

**EB-5 SERVICES**

Comprehensive, Detailed Consultations Analyzing the Possible Options Under the EB-5 Program to Determine the Best Fit for You

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Evaluating Existing Regional Centers

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# The EB-5:

## 50 Questions EB-5 Investors Should Consider in Choosing a USCIS Designated Regional Center Investment

In recent years the EB-5 program has grown at a rapid pace. With nearly 200 USCIS designated regional centers in existence and many more in the process of being adjudicated, EB-5 investors are often unsure about which regional center to choose for their EB-5 investment. The following questions can serve as a starting point for EB-5 investors in evaluating the suitability of a particular regional center for immigration purposes. Investors are also encouraged to consult with competent business, securities and/or financial professionals regarding the viability of the investment.

1. When was the regional center approved by USCIS, and has it gone through any amendments?
2. Has the regional center completed any EB-5 projects?
3. Have any of the regional center's projects been reviewed by the AAO?
4. What percentage of the project is composed of EB-5 financing?
5. Will the project rely on bridge financing until EB-5 funds are transferred?
6. Is the regional center affiliated with any government entity? Does the project have municipal or state support?
7. How many years of experience does the general partner or principal in the investment project have in EB-5 projects?
8. How many years of experience do the project principals have in the industry?
9. How much experience does the regional center's economist have in EB-5 projects?
10. What economic model does the regional center employ?
11. Are the jobs direct, indirect, induced or a combination?
12. What is the total number of jobs that the regional center expects to create in the project?
13. Is there a surplus in case any jobs are disallowed by the USCIS at the I-829 stage? How will they be allocated?
14. How is job creation tracked by the regional center?
15. How and when are investors notified that a particular project will not create the anticipated number of jobs?
16. How are the investors' funds used?
17. Have any investors had to go through the process of filing the I-526 anew per the December 2009 Neufeld memo because a particular project within the regional center has failed?
18. Is the instant project "pre-approved" by the USCIS?
19. What are the total number of investors in the project?
20. What would the investor's place in the project be?
21. Is the project conducted in phases?
22. Are investors permitted to visit the project in question?
23. What is the regional center's area?



24. Are the job creating project and the new commercial enterprise located in a Targeted Employment Area (TEA)?
25. Does the regional center anticipate that any job creation will take place outside of this area?
26. Does the TEA designation rely on the use of contiguous census tracts?
27. Does the investor have to pay a fee to receive the prospectus or offering materials? Is this fee refundable if the investor does not wish to proceed with the project?
28. What is the total amount required to be paid by the investor for participation in the project?
29. Does the administrative fee include the cost of I-829 materials?
30. If the I-526 is denied can the investor recoup their administrative fees?
31. Does the regional center use an escrow account?
32. How much of the investment amount is refunded if the I-526 is not approved?
33. What is the expected rate of return on the investment?
34. What has been the rate of return on previous investments through the regional center?
35. What are the risk factors associated with the investment?
36. What is the exit strategy from the investment?
37. Does the regional center work with experienced immigration, securities and corporate counsel?
38. Has an action for securities violations/fraud ever been filed against the regional center?
39. What is the form of the investment—limited partnership, LLC or other?
40. What is the current or prospective structure of ownership and control of the commercial entity(s) in which the investors are making their capital investments?
41. Do investors have a right to representation on the board of directors?
42. Does the regional center provide quarterly, biannual or annual reporting of the status of the investment to the investors?
43. Has the regional center complied with the annual USCIS reporting requirement?
44. How many of the regional center's I-526 petitions have been approved, denied or withdrawn?
45. Do any of the regional center's projects have pending Requests for Evidence?
46. How many of the regional center's I-829 petitions have been approved, denied or withdrawn?
47. Has the center experienced any "material change" issues, i.e., have their projects deviated from the projections in the original business plan?
48. Has the regional center received any I-924 denials on amendment or project proposal requests?
49. Has the regional center's designation ever been the subject of a Motion to Reopen?
50. Has USCIS ever issued a notice of intent to terminate or has a formal termination ever been issued for the regional center?

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*Kate Kalmykov serves as Of Counsel in the New Jersey and New York offices of Greenberg Traurig, LLP. Kate has wide-ranging experience working on EB-5 immigrant investor matters. She regularly works with developers across a variety of industries, as well as private equity funds, on developing new projects that qualify for EB-5 investments. This includes creation of new regional centers, having projects adopted by existing regional centers or through pooled individual EB-5 petitions. For existing regional centers, she regularly helps to prepare amendment filings, exemplar petitions, address removal of conditions issues and develop internal regional center compliance programs. Kate also counsels foreign nationals on obtaining greencards through either individual or regional center EB-5 investments, as well as issues related to I-829 Removal of Conditions.*



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