



# Blaneys on Immigration

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This newsletter is designed to highlight new issues of importance in immigration related law. We hope you will find it interesting, and welcome your comments.

Feel free to contact any of the lawyers who wrote or are quoted in these articles for more information, or call the head of our Immigration Law Group, Ian Epstein at 416.593.3915 or iepstein@blaney.com.

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*“The [Immigrant Investor Venture Capital Pilot Program] is designed to attract experienced business immigrants who will actively invest in the Canadian economy and will be available to approximately 50 investors and their families (presumably each year).”*

## GOVERNMENT OF CANADA ANNOUNCES IMMIGRANT INVESTOR VENTURE CAPITAL PILOT PROGRAM

Henry J. Chang

### Introduction

On December 16, 2014, Citizenship and Immigration Minister Chris Alexander (the “Minister”) announced that Canada will unveil its Immigrant Investor Venture Capital Pilot Program (the “IIVC”) at the end of January 2015. The IIVC is designed to attract experienced business immigrants who will actively invest in the Canadian economy and will be available to approximately 50 investors and their families (presumably each year). Although full details of the IIVC have not been announced yet, what is known so far is summarized below.

### Eligibility

The eligibility criteria under the IIVC are designed to attract investors with skills and abilities that will help them integrate into the Canadian economy and society. These criteria will include the following:

- Proven language proficiency in English or French;

- Either: (1) a Canadian post-secondary degree, diploma or certificate; or (2) a foreign educational credential plus an Canadian educational equivalency assessment from a designated organization;
- A legally obtained net worth of at least \$10 million CAD derived from lawful, profit-making business activities, which will be verified by a designated due diligence service provider (only applicants selected for processing under the IIVC will be required to obtain a due diligence report); and
- A non-guaranteed investment in the amount of \$2 million CAD, paid into the IIVC fund for a period of 15 years (the funds will be invested in Canadian-based start-ups having high growth potential).

### Overview of the Application Process

Citizenship and Immigration Canada (“CIC”) will accept up to a maximum of 500 applications within a specified period. Applications will be selected randomly for processing until approximately 50 approved applications are finalized. Applications that are not selected will be returned once the cap has been reached.

*“Unless a particular investor is predisposed to choosing Canada, he or she is unlikely to apply under the IIVC unless its eligibility criteria are more generous than those applied by the investor programs of those other countries.”*



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CIC claims that selected applicants should receive a decision on their applications within approximately six months of submitting all required documentation. A similar time frame has also been suggested for applicants who are selected under the new Express Entry system. However, it remains to be seen whether CIC will actually meet this processing standard once it begins processing IIVC and Express Entry applications.

#### **Analysis of the IIVC**

The opening of a new program for immigrant investors is good news, especially since the Canadian Government stopped accepting applications under the previous Immigrant Investor Program on July 1, 2012 (it later terminated the entire program). However, the IIVC is a pilot program (such programs have a maximum duration of 5 years) and it will be limited to 50 applicants (presumably each year).

In addition, the IIVC must be considered in light of investor programs offered by other countries. Unless a particular investor is predisposed to choosing Canada, he or she is unlikely to apply under the IIVC unless its eligibility criteria are more generous than those applied by the investor programs of those other countries.

For example, the EB-5 Immigrant Investor Program (the “EB-5 Program”) currently offered by the United States requires only an investment of only \$1 million USD in a qualifying business, with no specific net worth

requirement. In addition, applicants who choose to invest in an approved EB-5 Regional Center can invest as little as \$500,000 USD (although they will also need to fall within the definition of “accredited investor” in order to comply with U.S. securities laws.

The EB-5 Program does impose additional restrictions that will probably not apply under the IIVC. For example:

- In most cases the EB-5 Program requires the direct creation of 10 full-time jobs for U.S. citizens, permanent residents, or other lawfully permitted immigrants. However, in Targeted Employment Areas (most EB-5 Regional Centers are established in such areas), it is possible to demonstrate the indirect creation of these jobs resulting from the investment itself.
- EB-5 Program applicants are given conditional permanent resident status for 2 years and must apply to remove their condition after that date. However, once the condition has been removed, EB-5 immigrants are permitted to sell their interest in the EB-5 investment (the IIVC will impose a 15-year investment obligation).

#### **Conclusion**

Although the IIVC certainly has potential, it remains to be seen whether the program will be popular with foreign investors, in light of the investor options currently offered by other countries. ■

## NEW BLANEYS PODCAST

### Blaney McMurtry LLP

Blaneys Podcasts are available for download at <http://www.blaney.com/podcast>. Topics to date include Powers of Attorney, Canada's Anti-Spam Legislation, Termination of Employment and Family Law. In the newest podcast, Maria Kotsopoulos discusses the timely issue of workplace harassment.

New podcasts continue to be posted so check back regularly for the latest topic. Podcasts are also available for download on [iTunes](#). ■

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