



EB-5 Investor Program

The EB-5 program was created by the U.S. government to stimulate job creation through capital investment by foreign investors in U.S. businesses. In exchange for investing in a business that creates jobs for full-time U.S. workers, foreign nationals and their immediate family members are eligible to become permanent residents of the United States. Our EB-5 team assists regional centers, job-creating businesses, and individuals who wish to become EB-5 investors in matters related to the EB-5 program (the immigrant investor visa program).

Our EB-5 attorneys help navigate the complexities of meeting changing EB-5 requirements, including structuring solutions for any issues that may arise with the businesses that create the necessary jobs or with the USCIS (U.S. Citizenship and Immigration Services). Foreign individuals can qualify for an EB-5 Visa by either investing capital through a “regional center,” as described below, or investing directly into the enterprise that creates jobs. Each investor’s investment must create at least 10 full-time jobs for U.S. workers. Each EB-5 Visa applicant must invest a minimum of \$1,800,000 in a job-creating venture. If the business receiving capital is located in a Targeted Employment Area (TEA) – defined as a rural area or a region with high unemployment – the minimum investment amount is reduced to \$900,000.

An EB-5 regional center is designated by the USCIS as a “regional center” and brings together the individual investors who wish to immigrate to the U.S. and the job-creating businesses seeking funds under the EB-5 program. To accomplish this, the regional center raises money by conducting a securities offering to foreign investors interested in obtaining an EB-5 Visa. The foreign investors make an equity investment into an entity that the regional center has formed, and then the regional center entity makes an investment directly into the project created by the job-creating business either in the form of a loan or another equity investment.

PROFESSIONALS

Jonathan C. Eggert
Melissa Azallion Kenny
Jennifer M. Moseley

RELATED AREAS

Business Formation
Economic Development
Immigration
Mergers & Acquisitions
Real Estate

EB-5 Investor Program

EB-5 projects can be any type of business, and many are real estate development projects such as senior living centers, hotels, and commercial and retail spaces.

Investing capital through a regional center rather than directly into the job-creating business provides several major benefits to immigrants seeking U.S. residency through the EB-5 program. One of the most important advantages is the ability to count both direct and indirect or induced jobs. Under the direct investment program, only direct jobs are eligible to meet the job creation criteria. Direct job creation is a result of an investment which has created and sustained ten new actual identifiable jobs over a two-year period.

Under the regional center program, however, investors can satisfy the job requirement by also showing the indirect and induced job creation from pooled funds of all investors in the project. These jobs can be created indirectly or as a result of the capital invested in a commercial enterprise affiliated with a regional center. The investor does not need to show that he or she directly hired any employees and the burden of proving job creation is passed on to the regional center. In addition to the job count advantages, another benefit to investing through a regional center is that the regional center entity is able to make a loan to the job-creating business. While the investor's money must be "at risk" at the regional center entity level, the regional center entity can make a loan to the EB-5 project, the advantage of which is that loans must be paid off before equity and can be secured with collateral.

Regardless of whether a foreign investor chooses to invest through a regional center or through a direct investment, the process to obtain an EB-5 Visa is the same. First, the individual foreign investor submits an I-526 application to the USCIS for conditional green card status, and in addition to meeting the EB-5 requirements for the investment, the individual must prove the lawful source of funds for the investment and meet the background checks that apply in any immigration process. Once the I-526 application is approved, the foreign investor must then complete an interview with the U.S. consular office in his or her home country. The foreign investor may then enter the U.S. after approval by the consular officer and issuance of the EB-5 Visa. A foreign investor is eligible to obtain his or her permanent green card status by submitting the I-829 application, which must be submitted between 21-24 months after entry into the U.S. The timeline for this entire immigration process varies and is dependent on the backlog with the USCIS at the time of application, as well as the country from which the foreign investor is immigrating. The process for obtaining the conditional green card can take 2-5 years under the current processing timelines.

Please see the following information on the USCIS website for more information on the EB-5 program:

[EB-5 Immigrant Investor Overview](#)
[EB-5 Immigrant Investor Process](#)
[Approved Regional Centers by State](#)

News

- Jennifer Moseley Named to "Top 15 Corporate Attorneys" for a Seventh Consecutive Year by *EB-5 Investors Magazine*
Firm News, EB-5 Investors Magazine, 10.09.2023

EB-5 Investor Program

Publications

- Jonathan Eggert and Jennifer Moseley Detail EB-5 and E-2 Visa Programs in Commercial Property Executive
Commercial Property Executive, 11.30.2023
- Jennifer Moseley and Ashmin Chowdhury Featured in EB-5 Investors Magazine
Articles / Publications, *EB-5 Investors Magazine*, 09.22.2023