

eb5 investors

Magazine



**RAISE THE EB-5
VISA CAP**



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Publisher's Note

This issue arrives at a time when the EB-5 industry's focus is squarely on Washington. The EB-5 Regional Center Program has been extended once again. EB-5 stakeholders are looking to Congress to enhance our job-generating, pro-American immigration program.

I want to encourage the EB-5 community to unite and help push a unified message. In this issue we gather the opinions of industry leaders to emphasize the importance of raising the EB-5 visa allotment. I invite all EB-5 industry stakeholders to read this article and understand that, without more visas, U.S. jobs will suffer and projects will not get funded.

If the visa cap is raised, we all win. The American people gain jobs and billions of dollars in economic stimulus. And investors, what do they gain? An American education for their children. Financial security outside of an unstable economy. Both their investment immigration goals and their investment dollars go toward building a successful future for all of us.

More than once, I've used this space to emphasize the American jobs, economic stimulus, and the many benefits that the EB-5 program brings to the American people. Mickayla Zinsli's article inside highlights the positive impact EB-5 has on American entrepreneurs. The extensive positive impact of the EB-5 program remains critically important to voice.

We also asked economist Dr. Arthur B. Laffer and U.S. Rep. Will Hurd to join us for a Q&A on EB-5 and to share their views on the future of the EB-5 program. I am pleased to share their exclusive interviews as well as migration agency CEOs Liu Yu and Rachel Zou, who give great insight into their respective businesses. This issue also offers the perfect opportunity to share an article from Austin Fragomen and Chad Ellsworth on the dangers of dual representation. Transparency at all levels will continue to make our industry stronger, and these experienced EB-5 partners share their perspectives on how best to pursue this goal as immigration attorneys in the EB-5 space.

See you in January for the fourth annual Las Vegas EB-5 & Investment Immigration Convention!

Sincerely,

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DEAR CONGRESSMAN, PLEASE HELP CREATE MORE JOBS AND STIMULATE THE ECONOMY. FIX THE EB-5 BACKLOG!

EB5 Investors Magazine invited several EB-5 leaders to weigh in on the issues, policy considerations, and possible solutions.

Raising the EB-5 Visa Cap

By EB5 Investors Magazine Staff

We have an urgent cause: the EB-5 visa backlog—last reported to be 19,406, according to U.S. Citizenship and Immigration Services figures for the third quarter of this fiscal year.

Arguably the most pressing issue facing the industry, the hope is that a joint effort to address this serious matter will not only help the industry continue to grow, but create tens of thousands of more jobs and generate billions of additional dollars in investment capital in America.

In the cover story in this issue, EB5 Investors Magazine features several articles by experts discussing different reasons why they believe Congress should address the backlog.

The essential problem is that demand for EB-5 visas is now exceeding the annual supply of 10,000 that are available, resulting in an estimated six-year wait for investors to be issued a conditional visa to live and work in the United States.

At a time when similar global citizenship and residence programs are proliferating around the world, experts say Congress needs to act quickly to address this backlog, or the United States stands to lose billions of dollars, significant tax revenues, a job-creating engine and dash the dreams of thousands of Chinese and other immigrant investors.

"There are countries all over the world that are trying to encourage investors to come to their countries and make investments to facilitate economic growth and create jobs, not just the United States," says Tom Rosenfeld, the president and chief executive officer of CanAm Enterprises, a New York City-based regional center operator that promotes and administers private and government immigration-linked investment funds. "In some of these countries, you can get processed in as little as three or six months."

The United States is in danger of losing a great opportunity that can attract capital investment, create jobs and attract some of the "crème de la crème" from countries throughout the world, Rosenfeld says. Many of these investor immigrants have started companies that trade with the United States and will continue to facilitate a significant amount of economic development independent of investor programs.

"The EB-5 program is now being reviewed in terms of a number of issues, and yet the biggest issue is visa retrogression," Rosenfeld says. "Investors at some point are not going to wait six, seven or eight years. Investors are saying, on balance, that they have other options that are better than the United States, even though the United States would be their first choice. So the fact that the visa issue is not being addressed is a detriment to the country, and will continue to result in a loss of capital through the EB-5 program."

U.S. Rep. Jared Polis, D-Colo., is building support in Congress for a bill to address the EB-5 visa backlog. He's also exploring whether language could be inserted into proposed comprehensive immigration reform legislation after the presidential election in November to address the backlog.

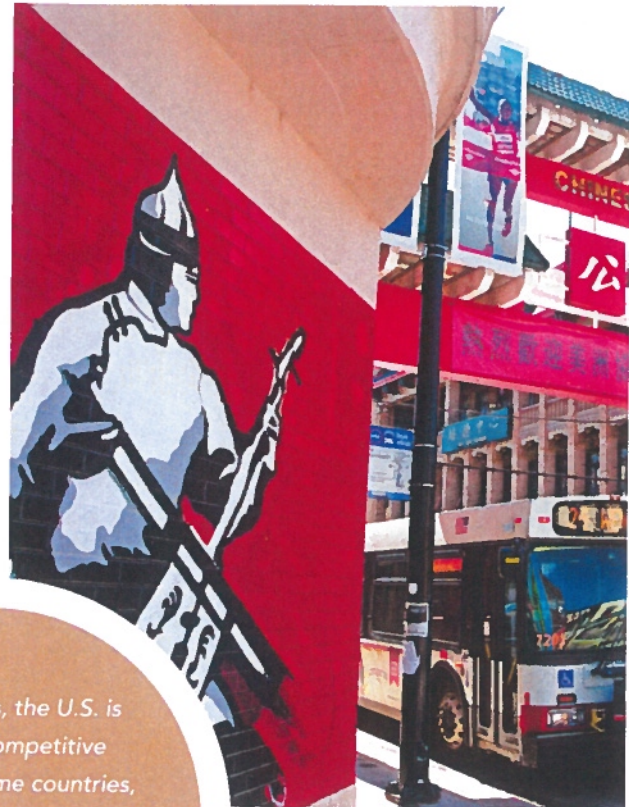
"Congress, unfortunately, imposed an arbitrary cap on the number of immigrant visas available and as a result the EB-5 program is only allowed 10,000," Polis says. "There is a backlog of EB-5 visa petitions, estimated at about (20,000 to) 25,000, that is a detriment to growing capital in our country and creating jobs that come along with those visas."

One of the easiest ways to address the backlog is to change the way the cap is calculated. Congress set the cap of 10,000 visas in 1990 when it passed the Immigration Act of 1990. Currently, both investors and each of their family members are counted when calculating the cap. However, a convincing argument can be made that Congress originally intended to limit the program to 10,000 investors annually—not 3,000-3,200 families as the cap is currently interpreted. As a result, each investor petition averages three visas currently. A simple change returning the meaning of the cap to Congress' original intent would quickly reduce the backlog.

"We could recapture the hundreds of thousands of unused immigrant visas, we could simply increase the number of immigrant visas for the employment-based categories, or we can remove family members from under the 10,000 visa cap for EB-5 so they are not counted toward that," Polis says.

Experts say the U.S. should address this backlog as soon as possible to remain competitive globally. Throughout the world, from the Mediterranean island nations of Cyprus and Malta to Australia, Portugal, Spain and the United Kingdom, programs similar to EB-5 are increasing sharply in numbers.

"I think it's important to address this backlog really for the viability of the program overall," says Ginny Fang, chief executive officer at Golden Gate Global, a San Francisco-based immigrant investment regional center. "EB-5 is one of many different options for investors around the world.



"As it stands, the U.S. is losing this competitive battle. In some countries, such as Cyprus, investors can obtain full Cypriot citizenship in as little as three months."

"There obviously are similar programs in other countries, and I think with the backlog issue, if we push it to a point where the program is no longer attractive because the waits are so long, investors will simply look to other countries to invest in. EB-5 is an important way to attract foreign investment into the United States. We should keep the program competitive and keep the waits reasonable for investors as they are considering a family decision to move to the United States and become permanent residents. Accordingly, we should make sure it's a functioning program for them."

As it stands, the U.S. is losing this competitive battle. In some countries, such as Cyprus, investors can obtain full Cypriot citizenship in as little as three months. Compare that to a six-year wait in the U.S., and it's not hard to understand why the number of EB-5 applications is dropping so rapidly.

The number of applications fell from more than 6,000 per quarter in recent years to 1,513 in the third quarter of 2016's fiscal year, according to USCIS EB-5 petition data. While there is no way to know conclusively at this point how big of a role the EB-5 visa backlog has played in this, common sense dictates it's likely played a significant part.

Why would immigrant investors choose the U.S. EB-5 program when they could apply for similar programs in Europe, the Mediterranean or the Caribbean where waits for citizenship are much shorter? While the United States is still very attractive to immigrants and their families for its excellent educational system, economic opportunities and high quality of life, it's getting to the point where it just doesn't make a lot of sense for immigrants to choose America.

Advocates say people in the industry need to get active, contact their representatives in Congress and ask them to increase the cap or take other steps to address the EB-5 visa backlog. The battle over the Targeted Employment Area and other matters consuming the attention of Congress and people in the industry will mean little if the EB-5 backlog is not addressed and applications for the program dry up.

As an industry, Rosenfeld says the focus needs to be one thing—addressing the EB-5 visa backlog.

"While there may be a six year backlog now, any legislation next year could return that backlog to zero," Rosenfeld says.

Our message: Keep the United States competitive with the rest of the world!

"EB-5 has funded more than \$14 billion in foreign direct investment, creating tens of thousands of American jobs, contributing to GDP, and adding to federal state and local tax revenue—all at no cost to the taxpayer."

It's in America's National Interest to Address the Extreme EB-5 Visa Backlog

By Bob Kraft

Each year, about 1 million Lawful Permanent Residents (LPR) are admitted to the U.S.

Capped at approximately 10,000 immigrant investors and derivatives, EB-5 comprises just 1 percent of the total number of LPR admissions and .003 percent of the total population of the United States.

So while EB-5 immigration numbers are a drop in the bucket, the program has had a profound ripple effect on communities across our great nation. EB-5 has funded more than \$14 billion in foreign direct investment, creating tens of thousands of American jobs, contributing to GDP, and adding to federal, state and local tax revenue—all at no cost to the taxpayer.

The effects of the backlog will be particularly pronounced in small market cities like Milwaukee, where EB-5 has been a catalyst for citywide development. Small cities and rural areas typically attract limited Foreign Direct Investment and I believe without EB-5 as a vehicle, these areas are less likely to do so in the future.

The mission of the U.S. Commerce Department is to create and promote conditions for economic growth, opportunity, job creation, sustainable development, and an improved standard of living for Americans. This strongly parallels the language Congress used to explain the intent of their EB-5 program.

The budget provides over half a billion dollars to the International Trade Administration (ITA), to promote economic growth and create high-paying jobs in the U.S. This includes funding for SelectUSA to facilitate job-creating business investment into the United States. It would appear that EB-5 is helping the administration do just that.

So, if the U.S. government has a department with parallel objectives which they fund to promote the growth of these very activities, why limit it? At present, we are principally capping EB-5 investments at approximately \$1.5 - \$2.5 billion dollars and job creation at 30, 000 to 50,000 per year. Has the world's largest economy exceeded our appetite for job creation? Do our communities have too much investment?