



**Office of the Citizenship and
Immigration Services Ombudsman**

Working to improve the immigration benefits process



CIS Ombudsman's Webinar Series: Engagement with USCIS on the EB-5 Immigrant Investor Program

October 30, 2023



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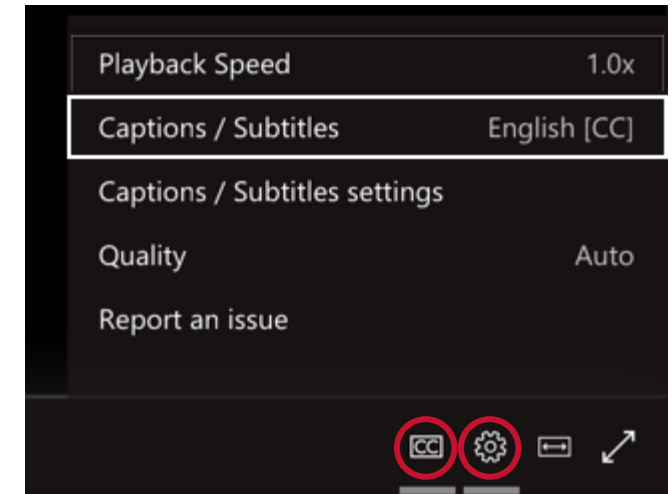
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- The materials from today's webinar will be posted online on our Public Engagement page (www.dhs.gov/outreach):
 - Presentation
 - Questions and answers
 - Readout summarizing the webinar

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Nathan Stiefel Acting CIS Ombudsman

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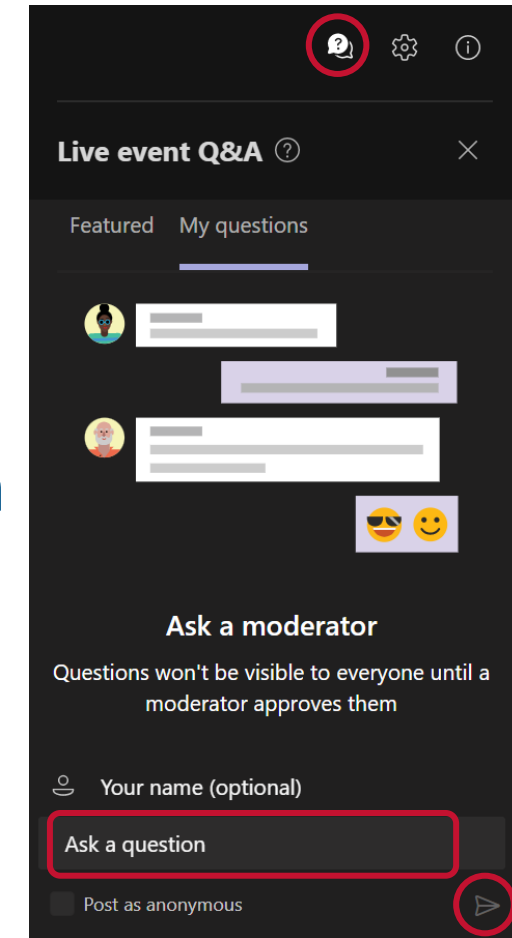


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- Select the **Q&A icon**  at the top of your screen to open or close the Q&A panel.
- We will review every question submitted and share them with USCIS.
- You can also email us any questions or comments at: CISOmbudsman.publicaffairs@hq.dhs.gov.





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- Nathan Stiefel, Acting CIS Ombudsman
- Ciro Parascandola, Chief of Public Engagement
- Gary Merson, Chief of Staff (Moderator)
- Alissa Emmel, USCIS, Chief of the Immigrant Investor Program Office (IPO)



- 1990: Congress creates the EB-5 Program
 - The program was created to stimulate the U.S. economy by foreign investments

- 1992: Congress creates the Immigrant Investor Program
 - The program sets aside EB-5 visas for participants who invest in commercial enterprises associated with USCIS-approved regional centers



- March 15, 2022: President Biden signed the EB-5 Reform and Integrity Act of 2022
 - Reauthorized the Regional Center Program for five years
 - Enacted significant integrity reforms
 - Modified the requirements for investors



- On October 11, USCIS provided additional guidance via the USCIS website
- Impact of terminated regional centers
 - Afforded protections for most petitioners when a regional center is terminated
- Required investment timeframe
 - For those filing for classification on or after March 15, 2022



- Change to petitioner eligibility when a regional center is terminated
 - Prior to RIA, petitioners were generally rendered ineligible for EB-5 status if the associated regional center was terminated
 - RIA allows all investors associated with a terminated regional center to continue to be eligible for EB-5 status under certain circumstances



- Investors will not have their EB-5 status automatically terminated
- Investors will generally have 180 days to respond to regional center termination notification. During this time, they can:
 - Amend their petition to meet applicable requirements of the RIA
 - Notify USCIS that they continue to be eligible for EB-5 status notwithstanding the termination of their regional center



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Questions and Answers: Regional Center Terminations and Impacts



- Immigrant investors can obtain conditional permanent resident status through capital contributions in:
 - Standalone new commercial enterprises that create direct jobs, or
 - New commercial enterprises associated with USCIS-designated regional centers that create direct or indirect jobs



- Investors who filed for an EB-5 visa prior to the RIA must follow pre-RIA sustainment requirements:
 - Invested, or were actively in the process of investing, the required amount of lawful capital, and
 - The jobs were created or would be created within a reasonable timeframe as a result of that lawful capital investment, and
 - That the petitioner sustained the investment throughout the period of the investor's conditional permanent resident status in the United States, or two years from the date the investor obtained their conditional status.



- RIA modified the sustainment requirement for those who filed for an immigrant visa on or after March 15, 2022
 - Removed the requirement from INA 216A that the investor establish that they sustained their investment throughout the period of their conditional residence, and
 - Added language to INA that requires the investor to show that their capital is expected to remain invested for not less than two years



- For investors who filed an EB-5 immigrant visa petition prior to enactment of the RIA, that is, filed Form I-526 petitions before March 15, 2022, to remove the conditions on their status, they must establish, among other things, that they invested the required amount of lawful capital and sustained that investment throughout their period of conditional permanent residence



- For investors who filed an EB-5 immigrant visa petition after enactment of the RIA, meaning they filed Form I-526 or Form I-526E on or after March 15, 2022, USCIS will generally use the date the requisite amount of qualifying investment is made. That's the date they contributed capital to the new commercial enterprise and placed it at risk in accordance with applicable requirements, including being made available to the job-creating entity, as appropriate.
- Important Note: RIA does not remove the requirement that there be a nexus between the investment of capital and job creation



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Questions and Answers: Sustainment



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Questions and Answers: EB-5 Questions Received in Advance



- Website: www.dhs.gov/cisombudsman
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