



Glenn M. Cooper

GrayRobinson, P.A.
333 S.E. 2nd Avenue, Suite 3200
Miami, Florida 33131
305-416-6880
glenn.cooper@gray-robinson.com

401 East Las Olas Blvd., Suite 1000
Fort Lauderdale, Florida 33301
954-713-7822

The EB-5 Foreign Investor Green Card Program and EB-5 Regional Centers – A Two Way Street and Win-Win for Foreign Investors and the U.S. Economy

Question: I am a foreign entrepreneur/investor and I would like for myself, my spouse and children to become lawful permanent residents of the United States (green card holders) and at the same become a part of a U.S. business and benefit the U.S. economy. How can I accomplish this?

Question: A U.S. business or an EB-5 regional center seeks \$500,000 or more of venture capital to expand its operations and create 10 U.S. jobs or the foreign entrepreneur/investor wishes to launch a U.S. business with a minimum investment of \$500,000 and the creation of 10 U.S. jobs or invest \$500,000 as a limited partner in an EB-5 regional center that will manage the investment and create the 10 U.S. jobs. How can this be accomplished?

This is a two way street that meets at a mutually beneficial intersection known as the EB-5 Foreign Investor Green Card Program. Under the EB-5 program, the foreign entrepreneur/investor can become a lawful permanent resident of the U.S. with as little as a \$500,000 investment of capital by a foreign entrepreneur in a designated target employment area or in an EB-5 regional center where the investor is a limited partner and therefore not responsible for managing the business or creating the jobs. A target employment area (TEA) is an area which, at the time of the investment, is a rural area or an area which has experienced high unemployment equal to at least 150 percent of the national average. "Rural area" means any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more, based on the most recent decennial census of the United States. In non-target employment areas, the minimum investment is generally \$1,000,000. There are many TEA's in the state of Florida. The investment of capital can consist of cash, equipment, inventory, other tangible property, cash equivalents, and indebtedness secured by assets owned by the alien entrepreneur.

EB-5 foreign investors must be qualified immigrants (demonstrating to the U.S. Immigration Service (USCIS) the legitimate source of their investment funds and that they do not have any background issues that would render them ineligible for the green card) seeking to enter the United States for the purpose of engaging in a new commercial enterprise which the alien has established or investing in an existing enterprise or a Regional Center, in which the alien has invested the required amount of capital, and which will benefit the United States economy and create full-time employment for no fewer than 10 United States citizens, permanent resident aliens, or other immigrants authorized to be employed in the United States, other than the

entrepreneur and his or her spouse or children. The establishment of a new commercial enterprise may consist of:

1. the creation of an original business;
2. the purchase of an existing business and simultaneous or subsequent restructuring or reorganization such that a new commercial enterprise results; or
3. the expansion of an existing business through the investment of the required amount, so that a substantial change in the net worth or number of employees results from the investment of capital. Establishment of a new commercial enterprise in this manner does not exempt the petitioner from the regulatory requirements relating to the required amount of capital investment and the creation of full-time employment for 10 qualifying employees. In the case of a capital investment in a troubled business, employment creation may meet the regulatory criteria regarding maintaining the number of employees at preinvestment levels.

Investing in an EB-5 Regional Center as a Limited Partner

Alternatively, the EB-5 foreign investor can invest in a an EB-5 regional center as a limited partner whereby the regional center manages the investment and pools investments from various EB-5 investors in order to invest in larger development projects such as developing academic institutions, medical facilities or other industrial and job creating endeavors that have been pre-approved by USCIS. Investing in an EB-5 Regional Center as a limited partner/passive investor means the foreign investor does not have to be responsible for managing the business enterprise or the creation of 10 U.S. jobs since the EB-5 Regional Center manages the business operations including the creation of 10 jobs attributable to the investor's investment. A minimum \$500,000 cash investment is required for Regional Centers.

The infusion of capital from the foreign investor/entrepreneur benefiting the U.S. enterprise and economy combined with the green card benefit available to the foreign investor/entrepreneur and family makes the EB-5 program a two way street and mutually beneficial "Win-Win".

The EB-5 regional center program has been renewed several times, and is currently due to sunset on September 30, 2016.