June 8, 2021

EB-5 Immigrant Investor Regional Center Program

The EB-5 Regional Center Program (RCP) allows foreign national investors to qualify for lawful permanent resident (LPR) status in exchange for foreign capital investment and job creation in specified geographic areas in the United States. The RCP is part of the EB-5 (fifth employment-based preference category) Immigrant Investor Program, established by Congress in 1990.

The EB-5 preference category provides admission to foreign nationals who

- invest at least $1,800,000, or $900,000 in a rural area or an area with high unemployment (targeted employment areas [TEAs]), in a new commercial enterprise (NCE) in the United States; and
- create or preserve at least 10 jobs.

The investment must be placed at risk (i.e., have a risk of loss and a chance for gain). After approximately two years in conditional LPR status, foreign investors and their derivative spouses and children (unmarried and under age 21) must file a petition with U.S. Citizenship and Immigration Services (USCIS) to remove the conditions on their status. The petition must include evidence that the principals invested and sustained the investment during the period of residence and that the NCE has met or will meet job creation requirements. If the principals have met these requirements, they and their derivatives become LPRs.

The RCP is one of two pathways to LPR status in the EB-5 program. In the original pathway, known as the standard or stand-alone pathway, foreign nationals invest in an enterprise that uses the capital for direct job creation. The second pathway, the RCP, allows investors to pool investments into an NCE, which are typically used to fund a separate job-creating enterprise.

Congress authorized the RCP in 1992 as the Immigrant Investor Pilot Program. Initially set to expire after five years, Congress has continuously extended the RCP since 1997 and struck "pilot" from the program name in 2012. In FY2019 (the most recent available data), 96% of those admitted through the EB-5 program invested in NCEs associated with regional centers. Although regional center investors now account for nearly all of EB-5 admissions, the RCP remains temporary. Currently, funding for the program is set to expire on June 30, 2021.

What is a Regional Center?

The term *regional center* refers to an entity, often a limited partnership or a limited liability corporation, that pools investments to fund projects that promote economic growth in a geographic region. They can be privately owned, publicly owned, or a public-private partnership. Regional centers can be associated with one or more NCEs.

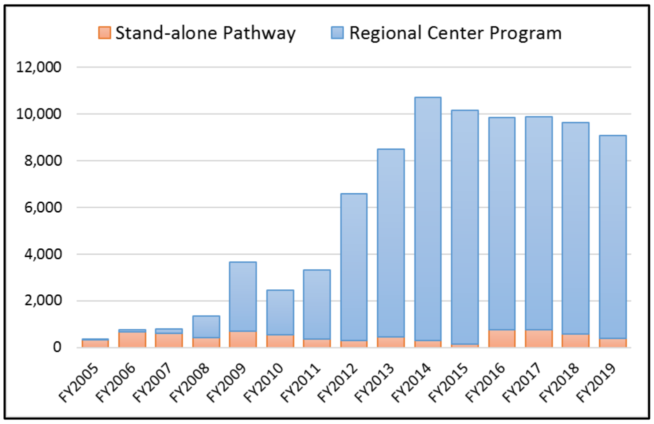
RCP investors may invest in any regional center currently designated by USCIS. As of January 2021, there were 673 active USCIS-approved regional centers. Nearly all regional center investors choose TEAs, which have lower investment thresholds. Regional center investors may count indirect job creation (jobs held outside, but created as a result, of the NCE) instead of or in addition to direct job creation. Indirect job creation must be demonstrated with reasonable economic or statistical methodologies. In contrast to investors using the stand-alone pathway, regional center investors tend not to be involved in the management and daily activities of the NCE.

Admissions through the RCP

Regional centers have become the most common pathway to LPR status for EB-5 investors and their derivatives. In FY2019, 8,684 individuals were admitted through the RCP, compared with 398 individuals admitted through the stand-alone pathway. **Figure 1** shows the number of individuals admitted through the EB-5 preference category through the RCP and stand-alone pathway from FY2005 to FY2019. *Admissions* refer to foreign nationals who receive conditional LPR status either as new arrivals to the United States or by adjusting status from within the United States.

Growth of the EB-5 program from FY2008 through FY2014 occurred through increased participation in the RCP. Although admissions have declined in recent years, the RCP continues to account for the substantial majority of EB-5 admissions. Economic impact studies have found that most EB-5 investment spending and job creation are generated through regional centers, in industries including construction, real estate, and others.

Figure 1. EB-5 Admissions by Pathway (Stand-alone and Regional Center), FY2005-FY2019



Source: CRS, based on data from the U.S. Department of Homeland Security, *Yearbook of Immigration Statistics,* Table 7, multiple years.

Notes: Admissions include principal investors and derivative family members (spouses and children).

In FY2019, about 36% of those admitted through the RCP were investors (3,135); 64% were investors' spouses and children (5,545). Most (83%) of those receiving conditional LPR status were new arrivals to the United States; 17% of investors and derivatives adjusted to conditional LPR status from within the United States.

Regional Center Designations

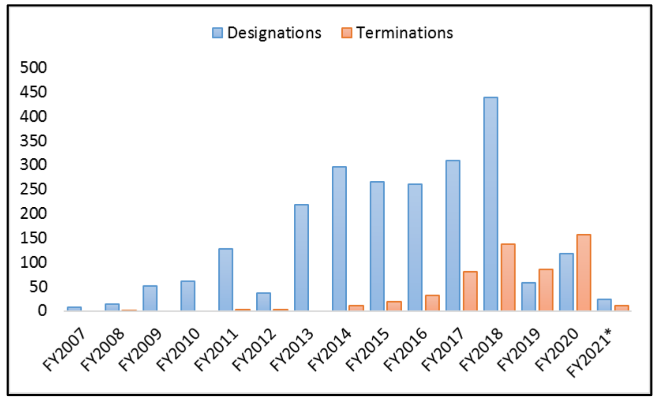
A separate process from the admission of investors exists for the USCIS designation of regional centers, which includes the submission of a proposal. The proposal must

- describe the regional center's focus on a limited geographic region of the United States;
- describe how the regional center will promote economic growth through increased export sales, improved regional productivity, job creation, and increased domestic capital investment;
- explain how jobs will be created directly or indirectly;
- show the amounts and sources of capital that have been committed to the regional center;
- describe promotional efforts taken and planned by the regional center's sponsors;
- predict how the regional center will have a positive impact on the regional or national economy; and
- be supported by valid forecasting tools.

Proposals must also include a management and operational plan for administrating, overseeing, and managing the regional center.

Regional centers must demonstrate continued eligibility for USCIS designation each year by providing evidence of continued promotion of economic growth. USCIS may terminate a regional center's designation if it fails to submit the required information or demonstrate continued promotion of economic growth.

Figure 2. USCIS Regional Center Designations and Terminations, FY2007-FY2021



Source: Designations: Data provided to CRS by USCIS on June 1, 2021. Terminations: USCIS, "Regional Center Terminations," at https://www.uscis.gov/

Notes: FY2021 current through March.

Figure 2 shows the annual number of new regional center designations for the last 15 fiscal years. Regional center designations peaked in FY2018 before declining in FY2019 and FY2020. These trends may in part reflect reaction to a federal regulation that reformed the TEA designation process and higher minimum investment thresholds, initially proposed in January 2017 and implemented in November 2019. In FY2019 and FY2020, there were more terminations of existing regional centers than new designations, indicating that some previously designated regional centers had failed to prove economic growth on their annual certifications, which is the most common reason for termination.

RCP Reauthorizations

Since 2015, the RCP has been re-authorized on short-term bases of less than one year. Those reauthorizations typically had been included in consolidated appropriations bills. Most recently, P.L. 116-260, enacted in December 2020, extended the program through June 30, 2021. If Congress seeks to reauthorize the RCP prior to its June 30, 2021, sunset date, it would apparently do so separately from the annual appropriations process.

A lapse in funding would likely put a pause on application processing for RCP investors and on regional center designations. During a previous funding lapse in December 2018, USCIS put RCP investor applications on hold, stopped accepting new applications for regional center designations, and placed pending regional center applications on hold. Investors already admitted and filing to remove conditions on their permanent resident status were not affected by the program's expiration.

Stakeholders argue that continuous reauthorizations of the RCP in recent years through short-term measures, such as continuing resolutions, have led to uncertainty for investors who have already made investments but have not yet been admitted to the United States, as well as for other industry stakeholders.

Since their establishment, EB-5 and the RCP have been subject to controversy. Some Members of Congress have expressed concerns over instances of fraud and abuse in the RCP and the EB-5 program—some have sought to reform the program, and others to eliminate it. The RCP has been scrutinized for TEA investments funding projects, such as luxury real estate, in affluent urban areas. The previously mentioned 2019 federal regulation implemented changes that addressed some concerns, including changes to the TEA designation process intended to avoid gerrymandering. In recent years, bipartisan measures have been introduced that would pair RCP extensions with reforms to address fraud and security concerns.

For more information about the EB-5 Immigrant Investor Program, see CRS Report R44475, *EB-5 Immigrant Investor Visa*.

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