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Overview of the EB-5 Immigrant Investor Program

The EB-5 Immigrant Investor Program allows foreign national investors to qualify for lawful permanent resident (LPR) status (i.e., a *green card*) by investing a specified amount of capital in a U.S. enterprise and creating at least 10 U.S. jobs. The program is administered by U.S. Citizenship and Immigration Services (USCIS) within the U.S. Department of Homeland Security (DHS).

Congress established the program as the fifth employment-based (EB) permanent immigration category in 1990. The program and its requirements are codified in Section 203(b)(5) of the Immigration and Nationality Act (INA; 8 U.S.C. §1153(b)(5)). The statute was amended by the EB-5 Reform and Integrity Act of 2022 (RIA; P.L. 117-103, Division BB). This In Focus reflects the requirements under the statute as amended by the RIA. In some cases, investors who filed petitions prior to the RIA's enactment may be subject to the pre-RIA requirements. For more information, see the USCIS Policy Manual.

EB-5 investors must invest capital in a new commercial enterprise (NCE), which is “any for-profit organization formed in the United States for the ongoing conduct of lawful business” and may encompass several business types, including sole proprietorship, partnership, holding company and its wholly owned subsidiaries, joint venture, corporation, business trust, and limited liability company.

EB-5 investors and their spouses and minor, unmarried children (*derivatives*) initially receive conditional LPR status. After approximately two years, investors and their derivatives may file to remove the conditions on their status. With their petitions to remove conditions on their status, investors must submit evidence of having met the program's investment and job creation requirements. LPRs may become U.S. citizens through the naturalization process, typically after five years.

Numerical Limits

The INA's five employment-based categories are limited to 140,000 green cards, in total, annually. The EB-5 category is limited to 7.1% of that total (9,940). This annual limit includes investors, their spouses, and minor children.

In addition to these annual numerical limits, EB categories are subject to a per-country ceiling under the INA that limits the number of immigrants from any single country to 7% of the annual limit. The INA provides exceptions to numerical limits and the per-country ceiling when there are unused employment-based or family-sponsored green cards in a fiscal year.

Investment Pathways: Standalone and Regional Center Program

EB-5 offers two investment pathways: standalone and the Regional Center Program. In the standalone pathway, the

foreign national's investment in the NCE must create “direct jobs” (those held inside the NCE or its subsidiaries).

Most EB-5 investors choose to invest in USCIS-approved regional centers. The Regional Center Program allows investors to pool their investments with other sources of capital to fund qualified projects. Although all EB-5 investors must show engagement with the commercial enterprise, compared with standalone investors, regional center investors tend to be less involved in the management and daily activities of the commercial enterprise.

While the standalone pathway is permanent, the Regional Center Program is authorized on a temporary basis. It was established as a pilot program in 1992 and had been regularly extended in appropriations legislation. The RIA codified the Regional Center Program in the INA and authorized it through September 30, 2027.

Regional centers must “operate within a defined, contiguous, and limited geographic area.” Proposals to establish regional centers must show that the pooled investments “will have a substantive economic impact on such geographic area.” Regional center investors may count toward the job creation requirement “indirect jobs,” which are those held outside of the NCE but created as a result of the investment in the NCE (see the “Job Creation Requirements” section). Persons involved with regional centers must be U.S. nationals or LPRs; foreign officials and entities may not provide capital or be involved with the ownership or administration of regional centers.

Regional centers must go through a designation process. As of February 2025, 547 regional centers were approved by USCIS. Regional centers must demonstrate ongoing eligibility for designation each year and pay an annual fee (\$20,000 for regional centers with more than 20 investors; \$10,000 for those with 20 or fewer investors) to finance the EB-5 Integrity Fund, which was established in the RIA to help fund monitoring and investigations, including those related to fraud. USCIS may terminate regional centers' designations if they fail to demonstrate eligibility, fail to pay the required fee, or violate other requirements.

Investment Requirements

The capital investment amounts specified in the INA (as amended by the RIA) are \$1,050,000 or \$800,000 for an investment in a high unemployment area or rural area (called Targeted Employment Areas [TEAs]) or in an infrastructure project (defined below). Investment requirements are the same for standalone and regional center investors. The RIA provides for these amounts to be adjusted for inflation as measured by the Consumer Price Index for All Urban Consumers every five years, beginning on January 1, 2027, via publication of a technical amendment in the *Federal Register*.

Capital includes “cash and all real, personal, or mixed tangible assets owned and controlled by the alien investor, or held in trust for the benefit of the alien and to which the alien has unrestricted access.”

Investors must own or control the capital, or hold it in a trust to which they maintain access. They must have obtained the capital by lawful means and expect to maintain the investment for at least two years. The investment must be at risk for the purpose of generating a return.

Targeted Employment Areas

Under the RIA, targeted employment areas that qualify for the lower investment threshold (\$800,000) include high-unemployment areas or rural areas. In addition, the RIA established certain visa set-asides for TEAs and for infrastructure projects. Each year, 10% of visas are reserved for those investing in high unemployment areas, 20% are reserved for those investing in rural areas, and 2% are reserved for those investing in infrastructure projects.

A “high unemployment area” is one in which the new commercial enterprise is principally doing business and in which the corresponding census tract, or contiguous census tracts, have a weighted average unemployment rate that is at least 150% of the national rate. Under the RIA, only DHS may designate a high unemployment area.

A “rural area” is “any area other than an area within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) or within the outer boundary of any city or town having a population of 20,000 or more (based on the most recent decennial census of the United States).”

“Infrastructure projects” are capital investment projects administered by a governmental entity and involve maintaining, improving, or constructing a public works project.

Job Creation Requirements

A fundamental requirement for investors is that their investment in an NCE create at least 10 full-time jobs for U.S. citizens, U.S. nationals, LPRs, or other aliens lawfully authorized for employment.

Standalone investments must create direct jobs—that is, jobs for which the NCE is the employer. Regional center investors may fulfill 90% of the job creation requirement with jobs estimated to have been created indirectly. Indirect jobs are those held outside the NCE but created as the result of the NCE and must be demonstrated using “reasonable methodologies.” These include “induced jobs” created by employees’ spending on consumer goods and services. Indirect jobs created by construction activity lasting less than two years may satisfy 75% of the job creation requirement.

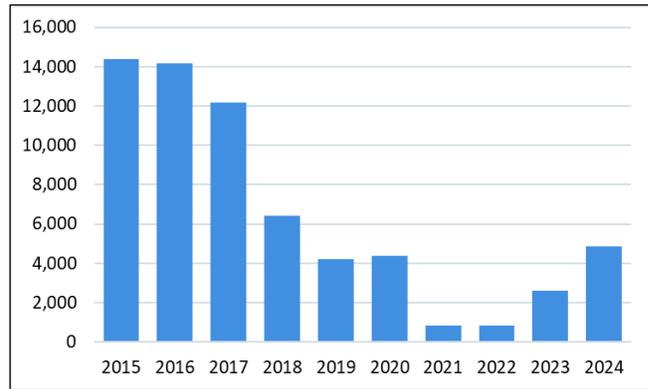
Selected Trends

The largest annual number of investor petitions (Forms I-526/526E) received by USCIS was 14,373 in FY2015 (Figure 1). In recent years, fewer annual new petitions

were filed by EB-5 investors. In FY2024, USCIS received 4,848 new EB-5 petitions.

As of December 2024, USCIS had approved 12,252 petitions (Forms I-526/E) that were awaiting visa availability, 99% of which were filed by investors from China. Such waits occur because of the INA’s annual numerical limits.

Figure 1. EB-5 Investor Petitions Received by USCIS, FY2015-FY2024

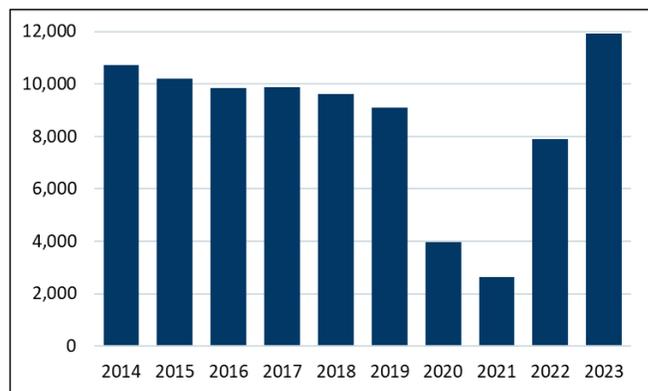


Source: DHS, USCIS, “All USCIS Application and Petition Form Types,” multiple years.

Note: Includes both regional center and standalone petitions.

Because of annual numerical limits and the per-country ceiling, even with fewer new EB-5 petitions filed in recent years, annual admissions of conditional LPRs through the program remain high because investors from certain countries (in particular, China) sometimes wait years for a visa to become available. In FY2023, 11,930 persons received conditional LPR status under the EB-5 category (Figure 2).

Figure 2. EB-5 Conditional LPR Admissions, FY2014-FY2023



Source: DHS, Office of Homeland Security Statistics, 2023 Yearbook of Immigration Statistics, Table 6.

Note: FY2023 is the most recent data available.

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