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The UK Investor Visa: History, Aims and Controversies

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Introduction

This state of play report provides an introduction to the 'Tier 1 (Investor) visa', the UK's investment-based immigration path to (permanent) residence since 1994. It outlines the visa's key provisions, aims and historical policy changes, as well as central controversies associated with the visa. This report sits alongside an online interactive timeline, which provides further detail on the policy changes and political events that have historically shaped the visa category.

The report is aimed at the interested public, practitioners, policymakers, and other stakeholders. It is based on desk research, a review of historical immigration regulation, and expert consultation with over forty key stakeholders, including policymakers, immigration law practitioners, and investment professionals.

The Investor visa in brief

The Tier 1 (Investor) visa allows visa holders – 'main applicants' and partners and any children under the age of 18 applying as 'dependants' – to live in the UK in return for an investment. The investment must be at least £2 million in shares or bonds issued by active and trading UK-registered companies.

The immigration rules and pathways to settlement

Investor visa holders are free to work and study in the UK – or simply reside here without doing either. Unlike other visa categories, there is no minimum amount of time visa holders have to spend in the UK to preserve their status, although the visa lapses after a 2-year absence (UK Government).

The initial Investor visa is issued for 3 years, followed by 2-year extension(s). There is no limit on how often the visa can be extended, provided the investment is maintained. Alternatively, the Investor visa provides a direct route to UK permanent residence, called Indefinite Leave to Remain (ILR). Investor visa holders qualify for ILR after five years, provided they have not been absent from the UK for more than 180 days in any consecutive 12-month period and they pass the English language and 'Life in the UK' tests. After holding ILR status for one year, they may apply for citizenship. While most Investor migrants eventually obtain ILR, not all aim for citizenship, for example, if their country of origin does not allow dual citizenship.

In 2011, the UK government introduced two 'fast track' routes to permanent residence: Investor visa holders qualify for ILR after 3 years in return for a £5m investment and after 2 years for a £10m investment. These fast track options only accelerate ILR, not citizenship, and only for the main applicant not their dependants. This is a key reason that fast-track routes are rarely used by applicants who apply with family members, as many do: in 2012, the Investor route had the highest "dependant-to-main applicant ratio" of all out-of-country applications for UK visas (MAC 2014:19).

The 'qualifying investment'

The Investor visa relies on a passive investment, meaning the visa holder does not have to be actively involved in any business activity but must simply have funds invested for the duration of the visa.The rules as to what counts as a 'Qualifying Investment' have changed repeatedly and become more complex over the years, with the general aim to maximize economic benefits to the UK.

As of May 2021, a minimum of £2 million needs to be invested in share or loan capital in active and trading UK-registered companies (buying shares means buying part ownership of a firm and thus sharing in future profits through dividends; buying loans means lending a firm money and receiving interest payments on the loan). Companies principally engaged in property investment, development or management are excluded. The funds must be invested via an account with an FCA-regulated financial institution and must not be held in offshore accounts. The money must also not be invested in offshore companies or trusts and investors cannot take loans out against their investment (Yu 2021).

Investments *can* be made in multinational companies with a registered UK office – even if the corporation conducts most of its business activity outside the UK. Indeed, this is a popular investment option due to the relative security of the investment. Similarly, UK government bonds were the most popular option due to the security of the investment, until they were removed as a qualifying investment in March 2019, because of the limited benefit of such investments to the UK economy.

Motivations of UK Investor migrants

In terms of application numbers, the Investor visa is a small category. The number of issued investor visas peaked in 2014 at 1,172 visas (BBC 2018). It declined sharply the following year due to a combination of factors, including the doubling of the investment amount, the tightening of anti-money-laundering checks on applicants' source of funds (see below), and the increasing popularity of cheaper routes to EU citizenship offered by Malta and Cyprus. In 2020, 216 initial Investor visas (not including in-country switches and extensions) were granted to main applicants, a 40 % decline to the previous year likely due to the Covid-19 pandemic and uncertainty around the UK's exit from the European Union (Yazdi 2020).

Investor migrants come from all over the world, with the majority originating from Russia and China. In both countries, the advance of capitalism within authoritarian political structures has seen rising wealth inequality and an associated increase in millionaires over the past decades.

As relayed by lawyers and wealth managers working with investor visa holders, Investor migrants' key reasons for acquiring a UK Investor visa are:

- Schooling: offering children a prestigious education, usually in the UK's private schooling or Higher Education system;
- Family: the wish to provide family with UK permanent residence or citizenship, or to join UK resident family members;
- Work: work or business opportunities in the UK;
- Visit: the possibility to visit the UK, primarily London and formerly the EU, for holidays and entertainment;
- Protection: some use the Investor visa as an 'insurance', because they are in conflict with their governments or because they expect such conflict might arise in the future (e.g., case EWHC 1858 (QB); Devine n.d.; see also Surak 2020).

Investor migrants hence do not necessarily differ from other migrants in their motivations or skills but most importantly in their financial means.

Investor migrants often choose the Investor route over alternative visa routes they might qualify for, such as skilled worker or family visas, because of the independence it offers. Practitioners agree that compared to other UK visas, the Investor category is the least onerous and most flexible for visa holders.

Key policy developments

The Investor visa has seen many regulatory changes over the years, primarily in response to:

» a wish by the UK government to make the route more appealing in order to attract more investor migrants to the UK;

» a broader tightening of the regulation of the financial services industry, including enhanced anti-money-laundering (AML) checks;

» political scandals associated with the Investor visa route and broader geopolitical events

This online interactive timeline provides a detailed overview of the main policy changes and political events that have shaped the Investor visa.

In sum, key policy changes included:

- **1994**: The UK government launches the Immigrant Investor route. The minimum required investment is £1 million, of which at least £750,000 are to be invested in UK government bonds or active and trading UK-registered companies. The remaining £250.000 can be held in a UK bank account or used to purchase UK-based assets, such as property.
- **2004**: The Home Office relaxes the rules to permit loan-based investments. An applicant may now borrow the £1 million investment funds from a regulated UK-registered financial institution, if they personally own assets worth at least £2 million in another jurisdiction.
- **2011**: The new Conservative and Liberal Democrat Coalition Government wants to make the Investor visa route more attractive to attract more investor migrants by 1) introducing the above outlined fast-track routes to ILR and 2) reducing the required residency for ILR applications (so that applicants can spend 180 instead of previously 90 days outside the UK).
- **2014**: The Home Office makes a number of changes to make the route more profitable to the UK, including 1) raising the minimum investment threshold from £1 to £2 million; 2) requiring 100% rather than 75% of the funds to be invested; 3) disallowing loan-based investments.
- **2015**: Partly in response to research carried out by Transparency International on the risks of money laundering through the Investor visa route (see below), the Home Office adds a requirement that prospective investors have to open a bank or investment account with a UK-regulated financial institution before making a visa application – which triggers 'Know your Customer' checks by the financial institution. The Home Office also introduces criminal record checks on initial applicants.
- **2018**: Investor visa holders who apply for UK permanent residence are allowed to have spent a maximum 180 days a year outside the UK during the qualifying period of 5, 3, or 2 years. Until 2018, partners applying as dependants had not been subject to this rule. Accordingly, many Investor visa applications by families were structured in such a way that the non-working spouse – usually the wife – came as the main applicant while the main earner – usually the husband – applied as a dependant. While the former would permanently relocate to the UK with any children and satisfy the 180-days rule, the latter could continue to primarily live and work abroad and still qualify for ILR. In 2018 dependants were brought within the 180-days requirement, ending this practice.
- **2019**: Previously, to prevent money laundering through the Investor visa route, applicants had to provide evidence of the source of investment funds if they had held them for less than 90 days. To strengthen this weak provision, this time-period was extended to two years in 2019. Also, investment in UK government bonds is disallowed to enhance the route's economic impact.

Controversies and debates

The Investor visa has been surrounded by controversy. Three central debates are outlined below.

Does the UK benefit from the Investor visa?

Successive UK governments claimed that the benefits of the route to the UK are principally economic. This includes:

- attracting foreign direct investment to the UK
- encouraging high-net worth spending in the UK
- attracting entrepreneurial and business talent to the UK
- signalling that the UK is 'open for business'.

It is debated whether the route achieves these aims.

In 2013, the Government's Migration Advisory Committee (MAC) was tasked with examining whether the investor route delivered economic benefits to the UK. The committee concluded that such benefits were limited, and if existent, only derived indirectly, from Investor visa holders' spending, rather than directly from their £1 million investment (MAC 2014). As the then chair of the MAC concluded, "the present system is designed to maximise the gains to the immigrant investor and minimise the gains to UK residents" (Metcalf 2014).

Today, despite changes to the route aimed to enhance its economic impact, many stakeholders still believe that the route's only or main economic impact stems from the indirect expenditure of wealthy individuals. To the extent that such indirect benefits exist, they are spread highly unevenly. Investor migrants' expenditure flows largely into certain pockets of London and its wealthier home counties, to UK independent schools and to London's legal, financial and accountancy services industry. Moreover, the wealthier the investor migrant, the more likely they will be to employ tax advisors and register for non-domiciled tax status in order to minimise the taxes they have to pay as a result of residing in the UK. Some practitioners have thus expressed frustration at the government's lack of interest in "allocating at least some of capital inflows from this visa route to funds or projects that benefit the whole UK economy and population more widely" (Rollason 2020).

While it is beyond the scope of this primer to assess the real economic impact of the route, it is clear that this impact remains highly debatable and demands further systematic inquiry. What the debate about the Investor visa route's economic benefit has arguably missed is whether the UK, as one of the world's richest countries, should seek at all to economically gain by channelling wealth from often poorer countries – especially so, if checks remain insufficient to ensure that such wealth does not include misappropriated public funds.

Does the route enable criminal activity?

A sustained focus of criticism of the Investor route has been its potential role in enabling criminal activity. This includes two related issues:

- Are there sufficient checks to prevent criminals from accessing the UK with 'dirty money'?
- Does the visa facilitate criminal activity in countries of origin by assisting the mobility of criminals and their money?

In 2015, Transparency International (TI) revealed "a major money laundering risk" due to "serious failings in the scheme's system of due diligence checks" during the so-called 'blind faith period' between 2008 and 2015 (TI 2015:10,15). At the time, the Home Office awarded Investor visas on the expectation that 'Know Your Customer' including anti-money-laundering checks would be carried out by the UK financial institution that managed the investment funds. However, TI found that UK financial institutions often took the fact that an individual had already been awarded an Investor visa as evidence of their legitimacy, hence carrying out few or no checks at all. Another gap in the system of checks remains today: investor visa holders' compliance with the rules is, generally, only assessed once they apply for an extension, so after three years of residing in the UK.

Subsequent events reinforced such concerns. Following the Salisbury poisoning, the route became associated with the entry to the UK of Russian oligarchs close to Putin (Doward 2018; Hellier et al. 2018). In 2018, the UK's first 'Unexplained Wealth Order' was issued to an Investor visa holder, Zamira Hajiyeva (TI 2018), and in 2019, Sunday Times and Channel 4 Dispatches undercover reporting revealed the questionable conduct of some Investor visa practitioners, underlining concerns about the professional enabling of money laundering (Channel 4, 2019).

Such events prompted a tightening of the Investor visa immigration rules, augmented by a broader tightening of new financial services industry regulation. Practitioners stress that due diligence is much more effective today, while also noting remaining potential loopholes such as the use of 'gifting' to satisfy the source of funds check (Freeland 2021). Finally, the due diligence on applicants is still largely carried out by financial institutions rather than the Home Office. Checks are thus carried out by the same private sector institutions who also financially benefit from applicants' success, a set-up that per se introduces concerns regarding possible conflicts of interest.

Is it fair to treat migrants differently based solely on their wealth?

Finally, there is broader debate about the fairness of granting individuals access to the UK based solely on the size of their wallet. Opponents and proponents of the route alike often focus on the personal qualities of visa holders, with proponents such as Theresa May positioning them as among the "brightest and best talent from around the world" (May 2012). However, the Investor visa is not awarded based on skill, talent or hard work; it solely relies on wealth, with for the most part of the visa's existence minimal or no checks on whether that wealth was generated legally.

Critics like Lord Wallace of Saltaire argue that the Investor visa amounts to "selling off British citizenship to the rich from often non-democratic countries who otherwise one would not regard as desirable immigrants" (Pegg 2017). Notably, the Investor visa rules were relaxed at the same time as the Home Office rolled out its infamous 'hostile environment' immigration measures, which created an increasingly difficult, punitive and violent environment for less wealthy migrants, their British family members, and some British, most prominently those of the Windrush generation. As is revealed years later, the hostile environment measures ultimately lead to the 'Windrush scandal' which sees elderly ethnic minority British citizens and long-term residents of the Windrush generation falsely classified as 'illegal immigrants' by the Home Office, and denied access to healthcare and housing, with some threatened with detention or deported to countries they had not seen since they were children (Gentleman 2019). The Investor visa thus works alongside other immigration legislation introduced by successive UK governments to further entrench wealth-based and racialised inequality not only within the UK immigration system but within British society more generally.

About the research

This policy report is part of an on-going research project on residence and citizenship by investment (RCBI) conducted by Dr Sarah Kunz, at the University of Bristol. The report sits alongside an Online Timeline of the UK Investor visa. Beside analysis of policy documents and media coverage, this report draws on consultation with over 40 experts on the UK Investor visa, including 30 interviews with UK legal practitioners, investment professionals and wealth managers, due diligence professionals, and policy makers currently or formerly at the Home Office, conducted by the author between November 2020 and May 2021.

Find out more about the research on www.sarahkunz.online or contact the author via Sarah.Kunz@bristol.ac.uk.

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