



---

# eb-5 regional centers: pooled resources for job creation with "green cards" as rewards

---

*MSK Client Alert*

July 2009

In a recent MSK Immigration Bulletin (June 19, 2009), we discussed how the U.S. government incentivizes investment into America by offering permanent resident status (more commonly known as a "green card") to those investors from overseas who invest in U.S. enterprises, creating and preserving the jobs of U.S. workers. However, it is not necessary for the overseas investor to create a new business, or even purchase an existing one. Instead, it is also possible for the investor to contribute to an investment pool known as a "regional center."

This option has become more popular, even as demand for other immigration options has decreased due to economic forces. As of June 24, 2009, there were 49 approved and active regional centers in 21 states throughout the USA. Almost one year earlier, on June 30, 2008, there were only 23 approved regional centers. As of June 22, 2009, there were a total of 41 pending regional center applications awaiting government review. However, and certainly worthy of note, the EB-5 regional center provision is due to expire on September 30, 2009. Aware of the imminent deadline, the U.S. Senate just passed an appropriations bill that makes the EB-5 regional center program a permanent program. It has not yet passed the House, nor has the President signed it, but this authorization is considered likely to happen.

The purpose of this alert is not to offer any sort of investment advice. Any substantial investment can carry enormous risks involving significant sums of money. For that reason, individuals who are considering applying for U.S. immigration benefits should seek the assistance of qualified financial professionals and rely on their own common sense before making such a commitment. Nothing substitutes for thorough due diligence on the part of an investor in any business. Accordingly, the purpose of this article is only to describe immigration options that are available under current law.

## **attorneys**

Frida P. Glucoft  
David S. Rugendorf

## **practice areas**

immigration  
immigration



## eb-5 regional centers: pooled resources for job creation with "green cards" as rewards

---

### The EB-5 Immigrant Investor Program: Introduction

The EB-5 immigrant investor (so-called "million dollar investor") program allows an investor from almost any country, with no prescribed level of academic credentials or work experience, to receive permanent residence status (a "green card") upon investment of one million dollars (U.S. \$1,000,000) into an existing U.S. business or creation of a new business. In certain cases, where the investor's capital is invested in a high-unemployment area (as defined by government labor statistics), a half million dollars (U.S. \$500,000) is sufficient. The investor's immediate family (spouse and children under age 21) may be included in the investor's petition and receive green cards as well. The regional center - where individual investors pool their money and a preapproved management structure actively manages the capital - is an alternative to the individual investor model, wherein the investor starts a new enterprise or purchases an existing business. This decreases the risk that the enterprise itself may not qualify for the EB-5 investor visa, a risk present where the investor funds an existing enterprise or creates a new enterprise. Of course, the investor himself must still meet the requirements.

### Regional Centers

The regional center program was created in 1991 as an experimental ("pilot") program and has been reauthorized a number of times over the years. On July 8, 2009, the Senate approved an amendment offered by Senator Patrick Leahy of Vermont that seeks to make the program permanent. The amendment became part of the Homeland Security appropriations bill that is now in conference and is expected to be included in the final bill. However, as mentioned, if no extension of any sort passes through Congress, the program will expire on September 30, 2009.

The program allows investors to aggregate their investments into combined investment pools. The U.S. Citizenship and Immigration Services reviews and approves proposals for management of these pools - known as regional centers. This money must be used to promote economic growth in a focused geographic region anywhere in the United States. The objective may be accomplished by increasing export sales, improving regional productivity, job creation and domestic capital investment. As with the individual investor EB-5 investment, each investor must commit \$1 million (or \$500,000 if in a high-unemployment area).

One of the key differences between the individual investor EB-5 investment and the regional center is that the investor in the regional center need not show that his or her investment has created jobs for ten U.S. workers. This is because, upon certification of participation, the regional center must establish that its aggregated investment pool will indirectly create the requisite number of jobs by using accepted economic forecasting tools and feasibility studies. One of the other advantages of the regional center program, as opposed to the individual investor EB-5 immigrant investor program, is that it does not require the investor to be actively involved in the day-to-day operations of the business. While the investment may still not be a purely passive one, the investor may instead exercise a managerial role by being involved in the center's policy-formulation processes.

Some of the activities that regional centers have engaged in are alternative energy development, agricultural export businesses, hotel and resort properties operations, entertainment and media productions, and others.



## eb-5 regional centers: pooled resources for job creation with "green cards" as rewards

---

### Other Requirements Of Note

The investor must also demonstrate that his or her investment was made with capital acquired through lawful means, and it is the investor's burden to provide evidence for this requirement.

A person may file an immigrant investor petition either while outside the country or while present in the U.S. At all times before and after an immigrant investor petition is filed and pending with the government, any investor currently in the U.S. must maintain his or her legal immigration status. The filing of an immigrant investor petition does not relieve a person within the U.S. of the requirement that he or she maintain legal status in the U.S. Serious consequences, including disqualification from obtaining a green card, deportation, or exclusion from the U.S. may result in the cases of individuals or family members who violate these rules.

### Conclusion

The EB-5 "million-dollar investor" green card program provides a vehicle for permanent residence for those who have the means to invest in the U.S. by creating jobs or preserving them. Specifically, the regional center provisions of the program may provide the means to a new life in the U.S. for an investor and family - without the necessity of having to start a brand new enterprise or invest in the uncertainty of an existing company.

MSK's experienced team of immigration attorneys have years of experience finding the right immigration solutions for employers and investors alike and invite you to contact them with any questions you may have with regard to the EB-5 immigrant investor program, whether it be for a new enterprise, an existing business, or participation in or establishment of a regional center as described in the above article.