

Controversial EB-5 Investment Program Extended until December

By Lauren Kelly-Jones, J.D. Candidate 2019 | October 18, 2016

After almost expiring last month, Congress renewed the EB-5 Immigrant Investment Program – which provides U.S. visas in exchange for large investments in U.S. businesses – until December 9. Although touted to create jobs where they are needed the most, [allegations of fraud](#) have marred the program’s effectiveness and caused some to question whether it should exist at all.

The [EB-5 visa category](#) was created by Congress to promote job creation in 1990. The premise was simple: allow immigrant investors to invest in U.S. jobs in exchange for permanent residency visas and an opportunity for future citizenship for themselves, their spouses, and their children. Investors are required to put \$1 million into in a U.S. business (directly or indirectly, creating at least ten jobs) or \$500,000 into a business located in a rural or high unemployment area. Although the program is small (it grants around [10,000 visas per year](#) to investors and their families, most of whom are from China), it is in demand as a fast way to jump to the front of the immigration line. Regional Centers—federally approved, mainly private-sector entities—have bloomed and [pool investor money](#) into local areas to develop hotels, ski resorts and other projects.

However, the program struggles with oversight. The Government Accountability Office has [stressed](#) that EB-5’s overseer, the Citizenship and Immigration Services (USCIS), cannot effectively detect investment-related fraud or assess the program’s economic benefits. Recent events prove that to be true. This April, in Vermont, the Securities and Exchange Commission (SEC) announced [civil lawsuits](#) against a local executive and a Miami businessman, who had allegedly misused the majority of the \$350 million in EB-5 money they had raised from 731 investors in 74 countries for a resort development project. In June, the SEC [halted an EB-5 scheme](#) to steal investments in a Cancer Center in Southern California—a husband and wife raised \$27 million from 50 investors in China through EB-5, and misused the majority of it. Immigration lawyers, considered the “gatekeepers to the EB-5 program,” [have been prosecuted](#) for receiving transaction-based compensation for steering clients to specific EB-5 regional center projects.

In September, Senate Judiciary Committee Ranking Member Patrick Leahy from Vermont [stated](#): “The program needs to be reformed or it needs to end.” That will be a question Congress will revisit in December, after the general election.