

## Employment Creation Investor—Regional Center Immigrant Visa

The investor visa gives permanent residence with an investment of \$800,000 to \$1.05 million USD in a new U.S. commercial enterprise that creates 10 full-time jobs. The spouse and minor children of the Beneficiary are eligible for permanent residence as dependents.

### Requirements of the Regional Center Investor Visa

The investor visa requires (1) qualifying investment amount (2) the investor visa questionnaire (IVQ) and evidence of lawfully obtained capital (source of funds); (3) sign the subscription agreement and transfer funds; and (4) filing the I-526 petition with the USCIS.

**1. Investment of \$1.05 million.** The qualifying amount of capital invested is just over \$1 million. The funds must be **actually invested** in the enterprise. Evidence that the investor has invested the funds or is in the process of investing includes bank statements and bank transfers showing deposits to the business or trust accounts of the EB-5 regional center.

If the enterprise is in a targeted employment area, the minimum amount of capital is \$800,000. Targeted employment areas are generally rural areas or areas of high unemployment of at least 150% of the national average.

**2. IVQ and Evidence of lawfully obtained capital.** Complete the basic investor visa questionnaire to determine eligibility as an “accredited investor.” The source of funds invested must be lawful. This can be from income savings, business operations, business ownership. Inheritance, sale of property and monetary gifts. Evidence includes foreign business registration, foreign corporate or partnership documentation, and business and personal income tax returns of the investor.

**3. Due diligence and the Private Placement Memorandum (PPM).** It is important to fully review or have a qualified professional review the PPM and perform any due diligence After reviewing and signing the PPM, transfer the funds to the escrow bank.

**4. Filing the I-526 Immigrant Petition.** File the petition with supporting documents from the USCIS approved regional center, including the compliant business plan and evidence of the job creation, and the government filing fees.

## EB-5 Regional Centers

EB-5 requirements for a Regional Center investor are essentially the same as in the standard EB-5 investor program. Investments made through regional centers can take advantage of an expansive concept of job creation including both “**indirect**” and “**direct**” jobs.

A **Regional Center** is any economic entity, public or private, involved with the promotion of economic growth, improved regional productivity, job creation and increased domestic capital investment. The USCIS “Regional Center” designation must be supported by economically or statistically valid forecasting tools, showing:

- How the regional center plans to focus on a geographical region within the United States. The proposal must explain how the regional center will promote economic growth in that region.
- How, in verifiable detail (using economic models in some instances), jobs will be created directly or indirectly through capital investments made in accordance with the regional center's business plan.
- The amount and source of capital committed to the regional center and the promotional efforts made and planned for the business project.
- How the regional center will have a positive impact on the regional or national economy.

### **Source of Funds**

The investor must demonstrate that the capital invested, or actively in the process of being invested, was obtained through lawful means. Any assets acquired directly or indirectly by unlawful means, such as criminal activity, are not considered capital. In establishing that the capital was acquired through lawful means, the immigrant investor must provide evidence demonstrating the *direct and indirect source* of his or her investment capital.

### **USCIS Regional Center**

The approval of a regional center means USCIS recognizes the economic entity as a designated participant in the EB-5 Program. When we approve a regional center, we acknowledge that the econometric models and business plans appear to be feasible and that jobs should be directly or indirectly created through investment in the approved industry categories.

### **Consumer/Investor Protection**

The Regional Center designation *does not* mean that the regional center's capital investment projects are backed or guaranteed by the government. There are no guarantees that an investor may ultimately be granted unconditional permanent resident status through an EB-5 investment. Investors must be "accredited investors" and should exercise due diligence when making an EB-5 investment. There is a risk of loss investment and such risk must be accepted by the investor.

### **Conditional Permanent Residence and Removal of Conditions**

The Investor initially receives *conditional permanent residence*. After 2 years the investor must show that all requirements have been met and can then petition for full permanent residence.

## **EB-5 Regional Center Document Checklist**

### **Investor**

- Investor Visa Questionnaire (IVQ)
- Passport(s)
- Résumé (with detailed dates of employment)
- Investor's diplomas, degrees, and certificates
- Evidence of Investor's U.S. immigration status (visa, 1-94, USCIS approval notices)
- Birth certificate
- Marriage certificate (if applicable)

**Fong♦Ilgan, LLP** works with clients to simplify the EB-5 Regional Center immigrant visa process. To discuss your case with an experienced board-certified attorney, please call us at 713.772.2300.