



EB-5 Regional Center Program Reauthorization – June 30, 2021 Frequently Asked Questions (FAQs)

IIUSA,¹ the national, membership-based, 501(c)(6) not-for-profit, industry trade association for the EB-5 Regional Center Program,² prepared these FAQ to address the most common questions received concerning the reauthorization of the EB-5 Regional Center Program on June 30, 2021.

1. What does reauthorization mean?

Reauthorization refers to the legal authority to continue the EB-5 Regional Center Program, which was established by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Public Law 102-395, Section 610(b)) with an initial five-year term. Over the past 29 years, the program has been extended for various intervals of time, and most recently, for shorter intervals, because the program authorization was included in the omnibus, the government’s annual spending bill. Currently, the program has been extended through June 30, 2021, as authorized in Public Law 116-260 Consolidated Appropriations Act, 2021, Division O, Title I Immigration Extensions, but it must be reauthorized to continue after that date.³

2. Does IIUSA expect reauthorization on June 30, 2021?

Yes, if the EB-5 industry acts in coordination, IIUSA believes the EB-5 Regional Center Program, a sustainable and critical thread to U.S. economic development, which has over 30 years of bipartisan support, will be reauthorized. Regional centers account for billions of dollars in EB-5 capital formation that have created tens of thousands of jobs in American communities at no cost to the U.S. taxpayer.⁴

¹ <https://iiusa.org/> and <https://www.youtube.com/watch?v=it3DcKirAw4&t=2s> (How EB-5 Builds America)

² <https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-regional-centers>

³ Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) shall be applied by substituting ‘June 30, 2021’ for ‘September 30, 2015.’”

⁴ <https://iiusa.org/resources-data/eb-5-economic-impact/>

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3. What is different about the June 30, 2021 reauthorization?

Reauthorization of the EB-5 Regional Center Program on June 30, 2021 will likely depend upon stand-alone legislation. Historically, the program was attached to the spending bill that funded either the Department of State or the Department of Homeland Security (or its predecessor agency, Immigration and Naturalization Services). Spending bills, although frequently delayed because of political debate, are always expected to pass because they fund the government. Inclusion of the program in spending bills helped provide assurance of reauthorization alongside government funding. But, in December 2020, the program was “decoupled” from the spending bill, which means it was separated from it. The reason for the decoupling is unknown, however, if the program is not attached to an existing bill, the decoupling provides the opportunity for it to receive attention as a stand-alone matter where both the program’s challenges and its powerful impact on our economy can be addressed.

4. How is IIUSA involved in advocating for reauthorization?

IIUSA’s mission includes serving as a strong, unified voice for permanent authorization and improvement of the EB-5 Regional Center Program. To that end, IIUSA is working diligently to ensure that the program’s reauthorization is either attached to an existing bill or that it is addressed in a stand-alone bill.

In late 2020, Senator Grassley and Senator Leahy – the two Senators most invested in reforming and reauthorizing the program – reached out exclusively to IIUSA to help shape a good-government bill to (1) instill integrity reforms into the program and (2) provide the program with a stabilizing, five-year reauthorization. IIUSA negotiated with Senators Grassley and Leahy to draft and enact the EB-5 Reform and Integrity bill.⁵ It includes these key components - integrity reforms and a five-year reauthorization. IIUSA is now working with Senators Grassley and Leahy to have the bill introduced and passed into law before June 30, 2021.

IIUSA will continue to educate communities and policy-makers about the jobs that the EB-5 Regional Center Program creates and saves. IIUSA will also work to illustrate that our country must continue to benefit from the meaningful economic impact that the program provides during this time of economic recovery in the wake of the COVID-19 pandemic.

IIUSA’s focus includes:

⁵ <https://iiusa.org/wp-content/uploads/2020/12/EB-5-Reform-and-Integrity-Act-2020-Final-Language.pdf>

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- Building a coalition of those who have benefited from EB-5 Regional Center Program investment, including mayors, chambers of commerce, and businesses that have been impacted by the COVID-19 economic crisis – specifically, the hospitality, travel, and health care industries;
- Leading a media campaign to promote the EB-5 Regional Center Program’s economic impact in key media markets, with focus on markets where legislators have the strongest influence over the program’s reauthorization – New York City, Chicago, San Francisco, Silicon Valley, and Washington, DC; and
- Communicating directly with members of Congress and their staff to champion the EB-5 Regional Center Program and the EB-5 Reform and Integrity bill.

5. Has a new bill been introduced to reauthorize the EB-5 Regional Center Program?

Not yet. If reauthorization is to be accomplished via a stand-alone bill, IIUSA advocates for the introduction of the EB-5 Reform and Integrity bill. Timing of any such introduction, however, is presently unknown.

6. What is in the EB-5 Reform and Integrity reauthorization bill?

The EB-5 Reform and Integrity bill protects good-faith investors, it protects lawfully operating regional centers and new commercial enterprises, and it provides reasonable oversight while allowing the industry’s business operations to continue. It achieves the industry’s goal of sound integrity reforms in a workable environment and a five-year reauthorization. IIUSA prepared a summary of the bill, as it was proposed in December 2020, that can be found at: <https://iiusa.org/wp-content/uploads/2020/12/EB-5-Reform-and-Integrity-Act-of-2020-Section-by-Section-Summary.pdf>.

7. Are there any other legislative proposals to reauthorize the EB-5 Regional Center Program?

No.

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8. Why does IIUSA support the EB-5 Reform and Integrity bill?

The EB-5 Reform and Integrity bill is the best first step toward additional and more comprehensive reform and improvement. IIUSA supports the EB-5 Reform and Integrity bill; not merely because it is the only existing, already negotiated bill to support, but because the bill has been carefully streamlined to address what the industry agrees is needed: integrity reform and a long-term reauthorization.

9. If the EB-5 Reform and Integrity bill passes, how and when might other EB-5 Regional Center Program issues be addressed?

There is renewed, national interest in immigration reform and IIUSA believes that if the EB-5 Regional Center Program is reauthorized in June, there will be future opportunities to discuss further program changes.

Although virtually impossible to negotiate and pass by June 30, 2021, President Biden's Comprehensive Immigration Reform (CIR) bill⁶ has been introduced in the House by Representative Sanchez and in the Senate by Senator Menendez. The introduction of CIR shows that the Biden Administration is willing to look at steps to positively move immigration programs forward. The CIR speaks directly to employment-based visas, including EB-5. Its initial White House synopsis even discussed correcting the derivative count, which would be significant for all stakeholders, but most important, to the tens of thousands of U.S. workers to be hired as a direct result of extensive EB-5 investments nationwide. The CIR conversation opens doors for the EB-5 community – as long as the EB-5 Regional Center Program is reauthorized and the industry has strongly supported the bipartisan effort to improve its integrity.

A reauthorized program will require new regulations and a revised public comment period. That administrative process will provide an opportunity to voice remaining concerns, provided that the program has been reauthorized with the proposed integrity reforms.

⁶ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/> and <https://lindasanchez.house.gov/sites/lindasanchez.house.gov/files/2021.02.18%20US%20Citizenship%20Act%20Bill%20Text%20-%20SIGNED.pdf>

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A stable, five-year reauthorization may also give the EB-5 community the opportunity to revisit the program in the context of a transportation bill, Opportunity Zones, or other measures related to the Departments of Commerce or Labor.

At this time, nobody can accurately predict or guarantee exactly when and how the EB-5 Regional Center Program will ultimately be extended, but if the industry remains focused on securing a long-term reauthorization through the passage of the EB-5 Integrity and Reform bill, it will be in a good position to continue to improve the program further by addressing remaining concerns such as additional visa numbers, removal of derivative visas, and other improvements.

10. What happens if the EB-5 Regional Center Program is not reauthorized on June 30, 2021?

If the EB-5 Regional Center Program is not reauthorized on June 30, 2021, it is unclear what would happen next. There could be a temporary lapse of the program or it could be discontinued permanently.

If there is a temporary lapse, immigration experts have speculated that the USCIS may hold petitions in abeyance for an undetermined period of time. The program lapsed from December 22, 2018 to January 25, 2019, during which time the USCIS communicated that: (i) I-924 applications to create new regional centers and amendments for existing regional centers would not be accepted and that pending I-924 applications would be placed on hold; (ii) it would continue to require that existing regional centers file its annual certifications (I-924A); (iii) it would continue to accept newly filed I-526 and I-485 petitions, but would place such filings on hold while all newly received petitions that were not affiliated with a regional center continued to be processed because the direct EB-5 program is permanent; (iv) it would not treat I-829 petitions filed before or after the expiration date as affected by the expiration of the program; and (v) it would resume the processing of pending petitions and the State Department would resume the processing of visa applications as soon as the program was reauthorized.

A permanent discontinuance refers to the situation where after a prolonged period of time, all efforts to reauthorize the program are abandoned and/or legislation is introduced to permanently end the program. This has never happened before and IIUSA believes that a permanent end with no legislation to create an orderly wind-down for investors with pending applications is unlikely. The EB-5 Regional Center Program has widespread support from lawmakers as an economic development tool and job creation program. Few legislators will openly oppose a job creation tool that has proven to be effective and costs no tax dollars.

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In previous years when the program was facing sunset, members of Congress openly discussed a plan to introduce legislation that, should the program fail to be reauthorized, would allow for it to wind-down in an orderly fashion. These discussions centered on allowing investors with pending applications (I-526) to continue to advance through the program.

It is important to note that IIUSA and the EB-5 Regional Center community alongside Congress is focused on reauthorizing the EB-5 Regional Center Program.

11. What can I do to help?

Join the Coalition to Save and Create Jobs (free), a coalition focused on EB-5 Regional Center Program reauthorization legislation. Members include trade associations, chambers of commerce, municipalities and mayors offices, community banks, economic development organizations, health care facilities, and more: <https://www.saveandcreatejobs.org/join>.

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