



U.S. Department of Homeland Security

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

On October 30, 2023, the Department of Homeland Security's (DHS) Office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) hosted a joint webinar with U.S. Citizenship and Immigration Services (USCIS) on the EB-5 Immigrant Investor Program and implementation of the [EB-5 Reform and Integrity Act of 2022 \(RIA\)](https://www.congress.gov/bill/117th-congress/house-bill/2471) (<https://www.congress.gov/bill/117th-congress/house-bill/2471>).

The RIA revised certain eligibility requirements for the EB-5 program and reformed the regional center program, while adding new protections for investors. Additionally, the RIA changed required investment timeframes for EB-5 investors who file for classification after the RIA went into effect.

During the webinar, staff from USCIS' Immigrant Investor Program Office (IPO) and the CIS Ombudsman shared information on USCIS' recent policy guidance on changes made by the RIA and other EB-5 program updates.

EB-5 and RIA

- Congress established the EB-5 program in 1990. In 1992, the Regional Center Program was created, setting aside EB-5 visas for participants who invest in commercial enterprises associated with approved regional centers.
- On March 15, 2022, President Biden signed the RIA, reauthorizing the Regional Center Program for five years, enacting significant integrity reforms, and modifying program requirements.
- On October 11, 2023, USCIS provided additional guidance on changes to the EB-5 program made by the RIA on its [EB-5 Questions and Answers](https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers-updated-oct-2023) (<https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers-updated-oct-2023>) page.

Termination of regional centers

- The RIA added [INA 203\(b\)\(5\)\(M\)](https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1153&num=0&edition=prelim) (<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1153&num=0&edition=prelim>), which allows investors associated with a terminated regional center to continue to be eligible for EB-5 status under certain conditions, regardless of filing or receipt date. These investors will not have their EB-5 status automatically terminated.
- These investors will generally have 180 days after being notified in writing that their regional center has been terminated to amend their petition to meet applicable requirements or notify USCIS that they continue to be eligible for EB-5 status notwithstanding the termination of their regional center.
- Investors who amend their petition may retain eligibility if their new commercial enterprise (NCE) reassociates with another designated regional center or by making a qualifying investment in another NCE.
- Investors will also retain the priority date of their original petition and their derivative beneficiaries will not age out of eligibility.

Sustainment

- There are now two different investment timeframe requirements depending on whether an investor filed their EB-5 immigrant visa petition before (pre-RIA) or after (post-RIA) the RIA went into effect on March 15, 2022.
 - **Post-RIA:** The RIA modified the sustainment requirement for investors who file for an immigrant visa on or after March 15, 2022 by:
 - Removing the requirement that the investor sustain their investment throughout the period of their conditional residence, and
 - Adding the requirement that the investor show that their capital is expected to remain invested for not less than two years.
 - **Pre-RIA:** Investors who filed an immigrant visa petition before March 15, 2022 must follow the pre-RIA sustainment requirements to remove conditions on their status and establish that they:
 - Invested the required amount of lawful capital, and
 - Sustained that investment throughout their period of conditional permanent residence.
- Pre-RIA requirements for removing conditions on status will continue to apply to investors who file Form I-829, *Petition by Investor to Remove Conditions on Permanent Resident Status*, after the RIA, but filed Form I-526, *Immigrant Petition by Alien Entrepreneur*, before March 15, 2022 (the current edition, 07/24/23, of Form I-526 is titled "Immigrant Petition by Standalone Investor").
- The RIA does not remove the requirement that there be a nexus between the investment of capital and job creation. In order to demonstrate eligibility and ultimately remove conditions on their status, petitioners must continue to show that jobs were created because of their capital contribution and while that capital was invested.

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More than 350 stakeholders joined the webinar. Attendees submitted written questions and comments. You can find questions and answers published on this page. Below is a sample of the questions received:

- If a pre-RIA regional center chooses to wind down and not pay the integrity fund fee or file Form I-956G, *Regional Center Annual Statement*, will USCIS terminate the regional center based on “administrative noncompliance”?
- Under the pre-RIA material change policy, regional center termination affected investors differently depending on if the termination was before or after they received conditional permanent residence. How does termination of a Regional Center impact its associated Form I-526E, *Immigration Petition by Regional Center Investor*, petitioners?
- Can pre-RIA investors withdraw funds while a Form I-829, *Petition by Investor to Remove Conditions on Permanent Resident Status*, is pending?
- Can the rural set-aside category expedite Form I-526, processing?

The questions and feedback received from attendees were reviewed and shared with USCIS to address, as appropriate, in future engagements or through other communications.

For more information on the EB-5 program, visit USCIS' [EB-5 Immigrant Investor Program](https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program) (https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program) page.

Speakers

- Nathan Stiefel, acting CIS Ombudsman
- Ciro Parascandola, chief of Public Engagement, CIS Ombudsman
- Gary Merson, chief of staff, CIS Ombudsman (moderator)
- Alissa Emmel, chief of the Immigrant Investor Program Office, USCIS

Attachment	↕	Ext.	↕	Size	↕	Date	↕
Presentation: EB-5 Immigrant Investor Program Webinar (https://www.dhs.gov/sites/default/files/2024-03/23_1030_cisomb_presentation-EB5-webinar_0.pdf)		PDF		690.99 KB		10/30/2023	
Questions & Answers: EB-5 Immigrant Investor Program Webinar (https://www.dhs.gov/sites/default/files/2024-03/23_1030_cisomb_EB5-webinar-Q%26A_0.pdf)		PDF		130.89 KB		03/19/2024	

Keywords

[EB-5 \(/KEYWORDS/EB-5\)](#) [IMMIGRATION \(/KEYWORDS/IMMIGRATION\)](#)
[OFFICE OF THE CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN \(CISOMB\) \(/KEYWORDS/OFFICE-CITIZENSHIP-AND-IMMIGRATION-SERVICES-OMBUDSMAN-CISOMB\)](#)
[U.S. CITIZENSHIP AND IMMIGRATION SERVICES \(USCIS\) \(/KEYWORDS/US-CITIZENSHIP-AND-IMMIGRATION-SERVICES-USCIS\)](#)

Topics

[CITIZENSHIP AND IMMIGRATION SERVICES \(/TOPICS/CITIZENSHIP-AND-IMMIGRATION-SERVICES\)](#)
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