



## **Australian Consulate-General**

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# **GUIDE TO DOCUMENTATION REQUIREMENTS FOR BUSINESS INNOVATION AND INVESTMENT VISA APPLICATIONS FROM THE PEOPLE'S REPUBLIC OF CHINA (PRC)**

**August 2021**

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## **INTRODUCTION**

1. This document aims to provide guidelines on documentation requirements for Business Innovation and Investment visa applications lodged by applicants from the People's Republic of China (PRC). It covers both residents of the PRC as well as those applicants who, while not PRC residents, rely on a PRC business entity to meet the criteria for the grant of a Business Innovation and Investment visa.
2. This document serves to provide supplementary information which should assist applicants in preparing their application for a visa under the Business Innovation and Investment program. This document does not replace the *Migration Act 1958*, the *Migration Regulations 1994* nor is it a substitute for applicable Procedural Instructions.
3. This document should be used as a guide for applications lodged under the Business Innovation and Investment (Class EB) (Provisional) visa (Subclass 188). The Subclass 188 visa is the first step towards being granted a permanent Business Innovation and Investment (Class EC) (Permanent) (Subclass 888) visa.

## **BACKGROUND**

4. The Hong Kong Business Skills Processing Centre commenced processing of PRC business skills applications in December 1995. In the face of the complexity of business regulations in the PRC, the compilation of a guide on business and asset ownership documentation is considered useful to assist in the preparation of business skills applications from the PRC. Information contained in this document represents outcomes of wide-ranging consultations with relevant government officials, legal and accounting professionals and the experience gained by this office in the handling of this caseload.

## **PROCESSING OF APPLICATIONS**

5. Visa applicants under the Business Innovation and Investment program require State/Territory nominations or Austrade nominations (for the Significant Investor stream only). The nominations are recorded electronically and prescribed paper forms are no longer required.
6. A prospective applicant may start the process by completing an electronic Expression of Interest (EOI) form online through SkillSelect. State or territory governments or Austrade will identify and select skilled business people or investors they might want to nominate. If nominated by a state or territory government, or by Austrade, the prospective applicant will receive an invitation to apply from the SkillSelect system. Those invited must then lodge an application within 60 days from the time of invitation. Applications received outside of this timeframe will not be valid and a further invitation will be required before being eligible to make an application. The online visa application system will use information from the EOI, therefore there is no need to re-enter some information already provided.
7. Visa applications are to be made electronically. Additionally, an application for the Subclass 188 visa could only be made after a prospective applicant has received an invitation to apply through the SkillSelect system.

8. Applicants are expected to provide to the Department all the information and documentation they consider relevant to support their application. It is expected that documentation to support the claims made by applicants in the EOI be available at the time of the submission of the EOI. This is because an invitation to make a visa application may be issued soon after the submission of an EOI and there may be limited time for the submission of a complete visa application.
9. Supporting documentation is to be provided directly to the appropriate processing centre depending on the applicant's country of usual residence. For applicants residing in the PRC, Hong Kong, Macau and Taiwan, supporting documentation is to be provided to the Hong Kong Business Skills Processing Centre. To support the efficient processing of applications please ensure that:
  - all documentation necessary to meet application requirements is provided when the application is lodged
  - supporting evidence provided is specific to the applicant's claims (documentation that is not relevant will increase processing times)
  - documentation is cross referenced to the relevant visa requirement
  - documentation is certified as a true copy
  - accredited translations are provided for any documents not in English
  - documentation is provided in only one response, if possible.
10. Well documented applications can be processed more promptly in the assessment process. Documentation checklists for the Subclass 188 visas for PRC applicants have also been developed. See [BIIP checklists](#). The checklists, in conjunction with this document, will enable applicants to better present their cases.
11. Applicants who have not provided threshold documentary evidence to support their eligibility may have their cases decided on the basis of the information provided without further information requests.
12. Where additional information is required, applicants will, in general, be given 28 days to provide the information. Please note that no follow-up or reminder letters will be sent. Where the information has not been provided within the prescribed time frame, and no extension has been granted, the application will be decided based on the information on hand.
13. When additional documents are provided in response to our request, we may proceed to make a decision based on what is presented. We may not further correspond with applicants should we find the documents deficient in meeting the relevant requirements.
14. Applicants should provide certified true copy of documents with English translation. We accept translated documents that are prepared by a commercial firm offering translation services. The translators must endorse the translation with their full name, address, telephone number, and details of their qualifications and experience in the language being translated. Please note that the translation may be rejected should it contain material errors.
15. This document serves to offer suggestions on a range of documents considered acceptable to this office, the list is by no means exhaustive or mandatory. Applicants are advised to present their cases as best they can with the help of this document. In circumstances

where applicants do not have the necessary supporting documentation, a signed statement outlining the reason(s) will be taken into consideration. Alternative evidence pertaining to the individual circumstances of the case may be acceptable.

16. Where applicants or their representatives are aware of other applications lodged by related parties such as business partners we would appreciate the assistance in notifying us of those relationships at the time of application.
17. Applicants' business premises may be visited by a Departmental Officer at any time during the assessment process to verify claims made in relation to business scale and performance as well as applicants' role in managing the business where applicable.
18. Please note that the authenticity of documentation submitted with the application may be subject to verification with the relevant issuing authority. Where an applicant is found to have supplied a bogus document or information that is false or misleading in a material particular to the Department, the application may be refused and applicants included in the application subject to a three year bar which may prevent the grant of a further visa to which Public Interest Criterion 4020 applies. From 22 March 2014, where Public Interest Criterion 4020 is not met on the ground of identity fraud, a ten year bar applies to prevent the granting of another visa that includes Public Interest Criterion 4020 as part of its criteria. Further, please be advised that the *Migration Act 1958* provides for visa cancellation where the visa holder gives incorrect information or bogus documents to the Department or fails to notify the Department of a change in circumstances.

### **Processing Times**

19. Global visa and citizenship processing times are available at [Processing Times](#). Please note that actual processing times will vary due to individual circumstances.

### **Health Processing**

20. For applications under the Business Innovation and Investment program, it might be best to wait until after a request is made by the processing centre for health examinations to be undertaken, noting that medical clearances have limited validity periods. Applicants are expected to undergo the required medical examinations within a specified period from the date of request. In the letter of request, the following information will be provided:
  - a list of the examinations the applicant must have
  - an identifier we call a HAP ID, applicants will need the HAP ID to make an appointment for the health examinations

### **PRC BUSINESS OWNERSHIP**

21. The PRC is an economy in transition. The determination of personal ownership of assets in the PRC can be complicated when legal title to an asset may not always confer a right to control or transfer the asset. Australian legal concepts are to be used when deciding ownership of assets in a foreign jurisdiction when applying the Migration Regulations. Therefore, decision makers must make decisions based on a reasonable degree of satisfaction that the ownership is proven in the conceptual sense as understood under Australian law.

22. In the following discussion, we will focus on four main groups of business structures in the PRC – Private Enterprises, Foreign Investment Enterprises, State Investment Enterprises and Social Enterprises – and seek to clarify their characteristics as well as advise on their status in relation to the visa requirements of the Australian Business Innovation and Investment Program.

## **PRIVATE ENTERPRISES**

### **Individual Business Owner (个体工商户)**

23. An individually owned business is not accorded separate legal person status. By PRC business regulations, it could be formed either by an individual with full civil rights or by his/her family as a whole. In actual practice, only an individual would be registered as the owner of the business as reflected on the business licence. This form of business registration normally applies to small scale businesses in certain stipulated industries. Prior to the corporatisation of business entities in the PRC, this was a very common form of private business ownership.
24. As far as the genuinely registered owner of an individually owned business is concerned, this is an acceptable form of ownership of business assets in accordance with Australian legal concepts.

### **Individual Proprietorship Enterprise (个人独资企业)**

25. An individual proprietorship enterprise (IPE) in the PRC is also not accorded separate legal person status. It is established under the Law of the People's Republic of China on Individual Proprietorship Enterprises (中华人民共和国个人独资企业法) effective from 1 January 2000 as a business operating entity solely funded by an individual with full civil rights and he/she assumes the position of investor (投资人) to the IPE. This investor is stipulated to be the sole owner of all assets of the IPE and also assumes all liabilities of the IPE on an unlimited basis to the extent of all his/her personal assets. For the sake of increasing the credibility of an IPE upon its establishment, it can be specially registered where the investor of the IPE is to assume all liabilities of the IPE on an unlimited basis to the extent of all the family assets (and not just those personal assets) of the investor.
26. As far as the registered investor of an IPE is concerned, this is an acceptable form of ownership of business assets in accordance with Australian legal concepts.
27. For the establishment of an IPE, the Law of the People's Republic of China on Individual Proprietorship Enterprises requires registration of the total amount and forms of capital funds to be contributed by the investor into the IPE.

### **Partnership (合伙企业)**

28. As in Australia, partnerships in the PRC are not accorded legal person status. As far as a partner to the partnership is concerned, this is an acceptable form of proportional ownership of the business assets of the partnership.



29. The Law of the People's Republic of China on Partnerships (中华人民共和国合伙企业法) which came into effect on 1 August 1997 and the latest amended version came into effect on 1 June 2007. It prescribes conditions for the establishment of partnerships in the PRC. On applying for registration as a partnership in the PRC, it is mandatory that the partnership comprises at least two partners and that a partnership agreement in written form is submitted for consideration. The partnership agreement formalises the major arrangements of the partnership, including the partnership's name, its major operating location, objectives and scope of business, names and addresses of respective partners, amounts and forms of capital funds to be contributed by each partner, profit and loss sharing ratios, how the partnership business is to be conducted, entry into and exit from the partnership, how disputes are to be resolved, liquidation and dissolution of the partnership, liabilities for breach of contract, etc.
30. There are 2 types of partners to a partnership, general partners and limited partners. Whilst general partners would assume unlimited responsibility towards the liabilities of the partnership, the liabilities of a limited partner towards the partnership would be limited to the amount of capital funds committed to be contributed into the partnership. When a partnership contains 1 or more limited partners, the partnership would be referred to as a limited partnership. State-owned enterprises, listed companies, institutions for public services (事业单位) and social organisations (社会团体) cannot act as a general partner in any partnerships.

#### **Limited Companies (有限公司)**

31. Limited companies are incorporated entities. As a separate legal entity, a company has a legal and financial status separate and distinct from that of its shareholders (股东) or promoters (发起人). The current legislation applicable for regulating the affairs of limited liability companies (有限责任公司) and joint stock limited companies (股份有限公司) is the Company Law of the People's Republic of China (中华人民共和国公司法) which came into effect on 1 January 2006, and was last amended on 28 December 2013. The amendments, which came into effect on 1 March 2014, relate largely to a reform of the registered capital regime in the PRC.
32. The major features of a limited liability company in the PRC include the following:
- shareholding is transferable among shareholders; transfer of shares to external parties must be approved by more than 50% of the other shareholders
  - there is a restriction on the numbers of shareholders (less than or equal to 50)
  - each shareholder enjoys rights and bears obligations in proportion to the shareholder's investment
  - shareholders in a limited liability company are liable to the company to the extent of the capital agreed to be contributed; and
  - shareholders can be the State, various forms of economic entities and individuals.
33. The major features of a joint stock limited company in the PRC include the following:
- it can issue shares and investment certificates
  - its shares are transferable
  - there is a restriction on the number of promoters (from 2 to 200)
  - shareholders in a company limited by shares are liable to the company according to the number of shares subscribed in the company, and

- shareholders can be the State, various forms of economic enterprises and individuals.
34. The amendments effective from 1 March 2014 removed the minimum registered capital threshold requirements previously imposed on limited companies, being RMB100,000 for one-person limited liability companies, RMB30,000 for other limited liability companies, and RMB5m for joint stock limited companies. However, industry specific minimum registered capital requirements may continue to apply.
  35. In order to have the necessary legal capacity to conduct the targeted business, limited companies would normally have to register with the relevant government body at the appropriate level (national, provincial, city or county) corresponding to the company's territorial/catchment base. Once registered, companies will be issued with a business licence. The commencement date as stated on the business licence is the date of establishment of the company.

### **FOREIGN INVESTMENT ENTERPRISES**

36. Foreign investment vehicles permissible in the PRC are wholly foreign owned enterprises, representative offices and branches, joint ventures and foreign investment joint stock limited companies. The establishment of all foreign investment enterprises requires the approval of the Ministry of Commerce (MOFCOM) (商务部) (previously known as the Ministry of Foreign Trade and Economic Co-operation (MOFTEC)) and/or its subordinating authorities.
37. Investors (投资方) in these vehicles must include foreign nationals or corporations, whose total percentage of shareholding in the company generally should not be less than 25%.

#### **Wholly Foreign Owned Enterprises (WFOE) (外商独资企业)**

38. Normally a WFOE would take the form of a limited company with all its investment capital to be sourced (directly or indirectly) from outside of the PRC. It cannot include a shareholder who is a Chinese national, a domestic limited company or a state-owned enterprise.
39. This is an acceptable form of business ownership.

#### **Representative Offices and Branches (常驻代表机构和分行)**

40. Both of these business structures refer to permanent establishments of foreign enterprises in the PRC (外国企业在华的常设机构). Representative offices are allowed to undertake non-income generating liaison and servicing functions for their foreign head offices in the PRC. As the activities of representative offices are limited to the provision of services that do not give rise to any earnings, this form of business structure will therefore not be considered a qualifying business. Branches that are allowed to be registered in the PRC are currently exclusively restricted to foreign banks and financial institutions. As such, ownership claims by individuals are unlikely.

### **Sino Foreign Joint Ventures (JV) (中外合资/合作经营企业)**

41. In the PRC context, JV's can take two forms, equity joint ventures (EJV's) (中外合资经营企业) and co-operative joint ventures (CJV's) (中外合作经营企业). The key difference between these 2 types of business entities lies in the terms regarding the distribution of profits. Whilst distribution of profits from an EJV must be in proportion to the percentages of equity investment of the respective investors in the EJV, the same restriction does not apply to a CJV. Distribution of profits from a CJV is made by reference to the terms of the co-operative joint venture contract agreed by all parties beforehand and may not reflect the respective investors' share of investment into the CJV.
42. Contributions of registered capital to the joint venture by the investors may be in cash or in kind, or may include the right of use of land, industrial property rights, patent or non-patent technology or other property rights. In CJV's, the foreign party (外方) is typically required to provide the entire registered capital investment while the PRC party (中方) typically arranges for land and buildings, and facilitates the smooth operation of the joint venture. Where there is no monetary value placed on these types of contribution in kind by the PRC party, his/her share of equity in the CJV cannot then be established.
43. The investment made to JVs through a private enterprise, a foreign investment enterprise or a wholly foreign owned enterprise would be acceptable in terms of Australian legal concepts of ownership. However, the investment made to JVs through a state-owned enterprise would remain the property of the State and therefore, this type of investment is not an acceptable form of ownership for visa purposes.

### **Foreign Investment Joint Stock Limited Companies (外商投资股份有限公司)**

44. In January 1995, the then MOFTEC (now renamed as MOFCOM) promulgated provisions for the establishment of foreign invested joint stock limited companies. This is the common vehicle that is used by foreign investment enterprises targeting for listing on the Chinese stock exchanges.

### **STATE INVESTMENT ENTERPRISES**

#### **State Owned Enterprises (SOE) (国有企业)**

45. State-owned enterprises would include wholly state-owned companies (国有独资公司), state-owned holding companies (国有控股公司), special legal enterprises (特殊法人企业) and state-owned joint stock companies (国有参股企业).
46. State-owned enterprises in general cannot be considered as an acceptable form of ownership as required by the Migration Regulations of Australia. While we note that it is possible for PRC nationals to have certain minority investment in certain types of state-owned enterprises, applicants will have to provide credible evidence to prove their share of ownership interest.

### **Collective Enterprises (集体企业)**

47. PRC's laws on collective enterprises are neither comprehensive nor clear. The basic rule about ownership of collective enterprises is that the source of the equity investment determines ownership. Whilst the bulk of the equity investment in a collective enterprise would normally come from collective funds of social organisations, institutions for public services or state-owned enterprises, private enterprises or PRC nationals may also be allowed to make equity investment in the 'urban' type of collective enterprises.
48. Collective enterprises have been granted the status of legal persons. There are two types of collective enterprises, 'rural' and 'urban', and they are governed by completely different sets of regulations. Rural collectives do not have the capacity to encompass private ownership and accordingly this is not an acceptable vehicle of ownership as required by the Migration Regulations.
49. We are also aware of the existence of the 'red-hat' affiliation phenomenon in the PRC whereby private enterprises are legally registered as collective enterprises with the approval of local authorities in return for paying a 'management fee' to the authorities. The true reasons for such arrangement of affiliation registration would include political protection, facilitation of business, tax exemption, better access to banking loans etc. Since 1996, these privately funded collective enterprises have been under government directives to convert into private enterprises so that this form of business structure is not common nowadays.
50. Generally speaking, applicants whose business is in the form of collective enterprises find themselves unable to provide sufficient evidence to prove their ownership interests required under the Migration Regulations. In the case where a business had been registered as a privately funded collective enterprise, ownership claims may be acceptable where restructuring to a private enterprise has already taken place and official recognition of the private investment of the applicant as issued by the relevant regulatory authority can be presented as evidence. Such official recognition of an applicant's private investment in the business must cover the whole period during which ownership claims are made.

### **Contract Management (承包经营)**

51. Contract management was once a popular mode of enterprise management prevailing in the first 20 years when the PRC commenced to adopt economic reform and open door policies. The word 'contract' here simply refers to an undertaking taken out by a contractor (may be an individual or a legal corporate) for delivering a certain level of targeted profitability to the owner of a business which the contractor would manage for and on behalf of the owner on a day to day basis.
52. The following describes the general characteristics of contract management:
  - a) an individual or a limited company contracts for the management and operational rights of a then loss incurring business, typically owned by a state-owned or collective enterprise in return for providing to the owner of the business an agreed management fee. This contractor of the business would either be entitled to the net balance of the operating profits of the business (after deducting the guaranteed

profits payable to the owner), or in cases where the actual profits are less than the guaranteed profits, subsidise the owner out of the contractor's own funds to the extent of guaranteed profits payable to the owner. It is our understanding that contract management was introduced to provide incentives to contractors to improve the operational efficiencies of businesses previously operated by the state-owned or collectively-owned enterprises without profits.

- b) the contractor would operate the business for and on behalf of its original owner using the business licence and qualifications of the owner.
  - c) where the targeted level of profitability (or other parameters) has not been achieved, it is likely that the contractor would be suffering an operating loss together with the possibility of early termination of contract by the owner.
53. Although having the operating and management rights of the business, the contractor has no claims against the title of the assets of the business. As such, an applicant, in his/her capacity as contractor of a business from either a state-owned or collective enterprise, would not be able to claim effective ownership against the assets of the business under his/her contract management.

## **SOCIAL ENTERPRISES**

### **Civilian-Run Non-Enterprise Unit (民辦非企業單位)**

54. Civilian-run non-enterprise units (CRNEU) are established under the legal framework of the 'Interim Regulations for Registration and Administration of Civilian-Run Non-Enterprise Units' (民办非企业单位登记管理暂行条例) as promulgated by the State Council on 25 October 1998. Their day-to-day operations are being supervised by the Ministry of Civil Affairs (民政部) for the purposes of providing various social services (in such fields as education, hygiene, culture, science and technology, sports, labour, civil administration, agency and legal services) but on a non-profit making basis. Tax exemption would be granted with respect to their qualified tax exempt income (for example, financial aids from the government, various fees collected under governmental approved fee scales, donations from the society, etc.) This kind of enterprise would not generally be considered a qualifying business which, by Migration Regulation definition, is an enterprise that is operated for the purpose of making a profit. Where an entity is registered as 'non-profit' or 'not-for-profit', this is a strong indicator that the entity has not been established for the purpose of making a profit. In addition, given the tax exemptions in place, applicants will unlikely be able to provide corroborating evidence of turnover to satisfy the turnover requirement prescribed by the Migration Regulations.

### **Informal Employment Organisation (非正规就业劳动组织)**

55. The concept of informal employment organisation has been introduced in the PRC since 1996 for the purposes of organising unemployed and large-scale laid off workers from state-owned enterprises into small-scale work units for providing regional community services in such fields as repair and maintenance, real estate management, retails and distribution, etc. so that these workers would be able to secure basic income and social protection. Tax incentives such as 3 years exemption from Business Tax, Individual Income Tax, Enterprise Income Tax, etc. have been provided by the government as incentives.

56. Informal Employment Organisations are organised and supervised on a day-to-day basis by local bureaus under the Ministry of Human Resources and Social Security (人力资源和社会保障部) without any intervention from any offices under the State Administration for Market Regulation (SAMR) (国家市场监督管理总局) and as such the evidentiary requirements of business ownership for visa purposes will generally not be met. In addition, given the tax exemptions in place, applicants will unlikely be able to provide corroborating evidence of turnover to satisfy the turnover requirement prescribed in the Migration Regulations.

## **PREPARATION OF DOCUMENTATION**

### **BUSINESS ASSETS DOCUMENTATION**

#### **Business Licence (营业执照)**

57. Applicants nominating a qualifying business or main business in support of their application should provide the relevant business licences for the nominated years. From the business licences, it can be ascertained whether the business is a corporate legal enterprise (企业法人) or non-corporate legal enterprise (非企业法人).
58. For non-corporate legal enterprises, the business operator (负责人) only has the right to operate the business and does not possess civil responsibility towards its liabilities which would all be borne by its supervisory enterprise (normally the head office of this non-corporate legal enterprise or the individual owner of the business in case of a proprietorship or a partnership).
59. The legal representative (法定代表人) as named on the business licence of a corporate legal enterprise would only mean that he/she have the capacity to represent and act for and on behalf of the corporate legal enterprise but does not mean that he/she would have vested equity interest in the enterprise per se. As such, a business licence is not an acceptable form of evidence to support business ownership.
60. A business licence also contains information on the authorised scope of business (经营范围) for that particular business/enterprise. Business turnover attributed to business activities outside the legal scope of the business/enterprise cannot be counted for Business Innovation and Investment visa purposes.
61. Prior to 1 March 2014, all enterprises including foreign investment enterprises and domestic enterprises (private enterprises, state-owned enterprises and collective enterprises) in the PRC are required to go through an annual inspection by the State Administration for Industry and Commerce or its subordinating bureau (“the AIC”) before the end of June every year. The inspection system was to ensure that the enterprise is properly in existence and that all its statutory and operating data are updated. A stamp from the AIC will be affixed onto the duplicate copy of the enterprise’s business licence once the enterprise has passed this annual inspection. An enterprise cannot pass the annual inspection of the AIC for the current year without the annual inspection of all previous years being cleared first.

62. From 1 March 2014, the enterprise annual inspection system (年度检验照制度) is being replaced with a new annual reporting system (年度报告公示制度). Under the new system, a business will need to file an annual report by the end of June each year with the AIC providing pertinent information such as its assets and details of capital contributions. As of 1 October 2015, a “Three-in-one” business licence was rolled out to encompass the Business Licence, Organisation Code Certificate and Tax Registration Certificate. In 2016, the “Five-in-one” licence was rolled out, which also incorporates the Social Insurance Registration Certificate and Statistical Registration Certificate. Since 2017, reforms on introducing a nation-wide “all-in-one” business licence have been under way. On 27 December 2017, the Announcement on Renewal of Business Licence with Unified Social Credit code was gazetted by the AIC. The main requirements are that the enterprises shall use the business licence with a unified code approved and issued by the AIC or the market regulatory authorities. The unified social credit code is a set of 18-digit code used for identification of legal persons and other organizations.
63. In 2018, the AIC was regrouped and renamed as the State Administration for Market Regulation (SAMR) (国家市场监督管理总局). On 01 March 2019, a new version of Business Licence with QR code was rolled out to link up with the National Enterprise Credit Information Publicity System. Enterprises can continue to use the existing Business Licence or apply for the new version. At the same time, enterprises are encouraged to use the electronic Business Licence.

#### **Capital Verification Report (验资报告)**

64. Prior to the amendments to the Company Law effective from 1 March 2014, a capital verification report was required to be filed with the AIC after shareholders of a company had contributed funds towards the registered capital of the company (when a company was newly established, or when the registered capital of a company had been changed). The capital verification process requires the auditor to verify the existence and legality of the paid-up registered capital and also identify who had contributed to the registered capital to become shareholders of the company.
65. The Company Law amendments effective from 1 March 2014 allow a registered capital subscription system for limited liability companies in which shareholders can set out the amount of registered capital, the amount subscribed by each shareholder and the final date of payment of the subscribed amount in the company’s bylaws. A company’s financial liability is limited to all its property including the registered capital subscribed by its shareholders according to the new company law. Failure to contribute capital in accordance with the agreed timeframe may impact on the shareholder’s claim of ownership interest and/or the share of net business assets of the company in question. As the shareholders’ civil liability is determined by their respective pledge of subscribed capital, for establishing an applicant’s share of ownership interest in a company, their share of subscribed registered capital is the basis for calculation.
66. Subsequent to the Company Law amendments, paid-up registered capital is no longer required to be registered with the AIC and the requirement to file an accountant’s report verifying payment of the capital with the AIC has been removed. Information regarding the company’s registered capital, the form and timing of the subscriptions as agreed among the shareholders are reflected in the company’s articles of associations and claim

of ownership interest is to be supported by the company's articles of associations as well as the company's annual report filed with the AIC.

67. To support their ownership claims prior to 1 March 2014, applicants are expected to provide full copies of capital verification reports submitted to the AIC and certified (chopped) by the AIC for business registration and subsequent amendments. In cases where an applicant claims indirect ownership of a business, all links must be satisfactorily evidenced through capital verification reports. Capital verification reports should be lodged complete with all relevant attachments such as valuation of assets contributed in kind and business balance sheet where additional capital is funded by reinvestment of business profits. Bank confirmations of the applicant's capital contribution into the capital injection bank account of the company should also be filed as an attachment to the capital verification report.
68. From 1 March 2014, where information regarding a company's registered capital is reflected in the company's annual report filed with the AIC these annual reports are expected to be provided.

#### **Historical Company Extract and Up-to-date Company Search (企业资料查询)**

69. Composition of shareholders' equity may change continuously and as such, aside from capital verification reports, applicants are also expected to submit share transfer agreements where applicable, up-to-date company searches with historical records detailing all ownership changes of their business to support their ownership claims for the periods under consideration. These documents should bear the original stamp (chop) of the AIC unless printed from the AIC database of corporate information accessible to the public.
70. Concurrent with the legislative reform effective on 1 March 2014, a nationwide electronic registration system on corporate information, the National Enterprise Credit Information Publicity System (全国企业信用信息公示系统), has been made available to assist the public in evaluating a company's creditworthiness. The electronic registration system provides information from the AIC on an enterprise such as its business registration number, date of establishment, registered capital, address, legal representative, business scope, shareholders' information, enterprise changes and history of penalties levied by the AICs. Annual reports filed by the company to the AIC are also to be made publicly accessible through this system. A new version of the electronic registration system has been launched in 2018 to facilitate registration and information disclosure.

#### **FINANCIAL DOCUMENTATION**

71. Procedural Instruction Generic Guidelines M states that financial statements compiled and provided by persons certified by a recognised accounting body acting to international/Australian accounting standards will generally be regarded as sufficient.



72. Applications based on PRC business or investment activities must include reports prepared in accordance with either “standards on review engagements<sup>1</sup>” or “standards on related services engagements<sup>2</sup>” as applicable.
73. The reports must be issued by accountants who belong to one of the following groups who hold a Public Practice Certificate and have relevant PRC experience:
- Hong Kong Institute of Certified Public Accountants;
  - the Institute of Chartered Accountants in Australia (from 1 July 2014, Chartered Accountants Australia and New Zealand);
  - CPA Australia; or
  - the Institute of Public Accountants in Australia.

A copy of the Public Practice Certificate of the accountant who issued the review report (report prepared in accordance with ISRE2400 (Revised)) or special purpose report (report prepared in accordance with ISRE4400) must be attached.

74. Review reports and special purpose reports that are issued by the ‘Big 4’ international accounting firms (i.e. PricewaterhouseCoopers, Deloitte Touche Tohmatsu, Ernst & Young and KPMG) operating in the PRC will also be accepted.
75. We expect the reporting accountants to perform their duties with impartiality, that is, without bias. The reports must be prepared by qualified accountants who are independent of the applicants and any businesses and/or investments included in the visa application concerned and for this purpose, the accountants are not considered independent if they have a material direct or indirect financial interest in the subject matter. An obvious example will be the practice of contingent fee arrangement relating to either an assurance engagement or a non-assurance service provided to a client, a matter of which constitutes an identified threat to independence. To address the above, a reporting accountant is required to submit an independence declaration set out on the last page of this documentation guide to be attached to all review reports and special purpose reports provided to this office. In addition, the accountant should inform this office as soon as possible should they become aware of a change to the information contained in the declaration.
76. The table that follows sets out the required financial documentation pertaining to each stream in the visa subclasses of Stage 1 Business Innovation and Investment visa processing. A discussion of the procedures and matters requiring comments by the reporting accountant follows in the next section.

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<sup>1</sup> *International Standard on Review Engagements (ISRE) 2400 (Revised) Engagements to Review Historical Financial Statements*

<sup>2</sup> *International Standard on Related Services (ISRS) 4400 Engagements to Perform Agreed-Upon Procedures regarding Financial Information*

## Financial Documentation Requirement Table

ISRE 2400 (Revised) Review Report	ISRS 4400 Special Purpose Report On Turnover	ISRS 4400 Special Purpose Report On Investment Activity
Subclass 188 visa in the Business Innovation Stream <sup>1</sup>	Subclass 188 visa in the Business Innovation Stream <sup>2</sup>	
Subclass 188 visa in the Investor Stream <sup>3</sup>	Subclass 188 visa in the Investor Stream <sup>4</sup>	Subclass 188 visa in the Investor Stream <sup>5</sup>
Subclass 188 visa in the Significant Investor Stream <sup>6</sup>		Subclass 188 visa in the Significant Investor Stream <sup>7</sup>

### Notes:

1. *A Review Report is required where net business assets are claimed as part of the net assets available for transfer to Australia or where the applicant wishes to use net business assets to claim points under 'Part 7A.7 Financial asset qualifications'. For details, please refer to the below sections under 'Business Innovation and Investment Points Test'*
2. *A Special Purpose Report on Turnover is required unless a review on the financial statements of the nominated business for the nominated years have already been conducted in accordance with ISRE2400 (Revised)*
3. *A Review Report is required where an ownership interest in a business is claimed as an eligible investment for the purposes of clause 188.244(b); where the net assets of a qualifying business is nominated to meet clause 188.245; and/or where the applicant wishes to use net business assets to claim points under 'Part 7A.7 Financial asset qualifications'. For details, please refer to the below sections under 'Business Innovation and Investment Points Test'*
4. *A Special Purpose Report on Turnover is required where the applicant wishes to use turnover of a main business to claim points under 'Part 7A.8 Business turnover qualifications'. For details, please refer to the below sections under 'Business Innovation and Investment Points Test'. However, where a review on the financial statements of the main business has been conducted in accordance with ISRE2400 (Revised), a Special Purpose Report on Turnover would not be required*
5. *A Special Purpose Report on Investment Activity is required where stocks and bonds are claimed as eligible investments*
6. *A Review Report is required where net business assets are nominated as assets for making a complying significant investment*
7. *A Special Purpose Report on Investment Activity is required where stock trading profits constitute a significant portion of source of funds for the Complying Significant Investment*

### Review Report

77. A review on the financial statements of a qualifying business conducted in accordance with ISRE2400 (Revised) may be required for Business Innovation and Investment visa purposes as outlined above.

78. The reporting accountant's objective in a review of financial statements is to obtain limited assurance, primarily by performing inquiry and analytical procedures, about whether the financial statements as a whole are free from material misstatement, thereby enabling the reporting accountant to express a conclusion on whether anything has come to the reporting accountant's attention that causes them to believe the financial statements are not prepared, in all material respects, in accordance with an applicable financial reporting framework. For Business Innovation and Investment visa purposes, international/Australian accounting standards are the applicable financial reporting framework.
79. The review must be conducted by an accountant referred to at paragraphs 73 and 74. The review report should contain a clear written conclusion on the financial statements, whether unmodified or modified. Where there is a departure from international/Australian accounting standards, the reporting accountant should outline possible adjustments to the financial statements such that the financial statements would provide a true and fair view in accordance with international/Australian accounting standards. Where adjustments are made to the financial statements prepared in accordance with the PRC accounting principles and policies, the reporting accountant should disclose by way of a table setting out the pre-adjusted, adjustment and post-adjusted figures, as well as comment on the basis for such adjustments.
80. In the review report, the reporting accountant is expected to state the date and location of the site visit conducted, outline procedures applied in obtaining the relevant evidence and provide information on the business gained from the site visit including:
- a) the nature of business, staffing and organisation structure;
  - b) the product range;
  - c) the full address of the operating location(s) (preferably in both Chinese and English);
  - d) whether the business has a broad customer/supplier base, comment on economic dependency on one or two customers/suppliers, if applicable; and
  - e) details of other businesses operating from the same premises.
81. In addition, the reporting accountant should provide separate comments on business turnover as follows:
- a) breakdown of business turnover by activity, e.g. commissions, sales, consultancy fees (where the main business is engaged in export trade, a breakdown of local and export sales is to be provided);
  - b) outline the accounting principles and practices for sales (both cash and credit) and the type of records kept;
  - c) details of sales with related parties;
  - d) advise and provide an explanation where business turnover and net profit reported in the profit & loss statement vary from those declared for tax (the basis of tax assessment is to be explained). For each of the relevant years, the following tax documents should be attached to the report:
    - profits/enterprise income tax returns filed with the relevant tax bureau and payment receipts;
    - business/value added tax returns filed with the relevant tax bureau and payment receipts. Where there is a large number of tax payment receipts, it may not be practical for all tax payment receipts to be attached to the review report. A

selection of tax payment receipts may be provided with advice that the remaining tax payment receipts are available on request; and

- summary schedules reconciling tax payments against turnover/profit claimed.

82. Separate breakdown and comments are also required in the report on:
- a) receivables and payables;
  - b) fixed assets, intangible assets and investment properties;
  - c) any long and short term loans, loans to/from the business in relation to each individual shareholder and their related parties (e.g. family relatives/businesses);
  - d) any intercompany loans, their nature and recoverability;
  - e) the carrying value of investments and subsidiary interests;
  - f) any significant changes in the owners' equity;
  - g) any dividend distributions to equity holders;
  - h) events/commitments/uncertainties that have arisen subsequent to the balance sheet date that would have a material effect on the financial statements under review;
  - i) any legal actions, threatened, pending or in process and the effect thereof on the financial statements under review;
  - j) any circumstances of fraud and non-compliance with laws and regulations; and
  - k) the entity's ability to continue as a going concern.

There is no need to attach the relevant workings performed by the accountant and supporting documents to the review report. These documents should be made available upon request.

83. Where a number of companies come under the umbrella of a group company, the option is available for the best performing two to be nominated as main businesses. In this case, the applicant must provide a declaration on the profitability or otherwise of the remaining companies in the group. The reporting accountant must also highlight all intercompany transactions.
84. A set of the PRC financial statements of the business (balance sheet and profit & loss statement) should also be enclosed with the review report for each of the relevant years/periods.

### **Special Purpose Report of Factual Findings on Turnover**

85. The objective of a special purpose report is for the reporting accountant to report on factual findings based on agreed-upon procedures performed on agreed financial information, without providing an assurance. Where work has commenced on a review of financial statements, applicants have the option to provide a review report in place of a special purpose report.
86. The special purpose report on turnover must be prepared by an accountant satisfying the requirements stated in paragraphs 73 and 74. The reporting accountant is expected to perform the following agreed-upon procedures regarding the business turnover of the applicant's nominated business:
- a) carry out substantive testing of sales transactions in accordance with the audit guidelines set out in the International Standards on Auditing (ISA) and comment on any misstatements (with an outline of the tests undertaken);

- b) detail the method of accounting for sales (both cash & credit) and the type of records kept;
  - c) provide a breakdown of business turnover by activity, e.g. commissions, sales, consultancy fees (where the main business is engaged in export trade, a breakdown of local and export sales is to be provided);
  - d) advise details of sales with related parties; and
  - e) advise and provide an explanation where business turnover and net profit reported in the profit & loss statement vary from those declared for tax (the basis of tax assessment is to be explained). For each of the relevant years, the following tax documents should be attached to the report:
    - profits/enterprise income tax returns filed with the relevant tax bureau and payment receipts;
    - business/value added tax returns filed with the relevant tax bureau and payment receipts. Where there is a large number of tax payment receipts, it may not be practical for all tax payment receipts to be attached to the special purpose report. A selection of tax payment receipts may be provided with advice that the remaining tax payment receipts are available on request; and
    - summary schedules reconciling tax payments against turnover/profit claimed.
87. In addition, the report should state the date and location of the site visit conducted, and provide information on the business gained from the site visit including:
- a) the nature of the business, staffing and organisation structure;
  - b) the product range;
  - c) the full address of the operating location(s) (preferably in both Chinese and English);
  - d) whether the business has a broad customer/supplier base, comment on economic dependency on one or two customers/suppliers, if applicable; and
  - e) details of other businesses operating from the same premises.
88. A set of the PRC financial statements of the business (balance sheet and profit & loss statement) should also be enclosed with the special purpose report for each of the relevant years. Where adjustments have been made to the business turnover figures as recorded in the financial statements prepared in accordance with the PRC accounting principles and policies, the reporting accountant should disclose by way of a table setting out the pre-adjusted, adjustment and post-adjusted figures, as well as comment on the basis for such adjustments.

### **Special Purpose Report of Factual Findings on Investment Activity**

89. Applicants for a subclass 188 visa in the Investor stream who have accumulated sufficient funds for the making of the designated investment (DI) or complying significant investment (CSI) from stocks and bonds as eligible investments should provide an investment activity report prepared by an accountant referred to at paragraphs 73 and 74. The report should be performed on stock investment activities for at least one of the 5 fiscal years immediately before the time of invitation to ensure that applicants held eligible investment in the prescribed amount in the relevant year. For applicants in the Investor stream and Significant Investor stream who claim to have accumulated sufficient funds for the DI/CSI over a number of years, investment activity report may be required for more than one year. The reporting accountant is expected to perform agreed-upon

procedures regarding the applicant's investment activity outlined in paragraph 90 and attach to the report the following documentation:

- a) statements from the securities company of stock portfolio held by the applicant and/or the applicant's spouse/de-facto partner as at 31 December for at least one of the 5 fiscal years immediately before the time of invitation to apply for the visa. The following details should be included on the statement for each of the relevant points in time:
    - Basic account information including Client Account No., Client Name, ID Card No., Capital Account No., Trading Account No. and Account Status;
    - Net assets information including date of portfolio, currency, cash balance, market value of the stocks/bonds portfolio, total asset balance;
    - Detailed stock information including stock name, stock code, quantity, unit price, and total market value of each stock as at the statement date; and
    - Details of the loans provided to the applicant against this Client Account No. as at the statement date.
  - b) the Securities Account Holdings Statement (投资者记名证券持有数量) issued by the China Securities Depository and Clearing Corp Ltd (中国证券登记结算有限公司), both Shanghai and Shenzhen branches, with details of the stocks held by the applicant and the applicant's spouse/de-facto partner as at 31 December of the reporting year.
90. The investment activity report should include the following agreed upon procedures:
- a) compile a summary statement outlining the realised gain or loss incurred on stock disposal and unrealised gain or loss on the unsold stocks in the relevant year(s) for each individual stock. There is no need to provide the detailed analysis on the calculation of profit for each stock and the relevant workings performed by the reporting accountant. These documents should be made available upon request;
  - b) A table detailing the funds injected into and transferred out of the nominated securities account/s, and provide the total balance of cash injected and cash withdrawn from the nominated securities account/s in each of the relevant year(s); and
  - c) identify and comment on unusual pattern of trading.

### **Balance Date**

91. Regulation 1.03 defines fiscal year in relation to a business or investment as:
- a) if there is applicable to the business or investment by law an accounting period of twelve months - that period; or
  - b) in any other case - a period of twelve months approved by the Minister in writing for that business or investment.
92. In the PRC, a fiscal year is considered to be a calendar year, therefore reports prepared in accordance with ISRE2400 (Revised) and ISRS 4400 should use the balance date 31 December. The commencement date as shown on the business licence is the date upon which a business is deemed to have established.

### **TAXATION**

93. In the course of legitimately accumulating his/her business and personal assets and in establishing that the assets are free of encumbrances, it is expected that an applicant

would have paid the relevant taxes in accordance with the prevailing tax laws and regulations. Major tax applicable to PRC businesses may be summarised as follows:

- a) Value Added Tax (增值税) – Applicable to units (whether that be enterprises or other organisations) or individuals who sell tangible goods, provide processing or repairs services, provide stipulated services, sell intangible assets or immovable properties for valuable consideration. Since the initial launch in 2012, the Value Added Tax reform has been rolled out nationwide to replace the Business Tax. Additional sectors were added to the scope of the reform over time. The reform was further expanded nationwide from 1 May 2016, with the construction, real estate, financial services and consumer services sectors being included in the Value Added Tax regime. The business activities that are subject to Value Added Tax are categorised into three groups, namely, (1) supply of real estate, (2) supply of services and (3) supply of intangible assets. Under Value Added Tax, taxpayers are divided into general taxpayers and small-scale taxpayers based on their annual sales. In 2017, the Value Added Tax has completely replaced the Business Tax.
- b) Business Tax (营业税) – Applicable to units (whether that be enterprises or other organisations) or individuals who provide stipulated services or sell immovable properties for valuable consideration. As from 1 May 2016, the scope of Value Added Tax covers all goods and services, and Business Tax is no longer imposed. In 2017, the Value Added Tax has completely replaced the Business Tax.
- c) Enterprise/Corporate Income Tax (企业所得税) – Applicable to all enterprises (but explicitly excluding sole proprietorships and partnerships) against the overall annual profits.
- d) Individual Income Tax (个人所得税) – Applicable to individuals (also including individuals behind sole proprietorships and partnerships) against various types of income at various tax rates, summarised as follows:
  - i) Wages and salaries, bonus and commission income;
  - ii) Contracts for service (freelancing);
  - iii) Author’s remuneration;
  - iv) Royalties;
  - v) Production and operational income (profits) arising from engagement in industrial and commercial activities;
  - vi) Interest, dividends, incidental income and other incomes specified as taxable by the Ministry of Finance;
  - vii) Property lease income;
  - viii) Property transfer income;
  - ix) Occasional income
- e) Land Appreciation Tax (土地增值税) – Applicable to units (whether that be enterprises or other organisations) or individuals against the value added amounts secured from transfer of land use rights of state-owned land, the attached buildings or structures.
- f) Deed Tax (契稅) – Applicable for all transfers, buy and sell, swap, gift of land use rights of state-owned land and to the attached buildings and structures.

94. Time frames for tax filings and payments with respect to various types of taxes may differ as follows:
- a) Value Added Tax and Business Tax – Normally on a monthly basis, exceptions would be uncommon.
  - b) Enterprise/Corporate Income Tax – Provisional filing and payment would have to be made on a quarterly basis with an annual final settlement to be performed on or before 31 May of the following year.
  - c) Individual Income Tax – Vary depending on the types of income as follows:
    - i) For wages and salaries, Contracts for service (freelancing), Author’s remuneration, Royalties – on a monthly basis or on each receipt with an annual final settlement to be performed within 1 March to 30 June of the following year;
    - ii) For production and operational income – tax filings and payments would normally be on a monthly basis or 15 days after the end of each quarter and with an annual final settlement to be performed on or before 31 March of the following year;
    - iii) Others – On a monthly basis or on each receipt.
  - d) Land Appreciation Tax – Tax filing within 7 days upon the execution of the relevant transfer contract.
  - e) Deed Tax – As and when the tax charge is accrued.

### **Deemed Tax**

95. To our current understanding, private enterprises such as individually or privately owned businesses, sole proprietorships and private limited companies in certain industries may, under certain circumstances and upon application to the tax authorities, be required to regularly pay their respective tax charges, including value added tax, business tax, enterprise/corporate income tax and/or individual income tax, as the case may be, on a deemed basis.
96. Deemed tax payments can be determined on the basis of directly deeming a certain amount of tax payable (定额征收) by the business or deeming the taxable profit ratio against either the actual gross income or the actual stipulated costs (such as raw material costs or fuel and power costs) (核定征收). The amount of tax payable under these arrangements therefore may not bear correlation to the turnover level or actual profits of the business and may not be relied upon as corroborating evidence of turnover/profits as declared.
97. Furthermore, businesses subject to deemed tax arrangements are usually of a smaller scale and would most likely not keep their books of account or source documents to the standards as required by the tax authorities as in cases subject to audited method of taxation (查账征收). Such cases would invariably be examined in more details, particularly with reference to the contents of the ‘deeming notice’ (核定通知书) as issued by the tax authorities from time to time (mostly on an annual basis), in order to ascertain turnover/profits levels.

### **NET ASSETS DOCUMENTATION**

98. Net assets of the applicant and/or their spouse/de-facto partner are the value of their assets, after deducting any liabilities, and comprised both personal and business assets. A statement of all the assets and liabilities of the applicant and/or their spouse/de-facto is



required as at a date within the 3 months immediately before the time of invitation to apply for the visa. By using the same date, the possibility of double-counting is eliminated. This statement should disclose all assets and liabilities including those in business and other investments. However, only the value of those personal and business assets required to satisfy the net assets requirement need evidencing. Applicants should clearly indicate which net assets they nominate to meet visa criteria and ensure that their valuation falls on the same date.

### **Net Business Assets**

99. Where an applicant nominates net business assets for consideration, the value of the net business assets is to be supported by a review on the financial statements of the business in accordance with ISRE 2400 (Revised). A valuation of the net business assets should be provided as at a date within the 3 months immediately before the time of invitation to apply for the visa. Where the value of buildings is included in the calculation of net business assets, the review report must include evidence of the existing land use rights and/or title to the property and valuation report to support re-valuation of properties. Where the applicant's shareholding has been pledged for loans, evidence is expected to demonstrate the impact of the pledged shareholding on the net business/personal asset value attributable to the applicant.

### **Properties**

100. Where an applicant nominates a property for consideration, the market value of the property needs to be supported by a valuation report. For properties in the PRC, the valuation must be undertaken by one of the following firms/individuals with relevant experience in the PRC:
- an international valuation firm
  - a qualified member of Royal Institute of Chartered Surveyors (RICS) with a valid certificate of RICS Registered Valuer
  - a Hong Kong registered professional surveyor with a valid Certificate of Registration issued by the Surveyors Registration Board.
101. The valuer must comment on:
- a) the outcome of property inspection undertaken;
  - b) land use rights;
  - c) title to the property (certified copies of all pages of the title deed to be provided);
  - d) encumbrances against the property (certified copies of evidence of all encumbrances as at the date of valuation or confirmation that the property is free from encumbrances is to be provided);
  - e) market value of the property on a date within the 3 months immediately before the time of invitation to apply for the visa;
  - f) valuation methodologies; and
  - g) where applicable, the property acquisition cost, and the basis of significant appreciation in the market value of the property which occurred over a short period of time.
102. Additionally, the applicant should provide a certified copy of the purchase/tax invoice for the property to demonstrate the acquisition cost of the property.

103. Please note that claims of ownership of properties for which title certificates (房产证) are yet to be issued at the time of assessment are not accepted. In the absence of a valid and enforceable title to a property, the market value of the property could not be properly ascertained.

### **Cash on Deposit**

104. Where applicants intend to include cash on deposit in the calculation of net assets, bank statements or certificates of deposits should be provided. If cash is held in more than one account, all balances must be evidenced on the same date. Applicants will be asked to demonstrate the source and historical records of substantial cash deposits.
105. As bank deposits can be withdrawn prior to the agreed maturity date, the certification issuance date is considered to be the valuation date.

### **SOURCE OF FUNDS**

106. In establishing the claims to business ownership, business and personal assets of the applicant and/or their spouse/de-facto partner, decision makers may inquire into the source of their claimed assets in order to reach a proper degree of satisfaction that they are the legal owner of the assets and that the assets are 'net' and 'unencumbered'. Applicants are expected to submit a signed declaration detailing how they generated/accumulated funds for their asset portfolio and capital investments, with evidence to substantiate their claims.
107. The PRC economy was, and is, in transition to a market economy. There have been dramatic changes involving the gradual privatisation of state owned enterprises and much reporting on the stripping of State assets. Nominating others to hold assets including business assets and cash assets without formal recognition is not uncommon. In this business environment, it is prudent to take a cautious approach in the determination of personal and legitimate ownership of funds for business investment and personal assets acquisition.
108. The onus is on the applicant to provide relevant and reliable documentation to evidence how they accrued their funds. Relevant documents that may provide evidence of the source and the accumulation of declared assets over a period of time may include:
- taxation records/documents, including but not limited to Individual Income Tax returns and receipts for incomes generated from employment/service provided/investment; and Enterprise Income Tax returns and receipts for business profits;
  - business accounts/financial statements of previous businesses, to be corroborated by Enterprise Income Tax returns and receipts where available;
  - historical bank statements or bank records indicating gradual accumulation of wealth; and/or
  - official documents for sale of assets, such as stamp duty or deed tax payment receipts.

Where there are copious source documents (e.g. tax payment receipts, bank records, etc.), only a representative sample of the documents (of no more than 30 pages) need to be provided. A covering statement indicating how each document lends support to claims

of source of funds and what additional documents could be made available upon request should be provided to assist with the weighing of the evidence in the assessment process.

109. Applicants who fail to provide the requisite evidence may have the criterion in question assessed as not met on the basis that the officer cannot be satisfied:
- that the claimed level of funds or assets exists; or
  - that the claimed ownership interests or funds belong to the applicant.

## **FUND TRANSFER**

### **Subclass 188 - Investor Stream**

110. Applicants for a Subclass 188 visa in the Investor stream are required to demonstrate that the funds used to make a Complying Significant Investment (CSI) were unencumbered and accumulated from either or both of their qualifying business and eligible investment activities. As such, the funds proposed for the purchase of the CSI must be able to be trailed back to the relevant sources as claimed by applicants.
111. Applicants are required to provide a signed declaration to indicate which asset(s) they propose to use and their proposed method of fund transfer to make the CSI before they will be invited to make a CSI. Request for transfer of funds to Australia to make a CSI may be made at the same time as applicants are requested to undergo health and character checks. If for any reason, including failing to meet Public Interest Criteria (health and character checks), the applicant is unable to migrate to Australia after making a CSI, any decision to withdraw funds from that investment prior to its maturity will be subject to the conditions agreed between the applicant and the relevant managed funds.
112. The transfer of investment funds to Australia is not within the scope of immigration and will be a matter for applicants to decide. Applicants are suggested to seek professional advice on such matters and at all times observe and comply with the laws of the resident country that regulate such activity.
113. If applicants transfer their money via money remitters, it is unlikely to be acceptable if the money remitter is not officially registered in Australia. Registered remitters are regulated under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. Where transfers are made through providers who are not regulated by the AML/CTF Act, there is no assurance that the requirement of reg 5.19C is met. International funds transfer instructions (IFTIs) report numbers from the remittance service provider(s) should also be provided to facilitate checks to be performed against the AUSTRAC database to confirm the transfer of funds to Australia.
114. For evidentiary requirements on the liquidation /disposal of assets and the timeframe for the making of the CSI, refer to the corresponding sections for the making of the CSI at paragraphs 147-160 and paragraph 182 respectively.
115. After a CSI has been made, applicants will need to submit documentary evidence to demonstrate that the funds used to make the CSI are those stipulated in the invitation letter (unless approval obtained for change of assets). The trail of funds must be reasonably established with supporting evidence accounting for each step of the way. Applicants should therefore keep all records involved in the transfer/exchange of funds.

For the sake of clarity, it is advisable that the number of transactions be kept to a minimum.

116. Where sufficient funds are already held outside the PRC at the time of application (including funds already held in Australia), it is expected that applicants will be able to clearly demonstrate, with supporting evidence, that such funds were accumulated from their qualifying business in the PRC and/or eligible investment activities and how they were transferred out of the PRC.

#### **Subclass 188 - Significant Investor Stream**

117. For fund transfer under the SIV stream, please refer to paragraphs 176 to 181.

#### **Subclass 188 – Business Innovation Stream**

118. For the Subclass 188 visa in the Business Innovation stream where funds have to be evidenced as part of business and personal net assets, applicants are required to demonstrate that the funds to be used for business and settlement purposes in Australia are lawfully acquired and available for transfer to Australia within two years after the visa grant. There is however no need to evidence the transfer of funds at the time of visa grant.

#### **BUSINESS INNOVATION AND INVESTMENT POINTS TEST**

119. Applicants of the Subclass 188 visa in both the Business Innovation and the Investor streams are required to meet the pass mark of the Business Innovation and Investment Points Test. The Business Innovation and Investment Points Test criteria are to be satisfied at the time of the invitation to apply for the visa.

#### **Educational Qualifications (学历)**

120. To evidence bachelor qualifications attained in the PRC, applicants are expected to provide:
- i) A notarial certificate of their bachelor certificate (学位证) and certificate of graduation (毕业证);
  - ii) A credentials report (认证报告) issued by China Academic Degrees & Graduate Education Development Centre (CDGDC) (教育部学位与研究生教育发展中心) in relation to the bachelor qualification; and
  - iii) Academic transcripts in relation to the bachelor qualification.
121. CDGDC is an institution directly under the Ministry of Education and is authorised by the Academic Degrees Committee of the State Council and Ministry of Education to certify individuals' academic degrees and records. A credentials report provides information on the qualification attained by the applicant and whether the educational institution issuing the qualification is recognised as a higher education institution by the Ministry of Education. The credentials report could be verified with the file number/verification number (报告编号/验证编码) and application number (申请单编号) via the online tool available at: [中国学位认证 认证报告真实性查询](#)

122. Details on the application procedures for a credentials report are available at [中国学位认证](#)
123. To evidence bachelor qualifications attained elsewhere than in the PRC, applicants are expected to provide:
- i) A certified true copy of the relevant award certificate; and
  - ii) The associated academic transcripts.
124. A bachelor qualification is considered to be one awarded by ‘an education institution that is of a recognised standard’ where it is equivalent to the corresponding Australian qualification. Claims of equivalence may be verified by reference to the Australian Education International Country Education Profile at [The Country Education Profiles](#). In Australia a bachelor degree is one requiring not less than 3 years of full-time study, or the equivalent period of part-time study.

### **Registered Patents / Registered Designs (Design Patents) (注册专利)**

125. There are 3 types of patents in the PRC, namely, the invention patents (发明专利), the utility model patents (实用新型专利) and the design patents (外观设计专利).
126. To evidence a patent registered in the PRC (发明专利/实用新型专) held by the applicant or their main business, applicants are expected to provide documents issued by, or printed from, the web-based electronic databases of the China National Intellectual Property Administration (国家知识产权局) in relation to the patent, with the following details:
- i) Identification numbers – application number and/or grant (publication) number
  - ii) Title – brief description of the invention
  - iii) Abstract – summary of the invention
  - iv) Dates – application date, priority date and/or grant date
  - v) Inventor – person who invented the product/process
  - vi) Applicant (of the patent) – person/entity that applied for the registration of the invention
  - vii) Owner - person/entity that holds the set of exclusive rights in relation to the invention
127. To evidence a design registered in the PRC (or a design patent as known in the PRC 外观设计专利) held by the applicant or their main business, applicants are expected to provide documents issued by, or printed from, the web-based electronic databases of the State Intellectual Property Office in relation to the patent, with the following details:
- i) Identification numbers – application number and/or grant (publication) number
  - ii) Product – product to which the design is applied
  - iii) Drawings – visual images of the design as applied to the product
  - iv) Explanation of the design – brief explanation of the design
  - v) Dates – application date, priority date and/or registration date
  - vi) Creator - person who created the design
  - vii) Applicant (of the design registration) - person/entity that applied for the registration of the design
  - viii) Owner - person/entity that holds the set of exclusive rights in relation to the design patent

128. Information on registered patents (including design patents) are verifiable using the web-based electronic database with search facilities maintained by the State Intellectual Property Office available at: [国家知识产权局 专利检索及分析](#)

### **Registered Trademarks (注册商标)**

129. To evidence a trademark registered in the PRC held by the applicant or their main business, applicants are expected to provide documents issued by, or printed from, the web-based electronic databases of the Trademark Office of China National Intellectual Property Administration (国家知识产权局商标局) in relation to the trademark, with the following details:
- i) Identification numbers – application number and/or registration number
  - ii) Representation of the trademark - in word, image, or other relevant formats
  - iii) Classification - the class of goods or services in relation to which the trademark is registered
  - iv) Dates - application/filing date, acceptance date, publication date, registration date, date of renewal
  - v) Applicant/owner - person/entity that holds the set of exclusive rights in relation to the registered trademark
  - vi) Status - whether the trademark is, for example, applied for, published, registered, revoked or expired
130. Information on registered trademarks are verifiable using the web-based electronic database with search facilities maintained by the Trademark Office of China National Intellectual Property Administration available at [国家知识产权局商标局 中国商标网](#)

### **Joint Venture Agreements (合营合同)**

131. A joint venture (合营) is a commercial undertaking entered into by two or more parties, usually in the short term, for the purpose of a particular activity. The relationship between parties to a joint venture (合营者) is governed by a written ‘joint venture agreement’ (合营合同) which establishes for the joint venturers joint control (共同控制权) over the joint venture.
132. To evidence that a main business of an applicant is a party to a joint venture which operated in accordance with a formal joint venture agreement, applicants are expected to provide:
- i) The joint venture agreement between the main business of the applicant and other business/es; and
  - ii) Evidence that the joint venture had operated in accordance with the joint venture agreement e.g. contracts with external parties, accounts of the joint venture; and
  - iii) A detailed statement on how the applicant utilised their skills in actively participating at a senior level in the day to day management of the joint venture business (evidence to support claims made in the statement should be made available upon request)

### **Export Trade (出口貿易)**

133. Where either a review report or a special purpose report is being prepared in relation to a main business of the applicant as part of meeting other visa criteria and it has a level of export sales for the relevant years that is eligible for points under Part 7A94, evidence of export trade of that main business may be provided in the form of separate comments in the review report or special purpose report in relation to the value of export sales generated by the main business during the relevant years, and the basis of determination. Documentation to support the claimed level of export trade should be made available as part of the review report or special purpose report.
134. Where neither reports are required in relation to the main business of the applicant which has a level of export sales for the relevant years that is eligible for points under Part 7A94 (where the main business nominated for the purposes of other visa criteria is different to the main business nominated for points under Part 7A94), the applicant is expected to provide the Value Added Tax returns filed with the relevant taxation bureau showing the cumulative turnover and export sales of that business for the relevant years, and representative samples of the associated customs declarations (出口貨物報關單) and/or underlying export transaction documents.

### **Gazelle Business (瞪羚企業)**

135. Where either a review report or a special purpose report is being prepared in relation to a main business of the applicant as part of meeting other visa criteria and the main business is eligible for points under Part 7A95 as a ‘gazelle business’, the applicant may provide supporting evidence in the form of additional comments in the reports on the turnover of the main business for the relevant years and the number of its full time employees for 1 of the 3 continuous fiscal years with growth in turnover. Documentation to support the claimed level of turnover and number of employees should be made available as part of the review report or special purpose report.
136. Where neither reports are required in relation to the main business of the applicant which is eligible for points under Part 7A95 (i.e. the main business nominated for the purposes of other visa criteria is different to the main business nominated for points under Part 7A95), the applicant is expected to provide the financial statements of the main business nominated for the purposes of satisfying Part 7A95 with associated Enterprise Income Tax returns and receipts for the relevant period and business records such as taxation, insurance or superannuation records identifying employees of the business by name and their employment basis, for 1 of the 3 continuous fiscal years with growth in turnover.

### **Government Grants (政府資助)**

137. In the PRC, government grants may take various forms. A government grant under Part 7A96 is envisaged to be monetary assistance provided by the government to the applicant or their main business, with a transfer of the grant money to the applicant or their main business. As such, government assistance in other forms such as the provision of guarantees, tax incentives, low interest/interest free loans, free services or free advice are not considered to be government grants for the award of points under Part 7A96.

138. Further, the government grant must have been awarded for the purposes of early phase start-up of a business, product commercialisation, business development or business expansion, and not for non-business purposes such as those in relation to arts, education, disaster relief, community development, agricultural assistance or environmental protection.
139. To evidence the receipt of a government grant, applicants are expected to provide:
- i) the grant letter issued by the relevant PRC government authority outlining the basis of the grant; and
  - ii) bank records showing the transfer of the grant money from the government to the applicant or their main business was made within the 4 years before the applicant was invited to apply for the visa

### **Venture Capital Funding (创业投资资金)**

140. Venture capital is finance provided to entrepreneurs or companies that have very high growth potential but are in the very early stages of developing their business or commercialising their idea, in return for an equity stake in the business (股权投资).
141. Venture capital firms (创业投资企业) are the investment fund managers that act as an intermediary between the capital providers and companies in need of capital. Only those companies with the greatest growth potential are selected by venture capital firms for investment due to the high risk associated with investing in the early stages of a company's development. Upon acquisition of an equity interest in the investee company, a representative of the venture capital firm usually joins the board of the investee company and works with the investee company during the investment period. The objective of the venture capital firm is to grow the investee company to a point where it could be sold at a profit.
142. Where the capital is sourced from an entity that is a member of a professional private equity and venture capital association (for example, member of China Venture Capital and Private Equity Association 中华股权投资协会会员), evidence of the capital provider's membership is prima facie evidence that finance provided by the entity is venture capital, unless there is evidence to suggest the contrary in which case further evidence regarding the nature of the entity's business activities may be requested. In other cases, applicants are expected to provide evidence that the capital provider is a venture capital firm.
143. To evidence the receipt of venture capital funding, applicants should also provide:
- i) the final contract entered with the venture capital firm (法律合同), accompanied by a plain English letter to explain how much venture capital will be received and for what purposes; and
  - ii) documents in relation to the transfer of capital into the investee company (被投资企业), including but not limited to bank records and the shareholders' agreement of the investee company.



## **SIGNIFICANT INVESTOR VISA (SIV)**

144. The following section discusses issues of specific relevance to the subclass 188 visa applications in the Significant Investor stream.

### **PREPARATION OF DOCUMENTATION**

#### **Statement of Assets and Liabilities Position (SALP) - Form 1139A**

145. Applicants should complete a SALP at a date that is within three months preceding application lodgement. Applicants should ensure all assets nominated are valued on the same date. Where assets are valued on different dates, further information may be required which may delay the assessment process.
146. Where more assets are indicated in the SALP than those required to make a CSI, the applicant should clearly mark on the SALP which assets they propose to use to fund the CSI. Applicants should also indicate liabilities (if any) against those assets (for example mortgages, loans including unsecured and third party loans, credit cards), and submit evidence to support those assets/liabilities.

#### **Assets Nominated to Make a CSI**

##### **A. Net business assets**

147. If business assets are nominated to fund the CSI, applicants should submit evidence of their ownership of the business and a review report on the financial statements of the business prepared in accordance with ISRE2400 (Revised) with balance date corresponding to that nominated on the SALP (a listed company may provide its published annual report).
148. Where applicants intend to dispose of their shareholdings, they are required to submit official records retrieved from the SAMR indicating the disposal, bank records showing the transfer of the proceeds received and evidence of tax paid on the capital gain on transfer of their shareholding where the appreciation in the value of their shareholding as compared with their original investments is exceptionally large.
149. If applicants intend to obtain loans from banks secured by shareholding of their company to fund the CSI, they are required to submit evidence of the registration of the mortgage with the SAMR. On registration of the loan with the SAMR, a notice of equity pledge (股權 出質設立登記通知书) stamped by the SAMR should be submitted as evidence and the notice should contain the following information:
- i) The names of the pledger (出質人) and the pledgee (质权人);
  - ii) The names of the company in which the equities are pledged (出質股权所在公司);
- and
- iii) The amount of the pledged equities (出質股权数额).
- The loan must be a commercial loan arranged through a deposit taking financial institution. Generally only banks would meet this definition in China. Further, it is not acceptable if the company simply acts as a guarantor as the loan is not secured by mortgages over any personal assets of the applicant.

150. Where applicants intend to fund the CSI via profit distribution, they are required to submit evidence supporting dividend distribution, bank records supporting receipt of dividends and evidence of the payment of personal income tax. Where funds are purportedly withdrawn from a business as profit distribution without dividends being declared, the funds are taken as loans from the business and are not unencumbered funds.

## **B. Properties**

151. Where real estate properties are nominated to fund the CSI, applicants should submit valuation of the properties by an accredited property valuer (see paragraphs 100 to 103 on property valuation requirements). It is important to synchronise the property valuation dates with the valuation dates of other assets (e.g. cash deposits) to avoid unnecessary delays in the assessment process. Please note that claims of ownership of properties for which title certificates (房产证) are yet to be issued at the time of assessment are not accepted. In the absence of a valid and enforceable title to a property, the market value of the property could not be properly ascertained. Please also note that where a property is jointly held by the applicant with an adult child (18 years of age or above), the adult child's share of the value of the property will have to be deducted in the calculation of assets available for the CSI.
152. If applicants intend to sell a property to fund the CSI, they are required to submit the sale agreement, the associated tax payment receipts (stamp duty, business tax and/or personal income tax), and bank records in relation to the sale proceeds.
153. If applicants intend to mortgage a property to obtain a loan to fund the CSI, they are required to submit either a copy of the title certificate indicating the relevant mortgage (房产证抵押登记), or a mortgage registration certificate supporting registration of the mortgage (不动产登记证明), or a property search (房地产产权信息) retrieved from the Property Management Bureau (房产管理局) giving details of the mortgage, together with the relevant mortgage loan agreements and bank records of the loan deposits. The mortgage loan must be a commercial loan arranged through a deposit taking financial institution. Generally only banks would meet this definition in China.

## **C. Cash on deposit**

154. If cash on deposit are nominated to fund the CSI, applicants should submit bank statements or certificate of deposits for the date nominated on the SALP. Different deposits from various bank accounts should be evidenced on the same date.
155. As cash deposits can be withdrawn prior to the agreed maturity date, the certification issuance date is considered to be the valuation date.
156. The following details (as relevant) should be clearly identified in the documentation submitted to support the applicant's holding of the nominated cash deposits:
- i) name of account holder (客户姓名);
  - ii) customer number (客户号);
  - iii) account number (账号);
  - iv) card number (卡号);
  - v) passbook number (存折号);and

vi) deposit number (存款编号)

Sufficient documentation should be submitted such that all cash deposits nominated can be clearly identified as being held by the applicant and/or their spouse/de facto partner.

#### **D. Loans to business**

157. If loans to a business are nominated to fund the CSI, applicants should submit the loan agreement and the relevant bank records showing the transfer of funds from the applicant's bank account to the business' bank account, as well as a loan statement showing the current balance of the loan lent by the applicant to the business and the balance sheet of the business (PRC audited accounts with notes) as at the date nominated on the SALP. Applicants are also required to submit the bank records showing the repayment of the relevant loan funds from the business to the applicant.

#### **E. Stocks and bonds**

158. If stocks and bonds are nominated to fund the CSI, applicants should submit stocks trading account statements, stocks/bond certificates, transfer certificates etc. for the date nominated on the SALP.

#### **F. Assets held in trust**

159. If assets held in a trust are nominated to fund the CSI, applicants should submit a copy of the relevant trust deed (信托合同) in addition to evidence of the relevant assets' valuation.

#### **G. Financial products**

160. If financial products (理财产品) are nominated to fund the CSI, applicants should submit statements from the entity that issued the financial product dated on the date nominated on the SALP with information identifying the investor (投资者), valuation of the investment on that date (价值), the date of maturity/redemption (到期日) and the expected value of the investment upon maturity/redemption if any (预期价值). Applicants should also provide the contract entered into to acquire the financial product with information on the acquisition value of the investment and any conditions attached to the redemption of the investment.

#### **Source of Funds for Assets Nominated to Make a CSI in the SIV stream**

161. Applicants are expected to submit a signed declaration detailing how they generated/accumulated funds for their asset portfolio and capital investments, with evidence to substantiate their claims.

#### **A. Income from business**

162. Where a business has generated the funds for the applicant's assets, it is expected that the applicant would provide evidence of business ownership, and evidence of the

profitability of the business including financial statements and taxation records of the business.

163. If the applicant's funds are sourced from dividends received, the applicant may submit evidence supporting dividend distribution, bank records supporting receipt of dividends and evidence of the payment of personal income tax. Where personal income tax records are not available, applicants should provide an explanatory statement with some supporting documentation.
164. If the applicant's funds are sourced from the proceeds of business ownership disposal, applicants should submit official records retrieved from the SAMR indicating the disposal, bank records showing the transfer of the proceeds received and evidence of tax paid on the capital gain on transfer of their shareholding where the appreciation in the value of their shareholding as compared with their original investments is exceptionally large.

### **B. Investment income**

165. Where the applicant's funds are sourced from investment incomes, applicants should submit evidence supporting their investment activities and performance (e.g. statements issued by stocks trading company, stocks registers retrieved from the China Securities Depository and Clearing Corporation (中國證券登記結算有限責任公司), financial product contracts, evidence of incomes from rental or sale of properties (please see paragraph 170 for details). A Special Purpose Report of Factual Findings on Investment Activity performed to agreed-upon procedures at paragraph 90 may be required to establish profits gained from stock trading activities.

### **C. Gifts**

166. While applicants may nominate funds and/or assets which have been gifted to them for the CSI, in order for such gifts to be considered as meeting the lawfully acquired and unencumbered requirement:
  - an assessment on the bona fides of the gifting arrangement will be made and where doubts exist as to the unconditional nature of the gifting arrangement, notwithstanding official documents being provided to evidence the gifting transaction (e.g. a formal gift deed), the application may be refused based on such doubts
  - in most instances, where the relationship between the person gifting the funds/assets and the receiver of the gift is not of a parent/child relationship, it will not be accepted that the purported gifting arrangement is one with no obligation to pay back
  - the lawfulness of the gifted funds will be assessed by making relevant enquiries into the generation of such funds by the person gifting the funds
  - the person gifting the funds and/or the assets must own those funds or assets
  - the person gifting any loans borrowed from a financial institution must own the security over which the loan is pledged.
167. For a gift between a parent and child, the applicant should submit a statement of gift signed by the donor indicating that the gifting arrangement is permanent and unconditional.

168. Where the nominated funds are gifted funds, evidence demonstrating how the person gifting the funds/assets accumulated or came into possession of the gifted assets is required. The applicant is also expected to provide a certified true copy of the donor's ID card, bank records to substantiate that the nominated funds were transferred from the donor's bank account to the applicant's bank account and the applicant's continuous possession of the gifted funds since the transfer.
169. The gifted funds should be in the possession of the applicant as at the date nominated on the SALP.

#### **D. Properties**

170. Where the applicant's funds are sourced from incomes in relation to the rental/sale of properties, applicants should submit, as relevant, evidence of their acquisition of the properties and their titles, rental/sale agreements, tax payment receipts (stamp duty, business tax and/or personal income tax) and/or bank records in relation to the rental/sale incomes.
171. In addition, applicants are advised to pre-emptively address the source of funds for the purchase of properties in the source of funds declaration. Whether further evidence is pursued would depend on the price of the purchase, the applicant's business and investment profile as well as the time lapse since purchase.

#### **E. Compensation from property demolition and relocation (房屋拆迁补偿)**

172. If the applicant's funds are sourced from receipts of compensation from property demolition and relocation, they should submit their bank records showing receipt of the compensation and notification issued by, or agreement with, the relevant Land and Resources Bureau (国土资源局). Applicants should also submit evidence of the acquisition of the relevant property.

#### **F. Income from personal exertion**

173. Where the applicant's funds are sourced from income from personal exertion such as salaries/bonuses, commissions, consultancy fees, they should provide bank records showing receipts of these incomes and personal income tax records. Where personal income tax records are not available, applicants should provide an explanatory statement with some supporting documentation.

#### **G. Historical accumulation of wealth**

174. Where the applicant's funds are sourced from an accumulation from a time in the past when conclusive evidence can no longer be provided, applicants should provide historical bank records together with an explanatory statement and some circumstantial evidence such as business licence, contracts etc. to assist in the establishment of the source of funds.
175. If historical bank records indicate significantly fluctuating balances, applicants may wish to provide further explanation in order for the records to be accepted as supporting evidence of continuous possession of a high level of funds.

## **Fund Transfer**

176. The transfer of investment funds to Australia is not within the scope of immigration and will be a matter for applicants to decide. Applicants are advised to seek professional advice on such matters and at all times observe and comply with the laws of the resident country that regulate such activity.
177. Applicants should submit a signed declaration on their proposed method of fund transfer to make the CSI at the time of application.
178. Applicants will need to submit documentary evidence to demonstrate that the funds ultimately available to make the CSI are originated from the assets nominated to make the CSI which have been assessed as lawfully acquired and unencumbered. The trail of funds must be reasonably established with supporting evidence accounting for each step of the way. Applicants should therefore keep all records involved in the transfer/exchange of funds. For the sake of clarity, it is advisable that the number of transactions be kept to a minimal.
179. If applicants transfer their money via a bank, records showing the transfer of funds from the applicant's bank account in China to their bank account in Australia should be provided.
180. If applicants transfer their money via money remitters, it is unlikely to be acceptable if the money remitter is not officially registered in Australia. Registered remitters are regulated under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. Where transfers are made through providers who are not regulated by the AML/CTF Act, there is no assurance that the requirement of reg 5.19C is met. International funds transfer instructions (IFTIs) report numbers from the remittance service provider(s) should also be provided to facilitate checks to be performed against the AUSTRAC database to confirm the transfer of funds to Australia.
181. For assets held outside of China (including those already held in Australia), where the wealth was generated/accumulated in China, applicants should also submit a declaration, with supporting evidence, on how they had transferred the funds out of China

## **Timeframe for the making of Complying Significant Investment (CSI)**

182. The CSI invitation gives 28 days to make the CSI. If more time is needed for the liquidation of assets, transfer of funds or investment procedures performed by third parties, extension of time may be agreed to. It is however expected that a CSI will be made in no later than the maximum 70 day period. Please note that the extension is not automatic. If a request for extension is not made, on the expiry of the 28 days provided in the CSI invitation, a refusal decision may be made on the application without further communication.
183. The requisite health and character checks may be issued to the applicants at the same time as the issuing of the CSI invitation. If for any reason, including failing to meet Public Interest Criteria (health and character checks), the applicant is unable to migrate to Australia after making a CSI, any decision to withdraw funds from that investment

prior to its maturity will be subject to the conditions agreed between the applicant and the managed fund.

## **PERSONAL DOCUMENTATION**

### **Evidence of Birth**

#### **A. Hospital birth certificate (出生医学证明)**

184. Birth certificates in the PRC are not issued by a central authority like the Births and Deaths General Register Office in Hong Kong, or the Registry of Births, Deaths and Marriages in most States in Australia. Up until 1996, the registration of birth was not standardised and was left to the discretion of individual hospitals. Since 1 January 1996, the issuance of birth certificates in China is governed by National Health and Family Planning Commission of the People's Republic of China. All persons born in the PRC from 1 January 1996 are issued with a birth certificate in accordance with legislation, a birth certificate must therefore be provided as proof of identity for those born on or after this date.

#### **B. Notarial certificate of birth (出生公证书)**

185. Notarial certificate of birth is the most common evidence of birth for persons born before 1996. While Chinese notaries affix their signatures and office seal to certificates that attest to the probity of claims made by the applicants, the certificates can be based upon primary evidence, secondary evidence, testimony of the applicant or other parties, or investigation by the notary. Notarial certificates rarely cite the basis for their issuance. Thus a notarial certificate in itself may not be adequate evidence of the facts claimed, and is best used in conjunction with primary and contemporaneous secondary evidence. For most notarial certificates of birth, the primary underlying documentation is the household register.

#### **C. Household register or Hukou (居民户口簿)**

186. The relationship of all members of the household in relation to the principal is stated in the household register. If a child included in the visa application is not listed in the household of either parent, an explanatory statement should be provided.
187. The household register also provides additional information of personal particulars such as alias, educational level, occupation, work unit, previous residence, marital status, etc. All these are relevant to an assessment of the applicant's eligibility for the Business Innovation and Investment visa.

### **Other Personal Documents**

#### **A. Divorce certificate**

188. In the event that an applicant has gone through a divorce, a divorce certificate (离婚证) and divorce agreement (离婚协议书) should be provided.

## **B. Adoption**

189. For applications including an adopted child, a formal adoption certificate (收养登记证/领养证) issued by the Civil Affairs Bureau (民政局) must be submitted. The household register should also indicate the adoptive parent-child relationship. If the adopted child is not included in the household register, an explanatory statement should be provided.

## **C. Dependent child**

190. For a minor child (under 18 years of age) included in an application not accompanied by both parents, documentary evidence that the migrating parent has the legal right to bring that child to Australia, including a notarial statement of consent signed by the non-migrating parent, a completed Form 1229 (consent form to grant an Australian visa to a child under the age of 18 years) or certified copies of official legal documents such as a court-issued order permitting the removal of the child, for the settlement of the child in Australia will be required.

## **D. Non-migrating family members**

191. Please be reminded that members of the family unit of visa applicants (either spouse/de facto partner or dependent children), irrespective of whether they are included in the application, are required to meet the relevant character requirement. Under health policy, non-migrating family members are not ordinarily required to complete health examination. However, assessing officer may request a non-migrating family member to undertake health examinations, depending on the circumstances of the application.

## **CONCLUSION**

192. The content of this document is based on our understanding of the relevant PRC law and practice at the time of writing. While every effort has been made to provide an accurate and current explanation of documentation available to support Business Innovation and Investment visa applicants from the PRC, Chinese law is constantly evolving and is subject to varied practices in different localities. Accordingly, this is a document subject to periodic review. We value feedback from users of this document to further enhance its comprehensiveness.

Hong Kong Business Skills Processing Centre  
Australian Consulate-General, Hong Kong SAR



**REPORTING ACCOUNTANT'S INDEPENDENCE DECLARATION**

To: Hong Kong Business Skills Processing Centre  
Australian Consulate-General, Hong Kong SAR

We, [insert name of accounting firm], are the reporting accountants (“the Firm”) appointed by [insert name of principal applicant] (“the Applicant”) to prepare the [special purpose report / review report (delete where appropriate)] in support of his / her visa application lodged under the Business Innovation and Investment program (“the Report”).

We hereby declare that, *to the best of our knowledge*, we are independent of the Applicant, any other persons covered in his / her visa application and the company / companies for which the Report is issued to the same extent as that required of a professional accountant in accordance with the guideline on independence issued by [Hong Kong Institute of Certified Public Accountants / the Institute of Chartered Accountants in Australia / CPA Australia / the Institute of Public Accountants in Australia (delete where appropriate)].

We also confirm that we have not entered into agreement of whatsoever nature with any parties in relation to the fee charged for our services being contingent on the result of the visa application lodged by the Applicant under the Business Innovation and Investment program. Should we become aware of any changes to the information provided in this declaration, we undertake to notify your office immediately.

Signature : \_\_\_\_\_

Name : \_\_\_\_\_ [*insert name of partner-in-charge*]

For and on behalf of : \_\_\_\_\_ [*insert name of the Firm*]

Dated : \_\_\_\_\_