

EB-5 Investor Visas - USCIS Redeployment Policy Change Announcement

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By Mohammad Ali Syed

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On July 24th 2020, USCIS (the United States Citizenship and Immigration Services) issued a Policy Alert to clarify guidance regarding the redeployment of capital under the EB-5 program. This new guidance will substantially impact how EB-5 project sponsors and regional centers approach the future re-deployment of EB-5 capital. EB-5 investor program allows U.S. permanent residence for qualified foreign investors who place investments of \$900,000 into regional centers.

Below is a summary of the policy changes effective immediately:

1. The purchase of financial instruments on the secondary market will generally not satisfy requirements for the redeployment of EB-5 capital.
2. EB-5 capital may be redeployed into any commercial activity consistent with the purpose of the new commercial enterprise (NCE) to engage in the conduct of lawful business.
3. Redeployment of EB-5 capital must be through the same NCE.
4. Redeployment must be within the approved geographic area of the same regional center, including any amendments to expand the geographic area that is approved prior to redeployment.
5. USCIS generally considers 12 months as a reasonable amount of time to redeploy EB-5 capital but will consider evidence showing that a longer period was reasonable.

What You Need to Know Going Forward: Advance Planning and Regional Center Expansion

Now that USCIS has clarified that the purchase of financial instruments will generally not satisfy requirements for redeployment and that the redeployment must occur within the geographic area of the same regional center, project sponsors and regional centers will need to plan further in advance for the redeployment of EB-5 capital.

Project sponsors and regional centers should strongly consider expanding the approved geographic area of their current regional center through an I-924 amendment. This is a serious issue, especially for EB-5 projects sponsored by regional centers with limited geographic coverage since the options for redeployment could be very limited or impossible as a result of the new policy changes.

Under this new USCIS policy, if a regional center was only approved for 2 counties, then the redeployment of EB-5 capital could only occur within those 2 counties. However, if the regional center successfully amended its designation to cover an additional 23 counties, then the redeployment could occur anywhere within the entire 25-county area.

For new EB-5 projects considering regional center sponsorship, it is critical to select a regional center with a large geographic coverage area to provide increased flexibility for future redeployment.

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