

MITCHELL | ASSET MANAGEMENT



SIV888





1. Overview

In May 2012, the Australian Government announced that it would introduce a new stream of visa referred to as the “Significant Investor Visa” (SIV) as part of the Business Innovation and Investment Program. The Significant Investor Visa would provide high net worth individuals with the ability to apply for an Australian visa and ultimately permanent residence in Australia on the basis of a minimum investment in Australia of AU\$5 million.

The focus of the Significant Investor Visa is to promote investment-based migration into Australia by high net worth individuals. Consequently, the visa criteria facilitates this objective and does not contain restrictions found elsewhere. For example:

- > There is no upper age limit for a Significant Investor Visa
- > There is no points test for a Significant Investor Visa
- > There is no English language threshold for a Significant Investor Visa (although there are higher visa application fees if the applicant or dependents do not have functional English)

Members of the applicant’s “family unit” can apply to get a secondary visa.

A family unit consists of:

- > A spouse or de facto partner
- > A dependent child of the applicant or the applicant’s spouse
- > A dependent child of a dependent child of the applicant or the applicant’s spouse
- > A relative of the applicant or of the applicant’s spouse who does not have a spouse, is usually a resident in the applicant’s household and is wholly or substantially financially dependent on the applicant. A relative is defined as a stepchild, grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew

In order to be granted a secondary visa, the applicant’s family members must meet relevant character, health and security requirements. Children must have the proper permission to lawfully travel and live overseas, particularly where their parents are divorced or separated.

2. The Investment structure

If you decide to use the Mitchell Asset Management investment structure, we will establish your own managed fund, with an independent public trustee company as the custodian to hold your investments.

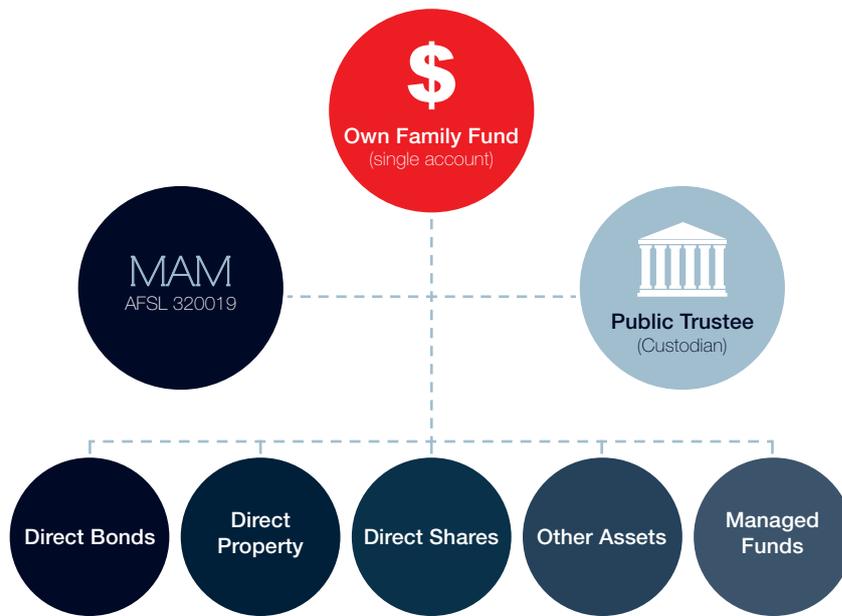
The legal components we will be provided to establish your Fund will include the following;

- > Register a Compliant Constitution
- > Name the Fund. (Your choice, some words restricted such as Bank, Trust Company)
- > Appoint independent public trustee
- > Open a bank account in your choice of currency
- > Issue share certificates of ownership
- > Open registered office and place of business
- > Appoint manager of the Fund
- > Open and manage the share register
- > Apply for tax file number/s
- > Register for all Government approvals

Time to incorporate the Fund, approximately 10 working days.

Mitchell Asset Management will also issue you your own personalised Investment Memorandum (IM) that will clearly outline the rules and responsibilities of Mitchell Asset Management, how it will act and transact your investments on your behalf.

The typical Family Fund structure looks like this;



Mitchell Asset Management will each year provide you with the following services;

- > Complete annual account.
- > Lodge tax returns.
- > Have account audited by a public auditor (if requested).
- > Provide access to on-line reporting.
- > Pay distributions quarterly (if requested we can re-invest all distributions).

3. Who is Mitchell Asset Management?

Domiciled in Australia with an offshore office in Hong Kong we are independently owned.

We are domestically focused with a global reach. This is backed by a strong team of people dedicated to providing these services. Mitchell Asset Management holds an Australian Financial Services Licence, numbered 320019 issued by ASIC, which authorises it, amongst other things, to operate and manage your fund under the SIV arrangements. At Mitchell Asset Management we aim to be valued as a trusted partner in wealth creation.

We provide a complete range of financial advisory and funds management services to both retail and institutional investors, including:

- > Private Equity
- > Property syndicates and funds
- > Fixed Income
- > Bonds
- > Domestic equities
- > International equities

- > Foreign Exchange
- > Funds Management

It is important you choose the right investment to have certainty that it will meet the SIV requirements;

- > To limit your investment risk
- > To limit the time required to manage the investment; and to
- > Obtain a strong level of return on your investment

Our proposals provide 100% certainty regarding compliance with the SIV rules, provide high quality investment, manage all aspects of our investment on your behalf and provide strong returns paid regularly to you.

There are three categories of investment that will constitute a complying investment under the new SIV regime:

1. Australian federal or State government bonds.

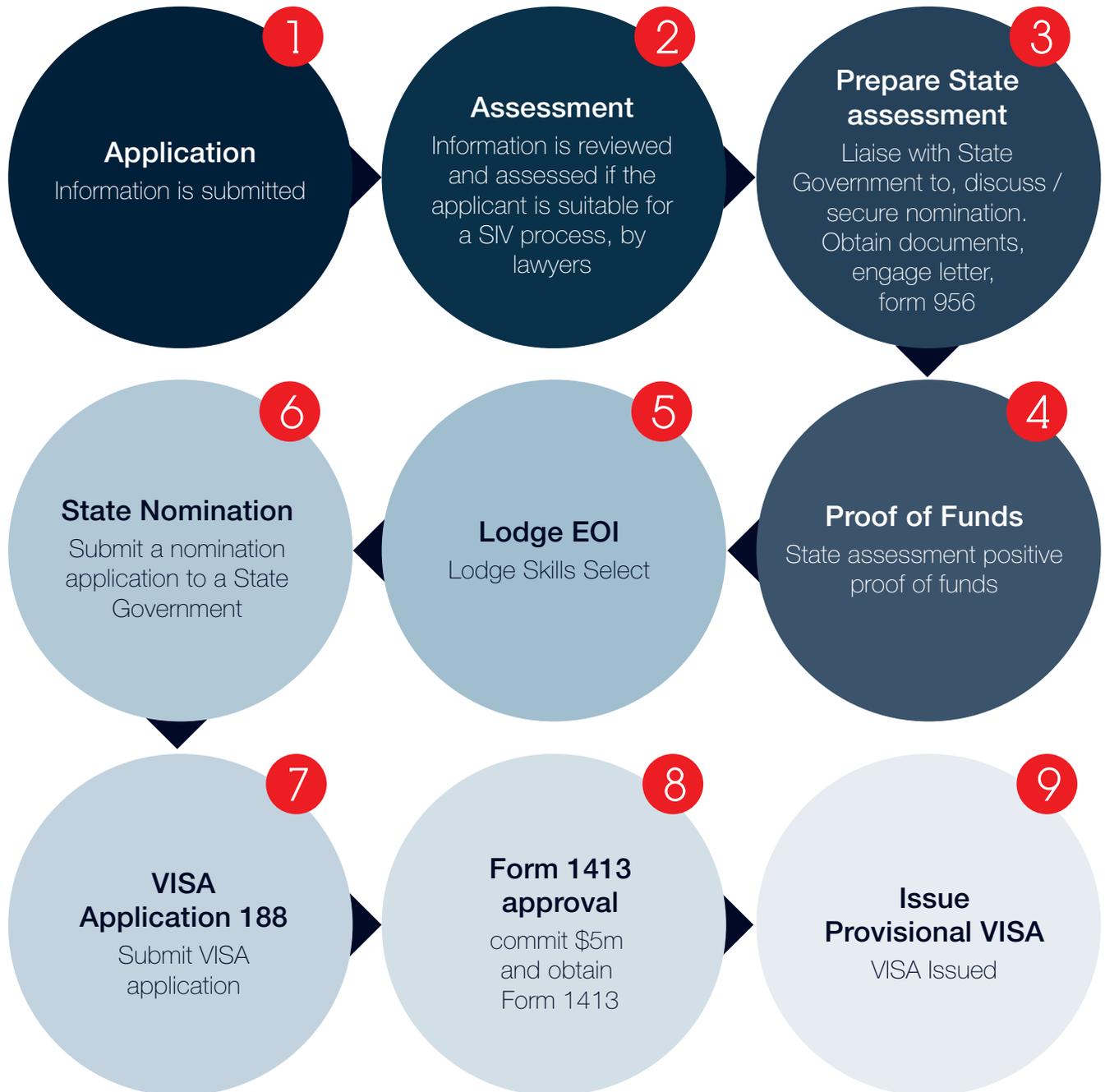
2. Australian proprietary company that is:

- > not listed on an Australian stock exchange has not been established to comply with the SIV rules operates a qualifying business providing goods and / or services to the public is not operated for the purpose of speculative or passive investment

3. Investment into a managed fund operated by a specially licensed manager which invests in Australian assets, including property (e.g. commercial office buildings located in Australia)

We have expertise in all three categories of investment. In particular we believe the third option provides the greatest level of investor confidence, certainty and investment options. Under the new SIV rules, where an investor wishes to invest in high quality Australian property, they can only do so through a managed fund.

4. Next Steps



5. Questions and Answers

Below we have provided frequently asked questions (FAQ's) to provide some information on the requirements of potential holders of the Significant Investor Visa.

Q: How can the Significant Investor Visa be obtained?

In order to apply for the Significant Investor Visa, applicants must:

- > Submit an expression of interest in SkillSelect (an online service that enables skilled workers and business people interested in migrating to Australia to record their details to be considered for a skilled visa)
- > Be nominated by a state or territory government
- > Make investments of at least \$5 million into 'complying investments' for a minimum of four years

The NSW Government has announced that in order to be nominated by the NSW Government, visa applicants will be required to invest a minimum of 30% (or \$1.5 million at the base level of investment) in NSW Waratah Bonds.

Q: What are complying investments?

- > Investment in a government bond (however described) of the Commonwealth, a State or Territory
- > An investment in a managed fund (directly or through an investor directed portfolio service)
- > Investment in a proprietary company that is not listed on the Australian Securities Exchange and that operates a 'qualifying business' in Australia

Q: What is a managed fund in Australia?

The Fund can be an unregistered managed investment scheme (MIS), provided the trustee of the fund holds an Australian Financial Services Licence (AFSL), and is able to issue and operate an MIS in Australia. The investment in the fund is made either directly or indirectly through an 'investor directed portfolio service, and the Fund invests only in specific types of assets.

Q: What is a Managed Investment Scheme (MIS)?

- > People contribute money for rights/units (more than 1 person)
- > Contributions are pooled together
- > Members don't have day-to-day control

The offer document or Information Memorandum should outline the investment and operation functions of the MIS. The Manager will be required to undertake certain functions each year to comply with state and federal laws in relation to the investment and operation of the MIS, including but not limited to annual accounts, taxation requirements, and member reports.

Q: What are the types of assets it must invest into?

The MIS to qualify for the holders of an SIV must only invest into;

- > Infrastructure projects in Australia
- > Cash held by Australian deposit taking institutions
- > Bonds issued by the Commonwealth or a State or Territory government

- > Bonds, equity, hybrids or other corporate debt in companies and trusts listed on an Australian Stock Exchange
- > Bonds or term deposits issued by Australian financial institutions
- > Real estate in Australia
- > Australian agribusiness and other ASIC regulated managed funds that invest in the above list of investments

Q: What is the term of the Significant Investor Visa?

The SIV operates for an initial term of four years. However, holders can extend their visa term if they satisfy certain requirements (including if they have held complying investments for at least four years and continue to meet the relevant conditions). They will be allowed to extend their provisional visa by an additional two years, with a maximum of two extensions permitted, bringing the maximum total period on a provisional Significant Investor Visa to eight years.

Q: What are the advantages to the Significant Investor Visa?

For migrants, the SIV has a number of advantages over other types of visas. Successful applicants will be granted the following concessions:

- > No upper age limit
- > No requirement to meet a points test
- > A reduced residency requirement of 160 days over four years in order to qualify for a permanent visa
- > Reduce language requirements

From the Federal Government's point of view, this new visa will encourage investment into Australia and boost growth in key areas including real estate, infrastructure projects, financial planning and funds management and administration.

5. Questions and Answers (cont.)

Q: How many days must you reside in Australia?

To be granted a permanent SIV, the primary visa holder must be resident in Australia for at least 40 days for every year or part year that they have held a provisional Significant Investor Visa. The residence period does not need to be met per year but can be met cumulatively over the time the primary visa holder held the provisional visa.

Q: What are the reinvestment requirements if I want to change between complying investments?

As the holder of an SIV, you may switch between complying investments as long as the sum withdrawn corresponds with the sum reinvested. Visa holders have a maximum period of 30 calendar days from the date the funds are withdrawn to reinvest in other complying investments. Funds reinvested into a complying investment within 30 days are taken to have been held continuously from the original investment date.

Q: Is there a points test or an age requirement for the Significant Investor Visa?

Significant Investor visa applicants do not need to satisfy the innovation points test and there are no upper age limits.

Q: What is the English language requirement for the SIV Visa?

There is no English language threshold requirement for applicants. However, all applicants and any dependents over the age of 18 years old that are unable to demonstrate functional English language ability must pay a second instalment of the visa application charge.

Q: Can the applicant's family come with them on the Significant Investor Visa?

Members of the applicant's "family unit" can apply to get a secondary visa. A family unit consists of:

- > A spouse or de facto partner
- > A dependent child of the applicant or the applicant's spouse
- > A dependent child of a dependent child of the applicant or the applicant's spouse
- > A relative of the applicant or of the applicant's spouse who does not have a spouse, is usually a resident in the applicant's household and is wholly or substantially financially dependent on the applicant. A relative is defined as a stepchild, grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew

In order to be granted a secondary visa, the applicant's family members must meet relevant character, health and security requirements. Children must have the proper permission to lawfully travel and live overseas, particularly where their parents are divorced or separated.

Q: Can the applicant's family who are Secondary Visa holders work and study in Australia?

There are no work or study restrictions on secondary visa holders. However, the applicant and their family (as secondary visa holders) will initially hold a temporary visa for a period of at least four years. As this is not permanent residence, this will affect the fees that are paid at university and access to certain positions.

Q: Are there any restrictions on the applicant's travel to and from Australia?

During the four-year duration of the temporary visa, the applicant and their family (who are secondary visa holders) can travel to and from Australia as they please. However, there are minimum residency requirements (40 days per year or 160 days over four years) that will have to be met in order to apply for the permanent visa.

Q: Are there any restrictions on the applicant's travel within Australia?

There are no restrictions on travel within Australia, but the applicant must reside in the state or territory that nominated them.

Q: Can the applicant purchase other property and make other investments in Australia?

Yes. The applicant may purchase real estate and purchase and conduct any other business in Australia. Depending on the nature of the investment and the value of the real estate, Foreign Investment Review Board (FIRB) approval may be required. We note that FIRB approval can be restrictive and merely holding a temporary visa will not change this position. Further information in relation to obtaining FIRB approval can be found at www.firb.gov.au/content/policy.asp.

Q: If a person makes the required AU\$5 million investment but the value of the investment falls below AU\$5 million, does the investment need to be topped up to AU\$5 million to continue to qualify?

No. The visa holder is not required to provide additional funds if the complying investment falls below AU\$5 million. On the other hand, if the balance increases, the visa holder cannot withdraw the increased value during the life of the visa.



Q: Will an investment in mortgages over real estate fit the criteria of being a complying investment?

Direct investment in real estate will not be considered a complying investment. Unless made in an ASIC-regulated managed fund with a mandate for investing in real estate property in Australia. Whether this will extend to an investment in mortgages over real estate as a qualifying asset class for the fund will need to be considered on a case-by-case basis.

Q: If an individual wishes to hold a complying investment through a closely owned trust or company, does that trust or company need to be an Australian trust or company?

No, the trust or company does not need to be an Australian trust or company.

The investor can make the investment by means of a trust, provided that the investor (or their spouse or de facto partner) is the sole trustee. The investor (or their spouse or de facto partner) also needs to be the sole beneficiary.

The investor can make the investment by means of a company only if the investor (spouse or de facto partner) holds all the issued shares of the company.

Q: Can a Fund that is a complying investment also borrow (including by issuing debt notes) to invest alongside the equity contributed by applicants, provided each applicant invests the required AU\$5 million?

The Minister for Immigration and Citizenship has specified what constitutes a complying investment and makes no mention on the question of borrowing. This means it does not

preclude or disqualify a managed fund that also borrows to invest. A fund that is a complying investment may generally be able to borrow, provided that the borrowing is in connection with a complying investment (e.g. an investment in Australian real estate). However, the nature and extent of the borrowing will affect the status of the fund. This question will therefore need to be considered on a case-by-case basis.

6. Affiliates

In developing a competitive SIV offering Mitchell Asset Management is affiliated with the following firms.

Accountants

- > KPMG

Lawyers

- > DLA Piper

Investment Banks

- > Merrill Lynch
- > Macquarie Bank
- > FIG Securities Limited

Domestic Banks

- > ANZ Bank
- > Commonwealth Bank
- > National Australia Bank
- > Westpac Bank

7. Useful Links

Austrade:

www.austrade.gov.au

Australian Bureau of Statistics:

www.abs.gov.au

Australian Government:

www.australia.gov.au

Australian Securities and Investments Commission:

www.asic.gov.au

Australian Taxation Office:

www.ato.gov.au

Department of Education, Employment and Workplace Relations:

www.deewr.gov.au

Department of Foreign Affairs and Trade:

www.dfat.gov.au

Department of Immigration and Citizenship:

www.immi.gov.au

Foreign Investment Review Board:

www.firb.gov.au

Private Health Insurance Ombudsman:

www.privatehealth.gov.au



