2A Evidence: EB-5

By “Coach Vance” Trefethen

***Resolved:* *The United States federal government should substantially reduce its restrictions on legal immigration to the United States.***

Summary: The EB-5 visa is a pilot program that was started over 25 years ago and keeps getting renewed by Congress on a "temporary" basis. EB-5 is a visa that grants US residency to a foreigner who invests a certain threshold amount of money in new business development that creates at least 10 new jobs. There's a big backlog of would-be immigrant investors who would love to bring their money to the United States and put it into our economy, but they're blocked by a long backlog because the EB-5 visa quota is set too low. This plan raises the quota and converts EB-5 from a pilot to a permanent program. The result will be massive economic gains and big job growth.

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2A Evidence: EB-5

DEFINITIONS & BACKGROUND

Definition of EB-5 program. It's a US visa for someone investing in new business growth that employs 10 or more people

US Citizenship & Immigration Services, last updated 2018 (USCIS, agency of the Dept of Homeland Security) "About the EB-5 Visa Classification" last reviewed/updated 25 Jan 2018 <https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/about-eb-5-visa-classification>

USCIS administers the EB-5 program, created by Congress in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors. Under a program initially enacted as a pilot in 1992, and regularly reauthorized since then, investors may also qualify for EB-5 classification by investing through regional centers designated by USCIS based on proposals for promoting economic growth. On January 22, 2017, the President signed Public Law 115-120; extending the Regional Center Program through February 8, 2018. USCIS policy on EB-5 adjudications is contained in [Volume 6, Part G of the USCIS Policy Manual.](https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume6-PartG.html) All EB-5 investors must invest in a **new commercial enterprise**, which is a commercial enterprise:  
Established after Nov. 29, 1990, or Established on or before Nov. 29, 1990, that is:  
1. Purchased and the existing business is restructured or reorganized in such a way that a new commercial enterprise results, or  
2. Expanded through the investment so that at least a 40-percent increase in the net worth or number of employees occurs  
**Commercial enterprise** means any for-profit activity formed for the ongoing conduct of lawful business including, but not limited to:  
A sole proprietorship  
Partnership (whether limited or general)  
Holding company  
Joint venture  
Corporation  
Business trust, or  
Other entity, which may be publicly or privately owned.  
This definition includes a commercial enterprise consisting of a holding company and its wholly owned subsidiaries, provided that each such subsidiary is engaged in a for-profit activity formed for the ongoing conduct of a lawful business. Note: This definition does not include noncommercial activity such as owning and operating a personal residence.  
Job Creation Requirements  
An EB-5 investor must invest the required amount of capital in a new commercial enterprise that will create full-time positions for at least 10 qualif​ying​ employees.​

Details about how EB-5 visa works

Aimee Picchi 2017 (journalist) 8 May 2017 MONEYWATCH "EB-5 visas: 5 things to know about the "golden ticket" to U.S. residency " <https://www.cbsnews.com/news/eb5-visas-kushner-trump-golden-ticket/>

How much do foreign investors need to spend for a visa? Foreigners and their relatives can apply for permanent residency in the U.S. if they invest $1 million in a new commercial enterprise that creates 10 full-time jobs for American workers. The other option is to invest $500,000 in a business that's in a "targeted employment area," which the government defines as a rural area or a region with a high unemployment rate. After meeting the eligibility requirements, applicants can apply for lawful permanent residency after 2 years.

Definition of "Regional Centers"

Audrey Singer and Camille Galdes 2014 (Audrey Singer is a senior fellow with the Brookings Institution’s Metropolitan Policy Program. Camille Galdes is currently an associate at the Pew Charitable Trusts. All supporting research for this paper was performed while Camille was a research assistant for the Brookings Metropolitan Policy Program. ) Feb 2014 Improving the EB-5 Investor Visa Program: International Financing for U.S. Regional Economic Development <https://www.brookings.edu/wp-content/uploads/2016/06/EB5_Report.pdf>

Through this federal visa program administered by U.S. Citizenship and Immigration Services (USCIS), immigrant investors may eventually secure permanent residency for themselves and their immediate family by investing at least $500,000 in a U.S. business and creating or preserving 10 full-time jobs. The majority of EB-5 visas are currently administered through EB-5 regional centers, entities that pool investments and are authorized to develop projects across a large swath of America’s metropolitan regions and rural areas.

Definition of "Derivative"

Carla Argueta & Alison Siskin 2016. (Argueta – analyst in immigration policy. Siskin – specialist in immigration policy. Both are with Congressional Research Service) 22 Apr 2016 "EB-5 Immigrant Investor Visa" <https://fas.org/sgp/crs/homesec/R44475.pdf>

Spouses and children who accompany or later follow qualifying or principal immigrants are referred to as derivative immigrants. For the purposes of EB-5, a derivative refers to spouses and unmarried children less than 21 years of age.

INHERENCY

US Citizenship & Immigration Services (USCIS) is about to raise the minimum required investment – and that's bad because it will kill the EB-5 program

Mike Halloran 2017. (CEO of Silicon Valley fintech company NES Financial ) "Don't kill the 'golden visa' – expand it" POLITICO <https://www.politico.com/agenda/story/2017/05/09/investor-visa-program-kushner-jobs-000440>

Even before the Kushner controversy cast a shadow on EB-5, the program was already in trouble. Lawmakers extended it in last week’s spending bill, but only until September 30. With negotiations deadlocked, and a fair amount of accumulated distrust in the air, USCIS is poised to implement proposed regulations that would raise the minimum investment to $1.3 million, updating the thresholds for inflation. That may seem reasonable but such a sudden hike would effectively halt new application activity — and the significant investment and job creation that comes with it. If that happens, it would halt a program that has been a powerful engine of job creation, economic growth, productive immigration and infrastructure investment.

EB-5 allocation limits cause delays of 7 to 10 years for applicants

Beth Mattson-Teig 2017 (journalist) 8 Nov 2017 "Developers Work to Expand EB-5 Network" NATIONAL REAL ESTATE INVESTOR <http://www.nreionline.com/finance-investment/despite-uncertainty-surrounding-program-developers-work-expand-eb-5-network>

Each country is allocated a certain number or share of EB-5 visas that its citizens can obtain. Once that maximum amount is reached, the visas go into a process of retrogression, effectively a logjam with people waiting longer to obtain their visas. China hit its retrogression in 2014. “This factor is certainly causing a chilling effect for the Chinese investor who would have to make their investment today and potentially wait seven to 10 years or more before they would get the benefit of their resident status,” says Montero. The typical wait time for investors from other countries is five to seven years.

22,000 applicants in the backlog. Estimated wait is 10 years for an investor from China

Bernard Wolfsdorf 2017 (immigration attorney; lead author along with the American Immigration Lawyers Association EB-5 Committee) White Paper: Solutions to the EB-5 Visa Waiting Line <https://d2xxqpo46qfujt.cloudfront.net/downloads/AILA-White-Paper--Solutions-to-EB-5-China-Backlog.pdf>

Based on the historic I-526 approval rate of approximately 85 percent and an average family size of three, the I-526 petitions pending with USCIS will require approximately 56,000 visas. In addition, as of November 2016, the DOS National Visa Center estimates that there are approximately 22,000 applicants (including spouses and children) waiting for an immigrant visa. With only 9,940 EB-5 visas available each year, the estimated wait time for an investor from mainland China could be as long as 10 years.

SOLVENCY / ADVOCACY

EB-5 is in crisis, quota needs to expand. If not, the program and its benefits will rapidly diminish

Bernard Wolfsdorf 2017 (immigration attorney; lead author along with the American Immigration Lawyers Association EB-5 Committee) White Paper: Solutions to the EB-5 Visa Waiting Line <https://d2xxqpo46qfujt.cloudfront.net/downloads/AILA-White-Paper--Solutions-to-EB-5-China-Backlog.pdf>

As a result of a cap on the number of EB-5 visas that may be issued each year, a crisis now threatens the viability of the EB-5 Program. Today, an EB-5 investor from China may be required to wait up to 10 years to obtain a visa to enter the U.S., even after making an investment in a U.S. company. This means U.S. companies will be required to hold or manage “at risk” investment for much longer than the two year time period Congress originally intended. As a result, demand for EB-5 investments will decline significantly. Without an increase in the number of EB-5 visas that can be issued each year, the benefits that the EB-5 Program brings to the U.S. economy will rapidly diminish.

A/T "Chinese applications are declining" – Other countries are replacing

Beth Mattson-Teig 2017 (journalist) 8 Nov 2017 "Developers Work to Expand EB-5 Network" NATIONAL REAL ESTATE INVESTOR <http://www.nreionline.com/finance-investment/despite-uncertainty-surrounding-program-developers-work-expand-eb-5-network>

That pullback from Chinese investors is forcing developers to expand the scope of EB-5 fundraising efforts to other countries, and it is also reducing the size of fundraising amounts. In the past, developers would market very large deals in China of $50 million to $100 million. It is taking longer to raise those larger dollar amounts. So the deal size is shrinking to $5 million to $25 million, and developers are more actively marketing deals in other countries. Regions that have become increasingly active include Latin America, such as Venezuela, Columbia and Brazil, as well as India and some countries in the Middle East.

A/T "China losing interest in EB-5" – 1) partly due to uncertainty, which AFF solves. 2) Other countries are replacing

CNN Money 2017. (journalist Shen Lu) 29 Sept 2017 " America's 'golden visa' is losing its luster in China" <http://money.cnn.com/2017/09/29/news/economy/china-us-eb5-visa-immigration/index.html>

Zhang Xun's Chicago-based company has built seven residential buildings in Oklahoma using Chinese EB-5 funding. He said he spent 80% of his time on EB-5 projects in 2015. But he hasn't taken on any this year because of uncertainty about the program. The problems don't mean Chinese interest has evaporated entirely. "The EB-5 program continues to attract high net-worth foreigners on a worldwide basis, and disproportionately from China," the Office of the Citizenship and Immigration Services Ombudsman said in [its latest report](https://www.dhs.gov/annual-report-congress). The overall number of applications is up this year, but experts say that's because other countries are more than compensating for the decline from China.

ADVANTAGES

EB-5 creates thousands of jobs

Beth Mattson-Teig 2017 (journalist) 8 Nov 2017 "Developers Work to Expand EB-5 Network" NATIONAL REAL ESTATE INVESTOR <http://www.nreionline.com/finance-investment/despite-uncertainty-surrounding-program-developers-work-expand-eb-5-network>

First introduced as part of the 1990 Immigration Act, EB-5 is an incentive program for foreign investment into the U.S. that trades green cards for capital. Typically, EB-5 money is used to finance economic development and create jobs, especially in urban areas with high unemployment. The most recent data available for 2013-14 shows that more than 11,000 immigrant investors provided $5.8 billion in capital for 562 active EB-5 projects that produced a combined 174,000 jobs, according to a [January 2017 report](http://www.esa.doc.gov/sites/default/files/estimating-the-investment-and-job-creation-impact-of-the-eb-5-program_0.pdf) from the U.S. Department of Commerce.

IIUSA Study: EB-5 investors during 2 year period added $2.6 billion to GDP, 33,000 jobs, $347 million in federal tax revenue

Audrey Singer and Camille Galdes 2014 (Audrey Singer is a senior fellow with the Brookings Institution’s Metropolitan Policy Program. Camille Galdes is currently an associate at the Pew Charitable Trusts. All supporting research for this paper was performed while Camille was a research assistant for the Brookings Metropolitan Policy Program. ) Feb 2014 Improving the EB-5 Investor Visa Program: International Financing for U.S. Regional Economic Development <https://www.brookings.edu/wp-content/uploads/2016/06/EB5_Report.pdf>

The Association to Invest in the USA (IIUSA) recently commissioned a report to examine state and national economic impacts and investments of the EB-5 program. The report used information obtained from a Freedom of Information Act (FOIA) request of all I-924A forms reported by regional centers for the 2010-2011 period, which compiles information from I-526 and I-829 forms. Some of the questions outlined above were estimated for a recent two-year period, with the focus on economic impacts associated with EB-5 investors and their households. The analysis estimated that spending associated with EB-5 investors contributed $2.65 billion to U.S. GDP and supported over 33,000 jobs nationally during this period. Furthermore, an estimated $347 million to federal tax revenues and $218 million to state and local tax revenues were generated for the two-year period.

Since 2012, EB-5 has created at least $8.7 billion in investment and over 35,000 jobs

Ellen Sheng 2017 (journalist) 26 Jan 2017 " New Proposal Seeks to Raise Minimum Investment For EB-5 Visa" FORBES <https://www.forbes.com/sites/ellensheng/2017/01/26/new-proposal-seeks-to-raise-minimum-investment-for-eb-5-visa/#7f475e872ee1>

The USCIS estimates that since 2012 at least $8.7 billion has been invested in the U.S. economy and 35,150 jobs created through the EB-5 program. The program issues a maximum of 10,000 green cards a year and 90% of applications come from China.

EB-5 has significant job growth impact in the US economy, and there's lots more growth that could occur

Mike Halloran 2017. (CEO of Silicon Valley fintech company NES Financial) "Don't kill the 'golden visa' – expand it" POLITICO <https://www.politico.com/agenda/story/2017/05/09/investor-visa-program-kushner-jobs-000440>

Underlying the visa is a big principle that still holds up: There’s lots of foreign capital that could flow to the U.S., and visas are attractive incentives that don’t cost taxpayers. This may strike people as wrong; aren’t wealthy foreigners jumping the immigration line? But these are immigrants willing to put skin in the American game and make a real down payment on their contribution to the U.S. economy. Those 174,000 jobs the Department of Commerce said came from EB-5 represented 4.3 percent of U.S. job growth during that time – they moved the needle. And EB-5 proved its value during the financial crisis when it was one of the last capital lifelines remaining for parts of the economy.

EB-5 helps troubled city areas with high unemployment. Example: South Dallas

Dr. Kim Zeuli 2015 (Ph.D. applied economics, Senior Vice President and Director of Research at the Initiative for a Competitive Inner City) 15 Jan 2015 EB-5 Investment Opportunities in U.S. Inner Cities <http://www.eb5investors.com/magazine/article/investing-in-inner-cities>

For example, EB-5 funding was used to support the development of the NYLO Dallas South Side hotel in South Dallas. It is the first full-service hotel built in this part of Dallas since 1946. The inner city neighborhood has a poverty rate of over 40 percent and high unemployment. The hotel is part of the city’s larger redevelopment plan for South Dallas, which includes transforming the neighborhood into a vibrant mixed-use entertainment, business, and residential center. The City of Dallas Regional Center (CDRC) structured the financing for the hotel. CDRC is a public-private partnership between the City of Dallas and Civitas Capital Management, LLC, an asset management firm that manages the regional center. The close partnership between the City of Dallas, its Department of Economic Development, and Civitas Capital ensured alignment with the City’s economic development priorities for South Dallas and the goals of EB-5 program. The public support helped the private developer leverage public financing as well as EB-5 investment to complete the project and the additional development will support the growth of the hotel.

EB-5 revitalizes troubled areas. Examples: Southern California, Philadelphia, Seattle

Dr. Kim Zeuli 2015 (Ph.D. applied economics, Senior Vice President and Director of Research at the Initiative for a Competitive Inner City) 15 Jan 2015 EB-5 Investment Opportunities in U.S. Inner Cities <http://www.eb5investors.com/magazine/article/investing-in-inner-cities>

Despite the challenges outlined above, many legitimate business deals have been conducted under the auspices of EB-5, and the program has seen its share of successes. For example, EB-5 funds have been used to repurpose military bases in both Southern California and Philadelphia, and in support of major infrastructure projects such as airports and public transit systems. In Seattle, EB-5 funding has revitalized the city’s SoDo industrial district.

Exit of wealthy Chinese (including EB-5 immigrants) is creating serious losses for China's regime

Prof. Steve Hess 2015 (Assistant Professor of Political Science and East Asia and Pacific Rim Studies at the University of Bridgeport) The Flight of the Affluent: Exit, Voice and Loyalty and the Problem of Wealth Drain in Contemporary China 17 Nov 2015 (brackets added) <https://www.researchgate.net/profile/Steve_Hess/publication/283795873_The_Flight_of_the_Affluent_Exit_Voice_and_Loyalty_and_the_Problem_of_Wealth_Drain_in_Contemporary_China/links/564dbab708aefe619b0e1303/The-Flight-of-the-Affluent-Exit-Voice-and-Loyalty-and-the-Problem-of-Wealth-Drain-in-Contemporary-China>

Aside from surveys that show a significant intent to leave China among HNWIs, the extent of emigration of Chinese HNWIs [High Net Worth Individuals] can also be observed with the group’s growing participation in immigrant investor programs offered by a number of countries. These offer permanent residence to foreign nationals who demonstrate a high level of personal wealth, invest a set amount of capital in the local – usually $500,000 to $1.5 million USD, and/or create a minimum number of local jobs. Chinese nationals made up over 85% of applications to the U.S. EB-5 program in 2014, 76% of the 59,000 applications received for the Canadian Immigrant Investor program, and 91% of the 1,679 applications submitted for the Australian Significant Investor Visa program between 2012 and 2015. China’s growing rate of net emigration, the low return rate of its students studying abroad, and the growing number of Chinese HNWIs applying for immigrant investor programs in foreign countries suggests that despite the great attention given to China’s *haigui* – ethnic Chinese returnees from abroad seeking to participate in China’s growing economy – China has nevertheless on balance continued to be a leading sender of international migrants. It also complicates the perception of China’s rise in the face of Western economic decline during the 2007 financial crisis. While the West struggled under particularly difficult economic times, China’s citizens, particularly its most educated and affluent continued to exit the country in growing numbers. These trends have created serious losses in terms of both material and human capital.

DISADVANTAGE RESPONSES

A/T "Corruption / incompetence" – New reforms in place

Beth Mattson-Teig 2017 (journalist) 8 Nov 2017 "Developers Work to Expand EB-5 Network" NATIONAL REAL ESTATE INVESTOR <http://www.nreionline.com/finance-investment/despite-uncertainty-surrounding-program-developers-work-expand-eb-5-network>

A third important piece to the reform will be more compliance and oversight. Those reforms will help a more mature EB-5 program resemble more traditional financing, which will be good for the program, adds Carrasquillo. “Particularly on that point, a lot of developers and people using EB-5 capital within their projects are already implementing those best practices and those financially sound compliance and oversight measures,” he adds.

A/T "Corruption / poor oversight" – Oversight has been improved and poor performing regional centers have been closed

Ellen Sheng 2017 (journalist) 26 Jan 2017 " New Proposal Seeks To Raise Minimum Investment For EB-5 Visa" FORBES <https://www.forbes.com/sites/ellensheng/2017/01/26/new-proposal-seeks-to-raise-minimum-investment-for-eb-5-visa/#7f475e872ee> 1

The program has been criticized for not doing enough to filter out fraud and for straying from its original intent to stimulate job growth in economically-blighted areas. Various agencies have stepped up oversight – the U.S. Citizenship and Immigration Services increased staff and random site visits. It also got rid of regional centers that didn't meet requirements. The SEC has filed fraud charges in several EB-5 cases.

A/T "GAO 2013 audit found problems with regional centers" – Reforms were made to fix it

Dr. Kim Zeuli 2015 (Ph.D. applied economics, Senior Vice President and Director of Research at the Initiative for a Competitive Inner City) 15 Jan 2015 EB-5 Investment Opportunities in U.S. Inner Cities <http://www.eb5investors.com/magazine/article/investing-in-inner-cities>

In December 2013, the DHS Office of Inspector General (OIG) released an audit of the EB-5 regional center program that also calls for collaboration with Commerce and other federal agencies (see Box: DHS Office of Inspector General Audit (OIG) and USCIS Response). One unique aspect of the EB-5 program is that USCIS, in addition to its responsibility for verifying eligibility of investors and regional centers, is charged with preventing fraud and national security threats associated with the program. Regarding these risks, USCIS has begun implementing administrative changes to improve the integrity of the program by working with the SEC and other federal agencies.

A/T "Fraud and corruption" – New oversight has been put in place and bad actors are being removed

Ellen Sheng 2016 (journalist) FORBES 1 Aug 2016 "Foreign Investors Defrauded Through U.S. EB-5 Visa Program" <https://www.forbes.com/sites/ellensheng/2016/08/01/foreign-investors-defrauded-through-u-s-eb-5-visa-program/3/#32535d111c68> (brackets added)

To improve oversight of the program, and better detect fraud, the USCIS did some restructuring and also doubled the fraud detection and national security EB-5 staff last year. It also expanded its random site visit program and removed regional centers that no longer meet requirements. The SEC [Securities Exchange Commission] has also been pursuing action, filing fraud charges in several cases involving EB-5 investments in the past year.

A/T "Unfair benefit to the wealthy" – It's a huge success for everyone, and benefits to workers justify the program

Mike Halloran 2017. (CEO of Silicon Valley fintech company NES Financial) "Don't kill the 'golden visa' – expand it" POLITICO <https://www.politico.com/agenda/story/2017/05/09/investor-visa-program-kushner-jobs-000440>

Critics quickly sharpened their knives for the visa program, saying it gives the wealthy a leg up on moving to the U.S. But for all the uproar over the Kushner family, Washington shouldn’t overreact. The EB-5 program has been a huge success for all involved. Investors have received a coveted U.S. visa, workers have received jobs and companies have found cheap financing. It’s a win-win-win.

A/T "Exodus from China strengthens bad regime by removing dissidents" – Wealthy Chinese who leave generally support the regime. They just don't want to live there

Prof. Steve Hess 2015 (Assistant Professor of Political Science and East Asia and Pacific Rim Studies at the University of Bridgeport) The Flight of the Affluent: Exit, Voice and Loyalty and the Problem of Wealth Drain in Contemporary China 17 Nov 2015 (brackets added) <https://www.researchgate.net/profile/Steve_Hess/publication/283795873_The_Flight_of_the_Affluent_Exit_Voice_and_Loyalty_and_the_Problem_of_Wealth_Drain_in_Contemporary_China/links/564dbab708aefe619b0e1303/The-Flight-of-the-Affluent-Exit-Voice-and-Loyalty-and-the-Problem-of-Wealth-Drain-in-Contemporary-China>

Researchers such as Chen and Dickson (2010) and Tsai (2007) have found that the more affluent Chinese have reported above average loyalty for the regime; they are the leading beneficiaries of economic growth in China’s increasingly unequal society and also have utilized day-to-day interactions with officialdom, consultative bodies, and even party membership to influence policies within the country. Also, the departing population of wealthy émigrés appears to combine individuals concerned with quality of life issues in China – such as the deteriorating environment, unsafe food, and poor healthcare – with individuals who fear they and their fortunes may be targeted amidst growing anti-corruption measures. This suggests that those HNWIs [High Net Worth Individuals] fleeing China do not resemble traditional political dissidents or asylum seekers concerned with the China’s human rights conditions or its restrictions on civil liberties. Consequently, the flight of these wealthy émigrés may not represent a regime-enhancing alleviation of dissent and discontent from China.

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