



EB5 Plus Immigration Law

Immigration Lawyers+ for Investors, Entrepreneurs and Startups

EB-5 IMMIGRANT INVESTOR PROGRAM AND PROCESS

Under Section 203(b)(5) of the Immigration and Nationality Act (INA), 10,000 immigrant visas per year are available to qualified individuals seeking to obtain permanent residence in the U.S. on the basis of their investment in a U.S. business. Each investor's EB-5 immigration petition provides permanent resident status to the investor and her/his dependents (spouse and unmarried children under the age of twenty-one (21)).

Required Investment Amount

The investing capital for EB-5 program is \$1 million, or \$500,000. The lesser investment requirement of US \$500,000 applies only where the investment is being made in a "targeted employment area", which is an area that has experienced unemployment of at least 150% of the national average unemployment rate or a rural area as designated by Office of Management and Budget.

In addition to the investment amount, EB-5 process requires additional fees including but not limited to USICS filing fees, attorney fees and regional center administrative fee.

The Qualifying Criteria

- 1) Invest or be actively in the process of investing the requisite capital (\$1M or \$500,000) in a new commercial enterprise—a for-profit U.S business established after November 29, 1990.
- 2) Demonstrate that the investment will result in the creation of at least 10 permanent full-time jobs or preservation of 10 jobs in a trouble business (as defined by regulations).
- 3) Demonstrate lawful source of investment funds.
- 4) Demonstrate that the investor intends to maintain more than a passive role in the management of the new commercial enterprise.



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Application Process and Processing Times

To Obtain Immigrant Investor Status: The alien investor must submit a completed Form I-526 (Immigrant Petition by Alien Entrepreneur) to USCIS along with supporting documentation clearly demonstrating that the investment meets all EB-5 requirements.

Once the investor has selected the business for investment, it generally takes between 6 and 8 weeks to prepare an I-526 petition and supporting evidence for filing. This timeline is largely dependent on the Investor's desired pace.

In 2015, the I-526 processing time has ranged from 12 - 15 months.

To Obtain Conditional Resident Status (after I-526 is approved): If investor is in the U.S. in lawful status, then the investor and his/her family would submit a completed Form I-485 (Application to Register Permanent Residence or Adjust Status) to USCIS. If residing outside the U.S., the alien investor and family members must apply for an immigrant visa at a U.S. Consulate. Average processing time is 6 (six) months for Adjustment of Status and four (4) to six (6) months for immigrant visa consular processing depending on the place of application.

To Obtain Lawful Permanent Residence/Remove Conditions on Permanent Residence: The investor must submit to USCIS Form I-829 (Petition by Entrepreneur to Remove Conditions), with supporting evidence, within 90 days before the second anniversary of admission to the U.S. as a conditional resident. The current average processing time for I-829 petitions is twelve (12) months.