



IIUSA Best Practices Committee — Stakeholder Guidance Grandfathering Filing Deadline: September 30, 2026

Prepared by the IIUSA Best Practices Committee | July 2026

Purpose

This guidance document is intended to help IIUSA members and other EB-5 stakeholders understand the critical September 30, 2026 grandfathering filing deadline under the EB-5 Reform and Integrity Act of 2022 (“RIA”), the eligibility requirements for grandfathered treatment, and the practical steps needed to ensure timely filing. It is for informational purposes only and is not a substitute for legal advice. Stakeholders should independently verify current USCIS guidance, filing fees, and processing timelines, and consult with qualified immigration counsel as appropriate. All fee amounts and processing timeframes cited below are current as of the date of publication and are subject to change; stakeholders should confirm against the current USCIS Fee Schedule (Form G-1055) and USCIS filing instructions at the time of submission.

The September 30, 2026 Deadline and Its Statutory Basis

The EB-5 Reform and Integrity Act, enacted as part of the Consolidated Appropriations Act, 2022,¹ reauthorized the EB-5 Regional Center Program through September 30, 2027. The RIA includes a grandfathering provision tied to a distinct September 30, 2026 deadline.² Under this provision, petitioners who properly file an I-526E petition on or before September 30, 2026 may be eligible for grandfathered treatment in the event that the regional center program sunsets or is not reauthorized beyond its current expiration date. The grandfathering provision is designed to protect petitioners who have committed capital and filed petitions in reliance on the program’s existence, ensuring that their immigration cases are not automatically terminated solely because of a future lapse in program authorization. Stakeholders should note that the September 30, 2026 date is a statutory filing deadline, not a processing or adjudication deadline, meaning that timely filing (as evidenced by a USCIS receipt date) is the operative trigger.

Key Eligibility Criteria

To qualify for grandfathered treatment under INA § 203(b)(5)(S), a petitioner must satisfy the following requirements:

- **Properly Filed Petition.** The petitioner must have properly filed a Form I-526E (Immigrant Petition by Regional Center Investor) with USCIS on or before September 30, 2026. A petition is considered “properly filed” when it is received by USCIS with the correct filing fee, is submitted on the current edition of the applicable form, and is accepted for processing (i.e., not rejected at intake). Petitions should be complete and accompanied by all required initial evidence to minimize the risk of rejection or return.

¹EB-5 Reform and Integrity Act of 2022, Pub. L. 117-103, Division BB, Title I (enacted Mar. 15, 2022).

²INA § 203(b)(5)(S), as added by RIA § 103(b).

- **Compliance with RIA Requirements.** The investment must comply with the requirements of the RIA, including the applicable minimum investment amounts (\$800,000 for targeted employment areas or \$1,050,000 for non-TEA investments). Under INA § 203(b)(5)(C), these amounts adjust automatically for inflation beginning January 1, 2027, and every five years thereafter, so the first adjustment will take effect shortly after the grandfathering deadline.³

Practical Filing Considerations

Filing Fees

As of the date of this guidance,⁴ the filing fees for Form I-526E consist of two components: a \$3,675 I-526E filing fee and a separate \$1,000 EB-5 Integrity Fund fee, for a combined total of \$4,675. For petitioners concurrently filing Form I-485, the adjustment application fee is \$1,440 (applicants age 14 and older) or \$950 (for a child under age 14 filing concurrently with a parent's I-485 application). Stakeholders should consult the current edition of Form G-1055 to verify applicable fees at the time of filing, as fee adjustments may occur. **Note:** DHS has proposed a fee rule that would set the I-526E filing fee at \$9,625. Stakeholders should monitor the Federal Register and USCIS fee guidance to determine whether a final rule has been published or become effective.

Premium Processing

Premium processing is not available for Form I-526E or any other EB-5 filing. The only expedited path under current law is the RIA's priority processing for petitions associated with rural-area projects. Expectations should be set accordingly: timely filing, not adjudication speed, is what secures grandfathered treatment.

Receipt Date Considerations

This is the single most critical practical point for grandfathering purposes. USCIS determines the filing date based on the date a properly filed petition or application is received at the designated filing location, not the postmark date.⁵ Stakeholders should account for mailing time, potential courier delays, and USCIS mailroom processing lags. For filings approaching the September 30, 2026 deadline, the current direct filing address should be confirmed on the USCIS I-526/I-526E filing addresses page immediately before dispatch, and tracked overnight courier should be used.

Any petition that is rejected at intake (for example, due to an incorrect fee, missing signature, outdated form edition, or defective payment) will not be considered "properly filed" and will not receive a receipt date. A rejected filing that is later corrected and resubmitted will receive a new receipt date based on the resubmission, which could fall after the September 30, 2026 deadline. The accepted form edition should be verified, and stakeholders should confirm that any applicable grace period has not lapsed before submission.

³INA § 203(b)(5)(C). The first automatic adjustment is scheduled for January 1, 2027.

⁴Fee amounts drawn from the USCIS Fee Schedule, Form G-1055, edition dated 05/29/2026.

⁵ See 8 C.F.R. § 103.2(a)(7); USCIS Policy Manual, Vol. 1, Pt. B.

Stakeholders should verify current USCIS payment instructions before submission, including whether payment must be submitted by credit or debit card, ACH, or another USCIS-accepted method. A defective payment will result in rejection, so accepted payment methods should be verified before submission.

The Program Sunset and Grandfathering Implications

If Congress does not reauthorize the program beyond September 30, 2027, or if a lapse occurs for any reason, the grandfathering provision under INA § 203(b)(5)(S) is designed to preserve the immigration cases of petitioners who filed on or before September 30, 2026. Specifically, grandfathered petitioners would not have their petitions or applications automatically revoked or terminated solely due to a program lapse. Their cases would continue to be processed, and approved petitions would retain their validity for purposes of immigrant visa issuance or adjustment of status.

Stakeholders should be aware, however, that grandfathering protections are not unlimited. If a regional center is terminated for cause, as opposed to a general program lapse, the grandfathering analysis may differ, and petitioners associated with a terminated regional center may face additional complications. In such cases, the good-faith investor protections under INA § 203(b)(5)(M) may provide a pathway for affected petitioners, and those provisions should be evaluated carefully. Stakeholders should monitor USCIS guidance and any legislative developments closely as the program's 2027 expiration approaches.

Stakeholders should also be aware of the limits of grandfathering. It does not guarantee petition approval, does not excuse compliance with any eligibility requirement (including lawful source of funds, at-risk capital, and job creation), and does not eliminate visa backlogs or per-country retrogression. Grandfathering preserves the processing of a timely filed case; it does not change the adjudication outcome or the timing of visa availability.

At a Glance

- **September 30, 2026:** last day an I-526E petition can be received by USCIS to qualify for grandfathering protection.
- **September 30, 2027:** current regional center program authorization expires unless Congress reauthorizes it.
- **October 1, 2026 through September 30, 2027:** filing remains possible while the program is authorized, but petitions filed in this window are not protected by the grandfathering provision if the program later lapses.

Recommended Best Practices — Stakeholder Checklist

Promptly

- Conduct a review of all pending or contemplated EB-5 regional center investments to identify any petitioners who have not yet filed an I-526E petition. Prioritize outreach to those potential petitioners and communicate the significance of the September 30, 2026 filing deadline.
- Verify the designation status of each associated regional center and document the verification.
- Confirm that all supporting documentation (source of funds, business plans, job creation analyses, and other required initial evidence) is complete or on track for completion well before the deadline.

By Mid-August 2026

- Finalize petition packages. Given the consequences of missing the September 30, 2026 deadline, stakeholders should aim to have petitions submission-ready no later than the end of August 2026, allowing adequate time for quality review, fee verification, form-edition confirmation, and secure delivery to the correct USCIS filing location. Verify current filing fees against Form G-1055 and confirm the accepted form edition for each filing.

By Early-to-Mid September 2026

- Submit filings. Do not wait until the final days of September. Account for delivery time, potential courier delays, and USCIS mailroom processing. Confirm the current direct filing address on the USCIS I-526/I-526E filing addresses page immediately before dispatch and use tracked overnight courier. Retain all delivery confirmation records. **Remember: the receipt date, not the postmark date, controls.**

Ongoing

- Be aware of the distinction between the filing deadline and the adjudication timeline; timely filing, not approval, is what triggers grandfathering eligibility, and that adjudication may take considerably longer.
- Monitor USCIS communications for any policy updates, fee changes, form edition updates, or operational guidance related to the grandfathering provision or the September 30, 2026 deadline. Subscribe to USCIS stakeholder alerts and review the USCIS Policy Manual for updates.
- Maintain clear records of all filing submissions, including delivery confirmations, receipt notices, and any correspondence with USCIS, to establish an evidentiary record of timely filing in the event of any future dispute.
- For families with children approaching age 21, evaluate potential age-out exposure under the Child Status Protection Act early; a child's age protection depends in part on visa availability and petition pendency.

Additional Resources

Stakeholders seeking further information may consult the following:

- [EB-5 Reform and Integrity Act of 2022](#) (Pub. L. 117-103, Div. BB, Title I)
- [INA § 203\(b\)\(5\)](#), as amended
- [USCIS Policy Manual, Volume 6, Part G](#) (Investors)
- [USCIS EB-5 Questions and Answers](#) (verify current version, including any updates concerning inventory management or § 203(b)(5)(M) good-faith investor protections)
- [USCIS Fee Schedule, Form G-1055](#) (current edition)
- [USCIS Immigrant Investor Regional Centers](#) (for designation verification)
- [IIUSA Best Practices Committee FAQs](#)

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