



Converting from an E-2 to EB-5 Visa & Installment EB-5 Project Investments

Live Webinar Presentation

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Key questions we will address in today's webinar

- What is the process to apply for an E-2 and EB-5 visa?
- How does E-2 compare to EB-5 in terms of process, cost, and timeline for approval?
- The EB-5 waiting period is too long; can I start with an E-2 visa and then convert to EB-5?
- Can I invest less than \$900K to start my EB-5 process and file my I-526 Petition?
- If I do a partial EB-5 investment, what additional documentation must be provided?



Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
- ④ EB-5 Visa
- ⑤ E-2 to EB-5 Transition
- ⑥ Installment or Partial EB-5 Investment
- ⑦ EB-5 Investment Projects
- ⑧ Question and Answer Session

Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
- ④ EB-5 Visa
- ⑤ E-2 to EB-5 Transition
- ⑥ Installment or Partial EB-5 Investment
- ⑦ EB-5 Investment Projects
- ⑧ Question and Answer Session

The EB5AN team has been involved in more than \$3 billion of leveraged buyouts, IPOs, and commercial real estate development.



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- Yale University – B.A. Economics with a concentration in Mandarin Chinese
- Boston Consulting Group (BCG) – Business and strategy consulting
- Stanford Graduate School of Business – M.B.A.
- *Forbes* 30 Under 30 National Winner for Social Entrepreneurship



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- University of North Carolina at Chapel Hill – B.A. Economics; B.S. Business Administration
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- *Forbes* 30 Under 30 National Winner for Social Entrepreneurship



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Shih, Esq.**



- Yale University – B.S. Computer Science
- Duke University School of Law – Juris Doctor
- Cravath, Swaine & Moore – Premier U.S. law firm working with Fortune 500 companies
- DMG Entertainment – General counsel for one of the largest entertainment companies in the People's Republic of China

Consultancy • Regional Center Operator • Fund Manager

More than 1,800 immigrant investors have invested through EB5AN's regional centers.

Established & Experienced EB-5 Regional Center Operator



2013

Established



\$1 Billion+

Assets Under Development



14

USCIS-Approved RCs
Covering 20+ States



100%

Approval History on Project
USCIS-Adjudicated Petitions*

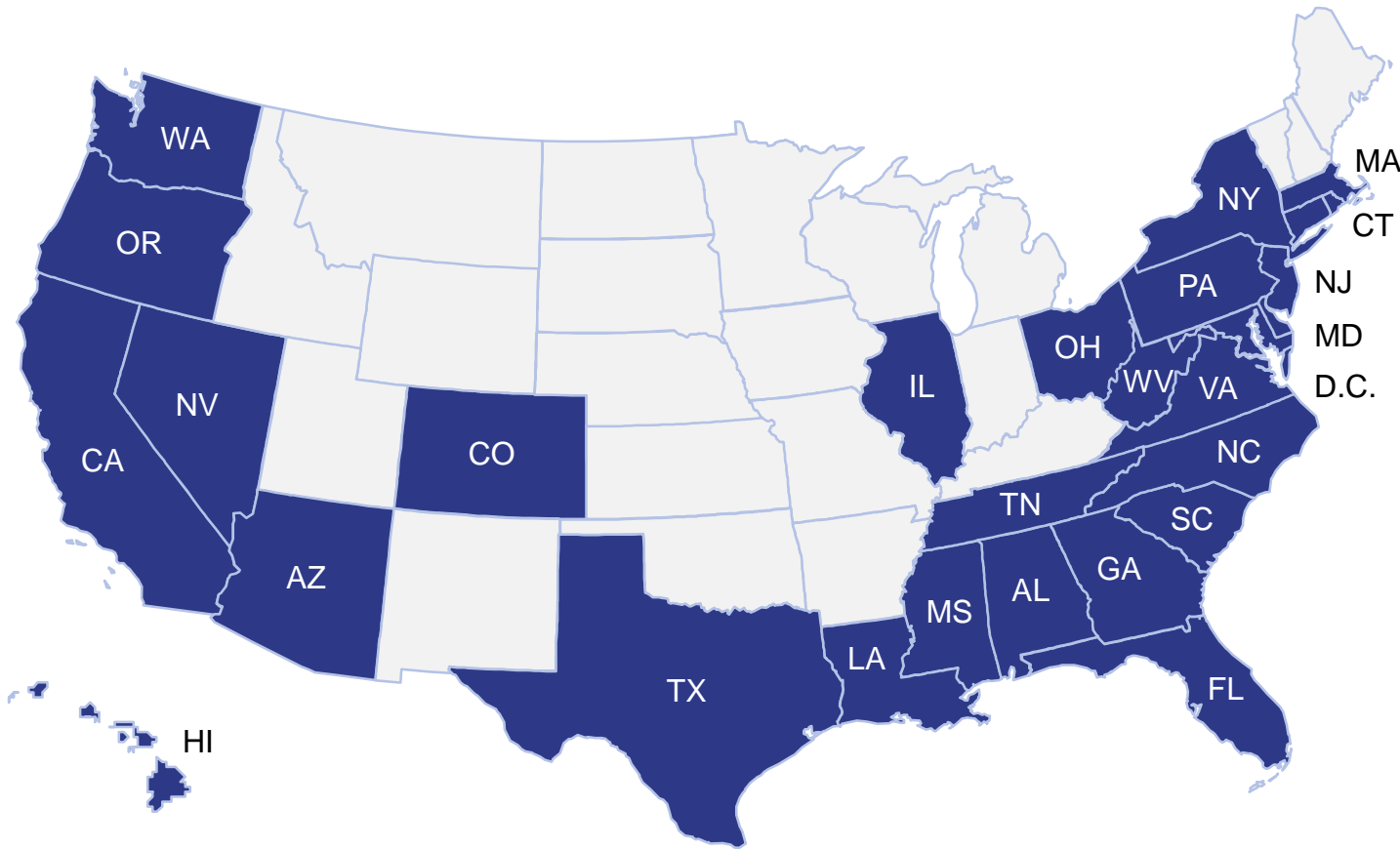


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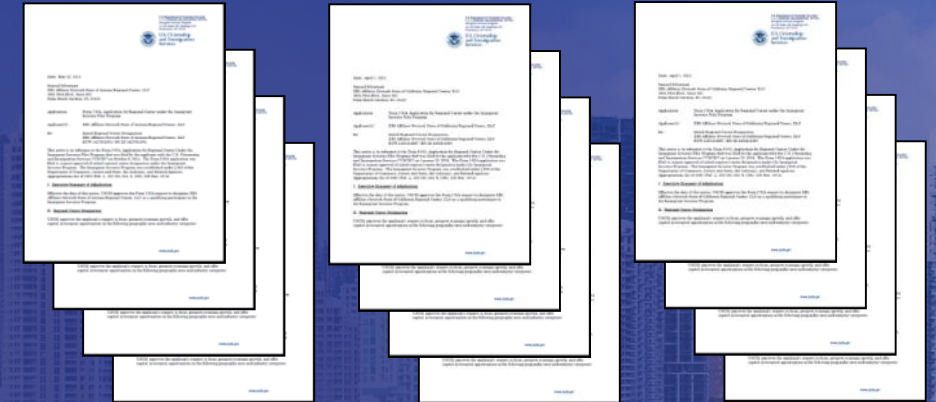
Completed or Ongoing EB-5
Projects; Multiple I-526 & I-
924 Exemplar Approvals

*100% approval history on USCIS-adjudicated I-526 Petitions and I-924 project exemplars while others may still be pending adjudication.

EB5 Affiliate Network operates 14 regional centers with geographic coverage of 20+ states and Washington, D.C.



USCIS regional center approval letters



All regional centers 100% owned and controlled by EB5AN



Edward Beshara, Esq.
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- Juris Doctor – University of Florida Levin College of Law, Gainesville, Florida. Member of the Florida Bar.
- Bachelors of Laws, Bachelor of Jurisprudence, Monash University, Melbourne, Australia
- Top 25 EB-5 Immigration Attorneys in the U.S. (EB5 Investors Magazine)
- IIUSA 2019 Award for Economic Advancement: "Innovator of the Year Award"
- Member of the Global Migration Section (GMS) of AILA National
- Past president of the Central and North Florida American Immigration Lawyers Association (AILA) Chapter
- Member of IIUSA (Invest in the USA), Best Practice and New Investor Market Committees
- Member of the Advisory Committee and Task Force of the Investment Migration Council (IMC), Geneva, Switzerland
- Former Adjunct Professor of Business Immigration Law at the University of Florida Levin College of Law

Table of Contents



① About Our Speakers

② Introduction

③ EB-2 Visa

④ EB-5 Visa

⑤ E-2 to EB-5 Transition

⑥ Installment or Partial EB-5 Investment

⑦ EB-5 Investment Projects

⑧ Question and Answer Session

What are the E-2 and EB-5 visas?

E-2 Treaty Investor Visa

- Nonimmigrant visa
- Open to citizens of 81 treaty countries
- Second citizenship available in treaty country
- Investor, spouse, and children to age 21
- Live, work, and study in the U.S.
- No pathway to permanent U.S. residency
- Fast approval: Months
- Unlimited renewals

EB-5 Immigrant Investor Visa

- Immigrant visa
- Open to citizens of nearly all countries
- Investor, spouse, and children to age 21
- Live, work, and study in the U.S.
- Conditional U.S. residency upon approval of visa petition
- Longer processing times, slower approval
- Strategies to reduce time delays
- No renewals

How do the E-2 and EB-5 visas compare?

| | E-2 Visa | EB-5 Visa |
|---------------------|--|--|
| Investment Amount | \$200,000+ (recommended; not specified by law) | \$900,000 (TEA/Rural) or \$1,800,000 (non-TEA/non-Rural) |
| Immigration Benefit | Live, work, and study in the U.S. No pathway to permanent residency | Permanent U.S. residency with an option for U.S. citizenship after five years |
| Timing / Process | A few months to prepare application and A few months for approval process For U.S. Consulate processing. In the U.S. if change and extension for E-2 status with USCIS, 15 days for Expedited Approval | A few months to prepare petition Estimated 24 months for approval and a few months for Conditional Permanent Residency |

The E-2 visa is a faster way to begin living and working in the U.S. The EB-5 visa is a long-term pathway to U.S. permanent residency and citizenship.

Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ **E-2 Visa**
- ④ EB-5 Visa
- ⑤ E-2 to EB-5 Transition
- ⑥ Installment or Partial EB-5 Investment
- ⑦ EB-5 Investment Projects
- ⑧ Question and Answer Session

About the E-2 Visa

1 Overview

Why it exists and who it's for

2 Requirements

Qualification and documentation

3 Process

Steps to invest and apply for a visa

4 Case Study

Example of a successful E-2 application

About the E-2 Visa

1 Overview

Why it exists and who it's for

Why it exists

To allow entrepreneur citizens of certain treaty countries to invest and work in the United States

Who it's for

Foreign nationals seeking to live and operate a business in the U.S. but not seeking permanent residency

And

It can be a first step toward U.S. residency when followed by an EB-5 visa investment

Key Point

The E-2 visa enables highly desirable benefits for family members (spouse and children under 21) such as better chances of admission at U.S. colleges and universities and in-state tuition rates at public institutions. The E-2 allows spouse of principal E-2, to obtain an Employment Authorization Document (EAD) within a few months after arrival and be able to work for any U.S. employer.

About the E-2 Visa

② Requirements

Qualification, documentation and investment

Citizenship

Open to citizens of 81 countries that have commerce and navigation treaties with the United States

Invest in a Business

E-2 visa applicants can start a new business or buy an existing business (at least 50% ownership) or Franchise

Capital Contribution

No defined minimum investment, but \$200,000+ is recommended to cover startup/acquisition costs and working capital

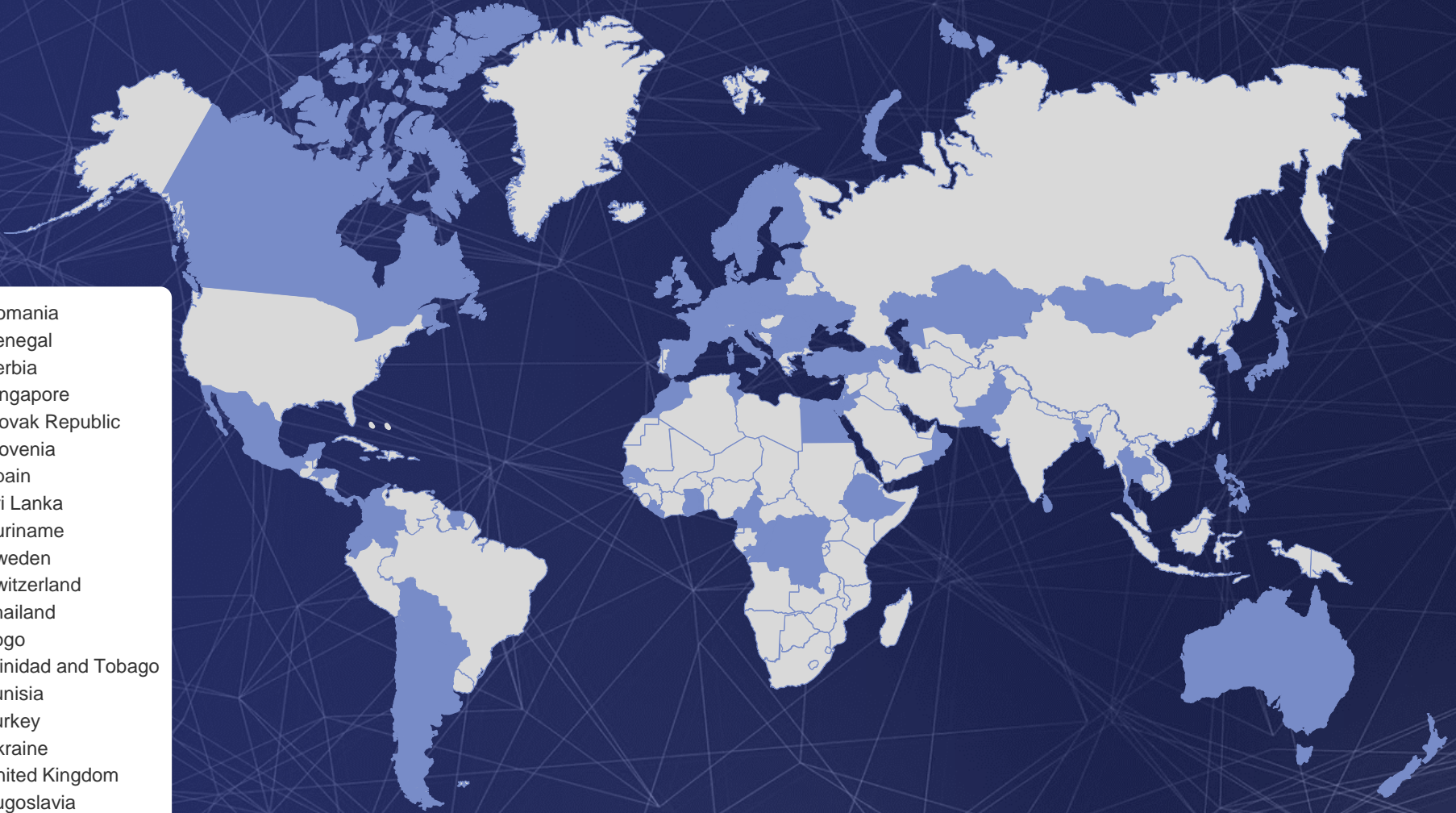
Key Point

The purchase of an existing business or franchise can be conditioned upon the approval of the E-2 visa application and E-2 entry into the U.S.
The E-2 investor and seller can enter into an irrevocable contract to purchase and irrevocable escrow account to release funds on condition of approval.

E-2 Treaty Countries

Citizens of these 81 countries can make an investment and qualify for an E-2 work visa

| | |
|---|---|
|  Albania |  Grenada |
|  Argentina |  Honduras |
|  Armenia |  Ireland |
|  Australia |  Israel |
|  Austria |  Italy |
|  Azerbaijan |  Jamaica |
|  Bahrain |  Japan |
|  Bangladesh |  Jordan |
|  Belgium |  Kazakhstan |
|  Bolivia |  Korea (South) |
|  Bosnia and Herzegovina |  Kosovo |
|  Bulgaria |  Kyrgyzstan |
|  Cameroon |  Latvia |
|  Canada |  Liberia |
|  Chile |  Lithuania |
|  China (Taiwan) |  Luxembourg |
|  Colombia |  Macedonia |
|  Congo (Brazzaville) |  Mexico |
|  Congo (Kinshasa) |  Moldova |
|  Costa Rica |  Mongolia |
|  Croatia |  Montenegro |
|  Czech Republic |  Morocco |
|  Denmark |  Netherlands |
|  Ecuador |  New Zealand |
|  Egypt |  Norway |
|  Estonia |  Oman |
|  Ethiopia |  Pakistan |
|  Finland |  Panama |
|  France |  Paraguay |
|  Georgia |  Philippines |
|  Germany |  Poland |
| |  Romania |
| |  Senegal |
| |  Serbia |
| |  Singapore |
| |  Slovak Republic |
| |  Slovenia |
| |  Spain |
| |  Sri Lanka |
| |  Suriname |
| |  Sweden |
| |  Switzerland |
| |  Thailand |
| |  Togo |
| |  Trinidad and Tobago |
| |  Tunisia |
| |  Turkey |
| |  Ukraine |
| |  United Kingdom |
| |  Yugoslavia |



About the E-2 Visa

3 Process

Steps to invest and apply for an E-2 visa

Retain Team of Professionals

To determine if investor citizen of E treaty country.
If not, obtain second E-2 treaty citizenship

Decide on the Business

Decide on whether investing in new business or purchasing existing business or franchise. Prepare contracts to invest and E-2 petition for filing

File E-2 Petition

File E-2 petition with supporting documentation either at U.S. Consulate or USCIS

Key Point

Revise sentence to read: Experienced Professionals with E-2 experience, including Immigration Attorneys, Business Plan Writers, and Corporate Attorneys will act as a team to advise E-2 investor accordingly.

E-2: Fast Track to a U.S. Work Visa

E-2 Immigration Timeline

1

Citizen of Treaty E Country

- Proof of Birth
- Certificate / Passport

2

Obtaining 2nd Citizenship in Treaty Country

- 3 months

3

Business or Franchise

- 3 months
- Prepare E-2 Application
- Contracts to purchase
- Escrow Agreement

4

U.S. Consulate Processing

- 3 months
- E-2 visa multiple entry

5

E-2 Entry into U.S.

- Release Escrow Funds to seller
- E-2 status 2 years in the U.S.

About the E-2 Visa (continued)

4 Case Study

South African citizen and entrepreneur (John) has a manufacturing business making garage door parts and opens a new office in Texas to expand operations and import and sell in the U.S.

Startup funding

New investment funded with \$250,000 for startup capital to setup an office, import initial inventory, marketing expenses, salary for one salesperson, and a manager

Ownership and control

Business is owned 80% by John, but he has a full-time manager running day to day operations who owns 20% of the business

Business success and E-2 Visa renewal

After just 6 months, business is breaking even and turns a profit after the first year; application for E-2 Visa renewal

Key Point

First, ask is South Africa has second E citizenship for E-2 entry. Great option for entrepreneurial investors who have a business looking to expand into the U.S. or for those who want to start and operate a new business in the U.S. Irrevocable commitment of funds still required for new U.S. business. If U.S. business had contracts for 12 months to sell imported goods between the U.S. and E-2 country, then the E-1 trader visa may be possible, but facts here don't support E-1.

Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
- ④ EB-5 Visa**
- ⑤ E-2 to EB-5 Transition
- ⑥ Installment or Partial EB-5 Investment
- ⑦ EB-5 Investment Projects
- ⑧ Question and Answer Session

About the EB-5 Visa

1 Overview

Why it exists and who it's for

2 Requirements

Qualification and documentation

3 Process

Steps to invest and apply for residency

4 Case Study

Example of a successful EB-5 application

About the EB-5 Visa

1 Overview

Why it exists and who it's for

Why it exists

Immigrant intent visa with \$900,000 (for TEA or Rural) or \$1,800,000 (for non-TEA or non-Rural) minimum investment that creates at least 10 new U.S. jobs and stimulates the U.S. economy

Who it's for

Foreign nationals seeking to establish permanent residency in the U.S. with the option to obtain U.S. citizenship

And

Viable option for foreign nationals seeking a direct path to permanent residency through investment in the U.S.

Key Point

U.S. permanent residency enables highly desirable benefits; work permit/visas are not required for employment and better chances of admission at U.S. colleges and universities and in-state tuition rates at public institutions. Five (5) years after Conditional Permanent Residency can apply for Naturalization. Investment due diligence and immigration due diligence can be provided to investor to assist in making decision as to which project to invest in.

About the EB-5 Visa (continued)

② Requirements

Investment, documentation, qualification

Investment

\$900,000 minimum investment if the project is in a targeted employment area (TEA) or \$1,800,000 if not in a TEA.

Documentation

Investor must authenticate the documents showing to U.S. Government that his/her source and path of funds were lawfully obtained and transferred. Investor must have a clean criminal record and personal background.

Qualification

The project or business must create at least 10 new U.S. jobs per investor and meet the EB-5 program requirements to keep funds at risk at least until the end of the 24-month conditional residency period.

Key Point

EB-5 investors must be able to show how they obtained their investment capital with documentation, bank records, tax returns, etc., and must select an investment that meets USCIS EB-5 program requirements. Investor should diligence potential investments before committing their funds to an EB-5 project.

About the EB-5 Visa (continued)

3 Process

Steps to invest and apply for a visa

Choose a Project

A foreign national can invest in his or her own business or make a more passive investment in a project or business managed by someone else. (e.g. developer, operator)

Apply for a Green Card

Upon making the capital contribution, the investor will submit an I-526 petition to USCIS. An EB-5 investor should work with an immigration attorney with extensive experience and expertise in EB-5.

Await Approval

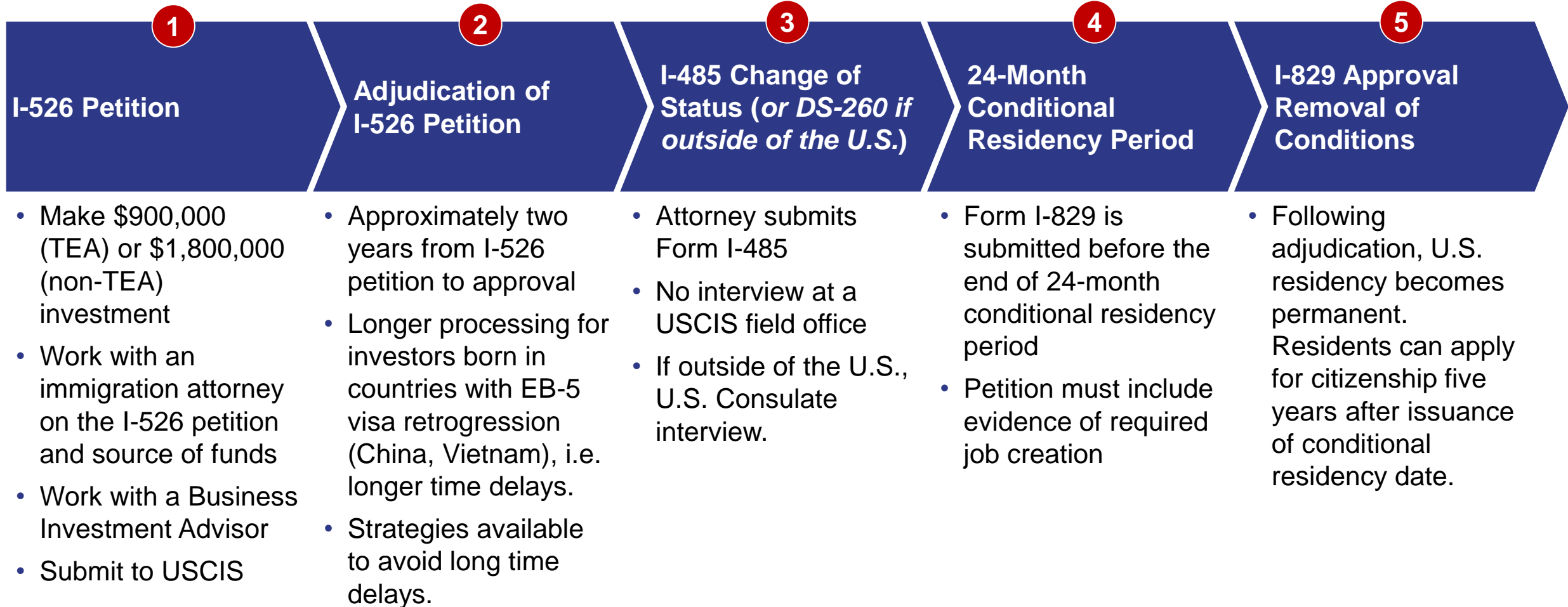
Investors already in the U.S. on a non-immigrant visa can remain and continue working or studying in the U.S.. Investors outside the U.S. can obtain approval of conditional residency at their U.S. Consulate.

Key Point

Documentation is critical. Whether investing as an entrepreneur in their own business or as a limited partner in a managed EB-5 fund, the project or business must have an expertly-produced economic study, business plan, and legal documents that will be EB-5 compliant and pass USCIS scrutiny.

EB-5: Direct Pathway to U.S. Permanent Residency

EB-5 Immigration Timeline



About the EB-5 Visa (continued)

4 Case Study 1

Example of a successful EB-5 application

Profile

Venkatesh and Isha are Indian-born Canadian citizens. Ven works in San Jose, California on an H-1B visa. Isha is completing an MBA at Santa Clara University.

Scenario

Wanting to escape the uncertainty of the H-1B and knowing the long time delays and low probability of gaining residency, Ven invests as a limited partner in an EB-5 fund for a large real estate project.

Source of Funds

Lawful source of funds authenticated in the following way: \$150,000 of cash in savings; \$450,000 borrowed against home equity; a \$75,000 loan against Ven's 401(k); \$125,000 liquidated E*TRADE account; \$100,000 gift from Isha's parents in India

Key Point

Any legal source of funds can be used for an EB-5 investment. The key requirement is documentation of the source of funds. The investor may use borrowed funds against their liquid assets e.g. real estate, or wealth management products. As an example, if obtaining mortgage funds against real estate, the investor will need to show they have the financial means to pay the mortgage monthly payments.

About the EB-5 Visa (continued)

4 Case Study 2

Example of a successful EB-5 application

Profile

Frederico is in his final year of undergraduate study in California and has been accepted to graduate school. His parents own a chain of supermarkets in Brazil.

Scenario

Frederico's parents have a nice home and many friends in São Paulo and have no thoughts of relocating to the U.S. They want their son to be able to stay and pursue his career after graduation.

Source of Funds

Frederico's parents give him a gift of \$900,000 plus the administration fee taken from the proceeds of the sale of a commercial building in Campinas. Frederico will invest in a Florida real estate project and apply for an EB-5 visa.

Key Point

A foreign national living in the U.S. on a student visa can request an adjustment of status from F-1 to EB-5. That is, if in legal F-1 status, when the EB-5 I-526 investors petition is approved, then the investor and family can file their applications for Conditional Permanent Residency with USCIS while they remain in the U.S. The parents who are gifting the funds to their son, will have to authenticate their source of funds to be gifted.

Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
- ④ EB-5 Visa
- ⑤ E-2 to EB-5 Transition**
- ⑥ Installment or Partial EB-5 Investment
- ⑦ EB-5 Investment Projects
- ⑧ Question and Answer Session

E-2 to EB-5 Transition

1 Invest in an E-2 eligible new business

- Select a business investment that meets the E-2 visa requirements for investment, qualification, and documentation, i.e. new, existing or franchise business.



2 E-2 business has been operating for at least a year and E-2 visa has been obtained by the investor

Then 2 options to apply for EB-5 visa



3 Increase investment and expand the E-2 business

- Invest additional funds to at least a total of \$900,000 (TEA), but likely more since not all initial E-2 investment funds will be eligible to count towards EB-5.
- Expand operations to either hire 10 direct full-time employees for at least 24 months OR obtain EB-5 Regional Center Sponsorship so that construction expenditures and revenue count toward the 10 required jobs by indirect, induced or direct job count.

OR



3 Invest in a separate EB-5 project

- Identify a new project for EB-5 investment and invest at least \$900,000 (TEA).
- New project can be either an active investment with the investor as the manager or a passive investment in an EB-5 Regional Center Project.
- Either option can have a regional center sponsor to reduce immigration risk and make it easier to meet the 10 new job requirement

Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
- ④ EB-5 Visa
- ⑤ E-2 to EB-5 Transition
- ⑥ Installment or Partial EB-5 Investment**
- ⑦ EB-5 Investment Projects
- ⑧ Question and Answer Session

Installment or Partial EB-5 Investment

Common Scenario

An investor has part of the \$900K in cash and the remainder in liquid assets such as real estate, and wealth management products.

Investor contributes \$300,000 of cash and provides a promissory note with a pledged security interest in an asset worth at least \$600,000. Note holder can have an enforceable lien on pledged asset.

The balance must be invested within a set period of time, typically one to two years. If not, the note holder can force a liquidation of the asset(s).

Partial payments are allowed under the EB-5 program rules. Documents submitted to USCIS must carefully document the scenario, especially documenting the enforceability of the lien(s).

EB5AN considers installment payments on a case-by-case basis.

USCIS Regulations and Policies

“Capital contribution definition includes and covers cash or promissory note”.

“

The petitioner must document the path of the funds to establish that the investment was made, or is actively in the process of being made, with the immigrant investor’s own funds.

– USCIS Policy Manual

”

Case Study: Irrevocable Commitment of EB-5 Funds through Cash and/or Installments: EB-5 investment made in total or in the process of investing

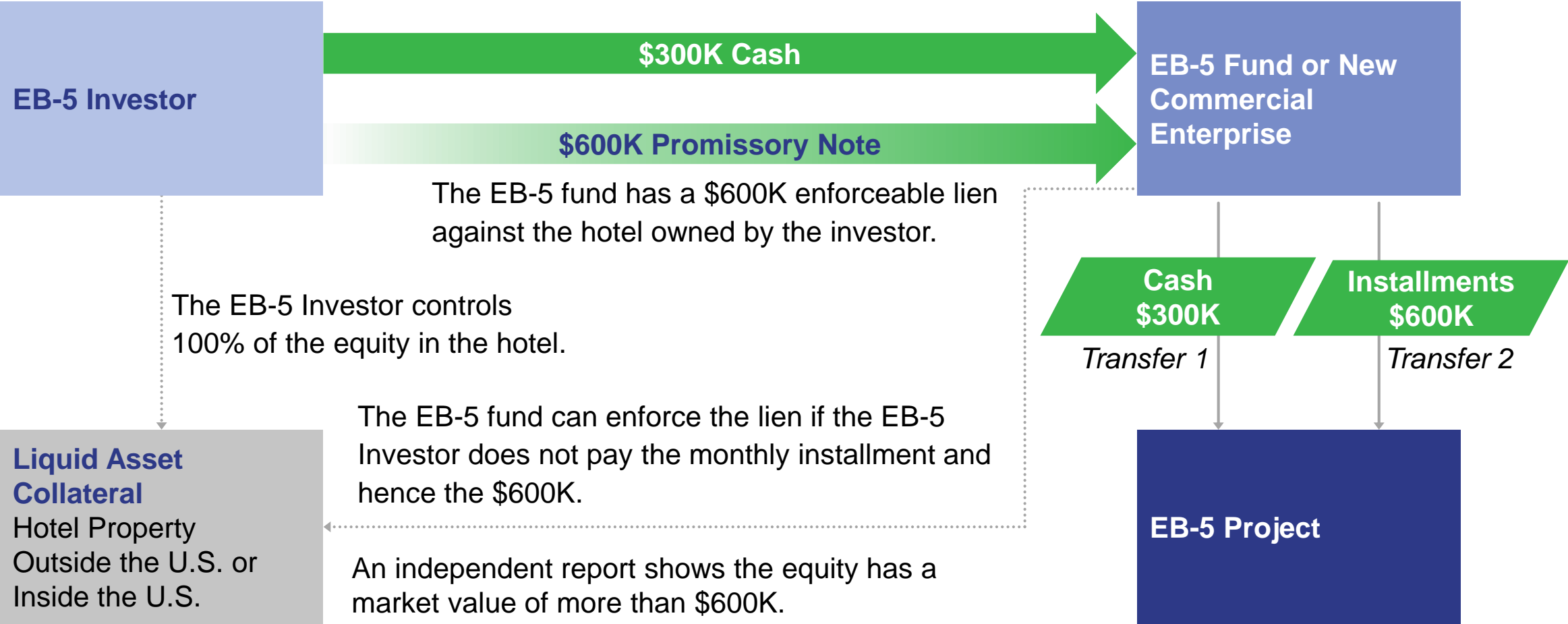


Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
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Hyatt Fort Lauderdale: Condominium and Hotel Project

Qualifies as a high unemployment TEA under the current rules – \$900K investment – 2.0% investor return.

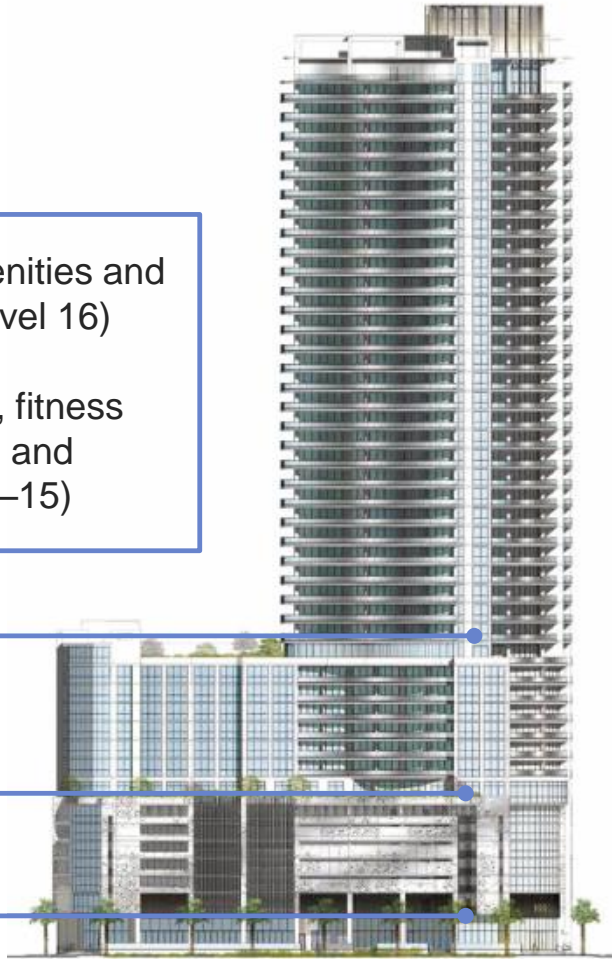
113 residences
(levels 16–46)

Private residential amenities and elevated pool plaza (level 16)

238 hotel guest rooms, fitness center, meeting space, and elevated pool (levels 8–15)

Garage (levels 2–7)

Grand lobby, hotel, bar, restaurant, and retail (level 1)



Luxury condominiums and Hyatt hotel

EB-5 investor
Preferred Return
2.0%

Phase II EB-5
\$18.9M, 8%
of total cost

Total project cost
\$226M

EB-5 loan
repayment
guaranty

I-526 approval
refund guaranty

USCIS and
attorney fee
refund guaranty

23.8
jobs already
created for each
EB-5 investor

Vertical
construction
completed

Senior loan signed
and funded
CIBC Bank

Saltaire St. Petersburg: Luxury Condominiums and Retail Space

Qualifies as a high unemployment TEA under the current rules – \$900K investment – 6.0% investor return.

192 residences (levels 6–35)

Penthouse units
(levels 34–35)

Standard units
(levels 6–33)

Amenities and
plaza units (level 7)

Parking garage
(levels 2–6)

Retail space and
lobby (level 1)



Luxury condominiums and retail space

EB-5 investor
Preferred Return
6.0%

Phase I EB-5
\$10.1M, 4%
of total cost

Total project cost
\$227.4M

**Downtown
Oceanfront
Location**

**I-526 approval
refund guaranty**

**USCIS I-924
Project
Exemplar
Approved**

Total job creation
32.8
jobs per investor

Senior loan
executed with
**Wells Fargo
Bank**

**Construction
already
underway**

Table of Contents



- ① About Our Speakers
- ② Introduction
- ③ EB-2 Visa
- ④ EB-5 Visa
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