

# ENRICHED

— MIGRATION TRAINING —

## WORKBOOK

Business Skills Visas (188,  
888 and 132) Practical  
Intensive Workshop

This workshop is an  
OMARA approved CPD  
activity

Completion of the Workshop awards a  
Registered Migration Agent **6 CPD Points**

Item Number **WK636**

## TABLE OF CONTENTS

INTRODUCTION .....	8
Foreword .....	8
CPD Points .....	8
Currency of document.....	8
Authors.....	8
LIST LEGEND .....	9
CONTENT OUTLINE.....	10
LEARNING OUTCOMES .....	12
INTRODUCTION TO 188 AND 888 BUSINESS INNOVATION, INVESTMENT, SIV, PIV and ENTREPRENEUR VISA STREAMS AND SUBCLASS 132 BUSINESS TALENT STREAMS.....	14
APPLICATION PROCESS AND FEES.....	20
Fees and Charges.....	21
COMMON CRITERIA .....	25
State, Territory or Austrade Nomination, Expression of Interest (EOI) and SkillSelect .....	26
Expression of Interest through SkillSelect.....	27
State or Territory Nomination for 188 .....	28
State or Territory Nomination for 888 .....	30
State or Territory Nomination for 132 .....	32
Austrade Nomination (188 or 888) .....	34
Requirements for subclass 188 Extension Stream visa applications for Business Innovation and Significant Investor Streams.....	35
Lawful Acquisition of Funds and Assets .....	36
Legislative Basis for Lawful Acquisition and Unencumbered Funds criteria.....	37
Proving Source of Funds as Lawfully Acquired.....	39
Qualifying Business – Definition.....	47
Evidentiary documents for proving lawful acquisition of Funds and Assets.....	48
No Adverse Business History.....	50
Adding Dependants.....	51
Satisfying Public Interest Criteria .....	53
PIC Overview .....	53
Health Requirements .....	54
Character Requirements .....	55
Satisfying Special Return Criteria .....	57
BUSINESS INNOVATION STREAM SPECIFIC CRITERIA.....	59
Business Innovation Minimum Age Cap, Net Asset and Turnover requirements.....	60

Summary Table of Minimum Business Innovation Stream Requirements .....	61
Main Business Ownership – Definition .....	62
Legislative Basis for Business Innovation stream minimum requirements.....	63
Definition of Net Assets – Personal and Business .....	65
Definition of Turnover .....	72
Points Test – Business Innovation Stream .....	74
Overall Successful Business Career .....	79
Demonstrated Need to be in Australia .....	81
Realistic Commitment to business establishment, ownership, continuous involvement and management of a Qualifying Business that benefits Australia .....	82
Genuine and realistic intention to establish a qualifying business.....	84
Commitment to maintaining substantial ownership interest in a qualifying business.....	85
Commitment to maintaining direct and continuous management of a qualifying business.....	86
Benefit to Australia.....	89
Business Innovation Extension Stream .....	90
Making a Valid Business Innovation Extension Stream visa application.....	91
Criteria to be satisfied for Business Innovation Extension Stream visa grant.....	92
Business Innovation Stream Subclass 888 requirements.....	97
State or Territory Nomination – Subclass 888 Business Innovation Stream.....	98
No Adverse Business History and Satisfactory Compliance with Australian laws – Subclass 888 Business Innovation Stream .....	99
Realistic Commitment to maintain business or investment activities in Australia.....	102
Satisfying Public Interest Criteria – Subclass 888.....	103
Satisfying Special Return Criteria – Subclass 888.....	103
Minimum Period for Visa and Main Business Ownership.....	104
ABN and BAS Requirements for Main Business .....	107
Minimum Asset, Employee Appointment and Turnover Requirements for Main Business .....	108
INVESTOR STREAM SPECIFIC CRITERIA.....	117
Investor Stream Minimum Investment, Age Cap and Net Asset requirements.....	118
Minimum Eligible Investment and Qualifying Business Requirements.....	119
Minimum Age Cap and Net Asset Requirements.....	123
Summary Table of Minimum Investor Stream Requirements .....	125
Legislative Basis for Investor stream minimum requirements.....	126
Points Test – Investor Stream .....	128
Management Skill and Overall Successful Record of Eligible Investment or Qualifying Business activity .....	133
Making a Designated Investment.....	136

Procedure for making a Designated Investment.....	139
Realistic Commitment to maintain investment activity and Genuine Intention to reside in Australia .....	141
Investor Stream Subclass 888 requirements.....	142
State or Territory Nomination – Subclass 888 Investor Stream.....	143
No Adverse Business History and Satisfactory Compliance with Australian laws – Subclass 888 Investor Stream .....	144
Realistic Commitment to maintain business or investment activities in Australia.....	146
Satisfying Public Interest Criteria – Subclass 888.....	147
Satisfying Special Return Criteria – Subclass 888.....	147
Minimum Period for Residence in Australia while holding an Investor Stream 188 Visa.....	148
Minimum Period for Maintaining Designated Investment .....	149
SIGNIFICANT INVESTOR STREAM (SIV) SPECIFIC CRITERIA.....	151
Making a Complying Significant Investment .....	152
Definition of Securities .....	153
Definition of Managed Investment Fund .....	154
Reg. 5.19C criterion – Lawful Acquisition of funds and unencumbered funds.....	155
Reg. 5.19C criterion – Specified means for making Complying Significant Investment.....	156
Reg. 5.19C criterion – Specified period for switching investments .....	161
Reg. 5.19C criterion – Who can be an Investor.....	162
Procedure for making a Complying Significant Investment .....	164
Proving a Complying Significant Investment has been made and Form 1412 provided.....	165
Genuine Intention to reside in Australia and to hold Complying Significant Investment.....	166
Significant Investor (SIV) Extension Stream .....	168
Summary of Reg. 5.19B Complying Investment requirements for applications lodged prior to 1 July 2015.....	169
Making a Valid Significant Investor Extension Stream visa application .....	171
Criteria to be satisfied for SIV Extension Stream visa grant.....	172
Significant Investor (SIV) Stream Subclass 888 requirements .....	176
Summary of Reg. 5.19B Complying Investment requirements for applications lodged prior to 1 July 2015.....	177
State or Territory Nomination or Austrade Nomination – Subclass 888 SIV Stream.....	179
No Adverse Business History and Satisfactory Compliance with Australian laws – Subclass 888 SIV Stream .....	180
Realistic Commitment to maintain business or investment activities in Australia.....	182
Satisfying Public Interest Criteria – Subclass 888.....	183
Satisfying Special Return Criteria – Subclass 888.....	183
Minimum period of holding SIV visa and holding complying significant investment .....	184

Minimum Period for Residence in Australia while holding an SIV Stream 188 Visa .....	188
PREMIUM INVESTOR STREAM (PIV) SPECIFIC CRITERIA .....	191
Making a Complying Premium Investment .....	192
Reg. 5.19D criterion – Lawful Acquisition of funds and unencumbered funds.....	193
Reg. 5.19D criterion – Specified means for making Complying Premium Investment .....	194
Reg. 5.19D criterion – Specified period for switching investments .....	197
Reg. 5.19D criterion – Who can be an Investor.....	198
Procedure for making a Complying Premium Investment .....	200
Proving a Complying Premium Investment has been made and Form 1412 provided .....	202
Genuine Intention to hold Complying Premium Investment (Philanthropic Contributions excluded) .....	203
Premium Investor (PIV) Stream Subclass 888 requirements .....	204
Austrade Nomination – Subclass 888 PIV Stream .....	205
No Adverse Business History and Satisfactory Compliance with Australian laws – Subclass 888 PIV Stream .....	206
Realistic Commitment to maintain business or investment activities in Australia.....	208
Satisfying Public Interest Criteria – Subclass 888 .....	209
Satisfying Special Return Criteria – Subclass 888 .....	209
Minimum period of holding PIV visa and holding complying premium investment.....	210
ENTREPRENEUR STREAM SPECIFIC CRITERIA .....	213
Undertaking a Complying Entrepreneur Activity .....	214
Reg. 5.19E criterion – Innovative Criteria proposed to lead to Commercialisation of a Product or Service in Australia or Development of an Enterprise in Australia.....	215
Reg. 5.19E criterion – Funding of at least \$200,000 under a legally enforceable agreement is to be provided to an entrepreneurial entity in Australia .....	216
Reg. 5.19E criterion – Funding must be lawfully acquired and unencumbered .....	219
Reg. 5.19E criterion – A Business Plan for the Entrepreneurial Entity must set out the proposals for the Complying Entrepreneur Activity that meets the regulatory criteria .....	220
Entrepreneur Stream Minimum Age Cap, English and Net Asset Requirements .....	221
Legislative Basis for Entrepreneur stream minimum requirements .....	223
Genuine Intention to undertake Complying Entrepreneur Activity.....	224
Entrepreneur Stream Subclass 888 requirements .....	225
State or Territory Nomination – Subclass 888 Entrepreneur Stream .....	226
No Adverse Business History and Satisfactory Compliance with Australian laws – Subclass 888 Entrepreneur Stream.....	227
Realistic Commitment to maintain business or investment activities in Australia.....	229
Satisfying Public Interest Criteria – Subclass 888 .....	230
Satisfying Special Return Criteria – Subclass 888 .....	230

Minimum Period for Residence in Australia while holding an Entrepreneur Stream 188 Visa	231
Overall Successful Record of undertaking activities of an Entrepreneurial Nature in Australia while holding Entrepreneur Stream 188 Visa .....	232
SUBCLASS 132 BUSINESS TALENT STREAM SPECIFIC CRITERIA.....	233
Significant Business History Stream – Minimum Age Cap, Ownership, Net Asset and Turnover Requirements .....	234
Summary Table of Minimum Significant Business History Stream Requirements.....	235
Legislative provisions for Minimum Age Cap, Ownership, Net Asset and Turnover requirements .....	236
Significant Business History Stream – Realistic Commitment to business establishment, ownership, continuous involvement and management of a Qualifying Business that benefits Australia .....	237
Genuine and realistic intention to establish a qualifying business .....	239
Commitment to maintaining substantial ownership interest in a qualifying business.....	240
Commitment to maintaining direct and continuous management of a qualifying business....	241
Benefit to Australia.....	244
Significant Business History Stream – Overall Successful Business Career .....	245
Venture Capital Entrepreneur Stream – Obtaining Venture Capital funding of \$1 million by a prescribed Australian company for a prescribed business purpose .....	247
Venture Capital Entrepreneur Stream – Realistic Commitment to business establishment, ownership, continuous involvement and management of a Qualifying Business that benefits Australia .....	249
Genuine and realistic intention to establish a qualifying business .....	251
Commitment to maintaining substantial ownership interest in a qualifying business.....	252
Commitment to maintaining direct and continuous management of a qualifying business....	253
Benefit to Australia.....	256
Venture Capital Entrepreneur Stream – Nominating State or Territory must be satisfied applicant has sufficient funds to settle in Australia .....	257
Visa Cancellations of subclass 132 Business Talent Visas .....	258
Mandatory Monitoring of s. 134 visa-holders.....	260
AAT Appeal of s. 134 visa cancellation .....	260
HYPOTHETICAL CASE STUDY 1.....	261
HYPOTHETICAL CASE STUDY 2.....	265
HYPOTHETICAL CASE STUDY 3.....	269
HYPOTHETICAL CASE STUDY 4.....	275
HYPOTHETICAL CASE STUDY 5.....	278
HYPOTHETICAL CASE STUDY 6.....	280
HYPOTHETICAL CASE STUDY 7.....	286
SUMMARY TABLE FOR STREAM AND SUBCLASS CRITERIA DIFFERENCES.....	289

APPENDIX 1 – Instrument LIN 19/189 Making a Valid Subclass 188 Application .....	291
APPENDIX 2 – Functional English evidential requirements under Reg. 5.17 and Instrument IMMI 15/004 .....	296
APPENDIX 3 – Item 1202B (4) to (7), Schedule 1 provisions for making a valid Business Skills (Provisional) (Subclass 188) Visa application .....	299
APPENDIX 4 – Item 1104BA (3) to (6), Schedule 1 provisions for making a valid Business Skills (Permanent) (Subclass 888) Visa application .....	302
APPENDIX 5 – Instrument IMMI 15/144 Required Health Assessment .....	305
APPENDIX 6 – Character Test under s. 501 .....	314
APPENDIX 7 – Instrument IMMI 12/041 Minimum Points Test Score Requirements for Business Innovation and Investor Streams .....	317
APPENDIX 8 – Instrument IMMI 15/005 Specification of English Language Levels .....	318
APPENDIX 9 – Instrument LIN 19/217 Specification of Areas for Business Innovation Exceptional Circumstances Minimum Assets Criterion .....	324
APPENDIX 10 – Instrument IMMI 12/106 Specification of Securities for which Designated Investment may be made.....	329
APPENDIX 11 – Reg. 5.19C Complying Significant Investment criteria for SIV applications made after 1 July 2015.....	331
APPENDIX 12 – Instrument IMMI 15/100 Specification of Complying Significant Investments for SIV for applications made after 1 July 2015 .....	333
APPENDIX 13 – Reg. 5.19B Complying Significant Investment criteria for SIV applications made before 1 July 2015 .....	346
APPENDIX 14 – Instrument IMMI 13/092 Specification of Eligible Managed Fund Investments for SIV for applications made before 1 July 2015 .....	348
APPENDIX 15 – Reg. 5.19D Complying Premium Investment criteria for PIV applications.....	350
APPENDIX 16 – Reg. 5.19E Complying Entrepreneur Activity criteria for Entrepreneur Stream applications .....	352
APPENDIX 17 – Instrument IMMI 16/075 Excluded Activities for the purposes of Complying Entrepreneur Activity .....	354
APPENDIX 18 – Instrument IMMI 16/074 Prescribed entities that are able to provide funding to an Entrepreneurial Entity for the purposes of the Complying Entrepreneur Activity .....	355
APPENDIX 19 – List of Venture Capital Limited Partnerships (including Conditionally Registered) that are eligible to provide funding for Complying Entrepreneur Activity.....	356
APPENDIX 20 – List of Early Stage Venture Capital Limited Partnerships (including Conditionally Registered) that are eligible to provide funding for Complying Entrepreneur Activity.....	377
APPENDIX 21 – List of Education Providers that can fund a Complying Entrepreneur Activity, as set out under Table A or Table B of the <i>Higher Education Support Act 2003</i> .....	401