



November 6, 2019

PA-2019-07

Policy Alert

SUBJECT: EB-5 Immigrant Investor Program Modernization Final Rule

Purpose

U.S. Citizenship and Immigration Services (USCIS) is revising its policy guidance in the [USCIS Policy Manual](#) to align with the EB-5 Immigrant Investor Program Modernization Final Rule, published on July 24, 2019, and effective November 21, 2019.

Background

Under the employment-based fifth preference (EB-5) classification, petitioners may seek an immigrant visa if they make the necessary investment in a new commercial enterprise in the United States and meet certain job creation requirements.¹ On July 24, 2019, the Department of Homeland Security published the EB-5 Immigrant Investor Program Modernization rule to reflect statutory changes and modernize the EB-5 program.² This rule provides, among other things, priority date retention for certain EB-5 immigrants; increases the investment amounts to account for inflation; reforms targeted employment area (TEA)³ designations; and clarifies USCIS procedures for the removal of conditions on permanent residence.

These updates to Volumes 6 and 7 of the Policy Manual conform USCIS policy to the provisions in the final rule. This policy guidance is controlling and supersedes any prior guidance on the topic.

Policy Highlights

Volume 6, Part G: Investors

- Updates the minimum investment amounts to \$1.8 million standard and \$900,000 in a TEA for petitions filed on or after the effective date.
- Clarifies the definition of rural.
- Explains the new methodology for determining high unemployment areas for petitions filed on or after the effective date of the rule, including the removal of a state's ability to designate certain geographic and political subdivisions as high-unemployment areas.
- Updates the guidance on engagement in the management of the new commercial enterprise, to list the new evidentiary requirements for that requirement.

¹ See INA 203(b)(5).

² See 84 FR 35750 (July 24, 2019).

³ A TEA may be a rural area or an area of high unemployment.

- Adds a Priority Dates section explaining that the priority date of a previously approved immigrant investor petition may generally apply to any subsequent immigrant investor petition filed on or after November 21, 2019.
- Clarifies that certain changes to comply with securities laws are not material.

[Volume 7, Part A: Adjustment of Status Policies and Procedures](#)

- Adds to the Priority Dates section that the priority date of a previously approved immigrant investor petition may generally apply to any subsequent immigrant investor petition filed on or after November 21, 2019.
- Clarifies when the priority date may not be retained or conferred to any subsequently filed immigrant investor petition.

Citation

Volume 6: Immigrants, Part G, Investors [[6 USCIS-PM G](#)] (Chapters 1, 2, 4, 5); and Volume 7: Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 6, Adjudicative Review [[7 USCIS-PM A.6](#)].