IIUSA EB-5 REGIONAL CENTER PROGRAM

This resource, IIUSA's Frequently Asked Questions (FAQs) about the EB-5 Regional Center Program, was developed by IIUSA's Best Practices Committee as a practical guide for stakeholders involved in EB-5 transactions—including project developers, regional centers, legal and financial professionals, capital partners, investors, and others seeking to understand the EB-5 process. Whether you're new to the program or an experienced practitioner, these FAQs are designed to provide accessible information on key aspects of EB-5 participation and compliance. This guide is organized into seven sections:

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These FAQs are based on the collective experience of industry professionals and publicly available sources, including statutes, regulations, and policy guidance issued by the U.S. Citizenship and Immigration Services (USCIS) and other government agencies. Key governing authorities for the EB-5 Program include:

• Immigration and Nationality Act (INA) sections 203(b)(5), 204(a)(1)(H), and 216A;
• The EB-5 Reform and Integrity Act of 2022 (RIA) (Div. BB, Title VI of Pub. L. 117-103);
• 8 CFR §§ 204.6, 216.3, and 216.6; and
• The USCIS Policy Manual, Volume 6, Part G (https://www.uscis.gov/policy-manual/volume-6-part-g).
• USCIS "EB-5 Questions and Answers" (https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers)

This document is for informational purposes only. It does not: constitute legal, financial, tax, or immigration advice; create an attorney-client relationship; or serve as a substitute for professional consultation with qualified counsel or advisors. Each EB-5 case, transaction, and professional endeavor is fact-specific and subject to ongoing policy and regulatory requirements, which may change. Users should rely on current, official sources and individualized guidance when making EB-5 plans and decisions.

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I. EB-5 PROGRAM OVERVIEW

1. What is the EB-5 Program?

The EB-5 Immigrant Investor Program (EB-5 Program) is a federal employment-based immigration program that allows eligible foreign nationals to obtain lawful permanent residency in the United States by making a qualifying investment in a U.S. business that creates American jobs. The EB-5 Program grants conditional permanent resident status to investors who: make a minimum capital investment in a new commercial enterprise (NCE) of $1,050,000, or $800,000 if investing in a Targeted Employment Area (TEA) or an infrastructure project; and demonstrate that the investment results in the creation of at least 10 full-time jobs for U.S. workers within the required timeframe. Jobs must be permanent, full-time (at least 35 hours per week), and generally must be created within two years after the investor has obtained conditional permanent residency. At the end of the two-year conditional residency period, investors must prove that the required investment has been sustained and the job creation requirement has been met.

2. What is the Regional Center Program?

The EB-5 Regional Center Program (Regional Center Program) is a component of the EB-5 Program that allows investments to be made through entities designated by USCIS as EB-5 Regional Centers (Regional Centers). A Regional Center is an entity approved by USCIS to sponsor capital investment projects for EB-5 investors. Established by Congress in 1992, the Regional Center Program is designed to promote economic growth, improve regional productivity, create jobs, and increase domestic capital investment. Regional Centers are permitted to sponsor NCEs that pool EB-5 investor capital and use reasonable economic methodologies to demonstrate both direct and indirect job creation, offering a level of flexibility not available in the direct EB-5 model.

3. What is a Regional Center?

A Regional Center is an entity designated by USCIS to sponsor investment projects in a designated geographic area under the Regional Center Program. Regional Centers sponsor pooled investment opportunities offered by NCEs for EB-5 investors and are authorized to use reasonable economic methodologies to calculate both direct and indirect job creation, expanding the scope of qualifying employment. Regional Centers must be approved by USCIS to operate, may only be owned by U.S. citizens or lawful permanent residents, and are subject to compliance requirements under the RIA, including legal compliance oversight, annual reporting, fund administration, and government audits.

4. How do Regional Center and direct EB-5 investments differ?

An EB-5 investment can be facilitated in two ways: through a Regional Center or as a direct investment. Each model has distinct considerations. The Regional Center model allows multiple investors to pool funds into larger-scale commercial projects and enables the use of economic methodologies to count indirect and induced job creation in addition to direct jobs. This structure

typically requires minimal investor involvement in daily business operations. However, the Regional Center must first be approved by USCIS to operate and work with NCEs who offer EB-5 qualifying investments to investors and must submit separate applications to USCIS for each sponsored project. Further, the Regional Center is subject to significant oversight and reporting obligations.

For the direct investment model, the RIA prohibits the pooling of EB-5 investments. If more than one EB-5 investor intends to invest in the same NCE, the investment must be made through a Regional Center. According to the USCIS policy, the direct investment model requires the investor to invest in a job-creating enterprise where they must take an active managerial role. Only direct, full-time W-2 jobs created by the business can be counted toward the job creation requirement, as indirect or induced job creation is not permitted or recognized.

5. **What legal authorities govern the EB-5 and Regional Center Programs?**

The EB-5 Program was established by Congress in 1990 under Section 203(b)(5) of the Immigration and Nationality Act (INA). The Regional Center Program was introduced in 1992 and later codified and modernized through the EB-5 Reform and Integrity Act of 2022 (RIA), enacted as part of Public Law 117-103. The applicable legal authorities also include INA §§ 203(b)(5), 204(a)(1)(H), and 216A, as well as 8 CFR §§ 204.6, 216.6, and 216.3. USCIS also issues policy guidance through its online Policy Manual (Volume 6, Part G), which contains the official USCIS policy interpretations of the EB-5 rules. USCIS may be bound by some settlement agreements or court orders arising from litigation about the EB-5 program. These authorities collectively define the eligibility criteria, program operations, and compliance obligations applicable to the programs.

6. **Is the EB-5 Program permanent, and how long is the Regional Center Program authorized?**

Yes. The EB-5 Program, as established under the INA, is a permanent part of U.S. immigration law. However, the Regional Center Program—through which most EB-5 investments are made—is not permanent and requires periodic reauthorization by Congress. The most recent reauthorization occurred through the RIA, which extended the Regional Center Program through September 30, 2027, but investors will be protected from program expiration only if they file their I-526E petition before September 30, 2026.

7. **How has the EB-5 Program evolved, and what reforms were introduced by the RIA to strengthen its economic impact?**

Since its creation in 1990, the EB-5 Program has evolved from a modest immigration pathway into a meaningful source of foreign direct investment that supports job creation and economic development across the United States. Over time, Congress and USCIS have introduced reforms to improve oversight, safeguard investors, and align the program with national economic priorities.

The most significant update came with the RIA in 2022, which reauthorized the Regional Center Program through September 30, 2027, and implemented a range of structural improvements. Among the most impactful changes, the RIA increased the minimum investment amount for EB-5 applicants from $1 million to $1,050,000, and from $500,000 to $800,000 for investments made in TEAs or designated infrastructure projects. The law also introduced a mechanism for automatic inflation-based adjustments to these amounts every five years, ensuring the EB-5 Program remains current and economically appropriate.

To promote transparency and strengthen oversight, the RIA established the EB-5 Integrity Fund, funded through annual contributions from Regional Centers and smaller contributions by each Regional Center Program investor as part of the I-526E petition filing fees. This fund enables USCIS to conduct more regular audits, site visits, and investigations to deter fraud and enhance compliance. The RIA also imposes strict requirements on Regional Centers, including annual reporting, the use of either an independent fund administrator or third-party financial audit, and background checks for participants in positions of substantive authority.

Importantly, the RIA introduced several other investor protection measures, including full disclosure of fees and compensation and mandatory registration of all third-party promoters. It also created visa set-asides for investments in areas which are located both outside of a Metropolitan Statistical Area (MSA) and outside any city or town with a population of 20,000 or more (Rural Areas), certain types of areas where the unemployment rate is at least 150% of the national average (High-Unemployment Areas), and infrastructure projects. The RIA also requires USCIS to prioritize petitions involving rural investments.

8. Who are the key participants in EB-5 transactions?

An EB-5 investment under the Regional Center Program involves multiple stakeholders working collaboratively. The Regional Center sponsors the investment opportunity with respect to certain aspects of program requirements, while the NCE conducts the offering, receives investor capital, and deploys it into a job-creating entity (JCE) responsible for the required job creation. Economists and business planners provide documentation for USCIS to evaluate project credibility and anticipated job creation. Fund administrators or auditors monitor the use of funds, ensuring transparency and compliance. Immigration counsel supports investors and regional centers throughout the petition process, and securities and transactional counsel ensures that offering materials, fundraising, and deployment of EB-5 funds to JCEs and related activities comply with applicable laws. Together, these parties support the dual goals of meeting immigration and securities requirements and financing job-creating projects.

9. How many people can participate in the EB-5 Program each year?

The EB-5 Program is subject to an annual visa cap of approximately 10,000 visas, which includes not only visas issued to principal investors but also visas issued to their eligible family members—namely, spouses and unmarried children under the age of 21. Within that cap, about 7% of visas

are generally allocated to each country, though any unused visas from underrepresented countries may be made available to investors from countries experiencing high demand. The RIA introduced visa set-asides within the annual allocation, reserving a percentage of visas for specific project categories, including Rural Areas, High-Unemployment Areas, and qualifying infrastructure projects. If set-aside visas are unused during a given fiscal year, they may carry over to the following year within the same category. Because each investor's family members are counted within the visa total, the actual number of individual EB-5 investors each year is significantly lower than the total number of EB-5 visas issued.

10. **What are benefits of the EB-5 Program for project developers and communities?**

For project developers, the EB-5 Program offers access to flexible capital that is often structured as subordinated debt or equity and used to complete or expand a variety of commercial developments. It can help bridge financing gaps, attract other funding sources, and strengthen project feasibility. For communities, EB-5 investments generate local employment, increase tax revenue, and spur infrastructure development—particularly in underserved areas like Rural Areas and High-Unemployment Areas. The program's ability to align private capital with public benefit has made it a valuable tool for local and regional economic development.

11. **What are common misconceptions about the EB-5 Program?**

There are several misconceptions about EB-5. One is the idea that EB-5 offers an automatic or guaranteed green card in exchange for an investment. In truth, the process is rigorous, and investors must demonstrate that their capital was lawfully obtained, sustained in a qualifying enterprise, and that it resulted in the creation of at least 10 full-time jobs. Another common misunderstanding is that EB-5 projects are funded or endorsed by the federal government, when in fact, most are private sector ventures. Finally, EB-5 investments are often incorrectly assumed to be low risk or to guarantee a return of capital—however, all EB-5 investments must remain "at risk," and returns cannot be guaranteed under USCIS policy.

II. INVESTMENTS AND JOB CREATION

1. What is the minimum investment amount under the EB-5 Program?

The required capital investment threshold for EB-5 investors depends on the location and nature of the project. The standard minimum investment amount is $1,050,000. However, a reduced minimum investment of $800,000 applies for investments made in TEAs and in qualifying infrastructure projects. TEAs include both High-Unemployment Areas and Rural Areas. Infrastructure projects must be administered by a government entity and designated as such by the Secretary of Homeland Security. Investors should confirm whether their investment qualifies for the reduced threshold based on current USCIS guidance and available economic data.

2. What should EB-5 investors consider before making an investment?

Prior to making an EB-5 investment, careful due diligence is essential to ensure the project aligns with both immigration goals and financial risk tolerance. Investors should evaluate the track records of the Regional Center, NCE managers, and project developers, including I-829 approval rates, job creation models, and project feasibility. Understanding how the project meets USCIS job creation requirements—whether through direct, indirect, or induced employment—is key, as is confirming whether the NCE uses an independent fund administrator or undergoes annual audits. Investors should evaluate the credibility of all sources of capital for the project, because completion of all expenditures and project operation will be necessary for creation of requisite jobs. Investors should also assess visa availability based on their country of chargeability and determine whether reserved visa categories, such as Rural Area or High-Unemployment Area TEA investments, offer faster processing or faster visa availability. Reviewing escrow terms, capital deployment timelines, and financial disclosures can help investors ensure that funds are safeguarded and deployed in accordance with EB-5 rules. Professional support from experienced immigration counsel and financial advisors is advised.

3. What best practices and pitfalls should EB-5 investors be aware of throughout the process?

To maximize the likelihood of a successful outcome, EB-5 investors should work with qualified attorneys and advisors, maintain meticulous documentation of the lawful source and path of investment funds, and stay current on USCIS policy changes and visa bulletin trends. Investors should request and retain copies of project updates, job creation reports, and financial records to support their I-829 petitions. Common pitfalls include insufficient source of funds documentation, investing in poorly vetted projects, misunderstanding U.S. tax obligations, failing to monitor project progress, and failure to obtain records of how the capital was spent and jobs created. Investors must also maintain their primary residence in the U.S. and file their I-829 petition within the required window. Failing to meet any of these obligations could result in delays, requests for evidence (RFEs), termination of U.S. residency, or denial of unconditional permanent residency.

Tax planning, residency compliance, and awareness of USCIS trends are all part of a sound long-term EB-5 strategy.

4. **What are the advantages of investing in a TEA?**

Investing in a project located within a TEA offers several key advantages under the EB-5 Program. First, TEA-based investments qualify for a lower capital investment threshold of $800,000, compared to the standard minimum of $1,050,000. Second, the RIA created visa set-asides that reserve a portion of annual EB-5 visas specifically for TEA and infrastructure investments. These allocations include 20% of visas for Rural Area TEA investments, 10% for High-Unemployment Area TEA investments, and 2% for qualifying infrastructure projects. Third, the RIA provides for priority processing of petitions associated with Rural Area TEA investments, allowing for potentially faster adjudication by USCIS. These incentives are designed to encourage investment in areas that contribute significantly to regional economic development. To verify TEA eligibility, visit: IIUSA TEA Mapping Tool.

5. **What are the EB-5 Program's source and path of funds requirements, and how can investors demonstrate compliance?**

To qualify for the EB-5 Program, investors must establish that their investment capital was lawfully obtained and that the full path of funds—from the original source to the NCE—is clearly documented. This requirement is designed to ensure transparency, prevent the use of illicit funds, and confirm that all capital entering the U.S. complies with financial regulations.

Acceptable evidence to demonstrate lawful source may include tax returns, business registration documents, salary records, property sale agreements, or investment earnings statements. If the funds were gifted or loaned, USCIS also requires proof of the donor's or lender's lawful sources. For gifts, USCIS may require evidence that the transaction was made in good faith without secret repayment arrangements. To document the path of funds, investors must provide sequential bank statements, wire transfer records, and other supporting documentation showing the uninterrupted flow of funds from the source to the NCE. Gaps, unexplained deposits, transfers through accounts commingling undocumented sources, or missing records may result in a RFE or denial.

6. **What additional requirements did the RIA introduce related to source of funds compliance?**

The RIA codified many existing USCIS practices and introduced more stringent compliance measures. Investors are generally expected to provide at least seven years of tax returns and are subject to increased scrutiny for gifted or loaned funds, the source of which must be fully documented and clearly legitimate. In addition to providing evidence of the legitimate source of the investment funds, investors must also provide evidence of the full path of the funds from obtaining the funds to the point of investment in the EB-5 project. The RIA also requires full transparency for any third-party currency transfers to ensure that the source of funds is not

indirectly derived from unlawful activity. In addition to documenting the investment capital, investors must also provide lawful source documentation for administrative fees paid to the Regional Center or NCE. These enhanced requirements aim to close compliance gaps and prevent misuse of the EB-5 Program through disguised contributions or misrepresented sources of capital.

7. **Can USCIS revisit source of funds issues during the I-829 adjudication stage?**

Yes. Although source of funds is primarily evaluated during the adjudication of the I-526 or I-526E petition, USCIS retains authority to reevaluate the issue at the I-829 stage if new facts or concerns emerge. This may occur, for example, if credible evidence of fraud, misrepresentation, or illegality comes to light after the initial petition is approved. While such reevaluations are rare, they reflect USCIS's continuing oversight authority and the importance of ensuring that capital used for EB-5 investments remains in full compliance with U.S. law throughout the investor's immigration process.

8. **Can an EB-5 investor make an initial deposit at the time of filing the I-526/I-526E, with the balance to be paid over time?**

Yes. EB-5 investors may begin the process with a partial deposit and commit to funding the remainder over time, but this carries substantial risk. USCIS requires evidence of a credible, lawful plan to complete the investment, and not all NCEs are structured to accept partial payments. USCIS generally requires completion of the investment before I-526E approval, and if USCIS adjudicates a petition quickly, the required time frame to complete the investment may be suddenly compressed. If the investor fails to make the full required investment in a timely manner, the petition could be denied. Moreover, this approach may create financial uncertainty for the project, particularly if multiple investors follow this model and fail to fully fund their commitments.

9. **Is verification of lawful sources required for both the EB-5 investment amount and the administrative fee?**

Yes. The RIA explicitly requires source and path of funds documentation for both the qualifying investment amount and any administrative fees paid to the Regional Center, NCE, or affiliated entities. This policy enhances financial transparency and ensures that administrative fees are not used as a conduit for unverified or improperly sourced capital. However, fees paid by an investor to their immigration attorney or any other advisor retained for the investment or immigration application process do not need to be sourced.

10. **What is the sustainment period requirement under the EB-5 Program, and how does it apply to investors?**

The sustainment period refers to the required duration that an EB-5 investor's capital must remain fully invested in an NCE. The specific period depends on when the investor filed their petition:

- Pre-RIA Investors (Filed Before March 15, 2022): Investment must remain at risk throughout the two-year conditional permanent residency period, though retrogression, visa unavailability or other processing delays may in effect extend the sustainment period.
- Post-RIA Investors (Filed on or After March 15, 2022): Investment must remain at risk for a minimum of two years after the NCE deploys the funds into the JCE.

To meet EB-5 requirements, the investment must be engaged in commercial activity and exposed to a risk of loss or potential gain. Investments with guaranteed returns or fixed repayment terms do not meet the "at risk" standard.

11. **What is capital redeployment, and when is it required under the EB-5 Program?**

Capital redeployment is required when the original EB-5 project repays the NCE before the investor has met the sustainment period requirement. If this occurs, the investor must reinvest the funds into a new qualifying investment to keep the funds "at risk" for the necessary sustainment period and comply with USCIS regulations. Acceptable redeployment includes investments in real estate, government infrastructure, or new job-creating ventures within the same NCE. It must remain in active commercial activity and should not involve passive investments like stocks or bonds.

12. **What are the risks and best practices for ensuring compliance with sustainment and redeployment rules?**

Failure to meet sustainment requirements can jeopardize an investor's I-829 petition and permanent residency status. If an investor receives a return of capital or the NCE fails to redeploy within a reasonable time before the sustainment period ends, USCIS may deny the I-829 petition, potentially resulting in termination of the investor's U.S. residency under the EB-5 Program and initiation of immigration removal proceedings. Best practices include consulting experienced immigration counsel, ensuring a clear redeployment strategy aligned with USCIS policy, and monitoring compliance through detailed documentation from the NCE. Investors should also remain aware of shifting policies and potential Regional Center terminations that could impact their eligibility.

13. **What are the consequences of failing to sustain the investment or meet job creation requirements?**

If an investor's capital is prematurely withdrawn, repaid, is not spent properly on the USCIS-approved project, or if the investment ceases to be at risk before the required sustainment period ends, USCIS may determine that the investor has not met EB-5 requirements. This can lead to denial of the I-829 petition and termination of conditional residency. Similarly, if the investment fails to result in the creation or preservation of 10 full-time jobs, the petition may be denied.

Investors should closely monitor their project's progress, ensure that employment projections align with USCIS methodology, and retain documentation that supports compliance at every stage of the investment lifecycle.

14. **What are the core compliance obligations for EB-5 investors with respect to the EB-5 Program?**

EB-5 investors must adhere to several key compliance requirements to maintain eligibility for permanent residency. These include documenting the lawful source and path of investment funds, sustaining the investment in an NCE for the required period, and ensuring that the investment is spent properly in the project and remains at risk and engaged in commercial activity. Additionally, each investment must result in the creation (or for a "troubled business", preservation) of at least 10 full-time jobs for qualifying U.S. workers. For Regional Center-sponsored investments, investors must also ensure that the Regional Center remains in good standing with USCIS and compliant with its reporting obligations under the RIA. Ongoing due diligence is essential. Investors should request regular updates from their Regional Center or project sponsor, including reports on job creation and fund deployment. They should confirm that the Regional Center remains in good standing with USCIS by filing required forms such as the annual Form I-956G (Regional Center Annual Statement) and paying the annual Integrity Fee. Investors should also verify that redeployment, if applicable, continues to satisfy the "at risk" requirement. Failure to meet these requirements may result in petition denial or termination of status.

15. **What are the investor's responsibilities during the conditional permanent residency period?**

Once conditional permanent residency (CPR) is granted, investors must continue to satisfy EB-5 requirements throughout the two-year period. This includes maintaining the investment at risk for the applicable sustainment period (which varies depending on if an investor is pre- or post-RIA), ensuring the projected job creation remains on track, and timely filing Form I-829 (Petition by Investor to Remove Conditions on Permanent Resident Status) to remove conditions on permanent residency within the 90-day period preceding CPR expiration. Investors must also comply with U.S. residency and tax obligations, including filing federal (and applicable state) tax returns, reporting global income, and disclosing foreign financial accounts under the Report of Foreign Bank and Financial Accounts (FBAR) and Foreign Account Tax Compliance Act (FATCA). Because all U.S. permanent residents must maintain their primary residence in the U.S., extended absences from the United States can lead to abandonment of permanent resident status, so it is important to maintain ties to the U.S. and consider a reentry permit (Form I-131) for extended travel outside of the United States in consultation with competent immigration counsel.

16. **What investor protection measures exist under the RIA?**

The RIA introduced a series of investor protection mechanisms aimed at increasing transparency, safeguarding investor interests, and minimizing fraud in the EB-5 Program. Among the most significant provisions are requirements that EB-5 investment funds either be administered by an independent fund administrator or be subject to annual independent financial audits. Additionally, all individuals holding substantive authority within a Regional Center, NCE, or JCE must undergo background checks to confirm there is no history of securities violations or criminal misconduct. The RIA also mandates that all third-party promoters—including migration agents and brokers—register with USCIS by filing Form I-956K (Registration for Direct and Third-Party Promotors). To prevent undisclosed financial arrangements, the RIA prohibits the use of investor funds for paying administrative fees, commissions, or agent compensation unless such payments are fully disclosed in the offering documents. To support enforcement, USCIS has been granted expanded oversight powers to conduct audits, investigations, and impose civil or criminal penalties for misrepresentations or noncompliance. Collectively, these reforms are designed to enhance transparency, investor confidence, and accountability within the EB-5 Program.

17. **What protections are available to EB-5 investors if a Regional Center is terminated or a project fails?**

The RIA includes specific safeguards for good-faith EB-5 investors in scenarios where a Regional Center is terminated or where an NCE or JCE is debarred. Investors may remain eligible for immigration benefits if the original investment project was substantially completed and sufficient job creation can be demonstrated, and if the investor's capital was maintained in the NCE for the required investment period. In cases where the original project is not able to meet EB-5 criteria, investors may be permitted to reassociate with another approved Regional Center or redeploy their capital into a new qualifying investment. Importantly, good-faith investors in these circumstances may also retain their original visa priority date when submitting a new Form I-526E (Immigrant Petition by Regional Center Investor) petition. The availability of these remedies depends on the investor's level of compliance, the timing of the project's failure, and the nature of the deficiencies. As such, investors are strongly advised to seek legal and financial guidance to evaluate their options and preserve their eligibility under the EB-5 Program.

18. **What best practices should EB-5 investors follow to remain in compliance and protect their status?**

To reduce risks and safeguard their immigration objectives, investors should follow guidance of immigration counsel, maintain complete records of their investment, including banking documentation, offering materials, fund transfers, and communications with project sponsors. They should track project performance and job creation progress, confirm compliance with sustainment period rules, and respond promptly to any RFEs or NOIDs issued by USCIS. Legal and tax advisors should be consulted on key issues, including international tax compliance and

residency planning. Ultimately, proactive monitoring and informed decision-making are the best tools to ensure successful EB-5 outcomes.

III. REGIONAL CENTERS

1. What is the process for obtaining an EB-5 Regional Center designation?

Entities seeking designation as an EB-5 Regional Center must file Form I-956 (Application for Regional Center Designation) with USCIS. This filing requires a comprehensive and well-documented submission that demonstrates the Regional Center's qualifications and its ability to operate in compliance with statutory and regulatory requirements. The application must include detailed economic analyses showing how the Regional Center will promote economic growth, attract investment, and create qualifying jobs within a specifically defined geographic area. It must also outline the Regional Center's organizational structure and governance, including information on ownership, control, and management oversight.

Applicants are required to submit formal policies and procedures for monitoring job creation and maintaining compliance with EB-5 Program rules. A certification of compliance with U.S. securities laws and anti-fraud provisions, as required under the RIA, must be included as well. In addition, individuals holding positions of substantive authority within the Regional Center must file Form I-956H (Bona Fides of Persons Involved with Regional Center Program), providing background and financial disclosures.

Once submitted, USCIS undertakes a rigorous adjudication process, which may involve Requests for Evidence (RFEs) or a Notice of Intent to Deny (NOID) before a final decision is issued. Approval of Form I-956 is a prerequisite for a Regional Center to begin sponsoring EB-5 investment projects. Additional guidance is available in the USCIS EB-5 Policy Manual under the section on Regional Center Designation.

2. Who is eligible to apply for Regional Center designation?

Any legal entity established in a U.S. state or territory may apply for Regional Center designation, including private corporations, limited liability companies, partnerships, public agencies, and quasi-governmental organizations. However, USCIS imposes specific eligibility and disclosure requirements to ensure the integrity and capability of applicants. All individuals who hold substantive authority over the Regional Center must be either U.S. citizens or lawful permanent residents. In addition, applicants must demonstrate sufficient financial and operational capacity to effectively manage and oversee an EB-5 investment program in compliance with applicable laws and regulations. USCIS also requires full disclosure of any prior regulatory violations, criminal history, or SEC enforcement actions, where applicable. The vetting process is intentionally stringent, designed to ensure that only entities with a strong record of compliance, transparency, and good governance are granted Regional Center designation.

3. What are the requirements for Form I-956H?

Form I-956H (Bona Fides of Persons Involved with Regional Center Program), must be filed for each individual who holds ownership, control, or a significant managerial role in a Regional Center,

NCE, or JCE. The form requires detailed biographic information and disclosures related to prior criminal conduct, financial misconduct, or regulatory violations. USCIS uses Form I-956H to evaluate the eligibility and integrity of individuals involved in the management and oversight of regional center oversight and EB-5 investment offerings. USCIS requires biometric screening of most individuals who submit Form I-956H. Failure to provide complete and accurate information on this form may result in the denial of the associated Regional Center or project application.

4. **What ongoing compliance obligations apply to Regional Centers?**

Regional Centers are subject to compliance and reporting obligations under the EB-5 Program. They must submit Form I-956G (Regional Center Annual Statement) annually, providing detailed information on capital investment activity, job creation, and measures taken to comply with securities laws. In addition, USCIS is required to audit each Regional Center at least once every five years, reviewing documentation related to project activity and fund flow. Regional Centers are required to maintain comprehensive records of all program-related activities—including those of affiliated NCEs and JCEs—for a minimum of five years to support compliance monitoring, audits, and enforcement by USCIS. Regional Centers are also required to make an annual contribution to the EB-5 Integrity Fund, in the amount of $10,000 or $20,000, depending on the number of EB-5 investors sponsored. These contributions support USCIS oversight and enforcement efforts. Failure to comply with these obligations may result in the termination of a Regional Center's designation. For more details, refer to the USCIS Policy Manual - EB-5 Compliance.

5. **What happens if a Regional Center, NCE, or JCE is found noncompliant?**

If a Regional Center, NCE, or JCE fails to comply with USCIS regulations or applicable securities laws, a range of enforcement actions may be triggered. Financial penalties may be assessed, including fines of up to 10% of the total capital raised through EB-5 investments associated with the noncompliant party. Additionally, the entity may be suspended from the EB-5 Program, restricting its ability to accept new investors while compliance issues are addressed. In more serious cases, USCIS may terminate a Regional Center's designation entirely, debar an NCE or JCE, or permanently debar associated persons from the EB-5 program. Investors in NCEs sponsored by a terminated Regional Center or involving a debarred NCE or JCE have a limited period of time to reassociate the NCE with another compliant Regional Center or NCE or risk losing their immigration status. Investors associated with noncompliant entities may have civil remedies available under securities laws and contract theories, and enforcement actions may also be initiated by federal or state regulatory authorities, including the SEC and the Department of Justice. To reduce exposure to these risks, all EB-5 participants are encouraged to implement strong internal compliance programs and consult with experienced immigration and securities law counsel.

IV. PROJECTS

1. What types of projects qualify for EB-5 investment?

The EB-5 Program permits investment in any lawful, for-profit commercial enterprise that meets the statutory job creation requirements. Projects can span a wide range of industries, including real estate development (such as hotels, multifamily housing, and mixed-use developments), infrastructure projects (including public-private partnerships and transportation hubs), manufacturing and industrial ventures, renewable energy and sustainability initiatives, technology and innovation-based enterprises, food service, and healthcare and senior living facilities. Regardless of the industry, a qualifying EB-5 investment must be carefully structured to demonstrate the creation of at least 10 qualifying U.S. jobs per investor in accordance with program requirements.

2. How can a project determine if it is located in a TEA?

A project's eligibility for TEA designation—which allows investors to qualify for the reduced $800,000 minimum investment threshold—depends on its geographic and economic characteristics. A project may qualify as a TEA if it is located in either a High-Unemployment TEA, where the unemployment rate is at least 150% of the national average as defined by USCIS, or a Rural TEA, which is an area located both outside an MSA and outside any city or town with a population of 20,000 or more, based on the most recent U.S. Census data. Project developers can assess TEA eligibility using publicly available data sources such as the American Community Survey (ACS) 5-year estimates and the Bureau of Labor Statistics (BLS) Local Area Unemployment Statistics (LAUS). Additionally, industry tools like IIUSA TEA Mapping Tool offer support for evaluating whether a project location meets TEA criteria. However, final determination of TEA eligibility is made by USCIS during the adjudication of the project's Form I-956F and lasts for two years from I-956F submission.

3. How does a project obtain approval for EB-5 financing?

The first step is determining the appropriate structure—either a direct investment or one affiliated with a USCIS-designated Regional Center. Projects that intend to pool EB-5 investments must be sponsored by a Regional Center. Before an NCE that is part of the Regional Center Program can accept EB-5 investor capital to finance a job-creating project, the Regional Center must submit to USCIS a formal application (the Form I-956F Application for Approval of an Investment in a Commercial Enterprise). In contrast, direct investments (or standalone projects) do not require a separate pre-application, but must satisfy the job creation requirement exclusively through direct, W-2 employment by the NCE itself, without reliance on economic modeling.

For Regional Center-affiliated projects, the Regional Center must file Form I-956F (Application for Approval of an Investment in a Commercial Enterprise) with USCIS to demonstrate that the investment offering complies with the requirements of the EB-5 Program. Investors may file Form I-526E once Form I-956F has been submitted. While USCIS ideally issues a receipt notice for the

I-956F filing, if no receipt is received within 10 calendar days of delivery to USCIS, the investor may still proceed by submitting their I-526E along with alternative proof of I-956F filing. Acceptable documentation includes a copy of the lockbox notice and the first six pages of the Form I-956F, or proof that the filing fee has been paid, such as a copy of a cashed check or credit card charge.

In addition to the required filings, the investment must be structured to comply with U.S. securities laws, immigration regulations, and financial oversight obligations. A compliant filing must include a comprehensive business plan, a job creation analysis using USCIS-approved methodologies, and an economic impact report. Each of these components is critical to a project's eligibility to raise EB-5 capital and support investors' immigration petitions.

4. **How does prior I-924 exemplar approval impact the filing of Form I-956F?**

I-924 exemplar approvals issued under the pre-RIA version of the EB-5 Program do not carry over to the current framework established by the RIA. A Regional Center that previously obtained an I-924 exemplar approval for a project must submit a new Form I-956F in order to comply with current requirements. While prior exemplar approval may help demonstrate that USCIS previously accepted key elements of the project, it does not eliminate the obligation to file a new I-956F under the RIA.

5. **What constitutes a "material change" to an EB-5 project?**

Although USCIS has not provided an exhaustive definition, a "material change" generally refers to any significant alteration that may affect investor eligibility or a project's compliance with EB-5 requirements. Examples may include changes to the job creation methodology or the projected number of jobs, modifications to the capital structure that alter the flow of EB-5 funds, relocating the project to a new geographic area, or making substantial revisions to the scope or content of the business plan. If such a change occurs after investors have filed their I-526E petitions, USCIS may require the affected investors to file new petitions to reflect the updated project details.

6. **How do NCEs source EB-5 investors?**

Securing EB-5 investment capital requires a thoughtful and well-structured marketing and investor relations strategy. EB-5 syndicators commonly engage with licensed EB-5 migration agents and brokers who specialize in capital raising within specific country markets and have familiarity with local investor expectations and regulatory environments. In addition, many EB-5 syndicators undertake direct investor outreach, including hosting seminars, conducting webinars, and deploying targeted marketing campaigns to introduce potential investors to EB-5 project offerings.

Another approach is partnering with established Regional Centers, which may offer access to existing investor networks and lend additional credibility to the project. EB-5 syndicators may also

participate in industry conferences and international EB-5 expos, which provide opportunities to meet prospective investors and engage with other professionals in the EB-5 ecosystem.

EB-5 marketing strategies vary and it is essential to note that all marketing and investor solicitation efforts must comply with both U.S. and applicable foreign securities laws. This includes ensuring that offering materials are accurate, transparent, and appropriately tailored to the regulatory requirements of the jurisdictions in which they are marketed and distributed.

7. Must a project be associated with a Regional Center to accept EB-5 capital?

No. A project does not need to be affiliated with a Regional Center in order to accept EB-5 capital. However, the chosen investment structure determines how job creation may be calculated and whether multiple EB-5 investors can participate in the same NCE. Projects sponsored by a Regional Center may pool EB-5 investors into a single investment vehicle and are permitted to use economic modeling to demonstrate indirect and induced job creation, in addition to any direct jobs. This flexibility often allows for greater scalability and increased investor participation. In contrast, direct EB-5 investments—those made outside of the Regional Center Program—cannot pool capital from multiple EB-5 investors into a single enterprise. Job creation in the direct model is limited to direct, full-time W-2 positions that are demonstrably created by the project itself. For these reasons, most large-scale commercial projects opt to operate under Regional Center sponsorship, as it enables broader investor participation and more flexible job creation methodologies.

8. Can a project be fully funded with EB-5 investment capital?

While the EB-5 Program does not impose a legal limit on the percentage of a project's capital that may be sourced from EB-5 investors, most offerings are structured with a diversified capital stack that includes a mix of developer equity, traditional bank loans or senior debt, and other institutional investment sources. This structure is typically viewed as a best practice, both from a project feasibility standpoint and in terms of investor confidence. Using 100% EB-5 capital is permissible, but its viability depends on several key factors, including the project's ability to generate sufficient job creation and to demonstrate feasibility during USCIS adjudication. Moreover, some EB-5 investors and advisors may view projects that rely exclusively on EB-5 funding as higher risk, particularly in the absence of third-party financial validation or equity at risk from the sponsor. As a result, projects with diverse and balanced funding sources are often more attractive to prospective investors. Investors should evaluate the credibility of all sources of capital for a prospective investment project.

9. What restrictions exist on the use of EB-5 capital within a project?

EB-5 investment capital must be used exclusively for job-creating activities and may not be diverted for purposes unrelated to the development or operation of the project. Acceptable uses of EB-5 funds include land acquisition and site development, construction and infrastructure costs, equipment purchases, and working capital directly related to the business venture. These

expenditures must be aligned with the project's business plan and economic model submitted to USCIS. EB-5 funds may not be used to pay broker or agent commissions, cover non-project-related expenses, including any expenses relating to the raising of EB-5 capital, or for personal use by project developers or affiliates. Such misuse could jeopardize the investor's eligibility for immigration benefits and may trigger compliance action against the Regional Center or project sponsor. USCIS requires comprehensive documentation throughout the investment period to verify the lawful and appropriate use of EB-5 capital, consistent with the information provided in the investor's petition and supporting project filings.

10. **How long must EB-5 capital remain invested in the project?**

The required investment sustainment period for EB-5 investors depends on the timing of their petition filing and the applicable program rules. For pre-RIA investors—those who filed Form I-526 prior to March 15, 2022—the investment must be sustained through the end of the investor's two-year CPR period. This requirement is based on USCIS policy guidance in effect prior to the enactment of the RIA. For post-RIA investors—those who filed Form I-526E on or after March 15, 2022—the investment must be sustained for a minimum of two years after the investor's capital has been deployed and placed at risk in the JCE, regardless of when conditional residency begins. EB-5 immigration rules do not prohibit investment terms that would require or allow the NCE to hold and use the capital for longer than EB-5 rules require. Because investment timelines and exit strategies may vary from project to project, investors should carefully review the offering documents to understand the terms of the investment and how they align with applicable USCIS sustainment requirements.

11. **Can an EB-5 investment offer a guaranteed return of capital?**

No. EB-5 capital must remain "at risk" for the full duration of the required investment sustainment period. To meet this requirement, there can be no guaranteed redemption agreements and no fixed repayment schedules that are contingent on immigration milestones, such as approval of conditional or permanent residency. That said, projects may outline potential exit strategies—such as refinancing, asset sales, or other market-driven events—that could facilitate a return of capital after the required sustainment period has been satisfied. These strategies must be non-guaranteed, subject to market conditions, and fully compliant with USCIS regulations to preserve the integrity of the investor's immigration eligibility.

12. **How are jobs calculated in EB-5 projects involving construction?**

Only investors in pooled projects sponsored by a Regional Center may count jobs arising from construction expenditures. For projects involving construction, the duration of the construction phase plays a critical role in determining the number of jobs that can be counted toward the EB-5 requirement. If the construction period is expected to last less than 24 months, the job creation figure is prorated based on the ratio of the actual construction duration to 24 months. For example, a 12-month construction period may receive credit for only 50% of the full-time

equivalent jobs estimated through economic modeling. In addition, projects with construction periods shorter than two years may only count indirect jobs for up to 75% of the total required job creation per investor. For construction periods of two years or longer, up to 90% of the total required jobs may be indirect.

13. What happens if an EB-5 investment does not create the required jobs?

If an EB-5 investment fails to result in the creation of at least 10 full-time jobs for qualifying U.S. workers per investor, USCIS may deny the investor's Form I-829 petition. This denial could lead to the loss of conditional permanent resident status and, in some cases, the initiation of removal (deportation) proceedings. Depending on the circumstances, USCIS may consider additional evidence of job creation that occurs within a reasonable period following the two-year conditional residency period. In certain cases where job creation was affected by factors beyond the investor's control as outlined in the RIA, investors may be eligible for relief under the "good faith investor" protections.

V. FINANCIAL OVERSIGHT

1. What are the main financial compliance requirements for EB-5 investors?

EB-5 investors are subject to a range of financial compliance obligations to ensure that their investment capital is lawfully sourced, properly transferred, and fully documented. U.S. and international banks conduct Know Your Customer (KYC) and anti-money laundering (AML) checks on significant fund transfers, often requiring submission of bank statements, tax filings, and source-of-funds documentation. USCIS mandates clear documentation tracing the origin and movement of funds from the investor to the NCE, including wire transfer records, financial statements, and any relevant legal agreements. In jurisdictions with currency controls, investors may use structured transfers or third-party remitters, but these transactions must be supported by detailed documentation. After obtaining permanent residency, investors also assume U.S. tax obligations, including the reporting of global income and foreign financial assets under FBAR and FATCA.

2. What precautions should be taken when wiring funds into the United States?

To meet USCIS and financial regulatory standards, EB-5 investors should transfer funds directly from their personal accounts using traceable wire transfers. Cash deposits and informal remittance systems should be avoided, as they may trigger red flags in AML screenings or USCIS adjudications. When third-party remitters or structured exchanges are used—particularly in countries with foreign currency restrictions—comprehensive documentation must be retained, such as transfer agreements and bank confirmations. These precautions are essential for preserving petition eligibility and minimizing the risk of RFEs or denials. Ideally, immigration counsel should be consulted *before* transfers are made.

3. What role does a fund administrator play in EB-5 investments?

Under the RIA, NCEs must either engage an independent fund administrator or undergo annual financial audits in accordance with Generally Accepted Auditing Standards (GAAS). A fund administrator is responsible for overseeing the movement and deployment of investor funds, ensuring transparency and compliance with EB-5 regulations. This oversight reduces the risk of fraud or mismanagement and builds trust by providing detailed financial reporting to investors. If an NCE opts not to use a fund administrator, it must submit independent audits annually to maintain compliance.

4. What should investors and stakeholders look for when selecting a banking partner?

Selecting the right banking partner is critical for maintaining financial oversight and compliance. Banks involved in EB-5 fund management should offer FDIC-insured accounts, robust escrow services, and clear contractual release conditions—such as the receipt or approval of Form I-526E. They should also demonstrate strong internal AML programs, adherence to the Bank Secrecy Act,

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and capacity for enhanced due diligence, especially for foreign-source funds. Banks with prior experience in handling EB-5 capital can streamline documentation, facilitate fund traceability, and improve the overall investor experience.

5. **What documentation is required to support financial oversight and regulatory compliance?**

All entities involved in EB-5 fund management—Regional Centers, NCEs, and JCEs—must maintain comprehensive documentation of capital transactions. Required records include bank wire transfers showing fund flow from investor to NCE, escrow account statements with release triggers, fund administrator reports detailing the use of capital, and capital account ledgers for each investor. Entities must also retain annual tax filings and third-party audit reports, where applicable. These records not only support USCIS and Securities and Exchange Commission (SEC) compliance but also serve as a foundation for audits and investigations.

6. **What best practices can help investors manage financial risk and stay compliant?**

Investors can reduce financial and immigration risk by working with professionals who understand both EB-5 rules and international finance. Maintaining thorough documentation—including source and path of funds records, escrow agreements, and fund administrator reports—is essential. Before investing, stakeholders should review offering documents for escrow and redeployment terms to ensure alignment with USCIS guidelines. Staying informed about evolving EB-5 policy and U.S. financial regulations, and maintaining proactive relationships with immigration and tax advisors, can further safeguard compliance throughout the investment and immigration process.

VI. MARKETING AND COMPLIANCE

1. What securities laws apply to EB-5 investment offerings?

EB-5 investment offerings are subject to a comprehensive framework of U.S. federal and state securities laws, which govern the offer, sale, and promotion of securities to protect investors and preserve market integrity. Any offering associated with an EB-5 project must be properly structured to comply with the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940, as well as applicable state Blue Sky laws.

The RIA further codifies securities compliance responsibilities for EB-5 stakeholders, imposing enhanced regulatory obligations on Regional Centers, NCEs, and JCEs. Among its provisions, the RIA requires that Regional Centers submit certifications of compliance with securities laws as part of their Form I-956F project applications and their annual Form I-956G filings. It also mandates the disclosure of fees, compensation arrangements, and promotional activities related to EB-5 investment offerings. Additionally, individuals or entities acting as third-party promoters must register with USCIS before engaging in the marketing or sale of EB-5 investments.

Given the legal and regulatory complexity involved, it is essential that all EB-5 stakeholders ensure their offerings are structured in full compliance with applicable securities laws. Noncompliance may result in serious consequences, including civil and criminal penalties, enforcement actions by the SEC, private investor litigation, and potential adverse immigration outcomes for EB-5 investors. More information about U.S. securities laws can be found at sec.gov.

2. Are EB-5 investments considered securities under U.S. law?

Yes. The vast majority of EB-5 investments involve the offer and sale of securities and are therefore subject to both federal and state securities laws. Under the Securities Act of 1933, an offering is generally classified as a security if it meets the criteria established by the U.S. Supreme Court in the Howey Test—that is, an investment of money in a common enterprise with the expectation of profits derived primarily from the efforts of others. Because most EB-5 investors make passive equity investments, typically through limited partnerships or limited liability companies in which they do not exercise operational control, the SEC has consistently maintained that such offerings qualify as securities transactions. As a result, these offerings must comply with applicable securities registration requirements or rely on an appropriate exemption.

3. How are EB-5 securities offerings structured to comply with U.S. securities laws?

Most EB-5 securities offerings rely on exemptions from SEC registration requirements, as full registration under the Securities Act of 1933 is typically cost-prohibitive and impractical for private EB-5 transactions. The most commonly used exemptions include Regulation D and Regulation S. Under Regulation D, Rule 506(b) permits issuers to raise capital from an unlimited number of

accredited investors and up to 35 sophisticated but non-accredited investors, provided that no general solicitation or advertising is used. Rule 506(c), by contrast, allows for general solicitation and advertising, but requires the issuer to take reasonable steps to verify that all participating investors are accredited. Regulation S provides an exemption for offers and sales of securities made entirely outside the United States, so long as the offering does not involve directed selling efforts within the U.S. This exemption is particularly relevant for EB-5 offerings marketed to foreign nationals abroad.

Each of these exemptions carries specific legal and procedural requirements. Improper reliance on an exemption can result in securities law violations, regulatory enforcement, and potential immigration consequences for investors. Regional Centers, NCEs, and JCEs must structure offerings in close coordination with experienced securities counsel to ensure compliance with all applicable laws.

In addition to federal requirements, EB-5 offerings must also comply with state securities laws, often referred to as Blue Sky laws, which may require notice filings and impose their own anti-fraud and disclosure obligations.

VII. EB-5 IMMIGRATION PROCESS

1. What are the steps to obtain U.S. permanent residency through the EB-5 Program?

The EB-5 process consists of three primary steps, leading to lawful permanent residency:

Step 1: Filing Form I-526E (Immigrant Petition by Regional Center Investor) or Form I-526 (Immigrant Petition by Standalone Investor Petition). The investor submits Form I-526E (for Regional Center investments) or Form I-526 (for direct investments) to USCIS, demonstrating that: the required capital investment has been made; the funds were lawfully sourced; and the investment is projected to create at least 10 qualifying jobs for U.S. workers. If investing through a Regional Center, a I-956F (Application for Approval of an Investment in a Commercial Enterprise) must be filed by the Regional Center before investors can file Form I-526E and is deemed incorporated into the I-526E to establish project qualification.

Step 2: Obtaining Conditional Permanent Residency.

a. If residing outside the U.S., once the Form I-526E/I-526 petition is approved and a visa is available the investor and eligible family applies for an immigrant visa at a U.S. consulate or embassy. Upon visa issuance and the applicant's entry into the U.S., conditional permanent residency is granted.

b. If residing in the U.S. on a valid nonimmigrant visa and otherwise eligible, the investor and eligible family may instead file Form I-485 (Application to Register Permanent Residence or Adjust Status) once a visa number for the applicable category and country of chargeability is available and may even file I-485 concurrently with the I-526E petition (before USCIS approves it).

Step 3: Filing Form I-829 to Remove Conditions on Residency. Within the 90-day window before the second anniversary of obtaining conditional residency (the expiration date on the face of the conditional green card), the investor and eligible family must: file Form I-829 (Petition by Investor to Remove Conditions on Permanent Resident Status), providing evidence that the EB-5 investment has been sustained and the required jobs have been created. If the I-829 is approved, the investor and qualifying dependents will receive unconditional permanent resident (green card) status.

For USCIS process details: USCIS EB-5 Investor Process.

2. Does filing an I-526E petition allow an investor to live in the U.S. while awaiting approval?

No. Filing Form I-526E or I-526 alone does not grant legal status in the United States. However, investors already in the U.S. on a valid nonimmigrant visa (such as H-1B, L-1, F-1, or E-2) may be

eligible to remain in the U.S. while awaiting petition adjudication. Additionally, investors eligible to file Form I-485 (Adjustment of Status) concurrently with their I-526E petition may obtain Employment Authorization (EAD) to work in the U.S. and Advance Parole (AP) to travel internationally without abandoning their adjustment application. Eligibility for concurrent filing depends on visa availability at the time of application.

3. **Does approval of an I-526E petition automatically grant U.S. residency?**

No. Approval of Form I-526E or I-526 confirms that an investor has met the EB-5 investment eligibility criteria but does not automatically confer U.S. residency. The investor must also show general "admissibility" for permanent residence using either immigrant visa application or adjustment of status application as described above. Upon successful completion of either process, the investor and qualifying dependents will be granted CPR status.

4. **When can an EB-5 investor file Form I-485 to adjust status?**

An EB-5 investor who is already in the United States under a valid nonimmigrant visa may file Form I-485 (Application to Register Permanent Residence or Adjust Status) either concurrently with Form I-526E or at a later date, provided that several conditions are met. First, an immigrant visa must be available in the investor's EB-5 category according to the U.S. Department of State's Visa Bulletin. For more details: Visa Bulletin - U.S. Department of State.

Second, the investor must have maintained lawful status in the U.S. without violating the terms of their visa or qualify for an exception under Section 245(k) based on overstay or unauthorized work for less than 180 days. Third, the investor must not be subject to any grounds of inadmissibility that would prevent adjustment of status. For example, H-1B and L-1 visa holders are generally eligible due to the "dual intent" doctrine. However, holders of single-intent visas such as B-1/B-2 (visitor) or F-1 (student) must be cautious, as filing an I-485 after entry to the U.S. on a non-immigrant visa could be interpreted as a misrepresentation of immigrant intent giving rise to permanent inadmissibility. If an investor is not eligible to adjust status in the U.S., they must pursue consular processing abroad by filing Form DS-260.

5. **Can EB-5 investors travel while their I-526E or I-485 is pending?**

Travel eligibility during the EB-5 process depends on the investor's immigration status and stage of the application. Investors who reside outside the United States may be able to travel freely for purposes consistent with their nonimmigrant visa (or visa exemption) while awaiting approval of their immigrant petition or visa. Those who have filed Form I-485 (Adjustment of Status) from within the U.S. must obtain Advance Parole (Form I-131) before traveling internationally. Departing the U.S. without Advance Parole while the I-485 is pending may result in the application being deemed abandoned. H-1B and L-1 visa holders who apply for adjustment of status may travel without Advance Parole but must continue to comply with the terms of their underlying visa.

6. **What is Form I-829, when must it be filed, and why is it important?**

Form I-829 (Petition by Investor to Remove Conditions on Permanent Resident Status) is the final step in the EB-5 process. It allows investors and their qualifying dependents to transition from conditional to permanent residency by demonstrating that the investment was sustained and that at least 10 full-time jobs were created for U.S. workers. The I-829 must be filed within the 90-day window before the second anniversary of the investor's admission to the U.S. as a conditional permanent resident. Failure to timely file may result in automatic termination of status and potential removal proceedings. USCIS may, in rare cases, accept a late filing for good cause, but investors should consult legal counsel to ensure timely and accurate submission. For more details: USCIS Policy Manual - I-829 Petition Requirements.

7. **What evidence is required for I-829 approval, and will an interview be necessary?**

To support Form I-829, investors must provide documentation showing that their capital remained at risk and engaged in commercial activity consistent with the USCIS-approved business plan throughout the required period. Evidence may include bank statements, wire transfers, NCE and JCE financials, and other evidence of project completion and operation. Job creation must also be proven through expenditure records, revenue records, payroll records, W-2s, I-9s, and economic reports, or credible modeling for indirect employment. USCIS may issue a RFE or NOID if the documentation is insufficient. While USCIS has the discretion to require an interview, it is not mandatory for all petitions. Interviews are more likely when there are questions about job creation, deviations from the original business plan, the investor's immigration history, or even source of funds. Interviews are typically conducted at a local USCIS field office.

8. **What happens after Form I-829 is filed, and what are the possible outcomes?**

Once Form I-829 is properly filed, USCIS issues a receipt notice (Form I-797), which automatically extends the investor's conditional permanent resident status for 48 months beyond the Green Card expiration. During this time, the investor may live, work, and travel freely while maintaining residence in the U.S. For international travel, a valid passport and either an unexpired Green Card or both the expired green card and the I-797 receipt notice are required. If both expire before I-829 adjudication, an I-551 stamp can be obtained from USCIS for purposes of work authorization and reentry from travel abroad. If the I-829 petition is approved, the investor and dependents receive 10-year unconditional Green Cards and may pursue U.S. citizenship if eligible (typically five years after original CPR admission). If denied—due to insufficient job creation, unsustained investment, significant project changes, or other reasons—the investor faces loss of U.S. residence status and may be placed in immigration removal proceedings but may seek recourse through a motion to reconsider/reopen or, if placed in removal proceedings, before an immigration judge. In such a situation, investors should immediately consult with immigration counsel to discuss their legal options.

9. **What happens if an investor's child "ages out" before obtaining a green card?**

Under U.S. immigration law, children must be unmarried and under the age of 21 to qualify as derivative beneficiaries of a parent's EB-5 petition. If a child turns 21 before being admitted as a conditional resident, they may "age out" and lose eligibility. The Child Status Protection Act (CSPA) offers limited protection by allowing a child's age to be "frozen" during the time that the parent's Form I-526 or I-526E is pending. If a child's "adjusted age" is under 21 at the time that the I-526/E petition is approved and a visa number is available and the child "seeks to acquire" permanent residence within one year, the child can retain derivative eligibility. However, if visa availability is delayed, the child could age out before becoming eligible. In such cases, families may need to explore alternative immigration strategies, including making a separate investment and filing a separate EB-5 petition for the child. For more details: USCIS CSPA Guidance.

10. **What protections does the CSPA provide for children of EB-5 investors?**

The CSPA provides relief for children who might otherwise "age out"—that is, turn 21 before obtaining lawful permanent residence—by allowing a calculation that deducts the amount of time a Form I-526 or I-526E petition was pending from the child's age at the time a visa becomes available. If this adjusted "CSPA age" is under 21, the child may remain eligible as a derivative beneficiary. However, CSPA protection does not indefinitely freeze the child's age. If a visa is not available at the time the I-526E is approved, the child's biological age continues to advance from the date the I-526 or I-526E petition was approved until the date the visa number becomes available, which could lead to age-out if delays persist. In addition, for CSPA protection to apply, the child must take action to apply for permanent residence within one year of visa availability—commonly referred to as the "seek to acquire" requirement. This can be satisfied by filing Form I-485 (if in the U.S.), DS-260 (if abroad) or I-824 (if the investor obtained adjustment of status and the child was outside the U.S.).

11. **How do visa retrogression and delays affect age-out eligibility?**

Visa retrogression, particularly for high-demand countries like China and India, can significantly impact age-out eligibility. If a visa is available when the I-526E petition is approved, the child's CSPA age is locked as of that date, provided the one-year "seek to acquire" requirement is met. However, if the visa is not yet available at the time of petition approval, the child's "immigration age" is "unfrozen" as of the date of I-526/E petition approval and continues to increase. Depending on the length of the delay, the child may age out despite the protection afforded by the CSPA. Because of this risk, investors are strongly advised to monitor the U.S. Department of State's monthly Visa Bulletin to track the movement of cutoff dates and assess whether their children are at risk of losing derivative status. Families pursuing EB-5 investments from backlogged countries should consider set-aside visa categories, such as Rural Areas or High-Unemployment Areas, to reduce the likelihood of retrogression. It should be noted that even if the Visa Bulletin shows no cut-off date for a category, the number of investors and family

represented by I-526/E petitions filed with USCIS may already account for visa number allocations for years to come.

12. What are the options if a child ages out despite CSPA protections?

If a child is determined to have aged out and no longer qualifies as a derivative on their parent's EB-5 petition, several immigration strategies may be pursued. The child may file a new EB-5 petition independently, though this requires a new capital investment and results in a new priority date. Family-based sponsorship may be another route, such as the F2B category for unmarried adult children of permanent residents, though this can involve significant waiting periods. Alternatively, children may seek U.S. employment-based visas like the H-1B or pursue F-1 student visas while planning a long-term immigration strategy. It is important to note that while the RIA may allow principal investors to retain their original EB-5 priority date when refiling, this provision does not apply to aged-out children—they must restart the process entirely. Families concerned about these risks should work closely with immigration counsel early in the process to identify the best course of action.

13. What is the processing time for EB-5 petition forms?

Processing times vary based on USCIS workload, visa availability, country of origin, and the specifics of each case. As of the most recent estimates, the processing time for Form I-526E (Immigrant Petition by Regional Center Investor) typically ranges from 18 to 36 months. Form I-485 (Adjustment of Status) takes approximately 12 to 24 months, while Form DS-260 (used in consular processing) is generally processed within 6 to 12 months. Form I-829 (Petition to Remove Conditions on Permanent Resident Status) has the longest processing timeline, currently exceeding 48 months in many cases. For more details: Processing Times. But processing times can change significantly with changes in government policies and allocation of resources.

14. What is a visa priority date, and how can EB-5 investors track visa availability?

A visa priority date is the date on which an EB-5 investor properly files Form I-526E (for Regional Center investments) or Form I-526 (for direct investments) with USCIS, as shown in the USCIS receipt notice. This date establishes the investor's place in line for one of the limited number of EB-5 immigrant visas issued annually, subject to the statutory cap and per-country limits. For investors from high-demand countries—such as China or India—where visa demand exceeds availability, the priority date determines when they may proceed with consular processing or adjustment of status. To track visa availability, investors must review the U.S. Department of State's monthly Visa Bulletin, which publishes cut-off dates by country and category. The EB-5 visa category (which is listed in the monthly Visa Bulletin as one of the Employment-Based visa categories) has multiple sub-categories depending in some cases on the investor's or spouse's country of birth, as well as whether the underlying investment is in a pre-RIA project or in an post-RIA TEA category. If an investor's priority date is earlier than the published Final Action Date, a visa is available. If not, the investor must wait until the date becomes current.

The monthly Visa Bulletin includes two key charts: the Final Action Dates Chart, which controls when visas may actually be issued, and the Dates for Filing Chart, which may allow investors in the U.S. who are eligible to submit an I-485 Adjustment of Status Application to do so even if a visa is not immediately available under the Final Action Dates. Each month, USCIS announces which chart I-485 applicants may use. It is important to check which chart—Final Action Dates or Dates for Filing—USCIS has authorized for use that month before filing an I-485 application. Investors from countries with backlogs—known as visa retrogression—must closely monitor the Visa Bulletin to know when they are eligible to file and when visas may be granted. Staying current with the Bulletin is especially important for planning filing timelines and assessing age-out risks for dependent children.

For official updates, refer to the U.S. Department of State Visa Bulletin.

15. **What is consular processing, how long does it take, and what happens if the investor does not complete it on time?**

Consular processing is the required pathway for EB-5 investors residing outside the United States (or otherwise ineligible for or choosing not to use adjustment of status within the U.S.) to obtain an immigrant visa after USCIS approval of their Form I-526E and confirmation of visa availability. The process is initiated by USCIS sending an investor's approved I-526/E petition to the National Visa Center (NVC), which will then issue a Welcome Letter and Fee Invoice to commence the immigrant application process. The investor (and any immediate family members) then must pay the fees and submit the online Form DS-260 Immigrant Visa Application followed by civil documents. A visa interview is then scheduled at a U.S. embassy or consulate, prior to which all the visa applicants must undergo medical exams with a U.S.-designated doctor (civil surgeon). At the visa interview, a U.S. consular officer reviews eligibility and confirms maintenance and legitimacy of the EB-5 investment. Upon approval, the investor and qualifying family members are issued immigrant visas which they must use to enter the U.S. within 6 months. Upon admission to the U.S. pursuant to their immigrant visas, they become Conditional Permanent Residents (valid for 2 years). Lawful Permanent Resident cards ("Green Cards") are mailed to the investor in the United States.

Processing times vary: NVC processing typically takes 3 to 8 months, while interview scheduling may require an additional 1 to 6 months depending on consular workload and country-specific conditions. If an investor fails to act on NVC instructions within one year, the immigrant visa case may be terminated and the I-526/E petition canceled under INA Section 203(g) and file returned to USCIS, possibly resulting in loss of the original priority date and the need to restart the entire immigration process. Prompt communication with the NVC and timely compliance with all requirements are essential to avoid delays or termination.

16. **What is the difference between consular processing and adjustment of status (AOS), and can EB-5 investors apply for a visitor visa while awaiting a decision?**

EB-5 investors abroad must pursue consular processing, while those already in the U.S. on valid nonimmigrant visas may be eligible to adjust status by filing Form I-485. Adjustment of status allows investors to remain in the U.S. while their application is pending and provides eligibility for work authorization and advance parole (travel permission). In contrast, consular processing requires applicants to remain outside the U.S. and attend an in-person interview abroad but may offer faster visa issuance in some cases. USCIS determines AOS eligibility based on factors such as visa availability, maintenance of lawful status, and admissibility.

Investors who have an existing B-1/B-2 visitor visa and are awaiting consular processing, may travel to the U.S. for temporary visits. However, the B-1/B-2 visitor visa is for nonimmigrant purposes, and the existence of a pending EB-5 petition (the I-526 or I-526E Petition) may be viewed as evidence of immigrant intent. Thus, it is possible that investors who apply for a visitor visa after submission of an I-526 or I-526E petition may be denied the B-1/B-2 visa. Applicants should be prepared to demonstrate strong ties to their home country and a legitimate short-term reason for U.S. travel. In most cases, immigration counsel advises against applying for a visitor visa during this stage unless absolutely necessary.

Further, applying for I-485 adjustment of status while in the U.S. on a B-1/B2 visa carries significant risk of being found to have misrepresented immigrant intent as the investor entered the U.S. on a short-term non-immigrant visa. USCIS could deny adjustment in its discretion (with the investor then needing to switch to immigrant visa processing abroad) or make a formal finding of misrepresentation (resulting in permanent inadmissibility to the U.S. absent discretionary waiver).

17. What are the primary reasons USCIS may deny an EB-5 petition?

USCIS may deny an EB-5 petition for several reasons, most commonly due to failure to prove that the investment funds were lawfully sourced and properly transferred. Investors must provide detailed documentation demonstrating both the lawful origin and clear path of funds to the NCE. Petitions may also be denied for failure to create or preserve the required ten full-time jobs for U.S. workers, if the submitted economic analysis, business plan, or job creation model is inadequate or inconsistent with program requirements. In addition, petitions can be denied if the investment was not truly "at risk," such as where there are redemption agreements, guaranteed returns, or similar risk-mitigating structures. Material changes to the investment structure or project after the petition is filed—particularly those affecting job creation, capital flow, or regional center sponsorship—may also trigger denial. Finally, fraud, misrepresentation, or inadmissibility issues (such as criminal history or prior immigration violations) can result in denial, as can noncompliance or termination of the affiliated Regional Center, unless good faith investor protections apply under the RIA.

18. What options are available if USCIS denies an I-526E or I-829 petition?

If an I-526E petition is denied, the investor will receive a written notice outlining the grounds for denial. Depending on the circumstances, the investor may choose either to file an appeal to the

USCIS Administrative Appeals Office (AAO) or file a motion for USCIS to reopen or reconsider the decision (using Form I-290B), particularly if the denial resulted from factual errors or legal misapplication or if there is newly available evidence. In other cases, an investor may choose to submit a new I-526E petition, although this typically results in a new priority date (and the heightened risk of a child aging out) unless the investor qualifies for priority date retention under the RIA.

If an I-829 petition is denied, CPR status is generally terminated, and the investor may be placed in removal proceedings. If USCIS does not start removal proceedings, the investor may file a motion to reopen the I-829, especially if new helpful evidence is available, but appeal to the AAO is not available unless USCIS chooses to "certify" novel issues to the AAO on its own initiative. In removal proceedings, the I-829 may receive a de novo review by an immigration judge, allowing the investor to present additional evidence. A new EB-5 petition may also be possible, though the investor must again meet all investment and eligibility requirements. Counsel should be consulted for other possible remedies.

19. **Can EB-5 petition denials be challenged in federal court?**

Yes, after exhausting appeal to the AAO, investors may pursue litigation in federal court to challenge unlawful denials of most EB-5 filings under the Administrative Procedure Act (APA). Federal lawsuits are often appropriate when USCIS has acted arbitrarily, misapplied legal standards, or unreasonably delayed adjudication. Federal courts have no jurisdiction to review an I-526/E petition revocation, even though they can review a petition denial. Federal court appeal of an I-829 denial is only available after completing removal proceedings and appeal to the Board of Immigration Appeals. While litigation does not guarantee success, it may provide a remedy in cases of improper agency action, and investors pursuing this path should work closely with counsel experienced in immigration litigation.

20. **What safeguards exist for good faith investors, and how can investors reduce the risk of denial?**

The RIA provides protections for good faith investors whose projects or Regional Centers are later found to be noncompliant or are terminated. If the investor made the investment in good faith and without knowledge of fraud or wrongdoing, and if the investment met EB-5 requirements at the time of filing, USCIS may allow the investor to reassociate with a new Regional Center or reinvest in a qualifying project, potentially while retaining their original priority date. To reduce the risk of denial, investors should conduct thorough due diligence on the Regional Center, project, job creation model, and offering structure. They should ensure that all source-of-funds documentation is comprehensive and verifiable, and that the investment remains at risk throughout the sustainment period. Working with experienced immigration and securities counsel and maintaining awareness of changes in EB-5 policy are essential to proactively addressing compliance issues and preserving eligibility throughout the petition process.

21. How can investors remain compliant and stay informed as USCIS policies evolve?

The EB-5 Program is dynamic and subject to statutory, regulatory, policy, and adjudicatory changes. Investors and their counsel should routinely monitor USCIS announcements, the Visa Bulletin, and any relevant updates to the USCIS Policy Manual. The RIA introduced new oversight and compliance obligations, including increased transparency in fund administration and project reporting.

Before filing the I-829 petition, investors should verify that their investment remained at risk for the required sustainment period, that job creation goals were met, and that supporting documentation is up to date and complete. After obtaining a Green Card, long-term considerations include U.S. tax planning, maintaining permanent resident status, and eventual naturalization eligibility. Regular consultation with legal and financial professionals ensures compliance and preparedness for any changes that may affect the investor's immigration or financial position.

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This resource is believed to be current as of the date of publication and is typically updated on an annual basis. IIUSA encourages readers to consult future editions and to reach out with suggestions or questions that may help improve subsequent updates.

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