

US EB-5, Immigrant Investor Program - FAQs

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1. What is the EB-5, Immigrant Investor Program?

Created by Congress in 1990, the EB-5 Immigrant Investor Program was intended to stimulate the US economy through job creation and capital investment by foreign investors.

Individuals who make a qualifying investment and otherwise meet all eligibility criteria for the EB-5 program are granted Conditional Lawful Permanent Resident (“LPR”) status for a two-year period. After meeting the requirements to remove conditions, the EB-5 investor may file to remove the conditions and gain full LPR status.

2. What are the basic eligibility requirements for an EB-5 Investor Visa?

To qualify for the EB-5, Immigrant Investor Program, one must:

- Establish a new business OR invest in an existing business which was created or restructured after November 19, 1990;
- Invest \$1,800,000.00 USD (or \$900,000.00 USD if investment is in USCIS designed Regional Center) in EB-5 enterprise; and
- Ensure that the EB-5 enterprise will create the required employment (see FAQ 6 below).

3. What is an EB-5 Regional Center?

An EB-5 Regional Center is an organization designated by US Citizenship and Immigration Services for investors and companies looking to complete a project under the EB-5 Program.

A regional center can be any private or public economic entity that is involved with the promotion of increased domestic capital, job creation, improved regional productivity, and increased economic growth.

A Regional Center obtains its designation by submitting a detailed application to US Citizenship and Immigration Services (USCIS).

To obtain regional center designation from USCIS, one must submit a proposal showing:

- How the regional center plans to focus on a geographical region within the US and how it will achieve the required economic growth within this regional area;
- The regional center’s business plan can be relied upon as a viable business model grounded in reasonable and credible estimates and assumptions for market conditions, project costs, and activity timelines;
- How employment will be created directly or indirectly through capital investments made in accordance with the regional center’s business plan; and

- The amount and source of capital committed to the project and the promotional efforts made and planned for the business project.

4. What is a Targeted Employment Area?

A Targeted Employment Area (TEA) project is one that is:

- Located within a Metropolitan Statistical Area (MSA); and
- Located in an area that has experienced an average unemployment rate of 150% of the national average.

Unemployment rates are listed on the [Bureau of Labor and Statistics' website](#). In some situations, where publicly available data is limited, a TEA certificate letter may be required from the appropriate state agency.

5. What types of capital may be utilized for EB-5 investment?

Qualifying investments may be made with cash, cash equivalents, equipment, inventory or other tangible property.

Capital does not include loans made by the investor to the venture; however, the investor may borrow the investment money if it is secured by assets owned by the investor. An EB-5 investor may invest funds that have been lawfully gifted to the EB-5 investor so long as all applicable taxes have been paid on the gifted funds.

6. What employment must be created?

Each EB-5 investor must create or preserve at least ten (10) full-time employment positions for qualifying employees. Qualifying employees are US citizens, US lawful permanent residents, asylees, or refugees. Those holding nonimmigrant status and the investor's family members will not be considered qualified employees for the purpose of this requirement.

For a new commercial enterprise that is not located within a regional center, the EB-5 enterprise must directly create the full-time positions. This means that the new commercial enterprise (or wholly-owned subsidiaries thereof) must itself be the employer of the qualifying employees. For a new commercial enterprise located within a regional center, the new commercial enterprise can directly or indirectly create the full-time positions.

In the case of a troubled business, the EB-5 investor may rely on job maintenance. The investor must show that the number of existing employees is, or will be, no less than the pre-investment level for a period of at least two (2) years.

7. What is a "troubled business" for EB-5 purposes?

A troubled business is one that has been in existence for at least two years and has incurred a net loss during the one (1) or two (2) year period before the priority date on the immigrant investor's Form I-526. The loss for this period must be at least 20% of the troubled business' net worth before the loss.

When determining whether the troubled business has been in existence for two years, USCIS will consider successors in interest to the troubled business when evaluating whether they have been in

existence for the same period of time as the business they succeeded.

8. What eligibility requirement must be met to remove the conditions placed upon an EB-5 investor upon approval of the initial petition?

To remove the conditional LPR status and obtain full LPR status, the EB-5 investor must prove the following:

- A new commercial enterprise has been established;
- The necessary amount of capital has been placed at risk;
- The capital invested was lawfully sourced; and
- The investment created the necessary full-time employment positions; or
- If the investment is made in an existing business experiencing financial difficulty, the current employment positions will be secure for at least two (2) years