
EB-5 Capital Markets

Legal perspectives on EB-5 project finance

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EB-5 Questions and Answers Series – What is the EB-5 Program?

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What is the EB-5 program?

Also known as “EB-5,” the Immigrant Investor Program was created by Congress in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors. Under the pilot immigration program, first enacted in 1992 and rolled out in 1993, certain EB-5 visas are set aside for investments in Regional Center projects. The pilot program is currently authorized until September of 2015. Foreign nationals investing the required funds who demonstrate creation of the requisite number of jobs will receive conditional permanent residency, or a conditional “green card,” in the United States for himself/herself, his/her spouse and all dependent, unmarried children under age 21.

What are the basic requirements for an EB-5 investment?

- *Foreign investor must have invested in, or be in the process of investing, the necessary capital into a project.* Investment must be \$1,000,000 unless the project is located in a Targeted Employment Area (TEA), in which case the investment amount is reduced to \$500,000. Investment must be in a for profit business, not a passive security such as the stock market.
- *Investment must create ten jobs.* This may include both direct and indirect jobs if the investment is in a Regional Center project.
- *Investor must document the lawful source of the investment funds and trace the investment to the U.S. EB-5 project.*
- *Investment must be “at risk”.* No guarantees for return of funds to the investors may be made by the project.
- *The required investment amount must be used only for job-creating “business activity,” and not for capital reserves or transaction costs.*