

Open for Business?

Immigration options for Foreign Investors

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America – the Land of Opportunity

- Largest recipient of foreign direct investment in the world
- World's largest economy
- Innovative and thriving capital market
- Transparent and fair legal mechanisms creates stable business environment
- Access to domestic & global market
- Skilled & productive workforce
- Ease of doing business makes Houston & Texas high in investment opportunities





Investor Visa Types

■ Immigrant Visas

- ▶ EB-5 Immigrant Investor Visas

■ Nonimmigrant Visas

- ▶ E-2 Treaty Investors
- ▶ L-1 Intracompany Transfers

■ Discretionary, Temporary Status

- ▶ Entrepreneur Parole



Immigrant Investor Program (EB-5)

The "Green Card Investor"



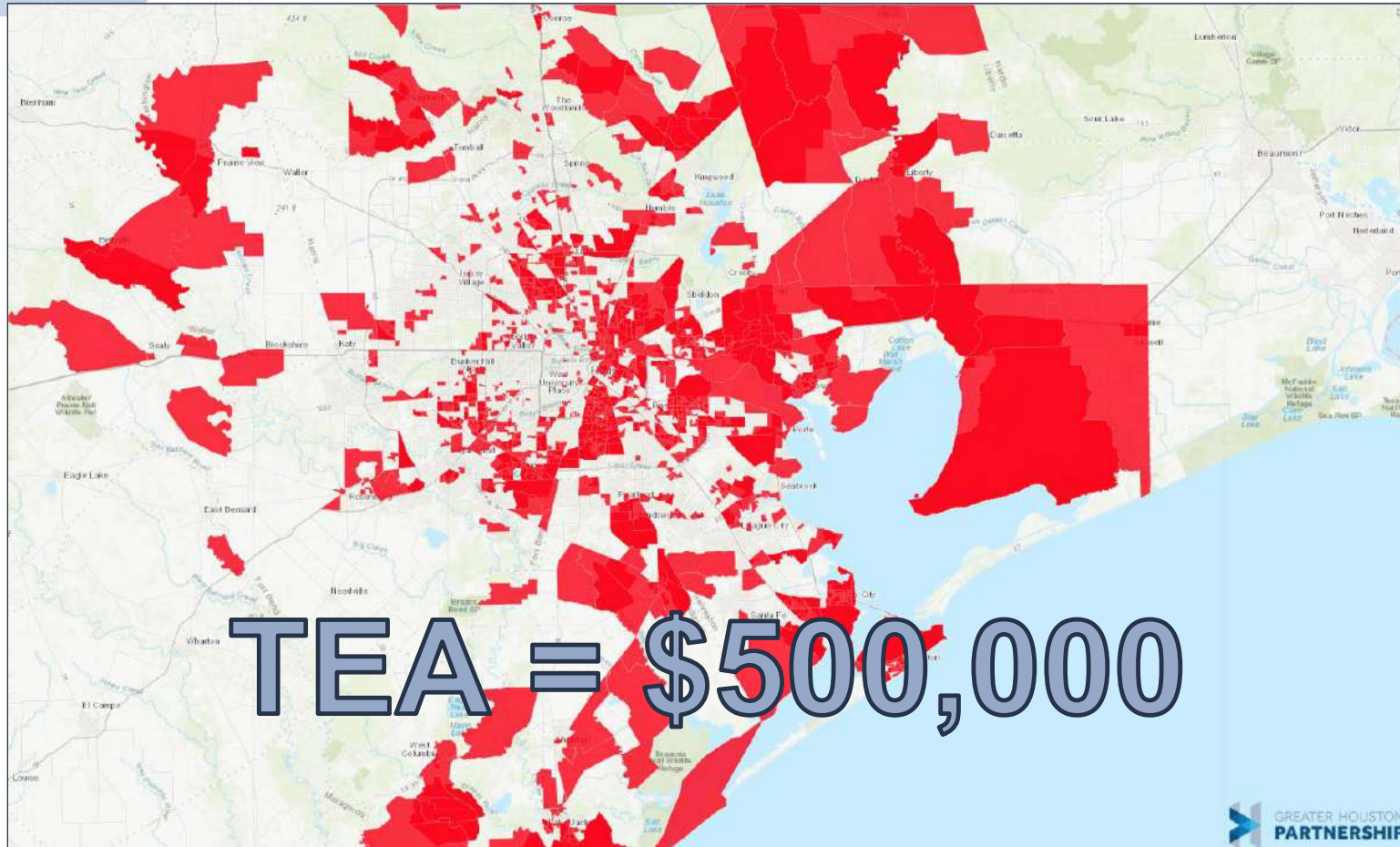


Why choose the EB-5 Immigrant Investor Visa?

- Provides permanent resident status (green card) to foreign investors
- Created by Congress in 1990 to stimulate the U.S. economy through job creation and capital investment in a new commercial enterprise (NCE)
- Investment of \$1 million minimum (or \$500,000 if in Targeted Employment Area (TEA))
- Create 10 new jobs for U.S. workers
- Funds must be lawfully sourced and traced



Targeted Employment Areas in Houston MSA





Direct vs. Regional Center Differences

Direct EB-5 Investment

- Must create 10 direct jobs for U.S. workers
 - ▷ W-2 full-time jobs
 - ▷ U.S. citizens, and LPRs
- Typically, investor opens own business
 - ▷ Majority share of business
 - ▷ Develops and directs the enterprise

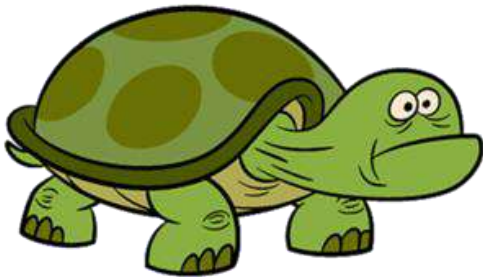
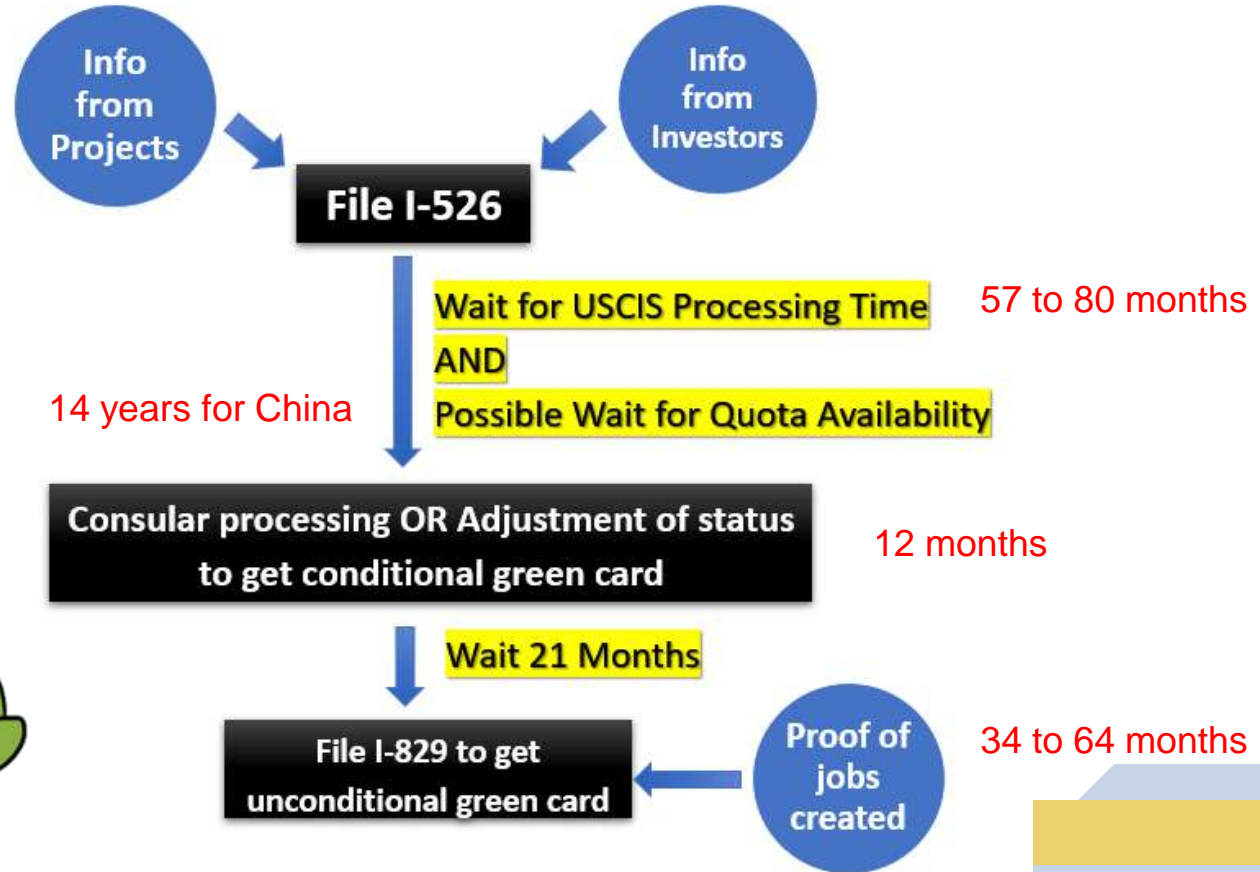


Regional Center EB-5 Project

- Indirect and induced job creation counted
 - ▷ Calculation by economic analysis, no head count
- Typically used for capital intensive projects like hotels that subscribe multiple investors (1% limited partner)
- Must obtain RC designation and file annual reports



Why does it take so long to get a Green Card?





Changes in EB-5 Immigrant Investor Visa

EB-5 Modernization Final Rule on November 21, 2019

- ▶ 80% increase in investment amount
 - From \$1 million to **\$1.8 million**
 - From \$500K to **\$900K (TEA)**
- ▶ Changed designation of TEAs to DHS, not state or local agencies



REVERSED by *Behring* decision on June 22, 2021. Old rules still apply!

- ▶ USCIS appealed decision. New director likely to re-sign EB-5 Modernization Final Rule.



Death of Regional Center Program

- Regional Center Program not re-authorized on June 30, 2021
- No immigrant visas being issued to approved regional center cases
- Likely to be re-authorized. Too much \$\$ and too many jobs at stake. The lapse affects:
 - ▷ 32,600 EB-5 investor applications on file
 - ▷ \$15 billion in capital investment
 - ▷ 500,000 jobs
- Proposal of Fair Investor Fairness Protection Act (grandfathering)





Pooled, Direct Investment

- Allows multiple investors to invest in one EB-5 new commercial enterprise
- Must create 10 W-2 jobs per EB-5 investor
- Investment amount can be \$500,000 (if in TEA) or \$1 million
- Investors play more active role in NCE
- No annual reports to USCIS
- No need to obtain designation from USCIS ahead of time
- Typically used in companies that create significant number of jobs (e.g., multi-unit restaurant and supermarkets)





EB-5 Market Outlook

Expect slowdown in EB-5 applications caused by:

- ▶ Reduced supply of EB-5 projects
- ▶ Long processing and visa wait times
- ▶ COVID reduced travel-related industries (i.e., hotels)
- ▶ Uncertain rights of EB-5 investors

Investors seeking other options:

- ▶ Faster processing times
- ▶ Cheaper investment
- ▶ Easier job creation requirements



Treaty Investor Visa (E-2)





Why choose the E-2 Treaty Investor Visa?

- No numerical limits for investment amount.
Investment amount depends on the nature of the business.
- Flexible job creation requirements (1099s and W-2s count)
- Faster processing times. No visa backlog.
- Visa can be extended indefinitely
- 81 countries with E-treaties
 - Israel recently added on May 1, 2019
- Citizenship by Investment (CBI)
 - If not a citizen of E-treaty country, could invest in countries that offer CBI to obtain 2nd country citizenship in an E-treaty country
 - Grenada, Turkey, Montenegro – top 3 choices out of 10





E-2 TREATY INVESTOR VISA

- Investor is a citizen of a country with a trade treaty with the USA
- Investor owns 50% or more of the enterprise
- Investor will develop or direct the enterprise
- Investment must be “substantial”
- Commercial enterprise is bona fide business
- Commercial enterprise will create jobs for U.S. workers
- Sufficient physical premise



Intracompany Transfer (L-1A)

The “Multinational Manager or Executive”



Why choose the L-1 Intracompany Transfer Visa?

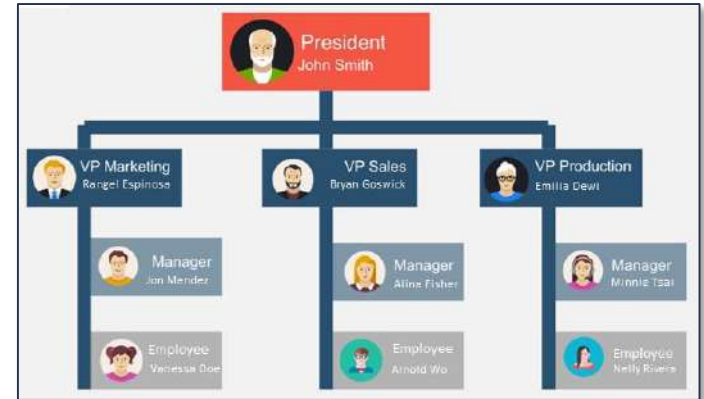
- Not limited to any country
- No numerical limit for investment amount
- Semi-flexible job creation requirements
- Furthers international trade
- Transfer of executive or manager from related foreign company to U.S. company
- Can lead to permanent residency (“green card”)





L-1 INTRACOMPANY TRANSFER VISA

- U.S. and foreign companies must have qualifying corporate relationship
 - Joint ventures
- Investor must have been working with foreign affiliate company in executive or managerial capacity for at least 1 year in the last 3 years
- Investor will work in U.S. company in executive or managerial capacity
- U.S. company is a bona fide commercial enterprise
- Sufficient physical premises
- Investment is “substantial”



Entrepreneur Parole





International Entrepreneur Parole

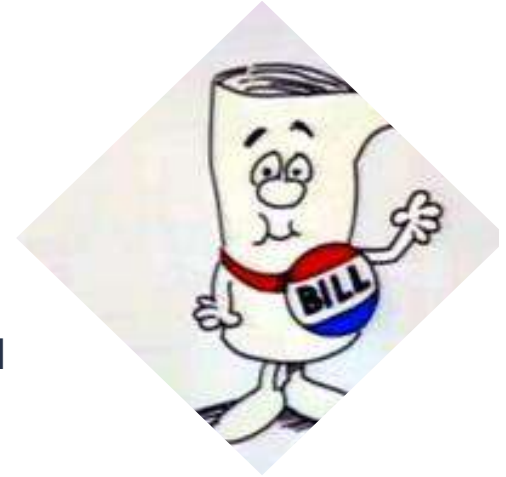
- Grants temporary status to foreign entrepreneurs who do not have lawful status
- Start-up business created in the last 5 years
- Provides significant public benefit to U.S. through
 - ▷ Economic development,
 - ▷ Research & development, or
 - ▷ Job creation
- Received significant investment from:
 - ▷ Qualified investors (U.S. citizens, LPRs) of \$250,000 or
 - ▷ Government grant or award of \$100,000
- Merit favorable exercise of discretion





U.S. Citizenship Act of 2021

- Clears employment-based visa backlogs
- Recaptures unused visas
- Reduces lengthy wait times
- Eliminates per-country visa caps
- Makes it easier for graduates of U.S. universities with advanced STEM degrees to stay in the U.S.
- Improves access to green cards for workers in lower-wage sectors
- Eliminates other unnecessary hurdles for employment-based green cards
- Creates a pilot program to stimulate regional economic development





Q&A

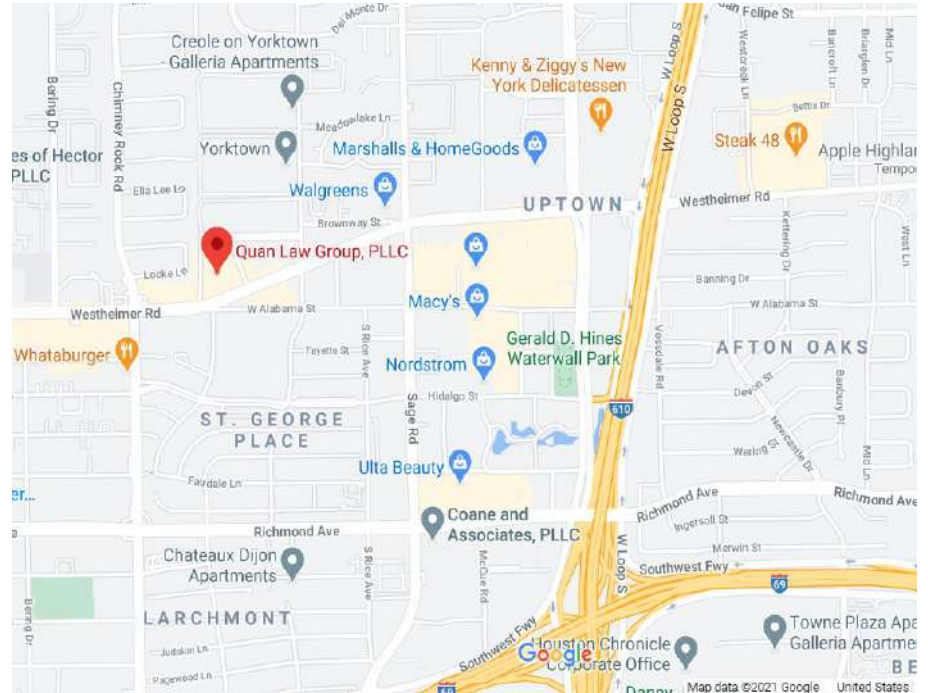




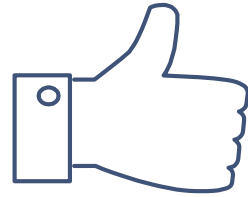
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THANKS!

Any questions?
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