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**Immigrant Investor Visas (EB-5)**  
Feb. 23, 2015

The Immigrant Investor program was created under the Immigration Act of 1990 to help attract foreign investment and support job creation in rural or high unemployment areas. The program, administered by the US Citizenship and Immigration Service (USCIS), allows foreign investors to earn permanent residence after two years if they invest a minimum of \$1 million, or \$500,000 in a targeted employment area (TEA), and create or preserve at least 10 jobs for U.S. workers.

The Employment-Based preference 5 visa (EB-5) is one of five visas offering permanent residence for professionals, priority workers and investors. About 140,000 permanent employment visas are available each year, with a 10,000 cap on the EB-5. Investors may bring their spouses and children under 21 to live, work and study in the United States. Family members count against the cap.

A new investment option was created in 1993—the EB-5 Regional Center. Rather than creating a new business or taking over a troubled business, visa applicants can invest in a pre-approved third party-managed investment vehicle. The regional center can pool EB-5 foreign investment with other foreign and domestic investments. The foreign investor pays fees to the Regional Center for travel, legal fees and commissions. The majority of EB-5 investments are now made in TEAs through Regional Centers. Job creation was redefined to include indirect jobs in addition to direct jobs.

Regional Centers are operated by a variety of different entities: most are private-sector, but some are operated as public-private partnerships or directly by a state government. The Vermont EB-5 Regional Center was the only regional center that is owned, controlled and supervised directly by a state government, until Michigan was approved in 2014. Other state and local level government involvement in Regional Centers include those operated by Hawaii, Iowa, Pennsylvania, South Dakota, Los Angeles County and the city of New Orleans.

Targeted employment areas are:

1. Rural areas, defined as areas located outside of metropolitan areas or other boundaries that have a population of 20,000 or more.
2. Areas with an unemployment rate of at least 150 percent of the national average.

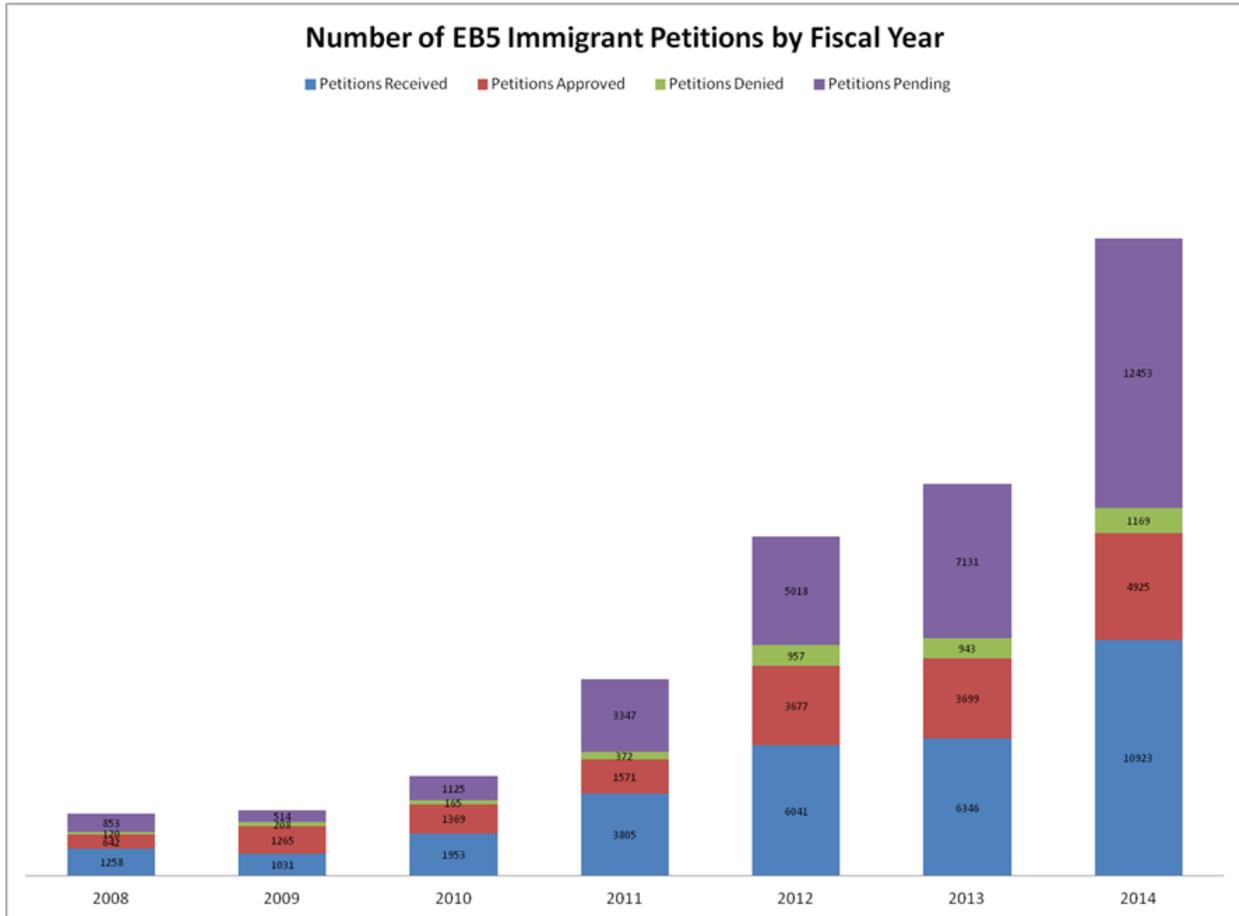
TEAs are designated by state government or by USCIS. Individuals or entities apply to be certified as regional centers by USCIS with a proposed geographic area, industry focus, source and amount of capital, and economic model to track job creation. Investors submit a proposal to a regional center, and upon approval, apply for a visa with USCIS.

### **A Surge in Applications**

After a slow start (16 centers had been established as of 2007), applications have increased rapidly. As of Feb. 2, 2015, USCIS has approved about [630 Regional Centers](#). Regional centers are located in every state (except Wyoming), the District of Columbia, Puerto Rico, Guam, and the Northern Marianas, with

the highest concentrations in California (158), Florida (67), New Jersey (43), New York (60), Pennsylvania (38) and Washington (42).

[EB5 visa applications](#) have also dramatically increased, with the cap reached for the first time in 2014: 10,923 petitions were received, an increase of 72 percent over the 6,346 received in 2013. In fiscal year 2014, USCIS approved 4,925 petitions and denied 1,169; an additional 12,453 applications were pending review on Sept. 30, 2014. Processing times for visas has increased, now averaging 14 months.



China received most of the [EB-5 visas in FY2014](#), with 9,128 immigrants, or 85.4 percent of the 10,692 visas issued. The next 5 countries receiving EB-5 visas include South Korea (2.1 percent), Mexico (1.2 percent), China Taiwan born (1.2 percent), Vietnam (1.1 percent), and Russia (0.9 percent), together comprising 6.5 percent of all EB-5 visas .

### Is It Working?

Supporters believe the program offers an avenue of investment for rural or high unemployment areas that would otherwise go unserved. According to [Invest In the USA](#), which represents EB-5 regional centers, the EB-5 program accounted for \$6.5 billion in capital investment and supported over 131,000 U.S. jobs from FY2005-13.

Critics of the program point to instances of fraud, lack of oversight, and question whether EB-5 investments are resulting in job creation. Some also criticize the notion of “selling” green cards to wealthy foreigners.

The Department of Homeland Security’s Office of Inspector General audited the program in 2013, finding that USCIS is limited in its ability to prevent fraud or national security threats and unable to demonstrate the benefits of foreign investment into the U.S. economy. The [report](#) made four recommendations:

1. Change regulations to improve USCIS authority to address fraud and national security concerns, and verify that foreign funds were invested in companies creating US jobs.
2. Partner with the departments of Labor and Commerce and the Securities and Exchange Commission to provide expertise to adjudicate the regional center applications.
3. Conduct evaluations of the EB5 program to measure economic impact.
4. Establish quality assurance steps to promote program integrity.

USCIS agreed to take action on three of the recommendations but argued that another agency would be better positioned to conduct the economic impact evaluation.

Minnesota commissioned a [report](#) in 2012 to identify best practices for the state to benefit from the EB-5 program, evaluating four models of regional centers—private, not for profit, public-private partnership, and public—for consideration. Risks identified in some EB-5 failures include missteps in due diligence of proposed projects, fraud by EB-5 agents and poor understanding of EB-5 requirements and economic projections.

A [Brookings report](#) in 2014 raised concerns about the lack of reliable data to assess program performance and evaluate economic impact. The report suggests better evaluation and tracking of projects’ local economic impact; coordination of regional centers with economic development agencies, which have parallel goals to attract business and investment, stimulate growth, create jobs, and encourage public-private partnerships; consultation with the Department of Commerce to assess economic impact and evaluate results; and incentives for federal-state-local partnerships. An [article](#) in a Federal Reserve Bank of Boston publication argues that while projects may create jobs initially, over time the jobs may change. For example, initial project construction jobs may shrink, while jobs such as retail or services grow. There is no requirement that jobs be dedicated to residents of the TEA.

A [report](#) by the Migration Policy Institute in 2014 finds growing interest by countries to offer immigrant investor visa programs, exchanging residency or visa-free travel rights for capital investments. These include European and Caribbean countries as well as the United Kingdom, and Australia. Program goals include direct investments, skills and expertise, and indirect benefits in spending and taxes. Business models vary widely by country, and in general, policymakers have found results to be modest and evidence of economic impact difficult to assess. Canada, which ran a program asking investors to buy special government bonds, discontinued its investor program in 2014, citing lack of economic benefits.

## **The Year Ahead**

The EB-5 program sunsets every three years, and is up for renewal in 2015. On Jan. 28, 2015, Congressmen Jared Polis (D-CO) and Mark Amodei (R-NV) introduced the [American Entrepreneurship and Investment Act of 2015](#). The bill would make the EB-5 program permanent, address fraud and abuse, expedite processing, and no longer count family members against the 10,000 cap.

A review of the EB-5 program from the Government Accountability Office is anticipated to be submitted the summer of 2015.

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**Resources**

[USCIS EB-5](#) website  
[DHS OIG audit](#), 2013  
[Brookings report](#), Feb. 2014  
[Migration Policy report](#), October 2014  
[NCSL Snapshot of U.S. Immigration](#), 2011