



EMN Ad-Hoc Query on 2019.23 Ad-hoc query on investor schemes (golden passports)

Requested by Adolfo SOMMARRIBAS on 13 February 2019

Protection

Responses from EMN NCP Norway, EMN NCP Germany, Vytautas EŽERSKIS, EMN NCP Latvia, Barbara ORLOFF, EMN NCP Luxembourg, EMN NCP Austria, Ave LAUREN, EMN NCP Greece (9 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.



Background information:

For the last 10 years, the EU Member States have been developing schemes to attract third-country national wealthy investors. In order to attract them MS have facilitated the granting of visas or residence permits and even implemented fast track procedures for the acquisition of nationality. On 23 January 2019, the European Commission published a report entitled Investor Citizenship and Residence Schemes in the European Union (COM (2019) 12 final). The report has identified the following areas of concern: · Security: checks run on applicants are not sufficiently robust and the EU's own centralised information systems, such as the Schengen Information System (SIS), are not being used as systematically as they should be; · Money laundering: enhanced checks ('due diligence') are necessary to ensure that rules on anti-money laundering are not circumvented; · Tax evasion: monitoring and reporting is necessary to make sure that individuals do not take advantage of these schemes to benefit from privileged tax rules; · Transparency and information: The report finds a lack of clear information on how the schemes are run, including on the number of applications received, granted or rejected and the origins of the applicants. In addition, Member States do not exchange information on applicants for such schemes, nor do they inform each other of rejected applicants. The EMN has already dealt with this issue in the past through the use of ad-hoc queries (ad-hoc queries on wealthy investors launched by the NL EMN NCP on 17 July 2012 and an update on 15 January 2014, EE EMN NCP Ad-hoc query on residence requirement for investors, FI EMN NCP Ad-Hoc Query on Residence permits for foreign investors launched on 14 January 2016 and the EL EMN NCP Ad-Hoc Query on entry and residence of third country nationals in the framework of real estate owners and time sharing agreements launched on 1 August 2017). In order to have an updated state of play on this subject the LU EMN NCP and COM will like to ask the following questions: Note: Seen the length of this ad-hoc query it will be counted as 2 ad-hoc queries.

Questions

1. 1. Do you have a special policy for wealthy immigrants?

Available choices:

Yes, No

- 2. 2. If your answer was yes, is there any specific legal framework (i.e. legislative, soft-legislation, etc.)?**
- 3. 3. Which specific conditions and requirements must the applicant fulfil in order to access this policy?**
- 4. a. What is the total amount the applicant have to invest in the member state?**
- 5. b. Are there any sectors of the economy prioritized and/or excluded?**
- 6. 4. Did the successful applicants receive a visa, a residence permit or the nationality of your MS?**
- 7. 5. If you issue a visa or a residence permit what is the duration? Can it be renewed?**
- 8. 6. Does your MS conduct a background check of the applicant?**

Available choices:

Yes, No

9. a. If yes, do you verify the criminal record of the applicant?

Available choices:

Yes, No

10. b. Does your MS verify the origin of the funds?

Available choices:

Yes, No

11. i. If yes, what measures does your MS take to counter money laundering in such cases?

12. ii. How you monitor and report tax evasion?

13. 7. How many residence permit have your MS granted since the implementation of the policy?

Responses

EMN NCP Norway

Wider Dissemination: Yes

Anonymous,

1. No
2. Norway does not issue a specific visa or grant residence permits based on investments of a given sum, nor for establishing a business with a given number of employees. There are no special incentives in Norway for establishing a business venture, in contrast to a number of other countries. Norway does have universal measures in place that ensure that anyone establishing a Norwegian business has the same rights and responsibilities as a Norwegian owner.
3. N/A - ALL of following questions not relevant.
4. N/A
5. N/A
6. N/A
7. N/A
8. No

Clarification:

N/A not possible to respond "Not relevant...."

9. No

Clarification:

N/A not possible to respond "Not relevant...."

10. No

Clarification:

N/A not possible to respond "Not relevant..."

11. N/A

12. N/A

13. N/A

EMN NCP Germany

Wider Dissemination: Yes

Heiko HECHT, EMN NCP Germany

1. No

Clarification:

1. No. In Germany there is no incentives system for rich investors which involves them being promised a right of residence in return for their investment. In addition to dependent employment, the legally regulated possibility of issuing a residence permit for the purpose of self-employment represents the second standard way in which residence can be approved for the purpose of employment. Prerequisites for issuance are that there must be an economic interest in or a regional need for the self-employed activity, that the activity is likely to have positive effects on the economy and that the necessary funding is ensured. While it is possible to issue a residence title for a purpose of residence which is not specified directly in the Residence Act on condition that the foreigner's livelihood is secure, this legal option of granting a residence permit is only applied in a very small number of isolated cases, and in such cases it is not interpreted as providing an incentive or reward for rich investors.

2. not applicable in relation to the initial question.

3. not applicable in relation to the initial question.

4. n/a

5. n/a

6. not applicable in relation to the initial question.

7. not applicable in relation to the initial question.

8. No

Clarification:

not applicable in relation to the initial question. A check on whether the person concerned represents a threat to public safety and order or any other substantial state interests is always carried out in connection with the issuance of a residence title, however.

9. No

Clarification:

not applicable in relation to the initial question. A check on whether the person concerned represents a threat to public safety and order or any other substantial state interests is always carried out in connection with the issuance of a residence title, however.

10. No

Clarification:

not applicable in relation to the initial question. The questions of the legal acquisition of assets, of money laundering and of compliance with tax liabilities are examined not in connection with the decision on the right of residence, but - as for all citizens - in the course of the respective special checking procedures carried out by the competent authorities and institutions (fiscal authority, customs authority, banks, etc.).

11. not applicable in relation to the initial question. The questions of the legal acquisition of assets, of money laundering and of compliance with tax liabilities are examined not in connection with the decision on the right of residence, but - as for all citizens - in the course of the respective special checking procedures carried out by the competent authorities and institutions (fiscal authority, customs authority, banks, etc.).

12. not applicable in relation to the initial question. The questions of the legal acquisition of assets, of money laundering and of compliance with tax liabilities are examined not in connection with the decision on the right of residence, but - as for all citizens - in the course of the respective special checking procedures carried out by the competent authorities and institutions (fiscal authority, customs authority, banks, etc.).

13. not applicable in relation to the initial question.

Vytautas EŽERSKIS

Wider Dissemination: Yes

Vytautas EŽERSKIS, EMN NCP Lithuania

1. No

2. There is no special policy for wealthy investors in Lithuania which would allow to apply for residence permit in return for investment.

3. n/a

4. n/a

5. n/a

6. n/a

7. n/a

8. No

Clarification:

Not applicable.

9. No

Clarification:

Not applicable.

10. No

Clarification:

Not applicable.

11. n/a

12. n/a

13. n/a

EMN NCP Latvia

Wider Dissemination: Yes

Stanislavs LOPATINSKIS, EMN NCP Latvia

1. Yes

2. There are 4 special clauses in the Immigration Law which concerns to third country nationals (TCN) who would like to invest in Latvia

3. There are 4 investment programs for TCN: • TCN can buy a real estate (hereinafter – real estate owner) for the amount mentioned in 4a; the payment of the total real estate value has to be made by non-cash settlement; the real estate has to be purchased from a company registered in Latvia or EU Member State, EEA country or the Swiss Confederation and which is a taxpayer in Latvia, or from a citizen of Latvia, a non-citizen of Latvia, a EU citizen or TNC who is staying in Latvia on the basis of a valid residence permit; the total cadastral value of the real estate has to be at least 80 000 EUR at the moment of purchase; the real estate must not comprise agricultural land or wooded land. Before obtaining a residence permit, a foreigner is obliged to pay 5% of the real estate value to the state budget. • TCN can invest in share capital of a company (the amount is mentioned in 4a), increasing it, or founding a new capital company (hereinafter – share

capital investor); before obtaining a residence permit, share capital investor is obliged to pay 10 000 EUR in the state budget. • TCN can have subordinated liabilities with a credit institution of Latvia (the amount is mentioned in 4a) and the term of the transaction entered into with such credit institution is not less than 5 years (hereinafter – credit institution); upon requesting the first temporary residence permit, TCN pays 25 000 EUR in the state budget. • TCN can purchase interest-free state securities dedicated to a specific purpose (hereinafter – investor in bonds), the amount is mentioned in 4a. Acquisition of interest-free government bonds shall be done after a positive decision has been made on granting a temporary residence permit. Before obtaining a residence permit, TCN has to pay an additional payment in the state budget in amount of 25 000 EUR.

4. • Real estate owner – a real estate should be purchased for a sum that equals at least 250 000 EUR. • Share capital investor: Investment should be at least 50 000 EUR in an enterprise which annual turnover or annual balance does not exceed 10 million EUR and number of employees is not more than 50. Not more than 10 persons can obtain a residence permit in case of investment in this kind of enterprise; Investment should be at least 100 000 EUR in an enterprise which annual turnover or annual balance exceeds 10 million EUR and number of employees exceeding 50; Investment should be at least 100 000 EUR in the equity capital of a capital company, which together with one or several subsidiaries registered in Latvia employs more than 50 employees and total annual turnover or annual balance thereof exceed 10 million EUR. • Credit institution - TCN can have subordinated liabilities with a credit institution of Latvia in the amount of not less than 280 000 EUR. • Investor in bonds - purchase of special interest-free government bonds in amount of 280 000 EUR.

5. No

6. Successful TCN receives a temporary residence permit.

7. Temporary residence permit is issued for 5 years and every year it has to be registered (except investors in bonds do not have to do the registration). After 5 years it's possible to apply for a permanent residence permit if the TCN has lived in Latvia permanently and has learned Latvian language. Also it's possible to apply for another temporary residence permit.

8. Yes

9. Yes

Clarification:

Except if TCN is a citizen of a country whose citizens do not need a visa to Latvia

10. Yes

11. Security institutions are carrying out checks on each applicant. In case there is a ground to assume that money laundering issue shall be investigated, other institutions – directly responsible for fight against money laundering are involved.

12. Every year by registration: • real estate owner has to submit document issued by the competent institution of Latvia which confirms that he/she does not have real estate tax debts; • share capital investor – we request information from the competent institution of Latvia if the company where TCN invested at least 50 000 EUR has paid taxes not less than 40 000 EUR per year, but company where TCN invested 150 000 EUR – at least 100 000 EUR per year. If the applicant doesn't comply with the Latvian tax requirements, his/her residence permit will be cancelled.

13. Between the years 2010 until 2018 there were issued 17 878 residence permits to investors and their family members. Valid investor's residence permits on 31.12.2018. – 4271.

Barbara ORLOFF

Wider Dissemination: Yes

Barbara ORLOFF, EMN NCP Estonia

1. No

Clarification:

Estonia does not have a special policy for wealthy immigrants, however, it is possible to issue a temporary residence permit for large investors.

2. Yes, the Aliens Act stipulates a legislative ground for temporary residence permit issued to large investors for enterprise.

3. Temporary residence permit granted to a major investor for enterprise is a residence permit for enterprise, the purpose of which is to encourage investments in such business activities in Estonia, which are in public interest and shall significantly contribute to the development of the Estonian economy. Major investor is a TCN who has made a direct investment of at least 1,000,000 euros in a company entered into the commercial register of Estonia that invests mostly into the Estonian economy, or an investment in an investment fund, according to the investment policy of which the instruments of the fund are invested mainly in the companies entered into the commercial register of Estonia. The investment must be permanent during the period of validity of the residence permit. Investment is permanent in case the investment does not decrease during the period of validity of the residence permit, except for the causes attributable to the fluctuation of the market price of the investment. A company or an investment fund in which the initial investment was made as a condition of issue of the residence permit, may be changed during the period of validity of the residence permit provided that the company would invest mostly into the Estonian economy or into an investment fund according to the investment policy of which the instruments of the fund are invested mainly in the companies entered into the commercial register of Estonia. The Aliens Act also stipulates the supplementary bases for refusal to issue permanent residence permit to large investor for enterprise and for revocation of residence permit. The grounds are as follows: 1) a TCN has not made the required investment or the investment is not lasting during the period of validity of the temporary residence permit; 2) the activity of the company or investment fund specified in Aliens Act does not contribute to the purpose of the issue of a temporary residence permit issued to a large investor for enterprise; 3) the investment is not in the public interests; 4) a TCN does not provide evidence of the trustworthiness of the financial source of investment or of the business partner or 5) a TCN has not fulfilled the obligation related to the temporary stay, residence or employment of a TCN in Estonia arising from Aliens Act or other legislation. Major investor is not required to have an actual place of residence in Estonia and he or she has no obligation to register his or her place of residence in Population Register.

4. Major investor has to make a direct investment of at least 1,000,000 euros in a company entered into the commercial register of Estonia that invests mostly into the Estonian economy, or an investment in an investment fund, according to the investment policy of which the instruments of the fund are invested mainly in the companies entered into the commercial register of Estonia.

5. No.

6. The successful applicant receives a residence permit.

7. A temporary residence permit is issued with the period of validity of up to five years. It is possible to renew the residence permit if the all conditions are continuously fulfilled.

8. Yes

9. Yes

10. Yes

Clarification:

The Aliens Act set requirement that the investor have to provide evidence of the trustworthiness of the financial source of investment or of the business partner. Also, requirements are that the investment have to made in public interests and significantly contributes to the development of the Estonian economy. All the relevant residence permit applications are subject to the opinion of a committee of experts and the consent of the expert is required. The opinions asked from different social partners (relevant professional associations) as well as from Customs and Tax Board, Financial Intelligence Board, Police authorities, etc. The Money Laundering and Terrorist Financing Prevention Act (MLTFPA) introduced the concept of the risk-based approach to ensure that measures to prevent or mitigate money laundering and terrorist financing risks are proportionate to the risks which have been identified. The RBA is applied at three levels: at state level, at supervisory level and at obligated persons' level. The MLTFPA provides for a risk-based approach in the exercise of CDD (Art.20), including the possibility of simplified CDD (Art.32-35) and enhanced CDD measures (Art. 36-39), respectively, in cases of low and high risk of ML or FT. The steps taken to identify, assess and analyse risks must be proportionate to the nature, size and level of complexity of the economic and professional activities of the obliged entity. As a result of the risk assessment, the obliged entity establishes: 1) fields of a lower and higher risk of money laundering and terrorist financing; 2) the risk appetite, including the volume and scope of products and services provided in the course of business activities; 3) the risk management model, including simplified and enhanced due diligence measures, in order to mitigate identified risks. The obliged entity applies the following due diligence measures: 1) identification of a customer or a person participating in an occasional transaction and verification of the submitted information based on information obtained from a reliable and independent source, including using means of electronic identification and of trust services for electronic transactions; 2) identification and verification of a customer or a person participating in an occasional transaction and their right of representation; 3) identification of the beneficial owner and, for the purpose of verifying their identity, taking measures to the extent that allows the obliged entity to make certain that it knows who the beneficial owner is, and understands the ownership and control structure of the customer or of the person participating in an occasional transaction; 4) understanding of business relationships, an occasional transaction or act and, where relevant, gathering information thereon; 5) gathering information on whether a person is a politically exposed person, their family member or a person known to be close associate; 6) monitoring of a business relationship. The obliged entity must understand the purpose of the business relationship or the purpose of the occasional transaction, identifying, inter alia, the permanent seat, place of business or place of residence, profession or field of activity, main contracting partners, payment habits and, in the case of a legal person, also the experience of the customer or person participating in the occasional transaction. In the case of an occasional transaction made outside of a business relationship, the obliged entity gathers information on the origin of funds used in the transaction. Where relevant, the obliged entity also gathers information on the origin of the customer's wealth.

11. The Police and Border Guard Board (PBGB) shall decide the issue or refusal to issue, the extension or refusal to extend of a temporary residence permit. Upon carrying out the proceedings, the PBGB carries out all necessary checks and procedural acts. The obliged entity has the right to refuse to make a transaction where a person participating in a transaction, a person participating in a professional act, a person using a professional service or a customer, in spite of a respective request, does not submit documents and relevant information or data or documents proving the origin of the funds constituting the object of the transaction or where, based on the submitted data and documents, the obliged entity comes to suspect money laundering or terrorist financing or the commission of related offences or an attempt at such activity. Where the omission of a transaction would be impossible or where the omission of a transaction or termination of a business relationship might impede efforts made to catch persons benefiting from a suspicious transaction, the obliged entity may still make the transaction or continue the business relationship, informing the Financial Intelligence Unit thereof immediately after making the transaction or deciding to continue the business relationship.

12. Tax and Customs Board is responsible for tax collection, accounting of tax receipts, prevention and detection of tax and customs offenses, as well as the organization of international tax and customs information exchange. Also, the Tax and Customs Board is together with the Police and Border Guard Board is taking part of the committee, who is responsible for giving consent of the temporary residence permit for enterprise for large investor. In the residence permit application process as well as during the validity of the temporary residence permit, the applicant has to provide evidence of the trustworthiness of the financial source of investment and also fulfillment of Estonian relevant legislation is checked.

13. 2017 – 3 2018 – 3

EMN NCP Luxembourg

Wider Dissemination: Yes

Adolfo SOMMARRIBAS, EMN statelessness platform

1. Yes
2. The legal framework was laid down in article 53bis of the amended law of 29 August 2008 on free movement of persons and immigration as amended by law of 8 March 2017. Part of a push towards the diversification of Luxembourg's economy and to boost entrepreneurship, the Law of 8 March 2017 which introduces article 53bis of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) introduces an authorization to stay for investors which aims to attract qualitative third-country national investors to the country.
3. See answer below.
4. In order to be eligible for this authorisation to stay, the third-country national must fulfil one of the following four conditions: a. Invest at least 500.000 € in an existing commercial, artisanal or industrial company based in Luxembourg and commit to maintain the investment and the level of employment for at least five years. b. Invest at least 500.000 € in a commercial, artisanal or industrial company yet to be created, this including the creation of five jobs within three years of having founded the company. c. Invest at least 3.000.000 € in an investment structure that is already in existence or yet to be created in Luxembourg, which has an appropriate substance (targeting 'family office' structures). d. Invest at least 20.000.000 € as a deposit in a financial institution established in Luxembourg, committing to maintain this investment for at least five years (targeting 'high net worth individuals'). The Law prescribes that no investments can be made in real estate (renting or buying), in order to not worsen the already difficult real estate situation in Luxembourg. Furthermore, 75% of the investments described under a), b) and c) must be made using own funds, while 25% can be borrowed over a duration of at least three years. The investment described under d) must stem completely from own funds and must be deposited at one single financial institute. Before introducing the application for a residence permit, the applicant must submit the project to the Minister of Economy (for commercial, artisanal or industrial projects) or to the Minister of Finance (for financial investments), who verify its viability and provide their opinion to the minister in charge of immigration.
5. NO. However, article 1 of the Grand ducal regulation of 5 December 2017 stipulating the eligible economic sectors for the investors targeted by article 53bis, paragraph 1, points 1 and 2 of the amended law of 29 August 2008 on free movement of persons and immigration states that the following sectors are eligible: 1) ICT; 2) Space technologies; 3) Environmental technologies; 4) Smart mobility technologies; 5) Health technologies; 6) Logistics excluding the simple road transport without any added value activities; 7) Industrial sector only if the production or R&D are located in Luxembourg; 8) Tourism sector for the projects of equipment and tourism infrastructure at regional or national level as well as hotel projects of at least 25 rooms;
6. If the application is successful an authorisation of stay as investor is granted and a residence permit is issued.

7. The 'investor' residence permit is valid for three years and is renewable for three years if the conditions remain fulfilled and the opinion of the minister having initially provided an opinion remains positive.

8. Yes

9. Yes

10. Yes

11. Above-mentioned article 53bis of the law of 29 August 2008 specifically provides that transactions, made in the framework of the application process for the authorization to stay, are subject to the law of 12 November 2004, as amended, on the fight against money laundering and terrorist financing transposing Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering (hereinafter "the law of 2004"). Pursuant to the law of 2004, professionals (i.e. natural or legal persons listed under its article 2, amongst others financial institutions but also non-financial entities such as lawyers, notaries etc.) are, amongst others, obliged to apply customer due diligence measures and to cooperate fully with the Luxembourg authorities responsible for combating money laundering and terrorist financing (hereinafter "AML / TF"). Thus, without prejudice to the obligations vis-à-vis the supervisory authorities or self-regulatory bodies, professionals are, in particular, required to inform without delay, on their own initiative, the Luxembourg Financial Intelligence Unit (hereinafter "the FIU"), when they know, suspect or have reasonable grounds to suspect that money laundering, an associated predicate offence or terrorist financing is being committed or has been committed or attempted, in particular in consideration of the person concerned, its development, the origin of the funds, the purpose, nature and procedure of the operation. The Law of 7 March 1980 on the organisation of the judicial system, as amended, provides that public authorities, including civil servants or other employees entrusted with public service assignments underlie the same obligation to report than the professionals listed above. Pursuant to the law of 13 January 2019 transposing article 30 of the 4th EU AML Directive, national authorities also have access to the register of beneficial owners of corporate and other legal entities incorporated within Luxembourg territory. The FIU analyses the information received from professionals and public authorities and can disseminate it, nationally to competent authorities, notably the public prosecutor or the tax administration, or internationally, to other FIU's.

12. The monitoring action focuses on the impact of such schemes may have on the automatic exchange of financial account information between tax authorities (Directive 2014/107/EU and the Common Reporting Standard). In Luxembourg, the granting of the residence permit does not in itself imply that the beneficiary obtains a tax resident status (which could be misused for circumventing the reporting obligations). The beneficiary of a Luxembourg residence permit by investment scheme will only become tax resident if he has in fact his domicile (§13 StAnpG (tax adaptation law)) or usual place of residence (§14 StAnpG) in Luxembourg. Furthermore, the Council Directive 2018/882 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in taxation in relation to cross-border arrangements requires promoters of tax avoidance schemes to inform tax authorities of any schemes they market or put in place. This includes specific provisions to target schemes that may have effect of circumventing the reporting obligations. Luxembourg as well as all the other Member States will have to apply these provisions from 1 July 2020, and the arrangements put in place as of 25 June 2018 will be reported between Member States by 31 August 2020. Article 25, 2nd paragraph of the law of 23 December 2016 transposing tax requirements of the revised FATF standards and the 4th AML Directive, amended in particular article 506-1 of the Criminal Code, by supplementing the list of predicate offences with aggravated tax fraud and tax evasion ("fraude fiscale aggravée" and "escroquerie fiscale"). As from 1 January 2017, these predicate offences fall therefore under the scope of above-mentioned AML / CFT legislation, and professionals have to apply customer due diligence measures and cooperate with the Luxembourg authorities. A joint circular 17/650 issued by the FIU and the "Commission de Surveillance du Secteur Financier" (the financial sector supervisor) on 17 February 2017 provides details on the application of the law of 2004 to predicate tax offenses.

13. Since the implementation of the policy in 2017 only 6 residence permits have been granted (4 residence permits were granted during 2018 and 2 in 2019).

EMN NCP Austria

Wider Dissemination: No

Ave LAUREN

Wider Dissemination: Yes

Ave LAUREN, EMN NCP Estonia

1. No

Clarification:

No, Estonia does not have a special policy for wealthy immigrants, however, it is possible to issue a temporary residence permit for large investors.

2. Yes, the Aliens Act stipulates a legislative ground for temporary residence permit issued to large investors for enterprise.

3. Temporary residence permit granted to a major investor for enterprise is a residence permit for enterprise, the purpose of which is to encourage investments in such business activities in Estonia, which are in public interest and shall significantly contribute to the development of the Estonian economy. Major investor is a TCN who has made a direct investment of at least 1,000,000 euros in a company entered into the commercial register of Estonia that invests mostly into the Estonian economy, or an investment in an investment fund, according to the investment policy of which the instruments of the fund are invested mainly in the companies entered into the commercial register of Estonia. The investment must be permanent during the period of validity of the residence permit. Investment is permanent in case the investment does not decrease during the period of validity of the residence permit, except for the causes attributable to the fluctuation of the market price of the investment. A company or an investment fund in which the initial investment was made as a condition of issue of the residence permit, may be changed during the period of validity of the residence permit provided that the company would invest mostly into the Estonian economy or into an investment fund according to the investment policy of which the instruments of the fund are invested mainly in the companies entered into the commercial register of Estonia. The Aliens Act also stipulates the supplementary bases for refusal to issue permanent residence permit to large investor for enterprise and for revocation of residence permit. The grounds are as follows: 1) a TCN has not made the required investment or the investment is not lasting during the period of validity of the temporary residence permit; 2) the activity of the company or investment fund specified in Aliens Act does not contribute to the purpose of the issue of a temporary residence permit issued to a large investor for enterprise; 3) the investment is not in the public interests; 4) a TCN does not provide evidence of the trustworthiness of the financial source of investment or of the business partner or 5) a TCN has not fulfilled the obligation related to the temporary stay, residence or employment of a TCN in Estonia arising from Aliens Act or other legislation. Major investor is not required to have an actual place of residence in Estonia and he or she has no obligation to register his or her place of residence in Population Register.

4. Major investor has to make a direct investment of at least 1,000,000 euros in a company entered into the commercial register of Estonia that invests mostly into the Estonian economy, or an investment in an investment fund, according to the investment policy of which the instruments of the fund are invested mainly in the companies entered into the commercial register of Estonia.

5. No.

6. The successful applicant receives a residence permit.

7. A temporary residence permit is issued with the period of validity of up to five years. It is possible to renew the residence permit if the all conditions are continuously fulfilled.

8. Yes

9. Yes

10. Yes

Clarification:

The Aliens Act set requirement that the investor have to provide evidence of the trustworthiness of the financial source of investment or of the business partner. Also, requirements are that the investment have to made in public interests and significantly contributes to the development of the Estonian economy. All the relevant residence permit applications are subject to the opinion of a committee of experts and the consent of the expert is required. The opinions asked from different social partners (relevant professional associations) as well as from Customs and Tax Board, Financial Intelligence Board, Police authorities, etc. The Money Laundering and Terrorist Financing Prevention Act (MLTFPA) introduced the concept of the risk-based approach to ensure that measures to prevent or mitigate money laundering and terrorist financing risks are proportionate to the risks which have been identified. The RBA is applied at three levels: at state level, at supervisory level and at obligated persons' level. The MLTFPA provides for a risk-based approach in the exercise of CDD (Art.20), including the possibility of simplified CDD (Art.32-35) and enhanced CDD measures (Art. 36-39), respectively, in cases of low and high risk of ML or FT. The steps taken to identify, assess and analyse risks must be proportionate to the nature, size and level of complexity of the economic and professional activities of the obliged entity. As a result of the risk assessment, the obliged entity establishes: 1) fields of a lower and higher risk of money laundering and terrorist financing; 2) the risk appetite, including the volume and scope of products and services provided in the course of business activities; 3) the risk management model, including simplified and enhanced due diligence measures, in order to mitigate identified risks. The obliged entity applies the following due diligence measures: 1) identification of a customer or a person participating in an occasional transaction and verification of the submitted information based on information obtained from a reliable and independent source, including using means of electronic identification and of trust services for electronic transactions; 2) identification and verification of a customer or a person participating in an occasional transaction and their right of representation; 3) identification of the beneficial owner and, for the purpose of verifying their identity, taking measures to the extent that allows the obliged entity to make certain that it knows who the beneficial owner is, and understands the ownership and control structure of the customer or of the person participating in an occasional transaction; 4) understanding of business relationships, an occasional transaction or act and, where relevant, gathering information thereon; 5) gathering information on whether a person is a politically exposed person, their family member or a person known to be close associate; 6) monitoring of a business relationship. The obliged entity must understand the purpose of the business relationship or the purpose of the occasional transaction, identifying, inter alia, the permanent seat, place of business or place of residence, profession or field of activity, main contracting partners, payment habits and, in the case of a legal person, also the experience of the customer or person participating in the occasional transaction. In the case of an occasional transaction made outside of a business relationship, the obliged entity gathers information on the origin of funds used in the transaction. Where relevant, the obliged entity also gathers information on the origin of the customer's wealth.

11. The Police and Border Guard Board (PBGB) shall decide the issue or refusal to issue, the extension or refusal to extend of a temporary residence permit. Upon carrying out the proceedings, the PBGB carries out all necessary checks and procedural acts. The obliged entity has the right to refuse to make a transaction where a person participating in a transaction, a person participating in a professional act, a person using a professional service or a customer, in spite of a respective request, does not submit documents and relevant information or data or documents proving the origin of the funds constituting the object of the transaction or where, based on the submitted data and documents, the obliged entity comes to suspect money laundering or terrorist financing or the commission of related offences or an attempt at such activity. Where the omission of a transaction would be impossible or where the omission of a transaction or termination of

a business relationship might impede efforts made to catch persons benefiting from a suspicious transaction, the obliged entity may still make the transaction or continue the business relationship, informing the Financial Intelligence Unit thereof immediately after making the transaction or deciding to continue the business relationship.

12. Tax and Customs Board is responsible for tax collection, accounting of tax receipts, prevention and detection of tax and customs offenses, as well as the organization of international tax and customs information exchange. Also, the Tax and Customs Board is together with the Police and Border Guard Board is taking part of the committee, who is responsible for giving consent of the temporary residence permit for enterprise for large investor. In the residence permit application process as well as during the validity of the temporary residence permit, the applicant has to provide evidence of the trustworthiness of the financial source of investment and also fulfillment of Estonian relevant legislation is checked.

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EMN NCP Greece

Wider Dissemination: Yes

Athena BALOPOULOU, Practitioners (Government Officials only)

1. Yes

2. The main legal framework can be found in Law 4251/2014, as in force (Immigration and Social Integration Code), as well as in the Joint Ministerial Decision No. 31399/2018 on the supporting documents that are necessary for the granting / renewal of all categories of residence permits. Apart from the above, various circulars and other related documents have been issued by the Ministry for Migration Policy, providing clarifications or instructions regarding the implementation of the relevant legal provisions.

3. This policy consists of granting of a residence permit provided that all relevant legal provisions, as defined in Law 4251/2014, are met. Furthermore, all specific conditions and requirements regarding this policy are defined in articles 16A, 16B, 20A and 20B of the abovementioned law. In particular, there are three categories of residence permits based on the type of investment (articles 16A, 16B and 20B), and one category based on personal income (article 20A), that can be detailed as follows:

- Article 16A: This is a residence permit that may be granted to third - country nationals who wish to reside in Greece in order to make investments with a positive impact on national growth and the economy. This applies to: a) senior executives, financial and legal advisors, in order for them to take the necessary actions, as required by the Greek legislation, to start the implementation of the investment; b) experts and middle executives, in order for them to provide services at the stage of implementation of the investment; c) specialised employees or workers, in order for them to be employed during the stage of operation of the investment. Entry and residence of the above third-country nationals in Greece is subject to a prior motion issued by the Ministry for Development & Competitiveness, relating to the feasibility of residence permits granted to third-country nationals in relation to the said investment.
- Article 16B: This is a residence permit that may be granted to third-country nationals who wish to reside in Greece to make investments that have been characterised as “strategic”, pursuant to a decision by a respective Interministerial Committee on Strategic Investments (Law 3894/2010). Entry is allowed to no more than ten (10) third-country nationals per investment and is subject to a decision issued by the above mentioned Interministerial Committee, which characterises the investment as a “strategic” one, and a motion issued by the Secretary General for Strategic and Private Investments with regard to the relation of said third-country nationals with the entity making the strategic investment.
- Article 20A (financially independent persons): This is a residence permit that may be granted to third-country nationals who wish to reside in Greece, provided they have sufficient resources in terms of a stable annual income to meet their subsistence needs.
- Article 20B (permanent residence permit for investors): This is a residence permit that may be granted to third-country nationals who have, either the full ownership of immovable property in Greece, or have entered into a long-term lease agreement regarding hotel/tourist residences accommodation, provided they have paid

250,000 Euros, as a minimum, for the value of said property or lease agreement. In addition, specific requirements regarding payment methods apply, which are in line with the definitions of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market.

4. - For articles 16A & 16B residence permits, the amount to be invested is considered and decided each time by the competent authority of the Ministry of Development and Economy. - For article 20A residence permit, sufficient resources means that a third-country national must possess at least 2000 Euros per month, as set in Joint Ministerial Decision No 41712/2014, while this amount is higher in case of family members; said resources may consist of pensions, bank deposits or any other income of a legitimate source. - For article 20B residence permit, a third-country national must invest at least 250,000 Euros in real estate property, either by acquiring the full ownership of immovable property in Greece or by entering into a lease agreement regarding hotel/tourist residences accommodation for the abovementioned amount.

5. No. In any case each of the proposed investment is evaluated by the competent Ministry of Development and Economy.

6. As far as the Ministry for Migration Policy is concerned, successful applicants are granted with a residence permit. No residence permit leads directly to the acquisition of Greek citizenship via naturalisation. However, under Ministerial Decision 130181/6353/27.3.2018, the “residence permit for real estate owner” or the “permanent residence permit for investors” are among the residence permits that are eligible for the submission of an application for naturalisation procedure. In this case, applicants must also meet all additional requirements, as set by the Citizenship Code regarding the acquisition of Greek citizenship via naturalization, such as, inter alia, 7 years of permanent residence in Greece and knowledge of Greek language, Greek history and function of Greek political system (civic knowledge).

7. - Residence permit under article 16A of Law 4251/2014, as in force, is granted for five years, and may be renewed –each time– for five years, provided that the investment activity continues. - Residence permit under article 16B of Law 4251/2014, as in force, is granted for ten years, and may be renewed for ten years, provided that the same conditions apply. - Residence permit under article 20A of Law 4251/2014, as in force, is granted for two years, and may be renewed for three years, provided that the relevant requirements, as set in Joint Ministerial Decision No 31399/2018, are met. - Residence permit under article 20B of Law 4251/2014, as in force, is granted for five years, and may be renewed –each time– for five years, provided that the immovable property remains in the ownership of the person concerned or the lease agreement regarding hotel/tourist residences accommodation remains in force.

8. Yes

9. Yes

Clarification:

According to national legislation, background checks are conducted within the process of granting the respective visa and residence permit, including security checks.

10. Yes

11. In Greece as regards the “Golden Visa Programme” use of cash is not allowed. In this respect, according to the provisions of article 20 of L.4251/2014, the price is paid by a crossed bank cheque (bank cheque issued at the name of the seller of the property which cannot be transferred to another person) or by a bank transfer of funds.

12. Tax law is applicable to all foreigners residing in Greece under the same conditions with the nationals.

13. Total number of residence permits granted and/or renewed under articles 16A, 16B, 20A and 20B of L.4251/2014, as in force, to third-country nationals and their family members since 2013 and up to date: 17.893 Total number of residence permits granted and/or renewed, according to the above, to third-country nationals and their family members that are in force to date: 14.317