Research

U.S. Immigration and Foreign Investors

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EXECUTIVE SUMMARY

- The United States offers up to 10,000 “EB-5” visas to foreign investors and their families each year to stimulate the U.S. economy through capital investment and job creation.
- EB-5 immigrants have invested at least $20 billion in the U.S. economy since 2008, with over $5 billion invested in 2017 alone.
- Projects associated with EB-5 investments have created over 174,000 jobs, which equates to approximately 16 jobs per investor.
- Several reforms have been proposed to raise investment requirements and tighten accountability for the EB-5 program. While some changes to the program may be beneficial, any reform must ensure that the United States remains a competitive destination for foreign investment.

INTRODUCTION

Immigrants seeking permanent, employment-based residence in the United States have five distinct paths to obtaining an immigrant visa. Four of these immigrant visa categories depend on educational attainment, extraordinary ability, specific skills, or association with a particular population or labor need. The fifth, known as EB-5, is an investment-based visa that requires immigrants to invest in a domestic commercial enterprise and to create at least 10 permanent full-time jobs. In return, these immigrant investors and their immediate eligible family members can obtain lawful permanent residence.

The U.S. EB-5 program was created in 1990 to attract foreign investment and spur job creation by offering investors permanent residency. Approximately 50 nations around the world have some sort of immigrant or citizenship investor program, including the United Kingdom, Canada, and almost half of the countries in the European Union.

As President Trump seeks wide-ranging changes in the U.S. immigration system, existing visa programs—including the EB-5 program—face increased scrutiny. So, has the EB-5 program performed as intended? How have immigrant investors impacted U.S. workers and the economy? How effective is the current U.S. immigrant investor program? And finally, are calls for reform justified?

THE MECHANICS OF EB-5

To qualify for lawful permanent residence in the United States through the EB-5 program, prospective immigrants must invest at least $1 million in a new commercial enterprise. This enterprise can be a corporation, partnership, business trust, or any other for-profit activity formed after November 29, 1990. In addition, the investment must create at least 10 full-time jobs for U.S. workers. Upon approval of the EB-5 petition, the investor and their dependents can apply for conditional permanent residence. After two years, they can apply to remove those conditions and become permanent U.S. residents.

Investment requirements are lower for immigrants who choose to invest in "Targeted Employment Areas" (TEAs). These can be either rural areas or areas with unemployment levels of at least 150 percent of the national average. In these cases, EB-5 immigrants must invest a minimum of $500,000. However, the investment must still be in a new commercial enterprise and must also generate 10 new jobs for U.S. workers. TEA investments are exceedingly popular: 99 percent of all EB-5 petitioners invest in projects located in TEAs.

The EB-5 program benefits both the immigrants and American businesses. In addition to giving foreign investors access to opportunities in the American market, the EB-5 program also gives U.S. businesses access to capital they may not otherwise have. For instance, research suggests that access to revolving consumer credit has declined 14.5 percent since Dodd-Frank was passed in 2010. Furthermore, the number of commercial banks in the United States has been steadily declining, limiting borrowing options for U.S. businesses. In some cases, EB-5 investment may provide investment capital for high-risk, high-reward ventures that would otherwise be very difficult for entrepreneurs to obtain.

Foreign investors have two investment options to qualify for this visa. EB-5 visa applicants can either invest in an independent project (called stand-alone investments) or in a "regional center." Regional centers pool together EB-5 investments with other capital sources to finance commercial projects. While not common until recently, regional centers now make up the vast majority of total EB-5 investments. In 2007, only 26 percent of new EB-5 visas were issued to investors in regional centers, but that number jumped to 85 percent in 2008, and has since grown to 95 percent. Thousands of regional centers have been formed across the nation due to growing demand for both EB-5 visas and foreign investment.

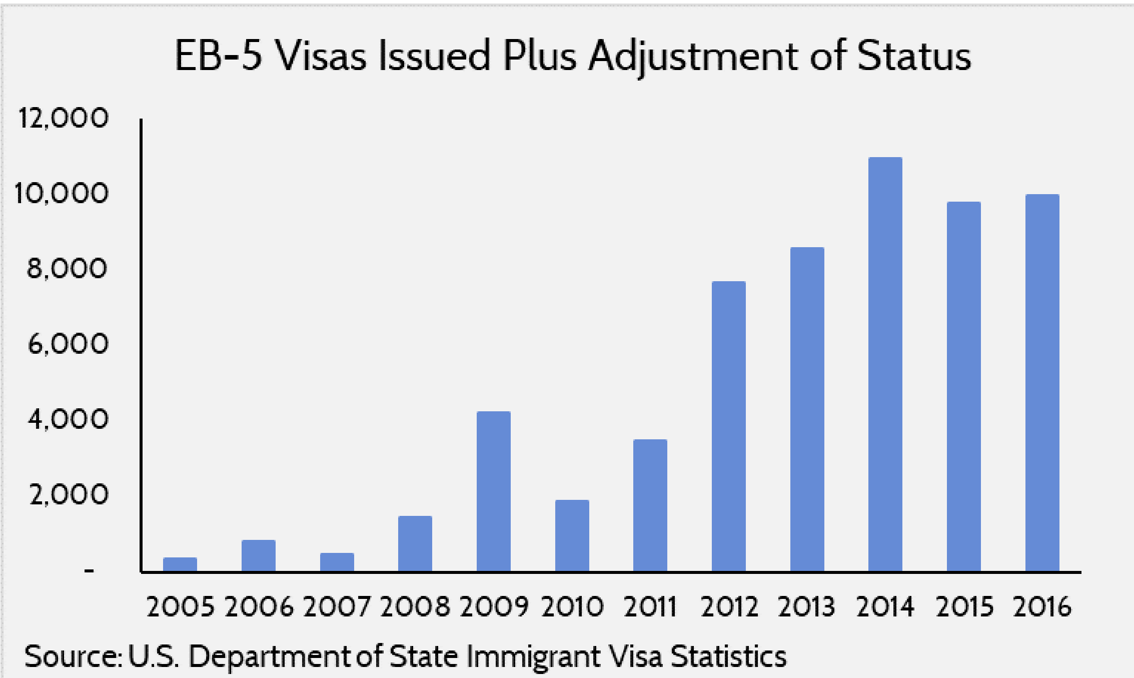
Another difference between stand-alone EB-5 investments and investments in regional centers involves job creation requirements. While both investment types mandate the creation of 10 new jobs, jobs created from stand-alone investments must be created directly at the new commercial enterprise (called "direct jobs"). In contrast, EB-5 investments made in a regional center can generate either direct, indirect, or induced job creation.

Indirect jobs can include independent contractors, jobs generated at the supplier level, future jobs that will result from the completion of a project, or any other jobs connected to an EB-5 investment that are not located at the new commercial enterprise. Induced jobs are created as a result of the investment's economic impact. Induced jobs can be generated from the increased economic activity around a project's location. For example, when direct project workers or indirect workers connected to an EB-5 investment get lunch or coffee, increased demand in the area can create induced employment at restaurants or coffee shops.

EB-5 investors must use "reasonable methodologies" to estimate the number of jobs that will be created by their investment. To do this, EB-5 investors often hire economists who project direct, indirect, and induced job creation using economic modeling. Most use input-output models, which make job projections based on EB-5 investment expenditures, revenues generated by those expenditures, and increased visitor spending.

Ten thousand EB-5 visas are available each fiscal year to foreign investors and their families. Per-country limits prohibit applicants from any single country from being awarded more than 7.1 percent of this total initially. However, unused visas in any given fiscal year can be transferred to prospective EB-5 immigrants in countries already exceeding the cap. Top sources of EB-5 investors include China, South Korea, India, Vietnam, and Brazil.

While demand for EB-5 visas has not always been high, it has dramatically increased in recent years. In FY2014, the EB-5 visa cap was reached for the first time, and EB-5 visa usage has remained steady since then. The following chart shows this trend: It displays the number of new EB-5 visas granted each year over the past decade. This includes both new immigrants to the United States and immigrants already in the country on different visas whose statuses were adjusted to EB-5. Note that, on average, approximately two family members are granted visas for every one investor. These derivative visas count toward the overall EB-5 cap.



ECONOMIC EFFECT

Given that the purpose of the immigrant investor visa is to benefit to the U.S. economy while attracting investment and employment opportunities, it is useful to know what impact EB-5 projects have had since the program began in 1990. U.S. Citizenship and Immigration Services (USCIS) is the official source for EB-5 economic impact data. To estimate economic contributions and job creation associated with EB-5 investors, USCIS relies on the minimum requirements of the program. Specifically, USCIS assumes that each EB-5 investor spends $500,000 and creates 10 jobs. However, this methodology has been criticized. According to the Government Accountability Office (GAO), 90 percent of EB-5 investors report creating more than the 10-job minimum, and 10 percent invest $1 million instead of $500,000. As a result, GAO recommends that USCIS track and analyze data reported by EB-5 investors instead of simply assuming the minimum requirements are met.

The Department of Commerce released a report last year estimating the job creation and total investments generated by EB-5 immigrants. Unlike USCIS, Commerce did not rely on minimum requirements for estimating the economic impact of regional center investments. The report instead utilized the economic impact analyses submitted by regional centers when making its calculation. The report found that EB-5 immigrants were projected to invest approximately $5.8 billion in fiscal years 2012 and 2013. That number jumps to $16.7 billion if all sources of investment connected to the EB-5 investments are counted, including both foreign and domestic sources. These investments were projected to create over 174,000 jobs, which equates to approximately 16 jobs per investor.

Another report estimated the economic contributions of EB-5 immigrants by considering the impact of not only investment dollars, but also household spending and tax revenue. It found that, in FY2013, spending associated with EB-5 investments in regional center projects contributed $3.58 billion to Gross Domestic Product (GDP) and supported over 41,000 jobs. The sectors most positively impacted by EB-5 investments were construction, legal services, wholesale trade, and real estate. In addition, the report found that EB-5 investors contributed $520 million in federal government tax revenues and $285 million in state and local government tax revenues. If the number of available visas were to increase to 20,000, the report estimates that EB-5 investors would contribute more than $11 billion to U.S. GDP.

The same organization estimates that EB-5 immigrants have invested $20 billion since 2008, with over $5 billion invested in 2017 alone. However, these estimates are made on the assumption that each immigrant invests the minimum amount of $500,000, which likely underestimates the total value of EB-5 investments.

INTERNATIONAL COMPARISON

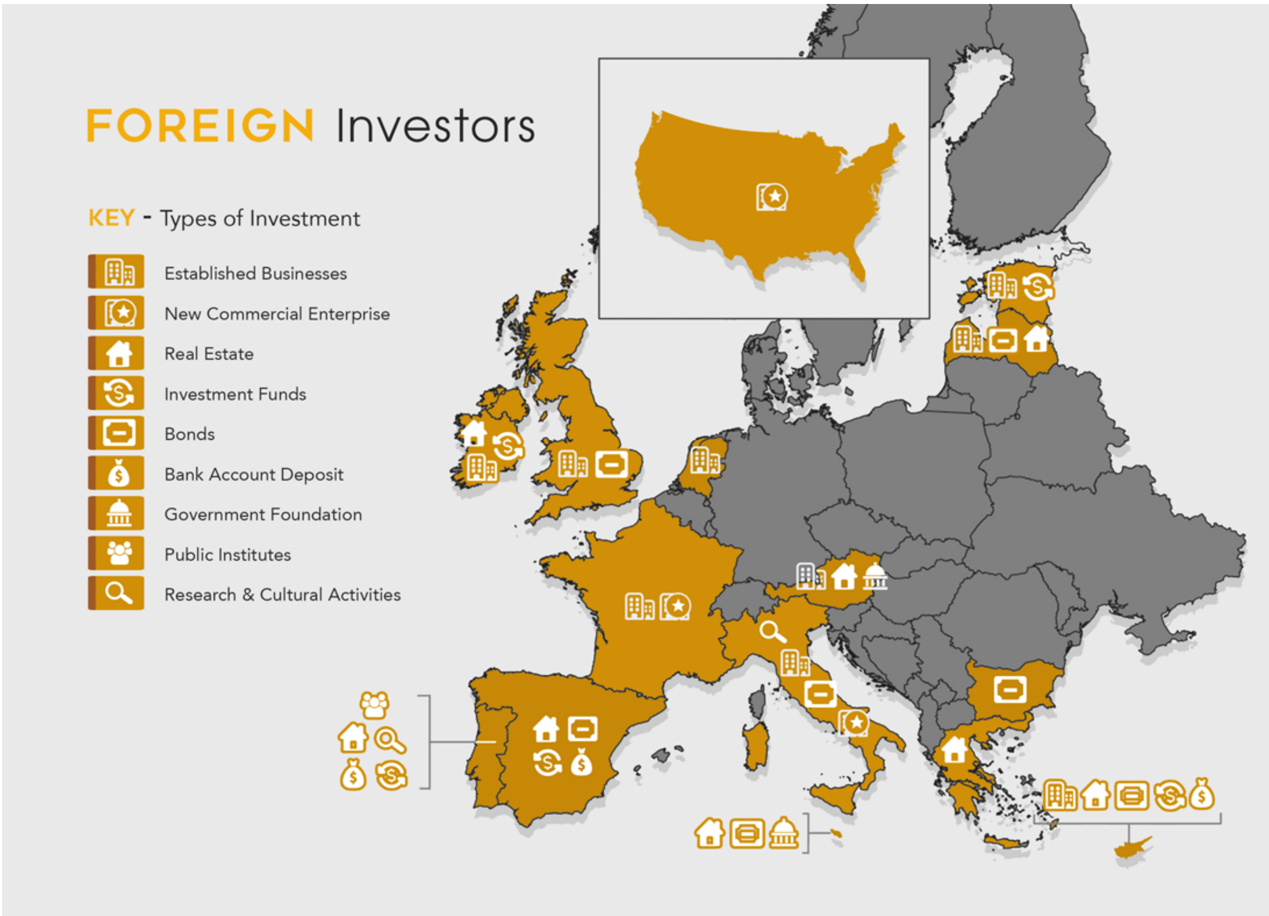
The United States is an attractive destination for investment. It has the largest economy in the world, making up 25 percent of global GDP. It is also a hub of innovation with highly liquid financial markets and a wealth of opportunities. However, the United States is not the only investment option. As such, it should strive to remain competitive relative to other nations offering similar immigrant investment programs.

Fourteen countries in the European Union (EU) have immigrant investment programs that can either directly or indirectly lead to residency or citizenship. For example, the immigrant investor program in Spain requires immigrants to invest a minimum of 500,000 euros (about $590,000) in Spanish real estate. A foreign investor can then obtain permanent residency after five years as long as he or she continued to own property during that time and was physically present in Spain for at least half of each year.

Another example is Portugal. Portugal grants permanent residency to foreign individuals that invest about $400,000 to $1.2 million in real estate, scientific research or cultural activities, public institutions, investment funds, or simply a Portuguese bank account. This provides investors with a diverse array of safe investment options. In Greece, investors can obtain renewable 5-year residency permits after purchasing real estate worth just $300,000.

Other EU countries, such as Finland and Poland, grant renewable temporary residency permits to individuals that start new businesses within their borders. However, personally starting a new business requires significantly more involvement than investing in an established business, as EB-5 investors typically do. Therefore, we have not included these nations in our analysis.

The following graphic contrasts the qualifying investments foreign individuals can make in both EU countries and the United States to gain residency or citizenship. Note that, in the EU, foreign investors can obtain citizenship after five years of physical presence as a resident. This gives investors a path to citizenship even in countries that do not specifically offer citizenship through an investment program. It also means that investors enjoy the right to live and work in any EU nation, as the bloc has freedom of movement. Essentially, obtaining citizenship in one EU nation grants investors certain residency rights in other EU nations.



The above graphic demonstrates that the United States' immigrant investor program is rather restrictive when compared to those of other countries. The United States only has one investment option: a new commercial enterprise. This is riskier than investing in an established business and, if it fails, the investor's U.S. resident status is revoked. Meanwhile, eight of the EU countries shown above allow investors to purchase real estate, and three permit individuals simply to deposit cash into bank accounts. These, along with bonds and investment funds, are significantly safer investment options that increase the competitiveness of EU immigrant investor programs compared to the EB-5 in the United States.

PROPOSALS FOR REFORM

The infusion of capital by EB-5 investors clearly benefits the U.S. economy. However, several instances of fraud within the EB-5 program have sparked a debate about reform. In 2015, Senators Grassley and Leahy introduced legislation which would have mandated site visits to regional centers, required background checks of regional center and project developer principals, and enhanced the government's ability to investigate the source of funds from EB-5 investors. It also would have raised the minimum investment requirements from $500,000 to $800,000 in TEAs, and from $1 million to $1.2 million in non-TEAs. This effort failed, and in response, Senator Grassley introduced a new bill last year that would completely eliminate the EB-5 program.

The Department of Homeland Security (DHS) also recently proposed a regulation that would increase the minimum investment in TEAs from $500,000 to $1.35 million and the minimum investment in non-TEAs from $1 million to $1.8 million. These investment requirements would be indexed to inflation and adjusted every 5 years. DHS further proposed changing the way TEAs are designated, ensuring that reduced investment levels are reserved for areas experiencing high levels of unemployment.

Reforms to the EB-5 program may be beneficial, as the government should seek to minimize fraud in all government programs. In fact, after GAO made recommendations to improve program integrity, USCIS now performs regular risk assessments and is enhancing its data collection on EB-5 participants.

More robust data collection on risk and participants would be useful for confirming that these visa holders are fulfilling the program's requirements and would produce more reliable economic impact data. To that end, a helpful reform would be to increase precise data collection on job creation and investment totals associated with the EB-5 program. Steps should be taken to confirm the accuracy of this data so that economic impacts are measured consistently. Furthermore, all EB-5 data should be made publicly available so that it can be evaluated by anyone. It may also be valuable to create a standardized method of economic modeling to minimize job projection discrepancies among different projects.

Changing TEA designations also seems appropriate. The purpose of these designations is to encourage investors to provide employment opportunities in low-employment areas. Therefore, it makes sense that the government would want to that ensure TEA designations are reserved for areas with truly high unemployment levels. However, projects located close to high unemployment areas (but not in one) often create jobs for workers from neighboring towns. Requiring a TEA designation for a project's location may not be as important as requiring that project workers are hired from high unemployment areas. If sourcing employees from high-unemployment areas is the priority, it would be more sensible to simply confirm the home neighborhoods of those workers rather than the physical location of the enterprise.

Raising EB-5 investment amounts, as proposed by DHS, also merits consideration. But such a change will have implications for the program's attractiveness to potential investors, especially relative to other countries. Significantly increasing the investment threshold could discourage foreign individuals from becoming EB-5 investors. This may drive foreign capital to other countries with more competitive programs, causing the United States to lose valuable foreign investment.

A final consideration is the growing demand for EB-5 visas among residents of China. As much as 85 percent of EB-5 visas have been awarded to Chinese immigrants, and some argue that this program seems to lean too heavily toward Chinese nationals simply purchasing U.S. residency. Of course, these are valuable investments in domestic jobs and enterprises. Further, the demand for EB-5 visas in China is consistently higher than the per-country limit, which has created a backlog of almost 25,000 applications. As a result, Chinese nationals who wish to invest in the United States may have to wait at least 6 years before obtaining an EB-5 visa. These limits should help to mitigate concerns over a large Chinese investment presence in the United States.

CONCLUSION

The EB-5 immigrant investor program, while subject to some controversy**,** is a valuable addition to the U.S. immigration system. It enables foreign investors to enrich our economy while simultaneously creating jobs for U.S. workers. It has also resulted in an infusion of at least $20 billion into the U.S. economy. Investing these dollars directly into U.S. businesses is a much more productive use of capital than the alternative: paying filing fees associated with immigrant applications (assuming that EB-5 immigrants would have another path to enter the United States, via employment or family connections).

The benefits of the EB-5 program are significant**.** However, thoughtful reforms should be considered to make it easier for the government and policy analysts to evaluate these economic contributions. Policymakers could also consider reforms to the Targeted Employment Area designation. Yet while real reforms could strengthen the program, all changes should be balanced by the need to increase the competitiveness of the U.S. immigrant investor program in the global marketplace, as well as to better facilitate foreign investments.