

EB-5 Update

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Basic Requirements

- Congress created the EB-5 Program in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors.
- The foreign investor, his/her spouse and children under age 21 will obtain US permanent residence and path to US Citizenship.
- An EB-5 investor must invest the required amount of capital in a new commercial enterprise that will create full-time positions for at least 10 qualifying employees.
- The current investment amount is either \$500,000, if the project is located within a Targeted Employment Area (“TEA”), or \$1,000,000 if not located within a TEA. A location qualifies as a TEA if it is either a rural area, or an area that has experienced high unemployment (defined as at least 150% of the national average unemployment rate).

Changing Landscape

Regulations effective on Nov. 21, 2019; will

- (i) increase the investment amount from \$500,000 to \$900,000 for TEA, and from \$1,000,000 to \$1,800,000 for outside a TEA, and
- (ii) limit the areas that will qualify as TEA.

The EB-5 program has gone through different phases since its inception: there were just 700 visas issued in 2007; in 2014, for the first time ever, the program reached its quota of 10,000 visas; and we are now in a “post-China” phase where petitions from the “Rest of World” outnumbered petitions from Chinese applicants starting in 2016.

Investors from Latin America are vital to the success of the EB-5 program.

The increased importance of LatAm and other markets is mainly due to the delay impacting investors from mainland China, India and Vietnam.

As an example it is expected that an investor from mainland China may have to wait 16 years to obtain the residence status and investors from India and Vietnam may have to wait 7 years.

Future of EB-5

- The future of EB-5 will depend on whether Congress can pass definitive legislation that will extend the program and provide relief to the impact of retrogression.
- It will also depend on whether foreign investors will continue to view the US as the best destination for their families and capital.

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