

EB5 – Investor Visa

The EB-5 Immigrant Investor Program is available to those immigrants who have invested, or are in the process of investing, at least \$1 million in a new commercial enterprise employing at least 10 full-time U.S. workers. Individuals who invest in a “targeted employment area” (TEA); however, are only required to invest a minimum of \$500,000. In addition, immigrant investors can invest \$500,000 in a qualified and approved Regional Center.

The purpose of the EB-5 program is to stimulate the U.S. economy through job creation and capital investment by offering immigrant investors the benefits of permanent residency in the United States.

Approximately 10,000 visa numbers are allocated annually to EB-5 investors. USCIS reserves 3,000 EB-5 visas for aliens who invest in TEAs and 3,000 for aliens who invest in commercial enterprises affiliated with Regional Centers, as described below. However, participation in the investor program has traditionally been far below capacity. In the first few years after the establishment of the program, USCIS only issued 300-400 EB-5 visas. When the EB-5 visa was originally created, it did not include the Immigrant Investor Regional Center Program, a USCIS five-year immigrant investor pilot program created in 1993 in an effort to encourage more investors to apply for EB-5 permanent residency.

The purpose of the Immigrant Investor Pilot Program is to attract more foreign investors to fund businesses and projects in specific “regional centers” that would otherwise find it difficult to attract domestic investment based on current geographical market trends. By bringing such investment into areas of economic hardship and high unemployment, Congress hopes to stimulate job expansion, improve regional productivity, invest in infrastructure, and promote the growth of innovative new businesses. Congress has made the Immigrant Investor Pilot program particularly attractive to foreign investors by lowering the investment minimum to \$500,000 (for a business in a designated regional center or TEA) as opposed to \$1,000,000, and by allowing a less restrictive job creation requirement based upon the creation of “indirect” and “direct” jobs and not requiring the day to day management of the business. The Immigrant Investor Pilot Program has been extended several times, and was recently extended through September 30, 2015.

Despite the very high approval rate for EB-5 Visas, USCIS gives this visa a high level of scrutiny to ensure the investor is not laundering money to establish the business. The EB-5 visa essentially offers a good immigration solution for those who have the financial resources to qualify. It does not require an employment offer from a U.S. employer as other employment-based immigration categories do, nor does it require a labor certificate. With the current economic downturn, USCIS has relaxed its requirements for the EB-5 program as a means to bring in more foreign investment. Most importantly, because the annual quota consistently exceeds the number of applicants, those who qualify for EB-5 status do not typically have to wait long for a visa as there is currently no visa quota backlog for the EB-5 investor category.