

Congress of the United States
Washington, DC 20510

February 2, 2024

Alissa Emmel
Chief
Immigrant Investor Program Office
U.S. Citizenship & Immigration Services
20 Massachusetts Ave., NW
Washington, DC 20529

Dear Chief Emmel,

As lead authors of the EB-5 Reform and Integrity Act of 2022 (“RIA”), which established long-overdue changes to the immigrant investor program, we write in response to the interpretive guidance issued by the U.S. Citizenship and Immigration Services (USCIS).

We are concerned the guidance establishing a two-year sustainment period, which is the period during which an EB-5 immigrant investor must keep their investment at-risk and applied to an EB-5 project, is not consistent with congressional intent nor the job-creating focus of this program. This short investment period is also not consistent with other federal economic investment programs like Opportunity Zones and the New Market Tax Credit, and it could unfairly limit the types of projects that could use and benefit from EB-5 capital. Additionally, we would note that the guidance would unduly restrict the sustainment period from the date of investment, which directly conflicts with the agency’s regulations (8 CFR 216.6(a)(4)(iii)) on EB-5 capital investment requirements.

We strongly urge USCIS to rescind or clarify this guidance to be consistent with congressional intent and ensure a fair and reasonable investment holding period, a minimum of at least five years, for all EB-5 investments made at any time after March 15, 2022, when RIA became law.

Thank you for your prompt attention to this matter, and we look forward to your reply.

Sincerely,



Greg Stanton
Member of Congress



Brian Fitzpatrick
Member of Congress



U.S. Citizenship
and Immigration
Services

March 11, 2024

The Honorable Greg Stanton
U.S. House of Representatives
Washington, DC 20510

Dear Representative Stanton:

Thank you for your February 2, 2024 letter to United States Citizenship and Immigration Services (USCIS) regarding the EB-5 Reform and Integrity Act of 2022 (“RIA”).

We appreciate your thoughts on USCIS efforts to implement the EB-5 Reform and Integrity Act of 2022 (RIA), particularly your concerns about USCIS’ guidance regarding the new investment timeframe requirements.

USCIS is committed to implementing the RIA and accompanying amendments to the Immigration and Nationality Act (INA) as enacted in an efficient and equitable manner that protects pending and prospective investors, as well as ensuring the program can continue to be a catalyst for new jobs and investment in the United States. As amended by the RIA and applicable to investors seeking classification after enactment of the RIA, the INA requires only that the investment must be expected to remain invested for not less than two years and no longer requires that the investment be sustained throughout the investor’s period of conditional residence. USCIS’ guidance adheres as closely as practicable to the plain language of the INA. Your letter and a copy of this response will be published on the USCIS Electronic Reading Room pursuant to the communication protocols in §107(e)(3) of the EB-5 Regional Center Reform and Integrity Act of 2022.

Thank you again for your letter and your support of the Immigrant Investor Program. Rep. Brian Fitzpatrick, who cosigned your letter, will receive a separate, identical response. Should you require additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, reading "Ur M. Jaddou".

Ur M. Jaddou
Director