

EB 5 Reform and Integrity Act 2022 Guide

A comprehensive guide from EB5 Attorneys

The EB 5 Reform and Integrity Act of 2022 (RIA), enacted as Division BB of the Consolidated Appropriations Act (P.L. 117 103) on March 15, 2022, reauthorized the EB 5 regional center program after a 17 month lapse and imposed the most significant structural changes to the program since its creation in 1990. The RIA reshaped how regional centers operate, how investors file petitions, and how USCIS oversees the program.

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Legislative Background and Why Reform Was Needed

Congress created the EB 5 immigrant investor program through the Immigration Act of 1990, adding INA section 203(b)(5). The regional center pilot program followed in 1992. For three decades, Congress repeatedly reauthorized the regional center program through short term extensions without making substantive changes to the underlying statute. During that period, the EB 5 program grew from a niche investment pathway to a multi billion dollar industry, and problems accumulated. USCIS identified patterns of fraud and misrepresentation in certain regional center projects. The SEC brought enforcement actions against EB 5 project operators who had misappropriated investor funds. The Government Accountability Office published reports highlighting weaknesses in the program's oversight structure, including the absence of mandatory auditing requirements and the lack of direct USCIS authority to terminate problematic regional centers quickly. Investors had limited transparency into how their capital was being used after it was deployed. The regional center program lapsed on June 30, 2021, halting new regional center filings entirely and stranding thousands of investors with pending petitions. When Congress finally passed the RIA on March 15, 2022, it did not simply reauthorize the program. It rebuilt the regulatory framework from the ground up, adding compliance mechanisms, creating new visa categories, establishing an integrity fund, and expanding filing options for investors. Every EB 5 participant, from regional center operators to individual investors to immigration attorneys, must now work within this reformed structure (P.L. 117 103, Div. BB, sections 101 through 107).

Integrity Fund and Per Petition Fee

One of the RIA's signature provisions is the creation of the EB 5 Integrity Fund (INA section 203(b)(5)(H)). This fund is financed by a mandatory \$1,000 fee assessed on each EB 5 petition filed, whether through a regional center or as a direct investment. Regional centers also pay annual fees into the fund: \$10,000 for regional centers with 20 or fewer investors, and \$20,000 for those with more than 20 investors. As of April 2026, these fee amounts remain as originally enacted.

The Integrity Fund exists to finance USCIS's enhanced enforcement and compliance functions under the RIA. Money from the fund supports audits of regional centers, site visits to project locations, investigations into potential fraud, and the agency's capacity to monitor ongoing compliance. Before the RIA, USCIS had limited resources dedicated specifically to EB 5 program oversight. The Integrity Fund creates a self financing enforcement mechanism, ensuring that the cost of oversight is borne by program participants rather than general appropriations.

For investors, the \$1,000 fee is paid at the time of I 526E filing (or I 526 for direct investors) and is nonrefundable regardless of petition outcome. It is separate from the I 526E filing fee of \$3,675 (as of April 2026). Investors should factor this cost into their total filing budget. The fee is assessed per petition, not per family, so derivative beneficiaries included on a principal investor's petition do not trigger additional Integrity Fund fees.

Enhanced Regional Center Oversight and Compliance

The RIA fundamentally changed the compliance obligations for regional centers. Under the pre RIA framework, regional centers operated with relatively limited direct oversight from USCIS. The RIA replaced this approach with a structured compliance regime (INA section 203(b)(5)(E)).

Regional centers must now submit annual statements to USCIS certifying their continued compliance with program requirements. These statements include detailed financial information about each project, the status of job creation, and disclosures of any material changes to project structure or timelines. USCIS has authority to conduct audits and site visits at any time, funded by the Integrity Fund.

Annual fund audits are required. Every regional center must retain an independent auditor to review the financial operations of its associated new commercial enterprises and job creating entities. These audits must comply with generally accepted auditing standards and be submitted to USCIS as part of the annual reporting obligation.

The RIA also established a formal process for regional center termination. If a regional center fails to meet compliance requirements, USCIS can issue a notice of intent to terminate (NOIT) and ultimately deauthorize the regional center. Investors in a terminated regional center face potential petition denial unless they can demonstrate that their individual petition otherwise complies with program requirements or they transfer to a qualifying project within a specified period.

The new framework places a premium on due diligence. Investors should verify that any regional center they consider has a clean compliance record, submits timely annual statements, and retains qualified auditors. Your EB 5 attorney should request and review these compliance documents before you commit capital.

Form I 956F: Project Approval Requirement

Before the RIA, USCIS evaluated the merits of a regional center project primarily through individual I 526 petitions. If the first investor's petition was approved, subsequent investors in the same project could rely on that precedent. The RIA changed this approach by introducing Form I 956F, Application for Approval of an Investment in a Commercial Enterprise.

The I 956F requires that each new commercial enterprise (the entity that receives investor funds) obtain USCIS pre approval of its investment offering before investors file I 526E petitions. The filing fee for the I 956F is \$17,795 as of April 2026. The form requires submission of the project's business plan, economic analysis, offering documents, and evidence of compliance with securities law. USCIS reviews the project's structure, job creation methodology, and compliance with RIA requirements before approving it.

This project level review is separate from the individual investor's I 526E petition. Once the I 956F is approved, investors who join the project can reference the approval in their I 526E filings, which may reduce adjudication time for individual petitions. However, investors must still demonstrate their own source of funds and meet all individual eligibility requirements.

The I 956F filing is the responsibility of the new commercial enterprise, not the individual investor. However, investors should confirm that the project has an approved I 956F (or has filed one with a receipt notice) before committing capital. Investing in a project without I 956F approval creates risk, because USCIS could deny the project application, which would undermine the investor's I 526E petition.

Set Aside Visa Categories: Rural, High Unemployment, and Infrastructure

The RIA created reserved visa allocations within the annual EB 5 quota of approximately 10,000 visas (including derivative family members). These set aside categories are codified at INA section 203(b)(5)(B)(iii) and apply only to petitions filed on or after March 15, 2022.

Rural TEA projects receive 20% of all EB 5 visas. A rural area is defined as any area outside a metropolitan statistical area (MSA) and outside a city or town with a population of 20,000 or more. Rural set aside visas have remained current for all countries of chargeability since the RIA took effect, meaning investors in rural projects have faced no visa backlog as of April 2026.

High unemployment TEA projects receive 10% of EB 5 visas. These areas must have unemployment rates at or above 150% of the national average, as determined by USCIS rather than by state designation (a change from the pre RIA regime). Under INA section 203(b)(5)(D)(ii), USCIS now directly evaluates high unemployment TEA applications, removing the state certification process that was previously used and sometimes abused through gerrymandered census tract combinations.

Infrastructure projects receive 2% of EB 5 visas. An infrastructure project is one administered by a governmental entity and primarily engaged in the building, improvement, or maintenance of public works infrastructure. This is the smallest set aside category, and relatively few projects have qualified.

The remaining 68% of visas are unreserved and subject to standard per country limits. For investors from countries with high demand (China, India, Vietnam), the unreserved category involves multi year backlogs. The set aside categories offer a significant advantage: each maintains a separate visa queue, and most have remained current since the RIA took effect.

Concurrent Filing and Its Expansion Under the RIA

Section 203(b)(5)(F)(iv) of the INA, as added by the RIA, allows investors to file Form I 485 (Application to Register Permanent Residence or Adjust Status) concurrently with their I 526E petition when an immigrant visa is immediately available in their category. This concurrent filing option is one of the most practically significant changes the RIA introduced.

Before the RIA, investors typically had to wait for I 526E approval before filing the I 485. With concurrent filing, investors in set aside categories where visas are current can file both forms simultaneously. The benefit is immediate: once the I 485 is filed, the investor can apply for an Employment Authorization Document (EAD, Form I 765) and Advance Parole (Form I 131), which provide work authorization and travel flexibility independent of any existing nonimmigrant status.

This is particularly valuable for investors on H 1B, L 1, or other nonimmigrant visas who want employment flexibility before their green card is issued. It also benefits investors' spouses, who may gain independent work authorization through the pending I 485 rather than relying on a dependent visa that may restrict employment.

Concurrent filing does not accelerate I 526E adjudication. The I 526E and I 485 proceed on separate tracks, and USCIS will not approve the I 485 until the underlying I 526E is approved. However, the interim benefits (EAD and advance parole) provide meaningful relief during the processing period, which can span 12 to 36 months or more.

Eligibility for concurrent filing depends on visa availability in the investor's specific category and country of chargeability. Your EB 5 attorney should monitor the monthly visa bulletin and advise you on the optimal filing strategy.

Source of Funds and Compliance Changes

The RIA strengthened requirements around source of funds documentation and capital tracing. While USCIS already required investors to demonstrate that funds were obtained through lawful means (8 CFR 204.6(j)(3)), the RIA codified additional requirements and increased scrutiny on capital deployment.

Under the RIA, regional centers and their associated entities must use independent fund administrators to manage investor capital. This means investor funds cannot be held directly by the regional center or project developer without third party oversight. The fund administrator verifies that capital is deployed according to the terms of the offering documents and provides a layer of protection against misappropriation.

The RIA also requires that offering documents comply with applicable securities laws, and USCIS now reviews securities compliance as part of the I 956F adjudication process. Regional centers must certify that they have maintained compliance with all applicable federal and state securities laws in their annual statements to USCIS.

For investors, these changes mean greater protection but also more documentation requirements. Your source of funds package must trace every dollar from its lawful origin through each transfer to the escrow or fund administrator account. The path must be documented with bank statements, tax returns, contracts, and other primary source documents. Gaps in the chain of custody or unexplained large deposits remain the most common triggers for Requests for Evidence (RFEs) on I 526E petitions.

Practical Impact for Current and Prospective EB 5 Investors

For investors considering an EB 5 filing as of April 2026, the RIA framework is the operating environment. Every petition filed since March 15, 2022, falls under RIA rules. Understanding the practical implications helps investors make better decisions.

First, project selection matters more than ever. The I 956F requirement means you should prioritize projects with approved or pending I 956F applications. Investing in a project without I 956F approval adds unnecessary risk to your petition.

Second, set aside categories offer meaningful advantages. If your investment qualifies for the rural TEA set aside, you gain faster visa availability, concurrent filing eligibility, and a separate visa queue that has remained current since the RIA took effect. These benefits are especially significant for investors from high demand countries.

Third, the enhanced compliance framework provides better investor protections, but you should verify that your regional center actually complies. Request evidence of annual audits, annual statement filings, and fund administration arrangements. Do not assume compliance; confirm it with documentation.

Fourth, filing costs have increased. Between the I 526E filing fee (\$3,675), the Integrity Fund fee (\$1,000), and potentially premium processing (\$2,805), investors should budget at least \$7,480 in government filing fees alone as of April 2026, before accounting for attorney fees and investment capital.

Fifth, consult an experienced EB 5 attorney before committing to any investment. The RIA created new opportunities and new risks. An attorney who has handled cases under the reformed framework can guide you through project evaluation, filing strategy, and compliance verification.

Frequently Asked Questions

1. When did the EB 5 Reform and Integrity Act take effect?

The RIA was enacted on March 15, 2022, as Division BB of the Consolidated Appropriations Act of 2022 (P.L. 117 103). It took effect immediately upon enactment. All I 526E petitions filed on or after that date fall under RIA rules, including the new set aside visa categories, integrity fund fees, and enhanced regional center compliance requirements.

2. What is the EB 5 Integrity Fund fee and who pays it?

The Integrity Fund fee is a mandatory \$1,000 payment assessed per I 526E petition. The investor pays this fee at the time of filing, and it is nonrefundable. Regional centers also pay annual Integrity Fund contributions of \$10,000 or \$20,000 depending on their investor count. The fund finances USCIS compliance operations, including audits, investigations, and site visits (INA section 203(b)(5) (H)).

3. What are the set aside visa categories under the RIA?

The RIA reserves portions of the annual EB 5 visa quota for three categories: rural TEA projects (20%), high unemployment TEA projects (10%), and infrastructure projects (2%). The remaining 68% is unreserved and subject to per country limits. Set aside categories maintain separate visa queues, and most have remained current for all countries since the RIA took effect, offering significantly shorter wait times.

4. What is Form I 956F and why does it matter?

Form I 956F is a project level application that regional center projects must file to obtain USCIS pre approval of their investment offering. The filing fee is \$17,795 as of April 2026. I 956F approval signals that USCIS has reviewed and accepted the project's business plan, economic analysis, and securities compliance. Investors should confirm I 956F approval status before investing, because a denied I 956F can undermine individual I 526E petitions.

5. Can I file for adjustment of status at the same time as my I 526E?

Yes, if an immigrant visa is immediately available in your category. Under INA section 203(b)(5)(F) (iv), investors in set aside categories where visas are current may file Form I 485 concurrently with their I 526E. This allows you to apply for work authorization and travel documents while the I 526E is pending, which can take 12 to 36 months.

6. How does the RIA change regional center oversight?

The RIA requires regional centers to submit annual compliance statements to USCIS, retain independent auditors for annual fund audits, use independent fund administrators for investor capital, and comply with all applicable securities laws. USCIS can conduct audits and site visits at any time, funded by the Integrity Fund. Failure to comply can result in regional center termination.

Disclaimer: This guide is provided for general informational purposes only and does not constitute legal advice. Every immigration case is unique. Consult a qualified immigration attorney for advice specific to your circumstances.

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