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EB-5 Immigrant Investor Visa

Updated April 22, 2016

Congressional Research Service
https://crsreports.congress.gov
R44475

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

The immigrant investor visa was created in 1990 to benefit the U.S. economy through employment creation and an influx of foreign capital into the United States. The visa is also referred to as the EB-5 visa because it is the fifth employment preference immigrant visa category. The EB-5 visa provides lawful permanent residence (i.e., LPR status) to foreign nationals who invest a specified amount of capital in a new commercial enterprise in the United States and create at least 10 jobs. The foreign nationals must invest $1,000,000, or $500,000 if they invest in a rural area or an area with high unemployment (referred to as targeted employment areas or TEAs).

There are approximately 10,000 visas available annually for foreign national investors and their family members (7.1% of the worldwide employment-based visas are allotted to immigrant investors and their derivatives). In FY2015, there were 9,764 EB-5 visas used, with 93% going to investors from Asia. More specifically, 84% were granted to investors from China and 3% were granted to those from Vietnam.

In general, an individual receiving an EB-5 visa is granted conditional residence status. After approximately two years the foreign national must apply to remove the conditionality (i.e., convert to full-LPR status). If the foreign national has met the visa requirements (i.e., invested and sustained the required money and created the required jobs), the foreign national receives full LPR status. If the foreign national investor has not met the requirements or does not apply to have the conditional status removed, his or her conditional LPR status is terminated, and, generally, the foreign national is required to leave the United States, or will be placed in removal proceedings.

In 1992, Congress established the Regional Center (Pilot) Program, which created an additional pathway to LPR status through the EB-5 visa category. Regional centers are "any economic unit, public or private, which [are] involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment." The program allows foreign national investors to pool their investment in a regional center to fund a broad range of projects within a specific geographic area. The investment requirement for regional center investors is the same as for standard EB-5 investors. As the use of EB-5 visas has grown, so has the use of the Regional Center Program. In FY2014, 97% of all EB-5 visas were issued based on investments in regional centers. Unlike the standard EB-5 visa category, which does not expire, the Regional Center Program is set to expire on September 30, 2016.

Different policy issues surrounding the EB-5 visa have been debated. Proponents of the EB-5 visa contend that providing visas to foreign investors benefits the U.S. economy, in light of the potential economic growth and job creation it can create. Others argue that the EB-5 visa allows wealthy individuals to buy their way into the United States.

In addition, some EB-5 stakeholders have voiced concerns over the delays in processing EB-5 applications and possible effects on investors and time sensitive projects. Furthermore, some have questioned whether U.S. Citizen and Immigration Services (USCIS) has the expertise to administer the EB-5 program, given its embedded business components. The Department of Homeland Security's Office of the Inspector General (DHS OIG) has recommended that USCIS work with other federal agencies that do have such expertise, while USCIS has reported that it has taken steps internally to address this issue. USCIS has also struggled to measure the efficacy of the EB-5 category (e.g., its economic impact). USCIS methodology for reporting investments and jobs created has been called into question by both the DHS OIG and the U.S. Government Accountability Office (GAO).

Furthermore, some have highlighted possible fraud and threats to national security that the visa category presents. In comparison to other immigrant visas, the EB-5 visa faces additional risks of fraud that stem from its investment components. Such risks are associated with the difficulty in verifying that investors' funds are obtained lawfully and the visa's potential for large monetary gains, which could motivate individuals to take advantage of investors and can make the visa susceptible to the appearance of favoritism. USCIS has reported improvements in its fraud detection but also feels certain statutory limitations have restricted what it can do. Additionally, GAO believes that improved data collection by USCIS could assist in detecting fraud and keeping visa holders and regional centers accountable.

Lastly, the authority of states to designate TEAs has raised concerns. Some have pointed to the inconsistency in TEA designation practices across states and how it could allow for possible gerrymandering (i.e., all development occurs in an area that by itself would not be considered a TEA). Others contend that the current regulations allow states to determine what area fits their economic needs and allow for the accommodation of commuting patterns.

In addition to the issues discussed above, Congress may consider whether the Regional Center Program should be allowed to expire, be reauthorized, or made permanent, given its expiration on September 30, 2016. In addition, Congress may consider whether any modifications should be made to the EB-5 visa category or the Regional Center Program. Legislation has been introduced in the 114th Congress that would, among other provisions, amend the program to try to address concerns about fraud, and change the manner in which TEAs are determined. Other bills would create an EB-5-like visa category for foreign national entrepreneurs who do not have their own capital but have received capital from qualified sources, such as venture capitalists.

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Overview

Congress created several nonimmigrant and immigrant visa categories as a way to increase investment and job creation in the United States.[1] There are two nonimmigrant investor visa categories, the E-1 visa for treaty traders and the E-2 visa for treaty investors.[2] For immigrants, there is one investor visa category, the EB-5 visa, which is the fifth employment preference immigrant visa category.[3] The EB-5 visa was created through the Immigration Act of 1990 (P.L. 101-649). The goal of the EB-5 category is to attract new foreign capital investment to the United States and generate employment.[4] The category provides individual foreign national investors and their derivatives[5] lawful permanent residence (LPR)[6] in the United States when they invest a specified amount of capital in a new commercial enterprise that creates at least 10 jobs.[7]

In general, individuals receiving EB-5 visas are granted a conditional residence status. After approximately two years, they must apply to remove the conditionality from their residency status. If they have met the visa requirements (i.e., invested and sustained the required money and created the required jobs), the foreign national receives full LPR status. If the foreign national investor has not met the requirements or does not apply to have the conditional status removed, his or her conditional LPR status is terminated, and, generally, the foreign national is required to leave the United States, or will be placed in removal proceedings.

Some Members of Congress contended during discussions around the creation of the visa that potential immigrants would be "buying their way in" to the United States. Others maintained that the program's requirements would protect its integrity.[8] The Senate Judiciary Committee report on the originating legislation stated that it "is intended to provide new employment for U.S. workers and to infuse new capital into the country, not to provide immigrant visas to wealthy individuals."[9]

In 1992, Congress created the Regional Center Program,[10] an additional pathway for foreign national investors to obtain an EB-5 visa. Unlike the EB-5 visa category, which does not expire, the Regional Center Program is temporary and is scheduled to expire on September 30, 2016. By investing through a regional center, foreign national investors are subject to different requirements pertaining to the measure of job creation, and are unlikely to be involved in the management of the commercial enterprise. For each fiscal year, approximately 7.1% (roughly

[1] Immigrants are foreign nationals who are admitted to the United States to live and work permanently. Nonimmigrants are foreign nationals who are admitted to the United States for a specific purpose and a specified period of time.

[2] For more information, see CRS Report RL33844, *Foreign Investor Visas: Policies and Issues*.

[3] Immigration and Nationality Act (INA) §203(b)(5). For more on the employment preference immigration system, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

[4] INA §203(b)(5); 8 U.S.C. §1153(b)(5).

[5] Spouses and children who accompany or later follow qualifying or principal immigrants are referred to as derivative immigrants. For the purposes of EB-5, a derivative refers to spouses and unmarried children less than 21 years of age.

[6] An LPR is a foreign national who has been admitted to live permanently in the United States and to possibly become a citizen when those requirements are met.

[7] Under certain circumstances, the preservation of existing jobs can count towards the job creation. 8 C.F.R. 204.6(j)(4)(ii).

[8] For debate on this issue, see 136 *Congressional Record* S7768-75 (July 12, 1990).

[9] S.Rept.101-55, p. 21.

[10] As enacted in 1992 (P.L. 102-395 §610), the program was known as the Regional Center Pilot Program. During the most recent reauthorization of the program in 2012 (P.L. 112-176), the name was changed to the Regional Center Program.

10,000) of the total employment-based visas (140,000) are available for EB-5 investors and their derivatives, of which 3,000 are reserved for entrepreneurs investing in "targeted employment areas" (TEA),[11] and 3,000 are reserved for those participating in the Regional Center Program.[12]

The upcoming expiration date of the Regional Center Program has renewed congressional focus on the EB-5 visa category. Questions include whether the Regional Center Program should be extended or made permanent, and if so should it be modified, or should it be allowed to expire.

There are additional concerns that Congress may consider with respect to the EB-5 visa category as a whole. For example, the required amounts of capital have not changed since the program was created in 1990. This has raised questions about whether the amounts should be adjusted, and what effect increasing the amounts would have on the number of applicants. Some have also raised concerns about fraud in the program,[13] including possible national security concerns.[14] Thus, Congress may choose to evaluate the oversight of the EB-5 category and the fraud detection mechanisms used during EB-5 adjudications. Other issues that have been raised include the capacity of U.S. Citizenship and Immigration Service (USCIS, part of the Department of Homeland Security (DHS)) to handle the complexity of regional center designations and EB-5 petition adjudications, the need for more data collection, the measurement of the visa's economic impacts, and state determinations of targeted employment areas.

This report begins with a discussion of the EB-5 visa's requirements and an overview of the Regional Center Program. It then provides information on the EB-5 application (petition) process, admissions, and the economic impacts of the visa. Next, the report reviews policy issues surrounding the visa and the Regional Center Program, specifically application processing, USCIS expertise, the measurement of economic impacts, fraud and security risks, data collection, and the determination of targeted employment areas. The report concludes with a summary of current legislation on the EB-5 visa and the Regional Center Program in the 114th Congress. The **Appendix** provides additional data on the visa.

EB-5 Classification Requirements

The EB-5 visa classification for foreign investors is based on three components: (1) investment of capital, (2) a new commercial enterprise, and (3) job creation. Currently, there are two different pathways for lawful permanent resident (LPR) status through the EB-5 visa category, the standard visa and the Regional Center Program. The overwhelming majority of investors invest through the Regional Center Program.[15] Both pathways have the same requirements with respect to the amount of capital required to be invested and the minimum number of jobs to be created, but they differ in the measure of job creation. In addition, the role of the investor in the enterprise tends to differ between the two pathways.

[11] For the definition of a TEA, see "Investment of Capital."

[12] INA §203(b)(5) and §203. Note that a regional center's defined area may be in a TEA, so the set asides are not mutually exclusive.

[13] U.S. Government Accountability Office (GAO), *Immigrant Investor Program: Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefits*, GAO-15-696, August 2015.

[14] Letter from Senator Charles E. Grassley to John Sandweg, Acting Director U.S. Immigration and Customs Enforcement, December 12, 2013.

[15] In FY2014, approximately 97% of investors entered through the Regional Center Program. U.S. Department of State, *Report of the Visa Office*, Table V, Part 3; 2014.

Investment of Capital

A foreign national must invest at least $1,000,000 in a new commercial enterprise to qualify for the EB-5 visa. If the immigrant decides to invest in a designated "targeted employment area," (TEA) the required minimum is $500,000. For both investment pathways, capital can include non-cash contributions,[16] but the immigrant investor must establish that he/she is the legal owner of the capital and that it was obtained through lawful means. Additionally, the entire investment must be "at risk" for the purpose of generating a return.[17]

What is a targeted employment area (TEA)?

A TEA is defined under statute as either a rural area (any area outside of a metropolitan statistical area, as designated by the Office of Management and Budget or outside a town or city with 20,000 or more people) or an area experiencing unemployment at 150% of the national average. USCIS defers to state governments in determining if a geographic or political subdivision should be designated as a TEA based on the unemployment rate. Under a May 2013 USCIS policy memorandum, to qualify as a rural area for the purposes of a TEA designation, the area must be outside of a metropolitan statistical area *and* outside a town or city with 20,000 or more people.

A New Commercial Enterprise

A commercial enterprise is "any for-profit activity formed for the ongoing conduct of lawful business," such as a sole proprietorship, partnership, holding company, joint venture, corporation, business trust, or other publicly or privately owned entity.[18] A *new* commercial enterprise is one established after November 29, 1990. If the commercial enterprise was established before November 29, 1990, the immigrant investor's capital must have been used to expand or restructure/reorganize the enterprise.[19] Applicants are also allowed to invest funds in "troubled businesses."[20] The immigrant investor must be engaged in the management of the commercial enterprise through policy formation, daily managerial responsibilities, or direct management.[21]

[16] Capital will be valued at its fair market value in U.S. dollars. 8 C.F.R. §204.6(e).

[17] "At risk" means immigrant investors cannot be guaranteed the return of any part of their investment or a rate of return on their investment. There must be a risk of loss and chance for gain. The investor may receive a return on the investment during or after the conditional residence period, as long as before or during the conditional residence period or before required jobs are created the return is not a portion of the principal investment and was not guaranteed to the investor. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *EB-5 Adjudications Policy*, Policy Memorandum PM-602-0083, Washington, DC, May 30, 2013.

[18] 8 C.F.R. §204.6(e).

[19] For more information, see 8 C.F.R. §204.6(h).

[20] A troubled business is one that has been in existence for at least two years and has experienced a net loss equal to or at least 20% of its net worth in the 12- or 24-month period prior to the immigrant investor's filing of Form I-526, *Petition by Alien Entrepreneur*. 8 C.F.R. §204.6(e).

[21] "If the foreign national investor is a limited partner and the limited partnership agreement provides the investor with certain rights, powers, and duties normally granted to limited partners under the Uniform Limited Partnership Act, the immigrant investor will be considered sufficiently engaged in the management of the new commercial enterprise." U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *EB-5 Adjudications Policy*, Policy Memorandum PM-602-0083, Washington, DC, May 30, 2013; p. 12.

Job Creation

In order to meet the requirements for the EB-5 visa, the foreign national's investment capital must create a minimum of 10 jobs in the new commercial enterprise.[22] The EB-5 visa has three different measures of job creation.

1. If an immigrant invests in a troubled business, directly or through a regional center, rather than creating new jobs, he/she can show that they have preserved jobs for at least two years, in lieu of creating new jobs.[23]
2. Investments made in a new commercial enterprise in a non-regional center context must create 10 jobs within the commercial enterprise. (Such jobs are called direct or payroll jobs.)
3. For new commercial enterprises located within a regional center, the 10 new jobs required can be created directly or indirectly (i.e., employees not working directly for the commercial enterprise).[24]

Regional Center Program

The Regional Center Program was originally authorized in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act in 1992.[25] Since its creation, the program has been reauthorized several times and is set to expire on September 30, 2016.[26] The program was established as a pilot to achieve the economic growth and job creation goals of the immigrant investor statute[27] by encouraging immigrants to invest in commercial enterprises located within economic units known as "regional centers." In order to receive investment from foreign nationals wishing to obtain EB-5 status, a regional center must be designated as such by USCIS. Regional centers are intended to provide a coordinated focus of foreign investment toward specific geographic regions (see section entitled "What is a Regional Center?" for a detailed discussion). In other words, regional centers pool the investments of multiple EB-5 investors.[28]

The Regional Center Program differs from the standard EB-5 visa[29] in three ways (**Table 1**). First, although both pathways require individual investors to create at least 10 jobs, in the regional

[22] The position must be full-time, meaning at least 35 hours a week, and be held by a qualifying employee (U.S. citizen, LPR, or other work-authorized migrant), meaning an individual legally able to work in the United States. Jobs are also expected to last two years and cannot be intermittent, temporary, seasonal, or transient in nature. 8 C.F.R. §204.6(j)(4).

[23] 8 C.F.R. §204.6(j)(4)(ii).

[24] Indirect jobs are held outside of the new commercial enterprise but are created as a result of the new commercial enterprise. For example, they can include persons employed by the producers of materials/inputs for the immigrant investor's enterprise. "Reasonable" economic methodologies must be used to demonstrate indirect job creation. 8 C.F.R. §204.6 (m)(l)(7).

[25] P.L. 102-395 §610 (October 6, 1992).

[26] Section 116 of P.L. 105-119 extended the Regional Center Program's reauthorization from 5 years to 7 years, and Section 402 of P.L. 106-396 further extended it to 10 years. Section 548 of P.L. 108-156 extended the program to FY2008, Section 548 of P.L. 111-83 extended it to FY2012, and Section 1 of P.L. 112-176 extended it through FY2015. Section 131 of P.L. 114-53 extended the program to December 11, 2015; P.L. 114-96 extended it to December 16, 2015; and P.L. 114-100 extended it to December 22, 2015. Lastly, Division F, Section 575 of P.L. 114-113 extended the program to September 30, 2016.

[27] 8 U.S.C. §1153(b)(5) and 8 U.S.C. §1153 note.

[28] Pooled investments can also include investments from non EB-5 investors, such as U.S. citizens.

[29] "Standard EB-5 visa" refers to investors that obtain an EB-5 visa through the regular EB-5 visa process rather than

center context indirect job creation[30] may be counted instead of or in addition to direct job creation. Second, unlike the standard EB-5 visa, foreign nationals investing in a regional center are unlikely to be involved in the management and daily activities of the commercial enterprise. Third, the EB-5 visa category is permanent, while the Regional Center Program is temporary. As previously mentioned, the program is set to expire on September 30, 2016.

Table 1. Comparison of the Two EB-5 Pathways

Standard EB-5 Visa	Regional Center Program
Required capital investment is $1 million, or $500,000 in a targeted employment area.	Same.
Foreign national receives conditional LPR status and after approximately two years must apply to have the conditions removed or leave the country.	Same.
To have the conditions removed, among other requirements, the immigrant investor must show that he/she created or can be expected to create within a reasonable time 10 full-time jobs for U.S. citizens, LPRs, or other work-authorized aliens. Employment must be *direct* (i.e., employees working for the commercial enterprise).[a]	Same but the employment can be *indirect* (i.e., employees not working for the new commercial enterprise).
Investor *tends to be* involved in daily operations of enterprise.	Investor *tends not to be* involved in the daily operation of the enterprise.
Visa category is permanent. Does not expire.	Program is temporary; set to expire September 30, 2016.

Source: CRS analysis of Immigration and Nationality Act §203(b)(5) and §610 of P.L. 102-395

a. These jobs are sometimes referred to as payroll jobs.

Foreign nationals may invest in any of the regional centers that are currently approved to qualify for their conditional LPR status. Also, investments may be both within a regional center and a TEA. Although a regional center does not have to be in a TEA, almost all foreign nationals applying for EB-5 status invest with regional centers whose defined boundaries constitute a TEA.[31] (See **Figure 1**.)

What is a Regional Center?

Regional centers are defined as "any economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment."[32] More simply, the term "regional

by investing in a regional center. Individuals using either pathway, the standard EB-5 visa or the Regional Center Program, can obtain an EB-5 visa. USCIS refers to the standard EB-5 visa as the basic EB-5 program.

[30] Indirect job creation refers to jobs a regional center estimates to create indirectly through revenues generated from increased exports, improved regional productivity, job creation, or increased domestic capital investment.

[31] The Regional Center designation requires that applicants show how their proposed program will focus on a geographic region; promote economic growth through increased export sales, if applicable; promote improved regional productivity; create a minimum of 10 jobs directly or indirectly per investor; increase domestic capital investment; be promoted and publicized to prospective investors; have a positive impact on the regional or national economy through increased household earnings; and generate a greater demand for business services, utilities maintenance and repair, and construction jobs both in and around the center. 8 C.F.R. §204.6(m)(3).

[32] 8 C.F.R. §204.6 (e).

center" refers to an entity (often a limited partnership or a limited liability corporation) where investment from multiple foreign nationals can be pooled to fund a broad range of projects within a specific geographic area.[33] Regional centers can be privately owned, publicly owned (operated by a city, county, state, or economic development agency), or a public-private partnership.[34] There are many different models for regional centers, such as the lending model, where the new commercial enterprise is a lending entity that provides loans to those (e.g., U.S. citizens) seeking funding for business activities, such as new construction or expansions of their operations.[35] Regional centers can also use an equity model, where pooled EB-5 investments are used to purchase equity stakes in a project company (i.e., job-creating entity). In addition, regional centers have been created for direct investment to build a variety of projects, such as hotels, a ski resort, convention centers, arenas, and retail and mixed use developments. Certain state (e.g., Hawaii) and local governments have also established their own regional centers.

Since the inception of the Regional Center Program in 1992, the number of USCIS-approved regional centers has increased substantially. From FY2007 to FY2009, it rose more than three-fold, from 11 to 72.[36] As of January 4, 2016, there were 790 approved regional centers across the United States.[37] However, not all regional centers have received investment from foreign nationals wishing to immigrate under the EB-5 visa category. Additionally, as of January 5, 2016, USCIS had terminated the participation of 39 regional centers from the Regional Center Program.[38]

In the last decade, the use of regional centers among immigrant investors has also grown substantially. **Figure 1** displays the distribution of EB-5 grantees investing through (1) the standard program in a non-TEA, (2) the standard program in a TEA, and (3) through a regional center. The proportion of immigrant investors using regional centers, specifically those in a TEA, has been increasing, especially since FY2007.[39] In FY2006, investments in regional centers in a TEA were responsible for approximately 12% of the visas used; by FY2014 they represented 97% of the visas used.

[33] Investment pools can also include funds from non-EB-5 investors (e.g., U.S. citizens). In addition, approximately 20% of those receiving LPR status from an investment under the standard EB-5 category are involved in pooled investments. Personal conversation with staff from USCIS' Immigrant Investor Program Office, April 8, 2016.

[34] For a fuller discussion of regional center public-private partnerships, see Lazaro Zamora and Theresa Cardinal Brown, *EB-5 Program: Success, Challenges, and Opportunities for States and Localities*, Bipartisan Policy Center, Washington, DC, September 2015.

[35] The growth of and preference for the loan model may be driven by the fact that many investors' primary motive is to qualify for LPR status and recover their investment. Jeanne Calderon and Gary Friedland, *EB-5 Capital Project Database: Revisited and Expanded*, NYU Stern School of Business, Center for Real Estate Finance Research, New York, NY, March 29, 2016, p. 9.

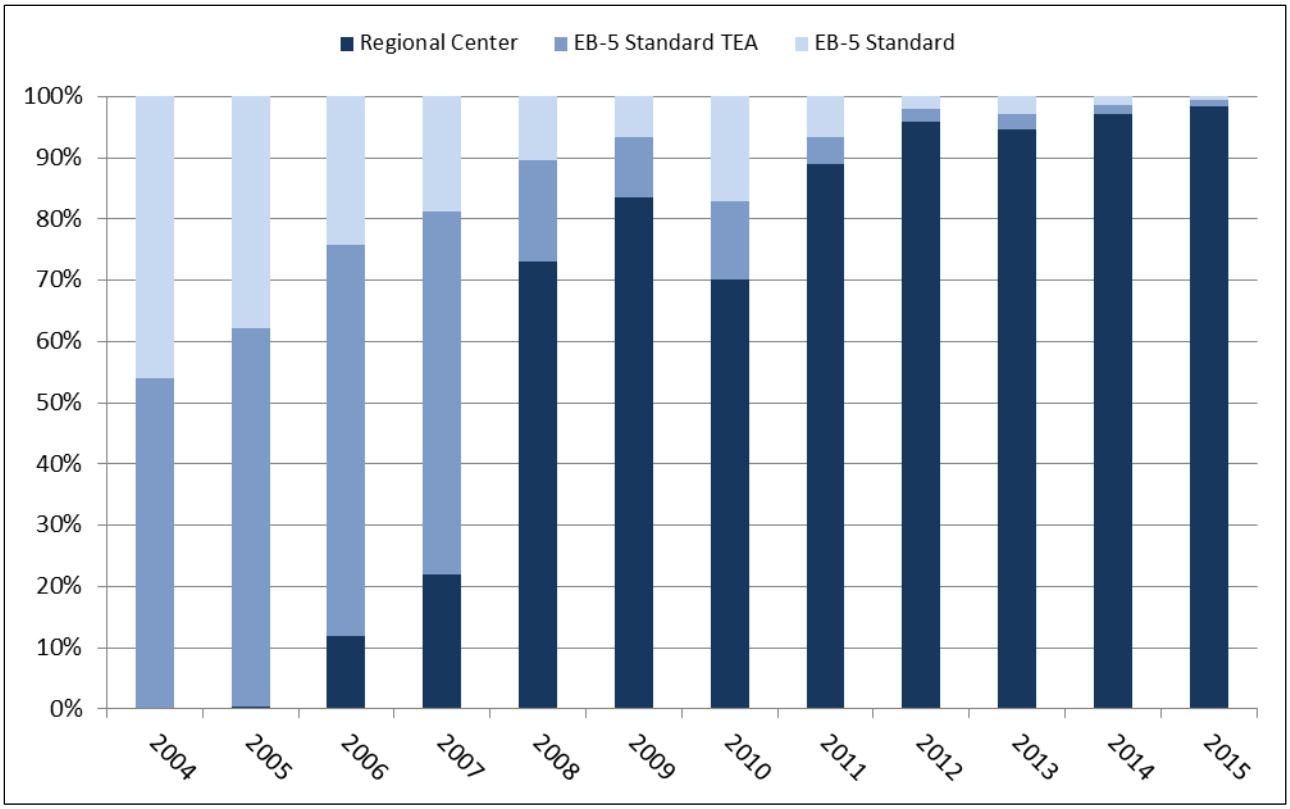
[36] U.S. Citizenship and Immigration Services, *Number of Approved EB5 Regional Centers Fiscal Year(s): 2007 – 2012*, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Employment-based/I526_I924_I829_performancedata_qtr43.pdf.

[37] For a list of approved regional centers, see U.S. Citizenship and Immigration Services, *Immigrant Investor Regional Centers*, http://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/immigrant-investor-regional-centers.

[38] Termination results when a regional center fails to submit Form I-924A to demonstrate continued eligibility or it fails to promote economic growth as required. For a list of terminated regional centers, see U.S. Citizenship and Immigration Services, *Terminated Regional Centers*, http://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-process/terminated-regional-centers.

[39] For exact figures, see the **Appendix**.

Figure 1. Immigrant Investor (EB-5) Visas Issued and Adjustments of Status, FY2004-FY2015



Source: U.S. Department of State, *Report of the Visa Office*, Table V Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations (by Foreign State of Chargeability), Part 3; multiple years.

Notes: EB-5 Standard represents those receiving EB-5 visa classification on the basis of investment of at least $1,000,000 in a non-TEA area that is not associated with a regional center. **EB-5 Standard TEA** represents those who have received EB-5 visa classification through investment in a targeted employment area (TEA) that is not associated with a regional center. **Regional Center** represents those who received EB-5 visa classification based on investment in a regional center in both TEAs and non-TEAs. CRS presents those receiving EB-5 visa classifications based on investment in TEA and non-TEA regional centers together because the number of visa numbers issued based on investment in non-TEA regional centers was relatively low, ranging from 0 to 11 from FY2004 to FY2015.

The EB-5 Petition Process

The EB-5 petition/application process, which is largely administered by USCIS, requires various steps before an individual can obtain his/her full (i.e., unconditional) LPR status.[40] Individuals who are admitted to the United States on the basis of EB-5 visas are granted a conditional resident status.[41] After approximately two years they can apply to remove the conditionality if

[40] See U.S. Citizenship and Immigration Services, *EB-5 Immigrant Investor Process*, http://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-process. Accessed by CRS on December 4, 2015.

[41] Conditional resident status is lawful resident status conditional on the immigrant meeting certain requirements. INA §216A.

they have met the visa requirements (i.e., invested and sustained the required investment and created the required jobs).

For a foreign national investor, the first step of the process consists of filing USCIS Form I-526, *Immigrant Petition by Alien Entrepreneur*. At this point, a foreign national has to prove that he/she meets the requirements for EB-5 classification, including that the capital being invested came from a legitimate source, and that he/she has presented a valid business plan or showed that the investment will go to a USCIS-certified regional center. Once the I-526 is approved, the foreign national would need to obtain a visa from the Department of State (DOS) to enter the United States if he/she is not currently in the country, or adjust status[42] with USCIS if he/she is.[43] Individuals not in the United States file Form DS-260 *Application for Immigrant Visa and Alien Registration* with DOS and individuals within the United States file Form I-485 *Application to Register Permanent Residence or Adjust Status* with USCIS. At this stage, DOS and USCIS also check that the foreign national is not inadmissible under the grounds of inadmissibility of the Immigration and Nationality Act (INA).[44] Those who adjust status within the United States receive their conditional residence once the I-485 is approved. Those who receive a visa from DOS receive their conditional residence once they are admitted into the United States.

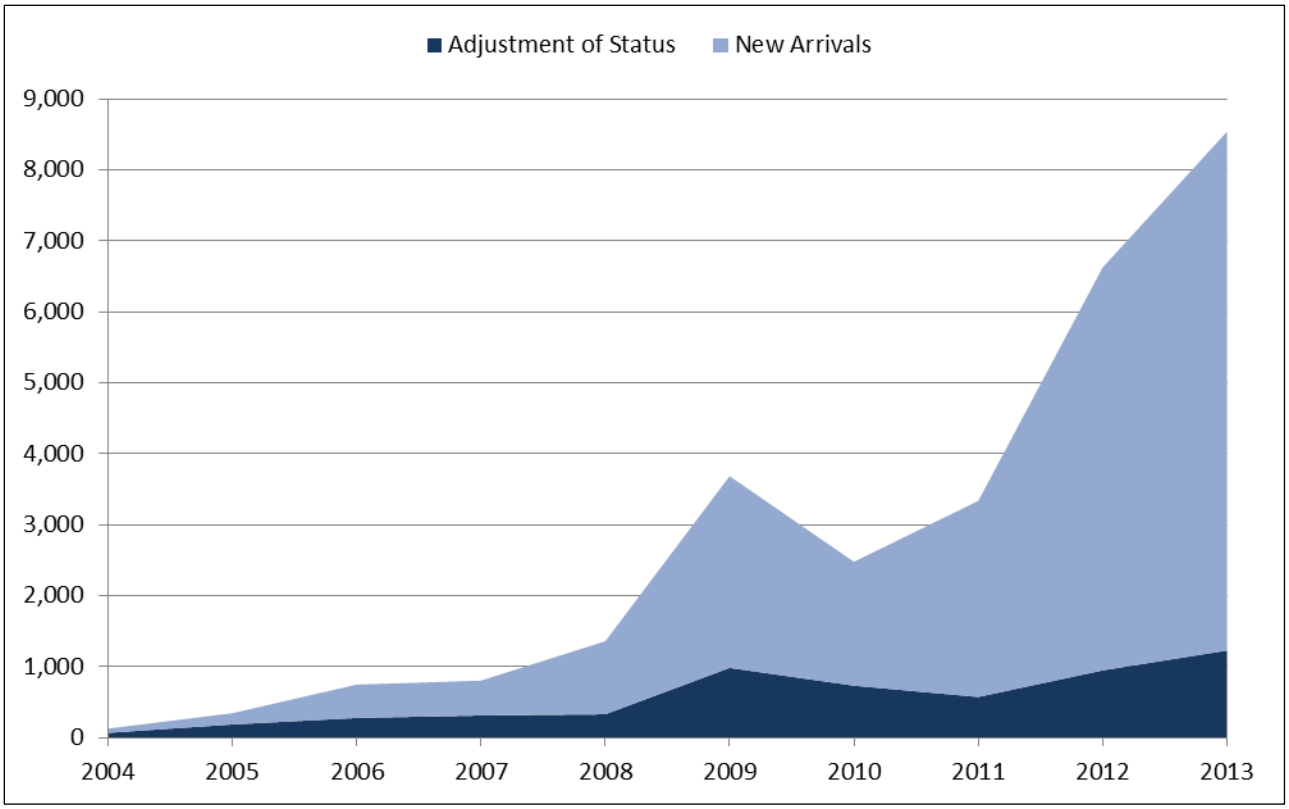
In FY2004, the number of EB-5 visas granted to new arrivals (60) and the number granted to those who adjusted their status (69) were roughly equal. This ratio has shifted as the growth in visas granted to new arrivals outpaced the number granted to those who adjusted their status, as seen in **Figure 2**. As a result, by FY2014 visas to new arrivals accounted for 86% of EB-5 admissions.

[42] "Adjustment of status is the process by which an eligible individual already in the United States can get permanent resident status (a green card) without having to return to their home country to complete visa processing." U.S. Citizenship and Immigration Services, *Adjustment of Status,* https://www.uscis.gov/green-card/green-card-processes-and-procedures/adjustment-status.

[43] A visa number must be available for the foreign national to apply for the visa or to adjust status.

[44] The grounds of inadmissibility include criminal, national security, health, and indigence grounds as well as past violations of immigration law. INA §212(a). See also CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*.

Figure 2. EB-5 Admissions Granted to New Arrivals or through Adjustment of Status, FY2004-FY2013



Source: CRS presentation of data from the U.S. Department of Homeland Security, *Yearbook of Immigration Statistics,* multiple years.

Notes: New Arrivals refers to individuals who obtained an EB-5 visa from DOS outside the United States. **Adjustment of Status** refers to individuals who applied for an EB-5 visa number from within the United States and adjusted their status with USCIS.

An investor can petition to remove the conditional status after approximately two years by filing Form I-829 *Petition by Entrepreneur to Remove Conditions on Permanent Resident Status*.[45] If the I-829 is approved, the conditionality on the residency of the immigrant investor and his/her derivative family members is removed.[46] If the investor did not meet the requirements to adjust to full LPR status, the investor (and his/her family members who immigrated together) must depart from the United States or adjust to another immigration status. USCIS will issue a notice-to-appear (NTA)[47] to foreign nationals who do not apply to have the conditional status removed or who are denied adjustment to full LPR status.

Petition denial rates have fallen significantly since the early 2000s, as displayed in **Figure 3**. For the I-526, the denial rate fell from 82% in FY2001 to 11% in FY2015. For the I-829, the rate fell

[45] The I-829 form instructions state that an investor can petition to remove the conditions within the 90-day period immediately preceding the second anniversary of obtaining his/her conditional permanent resident status.

[46] U.S. Citizenship and Immigration Services, *EB-5 Immigrant Investor Process,* June 25, 2014, http://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-process.

[47] This document starts the removal process.

from 52% in FY2000 to 1% in FY2015. It is likely that the large increase and then decrease in denials is due in part to the altered interpretations by the former Immigration and Naturalization Service (INS) of the EB-5 requirements that took place in late 1997 and 1998. In December 1997, the INS General Counsel's office issued a legal opinion discussing the legality of certain business arrangements for EB-5 purposes. Then during 1998, INS issued four precedential decisions that restricted eligibility for the EB-5 category overall.[48] Among other changes, these decisions barred previously acceptable investment mechanisms (e.g., pooled investment), increased the documentation required to show lawful sources of funds, and changed the rules for determining that investment occurs in a TEA. The INS applied these decisions retroactively. In 2002, the 21st Century Department of Justice Appropriations Act (P.L. 107-273) provided remedies for those affected by INS' 1998 decisions by allowing investors affected by the retroactive changes to apply to re-establish eligibility for an EB-5 visa.

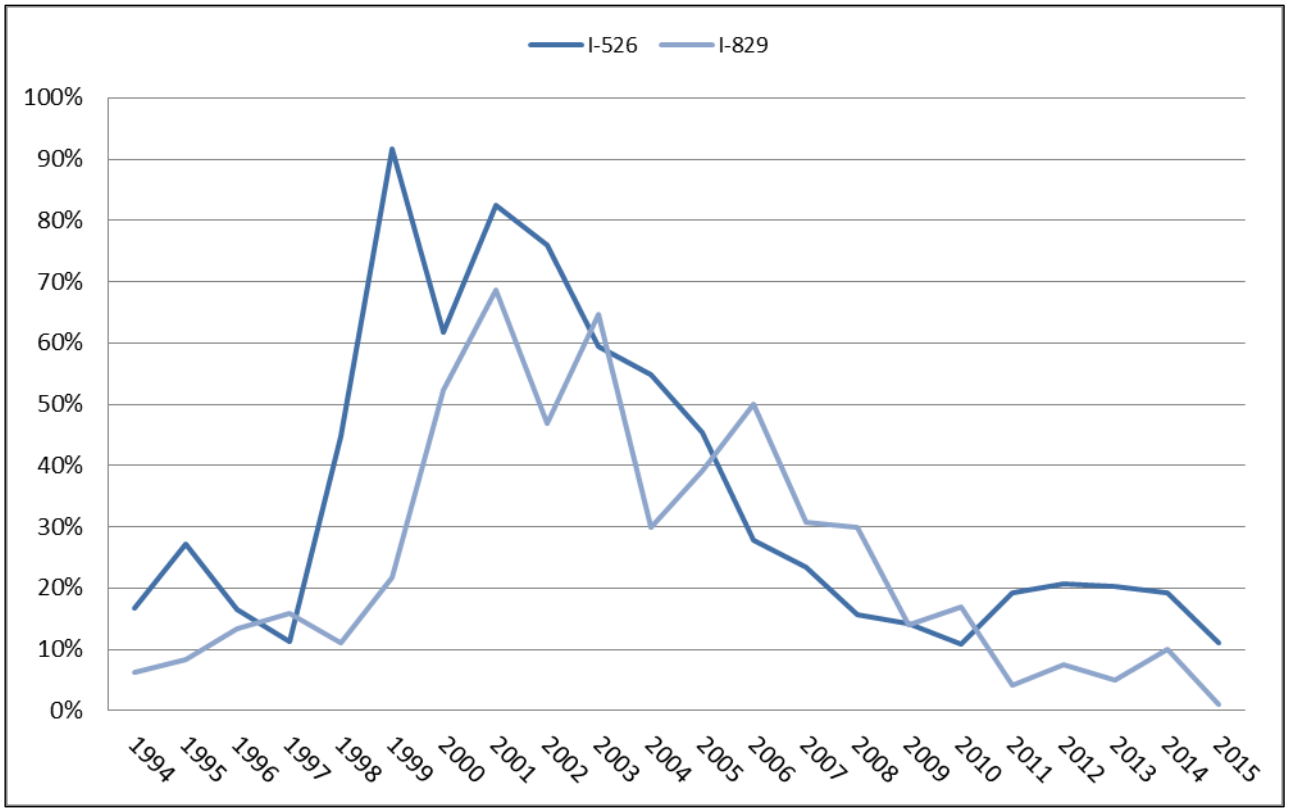
At the end of FY2015, there were 17,367 pending I-526 petitions and 4,049 pending I-829 petitions.[49] As of January 31, 2016, the processing times were 16.3 months for the I-526 and 16.9 months for the I-829.[50]

[48] In 1998, the INS Administrative Appeals Office (AAO) issued four precedential decisions on the EB-5 visa category. The decisions were *Matter of Soffici,* (A76 472 614 June 30, 1998)*; Matter of Izumii,* (A76 426 873 July 13, 1998); *Matter of Ho,* (WAC-98-072-50493 July 31, 1998); *and Matter of Hsiung,* (A76 854 232 July 31, 1998). The decisions impacted several program requirements, including what constitutes an "adequate business plan," what can be considered as capital to meet the required investment amount, and what are permissible types of investments and business arrangements to qualify for an EB-5 visa. These decisions came shortly after—and contradicted—a December 1997 opinion issued by the INS General Counsel's office that discussed the legality of certain business arrangements for EB-5 purposes. The contradiction and new rules caused uncertainty among foreign national investors and immigration lawyers. "AAO Designated Two More Immigrant Investor Decisions," *Interpreter Releases,* vol. 75, no. 37 (September 28, 1998), p. 1337.

[49] U.S. Citizenship and Immigration Services, *Performance Analysis System (PAS),* September 2015.

[50] U.S. Citizenship and Immigration Services, *USCIS Processing Time Information for the Immigrant Investor Program Office,* March 14, 2016, https://egov.uscis.gov/cris/processingTimesDisplay.do;jsessionid=abcrm_xl28-KgfTv5_Mpv. Accessed by CRS on April 5, 2016.

Figure 3. Form I-526 and Form I-829 Application Denial Rates, FY1994-FY2015



Source: CRS analysis of data from the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Performance Analysis System (PAS),* January 2015.

Notes: Immigrant investors file Form I-526 to obtain EB-5 classification. As conditional LPRs, they file Form I-829 to remove the conditionality from the residency status. Denial rates are calculated by dividing the number of denied petitions (applications) in a year by the sum of the approved and denied petitions in the same year.

EB-5 Admissions

Each year approximately 10,000 EB-5 visas are available for investors and their derivatives.[51] In the program's early years only a small percentage of available EB-5 visas were being utilized,[52] with the exception of a rise in FY1997. Although numerous possible explanations for the overall low admission levels in earlier years exist, the notable drop in admissions in FY1998 and FY1999 is due in part to the altered interpretations by the former INS of the qualifying requirements that took place in 1998. In 2002, in addition to providing remedies for some of those affected by INS'

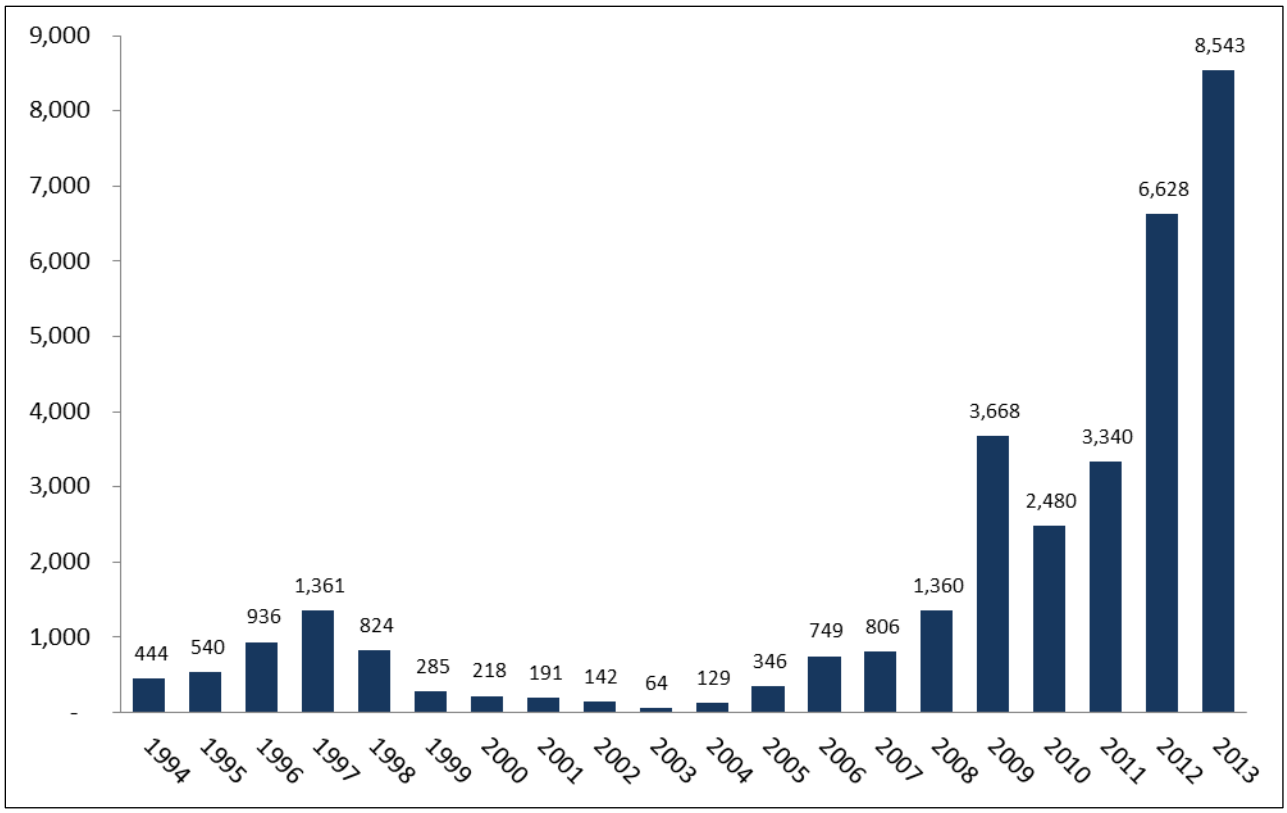
[51] Derivatives are counted against the numerical limit for the category.

[52] A 2005 report from the U.S. Government Accountability Office (GAO) listed a number of contributing factors to the low participation rates, including the rigorous nature of the LPR investor application process and qualifying requirements, the lack of expertise among adjudicators, uncertainty regarding adjudication outcomes, negative media attention on the LPR investor program, lack of clear statutory guidance, and the lack of timely application processing and adjudication. A 2005 law journal article on investor visas suggested that the two-year conditional status of the visa and the alternate (and less expensive) pathways for LPR status often dissuaded potential investors from pursuing LPR investor visas. U.S. Government Accountability Office, *Immigrant Investors: Small Number of Participants Attributed to Pending Regulations and Other Factors*, GAO-05-256, April 2005, pp. 8-11; and Stanley Mailman and Stephen Yale-Loehr, "Immigrant Investor Green Cards: Rise of the Phoenix?" *New York Law Journal*, April 25, 2005.

1998 decisions, P.L. 107-273 provided some clarification of the requirements in order to promote an increase in petitions. Possibly as a result, after FY2003 there were substantial increases in EB-5 visa admissions.[53] From FY2003 to FY2005, the number of EB-5 visas issued grew five-fold (from 64 to 346), and then increased by seven-fold by FY2010 (to 2,480). From FY2010 to FY2013, the number of EB-5 visas issued increased again by nearly three-fold (to 8,543) (**Figure 4**).

As the allotment for EB-5 visas includes derivatives, the total number of immigrants admitted through the investor visa program does not reflect the actual number of investors. On average, individual immigrant investors (principal investors) accounted for approximately one-third of all those granted EB-5 visas.[54] On average, each investor has had approximately two derivatives granted conditional LPR status along with them over the time period examined.

Figure 4. EB-5 Admissions, FY1994-FY2013



Source: CRS presentation of data from the DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics*; multiple years.

Notes: The actual number of available visas for FY2014 was more than 10,000 due to a "roll-down" of unused visas from other employment-based LPR visa categories. For more information on "roll-downs," see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

Table 2 lists the top 10 EB-5 visa receiving countries in FY2014. China ranks at the top of investor visa recipient countries, with its citizens accounting for approximately 84% (8,156) of all

[53] In this section, visas issued includes adjustments of status.

[54] CRS calculation using data from the U.S. Department of Homeland Security Office of Immigration Statistics, *Yearbook of Immigration Statistics*; multiple years.

EB-5 visas granted in FY2015.[55] With respect to other EB-5 visa recipient countries in FY2015, Vietnam had the second largest number of EB-5 visas granted, at approximately 3% (280), and Taiwan had the third largest amount of visas at approximately 1% (139).[56]

Table 2. EB-5 Visas Issued and Adjustments of Status by Country in FY2015

Top 10 Countries

Country	Visas	% Total of EB-5 Visas
China	8,156	83.5%
Vietnam	280	2.9%
Taiwan	139	1.4%
South Korea	116	1.2%
India	111	1.1%
Russia	88	0.9%
Great Britain	80	0.8%
Mexico	77	0.8%
Venezuela	72	0.7%
Iran	62	0.6%
All Other Countries	583	6.0%

Source: U.S. Department of State, *Report of the Visa Office*, Table V Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations (by Foreign State of Chargeability), Part 3; 2015.

Notes: Visas issued represents visa granted to individuals outside of the United States. Adjustments of Status represents individuals already in the United States who adjusted their status. This table represents the sum of these two groups. For FY2004 to FY2014 data on EB-5 visas issued and adjustments of status for each of the top 10 countries, see the **Appendix**.

From FY2009 to FY2014, China has experienced the greatest growth in EB-5 visas issued, as illustrated in **Figure 5**. China was granted 1,970 in FY2009 and 9,128 in FY2014 (though the number decreased to 8,156 visas in FY2015).[57] In addition, for FY2014 the maximum number of visas available for Chinese applicants was reached in August 2014.[58] Furthermore, there is a backlog in processing EB-5 visas. As of April 2016, the Department of State was processing visas for Chinese applicants whose petitions had been approved in February 2014.[59]

[55] U.S. Department of State, *Report of the Visa Office*, Table V Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations (by Foreign State of Chargeability), Part 3; 2015.

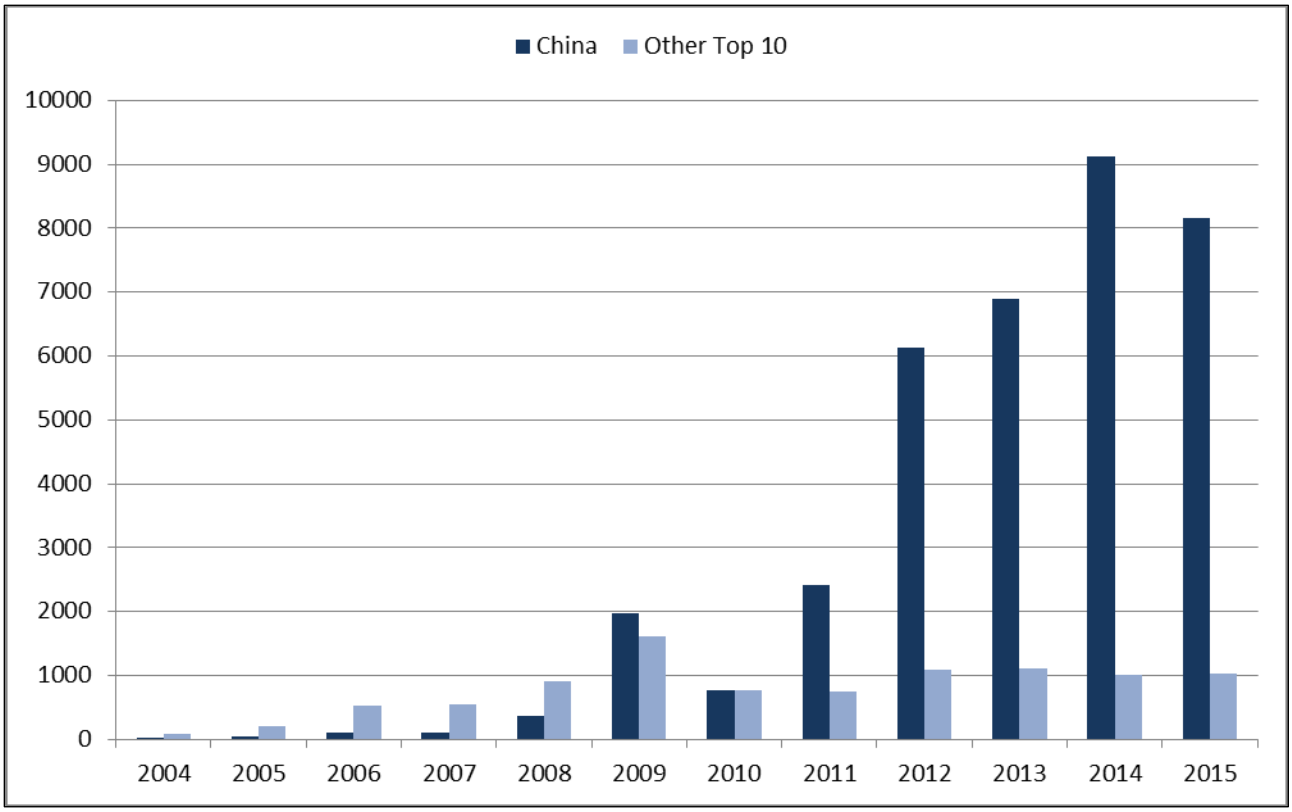
[56] Ibid.

[57] The INA establishes that each country can receive no more than 7% of the worldwide level of visas. For more information see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

[58] U.S. Department of State: Visa Services, *Effective Immediately Saturday, August 23, 2014 the China Employment Fifth (EB-5) Preference Category Has Become "Unavailable" for the Remainder of FY-2014*, August 23, 2014.

[59] Department of State, *Visa Bulletin for April 2016*, Washington, DC, March 9, 2016, p. 4, http://www.travel.state.gov/content/dam/visas/Bulletins/visabulletin_April2016.pdf.

Figure 5. EB-5 Visas Issued and Adjustments of Status by Country, FY2004-FY2015



Source: CRS presentation of data from the U.S. Department of State, *Report of the Visa Office*, Table V Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations by Foreign State of Chargeability), Part 3; multiple years.

Notes: Visas issued represents visa granted to individuals outside of the United States. Adjustments of Status represents individuals already in the United States who adjusted their status. This table represents the sum of these two groups. China was the top EB-5 visa receiving country in FY2015. **Other Top 10** represents the aggregate number of EB-5 visas from the countries with the second to the tenth highest number of visas issued or adjustments of status in FY2015. For data on each of the top 10 EB-5 visa receiving countries, see the **Appendix**.

Economic Impact

Measurement of the EB-5's economic impact on the U.S. economy has resulted in a wide variety of estimates. The EB-5 visa category was created as a way to increase investment and job creation in the U.S. economy. In 2010, USCIS commissioned ICF International, a private consulting firm, to estimate the impact of EB-5 investments on the U.S. economy.[60] The study used a sample of immigrants whose initial investment occurred between 2001 and 2006.[61] It found that EB-5 investments and the economic activity that resulted from them added $700 million to the U.S. gross domestic product (GDP), with the real estate industry sector experiencing the largest

[60] ICF International, *Study of the United States Immigrant Investor Pilot Program (EB-5)*, May 18, 2010, http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/EB-5/EB5-Report-2010.pdf.

[61] Ibid. For this study, USCIS lacked comprehensive data on the entire visa population, preventing the study from determining how representative its sample was for all investors.

impact. This study also found that the visa helped create an estimated 12,000 annual jobs in the United States. The study also estimated that the EB-5 visa classification allowed the federal government to accrue an additional $100 million, and state and local governments, an additional $62 million in tax revenue.[62] Additionally, USCIS commissioned the U.S. Department of Commerce to conduct a new study on the visa's economic impacts.[63]

USCIS has also reported its estimates of the visa's creation of investment and jobs. The agency stated that from FY1990 to FY2014, the EB-5 visa has generated more than $11.2 billion in investments and at least 73,730 jobs.[64] Additionally, USCIS reported in February 2016, that as of October 1, 2012, at least $8.7 billion was invested in the U.S. economy and an estimated 35,140 jobs were created through EB-5 visa investments.[65]

Other non-federal organizations, some of which were commissioned by advocacy organizations, have conducted their own economic analysis of the visa's economic impacts. In 2014, the Brookings Institution estimated that the EB-5 visa created 85,500 full-time jobs and contributed $5 billion in direct investment to the United States since its inception.[66] A 2015 report by U.S. Policy Metrics/Hamilton Place Strategies, commissioned by the EB-5 Investment Coalition (an advocacy organization for EB-5), estimated that from 2005 to 2013 the EB-5 visa generated a minimum of $5.2 billion in investment.[67] The study also noted that in 2013 alone, the visa brought in at least $1.6 billion in investment and, assuming each investment's minimum requirement was met, created 31,000 jobs.[68] Invest in the USA (an EB-5 trade association) commissioned the Alward Institute for Collaborative Science to conduct a peer reviewed study on the impacts of the EB-5 visa. They estimated that EB-5 associated regional center spending contributed $3.58 billion to the U.S. GDP and created over 41,000 jobs in FY2013.[69] These 2013 estimates of EB-5 investments into the economy represent less than 0.1% of the U.S.'s $16.7 trillion GDP.[70]

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[62] Ibid.

[63] U.S. Citizenship and Immigration Services, staff briefing for CRS, September 9, 2015.

[64] U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa an Under Performing Asset?* testimony of Rebecca Gambler, Director of Homeland Security and Justice at the U.S. Government Accountability Office, 114th Cong., 2nd sess., February 11, 2016.

[65] The estimated amount of money invested in the U.S. economy was based on the number of EB-5 petitions approved and the number of jobs created was based on the number of approvals of Form I-829. U.S. Congress, Senate Committee on the Judiciary, *The Failures and Future of the EB-5 Regional Center Program: Can it be Fixed?* testimony of Nicholas Colucci, Chief of the Office of Immigrant Investor Program,114th Cong., 2nd sess., February 2, 2016.

[66] Audrey Singer and Camille Glades, *Improving the EB-5 Investor Visa Program: International Financing for U.S. Regional Economic Development*, Brookings-Rockefeller, Project on State and Metropolitan Innovation, February 2014.

[67] Steven McMillin, Michael Solon, and Matt McDonald, *Harnessing Private Capital for Job Creation: An Analysis of the EB-5 Program*, U.S. Policy Metrics & Hamilton Place Strategies, June 2015, http://eb5coalition.org/analysis-of-the-eb-5-program.pdf.

[68] Ibid.

[69] David Kay, *The Economic Impact and Contribution of the EB-5 Immigration Program*, Alward Institute for Collaborative Science, Cornelius, NC, May 2015.

[70] The U.S. GDP in 2015 was $17.9 trillion. GDPs are given in 2016 current dollars. U.S. Department of Commerce Bureau of Economic Analysis, *National Economic Accounts: Current-Dollar and "Real" Gross Domestic Product*, February 26, 2016, http://www.bea.gov/national/index.htm#gdp.

Policy Issues

In recent years, efforts have been made by USCIS to promote investment by foreigners in the United States economy and to close perceived loopholes for visa exploitation.[71] Some of the issues that have been discussed are the processing of applications, USCIS' expertise and ability to oversee the EB-5 visa, the need for accurate measurement of the visa's economic impact, fraud and security concerns, and TEA determinations. The following sections review these issues and, where applicable, discuss changes USCIS has made to address them.

Application and Petition Processing

An on-going issue within the EB-5 program is the processing times for EB-5 applications (both for the regional center designation and the petitions for foreign national investors), and the impact of these potential delays on the investors and project developers.[72] As of January 31, 2016, the application adjudication times were 13.6 months to apply for EB-5 status (Form I-526), 16.9 months to remove conditionality from LPR status (Form I-829), and 9 months to apply to become a regional center (Form I-924).[73] Stakeholders have complained that the time period from applying for a regional center designation to actually receiving investment (currently approximately 22.6 months) is too long which can negatively impact investment projects. EB-5 stakeholders have also stated that USCIS needs to adjudicate EB-5 and regional center applications in a more predictable manner, noting that the EB-5 program faces competition from other countries with more predictable and speedy immigrant investor program. The USCIS Ombudsman[74] has made recommendations make the EB-5 adjudication process more transparent, consistent, and timely.[75]

USCIS Expertise

In drawing attention to some of the issues with the EB-5 visa, some have called into question whether USCIS is the right agency to manage the visa classification or whether USCIS should be required to consult or partner with other agencies regarding its EB-5 responsibilities. In taking on

[71] In 2013, USCIS released new internal guidance regarding the adjudication of EB-5 petitions. In addition, in the past three years, USCIS has filled new positions (e.g., economist, accountant) to help adjudicate petitions for regional center designations. Department of Homeland Security, U.S. Citizenship and Immigration Services, *EB-5 Adjudications Policy*, Policy Memorandum PM-602-0083, Washington, DC, May 30, 2013.

[72] For example, see Office of the Citizenship and Immigration Services Ombudsman, *EB-5 Immigrant Investor Program Stakeholder Meeting*, Executive Summary, Washington, DC, March 5, 2013. See also Office of the Citizenship and Immigration Services Ombudsman, *Employment Creation Immigrant Visa (EB-5) Program Recommendations*, Department of Homeland Security, Washington, DC, March 18, 2009.

[73] Reportedly, the USCIS Immigrant Investor Program Office (IPO) is continuing to expand its staff and expects to increase staff from 113 to 171 people by the end of FY2016. During a February 2016 stakeholders' meeting, USCIS stated that senior adjudicators are training many junior adjudicators to handle complex cases, and as a result, processing times may decrease in the future. Nicholas Colucci, "February 3, 2016 Stakeholder Engagement," IPO Chief Nicholas Colucci's Remarks, Washington, DC, February 3, 2016. U.S. Citizenship and Immigration Services, *USCIS Processing Time Information for the Immigrant Investor Program Office*, March 14, 2016, https://egov.uscis.gov/cris/processingTimesDisplay.do;jsessionid=abcrm_xl28-KgfTv5_Mpv. Accessed by CRS on April 5, 2016.

[74] The office and the position of the USCIS Ombudsman were created in the Homeland Security Act of 2002 (P.L. 107-296, §452). They are independent of USCIS and are tasked with providing individual case assistance, as well as making recommendations to improve USCIS's administration of immigration benefits.

[75] Office of the Citizenship and Immigration Services Ombudsman, *EB-5 Immigrant Investor Program Stakeholder Meeting*, Executive Summary, Washington, DC, March 5, 2013.

the EB-5 program and the Regional Center Program, the INS mission of providing immigration and naturalization services was extended. Notably, the EB-5 program involves complexities including analysis of business plans and economic forecasting models which require specialized expertise. Some lawmakers were aware while creating the EB-5 program that the INS did not have all the expertise needed to implement the visa category and recommended the agency work with other agencies that have the necessary skills.[76] Even after the creation of USCIS in 2003, there were still concerns about whether that agency had the expertise to adjudicate EB-5 petitions. For example, in 2013, the Department of Homeland Security Office of Inspector General (DHS OIG) suggested that USCIS improve its coordination with the Department of Commerce, the Department of Labor's Bureau of Labor Statistics, and the Securities and Exchange Commission in order to leverage their expertise to its advantage during the adjudication process.[77]

The Government Accountability Office (GAO) reported improvements in USCIS's economic analysis of EB-5 applications that resulted from its hiring of an additional 22 economists to review business plans, economic analysis, and organizational documents for regional center projects.[78] As of February 2016, the Immigrant Investor Program Office (IPO) was staffed with 110 employees, which included 60 adjudication officers, 28 economists, and 22 additional staff responsible for the direct support and management of the program.[79] USCIS also updated and enhanced its employee training curriculum, which currently includes ongoing training, in order to improve consistency in adjudication process and compliance with statutes, regulations, and policies.[80]

Measuring Economic Impacts

In the past, USCIS has estimated the EB-5's impact through calculating total job creation and foreign investment. This was done by multiplying the number of EB-5 visas granted by the visa category's minimum requirements ($500,000 investment and 10 jobs created).[81] DHS OIG and GAO reported that these estimates of the program's impact could lead to either understatement or overstatement of certain economic benefits. For example, some investors create more than 10 jobs and/or invest over $500,000. Using visa minimums would therefore underestimate their impact and would not accurately capture the investors' true contribution to the economy.

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[76] Statement of Senator Alan Simpson, Senate Debate on Conference Report for the Immigration Act of 1990, *Congressional Record*, vol. 136 (October 26, 1990), pp. S17106-01.

[77] U.S. Department of Homeland Security Office of Inspector General, *United States Citizenship and Immigration Services: Employment-Based Fifth Preference (EB-5) Regional Center Program*, OIG-14-19, December 2013.

[78] U.S. Government Accountability Office (GAO), *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit*, GAO-15-696, August 2015.

[79] IPO staffing numbers do not include Fraud Detection and National Security (FDNS) and Office of the Chief Counsel employees. USCIS also stated that they are working to fill vacancies to reach their FY2016 authorized staffing level of 171 employees. U.S. Congress, Senate Committee on the Judiciary, *The Failures and Future of the EB-5 Regional Center Program: Can it be Fixed?* testimony of Nicholas Colucci, Chief of the Office of Immigrant Investor Program,114th Cong., 2nd sess., February 2, 2016.

[80] U.S. Government Accountability Office (GAO), *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit*, GAO-15-696, August 2015.

[81] Through its different application forms, USCIS requests information that could be used to make these estimations more accurate. For example, Form I-526 asks investors to report their initial investment, and Form I-829 requires investors to report the number of new jobs created or jobs they expect to be created. Furthermore, USCIS states that it plans to develop a data system that will enable it to track and report data immigrant investors report in FY2017. U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa an Under Performing Asset?* testimony of Rebecca Gambler, Director of Homeland Security and Justice at the U.S. Government Accountability Office, 114th Cong., 2nd sess., February 11, 2016.

Additionally, the underlying assumptions in these estimations are that each approved visa was actually used and that all foreign investors fulfilled their capital and job creation requirements. If that assumption does not hold, USCIS could therefore be overestimating the impact of the program. USCIS' lack of comprehensive, longitudinal studies on the economic impact of regional centers could also limit its ability to measure impact over time or any impacts that may manifest later. Though such research would be beneficial to understanding the program's impact, USCIS is not mandated by statute to develop comprehensive assessments of the overall benefits of the investor visa program.[82]

In 2013, a DHS OIG report stated that "USCIS is unable to demonstrate the benefits of foreign investment into the U.S. economy."[83] The report identified how USCIS' limited authority had played a part in the agency's inability to accurately measure the impact of the EB-5 visa. For example, in a regional center context, where foreign funds contribute to an investment pool that also contains funds from non-EB-5 investors (e.g. U.S. citizens), EB-5 investors can take credit for all jobs created, regardless of the proportion of the investment pool that was actually contributed by EB-5 investors or which investment in the pool was primarily responsible for the job creation.[84] In other words, all the jobs created by the project funded by EB-5 and non-EB-5 investors are credited to EB-5 investors, not only the pro-rated portion that represents the amount of EB-5 investment.[85] Therefore, in these situations USCIS does not have the ability to determine if EB-5 investors were responsible for the creation of jobs, making it difficult for the agency to fully capture the economic impact of the program.

Since FY2013, USCIS economists have been provided with data from the Regional Input-Output Modeling System (RIMS II)[86] to estimate job creation. USCIS and Department of Commerce economists and industry and academic experts consider RIMS II to be a valid method to verify job creation estimates.[87] GAO noted that "RIMS II data is a reasonable methodology to verify job creation as permitted in law and program regulation."[88] As of FY2015, Immigrant Investor Program Office (IPO) managers estimate that 95% of EB-5 program petitioners used economic models to estimate job creation and 90% of them used RIMS II in their applications to USCIS.[89] However, RIMS II cannot determine the location of jobs created, therefore making it difficult to know whether jobs are created in TEAs.[90]

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[82] U.S. Government Accountability Office (GAO), *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015.

[83] U.S. Department of Homeland Security Office of Inspector General, *United States Citizenship and Immigration Services: Employment-Based Fifth Preference (EB-5) Regional Center Program,* OIG-14-19, December 2013.

[84] 8 C.F.R. §204.6(g)(2).

[85] For example, although only 6% of the total capital raised for a condominium project in Miami, Florida, came from EB-5 investors, 100% of the job creation was allocated to the EB-5 investors. Jeanne Calderon and Gary Friedland, *EB-5 Capital Project Database: Revisited and Expanded*, NYU Stern School of Business, Center for Real Estate Finance Research, New York, NY, March 29, 2016, p. 6.

[86] The RIMS II system was created by the U.S. Department of Commerce's Bureau of Economic Analysis, which is used both in the private and public sectors. By providing detailed geographic and industry information on the project or program, RIMS II can "estimate total impact of the project or program on regional output, earnings, and employment." U.S. Department of Commerce's Bureau of Economic Analysis, *Regional Multipliers from the Regional Input-Output Modeling System (RIMS II): A Brief Description,* February 2015.

[87] U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015.

[88] Ibid.

[89] Ibid.

[90] U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa an Under Performing Asset?* testimony of

Fraud and Security Risks

In comparison to other immigration visas, GAO found that EB-5 faces the risk of fraud in three unique respects that stem from its investment components.[91] First, immigrant investors must provide evidence that their investment funds were obtained through lawful means. It can be difficult, however, for USCIS to verify the sources, especially with the use of overseas counterfeit documentation or self-reporting that cannot always be verified with foreign banks.

Second, the potential for large financial gains through the EB-5 visa may motivate regional center operators and intermediaries[92] to take advantage of foreign investors. Some immigrant investors primarily interested in the immigration benefits of EB-5 may accept lower rates of return or may not adequately research an investment decision. U.S. Securities and Exchange Commission (SEC) officials reported over 100 tips, complaints, and referrals on possible security fraud violations concerning the EB-5 visa from January 2013 to January 2015, and just over half were referred for further investigation.[93] Furthermore, from February 2013 to December 2015, SEC filed 19 cases involving EB-5 offerings, of which almost half involved fraud allegations.[94]

Lastly, the EB-5 visa classification is susceptible to the appearance of favoritism and special access. A DHS OIG report identified the risk of internal and external influence on the EB-5 visa, listing USCIS' lack of protocols to document inquiries, decision making, and responses to external parties who inquired about EB-5 activities as a key issue.[95] In March 2015, DHS OIG released a report prompted by USCIS employee complaints on the management of the EB-5 visa.[96] After the report's issuance, the DHS Secretary asked Congress to help increase the security and integrity of the visa. USCIS subsequently issued a new ethics and integrity protocol for EB-5 that addresses application processing and stakeholder communication.[97]

With respect to regional centers, when there is a risk to national security or fraud is found, USCIS opines that it lacks explicit statutory authority to deny or terminate centers.[98] For example, USCIS

Rebecca Gambler, Director of Homeland Security and Justice at the U.S. Government Accountability Office, 114th Cong., 2nd sess., February 11, 2016.

[91] U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015.

[92] Regional center operators and intermediaries can include the individual who created the regional center, the individual who manages or oversees the regional center, or the individual who connected or recruited the foreign investor to invest in a certain regional center.

[93] Ibid.

[94] U.S. Congress, Senate Committee on the Judiciary, *The Failures and Future of the EB-5 Regional Center Program: Can it be Fixed?* testimony of Stephen L. Cohen, Associate Director of U.S. Securities and Exchange Commission's Division of Enforcement, 114th Cong., 2nd sess., February 2, 2016.

[95] U.S. Department of Homeland Security Office of Inspector General, *United States Citizenship and Immigration Services: Employment-Based Fifth Preference (EB-5) Regional Center Program,* OIG-14-19, December 2013.

[96] The report found that then-Director of USCIS and current Deputy Secretary of DHS Alejandro Mayorkas had "communicated with stakeholders on substantive issues, outside of the normal adjudicatory process and intervened with the career USCIS staff in ways that benefited stakeholders." U.S. Department of Homeland Security Office of Inspector General, *Investigation into Employee Complaints about Management of U.S. Citizenship and Immigration Services' EB-5 Program,* March 2015.

[97] U.S. Department of Homeland Security, *Ethics and Integrity: Protocols for Processing EB-5 Immigrant Investor Visa Petitions and EB-5 Regional Center Applications, Including Stakeholder Communications,* April 30, 2015.

[98] U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015; and U.S. Department of Homeland Security Office of Inspector General, *United States Citizenship and Immigration Services: Employment-Based Fifth Preference (EB-5) Regional Center Program,* OIG-14-19, December 2013.

can deny immigration benefits to individual immigrants who are considered to be a national security threat,[99] but the agency has interpreted the Immigration and Nationality Act (INA) as not being applicable to regional centers because they are pooling funds from investors rather than seeking an immigrant benefit or visa.[100] Furthermore, USCIS lacks the authority to deny or terminate a regional center's participation in EB-5 based solely on fraud or national security concerns. Such participation can only be terminated if the regional center fails to submit required information or it is no longer promoting economic growth.[101] USCIS officials have noted that this statutory limitation is a "major challenge and requires a significant amount of time to link findings [of fraud or national security concerns] to the statutory criteria," for terminating a regional center.[102]

USCIS has conducted risk assessments to identify, analyze, and establish solutions for issues surrounding fraud. In 2015, in response to congressional and USCIS requests, the DHS Office of Intelligence and Analysis updated the EB-5 visa's 2012 risk assessment in a classified report.[103] In addition to conducting risk assessments on an "as needed" basis, USCIS reported to GAO that it conducts regular oversight work and collaborates with other enforcement agencies that may uncover fraud, such as the Federal Bureau of Investigation (FBI), Securities and Exchange Commission (SEC), and Immigration and Customs Enforcement's (ICE's) Homeland Security Investigations (HSI). EB-5 fraud risks are always evolving, and more opportunities for fraud exist with increasing numbers of visas being granted. GAO noted that "planned regular or updated future risk assessments could help better position USCIS to identify, evaluate, and address fraud risks given the potential for changing conditions." DHS officials have stated that they plan to complete a risk assessment by September 2016 and to continue to conduct at least one annually.[104]

A 2013 Homeland Security Investigations (HSI) memorandum requested by DHS[105] assessed EB-5's vulnerabilities, specifically "concerns that this particular visa program [EB-5] may be abused by Iranian operatives to infiltrate the United States."[106] The memo, which used data from 2012, identified seven main areas of vulnerability with the visa: export of sensitive technology and economic espionage, use of force by foreign government agents and espionage, use by terrorists, investment fraud by regional centers, investment fraud by investors, fraud conspiracies by investors and regional centers, and illicit finance and money laundering. The memo noted EB-5 petitioners are not required to "establish significant and verifiable background for program eligibility," creating a national security risk. It found there are "no safeguards that can be put in place that will ensure the integrity of the program."[107] Nonetheless, this memo was written before

[99] INA §212(a)(3).

[100] U.S. Department of Homeland Security Office of Inspector General, *United States Citizenship and Immigration Services: Employment-Based Fifth Preference (EB-5) Regional Center Program*, OIG-14-19, December 2013.

[101] 8 C.F.R. §204.6(m)(6).

[102] U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit*, GAO-15-696, August 2015.

[103] Ibid.

[104] U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa an Under Performing Asset?* testimony of Rebecca Gambler, Director of Homeland Security and Justice at the U.S. Government Accountability Office, 114th Cong., 2nd sess., February 11, 2016.

[105] U.S. Department of Homeland Security, *Request for Information Implications of ICE Case Against Procurement Agent*, no. 66820.

[106] U.S. Immigration and Customs Enforcement, Homeland Security Investigations, *EB-5 Program Questions from DHS Secretary*, updated memorandum.

[107] Ibid.

the creation of the Immigrant Investor Program Office (IPO), and these risks may have been addressed.

GAO noted that USCIS restructured and centralized the EB-5 visa by moving its California operations to Washington, DC, in an effort to increase the agency's fraud detection and response capabilities.[108] This has also allowed USCIS to expand the scope of its background checks and increase the number of databases against which it checks petitioners and applicants. In that same year, USCIS also established a fraud specialist unit within its Fraud Detection and National Security (FDNS) unit specifically for the EB-5 visa. FDNS also reported hiring more fraud specialists with skillsets particularly critical to fraud prevention.[109] FDNS has also begun to provide specialized fraud training for employees and has implemented an "EB-5 University" that provides monthly presentations on different fraud-related topics relevant to the adjudication process. USCIS has improved its communication and collaboration with law enforcement agencies such as the SEC, ICE, HSI, and the FBI, to whom it refers cases of potential fraud, criminal activity, or national security threats.[110] The SEC has also worked to educate EB-5 investors through its Office of Investor Education and Advocacy (OIEA).[111]

Data Collection

GAO has identified limitations in USCIS' collection of information. Addressing these could assist in its assessment and detection of fraud. For example, USCIS relies heavily on paper-based documentation and does not fully transfer information into their electronic databases or do so in a standardized manner.[112] These practices can make it difficult to search for certain information, especially when attempting to identify fraud through the tracking of irregularities or trends. USCIS expects to implement a new program, the Electronic Immigration System (USCIS ELIS), which aims to improve the collection of applicant information through electronic forms.[113] However, as of March 2016, only two of approximately 90 types of immigration forms were available for on-line filing, and it is estimated that the system will be completed in 2019 (over four years later than expected).[114]

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[108] U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015.

[109] As of January 2016, EB-5's FDNS division included 22 full-time equivalent staff and 18 of those positions were filled. U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa an Under Performing Asset?* testimony of Rebecca Gambler, Director of Homeland Security and Justice at the U.S. Government Accountability Office, 114th Cong., 2nd sess., February 11, 2016.

[110] U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015.

[111] In 2013, OIEA and USCIS issued a joint "Investor Alert" on SEC's website to warn investors of potential investment scams. U.S. Congress, Senate Committee on the Judiciary, *The Failures and Future of the EB-5 Regional Center Program: Can it be Fixed?* testimony of Stephen L. Cohen, Associate Director of U.S. Securities and Exchange Commission's Division of Enforcement, 114th Cong., 2nd sess., February 2, 2016.

[112] For example, databases do not require that all information on paper forms be entered; certain input, such as an applicant's name from the I-924 form, is optional. U.S. Government Accountability Office, *Immigrant Investor Program Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefit,* GAO-15-696, August 2015.

[113] Additionally, USCIS reports that it plans to revise forms I-924, I-924A, I-526, and I-829 in order to capture more information from applicants. U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa an Under Performing Asset?* testimony of Rebecca Gambler, Director of Homeland Security and Justice at the U.S. Government Accountability Office, 114th Cong., 2nd sess., February 11, 2016.

[114] DHS Office of Inspector General, *USCIS Automation of Immigration Benefits Processing Remains Ineffective,* OIG-

Though they are limited in number and scope, FDNS does currently conduct site visits to projects that IPO staff has found to be of material concern. GAO reported that USCIS, SEC, and HSI officials and members of the national industry association representing regional centers agreed that expanding site visits would increase the program's integrity. USCIS reports that they plan on expanding their random site visit program to the EB-5 program in FY2016.[115]

Moreover, USCIS is required by statute to interview immigrant investors within 90 days of submitting Form I-829, but the agency also has the authority to waive that requirement.[116] Interviews can be a method to collect corroborating information on whether investors meet program requirements and whether the project may involve fraud. GAO reported that USCIS believes that interviews at the I-829 stage could provide important information and expects to begin conducting them in the near future.[117] At this time, USCIS has not conducted any interviews with immigrant investors submitting the I-829 petition. However, reportedly USCIS is finalizing its I-829 interview process and plans to begin conducting interviews in the third quarter of FY2016.[118]

Targeted Employment Area (TEA) Determinations

As noted above, a majority of investments made in the EB-5 program are being directed to targeted employment areas (TEA). The reduced capital investment minimum required for immigrant investors in TEAs was meant to increase investment in areas of greater need.[119] State governments may designate a TEA by identifying a particular geographic or political subdivision as an area of high unemployment (at least 150% of the national average rate).[120] USCIS defers to the state to determine a high unemployment TEA's geographical or political subdivision boundaries but can review the state's methodologies and data.

State designation of TEAs due to high unemployment has been criticized as lenient, without clear direction, and inconsistent across states.[121] For instance, USCIS' deference to states' determinations of the boundaries for high unemployment TEAs has allowed for variation across states in how they designate such an area.[122] Furthermore, TEAs can be created through the linking of several census tracts, therefore allowing wealthier tracts linked to tracts with high unemployment to form a TEA.[123] Some believe that this practice can accommodate commuting

16-48, March 9, 2016.

[115] U.S. Congress, Senate Committee on the Judiciary, *The Failures and Future of the EB-5 Regional Center Program: Can it be Fixed?* testimony of Nicholas Colucci, Chief of the Office of Immigrant Investor Program,114th Cong., 2nd sess., February 2, 2016.

[116] 8 U.S.C. §1186b(c)(1)(B) (INA interview requirement); 8 U.S.C. §1186b(d)(3) (discretionary waiver authority).

[117] U.S. Government Accountability Office, *Immigrant Investor Program: Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefits*, GAO-15-696, August 2015.

[118] Personal Conversation with staff from USCIS' Immigrant Investor Program Office, April 8, 2016.

[119] U.S. Citizenship and Immigration Services, *EB-5 Adjudications Policy*, Policy Memorandum PM-602-0083, Washington, DC, May 30, 2013.

[120] 8 C.F.R. 204.6(i).

[121] See U.S. Congress, House Committee on the Judiciary, *Is the Investor Visa and Underperforming Asset?*, 114th Cong., 2nd sess., February 11, 2016 and U.S. Congress, Senate Committee on the Judiciary, *The Failures and Future of the EB-5 Regional Center Program: Can it be Fixed?*, 114th Cong., 2nd sess., February 2, 2016.

[122] Paul Scheuren, *A Comparison of States' Approaches to Targeted Employment Area Certification*, Regional Center Business Journal, March 2010.

[123] For example, a regional center project that consists of building the Beverly Hills Waldorf Astoria located in Beverly Hills California qualifies as a TEA. Jeanne Calderon and Gary Friedland, *EB-5 Capital Project Database: Revisited*

patterns and provide states with the choice as to what area fits their economic needs.[124] Others have contended that this allows for gerrymandering and permits developers to obtain the TEA designation without actually developing and directly investing in the neediest areas.[125]

Legislation in the 114th Congress

As previously mentioned, in December 2015 the Regional Center Program was reauthorized through September 30, 2016, by the Consolidated Appropriations Act of 2016 (P.L. 114-113). The pending expiration of the program renewed attention on it and legislation has been introduced in the 114th Congress related to the EB-5 visa category. The following bills would modify the Regional Center Program and the EB-5 visa in general: the American Entrepreneurship and Investment Act (H.R. 616), the EB-JOBS Act (H.R. 3370), the EB-5 Integrity Act (H.R. 4530/S. 2415), and American Job Creation and Investment Promotion Reform Act of 2015 (S. 1501). In addition, H.R. 3370 and the Jobs in America Act (H.R. 3987) would create a new visa category, similar to the EB-5 category, for foreign national entrepreneurs. On February 2, 2016, the Senate Judiciary Committee held a hearing on the Regional Center Program and S. 1501; however, none of the other bills have received action.

Proposed Changes to the Regional Center Program

Several of the bills (H.R. 4530/S. 2415, H.R. 3370, S. 1501) would seek to place more controls and requirements on regional centers, including delineating application requirements, establishing a sanction system, expanding reporting requirements, and prohibiting persons who have been convicted of certain crimes from participating in a regional center. In addition, H.R. 4530/S. 2415 and S. 1501 would create an EB-5 Integrity Fund in the Treasury, from fees on regional centers and those applying for a regional center designation to fund oversight of regional centers. Similarly, H.R. 3370 would create an EB-5 fund to administer and operate the program. H.R. 3370, H.R. 4560/S. 2415, and S. 1501 would also expand DHS's authority to terminate a regional center designation.

H.R. 4530/S. 2415 and S. 1501 would create rules and mandate the establishment of channels through which applicants (or their representatives) for a regional center designation or LPR status could discuss case-specific information.[126] S. 1501 would require USCIS to set fees for the applications at a level so that they would be adjudicated in a statutorily specified period of time, establish premium processing for regional center designation applications, and allow DHS to prioritize petitions filed under the Regional Center Program over all other immigrant petitions. H.R. 616 would set maximum processing times of 180 days for regional center application determinations and immigrant investor petitions. H.R. 3370 would establish premium processing for foreign national investors applying for EB-5 status.

and Expanded, NYU Stern School of Business, Center for Real Estate Finance Research, New York, NY, March 29, 2016, p. 7.

[124] Lazaro Zamora and Theresa Cardinal Brown, *EB-5 Program: Success, Challenges, and Opportunities for States and Localities*, Bipartisan Policy Center, Washington, DC, September 2015.

[125] For examples, see Patrick McGeehan and Kirk Semple, "Rules Stretched as Green Cards Go to Investors," *The New York Times*, December 18, 2011.

[126] These protocols would be similar to ones established by USCIC in 2015. U.S. Department of Homeland Security, *Ethics and Integrity: Protocols for Processing EB-5 Immigrant Investor Visa Petitions and EB-5 Regional Center Applications, Including Stakeholder Communications*, April 30, 2015.

H.R. 4530/S. 2415 and S. 1501 would specify how an investor demonstrates that the investment capital was obtained from a "lawful source through lawful means," and set procedures for how foreign national investors are to be treated if the regional center in which they were investing lost its designation. Lastly, H.R. 616, H.R. 3370, H.R. 4560, and S. 2415 would permanently authorize the Regional Center Program, while S. 1501 would extend its authorization to September 30, 2020.

Proposed General Changes

H.R. 3370 and S. 1501 would increase capital investment minimums and tie the investment minimum amounts to the Consumer Price Index (CPI-U). S. 1501 would allow a foreign national who has invested the requisite capital for at least 24 months before being admitted to the United States to receive full LPR status (i.e., not conditional status). H.R. 616 and H.R. 3370 would allow the Secretary of DHS to delegate some authority for the administration of the EB-5 category to the Department of Commerce. In addition, H.R. 616 would remove derivatives from the numerical limitations imposed on the EB-5 visa and eliminate the visa category's per-country quotas.

Target Employment Areas

With respect to TEAs, H.R. 3370 would expand the definition of a TEA to include a county that has had at least a 20% decrease in population since 1970, an area established for the purpose of a state or federal economic development incentive program, and an area within the geographic boundaries of any military installation closed pursuant to a base closure law.[127] The bill would also provide an allocation of visas for the different types of TEAs. S. 1501 would change the manner in which a TEA is defined, including providing a methodology for determining high unemployment areas for the purposes of designating a TEA. Like S. 1501, H.R. 616 would increase the number of visas set aside for TEAs from 3,000 to 5,000; but it would specify that TEA designations by the states are to be granted deference by DHS.

Potential New Programs

H.R. 3370 would create a new visa category (EB-6) similar to the EB-5 category for foreign nationals who (1) wish to start a new commercial enterprise with a specified amount of money from qualified investors or venture capital funds; or (2) have already started and are managing a new commercial enterprise that employs a specified number of persons.[128] H.R. 3987 would create a new visa category (EB-6) for foreign nationals who have received investment to start a new commercial enterprise, and for foreign nationals on H-1B visas[129] who have an advanced degree in science, technology, engineering, or math (STEM) and meet other requirements. Similar to the EB-5 category, under H.R. 3370 and H.R. 3987, the entrepreneurs would initially receive conditional LPR status, and after two years they would need to have created a certain number of jobs to be converted to full LPR status. Under H.R. 3370, the EB-5 visa would be exempt from the numerical limits.

[127] 10 U.S.C. §101(a)(17).

[128] H.R. 3370 would also recreate a new LPR visa (EB-7) for nonimmigrant treaty investors holding an E-2 visa who (1) have maintained such status for at least 10 years, and (2) created at least 5 jobs for at least 10 years.

[129] H-1B visas allow for the temporary admission of foreign nationals to work in professional specialty occupations. For more on this visa category, see CRS Report RL30498, *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*.

Appendix. Additional EB-5 Visa Data

Table A-1. EB-5 Visas Issued and Adjustments of Status, FY2004-FY2015

(Number of Visas)

Fiscal Year	EB-5 Standard	EB-5 TEA	Regional Center	Regional Center TEA	Total EB-5
2004	58	68	0	0	126
2005	132	216	0	1	349
2006	194	512	0	96	802
2007	149	470	1	173	793
2008	149	239	0	1,055	1,443
2009	282	410	7	3,519	4,218
2010	324	239	1	1,321	1,885
2011	230	152	5	3,076	3,463
2012	159	164	5	7,312	7,640
2013	243	227	7	8,087	8,564
2014	161	155	1	10,375	10,692
2015	64	92	11	9,597	9,764

Source: U.S. Department of State, *Report of the Visa Office*, Table V Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations (by Foreign State of Chargeability), Part 3; multiple years.

Notes: Visas issued represents visa granted to individuals outside of the United States. Adjustments of Status represents individuals already in the United States who adjusted their status. This table represents the sum of these two groups. The actual number of available visas for FY2014 was more than 10,000 due to a "roll-down" of unused visas from other employment-based LPR visa categories. For more information on "roll-downs," see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*. **EB-5 Standard** represents those receiving an EB-5 visa number based in an investment of at least $1,000,000 in a non-TEA area. **EB-5 TEA** represents those receiving an EB-5 visa number based on an investment in a targeted employment area (TEA). **Regional Center** represents those receiving an EB-5 visa classification based on investment in a regional center in a non-TEA area. **Regional Center TEA** represents those who received an EB-5 visa number based on investment in a regional center in a TEA. **EB-5 Total** represents total visas issued and adjustments of status. These numbers differ from the number of EB-5 visa admissions (as seen in Table 4) because some individuals who are issued visas ultimately do not use them to enter the United States.

Table A-1.Form I-526 and Form I-829 Petition Adjudications, FY1994-FY2015

Fiscal Year	I-526 Petitions				I-829 Petitions			
	Received	Approved	Denied	Pending	Received	Approved	Denied	Pending
1994	513	407	82	—	24	15	1	—
1995	417	291	109	—	130	111	10	—
1996	801	616	122	—	287	344	53	—
1997	1,496	1,110	141	—	877	718	135	—
1998	1,368	358	290	—	469	104	13	—
1999	650	141	1,558	—	384	86	24	—
2000	384	167	270	—	384	30	33	—
2001	585	44	207	—	143	52	114	—
2002	255	69	217	—	194	198	174	—
2003	255	132	194	—	139	36	66	—
2004	247	131	159	—	123	217	93	—
2005	332	187	156	—	39	206	132	—
2006	486	344	132	—	89	108	108	—
2007	776	485	149	—	194	117	52	—
2008	1,258	644	120	853	391	161	69	454
2009	1,031	1,265	208	514	437	350	57	735
2010	1,953	1,369	165	1,125	768	274	56	1,167
2011	3,805	1,571	372	3,347	2,345	1,067	46	2,395
2012	6,041	3,677	957	5,018	712	736	60	1,013
2013	6,346	3,699	943	7,131	1,217	844	44	1,345
2014	10,923	4,925	1,169	12,453	2,516	1,603	178	2,075
2015	14,373	8,756	1,051	17,367	2,767	1,067	11	4,049

Source: CRS representation of data from the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Service, *Performance Analysis System (PAS),* multiple years.

Notes: Some petitions approved or denied may have been received in previous periods. **Petitions Received** are new petitions received and entered into a case-tracking system during the reporting period. **Petitions Approved** are those approved in that reporting period. **Petitions Denied** are those denied, terminated, or withdrawn during the reporting period. **Petitions Pending** are those awaiting a decision at the end of the reporting period. USCIS did not publicly report petitions pending until FY2008. (—) represents data unavailable.

Table A-2.EB-5 Issued and Adjustments of Status by Countries, FY2004-FY2015

Top 10 Countries

Country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
China	16	44	96	110	360	1,979	772	2,408	6,124	6,895	9,128	8,156
Vietnam	0	2	0	0	4	11	15	26	35	46	121	280
Taiwan	61	75	68	80	47	170	94	122	148	137	126	139
South Korea	14	88	376	385	693	903	295	254	447	364	225	116
India	0	5	20	19	19	72	62	37	76	87	96	111
Russia	0	0	0	1	7	60	41	30	42	70	100	88
Britain	8	26	44	43	115	324	135	57	67	84	41	80
Mexico	2	5	11	6	15	33	50	53	81	145	129	77
Venezuela	0	2	4	2	1	30	20	46	109	92	96	72
Iran	2	12	0	9	16	12	55	117	81	86	76	62

Source: U.S. Department of State, *Report of the Visa Office*, Table V Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations (by Foreign State of Chargeability), Part 3; multiple years.

Notes: Visas issued represents visa granted to individuals outside of the United States. Adjustments of Status represents individuals already in the United States who adjusted their status. This table represents the sum of these two groups. Great Britain includes Northern Ireland.

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Acknowledgments

Alison Siskin, former CRS Specialist in Immigration Policy, and Carla N. Argueta, former CRS Analyst in Immigration Policy, were previous authors of this report.

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