

# EB-5 Reform and Integrity Act 2021

**A bill to reauthorize the EB-5 Regional Centre Program in order to prevent fraud and promote and reform foreign capital investment and job creation in American communities.**

New compliance requirements for regional centers, new commercial enterprises or job-creating entities, companies and professionals involved with regional centres, direct and third party promoters, including migration agents.

	Requirement	Under the Old Act and regulations before 15 <sup>th</sup> March, 2022	Under the New Act and regulations after 15 <sup>th</sup> March, 2022
1	Authorisation duration for EB-5	Short period	Authorisation until 2027. Pending EB-5 petitions not affected by expiration
2	Regional Centre (RC) approval	It was mandatory but approval was by the State Government	It is mandatory but approval is by USCIS
3	EB-5 business plan / project approval before filing EB-5 petition	It was voluntary	It is mandatory. EB-5 petition can be filed by the investor under RC only after business plan approval
4	Job creation	10 jobs per investor and no difference between direct and indirect job creation	10 jobs per investor but indirect jobs only 90% of the estimated job creation and if construction work lasts less than 2 years, only 75% of the jobs will be accepted
5	RC's Annual Statement to USCIS	No provision and requirement	Mandatory requirement for all regional centres and must be shared with the investor as well. A minimum penalty of 10% of the total amount invested for non-compliance
6	Bona fides of persons involved with the regional centre program	No provision and requirement	Persons having civil liability and criminal violation cannot get involved
8	Record keeping and audit by RC	No provision and requirement	Record must be kept for 5 years and USCIS will conduct audit of the RC every 5 years
9	Foreign ownership of key persons in RC	No provision and requirement	Foreign citizens or governments cannot own or be involved with a RC
10	Annual fees payable by RC	No provision and requirement	US\$ 20,000 per year if more than 20 investors or US\$ 10,000 per year if investors are less than 20
11	Petition fees by RC to create FUND	No provision and requirement	RC must pay US\$ 1,000 per petition to create FUND to recover the costs of adjudication and naturalization

12	Investing in publically available bonds	No specific rules and hence investment in certain projects was questionable.	Investment in public bonds is not allowed with specific provision
13	RC's project site visit by USCIS	No provision and hence not allowed.	USCIS can visit RC project site with 24 hours' notice
14	Information required regarding persons involved with the RC	Not necessary	Criminal background check, biometrics, etc. required to ensure the RC and the people involved with it are in compliance
15	Failure to comply with Act and Regulations	USCIS cannot take any action	RC can be suspended or terminated by USCIS
16	Compliance and registration requirement for direct and third party promoters including migration agents	Not required	They must register with USCIS. They must comply with state and federal security laws and all other regulations as if they are offering US securities. Non-compliance can result in being barred from the RC program.
17	Treatment of good faith investors whose RC is not in compliance after receiving conditional Green Card	No provision to change RC	180 days to change RC without loss of priority date
18	Administration of the investment made by the investor	No specific provision	Specific provision for escrow account. Must have 3 <sup>rd</sup> party fund administration such as - lawyer, CPA, broker dealer, etc.
19	Compliance with security laws of USA	No specific provision	RCs do not need a licence from SEC but must comply with all requirements of federal and state security laws of USA
20	EB-5 Reserved Quota for a specific project	3000 of 10,000 reserved for TEA area	Reserved 32% as follows: (i) 20% for rural area (ii) 10% for high unemployment area (iii) 2% for infrastructure projects by the government
21	Concurrent filing of EB-5 petitions and Green Card applications	Not allowed	Petitioners in USA can file I-526 and I-485 at the same time
22	Investment amount	US\$ 500,000 and 1,000,000	US\$ 800,000 and 1,050,000

**Disclaimer:** This chart is created for quick reference and educational purposes only. Please refer to the complete text of the Act or consult a licensed professional for details.