a total of 2,532 requests were made by investors to obtain a residence permit; in the first half of 2017 – only 64 of such applications were registered⁵⁷. The scheme therefore had effectively ceased to attract foreign investment to Latvia.

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

■ *Measures concerning residence permits granted to family members:*

Pursuant to Point 4 of Article 23(1) of the Immigration Law, temporary residence permit may be obtained by the family of the immigrant investor (a spouse, underage children, including those under guardianship, and any other persons – including adults – under guardianship, e.g. persons with disabilities).

There is no special procedure for family members to apply for a residence permit – the same general procedure applies. The main applicants (that is, investors) need to specify in their application that an application for a residence permit is also made by a spouse/ child/ person under guardianship. The residence permit for family members is issued for the same duration as for the main applicant. This also applies to cases when the permit of the investor is annulled.

■ *Statistical data on the number/percentage of successful applications for residence permits for family members:*

See Figure 2 above. Some statistical data (such as the number of requests for residence permits) are specific to family members, however, most data cover investors together with their family members.

⁵⁵ Organised Crime and Corruption Reporting Project (OCCRP). [Latvia's Once-Golden Visas Lose their Shine — But Why?](#), 5 March 2018.

⁵⁶ The OCMA 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 un 31 of the Immigration Law, available at: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

⁵⁷ The Office of Citizenship and Migration Affairs (OCMA) 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 un 31 of the Immigration Law, available at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

2 TYPE OF INVESTMENT⁵⁸

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>Contribution to the equity capital of a capital company (limited liability or joint stock company) or establishing a new capital company</p>	<p>At least:</p> <ul style="list-style-type: none"> ■ EUR 50,000 to a capital company employing no more than 50 employees with the annual turnover/ annual balance of the company is below EUR 10 million, or ■ EUR 100,000 to a capital company employing more than 50 employees and having an annual turnover/ annual balance is over EUR 10 million, or ■ EUR 100,000 to a company which together with one or more subsidiaries registered in Latvia, employ more than 50 employees and their total annual turnover/ annual balance exceeds EUR 10 million; <p>AND EUR 10,000 (one-time payment to the State budget)</p>	<p>The fulfilment of the investment criterion is checked by the OCMA during the application process for the temporary residence permit.</p> <p>No specific evidence needs to be submitted⁵⁹ by investors as the fulfilment of the investment criterion is checked against the data stored in the State Enterprise Register⁶⁰. The payment or increase of the equity capital must always be registered⁶¹.</p>	<p>The OCMA is the only competent authority to issue residence permits.</p> <p>In doing so, it relies on data held (verified and updated) by other State authorities and non-public bodies: State Enterprise Register; State Land Service; Latvian central securities depository; Latvian Investment and Development Agency; credit institutions.</p> <p>There are no scrutiny mechanisms/ reporting obligations other than those already covered in Section 1.3 (i.e.</p>

⁵⁸ For the purposes of this Table, the term ‘investment’ covers any pecuniary disbursement required as part of the process for obtaining residence under the investors’ residence scheme.

⁵⁹ Information from the website of the OCMA, available at: <http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/share-capital-investor.html>.

⁶⁰ The website of the State Enterprise Register, available at: <https://www.ur.gov.lv/en/>.

⁶¹ Information from the website of the State Enterprise Register, available at: <https://www.ur.gov.lv/lv/registre/uznemumu-vai-komersantu/sia/izmainas/pamatkapitala-izmainas/pamatkapitala-palielinasana/kopsavilkums/>.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
			annual reporting to the Government/Parliament, parliamentary scrutiny).
Purchase of property	<p>At least EUR 250,000 if one property is acquired in high-price locations such as the capital Riga and areas along the coast, or in other locations if no more than two properties are acquired (except where the property is land without any buildings).</p> <p>AND five percent of the property value (one-time payment to the State budget).</p> <p>Other conditions (e.g. no property tax debt) are described Section 1.1)</p>	<p>As above, the checks are carried out during the application process.</p> <p>The fulfilment of the investment criterion is verified based on the document confirming the payment⁶², which has to be submitted by the investor, and the data registered in the State Land Register⁶³. Every ownership of real estate must be registered.</p>	
Investment in subordinated liabilities of a credit institution	<p>At least EUR 280,000</p> <p>AND EUR 25,000 (one-time payment to the State budget)</p>	<p>The checks are carried out during the application process.</p> <p>The fulfilment of the investment criterion is verified based on the document issued by a Latvian credit institution confirming the investors' investment in the credit institution's liabilities. This document must be submitted by the investor⁶⁴.</p>	
Purchase of interest-free State securities	<p>At least EUR 250,000</p> <p>AND EUR 38,000 (one-time payment to the State budget)</p>	<p>The fulfilment of the investment criterion is verified when the investor comes to collect his/her permit⁶⁵. It is done based on the information the OCMA obtains from the Latvian central securities depository.</p>	

⁶² Information from the website of the OCMA, available at: [http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/real-estate-owner-\(from-01.07.2016\).html](http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/real-estate-owner-(from-01.07.2016).html).

⁶³ The website of the State Land Register, available at: <https://www.zemesgramata.lv/>.

⁶⁴ Information from the website of the OCMA, available at: <http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/a-credit-institution.html>.

⁶⁵ Information obtained from the OCMA; 16 July 2018.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		The decisions to issue a permit is based on the investor's signed request to buy State securities submitted to the OCMA by the investor. This request is final and cannot be withdrawn.	
Development of innovative products (start-ups)	<p>At least EUR 30,000 in the first 6 months after the granting of the initial permit</p> <p>At least EUR 60,000 within 18 months after the granting of the initial permit</p> <p>No payment to the State budget required</p>	<p>No checks are carried out during the application process. The investment must only take place in the residence phase.</p> <p>The decisions to issue a permit is based on the investor's application to the OCMA describing the innovative product intended to be created or developed, and the information on the planned business activities in the next three years⁶⁶. The investor should also be on the list of qualified venture capital investors held by the Latvian Investment and Development Agency. The inclusion on this list means that the investor has fulfilled all the requirements to qualify as an investor who is allowed to invest in start-ups.</p> <p>Whether the investment is made is checked when the permit is registered at the OCMA. Any residence permit allowing a stay of more than one year should be registered annually⁶⁷. Failure to do so is a reason to annul the residence permit⁶⁸ (see also Section 3).</p>	

⁶⁶ Information from the website of the OCMA, available at: [http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/innovative-product-creation-or-development-\(start-up-activities\).html](http://www.pmlp.gov.lv/en/home/services/residence-permits/doc1/innovative-product-creation-or-development-(start-up-activities).html).

⁶⁷ Article 22(2) of the Immigration Law.

⁶⁸ Point 21 of Article 35(1) of the Immigration Law.

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>Temporary residence permit for the duration of:</p> <ul style="list-style-type: none"> ■ five years⁶⁹ when the investment is in a business, real estate property, State bonds and liabilities of credit institutions ■ three years⁷⁰: when the investment is in an innovative product (start-ups) 	<p>There is no legal provision that requires physical presence of the investor in Latvia. However, a temporary residence permit, the period of validity of which exceeds one year, must be registered annually⁷¹.</p> <p>Annual registration⁷² is an ex-post check to ensure that the conditions for the residence permit that may change in a year are still fulfilled (e.g. valid travel document, health insurance, address, including that the investment has not been withdrawn or decreased, where this is possible).</p> <p>The term 'register' is used just to distinguish this procedure from the issuance of permits. If the OCMA decides to 'register' the permit, the permit should again be collected at the OCMA and the OCMA examines it and verifies that the conditions required for the first-time issued permit are still fulfilled. If it decides not to 'register', the permit is annulled⁷³.</p> <p>To register the permit the investor must submit an application specifying the number of days of residence and employment in Latvia from when the permit was first issued (that is, for the first year in Latvia) or last registered (for the following years in</p>	<p>The OCMA is the only competent authority to issue, register and renew residence permits.</p>	<p>A foreign investor may apply for a permanent residence permit after five years of uninterrupted presence in Latvia with a temporary residence permit.⁷⁷</p> <p>Where the investor cannot argue uninterrupted presence, they can apply for the renewal of a temporary residence permit for the same duration as the initial permit (i.e. up to 3 or 5 years of residence depending on the type of investment). The law does not limit the number of renewals.</p> <p>The investment does not need to be renewed but the initial conditions for granting the permit should still be fulfilled (i.e. investment cannot be withdrawn or decreased below the required thresholds). In the case of new investments, the renewal will be assessed as a new request for a temporary permit (see Section 2 – Type of Investment).</p> <p>In relation to some forms of investment the law imposes additional requirements for the renewal of residence permits:</p> <ul style="list-style-type: none"> ■ Investors in property, business and credit

⁶⁹ Points 28, 29, 30 and 31 of Article 23(1) of the Immigration Law.

⁷⁰ Point 33 of Article 23(1) of the Immigration Law.

⁷¹ Article 22(2) of the Immigration Law.

⁷² Chapter IX of Regulation No 564.

⁷³ Point 88 of Regulation No 564.

⁷⁷ Point 7 of Article 24(1) of the Immigration Law.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
	<p>Latvia)⁷⁴. This applies to investments in business, property, State bonds and credit liabilities. This information serves to facilitate background checks to identify public security and policy concerns. If identified, the registration of the permit can be refused⁷⁵.</p> <p>The requirement above does not apply to foreigners investing in start-ups because their purpose of residence in Latvia is analysed at the application phase.</p> <p>In relation to the conditions of the Latvian investors' scheme, the annual registration of a permit can be refused if the investor does not or no longer fulfils any of the conditions based on which the permit was issued⁷⁶. For instance, the acquired property has been sold, property tax not paid, investment in the start-up not in the required amount, etc.</p>		<p>liabilities must make a one-time payment of EUR 5 000 to the State budget⁷⁸;</p> <ul style="list-style-type: none"> ■ Investors investing at least EUR 50 000 in business ■ have to provide proof that the capital company has paid at least EUR 40 000 in taxes for the previous financial year or at least EUR 3 000 a month⁷⁹ for the first incomplete financial year; ■ Investors investing at least 100 000 in business have to provide proof that the capital company has paid at least EUR 100 000 in taxes for the previous financial year, or at least EUR 8300 a month for the first incomplete financial year.

⁷⁴ Point 79.3 of Regulation No 564.

⁷⁵ There are various provisions in the Immigration Law that allow refusing granting, registering or renewing a permit based on public security and policy reasons. For instance, if a risk of illegal immigration is identified. For more information, see grounds for refusing applications in Section 1.

⁷⁶ Point 34 of Article 34(1) of the Immigration Law.

⁷⁸ Article 23 (7¹), (7²), (7³) and (7⁴) of the Immigration Law.

⁷⁹ Point 83.1 of Regulation No 564.

4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<ul style="list-style-type: none"> The Immigration Law requires prior checks for clean criminal record/ background checks as a criterion for granting a residence permit to investors. The Security Police checks the background of all foreign investors⁸⁰. If the Security Police have concerns about the origins of money⁸¹, they ask the Latvian FIU to investigate the matter. <p>Checks on the origin of money are carried out also by financial institutions or other subjects involved in the transactions (e.g. notaries). According to the Law on the Prevention of Money Laundering and Terrorism Financing suspicious transactions must always be reported to the Latvian FIU.</p>	<ul style="list-style-type: none"> Criminal record/ background checks <p>The criminal record checks are carried out during the application process:</p> <ul style="list-style-type: none"> Any applicant older than 14 years of age has to submit a certificate proving a clean criminal record, which is issued by his/her country of nationality or residence (of at least 12 months)⁸². This applies to those who need visa to enter Latvia; If the applicant is a citizen of a country considered high-risk in terms of security concerns (listed as such in Government Regulation No 554⁸³) an in-depth background checks are carried out by the Security Police; Besides this, any application for a permit may be turned down (or an issued permit annulled) if national security concerns are identified by the Security Police. The law does not expressly state this, but according to the OCMA, all applications from foreign investors are sent to and checked by the Security Police. <p>The Immigration Law contains various grounds for refusing applications based on security concerns directly</p>	<ul style="list-style-type: none"> The Security Police – background checks of all foreign investors Financial institutions involved in transactions – the initial check of legality of funds FIU – when reported by the above, investigation in the legality of funds 	<p>Residence permits have to be registered annually. See Section 3 – Residence Phase. Thus, ex-post checks are carried out at least annually.</p> <p>Annual registration⁸⁸ is an ex-post check to ensure that the conditions for the residence permit that may change in a year are still fulfilled (e.g. valid travel document, health insurance, address, including that the investment has not been withdrawn or decreased, where this is possible).</p> <p>The term 'register' is used just to distinguish this procedure from the issuance of permits. If the OCMA decides to 'register' the permit, the permit should again be collected at the OCMA and the OCMA examines it and verifies that the conditions required for the first-time issued permit are still fulfilled. If it decides not to 'register', the permit is annulled⁸⁹.</p>

⁸⁰ Information obtained from the OCMA; 16 July 2018.

⁸¹ Information obtained from the OCMA; 16 July 2018.

⁸² Point 28.3 of Regulation No 564.

⁸³ Regulation No 554 of 21 June 2010 on the States for the Citizens of which in Issuing a Visa or a Residence Permit an Additional Assessment shall be Performed (*Noteikumi par valstīm, kuru pilsoņiem, izsniedzot vīzu vai uzturēšanās atļauju, veic papildu pārbaudi*), OP: "Latvijas Vēstnesis", 100 (4292), 28.06.2010, available at: <https://likumi.lv/doc.php?id=212364>.

⁸⁸ Chapter IX of Regulation No 564.

⁸⁹ Point 88 of Regulation No 564.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
	<p>or indirectly⁸⁴ (e.g. falsification of documents, misleading information, person convicted of crime or banned from entering the Schengen area after being issued a residence permit, or when competent authorities identify and inform the OCMA about justified reasons to prohibit the person from residing in Latvia.</p> <p>In 2015, for instance, 26 from 119 refusals were based on security considerations⁸⁵.</p> <ul style="list-style-type: none"> ■ Checks on the legality of investment funds <p>When the Security Police develop a suspicion about the legality of funds (during the application phase or at any other time) they ask the Latvian FIU to investigate the matter⁸⁶.</p> <p>Based on the Law on the Prevention of Money Laundering and Terrorism Financing, financial institutions and other persons involved in investment transactions (i.e. notaries) are required to apply customer due diligence measures before starting a business relationship or carrying out any occasional transaction of more than EUR 15 000. Any suspicious transaction (defined in the law as well as Regulation No 674⁸⁷) must be reported to the Latvian FIU.</p>		<p>Besides that, any indication of abuse of rights or threat to public security or policy can be investigated and may serve as grounds to annul the permit.</p> <p>According to the OCMA, since 2010, a total of 3278 permits issued to investors have been annulled. Around 2 to 5 % of them were annulled based on security considerations notified to the OCMA by the Security Police⁹⁰.</p> <p>According to the OCCPR⁹¹ between 2015 and 2018 at least three criminal investigations of third-country nationals engaged in the foreign investors' programme were carried out. In one case, the investor fraudulently borrowed money from a bank abroad and invested it in property in Latvia. In another case, the seller of the property declared its value to be beyond the necessary threshold for a residence permit,</p>

⁸⁴ Information from the website of the OCMA, available at: <http://www.pmlp.gov.lv/en/home/services/residence-permits/in-what-cases-may-the-rp-issued-to-you-be-annulled.html>.

⁸⁵ Information obtained from the OCMA; 16 July 2018.

⁸⁶ Information obtained from the OCMA; 16 July 2018.

⁸⁷ Regulation No 674 of 14 November 2017 on the Signs of Suspicious Transactions and the Procedure to Report such Transactions (*Noteikumi par neparasta darījuma pazīmju sarakstu un kārtību, kādā sniedzami ziņojumi par neparastiem vai aizdomīgiem darījumiem*), OP: "Latvijas Vēstnesis", 232 (6059), 23.11.2017, available at: <https://likumi.lv/ta/id/295248-noteikumi-par-neparasta-darijuma-pazimju-sarakstu-un-kartibu-kada-sniedzami-zinojumi-par-neparastiem-vai-aizdomigiem-darijumiem>.

⁹⁰ News article of 23 March 2015 in the newspaper 'Diena': <https://www.diena.lv/raksts/latvija/zinas/pern-uzturesanas-atlaujas-tris-gadijumos-pirktais-par-noziedzigi-iegutu-naudu-14092125>.

⁹¹ Organised Crime and Corruption Reporting Project (OCCRP), [Latvia's Once-Golden Visas Lose their Shine — But Why?](#), 5 March 2018.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
			when half of the "investment" had been refunded to the buyer. ⁹²

⁹² Organized Crime and Corruption Reporting Project (OCCRP), [Latvia's Once-Golden Visas Lose their Shine — But Why?](#), 5 March 2018.

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

Pursuant to Chapter IV of the Immigration Law, a temporary residence permit gives the foreigner the **right to reside** in Latvia for the duration of the permit, that is, up to three or five years depending on the type of investment. The immigrant investor also acquires the right of travelling within the Schengen Treaty Member States.

Other rights vary between the different types of investors. The immigrant investor who has purchased real estate, invested in business, State securities or subordinate obligations of a credit institutions is entitled to perform commercial activity (also as self-employed) or to be employed **without restrictions**⁹³. This is specified on their residence permit.

It is different for investors in start-ups, their rights to commercial activity or to be employed are **limited** to the employment or participation in the company developing the innovative product. The law explicitly forbids them to be employed by any other employer or participate in an official capacity in any other capital company⁹⁴. This limitation in terms of market access is specified on the investor's residence permit.

When a temporary residence permit is issued, the rights to employment are specified on the permit. This is done in a single application procedure. The Single Permit Directive⁹⁵ has been transposed to Latvian legislation by the Immigration Law and Regulation No 564. The rights on equal treatment (Article 12 of the Directive) are fully applicable to investors and their family members.⁹⁶ Such rights include the right to equal treatment with Latvian nationals with regard to working conditions; education and vocational training; recognition of diplomas, certificates and other professional qualifications; branches of social security, including healthcare; access to goods and services, including procedures for obtaining housing; freedom of association and affiliation and advice services afforded by employment offices.

2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Family members of all investors are granted full access to labour market and given full rights to participate in business activities (including as self-employed)⁹⁷. The investors' family members benefit from the same rights as a Latvian national in accordance with the Single Permit Directive 2011/98/EU.

⁹³ Article 9(5), points 13-15 and 24, of the Immigration Law.

⁹⁴ Article 23(13) of the Immigration Law.

⁹⁵ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, OJ L 343, 23 December 2011, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32011L0098>.

⁹⁶ EMN and European Commission, 'Ad-hoc query regarding transposition of the Directive 2011/98/EC on a single application procedure for a single permit', compilation produced on 22 July 2013, available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/eu-acquis/482_emn_ahq_on_transposition_of_directive_2011_98_ec_requested_9_june_2013_wider_dissemination.pdf; and Tsargand, M., 2013, 'Human rights of migrants in Latvia, are they fully implemented?', available at <http://www.integration.lv/en/mira-tsargand-human-rights-of-migrants-in-latvia-are-they-fully-implemented-27122013>.

⁹⁷ Article 9(5), points 13-15, 24 and 26, of the Immigration Law.

3 OTHER BENEFITS

No additional rights or benefits, such as tax benefits, are granted to foreign investors⁹⁸.

⁹⁸ Information obtained from the OCMA; 16 July 2018.

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

Immigrant investors are not granted access to citizenship. Citizenship can be obtained in the general procedure. If the investor has resided in the territory of Latvia without interruption for five years with a temporary residence permit, he or she is entitled to request a permanent residence permit, and after another five years to obtain citizenship through the **general naturalisation procedure**.

To be admitted to the citizenship of Latvia under the naturalisation procedure the person, pursuant to the Law on Citizenship⁹⁹, must:

- be fluent in the Latvian language;
- know of the basic principles of the Constitution (*Satversme*);
- know the text of the National Anthem, and
- the basics of the history and culture in Latvia;
- must prove that he/she has a legal source of income;
- sign a pledge of loyalty to the laws and nation of Latvia;
- provide proof that he/she has renounced his/her former citizenship; this does not apply to citizens of NATO Member States, Australia, Brazil, New Zealand and other countries with whom Latvia has agreements regarding recognition of dual citizenship.

Given that the Latvian investors' immigration scheme (with the three initial types of investment) was introduced in 2010 and the minimum requirement for residence is 10 years (see above), at this point in time it is not possible that any of the foreigners who benefited from the investors' scheme have acquired Latvian citizenship via the naturalisation procedure.

The only other possibility to acquire Latvian citizenship is when it is granted by the Parliament based on "special meritorious service for the benefit of Latvia". According to stakeholders, this does not include "investment, economic or commercial considerations"¹⁰⁰.

⁹⁹ Article 12 of the Law on Citizenship (*Pilsonības likums*), OP: "Latvijas Vēstnesis", 93 (224), 11.08.1994, available at: <https://likumi.lv/doc.php?id=57512>.

¹⁰⁰ Information obtained from the Parliament's Committee on Citizenship, Migration and Social Cohesion; 1 February 2018.

V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

The Immigration Law does not establish a specific requirement to monitor the economic impact and financial revenues related to the residence scheme for investors. Nonetheless, it is done based on the OCMA's by-law requiring the Office to analyse the processes related to migration, conduct research in this area and report annually to the Government¹⁰¹.

The latest OCMA's report on the progress and results of implementing Points 3¹⁰², 28, 29, 30 un 31 of Article 23(1) of the Immigration Law, approved by the Government on 11 November 2017¹⁰³, states that non-resident investments from persons granted temporary residence permits in the period from 1 July 2010 to 30 June 2017 have provided **EUR 1.434 billion** contribution to the economy of Latvia. The companies in whose equity capital investment was made or in which an investor occupied an official position¹⁰⁴ paid **EUR 176.8 million in taxes** in 2016. To provide some context, the total corporate income tax revenue in 2016 was EUR 424.2 million¹⁰⁵.

Figure 4 – Statistical overview of investment attributed to the Latvian investors' residence scheme from 1 July 2010 to 30 June 2017 (thousands, EUR)

Year	Real estate	Credit liabilities	Capital companies	State bonds	Total
2010 ¹⁰⁶	15 843	12 283	305	-	28 431
2011	138 138	35 064	3 641	-	176 843
2012	207 650	28 474	13 335	-	249 459
2013	296 583	34 106	29 300	-	359 989
2014	397 315	31 328	18 825	-	447 468
2015	72 844	8 962	7 433	1 250	90 489
2016	50 634	3 874	3 195	4 750	62 453
2017 ¹⁰⁷	11 818	1 775	4 257	1 500	19 350
Total	1 190 825	155 866	80 291	7 500	1 434 482

Source: OCMA¹⁰⁸

The data above do not include investments in start-ups as this type of investment in the residence scheme was introduced only in 2017.

The information in the table shows that most investments have been made in **real estate** (83%), followed by investment in subordinate liabilities of credit institutions (10.9%) and the equity of capital companies (5.6%). Experts in the fields of economics and migration explain that this is so because

¹⁰¹ Points 2, 3.2 and 14 of Regulation No 811 of 3 October 2006 on the By-law of the Office of Citizenship and Migration Affairs (*Pilsonības un migrācijas lietu pārvaldes nolikums*), OP: "Latvijas Vēstnesis", 160 (3528), 06.10.2006, available at <https://likumi.lv/ta/en/en/id/145116-by-law-of-the-office-of-citizenship-and-migration-affairs>.

¹⁰² Article 23(1), point 3, of the Immigration Law is not part of the investors' residence scheme but it is related and therefore covered in one report. This point allows granting temporary residence permit to "a member of the board of directors or a member of the council, proctor, administrator, liquidator or a member of a partnership having the right to represent the partnership, or a person who is authorised to represent a merchant (foreign merchant) in activities related to a branch, if the commercial company or the branch of the foreign merchant has been registered in the Commercial Register for at least one year prior to requesting a residence permit, it is performing active economic activity and its activity provides economic benefit for the Republic of Latvia".

¹⁰³ This report is available at: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

¹⁰⁴ See footnote 99 – residence permits granted to persons taking up official positions in companies are not part of the investors' residence scheme but are covered in the annual report as closely related topic.

¹⁰⁵ OECD Statistics on Latvia, available at: <https://stats.oecd.org/Index.aspx?DataSetCode=REVLVA>.

¹⁰⁶ Data available for the second half of the year.

¹⁰⁷ Data available for the first half of the year.

¹⁰⁸ The OCMA 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 un 31 of the Immigration Law, available at: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

buying a property is simpler in terms of procedure than making other types of investments. While investments in real estate activated the real estate market, which collapsed after the financial crisis in 2008, it did not provide an overall boost to the Latvian economy¹⁰⁹. This is so because investment in real estate provides smaller economic benefits for the overall economic growth as opposed to, for instance, direct investment in business, which has more potential to drive economic progress by enhancing competitiveness of companies and increasing employment.

In 2014, the Immigration Law was **made stricter** by considerably raising the minimum investment levels and introducing one-time payments to the State budget. These changes aimed to limit the growing number of successful applications seen by many as a **threat to public security and policy**. In particular, concerns were raised over money laundering, threat to local jobs due to the investors' unlimited access to labour market, concentration of foreigners in certain locations (specifically, Riga, the capital of Latvia, and the coastal resort of Jurmala), and the fact that foreign investors do not need to integrate or learn the Latvian language.

Due to these changes, and the stabilisation of the economic environment, there has been a **sharp decrease in investment** attracted through the scheme. According to the OCMA's Head of the Migration Division, if nothing changes, it is very likely that **this scheme will effectively cease to exist**¹¹⁰. In 2017, direct foreign investment reached its highest point (EUR 14.37 billion) coming mainly from EU/EEA countries (78%)¹¹¹. This is due to new market opportunities for foreign investors, stable monetary policy, Latvia's advantageous geographic location between the EU and CIS countries¹¹², and the well-developed infrastructure.

Overall, the **Latvian investors' residence scheme has partly met the expectations** for which it was created. It contributed to the growth and recovery of the Latvian economy in the aftermath of the 2008 financial crisis. Yet, it mainly activated the real estate market and attracted considerably less investment in equity capital of capital companies, which would have contributed more to the competitiveness of Latvian companies and the creation of jobs thereby enhancing higher economic growth. Thus, the Latvian investors' scheme has been a partial success.

¹⁰⁹ EMN (2014) Focussed Study 'Admitting third-country nationals for business purposes in Latvia', available at: http://www.emn.lv/wp-content/uploads/LV_EMN_NCP_Admitting_third_country_nationals_for_business_purposes_EN.pdf.

¹¹⁰ News article of 24 October 2017 by LSM.LV (public broadcasting of Latvia), available at: <https://www.lsm.lv/raksts/zinas/latvija/migracijas-dienests-pieprasijums-pec-investoru-uzturesanas-atlaujam-praktiski-beidzies.a254822/>.

¹¹¹ See the website of the Latvian Investment and Development Agency, available at: <http://www.liaa.gov.lv/en/invest-latvia/investor-business-guide/foreign-direct-investment>.

¹¹² The Commonwealth of Independent States (CIS) is a regional intergovernmental organisation of 10 post-Soviet republics in Eurasia formed following the dissolution of the Soviet Union: Armenia, Azerbaijan, Belarus, Kazakhstan, Kirghizstan, Moldavia, Uzbekistan, Russia, Tajikistan, Turkmenistan, Ukraine.