

# Keeping London open to investors in a post-Brexit landscape

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# KEEPING LONDON OPEN TO INVESTORS IN A POST-BREXIT LANDSCAPE

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## I. INVESTOR ACCESS TO LONDON

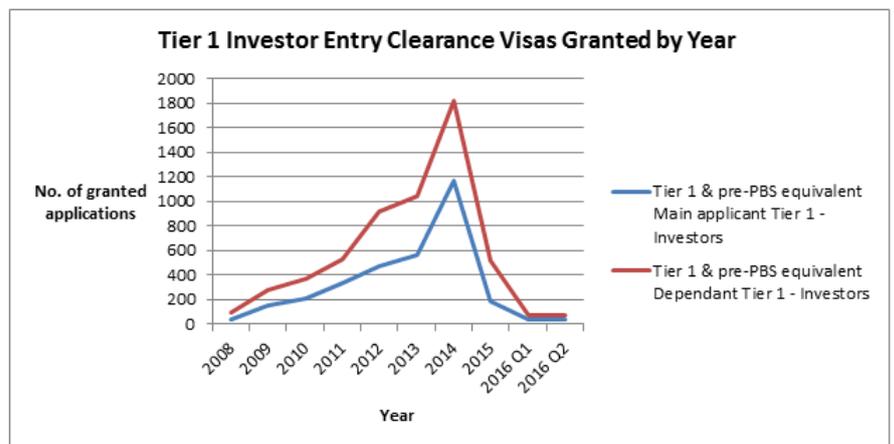
Immigration has never been in the headlines more, while arguably being less well understood than ever. The contribution made to the UK by migrants from the EU and elsewhere should not, and cannot, be underestimated, as the economic paper prepared by our colleagues at LCCI shows.

In a post-Brexit landscape, particularly at a juncture where it remains unclear whether the UK will have access to the Single Market, the future of London as a global capital of the world seems uncertain.

In our paper, we will look at this from the perspective of the investor or entrepreneur looking to come to the UK on a Tier 1 (Investor) visa (the 'Investor Visa'). Please see the paper 'Permits, Points and Visas' from London Chamber of Commerce and Industry (LCCI) for proposals about skilled workers).

Competition for the world's global millionaires, and the many economic contributions they make, both in terms of direct investments and indirect spending, is fierce.

However, even prior to Brexit, data shows (see the graph below) that the number of Investor Visas granted by the UK has slowed significantly in the last 18 months – falling from nearly 3000 in 2014 to 708 in 2015, and only 217 in the first half of 2016.



The decline has been for several key reasons, but clearly indicates the reduced attractiveness of the UK as a destination for investors and entrepreneurs. Our expectation is that the fall in Investor Visas in the third quarter of 2016 will be even more marked.

## 2. REASONS FOR THE REDUCTION IN INVESTORS

Much of the decline can be attributed to a combination of the following factors:-

1. Uncertainty caused by the proposed changes to the tax regime for 'non doms';
2. The introduction of economic citizenship programmes by Malta and Cyprus which, under European freedom of movement provisions, allowed successful applicants to reside in the UK without investment and more critically without a minimum residence requirement;
3. The doubling of the minimum investment threshold to £2 million, particularly impacting 'student Investors'; and
4. The requirement to have a UK bank account open prior to taking up residency in the UK as an Investor.

To address the above, we believe the following changes are necessary to ensure that London remains not just competitive, but compelling enough to attract these individuals who, as we demonstrated in our response to the Migration Advisory Committee in 2013, make a number of significant direct financial contributions to the national economy.

### 3. HOW DO WE MAKE IT HAPPEN?

For the London Visa to become a reality, specific legislative changes will need to be made.

Mishcon de Reya is a well-known law firm which, amongst other areas, specialises in advising investors and entrepreneurs wishing to secure residency by investment in the UK. The firm undertakes a significant amount of work for applicants under the Investor Visa category, and is one of the few practices almost exclusively focused in this area. The lawyers' exposure to the needs and motivations of such clients has allowed them to lobby effectively; formulating proposals which led to the creation of the £5 million and £10 million Investor categories.

Mischon de Reya would be happy to lend its voice and expertise to a business led lobby to secure practical immigration for post-Brexit London, for the reasons outlined above and, more specifically, for the contribution made by investors and skilled workers from the EU and the rest of the world.

The following legislative changes will need to be made to the Investor Visa to facilitate the creation of a London Visa.

#### **4. SECURING A DEDICATED LONDON INVESTOR VISA**

For London to continue to be seen as a destination of choice for investors and entrepreneurs certain amendments to the existing Investor Visa are required. These are summarised below. The adoption of any combination of these proposals by the Mayor's office will significantly increase inward investment into the Capital.

##### **1. Changes to residence requirements**

Most Investor applicants travel extensively for business and pleasure. The requirement to reside in the UK for 6 months of each year to be eligible for permanent residency ('PR') is the single biggest deterrent to applications for Investors and has resulted in clients choosing to acquire citizenship by investment of EU countries, such as Malta and Cyprus, which have negligible residence requirements prior to granting citizenship (this is of far greater value to the HNW global community than PR).

Prior to the referendum on Brexit, obtaining citizenship of an EU country enabled clients to reside in the UK without investment under freedom of movement provisions. The proposed exit of the UK from the EU provides an opportunity for the UK to capture this group of Investors by addressing the high residence threshold.

We therefore recommend that the residence requirement is reduced from 180 days to 90 days for applicants to be eligible for PR. This may be coupled with a requirement to be tax resident in the UK.

##### **2. Creation of a Super Investor category**

There is a sufficient demand for a £20 million 'Super Investor' category. Investors would be attracted to make such a large investment if the following 2 issues could be arbitrated:

- a reduction in the annual residence requirement, as detailed above; and
- a reduced period to PR of 1 year, and a reduction in the residence requirement to British citizenship of 3 years.

The number of Super Investors attracting the above expedited benefits could be limited to 50 per annum (thereby resulting in £1 billion investment from a limited number of migrants) and would need to satisfy certain criteria. Such criteria may be:

- an obligation to invest in social impact or infrastructure projects across the UK; and/or
- an obligation to maintain the investment for a minimum period of 3 years, thereby creating greater benefit to the UK than the current £10 million investment category which must only be maintained for 2 years.

The introduction of this single change would send a powerful signal that London is the premier destination for global investors and entrepreneurs, with the attendant ancillary investment their presence in London will bring.

This would assist the UK in competing more effectively with other EU countries (such as Malta and Cyprus) that have introduced economic citizenship programmes.

### **3. Timeline to citizenship and accelerated settlement for dependants**

Currently, Investors and all applicants wishing to apply for British citizenship must spend a minimum of 5 years residing in the UK before becoming eligible. Whilst it is possible to expedite the timeline to PR – £5 million Investors are able to obtain PR after 3 years, and £10 Investor after 2 years, there is no provision for expedited citizenship. This is in stark contrast to countries such as Cyprus and Malta, where it is possible to acquire citizenship by investment in just 4-6 months/1 year respectively. Having the possibility to acquire British citizenship faster would be of significant value to Investor clients, particularly those with fast-paced, international lifestyles and a significant amount to invest into the UK economy.

In addition, whilst it is possible for £5 million and £10 million Investors to obtain PR on an accelerated basis (i.e. after 2/3 years, rather than 5), their dependant family members still have to wait a full 5 years before becoming eligible and cannot apply at the same time as the main applicant. This is impractical and undesirable for many clients who want PR for their family as a whole, not just the main applicant.

### **4. Creation of a Junior Investor Category**

Changes to the Investor category in November 2014 increased the minimum investment threshold from £1 million to £2 million. Prior to this change, a significant percentage of investor applications were from those aged 18-25 years. This was because many students saw this route as enabling them to acquire PR and citizenship after having studied in the UK, often for many years at boarding school. Gifts of the then minimum threshold of £1 million were readily made by parents to this age group. The increase of the threshold has reduced applications from this younger group of investors.

We therefore recommend the creation of a 'Junior Investor' category for those aged 16-26 with a minimum investment threshold of £1 million and a restriction of investments only in UK Government bonds. This would have the added benefit of capturing investments from those aged 16 (who are often eager to begin a period of residency in the UK leading to PR and Citizenship).

### **5. Allowing Sportspeople to apply under the Investor category**

Although not London specific, the removal of Sportspeople from the Investor Visa category serves no legitimate purpose, and should be reinstated. Investment from Sportspeople could be directed to supplement grassroots sports in the UK. Sports Investors would not displace the British labour force and would not circumvent the rules of the Football Association (which is the governing body of the sport most likely to benefit from the Sportsperson Investor route). If a Sportsperson is worth these sums then they are clearly an "elite" sportsperson who can "make a significant

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contribution to the development of their sport in the UK" in accordance with the Football Association criteria.

There are many other visa routes that Sportspeople can currently use to enter the UK, where personal wealth or playing ability are irrelevant, such as the family routes (Ancestry visa, Spouse visa etc.) or applications for EEA citizenship. Therefore, it makes sense to allow Sportspeople to apply under the Investor route in order to bring a direct benefit to the UK.

### **6. Providing directions on investment**

The Mayor's Office may direct investments under any of the Investor categories into nominated projects which address the needs of the capital. For example, affordable housing, education or healthcare can be focused on to address the varying needs of the Capital.

## 5. CONCLUSION

In July 2016, the Mayor launched the #LondonIsOpen campaign "to show that London is united and open for business and to the world following the EU referendum". Like many other London businesses, at Mishcon de Reya we support this campaign wholeheartedly, and value the fact that the Mayor clearly recognises the important contributions investors make to the vitality of our city. It is our view that the proposals outlined above complement the Mayor's #LondonIsOpen campaign and we would be proud to assist in their implementation in any way we can.

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