

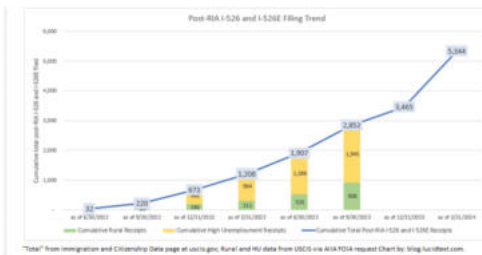
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The EB5 Visa program is back with a Bang – Here is what you need to know.



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The US EB5 Visa program is back with a bang in its new Avatar. The latest USCIS data shows thousands of investors have filed EB5 visa petitions since the program restarted after the passage of the EB5 Reforms and Integrity (RII) Act in March 2022.



As seen above, in the last two years, from April 2022 to March 2024, 5344 investors have invested a minimum of \$800,000 each for the EB5 visa, resulting in an aggregate investment of \$4.275 bn. in the US economy for job creation.

The program offers US permanent residency, popularly known as the Green Card, to Foreign investors who invest a minimum of \$ 800,000 in qualifying commercial projects in the US, which leads to the creation of jobs for Americans.

The program has a long history but underwent much turbulence after November 2019, which included a substantial increase in the investment amount followed by litigations and suspension of the program. Finally, in March 2022, the US Congress passed the EB5 Reforms and Integrity Act, giving the program a new lease of life.

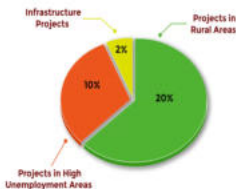
Let us look at some of the significant changes in the new EB5 visa program, which has made it more robust and attractive to investors, resulting in a surge in interest.

Extension of the Program for five years

The new Act has authorized the program up to 30th September 2027 in its current form, bringing in much-needed stability and continuity. This means the investors and, more importantly, the regional centers can plan and implement their investments more accurately.

Introduction of Set Aside Visa

Unlike the investment-based immigration programs from other countries, the US has capped the number of EB5 Visas to about 10,000 each Fiscal year. There is a further per country cap of 7% or about 700 Visas, if the demand for EB5 Visa from a particular country is much higher than the available visa, the investors must wait in a queue. This is technically called Retrogression or Visa backlogs. Traditionally, the demand for EB5 visas from countries like China and India has been very high, resulting in investors from these countries having to wait for visas for several years, even after the approval of their EB5 Visa petition. The new EB5 RIIA has addressed this issue by setting aside 32% of the total visas available each year for investors in particular categories of projects as follows:



This means investors from countries like China and India can invest in these projects and obtain EB5 Visa much faster. Not only that, USCIS has also allowed priority processing of EB-5 petitions for investors in rural projects, thereby allowing them to Fast-track their overall Green Card process.

Concurrent filing for Adjustment of Status

Another change that benefits applicants already in the US on Non-immigrant Visas, like Students on F1 or Employees on H1B, is concurrent filing for Adjustment of Status (AOS).

This means that upon filing your EB5 petition, you can immediately apply for adjustment of your status from Non-immigrant to Immigrant. While this is in process, you will get the Employment Authorization Document (EAD) and Advance Parole (Travel Document), usually within four to six months (as of now).

This is a game changer for those already in the US as it will enable them to enjoy most of the benefits of a Green Card, like the freedom to work and travel in and out of the US almost immediately. It opens a world of opportunities to such applicants. They can take up jobs and pursue career aspirations at will without dependence on their employers for the H1B visa. And more importantly, they don't have the sword of hanging over their head in case they lose their job. Similarly, foreign students in the US can also get the EAD or work permit through concurrent filing and access to a wide range of internship and campus placement opportunities, including those available only to US residents.

Greater oversight of Regional Centers

The EB-5 RIIA of 2022 has also introduced many measures to ensure greater oversight over the operations of the Regional Centers and the Projects. These include stricter compliance with the USCIS regulations, third-party audits, and disclosure to investors and fund administrators. The bill also warrants that regional centres must closely manage their sponsored projects. All this may lead to an increase in compliance costs and fees; however, such changes should be welcomed as they protect the investor's interests.

New Investment Amount

The investment amount has increased from \$500,000 to \$800,000 for projects in Targeted Employment Areas (TEAs) and to \$1,050,000 for those in non-TEA areas.

Thus, as seen above, despite an increase in the investment amount, the demand for EB5 Visa has continued to surge, especially from investors from China, India, etc., due to the above measures, mainly the set-aside visas and concurrent filing. However, if the demand continues to rise at this pace, very soon, the set-aside visas will also get exhausted, and you may have to wait much longer to realize your American Dream. So, if you are considering investing in EB5 Visa, the best time to apply is now.