

## Group Briefing

### August 2018

# Immigrant Investor Programme

**Ireland Client Service Law Firm of the Year 2018**  
Chambers Europe Awards

**Ireland Law Firm of the Year 2018**  
International Financial Law Review (IFLR)  
Europe Awards

**Advised on Equity Deal of the Year 2018 – Allied Irish Banks IPO**  
International Financial Law Review (IFLR)  
Europe Awards

**Ireland Law Firm of the Year 2018**  
Who's Who Legal

**Ireland Law Firm of the Year 2017**  
Chambers Europe Awards

**Best Firm in Ireland 2018, 2017 & 2016**  
Europe Women in Business Law Awards

**Best National Firm for Women in Business Law 2018, 2017 & 2016**  
Europe Women in Business Law Awards

**Best National Firm Mentoring Programme 2018, 2017 & 2016**  
Europe Women in Business Law Awards

**Best National Firm for Minority Women Lawyers 2018**  
Europe Women in Business Law Awards

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

The purpose of the Immigrant Investor Programme (“IIP”) is to enable non-EEA nationals and their families who commit to an approved investment in Ireland to acquire permanent residency in Ireland.

The IIP was set up by the Irish Government in 2012. The most recent statistics released by the Irish Government Economic & Evaluation Service (“IGEES”) in its [interim evaluation](#) show that a total of 463 applications had been made between 2012 and 2016, resulting in a combined approved investment of €209,650,000. Further detail on the report can be found [here](#).

There are essentially two components to an IIP application, the person and the investment. The personal criteria relate to the good character of the individual, their net worth and the providence of the funds to be invested. The investment component relates to the nature of the proposed investment.

Individuals can apply to the IIP without committing any investment funds. As of January 2018, an individual must choose one of four eligible investments to invest in and submit the required documentation as described in this bulletin. Once the application has been approved, the investment may then proceed, and once the funds have been

invested the individual and their family will be issued with permission to reside in Ireland. In January 2018, the IIP raised the minimum investment threshold to €1m from €500,000. This investment must stem from the applicant’s own resources and not financed through a loan or other such facility, and must be committed for a minimum of three years.

### IRISH RESIDENCY

Successful applicants can expect to receive residence permission for 5 years. An initial permission will be granted for two years and following a review at that point to ensure the investor is continuing to meet the conditions of the scheme, a further period of 3 years will be granted. After this initial 5 year period, the investor will be free to apply for residence indefinitely in 5 year tranches. Investment performance is not a condition for residence.

There is no minimum residence requirement other than that the persons concerned spend at least one day in Ireland every year. The investor is not required to establish actual residence in Ireland. The IIP is about rights of residence that the investor may exercise as their business and family needs dictate.

The Immigrant Investor Programme

does not provide for preferential access to citizenship. Successful applicants are free to apply for naturalisation in the normal manner. This process is set out in brief below.

## ELIGIBLE INVESTMENTS

The Department amended its Guidelines for the Immigrant Investor Programme in January 2018. Included in the changes was the suspension of two of the original six categories of original investments, namely, the Immigrant Investor Bond and the Mixed Investments.

### 1. Enterprise Investment

A minimum of €1,000,000 invested in either a single Irish enterprise or spread over a number of enterprises for a minimum of three years.

The enterprise can be a start-up or existing business but must be registered and headquartered in Ireland and the investment must support the creation or maintenance of employment. The purchase of publicly traded securities will not be considered an eligible investment. The investment must be made in the name of the individual seeking residence.

The most recent audited accounts must be submitted for existing businesses. A business plan must also be submitted for all businesses, indicating how the investment will help create or maintain employment. A template business plan is available.

This option facilitates investors who have their own investment or business strategy and see the benefits of Ireland as an investment location.

### 2. Investment Fund

A minimum of €1,000,000 invested in an approved investment fund ("Approved Fund"). The investment must be held for a minimum period of three years.

There is no list of approved funds available, and the essential consideration in the assessment of each proposal will be an actual investment in Ireland and potential job creation with an exclusive

focus on Ireland. We can provide details of these.

The Irish Naturalisation and Immigration Service have specific guidelines in relation to the type of fund they approve. There are Approved Funds but it is also possible to apply for a non-approved fund that meets the criteria. In general the monies invested by the fund must represent equity stakes in companies not quoted on any stock exchange and be invested in accordance with the objectives of the IIP, namely, the growth of employment opportunities. The funds and fund managers must be regulated by the Central Bank. There are a number of funds in Ireland which have been set up specifically with IIP investors in mind.

This option allows investors to avail of the services of approved professional investment intermediaries to invest in the future potential of Ireland's Enterprise sector. It should be borne in mind that an investment in commercial or residential property for the purposes of leasing to tenants will not be considered as an investment.

### 3. Real Estate Investment Trust ("REIT")

A minimum of €2 million invested in any Irish REIT that is listed on the Irish Stock Exchange. The investment may be spread across a number of different Irish REITs. The full investment must be held for a minimum period of three years. During this period the number of shares approved must be retained even if their value rises above the original €2 million investment. After three years the investor may divest up to 50% of the shares purchased for the IIP, and after four years the investor may divest no more than a further 25%. After five years there are no retention obligations.

No supporting documentation is required other than the personal requirements set out below.

An investment in a REIT provides an investor with a lower-risk property investment model in which the investment is diversified into a pool of

properties. The debt limits within REITs reduce exposure to negative equity risk. REITs are exempt from corporation tax and are required to distribute the majority of profits each year, so generate a regular stream of income for investors.

### 4. Endowment

A minimum endowment of €500,000 is required in a project of public benefit in the arts, sport, health, cultural, or educational field. It will be regarded as a philanthropic contribution and investors will receive no financial return.

A business plan must be submitted, detailing how the investment is going to be utilised by the beneficiary and how it will be of public benefit.

## WHO IS ELIGIBLE?

The programme is open to non-EEA nationals with a net worth of over €2 million. Individuals must be a good character and not convicted of a criminal offence in any jurisdiction. The funds used for the investment must be the individual's own funds, they cannot be borrowed.

### Eligible Family Members

Residency under the programme is also available to spouses/partners and children under 18 years of age for whom the applicant and/or their spouse or partner has legal guardianship. In certain cases children between the ages of 18 and 24 will be considered where they are unmarried and are financially dependent on their parents.

## PERSONAL REQUIREMENTS

### Evidence of Net Worth

The individual must demonstrate that they have a legally acquired minimum net worth of €2 million. In addition to this declaration, the individual must provide an explanation of all activities for the previous 12 months including their income, investments and loans.

**Evidence and Provenance of funds**

The individual must provide evidence of the funds that are to be used for the proposed investment, evidence of the provenance of those funds and evidence that the funds are transferrable to Ireland and convertible to euros.

The Irish Naturalisation and Immigration Service have a list of

specific information they require in relation to the following four sources of funds: business and investment activities, deeds of sale, inheritance, and divorce settlements. If the funding has been received from an alternative source the individual must provide original documentation and independent supporting documentation as evidence.

**Statement of Character**

The individual must submit a statement of character, both for themselves and for any family members, from the police authorities of each country in which they have resided for more than six months during the previous 10 years.

**SUMMARY OF THE PROCESS**

<b>APPLICATION:</b>	The individual must submit an application form to the Irish Naturalisation and Immigration Service, along with all supporting documentation and a non-refundable fee of €1500.
<b>APPROVAL:</b>	<p>All completed applications for residence will be presented to the Evaluation Committee for approval. The Evaluation Committee is composed of senior officials from relevant Government Departments and Irish state agencies involved in enterprise development in Ireland.</p> <p>Applications are assessed on the basis of the profile of the applicant, the commercial viability of the project, the employment outcomes associated with the proposed investment and the overall benefit to the Irish State.</p>
<b>INVESTMENT:</b>	Applicants and their families, whose applications are approved, will be issued with residence permissions from the Minister for Justice and Equality once the approved investment has been undertaken.
<b>RIGHT OF RESIDENCE:</b>	<p>All successful applicants and their families will be granted continuous residence in Ireland under “Stamp 4” conditions. This permits foreign nationals to work, study, or start their own business in Ireland.</p> <p>The immigration permission is initially for a two year period, and will be extended to a further three years subject to three conditions:</p> <ul style="list-style-type: none"> <li>(a) The designated investment is still in place</li> <li>(b) The individual or their family have not become a financial burden on Ireland</li> <li>(c) The individual or their family have not been investigated, indicted or convicted in relation to any criminal offence in any jurisdiction.</li> </ul> <p>After the initial five years the immigration permission will be extended for a further five years provided the designated investment remained in place for the required time and conditions (b) and (c) above have been complied with.</p> <p>The immigration permission will be extended for further five year periods thereafter provided only that conditions (b) and (c) above are complied with.</p>

## DISCOUNT FOR EDUCATION EXPENSES

Investors may avail of a discount on their investment for any educational expenses that they intend to commit to in Ireland. The expenses must be for the investor or family member in an Irish University or Institute of Technology; they must be indicated as part of the application process; and the expenses are subject to a maximum allowable discount of €50,000.

## IMMIGRATION

Successful applicants for the IIP, and their spouses and dependent children, who are from visa-required countries, e.g. India, China, will be required to obtain an entry visa prior to arriving in Ireland. Successful applicants will be entitled to apply for a multi-entry visa once their letter of approval from the Irish Naturalisation and Immigration Service is received, enabling them to travel in and out of Ireland from the date that they secure their multi-entry visa, subject to renewal of the visa.

The IIP does not provide visa-required nationals with an entitlement to travel to and within the UK (including Northern Ireland) or the rest of the European Union without an entry-visa (if required). Holders of a Stamp 4 obtained through the IIP will be required to apply for visas to enter other countries as required.

There are certain agreements between UK and Ireland with respect to immigration, for example, the “British Irish Visa Scheme” which allows Chinese and Indian citizens to travel to and around the Common Travel Area on a single visa (as opposed to requiring

separate Irish and UK visas). It remains to be seen how immigration will be impacted in the context of Brexit.

## IRISH CITIZENSHIP

Applicants for Irish naturalisation must be continuously resident in Ireland for the 12 months prior to application and have been resident in Ireland for a period of four of the preceding eight years. Residence must be lawful and the person must also be physically resident for the period. While a person can be regarded as physically resident in Ireland and still travel abroad for business or leisure, any significant absences may require further enquiries and the application may be refused.

Investors and their family members who exercise their right not to reside in Ireland under the Immigrant Investor Programme will not fulfil the residency requirements for naturalisation.

In order to be granted Irish citizenship through naturalisation, an applicant is generally required to meet each of the following criteria, in addition to the residence requirement above.

- (a) Applicants must be of full age (i.e. 18 years or older, or married if younger than 18);
- (b) Applicants must be of good character (the Garda Síochána are asked to provide a report on the background of all applicants);
- (c) Applicants must intend in good faith to continue to reside in the State after naturalisation;
- (d) Applicants must make a declaration of fidelity to the nation and loyalty to the State.

## LATEST UPDATES

Applications to the Immigrant Investor Programmes will be accepted from:

- 10 January 2018 - 24 January 2018
- 14 March 2018 - 28 March 2018
- 09 May 2018 - 23 May 2018
- 15 August 2018 - 29 August 2018
- 10 October 2018 - 24 October 2018

Applications received outside of these periods will be returned.

## KEY CONTACT



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