

***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 the UK***

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



May 2018

This Report has been prepared by Vanessa Leigh 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.

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## I. GENERAL BACKGROUND

### ■ *Legal background:*

#### *Previous scheme (introduced in 1994)*

The UK has operated a migration route for investors since 1994. The ‘**Investor Immigrant**’ visa<sup>1</sup> was introduced in 1994. This scheme allowed for non-EEA (and non-Swiss) nationals to obtain a residence visa after a significant investment (the scheme required the investor to hold at least GBP 1 million in the UK as well as an investment of GBP 750,000 in UK government bonds, stocks or corporate bonds). Leave to enter was granted for one year.<sup>2</sup> An extension could be granted for three years, provided that the investor had made the investment of GBP 750,000 required for the initial entry clearance and had made the UK their main home.<sup>3</sup>

In 2004, the scheme was amended to allow investment funds through a loan from a UK regulated financial institution, on the condition that the investor had personal assets amounting to twice the value of the investment.<sup>4</sup>

#### *Scheme introduced in 2008*

In the context of the government’s targets to reduce net immigration in the UK and at the same time generate economic growth<sup>5</sup>, a Points Based System (PBS) for non-EEA immigration was introduced in 2008. The **PBS contains five tiers** including high net worth individuals (‘investors’), entrepreneurs, graduate entrepreneurs and exceptionally talented migrants.<sup>6</sup>

The **Tier 1 (Investor) scheme** is regulated in **part 6A of the Immigration Rules**, specifically in paragraphs 245E to 245EF, and in Appendix A to the Immigration Rules, paragraphs 54-65. It replaced the ‘Investor Immigrant Programme’ mentioned above.

The UK Government also produced specific **policy guidance** for investors coming to the UK under Tier1 (Investor) of the Points Based System.<sup>7</sup>

A visa is granted for an initial period of **Leave to Enter (LTE)** the UK and remain for **three years and four months**<sup>8</sup>. After this period, a **Leave to Remain (LTR)** can be granted, which is an

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<sup>1</sup> Statement of Changes in Immigration Rules HC395, 23 May 1994, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228895/0395.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228895/0395.pdf), accessed in April 2018.

<sup>2</sup> Paragraph 225 of the Immigration Act (repealed).

<sup>3</sup> Paragraph 227, point iv) of the Immigration Act (repealed). The former rules of the Immigration Act refer to ‘**making the UK their main home**’, without further defining this. As an indication, the Home Office guidance and paragraph V 4.2(b) of appendix V: visitor rules provide criteria for assessing whether the applicant is making the UK their main home: **travel history**, including how long they are spending in the UK and how frequently they are returning; Purpose of the visit; the **purpose of return trips** to the visitor’s home country and if this is used only to seek re-entry to the UK; **Links they have with their home country** – considering especially any long term commitments and where the applicant is registered for tax purposes; evidence that the **UK is the main place of residence** (e.g. if they have registered with a general practitioner (GP); if they send their children to UK schools).

<sup>4</sup> Statement of Changes HC176, 13 January 2004, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/267382/hc176.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/267382/hc176.pdf), accessed in April 2018.

<sup>5</sup> An Inspection of applications to enter and remain in the UK under the Tier 1 Investor and Entrepreneur categories of the Points Based System, December 2012 – May 2013), Independent Chief Inspector of Borders and Immigration <http://icinspector.independent.gov.uk/wpcontent/uploads/2013/09/An-Inspection-of-Tier-1-PBS-Investor-and-Entrepreneur-Applications.pdf>, accessed in April 2018.

<sup>6</sup> ‘A Points-Based System: Making Migration work for Britain’ Cm 6741, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/272243/6741.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/272243/6741.pdf), accessed in April 2018.

<sup>7</sup> The Tier 1 (Investor) Policy Guidance.

<sup>8</sup> Paragraph 245EC Immigration Rules

extension of two years.

Amendments were subsequently made to the scheme, in response to criticisms of reports of money-laundering, lack of transparency<sup>9</sup>, and with the aim of increasing the economic benefit of the scheme for the UK. They are briefly highlighted below and described in further detail in section II relating to the procedures and applicable criteria:

- In April 2011, provisions were introduced to allow **accelerated settlement** for Tier 1 (investors) Migrants who choose to invest higher sums.<sup>10</sup>
- In April 2011 the **residence requirement for applications for Indefinite Leave to Remain** was reduced to permit absences of 180 days per year (Paragraph 245AAA Immigration Rules). Prior to this only absences of no more than three consecutive months and no more than six months over a five-year period were permitted.
- In November 2014, the **minimum investment threshold** was raised from GBP 1 million to GBP 2 million (Paragraph 245EE(e) Immigration Rules).<sup>11</sup> This followed findings from the Migration Advisory Committee (MAC)<sup>12</sup> that the Tier 1 scheme was not generating benefits for UK residents.<sup>13</sup>
- In 2015, in an effort to address money-laundering concerns and lack of transparency criteria the legislation introduced criteria to be considered by the entry clearance officer to determine whether there are **risks of money-laundering**.<sup>14</sup> A requirement that investors **open a FCA-regulated UK bank account** prior to their application was also introduced in 2015 (Paragraph 59 of Appendix A to the Immigration Rules).
- The policy guidelines were also amended in 2015 to require that:
  - applicants and family members must provide an **overseas criminal record certificate** for any country they have resided in continuously for 12 months or more in the 10 years prior to their application; and the certificate must have been issued within 6 months of the visa application or within the expressed validity period of the document, whichever is the shorter.<sup>15</sup>
  - If the investment funds have been held for less than 90 days, the applicant is required to **justify the source of the funds**.<sup>16</sup>
- **Competent authorities:**

The **Home Office** is the competent authority for issuing the Tier 1 (investors) visa. Immigration Officers are competent for receiving and processing applications and carrying out verification checks (Paragraph 7A of the Immigrations Rules Part 1).

**UK Regulated Financial institutions** (i.e. an institution regulated by the Financial Conduct Authority (FCA) or Prudential Regulation authority (PRA) are competent for carrying out due diligence checks when the applicants open a UK bank account.

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<sup>9</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>10</sup> Table 9A of Appendix A to the Immigration Rules.

<sup>11</sup> Statement of changes to the Immigration Rules: HC693, 16 October 2014, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/364371/hc-693.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/364371/hc-693.pdf), accessed in April 2018.

<sup>12</sup> Non-departmental public body comprised of economists and migration experts that provides transparent, independent and evidence-based advice to the Government on migration issues.

<sup>13</sup> Migration Advisory Committee, February 2014, 'Tier 1 (Investor) route. Investment thresholds and economic benefits', available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285220/Tier1investmentRoute.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1investmentRoute.pdf), accessed in April 2018.

<sup>14</sup> Paragraph 245EB(e) of the Immigration Rules.

<sup>15</sup> Policy Guidance, para. 15, available at <https://www.gov.uk/government/publications/guidance-on-applicationfor-uk-visa-as-tier-1-investor>, accessed in April 2018.

<sup>16</sup> Paragraph 64 of Appendix A to the Immigration Rules.

## II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

### 1 APPLICATION PHASE

#### 1.1 PROCEDURES

The following sections describe the main characteristics in the Tier 1 (Investor) visa scheme. This scheme contributes to the Tier Point-Based Immigration System, which divides third-country nationals into five ‘tiers’. Under this system, visas are obtained after passing a point-based assessment.

The five tiers of the Points Based System (PBS)	
Name of tier	Immigrant groups covered by tier
Tier 1	<b>Investors</b> , entrepreneurs, graduate entrepreneurs and exceptionally talented migrants.
Tier 2	Skilled workers with a job offer in the UK.
Tier 3	Low-skilled workers needed to fill specific temporary labour shortages. Tier 3 has never been opened.
Tier 4	Students.
Tier 5	Youth mobility and temporary workers. This route is for those allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives.

Source: Home Office (2014)

#### 1. Application for initial entry:

If the applicant has not held entry clearance as a Tier 1 (investor) migrant in the 12 months immediately before the date of his or her application, he/she can make an **initial application for Leave to Enter**.

#### *Criteria*

The criteria for the application are the following<sup>17</sup>:

- The applicant must be at least 18 years old;
- Assets and investment claimed by the applicant must be wholly under their control.
- Funds on which applicants rely must be held in one or more regulated financial institutions and must be free to be spent in the UK.

Under the Point Based System, applicants must score 75 points to qualify for the entry clearance, leave to remain or indefinite leave to remain as a Tier 1 (Investor) Migrant.<sup>18</sup> To be eligible for these 75 points, the applicant must demonstrate the following<sup>19</sup>:

- That they have money of their own under their control held in a regulated financial institution and disposable in the UK amounting to **not less than GBP 2 million** (this amount was increased

<sup>17</sup> Paragraph 245EB Immigration Rules.

<sup>18</sup> Paragraph 245EB and Paragraph 54 of Appendix A: attributes of the Immigration Rules.

<sup>19</sup> Appendix A **Table 7: applications for entry clearance or leave to remain referred to in paragraph 55 Immigration Rules**

- from GBP 1 million in 2014); and
- That they have **opened an account with a UK regulated bank** for the purposes of investing not less than GBP 2 million in the UK.

Applicants may rely on money that is either owned jointly with or solely by their husband, wife, civil partner, unmarried or same-sex partner, but they must have unrestricted right to transfer and dispose of the money and permission to have control of this money in the UK.<sup>20</sup>

The investments must be in UK government bonds, or share or loan capital in active and trading UK-registered companies. The portfolio of qualifying investments must be managed in the UK by a financial institution which is regulated by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA)<sup>21</sup> if applicable.<sup>22</sup> If the portfolio of investments is managed by the applicant or where their portfolio manager does not operate in the UK and is not regulated by the FCA or the PRA, the applicant must also provide evidence of the applicant's holdings used in the application, including certified copies of bond documents (see evidence required below).

There are no language requirements for Tier 1 (Investor) applicants, nor do they need to show any maintenance (funds). The Home Office policy guidance clarifies that the English language ability is not required because, while investors are allowed to work in the UK, they should not need to work. As regards the maintenance funds, these are not required because it is assumed that if the investor has the required investment funds, they would be able to support themselves in the UK without having to resort to public funds.<sup>23</sup>

### ***Evidence required***

The applicant must send documents demonstrating that he/she meets the requirements:

- **Evidence of the investment:** Applicants must provide at least one piece of evidence on the investment from Table 1 below with the application, depending on the type of investment:<sup>24</sup>

**Table 1 Evidence of the investment**

Where is the money?	Evidence required	Comments
Portfolio of investments managed by a UK regulated financial institution	The applicant can use a <b>letter or portfolio report</b> from a UK regulated financial institution supplying the breakdown of the investments.	Only fresh investments are accepted (investments made in the UK in the 12 months preceding the date of application)  The letter must be on the official letter headed paper of the institution and issued by an authorised official of that institution.

<sup>20</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para. 52.

<sup>21</sup> The FCA is a conduct regulator for 58,000 financial services firms and financial markets in the UK and the prudential regulator for over 18,000 of those firms, <https://www.fca.org.uk/about/the-fca>. The Prudential Regulation Authority (PRA) is a United Kingdom financial services regulatory body, <https://www.bankofengland.co.uk/prudential-regulation>.

<sup>22</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para 78.

<sup>23</sup> The Tier 1 (Investor) Policy Guidance p.1 states under key principles points 3 and 4.

<sup>24</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para. 58.



Where is the money?	Evidence required	Comments
Portfolio of investments managed by the applicant or where their portfolio manager does not operate in the UK and is not regulated by the Financial Conduct Authority (FCA) or the Prudential Regulation Authority (PRA).	<b>Letter report</b> or <b>portfolio</b> as well as documentary evidence of the applicant's holdings used in the application, including: <ul style="list-style-type: none"> <li>- Certified copies of bond documents</li> <li>- Share documents</li> <li>- Trust fund document.</li> </ul>	Assets or possessions such as property are not accepted.  The bond/ share /trust documents must provide details on the current value of the bond/share/trust fund; the date of purchase (or when the money was available in the case of the trust fund) and the owner.
Money in a bank.	<b>Personal bank statements</b> or a <b>letter from a regulated bank</b> (also required if the funds are held abroad). <sup>25</sup>	The bank must be regulated by the home regulator (official regulatory body for the country in which the institution is based and where the funds are located).

- Applicants must also provide **evidence of the source of the money** when funds have not been held in the bank account or portfolio for three consecutive months or more, regardless of whether the money held in the UK or overseas at the time of the application. This requirement was introduced in 2015 in an effort to address money-laundering concerns and lack of transparency.

The following sources can be considered:<sup>26</sup>

**Table 2 Sources of the money and documents required**

Source	Documents required
Gift	<ul style="list-style-type: none"> <li>■ Irrevocable memorandum of gift and</li> <li>■ Letter from a legal advisor permitted to practice in country in which the gift was made.</li> </ul>
Deeds of sale	<ul style="list-style-type: none"> <li>■ Deed of sale of the assets</li> <li>■ Letter from a legal advisor</li> </ul>
Evidence from a business	<ul style="list-style-type: none"> <li>■ Business financial accounts</li> <li>■ Letter from a legal adviser</li> </ul>
Will	<ul style="list-style-type: none"> <li>■ Notarised copy of a will</li> <li>■ Letter from a legal advisor</li> </ul>
Divorce Settlement	<ul style="list-style-type: none"> <li>■ Notarised copy of the terms of a divorce settlement</li> <li>■ Letter from a legal adviser</li> </ul>
Award or winning	<ul style="list-style-type: none"> <li>■ Letter from the organisation issuing the award or winnings declaring the winnings genuine</li> <li>■ Letter from a legal adviser</li> </ul>
Money from another source	<ul style="list-style-type: none"> <li>■ Evidence of the source of the money</li> <li>■ Independent supporting evidence (confirming the amount of money received; the date that the money was received; the source of the money and that the applicant and/or husband,</li> </ul>

<sup>25</sup> The letter can also be sent by a FCA regulated investment firm (e.g. a wealth management organisation) provided that the firm confirms that it applies the applicable FCA/PRA standards with regard to customer due diligence ([The Tier 1 \(Investor\) Policy Guidance](#) para.67.)

<sup>26</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para.98-100.

Source	Documents required
	wife civil partner or unmarried or same-sex partner were the recipient of the money)

Contact details must always be provided to enable the Home Office to verify the evidence.<sup>27</sup>

- If the money is overseas, the applicant must provide **confirmation that the money can be transferred into the UK** if the application is successful.<sup>28</sup>
- Applicants must also provide evidence that they have already **opened a bank account** in a UK regulated bank<sup>29</sup>. Financial institutions must therefore undertake their due diligence checks before the application is made.
- **In case of joint funding**<sup>30</sup> (if the money held jointly with, or solely by, the applicant's husband, wife, civil partner, or unmarried or same-sex partner), the applicant must provide:
- Evidence of **relationship**, including certificate of marriage or civil partnership, to confirm the relationship.
  - Evidence of **permission to use funds** including a statement that the husband, wife, civil partner, or unmarried or same-sex partner agrees that they have sole control over the money and a letter from a legal adviser confirming that the declaration is valid.
- Since 2016, the applicant must also provide an original or scanned copy of a **criminal record certificate** from the relevant authority in any country in which they have been present for 12 months or more (whether continuously or in total) in the past 10 years, while aged 18 or over. The certificate must have been issued within 6 months of the visa application or within the expressed validity period of the document, whichever is the shorter.

This requirement does not need to be met where the Secretary of State is satisfied, by way of an explanation provided in or with the application, that it is not reasonably practicable for the applicant to obtain a certificate from the relevant authority (Paragraph 245EB (f) Immigration Rules).

Examples of situations where it may be concluded that it is not reasonably practicable for an applicant to obtain a certificate from a country where they are or have previously been present include where<sup>31</sup>:

- there is no procedure for issuing certificates;
- certificates are not available to third-country nationals;
- the applicant fled their country for humanitarian reasons and it is not possible for them to re-establish contact with the relevant authorities;
- there is international or internal armed conflict or there is, or has been, a humanitarian disaster.

Applicants must include details of any attempts made to obtain a certificate with their application.<sup>32</sup>

### **Verifications**

There were concerns of money-laundering and abuse of the investor Tier 1 scheme expressed in the media<sup>33</sup> and reported on by Transparency international<sup>34</sup>, particularly during the period of 2008-2015 (before further checks were introduced as described below).

<sup>27</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para. 99 point 7.

<sup>28</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para. 62.

<sup>29</sup> "UK regulated bank" is defined as a UK based FCA regulated financial institution.

<sup>30</sup> [The Tier 1 \(Investor\) Policy Guidance](#) para. 95.

<sup>31</sup> Government guidance on the Criminal record certificate requirement, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/673331/criminal-record-certificate-guidance-v2.0ext.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/673331/criminal-record-certificate-guidance-v2.0ext.pdf), accessed May 2018.

<sup>32</sup> Ibid.

<sup>33</sup> Examples of media articles: **Financial times**, *Concern grows over checks on 'investor' visa applicants*, 23 September 2013, available at: <https://www.ft.com/content/fb7a52c2-21ff-11e3-bb64-00144feab7de>, accessed May 2013; **The Times**, *Golden visas lure dirty money to UK*, 20 October 2015, available at: <https://www.thetimes.co.uk/article/golden-visas-lure-dirty-money-to-uk-pmnrvg6zmpw>, accessed May 2018.

In a 2015 study reporting on suspected corrupt wealth laundered out of China and Russia, Transparency International referred to ‘the absence of effective, up-front and transparent checks on Tier 1 Investor visa applicants by the UK authorities’.<sup>35</sup> Between 2008 and 2015, investors were not required to open a UK bank account, and the Home Office relied on the commitment of an applicant to transfer funds to a UK bank account **after** the Tier 1 investor visa was granted. Interviews carried out by Transparency International revealed that banks relied on the fact that investors had obtained a Tier 1 investor visa as evidence to dismiss due diligence concerns. The report also highlights the gap that the investment was only assessed three years after entering the UK (at the time the Tier 1 investor visa was renewed).<sup>36</sup> Amendments to the Tier 1 (investors) scheme were adopted in light of these concerns. Significant amendments were made in 2015 to improve verifications. As mentioned above, these include requiring that Tier 1 investors open UK bank accounts before making a visa application; to prove their source of the investment funds if they have been held for less than 90 consecutive days.<sup>37</sup> Since September 2016, applicants are also required to submit a criminal record.

The checks are carried out by the Home Office and **UK Regulated Financial institutions** (i.e. an institution regulated by the Financial Conduct Authority (FCA) or Prudential Regulation authority (PRA))

#### **i. Home office checks**

##### ***Checks on the documents/ source of the funds***

During the application phase, the Home Office carries out the following checks:<sup>38</sup>

- **Verification checks** when there are reasonable doubts that the documents are genuine. The Home Office verifies the document with an independent person or government agency.

The Home Office department contacted for this study explained that this relates to their ability to go back to the issuing source of documents to ascertain they are genuine. This could entail making a check with a bank to verify the authenticity of a bank statement.<sup>39</sup>

If the Home Office confirms the document as false, the application is rejected and the document will be kept, which can jeopardise future applications. If an applicant is found to have used false documents, they can be subject to a ten-year entry ban due to deception and as such any future application they make during that period would be rejected.<sup>40</sup>

If the verification check is inconclusive (i.e. if it cannot be verified whether the document is genuine or false), the document will be disregarded and not count as evidence.

- **Other checks** when there are doubts about an application or the documents sent with the application but the doubts are not serious enough to make a verification check. Extra checks may also be carried out when the Home Office is suspicious about a document without doubting

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<sup>34</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, 2015, p. 8 available at: <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>35</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, 2015, p. 8 available at: <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>36</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, 2015, p. 15 available at: <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>37</sup> *The Tier 1 (Investor) Policy Guidance*, para. 15.

<sup>38</sup> Annex D Tier 1 (Investor) of the Points Based System - Policy: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/722474/Tier\\_1\\_Investor\\_Policy\\_Guidance\\_07.18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722474/Tier_1_Investor_Policy_Guidance_07.18.pdf), accessed in April 2018.

<sup>39</sup> Information obtained through stakeholder consultation with the Home Office department, May 2018.

<sup>40</sup> The rules covering this can be found in part 9 of the immigration rules, general grounds for refusal in paragraph 7A and 7B Immigration Rules, accessible at <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>, accessed May 2018.

however that they are not genuine. For example, this may be because previous verification checks have found that some supporting evidence is invalid and some is genuine, or where evidence provided contradicts information held by the Home Office.<sup>41</sup> If the Home Office confirms the document as false, the application will be rejected and the document will be kept. In case the check is inconclusive, the document will be considered as genuine. This differs from the verification check (where evidence considered inconclusive is disregarded).

- If the check led to more doubts then, the Home Office will carry out a proper verification check.

The **distinction between verification checks and other checks** is limited and relates primarily to the reason for carrying out the checks.<sup>42</sup> A verification check is made where there are immediate concerns from the face value of the document. Other checks however could be made if the Home Office have wider reasons to believe that the documents submitted may not be genuine but these are not derived from specific observed faults in the document itself.<sup>43</sup> The distinction between both types of checks also relates to the outcome of the check: i.e. if a **verification check** is inconclusive the document will be disregarded and not count as evidence; while if an **other check** is inconclusive, the document will be considered genuine.

The procedures for both **verification checks** and **other checks** will usually be similar and will vary from case-to-case, but they may involve checking the details or genuineness of documents with the relevant embassy or high commission, other government departments (in the UK and overseas); and checking the accuracy and authenticity of documents with banks and professional bodies.<sup>44</sup>

If the investment funds have been held for less than 90 consecutive days, the Home Office will review the source of the funding during the application. If necessary, the HOME office contacts the source of these documents to confirm the information. The Immigration Rules Appendix P contains a list of financial institutions that do not satisfactorily verify financial statements<sup>45</sup>. The Home Office issues a standard form to record the results of the enquiries.

#### ***Checks that the investment has been made***

Applicants are **required to make their investment within three months of entering the UK**, if he/she was granted entry clearance as a Tier 1 (Investor) Migrant where there is evidence to establish his/her date of arrival to the UK, or within three months of the date of the grant of entry clearance as a Tier 1 (Investor) Migrant.<sup>46</sup>

Applicants for Tier 1 investors can provide evidence of investments already made within 12 months of their initial application - in these cases the investments will have been seen by a caseworker during the initial application.

However, the majority of applicants will only show the proof of funds at the point where they are granted initial leave and will only demonstrate that the funds have been invested when making an **extension application** (after three years).<sup>47</sup> The Home Office can however conduct compliance

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<sup>41</sup> Annex D 13 Tier 1 (Investor) of the Points Based System – Policy Guidance, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/722474/Tier\\_1\\_Investor\\_Policy\\_Guidance\\_07.18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722474/Tier_1_Investor_Policy_Guidance_07.18.pdf), accessed in May 2018.

<sup>42</sup> Information obtained through stakeholder consultation with the Home Office department, May 2018.

<sup>43</sup> Ibid.

<sup>44</sup> Annex D 15 Tier 1 (Investor) of the Points Based System – Policy Guidance, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/722474/Tier\\_1\\_Investor\\_Policy\\_Guidance\\_07.18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722474/Tier_1_Investor_Policy_Guidance_07.18.pdf), accessed in May 2018.

<sup>45</sup> e.g. the 1st Macro Bank, Inc. (A Rural Bank) in the Philippines (Table 9 Appendix P).

<sup>46</sup> Paragraph 245ED Immigration Rules.

<sup>47</sup> Information obtained through stakeholder consultation, UK Home Office department, May 2018.

assurance activity and curtail visas if they discover that the Tier 1 (investor) has not made their required investments during their initial grant of leave.<sup>48</sup>

During the request for extension, all applicants must provide **certified investment portfolios** from a Financial Conduct Authority authorised financial institution that cover from no later than the three months allowed at the start of their leave and continue to the last reporting date of the most recent reporting period directly before the date of the application.<sup>49</sup>

## ii. Private sector checks

Due diligence checks are carried out by UK banks and investment firms upon the opening of a bank account (prior to the application). This is required under the UK Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.<sup>50</sup> Part 3 Chapter 1 of the Regulations set out customer due diligence measures. Financial institutions must apply customer due diligence measures when they establish a relationship with a customer and must obtain information on the source and origin of funds that their customer will be using in the relationship.<sup>51</sup> They must also carry out due diligence at any point during the relationship when they suspect money laundering.<sup>52</sup>

Financial institutions must also carry out **enhanced due diligence checks** when the customer is not physically present when the identification checks are carried out, or in any other situation where there is a suspected risk of money laundering<sup>53</sup>. The enhanced checks include<sup>54</sup>:

- obtaining further information to establish the customer's identity;
- applying extra measures to check documents supplied by a credit or financial institution;
- making sure that the first payment is made from an account that was opened with a credit institution in the customer's name;
- finding out where funds have come from and what the purpose of the transaction is.

Financial institutions must also ensure that they have **adequate internal controls and monitoring systems**<sup>55</sup>, including:

- appointing a 'nominated officer' and making sure that employees know to report any suspicious activity to them;
- appointing a compliance officer if the business is larger or more complex;
- identifying the responsibilities of senior managers and providing them with regular information on money laundering risks;
- training relevant employees on their anti-money laundering responsibilities;
- documenting and updating their anti-money laundering policies, controls and procedures;
- introducing measures to make sure that the risk of money laundering is taken into account in the day-to-day running of the business.

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<sup>48</sup> Ibid.

<sup>49</sup> Paragraph 65SD of appendix A of the Immigration Rules.

<sup>50</sup> Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/599835/Money\\_Laundering\\_Regulations\\_2017\\_-\\_FINAL\\_CONSULTATION\\_DRAFT\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/599835/Money_Laundering_Regulations_2017_-_FINAL_CONSULTATION_DRAFT_FINAL.pdf), accessed May 2018.

<sup>51</sup> Article 28 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

<sup>52</sup> Article 27(c) Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

<sup>53</sup> When assessing such risks, factors to be considered include: the business relationship is conducted in unusual circumstances; the corporate structure of the customer is unusual or excessively complex given the nature of the company's business; or geographical risk factors such as countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective systems to counter money laundering and terrorist financing (Article 33 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017).

<sup>54</sup> Article 33 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

<sup>55</sup> Article 21 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

Checks with the intelligence agencies (i.e. Security Service (MI5), or Embassy can be carried out, but according to Transparency International these are not made available to support banks in carrying out due diligence on their clients.<sup>56</sup>

Despite the welcome reforms in 2015 to improve checks and transparency, Transparency International pointed out that the system mainly relies on banks or investment firms to carry out anti-money laundering checks.<sup>57</sup> They express ‘serious doubts as to whether the UK’s due diligence regime is satisfactory, ‘either in its supervisory structure or in performance and compliance standards, to adequately detect and report suspicions of money laundering associated to the proceeds of corruption’. The study cites reports from the Financial Services Authority (FSA) finding failings in compliance systems to prevent money laundering.<sup>58</sup>

While Transparency International recognise that the criminal record check is a positive development, they argue that it is unlikely to impact individuals involved in large scale corruption involving complicity of government officials who might not be convicted.<sup>59</sup>

### ***Grounds for refusal***

General grounds for the refusal of Leave to Enter, or Leave to Remain in the UK are set out in the Immigration Rules in Paragraphs 320-322 of the Immigration rules, relating particularly to breach of immigration rules and public order considerations.

Specific criteria were introduced in 2015, partially to better ensure that the Tier 1 (investors) visa cannot be used for money laundering. In accordance with Paragraph 245EB(e) of the Immigration Rules, when assessing the application, the entry clearance officer must not have reasonable grounds to believe that:

- (i) the applicant is not in control of, and at liberty to freely invest, the money specified in their application for the purposes of meeting the requirements under this route;
- (ii) any of the money specified in the application has been acquired by means of conduct which is unlawful in the UK, or would constitute unlawful conduct if it occurred in the UK; or
- (iii) where the money specified in the application has been made available by another party, the character, conduct or associations of that party are such that approval of the application would not be conducive to the public good.<sup>60</sup>

### ***Processing application***

To apply for a Tier 1 (investor) visa, applicants must complete a Tier 1(investor) migration form<sup>61</sup> and submit evidence to demonstrate that they comply with the applicable criteria (described below).

After receiving the application, the Home Office sends a letter to the applicant requesting his/her **biometrics details**. The assessment of the application can only start once the Home Office receives this information. The decision is notified by Royal Mail ‘Signed For’ and includes details on the right to appeal or to make an administrative review.

The Home Office website estimates that the decision is taken **within 3 weeks from application**.

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<sup>56</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>57</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>58</sup> Financial Conduct Authority, *how small banks manage money laundering and sanctions risk: update*, November 2014, available at <https://www.fca.org.uk/publications/thematic-reviews/tr14-16-%E2%80%93-how-small-banks-manage-money-laundering-and-sanctions-risk>, accessed in April 2018.

<sup>59</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>60</sup> Paragraph 245EB(e) of the Immigration Rules.

<sup>61</sup> Available on the following link <https://www.gov.uk/tier-1-investor/apply>, accessed in April 2018.

There is an online tool to estimate the processing times depending on the country of origin.<sup>62</sup>

The date of application is counted from:

- If the application is from overseas: from the date of payment of the fee (date on the payment receipt)
- If the application is made in the UK: The date of posting; or the date on which it is delivered to the Home Office if the applicant has a courier.

If successful, the applicant is granted a visa of an initial period of Leave To Enter (LTE) the UK and remain for **three years and four months** (Paragraph 245EC Immigration Rules). After this period, an **extension of two years** can be granted, which is known as a Leave to Remain (LTR). Third-country nationals who have been lawfully resident in the UK under another migration category may apply to switch to the Tier 1 (investors) and, if successful, will be granted a Tier 1 (Investor) residence visa for the duration of three years.<sup>63</sup>

Successful applicants from certain third countries<sup>64</sup> are required to **register with the police** (Paragraph 245EC(a) (ii) Immigration Rules and Appendix 2 of the Immigration Rules: police registration).<sup>65</sup>

## 2. Application for Leave to Remain (extension)

An extension of the Tier 1 (Investor) can be granted if the applicant has held entry clearance or Leave to Remain as a Tier 1 (Investor) Migrant in the 12 months immediately before the date of the application.

Amendments in 2014 led to changes in eligibility criteria for all initial applications in the Tier 1 (Investor) category submitted on or after 6 November 2014. Those who had been granted leave under the rules applicable before that date are not subject to the new criteria when they apply to extend their stay or for indefinite leave to remain (ILR). There are therefore two sets of eligibility criteria for persons seeking to extend their stay and apply for ILR, depending on whether their initial application was lodged before or on/after 6 November 2014.

The **requirements for granting Leave to Remain** are set out in Paragraph 245ED Immigration Rules:

- The applicant must be at least 18 years old and the assets and investment must be wholly under his/her control.
- The applicant must comply with the requirements for the entry clearance for the Tier 1 (investors) visa (mentioned in point 1 above)
- The applicant must not fall for refusal under the general grounds for refusal.
- The applicant must not be in the UK in breach of immigration laws

Leave to Remain is granted for **two years** to applicants having previously obtained leave to enter as a Tier 1 (Investor) Migrant (Paragraph 245EE (a)(i) Immigration Rules). Specific criteria vary according whether the Tier 1 (investor) Migrant entered the route before or on/from November 2014.

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<sup>62</sup> Government guidance on Visa processing times, available at: <https://www.gov.uk/tier-1-investor>, accessed in April 2018.

<sup>63</sup> Paragraph 245EE(a) Immigration Rules.

<sup>64</sup> Afghanistan; Algeria; Argentina; Armenia; Azerbaijan; Bahrain; Belarus; Bolivia; Brazil; China; Colombia; Cuba; Egypt; Georgia; Iran; Iraq; Israel; Jordan; Kazakhstan; Kuwait; Kyrgyzstan; Lebanon; Libya; Moldova; Morocco; North Korea; Oman; Palestine; Peru; Qatar; Russia; Saudi Arabia; Sudan; Syria; Tajikistan; Tunisia; Turkey; Turkmenistan; United Arab Emirates; Ukraine; Uzbekistan; Yemen.

<sup>65</sup> Immigration Rules Appendix 2: police registration- Countries or territories whose nationals or citizens are relevant foreign nationals for the purposes of Part 10 of these Rules.

If the Tier 1 (Investor) entered the route before November 2014<sup>66</sup>

- Applicants must have money of their own, under their own control, in the UK amounting to not less than GBP1 million; OR a) Have personal assets which, taking into account any liabilities to which they are subject, have a value of not less than GBP2 million; and b) have money under their control and disposable in the UK amounting to not less than GBP 1 million, which has been loaned to the applicant by a UK regulated financial institution.
- Have invested not less than GBP 750,000 of the applicant's capital in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies other than those principally engaged in property investment; and have invested the remaining balance of GBP 1 million in the UK by the purchase of assets or by maintaining the money on deposit in a UK regulated financial institution.
- Have made the investment referred to above:
  - within three months of the applicant's entry into the UK, if he/she was granted entry clearance as a Tier 1 (Investor) Migrant and there is evidence to establish his/her date of arrival to the UK,
  - within three months of the date of the grant of entry clearance or leave to remain as a Tier 1 (Investor) Migrant, or
  - where the investment was made prior to the first grant of leave as a Tier 1 (Investor), no earlier than 12 months before the date of the application which led to the first grant of leave as a Tier 1 (Investor) Migrant,

In each case, the level of investment must have been maintained for the whole of the remaining period of that leave.

If the Tier 1 (Investor) entered the route on/from 6 November 2014.<sup>67</sup>

The applicant must have invested not less than GBP 2 million in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies. The investment referred to above must have been made:

- Within three months of the applicant's entry to the UK, if he/she was granted entry clearance as a Tier 1 (Investor) Migrant and there is evidence to establish his/her date of entry to the UK, unless there are exceptionally compelling reasons for the delay in investing, or
- Within three months of the date of the grant of entry clearance or leave to remain as a Tier 1 (Investor) Migrant, unless there are exceptionally compelling reasons for the delay in investing, or
- Where the investment was made prior to the first grant of leave as a Tier 1 (Investor), no earlier than 12 months before the date of the application which led to the first grant of leave as a Tier 1 (Investor) Migrant,

In each case, the level of investment must have been maintained for the whole of the remaining period of that leave.

### **3. Appeals and administrative review (initial entry or extension)**

The **Immigration Act 2014** introduced changes to the rights of appeal of immigration decisions. Applications after 2 March are subject to the rules of the 2014 Immigration Act, applications submitted prior to this date are subject to the Nationality, Immigration and Asylum Act 2002.

Out of country applications for **Leave to Enter** or in country applications for **Leave to Remain** made on or **after 2 March 2015** cannot be appealed. It is possible to apply for an administrative review of the decision if the rejected applicant considers that there has been an error.<sup>68</sup>

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<sup>66</sup> Paragraph 245ED Immigration Rules.

<sup>67</sup> Paragraph 245ED Immigration Rules.

<sup>68</sup> The Tier 1 (Investor) Policy Guidance, para. 43.



In country applications for Leave to Remain made **before 2 March 2015** are eligible for appeal. Details on the possibility to appeal are included in the decision letter.<sup>69</sup>

#### 4. Fees

- Online/post: there is a **fee of GBP 1,623** to apply for a Tier 1 (Investor) visa online or by post. The fee is the same for extending the visa.<sup>70</sup> The same fee applies to dependents.<sup>71</sup>
- In person: it is possible to use a super-premium service to apply or extend in person.

Under the super premium service, a courier collects the application forms and documents; premium service staff visit to obtain biometric information (fingerprints and photo) and signature; and the decision on the application is usually given within 24 hours.<sup>72</sup>

The super-premium service entails a one-off fee of **GBP 10,500**, with an additional **GBP 2,233** for each dependent. It is possible to use this service for up to four main applicants (applicants with access to the investment funds) and a maximum of ten dependents.<sup>73</sup>

Applicants are also required to pay a healthcare surcharge<sup>74</sup> which covers access to the National Health Service. This is paid either:

- During the application process if the application is made online;
- Before completing the application if the application is made by post;
- At time of booking the appointment if the application is made through the super-premium service.

The health surcharge is **GBP 200** per year.<sup>75</sup> However, plans to increase the fee to GBP 400 per year were announced in February 2018.<sup>76</sup>

#### 5. Tier 1 (Investor) Indefinite Leave to Remain (settlement) applications

A Tier 1 (Investor) Migrant can apply for **Indefinite Leave to Remain** after being five years lawfully in the UK for a continuous period.<sup>77</sup>

##### *Residence criteria*

The criteria for the continuous period of residence is defined in Paragraph 245AAA (a) of the Immigration Rules as ‘residence for an unbroken period with valid leave’. The applicant should not have been absent from the UK for more than 180 days during any 12-month period in the continuous period, except for the purpose of assisting with a national or international humanitarian or

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<sup>69</sup> The Tier 1 (Investor) Policy Guidance, para. 42.

<sup>70</sup> Fees are regulated by the Immigration and Nationality (Fees) Regulations 2018, available at <http://www.legislation.gov.uk/ukxi/2018/330/contents/made>, accessed in April 2018.

<sup>71</sup> Application for a Grant of Leave and Biometric Immigration Document as a Tier 1 or 5 Dependant, Government Guidance p. 3, available at <https://www.gov.uk/government/publications/application-to-extend-stay-in-the-uk-as-a-tier-1-entrepreneur-dependant-or-tier-1-graduate-entrepreneur-dependant>, accessed in April 2018.

<sup>72</sup> For further information, see government webpage on visa premium services, available at <https://www.gov.uk/ukvi-premium-service-centres/use-the-super-premium-service>, accessed in April 2018.

<sup>73</sup> UK Government website, ‘Visa and immigration. Work visas’, ‘Tier 1 (Investor) visa’ available at <https://www.gov.uk/tier-1-investor>.

<sup>74</sup> For further information, see the government webpage, available at <https://www.gov.uk/healthcare-immigration-application>.

<sup>75</sup> Schedule 1 of the Immigration (Health Charge) Order 2015.

<sup>76</sup> See government webpage, *Health charge for temporary migrants will increase to £400 a year*, available at <https://www.gov.uk/government/news/health-charge-for-temporary-migrants-will-increase-to-400-a-year>, accessed in April 2018.

<sup>77</sup> The application form (SET (O) form) is available at <https://www.gov.uk/government/publications/application-to-settle-in-the-uk-form-seto>.

environmental crisis. As mentioned above the requirements were relaxed following amendments in 2011 prior to which applications for ILR would not allow absences for more than three consecutive months.

### **Requirements**

The requirements for applying for Indefinite Leave to Remain are set out in Paragraph 245EF of the Immigration Rules:

- The applicant must not fall for refusal under the general rules for refusal
- The applicant must have demonstrated **sufficient knowledge of the English language**<sup>78</sup> and **sufficient knowledge about life**<sup>79</sup> in the UK (the latter is assessed through a test known as the “Life in the UK test”).
- The applicant must not be in the UK in breach of immigration laws.

The Immigration Rules also provide for an **accelerated procedure** when meeting additional criteria that allows a Tier 1 (investor) Migrant to obtain Indefinite Leave to Remain after a continuous period of two or three years.<sup>80</sup> The criteria are different depending on whether the Tier 1 (investor) entered the route before 6 November 2014 or after that date (date on which the minimum threshold for investment was raised from GBP 1 million to GBP 2 million). For all cases this is not additional to the GBP 2 million required for the Tier 1 (investor) visa. If the applicant meets the criteria described below in the context of the Tier 1 investor visa (rather than the GBP 2 million required), they are eligible for the accelerated procedure.

#### If the Tier 1 (Investor) entered the route on/from 6 November 2014<sup>81</sup>

- Accelerated procedure for ILR after **two years** of continuous residence in the UK if the applicant makes an investment of GBP 10 million or more by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies.
- Accelerated procedure for ILR after **three years** of continuous residence in the UK if the applicant makes an investment of GBP 5 million or more by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies.

#### If the Tier 1 (Investor) entered the route before November 2014<sup>82</sup>:

- Accelerated procedure for ILR after **two years** of continuous residence in the UK: the applicant has money of his own under his control in the UK amounting to not less than GBP 10 million; or owns personal assets which, taking into account any liabilities to which they are subject, have a value of not less than GBP 20 million; **and** has money under his control and disposable in the UK amounting to not less than GBP 10 million which has been loaned to him by a UK regulated financial institution
- Accelerated procedure for ILR after **three years** of continuous residence in the UK: if the applicant has money of his own under his control in the UK amounting to not less than GBP 5 million; or owns personal assets which, taking into account any liabilities to which they are subject, have a value of not less than GBP 10 million; **and** has money under his control and disposable in the UK amounting to not less than GBP 5 million which has been loaned to him by a UK regulated financial institution;

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<sup>78</sup> Criteria are set out in part 2.2 of the Appendix Koll of the Immigration Rules and include e.g. (a)(i) demonstrating that the applicant is from a country in which English is the native language; (ii) demonstrate that they have obtained academic qualifications in the UK or a country in which English is the native language; or (c) an on line verification system operated by an approved English language test provider confirms that the applicant has passed an English language test in speaking and listening, at a minimum level B1 of the Common European Framework of Reference for Languages, approved by the Secretary of State.

<sup>79</sup> Criteria are set out in Part 2.3 of the Appendix Koll of the Immigration rules.

<sup>80</sup> Table 9A of Appendix A to the Immigration Rules.

<sup>81</sup> Immigration Rules Appendix A Table 9A: Applications for indefinite leave to remain from applicants who initially applied to enter the category from 6 November 2014 as referred to in paragraph 57(a).

<sup>82</sup> Immigration Rules Appendix A Table 9B: Applications for indefinite leave to remain from applicants who initially applied to enter the category before 6 November 2014 as referred to in paragraph 57(b)

The accelerated procedure is only available to the main applicants and not their family members who have to comply with the five-year continuous residence requirement.<sup>83</sup>

## 1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

The **Home Office** is the competent authority for issuing the Tier 1 (investors) visa. Immigration Officers are competent for receiving and processing applications and carrying out verification checks (Paragraph 7A of the Immigrations Rules Part 1).

**UK Regulated Financial institutions** (i.e. an institution regulated by the Financial Conduct Authority (FCA) or Prudential Regulation authority (PRA) are competent for carrying out due diligence checks when the applicants open a UK bank account.

## 1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

There is no cap for the Tier 1 (investors) scheme in the UK.

The UK outsources regulatory oversight responsibility to 27 private sector bodies. Supervisors from private sector bodies are tasked with overseeing compliance with the Money Laundering Regulations.

There are 27 bodies appointed by Treasury ranging from statutory regulators to professional bodies.<sup>84</sup> According to Transparency International, this approach has led to ‘an environment where standards of supervision vary widely and, as mentioned above, there is a poor overall understanding of risk’.<sup>85</sup> The NGO also reported on an absence of investigations by UK law enforcement authorities against money laundering in the UK related to acts of corruption by individuals in Russia or China.<sup>86</sup>

## 1.4 INFORMATION ON APPLICATIONS

The UK publishes statistics on Leave to Enter Tier 1 (investor)<sup>87</sup> presented in **Table 3** below.

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<sup>83</sup> [The Tier 1 \(Investor\) Policy Guidance.](#)

<sup>84</sup> List of supervisors: Association of Accounting Technicians (AAT); Association of Chartered Certified Accountants (ACCA); Association of International Accountants (AIA); Association of Taxation Technicians (ATT); Chartered Institute of Management Accountants (CIMA); Chartered Institute of Legal Executives (CILEX); Chartered Institute of Taxation (CIOT); Council for Licensed Conveyancers (CLC); Department of Enterprise, Trade, and Investment Northern Ireland (DETNI); Faculty of Advocates (Scottish bar association) (FoA); Faculty Office of the Archbishop of Canterbury (AoC); Financial Conduct Authority (FCA); Gambling Commission (GC); General Council of the Bar (England and Wales) (GCBEW); General Council of the Bar of Northern Ireland (GCBNI); HM Revenue & Customs (HMRC); Insolvency Practitioners Association (IPA); Insolvency Service (SoS); Institute of Certified Bookkeepers (ICB); Institute of Chartered Accountants in England and Wales (ICAEW); Institute of Chartered Accountants in Ireland (ICAI); Institute of Chartered Accountants of Scotland (ICAS); Institute of Financial Accountants (IFA); International Association of Book-keepers (IAB); Law Society of England and Wales (LSEW); Law Society of Northern Ireland (LSNI); and the Law Society of Scotland (LSS).

<sup>85</sup> HM Treasury’s call for information on the UK’s anti-money laundering (AML) supervisory regime, Submission from Transparency International UK.

<sup>86</sup> *Ibid.*

<sup>87</sup> Government immigration statistics, available at <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017-data-tables>, accessed April 2018.

**Table 3 Application for Tier (1) investors Leave to Enter (2008-2017)**

Year	Total no. of requests for residence (all tiers)	No. of requests for Tier 1 investors	Applications (Tier 1 investors) <sup>88</sup>		Resolved	Granted	Refused
			Main applicant	Dependant			
2008	2.440.369	207	Main applicant	68	53	43	10
			Dependant	139			
2009	2.447.391	495	Main applicant	173	176	153	19
			Dependant	322			
2010	2.529.962	671	Main applicant	233	232	211	18
			Dependant	438			
2011	2.607.142	1006	Main applicant	383	364	331	30
			Dependant	623			
2012	2.561.623	1519	Main applicant	507	508	470	37
			Dependant	1012			
2013	2.830.012	1707	Main applicant	604	601	565	33
			Dependant	1103			
2014	2.748.348	3424	Main applicant	1293	1277	1172	98
			Dependant	2131			
2015	2.840.390	674	Main applicant	190	219	192	26
			Dependant	484			
2016	2.896.157	660	Main applicant	240	245	217	24
			Dependant	420			
2017*	2.500.968	748	Main applicant	290	297	274	22
			Dependant	458			

\*Data from 2017 only cover the first three quarters.

Figure 1 below shows the number of successful applications (Tier 1 investors) per type of applicant and per year<sup>89</sup>:

<sup>88</sup> It should be clarified that the number of successful applications/turned down applications do not correlate with the number of requests, because there might be requests made in 2012 that were solved the following year. Government immigration statistics, available at <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017-data-tables>, accessed April 2018.

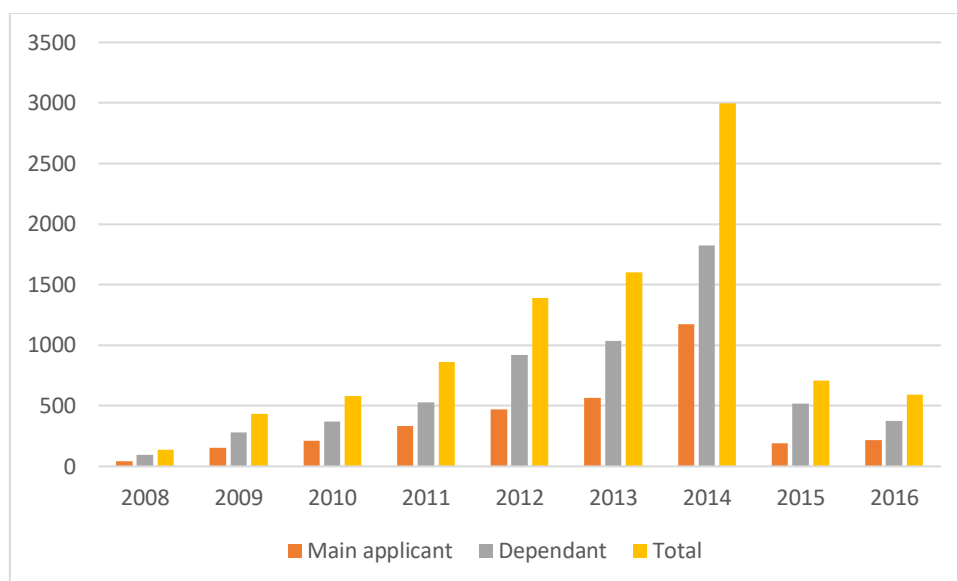


Table 4 provides data regarding decisions on applications for an extension of stay (Tier 1 (investors) Leave to Remain visas) from 2008 to 2016, including main dependants and applicants.

**Table 4 Application for Tier (1) investors Leave to Remain (2008-2016)<sup>90</sup>**

Year	Applicant type	Decisions	Grants	Refusals
2008	Main applicant	57	55	2
	Dependant	72	68	4
	Total	129	123	6
2009	Main applicant	149	145	4
	Dependant	206	199	7
	Total	355	344	11
2010	Main applicant	147	144	3
	Dependant	176	167	9
	Total	323	311	12
2011	Main applicant	151	146	5
	Dependant	155	141	14
	Total	306	287	19
2012	Main applicant	315	303	12
	Dependant	378	364	14
	Total	693	667	26
2013	Main applicant	402	395	7
	Dependant	414	404	10
	Total	816	799	17
2014	Main applicant	614	601	13
	Dependant	595	574	21

<sup>90</sup> Ibid.

Year	Applicant type	Decisions	Grants	Refusals
	Total	1209	1175	34
2015	Main applicant	544	489	55
	Dependant	970	922	48
	Total	1514	1411	103
2016	Main applicant	638	596	42
	Dependant	1.069	1.040	29
	Total	1707	1636	71

The data reflects a significant fall in the number of applications in 2015 and 2016. In 2017, the applications marginally increased compared to 2016. Applicants are mainly Russian and Chinese nationals.<sup>91</sup>

The decrease in applications from 2014 can partly be attributed to the amendments introduced in November 2014 increasing the minimum investment from GBP 1 million to GPM 2 million. A 2013 study from the Migration Advisory Committee (MAC)<sup>92</sup> predicted that the closure of the Canadian investor programme may have a more significant impact on demand for the Tier 1 (Investor) route than the reforms envisaged for 2014, or that the decline in demand would be due to an increase in demand for other routes, such as the Tier 1 (Entrepreneur) route.<sup>93</sup>

Transparency International attributes the fall in applications in 2015 to the more stringent checks introduced in 2014 and 2015 which may have deterred investors.<sup>94</sup> According to the tax consultancy Mark Davies & Associates, the lower number of applications can also be explained by increased competition with residence or citizenship schemes in other EU Member States such as Portugal, Malta and Cyprus offering visas or citizenship with less onerous requirements, as well as political and economic changes (in countries of origin and in the UK).<sup>95</sup>

## 1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

**Table 5** below shows the numbers of applications of dependents of Tier 1 (investors) Migrants between 2012 and 2017.

**Table 5 Applications for Leave to Remain by dependants of Tier 1 (investors) Migrants**

Year	Number of successful applications for Tier 1 (investors) Leave to Enter applications of dependants	Percentage of successful applications
2012	920	91%
2013	1038	94%

<sup>91</sup> Government immigration statistics, available at <https://www.gov.uk/government/collections/migration-statistics>.

<sup>92</sup> Non-departmental public body comprised of economists and migration experts that provides transparent, independent and evidence-based advice to the Government on migration issues

<sup>93</sup> Tier 1 (Investor) route: Investment thresholds and economic benefits', Report prepared by the Migration Advisory Committee, 25 February 2014, available at <https://www.gov.uk/government/publications/the-investment-limits-and-economic-benefits-of-the-tier-1-investor-route-feb-2014>, accessed in April 2018.

<sup>94</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at: <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>.

<sup>95</sup> Cited in Financial Times, *Demand falls for investor visas to UK*, available at <https://www.ft.com/content/08d5b20e-28b5-11e6-8ba3-cdd781d02d89>, accessed in April 2018.

Year	Number of successful applications for Tier 1 (investors) Leave to Enter applications of dependants	Percentage of successful applications
2014	1823	87%
2015	516	92%
2016	373	86%
2017	418	90%

Family members (i.e. ‘dependants’) of applicants from outside the EEA or Switzerland need to apply for **Leave to Enter** (entry clearance) or **Leave to Remain** (Part 8 of the Immigration Rules, paragraphs 319AA-319J). The following requirements apply:

- Dependant must be the spouse or partner and children under 18;
- Children applicants must not be married or in a civil partnership; must not have formed an independent family unit; and must not be leading an independent life (Paragraph 319H immigration Rules).
- Applicants must provide an original or scanned copy of a criminal record certificate from the relevant authority in any country in which they have been present for 12 months (whether continuously or in total) or more in the past 10 years, while aged 18 or over (Paragraph 319C(k)(1))

With regard to applications for **Indefinite Leave for Remain**, the same requirements apply as for the main applicants. Dependents must also prove that they have been living together in the UK for the time specified (married or similar relation) (Paragraph 319E if the Immigration Rules).

Paragraph 319D of Part 8 of the Immigration Rules includes the same rights and exceptions for family members than for main applicants (see *Section III.1* below).

## 2 TYPE OF INVESTMENT<sup>96</sup>

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
UK government bonds, or share or loan capital in active and trading UK-registered companies.	Minimum of GBP 2 million <sup>97</sup>	<p>Applicants must send documents to prove that they comply with the requirements. These are assessed by the Home Office during the application phase.</p> <p>The evidence required depends on the nature of the investment<sup>98</sup>:</p> <ul style="list-style-type: none"> <li>■ A portfolio report, produced by a UK regulated financial institution: the applicant can use a <b>letter or portfolio report</b> from a UK regulated financial institution.</li> <li>■ Portfolio report managed by the applicant or where the portfolio manager does not operate in the UK and is not regulated by the Financial Conduct Authority (FCA) or the Prudential Regulation Authority (PRA): <b>Letter or portfolio report</b> as well as documentary evidence of the applicant's holdings used in the application (including Certified copies of bond documents; Share documents; Trust fund document)</li> <li>■ Money in a bank: <b>Personal bank statements</b> or a <b>letter from a regulated bank</b>.</li> </ul> <p>In case funds have not been held in the bank account or portfolio for 3 consecutive months or more, applicants must always provide <b>evidence of the source of the money</b>. The following sources of fund</p>	The Home Office and the UK Regulated Financial institutions (i.e. an institution regulated by the Financial Conduct Authority (FCA) or Prudential Regulation authority (PRA), as described in section 1.

<sup>96</sup> 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.

<sup>97</sup> Paragraph 54 of Appendix A: attributes of the Immigration Rules.

<sup>98</sup> The Tier 1 (Investor) Policy Guidance para. 58.



Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		<p>can be considered (non-exhaustive list): gift, deeds of sale, evidence from a business, will, divorce settlement or award or winning.<sup>99</sup></p> <p>The Home Office will contact the source of these documents to confirm the information as necessary.<sup>100</sup></p> <p>In case, the money is overseas, it is necessary to provide confirmation that the money can be transferred into the UK if the application is successful.<sup>101</sup></p>	

### 3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
Entry clearance visa (Leave to Enter): <b>3 years and 4 months</b>	<p>The physical presence of the applicant is not required.</p> <p>However, to qualify for Indefinite Leave to Remain after 5 years (which can be reduced to two years for investors investing GBP 10 million and three years for investors investing GBP 5 million), applicants should not have been absent from the UK for more than 180 days during any 12-month period in the continuous period, except for the purpose of assisting with a national or international humanitarian or environmental crisis.<sup>102</sup></p>	N/A.	<p>The Tier 1 investor visa can be extended for two years.<sup>103</sup></p> <p>The Home Office is the competent authority to renew the permit.</p> <p>Different requirements apply depending on the date of the initial Leave to Enter or Remain (before or from/after November 2014), as described in section 1.</p>

<sup>99</sup> The Tier 1 (Investor) Policy Guidance para.60-61.

<sup>100</sup> Annex D Tier 1 (Investor) of the Points Based System – Policy, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/722474/Tier\\_1\\_Investor\\_Policy\\_Guidance\\_07.18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722474/Tier_1_Investor_Policy_Guidance_07.18.pdf), accessed in April 2018.

<sup>101</sup> The Tier 1 (Investor) Policy Guidance para. 62.

<sup>102</sup> Paragraph 245AAA (a) of the Immigration Rules.

## 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
<p><i>Criminal record check</i> Applicants and dependant adults (over 18 years old) of the main applicant must provide an <b>overseas criminal record certificate</b> for any country they have been present in continuously or cumulatively for 12 months or more, in the 10 years prior to their application.<sup>104</sup></p> <p><i>Due diligence</i> Due diligence by UK Regulated Financial institutions (banks or investment firms)</p> <p><i>Verification checks from the Home Office</i></p> <p>Applicants must provide evidence of the <b>source of the funds</b> if they have not held the funds for three consecutive months before the date of the application. The Home Office will contact the source of the documents to confirm the information if necessary.<sup>105</sup></p> <p>Checks with the intelligence agencies (i.e. Security Service (MI5), or Embassy can be carried out, but according to Transparency International these are not made available to</p>	<p><i>Criminal record check</i> Applicants must provide the overseas criminal record certificate with the application. There are general grounds for refusal<sup>107</sup> for an applicant that:</p> <ol style="list-style-type: none"> <li>1. has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years; or</li> <li>2. has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence; or</li> <li>3. has been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 12 months, unless a period of 5 years has passed since the end of the sentence.</li> </ol> <p><i>Verification checks</i> The Home Office entry clearance officer must not have reasonable grounds to believe that<sup>108</sup>:</p> <ul style="list-style-type: none"> <li>■ The applicant is not in control of and at liberty to freely invest the money specified</li> </ul>	<p><b>The Home Office</b> (Immigration Officer) processes the application and carries out the verification checks.</p> <p>If the investment funds have been held for less than 90 consecutive days, the Home Office will review evidence of the source of the funding and may contact the source of these documents (i.e. financial institutions) if necessary.<sup>109</sup></p> <p>The <b>UK Regulated Financial institutions</b> (i.e. an institution regulated by the Financial Conduct Authority (FCA) or Prudential Regulation authority (PRA), as described in section 1 carry out the due diligence checks.</p>	<p>There are no <b>ex post checks</b> on the Leave to Enter Tier 1 (Investor) visa.</p> <p>Checks are carried out if the Tier 1 (investor) applies for an <b>extension</b> ('Leave to Remain') after three years. During the application for Leave to Remain, the Home Office <b>checks that the investment was made within 3 months</b> of the applicant's entry to the UK.<sup>111</sup></p> <p>There have been calls for retrospective checks of Tier 1 investor visas issued between 2008-2015, following money-laundering concerns. The Prime Minister stated during a Parliamentary hearing in March 2018 that she will ask the 'Home Office to provide further</p>

<sup>103</sup> Paragraph 245EE (a)(i) Immigration Rules.

<sup>104</sup> Paragraph 245EB (f) Immigration Rules.

<sup>105</sup> The Tier 1 (Investor) Policy Guidance para.60-61.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
support banks in carrying out due diligence on their clients. <sup>106</sup>	<p>in their application; or</p> <ul style="list-style-type: none"> <li>■ any of the money specified in the application for the purposes of meeting the investment requirement has been acquired by means of conduct which is unlawful in the UK, or would constitute unlawful conduct if it occurred in the UK; or</li> <li>■ where any of the money specified in the application for the purposes of meeting the requirements has been made available by another party, the character, conduct or associations of that party are such that approval of the application would not be conducive to the public good,</li> </ul> <p><i>Due diligence:</i> The applicant must open a bank account with an FCA regulated bank prior to the application, which means that they are subject to the bank's due diligence procedure.</p>	<p><b>Supervisors from private sector bodies</b> are tasked with overseeing compliance with the Money Laundering Regulations. There are 27 bodies appointed by Treasury ranging from statutory regulators to professional bodies.<sup>110</sup></p>	information <sup>1</sup> on those individuals. <sup>112</sup>

<sup>107</sup> Immigration Rules part 9.

<sup>108</sup> Immigration Rules Article 245EB.

<sup>109</sup> The Tier 1 (Investor) Policy Guidance, para. 15.

<sup>111</sup> Paragraph 245ED Immigration Rules.

<sup>106</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>110</sup> List of supervisors: Association of Accounting Technicians (AAT); Association of Chartered Certified Accountants (ACCA); Association of International Accountants (AIA); Association of Taxation Technicians (ATT); Chartered Institute of Management Accountants (CIMA); Chartered Institute of Legal Executives (CILEX); Chartered Institute of Taxation (CIOT); Council for Licensed Conveyancers (CLC); Department of Enterprise, Trade, and Investment Northern Ireland (DETNI); Faculty of Advocates (Scottish bar association) (FoA); Faculty Office of the Archbishop of Canterbury (AoC); Financial Conduct Authority (FCA); Gambling Commission (GC); General Council of the Bar (England and Wales) (GCBEW); General Council of the Bar of Northern Ireland (GCBNI); HM Revenue & Customs (HMRC); Insolvency Practitioners Association (IPA); Insolvency Service (SoS); Institute of Certified Bookkeepers (ICB); Institute of Chartered Accountants in England and Wales (ICAEW); Institute of Chartered Accountants in Ireland (ICAI); Institute of Chartered Accountants of Scotland (ICAS); Institute of Financial Accountants (IFA); International Association of Book-keepers (IAB); Law Society of England and Wales (LSEW); Law Society of Northern Ireland (LSNI); and the Law Society of Scotland (LSS).

<sup>112</sup> Parliament, Liaison Committee, 'Oral evidence: the Prime Minister, HC 905', available at <https://www.parliament.uk/documents/commons-committees/liaison/LC-27-03-18.pdf>.

### III. RIGHTS GRANTED BY THE PERMITS

#### 1 RIGHTS GRANTED TO INVESTORS

The Tier 1 (investor) visa grants the following rights to the holder:

- The **right to work** subject to exceptions mentioned below;
- The **right to study** subject to exceptions mentioned below;
- **Accelerated route to indefinite leave to remain (ILR)** after 2 years for those who are willing to invest at least GBP 10 million, or after 3 years for those who are willing to invest at least GBP 5 million.
- The right to **access the National Health Service (NHS)**. As mentioned above applicants are required to pay a healthcare surcharge as a condition for entry which gives them access to the NHS.<sup>113</sup> However, according to a study from the Migration Advisory Committee (MAC)<sup>114</sup>, Tier 1 investors prefer the private healthcare sector.

Tier 1 (investor) visa holders **are not allowed to**<sup>115</sup>:

- have recourse to public funds (Paragraph 245EC(i) Immigration Rules);
- work as a professional sports person or sports coach (Paragraph 245EC(iv) Immigration Rules);
- work as a doctor or dentist in training unless the applicant has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body (Paragraph 245EC (a)(iii) Immigration Rules);

For further study in particular subject areas<sup>116</sup>, applicants need to apply for an Academic Technology Approval Scheme (ATAS) certificate. A study carried out by the Migration Advisory Committee (MAC) found that one of the main reasons attracting investors to the UK was the high quality independent education and further education available in the country for the education of their children.<sup>117</sup>

#### 2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Paragraph 319D of Part 8 of the Immigration Rules stipulates the same rights and exceptions for family members.

#### 3 OTHER BENEFITS

No other benefits have been identified.

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<sup>113</sup> For further information, see the government webpage, available at <https://www.gov.uk/healthcare-immigration-application/pay>, accessed in April 2018.

<sup>114</sup> Ibid.

<sup>115</sup> UK Government website, 'Visa and immigration. Work visas', 'Tier 1 (Investor) visa' available at <https://www.gov.uk/tier-1-investor>.

<sup>116</sup> I.e. if the course involves a doctorate or Masters in Medicine; Biological Sciences; Veterinary Sciences; Physical Sciences; Mathematical and Computer Sciences, Engineering, Technologies (paragraph 2 of Appendix 6 of the Immigration Rules).

<sup>117</sup> Tier 1 (Investor) route: Investment thresholds and economic benefits', Report prepared by the Migration Advisory Committee, 25 February 2014, available at <https://www.gov.uk/government/publications/the-investment-limits-and-economic-benefits-of-the-tier-1-investor-route-feb-2014>, accessed in April 2018.

#### IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

The UK government releases statistics on Citizenship applications, grants and refusals.<sup>118</sup> However it is not possible to know through these statistics the type of visa previously held by the applicant.

There is no specific route for investors to apply for citizenship. Investors who have been granted the Tier 1 investor visa can apply for citizenship through the general naturalisation procedure set out in the British Nationality Act 1981.

In order to become a British citizen by naturalisation the following requirements need to be met<sup>119</sup>:

- Be 18 or older
- Be of full capacity – to ensure that applicants are able to comprehend their actions in applying for citizenship.
- Meet residence requirements of five years (see paragraph below) or be serving outside the UK in Crown Service under the government of the UK
- Be of good character
- Have sufficient knowledge of English, Welsh or Scottish Gaelic language, and can provide the required evidence to support this
- Have sufficient knowledge of life in the UK and provides the required evidence to support this
- If successful, intend to have their main home in the UK or enter into or continue in any of the following:
  - Crown service under the government of the UK
  - service under an international organisation of which the UK or the UK government is a member
  - service in the employment of a company or association established in the UK

In order to meet the **residence requirements**, applicants have to demonstrate that they were:

- in the UK at the beginning of the **period of five years** ending with the date of the application
- not absent from the UK for more than either:
  - 450 days in that 5-year period
  - 90 days in the period of 12 months ending with the date of application
- not, on the date of application, subject under the immigration laws to any restriction on the period of stay in the UK
- not, at any other time in the 12-month period ending with date of application, subject under the immigration laws to any restriction on their period of stay in the UK
- not at any time in the period of 5 years ending with the date of application, in the UK in breach of the immigration laws

If the investor obtained his/her Indefinite Leave to Remain through the accelerated track (after two or three years in the UK), he/she nonetheless needs to comply with the five years' residence requirement.

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<sup>118</sup> Government immigration statistics, available at <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017-data-tables>, accessed April 2018.

<sup>119</sup> Home Office, December 2017, 'Nationality policy: Naturalisation as a British citizen by discretion', available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.0EXT.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.0EXT.pdf).

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

The Migration Advisory Committee (MAC) was asked on October 2013 by the Minister for Immigration “whether the investment thresholds are appropriate to deliver significant economic benefits for the UK, in particular the minimum £1m threshold.<sup>120</sup> This was in the context of amendments to the Tier 1 investors visa leading to the increase of the threshold for investment from GBP 1 million to GBP2 million.

In assessing the **direct financial contribution** of Tier 1 investors, the MAC concluded that it provided little benefit for the UK, because the investments were primarily in the form of Government bonds, i.e. loans to the UK government.<sup>121</sup> The report states that as these funds could already be accessed from capital markets, there is no need for the investments from the Tier 1 (investors) route.

The report found that Tier 1 investors contributed around **GBP 500 million per annum**, based on the current numbers investing GBP1 million in UK gilts. It estimates that the capital raised through the Tier 1 (Investor) route is not sufficient to affect the interest rates on Government borrowing.<sup>122</sup>

*‘When taken in comparison to the size of the Gilt market, which currently stands at £967.6 billion, it can be seen that these extra investments [by Tier 1 migrants] will create a minimal impact on the market and will do little to affect long run prices...one could be forgiven for asking whether the Government needs Tier 1 investment into Gilts, with it representing such a small element of the overall Gilt market.’*

Westminster Wealth response to MAC call for evidence<sup>123</sup>

The Committee also found that even when the investments were in the form of **shares or equity** rather than gilts, they are usually purchased on the secondary market (and therefore not providing capital into the company in the same way as a new share would).

According to the Committee, Tier 1 investors tend to invest at the lower threshold of GBP 1 million, rather than the GBP 5 million and GBP 10 million thresholds. They reported that investors considered that the incentives were insufficient to encourage investment at a higher level (including lack of accelerated citizenship).<sup>124</sup>

The Committee however found that the Tier 1 (investors) scheme benefited the UK economy through **indirect consumption by the investor**, mostly professional services and taxation:

The Committee concluded that the UK may benefit from the use of **Professional Services** (e.g. legal advice, investment management and accountancy services) “given that the services provided to Tier 1 investors would be additional, and therefore analogous to an export.”

The Committee estimated the average expenditure on professional services by Tier 1 investors at around GBP 50,000 per annum:<sup>125</sup>

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<sup>120</sup> Migration Advisory Committee, February 2014, ‘Tier 1 (Investor) route. Investment thresholds and economic benefits’, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285220/Tier1investmentRoute.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1investmentRoute.pdf), accessed in April 2018.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid p. 33.

<sup>123</sup> Ibid p. 33.

<sup>124</sup> Ibid p. 35.

<sup>125</sup> Migration Advisory Committee, February 2014, ‘Tier 1 (Investor) route. Investment thresholds and economic benefits’, available at

- **Investment advisory and wealth management:** such firms typically charge clients between 0.5 % and 1% of the investment sum per annum, and a 2% introductory fee. On this basis, the Committee inferred that if around 500 Tier 1 investors per year used these services and invested GBP1 million, each Tier 1 investor will, on average, incur fees of between GBP 5,000 and GBP 10,000 per annum. The contribution was estimated at between GBP2.5 million and GBP 5 million to the sector per year.
- **Legal services** (to assist with initial application and during their stay in the UK) and accountancy services: the average expenditure on legal services was estimated at around GBP 40,000 per annum

The Committee also considered that the Tier 1 (investors) visa make a significant contribution through the payment of **direct and indirect taxes**, mainly through value added tax (VAT).

The report contained other considerations on living expenditure, property and public services. Findings suggested that the cost and benefits were difficult to measure but were not likely to be significant given the relatively small amount of Tier 1 (investors) visas issued:

- **General living expenditure:** while the proportion of the expenditure cannot be measured, the investors scheme represents additional expenditure that the UK would not receive without the Investor scheme.
  - **Property/housing:** the study concluded that the purchase of residential property by investors results in both economic benefits (injection of capital into the economy) but also economic costs because of the resulting higher house prices.
  - **Healthcare:** the study found that no cost on the national health service (NHS) is likely to be attributed to Tier 1 investors, since they prefer the private healthcare sector. The study was not able to estimate if UK based private healthcare providers would benefit from an increase, since it is not possible to determine the proportion of Tier 1 investors using the UK based versus foreign private providers.
- Education:** the study found that one of the main reasons attracting investors to the UK was the high quality independent education and further education available in the country for the education of their children. However, since, proportionally, the number of Tier 1 investor dependents in the independent sector is small, this does not represent a relevant contribution to the UK. Home Office Management Information data on out-of-country Tier 1 investors showed that in 2013, the UK granted 638 visas to dependant children of Tier 1 investor migrants, the majority of whom will enter the independent education sector. This is less than 1% of the 8.8 million children in primary and secondary education in the UK in 2010.<sup>126</sup>
- **Other public services.** The study could not estimate the increase in the demand of other public services – e.g. transport and policing. Due to the number of Tier 1 investor, the impact is likely to be rather small.

The report also considered the positive **dynamic effects for the UK** resulting from the Tier 1 investors in addition to the direct and indirect expenditure discussed above. This refers to business/entrepreneurial activities undertaken by Tier 1 investors (resulting in increased productivity gains and indirect benefits such as corporate taxes); job creation (mainly related to domestic jobs); additional investments and philanthropic contributions by Tier 1 investors. While the study recognised the potential for these benefits, there is very little evidence to measure this contribution.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285220/Tier1investmentRoute.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1investmentRoute.pdf), accessed in April 2018.

<sup>126</sup> Migration Advisory Committee, February 2014, 'Tier 1 (Investor) route. Investment thresholds and economic benefits', available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285220/Tier1investmentRoute.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1investmentRoute.pdf), accessed in April 2018.

On the basis of its findings the MAC provided recommendations to generate greater benefit to the UK economy and residents, including increasing the minimum threshold of investment to GBP 2 million and widening the permissible investment instruments. The MAC recognised that such reforms may reduce demand for this kind of scheme. However, they argued at the time that ‘the additional revenue which may be generated [...] would likely ensure that the route delivers more tangible economic benefit for UK residents.’

While the Home Office does not publish the value of investments through the scheme, Transparency International estimated in 2015 that at least GBP 3.15bn entered the UK through the Tier 1 (Investor) visa scheme between 2008 and 2015.<sup>127</sup> They estimated that as a minimum, a total of GBP 1.15bn of investment flows into the UK can be attributed to Chinese golden visa investors and GBP 729m to Russian nationals<sup>128</sup> but estimate that true figure is likely to be higher in view of the probability that some individual investors are opting for the accelerated residency options. In light of revisions of the scheme announced in 2018 (see comments in the following section), another study measuring the impact of the scheme is likely to be carried out.<sup>129</sup>

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<sup>127</sup> TI-UK analysis of Home Office data available at <https://www.gov.uk/government/statistics/immigration-statisticsjanuary-to-march-2015-data-tables>, accessed in April 2018.

<sup>128</sup> Gold rush: Investment visas and corrupt capital flows into the UK, Transparency International UK, p. 8 available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

<sup>129</sup> Richmond Chambers, *Prime Minister Announces Review of the Tier 1 Investor Visa Category*, available at <https://immigrationbarrister.co.uk/prime-minister-announces-review-of-the-tier-1-investor-visa-category/>, accessed in April 2018.



## VI. OTHER COMMENTS

In 2018, in the context of the alleged poisoning by the Russians of the former Russian military officer and British agent Sergei Skripal, there have been calls for a further review of the Tier 1 (investors) visa.

During Parliamentary debates in March 2018 in a discussion on amendments to the Sanctions and Anti-Money Laundering Bill, the Tier 1 (Investors) scheme came under scrutiny.

The Minister for Security and Economic Crime, was asked the following question: “*What steps will the Minister take to enable us to understand where the £2 million-plus comes from, so that we can be assured it is not dirty money and that these are not unsavoury individuals?*”<sup>130</sup>

The MP recognised that there was a need for better due diligence on the source of the money and increased efforts for tackling transnational criminals through a more co-ordinated Government response. The MP however cautioned that governments must apply the rule of law under the 2010 Equality Act and cannot accuse individuals without evidence.<sup>131</sup>

When asked if the government would strengthen checks on the “*2,500 oligarchs that have acquired [Tier 1] visas in less than 10 years*”, the Prime Minister’s answered: “*My right hon. Friend the Home Secretary has in hand a review of that particular tier of investor visas*”.<sup>132</sup>

Transparency International UK has also called for public disclosures of who is investing and amounts invested, as well as retrospective checks on past Tier Investor visas issued.<sup>133</sup>

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<sup>130</sup> See transcript of Parliament debates, 19 March 2018, Volume 638, available at <https://hansard.parliament.uk/commons/2018-03-19/debates/DF041D5B-2B02-4CBA-A173-6A04D2475476/MoneyLaundering>, accessed in May 2018.

<sup>131</sup> Ibid.

<sup>132</sup> See transcript of Parliament debates 26 March 2018, available at <https://hansard.parliament.uk/Commons/2018-03-26/debates/9EF663FF-689E-42F4-BF49-DDAD825D86EA/EuropeanCouncil#contribution-198C3F81-CB19-41BB-A4CB-8E38EF25BAC8>, accessed in April 2018.

<sup>133</sup> Transparency International website, available at <http://www.transparency.org.uk/the-new-anti-money-laundering-action-plan-good-if-it-works/#.Wv739Gfr2Ag>, accessed April 2018.