

# United States Senate

WASHINGTON, DC 20510

March 11, 2019

## VIA ELECTRONIC SUBMISSION

The Honorable Kirstjen Nielsen  
Secretary  
U.S. Department of Homeland Security

The Honorable Russell Vought  
Acting Director  
U.S. Office of Management and Budget

SCANNED/RECEIVED  
BY EXEC SEC  
2019 MAR 11 PM 3:09

Dear Secretary Nielsen and Acting Director Vought:

We are writing to urge the Trump administration, and in particular the Office of Management and Budget (OMB), to finalize and publish the EB-5 Immigrant Investor Program Modernization rule (RIN 1615-AC07). The U.S. Citizenship and Immigration Services (USCIS) recently completed the rule and transmitted it to OMB on February 22, 2019. This rule would advance the national interest and should be implemented without delay or interference.

For years, we have watched with growing alarm as the EB-5 program has strayed further and further away from what Congress envisioned when we created it as part of the Immigration Act of 1990. One of Congress's core objectives in creating this program—to direct investment to rural and high unemployment areas that struggle to obtain capital—has been eroded due to rampant, abusive gerrymandering of the program's targeted employment areas by big moneyed interests. Instead of creating jobs in undercapitalized areas, the program now primarily serves to provide wealthy developers access to cheap foreign investment capital subsidized by the sale of U.S. visas. Some of the abuses that have come to plague this program, including rampant fraud and securities violations, require statutory changes. Unfortunately, while Congress has pursued bipartisan legislative solutions for a number of years, the same powerful special interest groups that exploit this program's flaws have stymied all efforts to reform this scandal-plagued program.

These regulations would, if finalized, re-align the program with what Congress envisioned in 1990. We have been, and remain, supportive of these regulations. We believe they will generate increased capital investment for the United States economy, and will help ensure that some portion of that capital is actually invested in rural and underserved areas, as Congress intended. We ask you to do everything within your power to finalize and publish these regulations as soon as possible, and to ignore the special interests who will attempt to derail these efforts at the expense of the American people.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a large, prominent "C" at the beginning.

Charles E. Grassley  
Chairman  
Senate Finance Committee  
Former Chairman  
Senate Judiciary Committee

A handwritten signature in blue ink that reads "Patrick Leahy". The signature is written in a cursive style with a large, prominent "P" at the beginning.

Patrick Leahy  
Vice Chairman  
Senate Appropriations Committee  
Former Chairman  
Senate Judiciary Committee



U.S. Citizenship  
and Immigration  
Services

April 8, 2019

The Honorable Charles E. Grassley  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510

Dear Chairman Grassley:

Thank you for your March 11, 2019 letter to the Department of Homeland Security (DHS).

I share your goal of ensuring utilization of the EB-5 program with integrity and consistent with Congressional intent. Realigning the EB-5 program to help achieve these goals is a regulatory priority for the Department.

On January 13, 2017, the EB-5 Immigrant Investor Program Modernization Notice of Proposed Rulemaking was published, which proposed, among other changes, to increase the minimum investment amounts for new EB-5 petitioners and reform the targeted employment area designation standards and process. As you noted in your letter, on February 22, 2019, DHS transmitted a draft final rule for this rulemaking to the Office of Management and Budget for review under Executive Order 12,866, *Regulatory Planning and Review*. The rule is currently pending that review. DHS is dedicated to ensuring expeditious implementation of the rule, if and when it is finalized.

Additionally, the Department is considering other regulatory actions related to the EB-5 program. As noted on the Fall 2018 Unified Agenda, we are seeking to propose regulations that may include changes to the process for initially designating entities as regional centers, a requirement for regional centers to utilize an exemplar filing process, continued participation requirements for maintaining regional center designation, and changes to the process for terminating regional center designations.

While we work on reforms and policy updates, we stand ready to assist Congress by providing technical assistance and input on statutory changes that are greatly needed.

The Honorable Charles E. Grassley  
Page 2

Thank you again for your letter and your support of the Department and our employees. Vice Chairman Leahy, who co-signed your letter, will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,



L. Francis Cissna  
Director

CC: The Honorable Russell Vought, Acting Director, U.S. Office of Management and Budget