

# The Essential

# EB-5

# Handbook

**An Insider's Guide for Successfully  
Investing in the EB-5 Program**

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# **THE ULTIMATE EB-5 INVESTMENT GUIDE**

**Charles V. Raether**

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## INTRODUCTION

The handbook which you are holding in your hands is the distillation of over 10 years of experience in the EB-5 industry. Back then around 2008 there were maybe 50 regional centers throughout the U.S. Now, there are over 800. Back then there were as few as a thousand applications a year under the program. In recent years that number has increased 10 times! And backlogs have appeared for investors from China, Vietnam, India and elsewhere that have placed severe strains on the program. Despite the delays in adjudicating petitions, visa backlogs, and changing regulatory landscape, the EB-5 program nonetheless remains one of the most reliable means of obtaining a Green Card for businesspeople and investors. In part, this speaks to the even greater changes and uncertainties which other visa categories are currently undergoing. The EB-5 program is not perfect, but from our experience it is generally the most predictable and reliable option for our clients.

Perhaps one thing that makes the EB-5 sector so challenging is due to the lack of information available to investors as well as the often-changing rules governing administration of the program. The immigration service (USCIS) is notorious for unilaterally making changes to the regulations and interpretation of these regulations without notice to stakeholders or attorneys, often leading to litigation and other challenges. However, litigation is often protracted, expensive, and inconclusive. Therefore, the best approach for an investor considering the EB-5 program is to arm himself with the best information—and advisors—from the outset in order to avoid any possible challenges or problems that could foreseeably arise.

The Ultimate EB-5 Investment Guide is intended to assist potential investors together with their attorney evaluate projects for participation in the program. The issue of proving source of funds is briefly discussed in this guide, but one could write an entire book just on this topic alone. This handbook is not intended to be an all-inclusive guide, since there are numerous aspects of the program that depend on the particular cir-

cumstances of the investor. Retaining an attorney experienced with EB-5 petitions is a critical step as well: attempting to file an EB-5 petition without an experienced attorney would be a waste of time to put it diplomatically. In the worst case it could create problems that could hamper an investor's ability to stay in the U.S. in the future.

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## SOURCE OF FUNDS

Most of this handbook is focused on issues related to the regional center sponsoring a project as well as the actual project in which the investor will invest. However, there is one important part of the process that is singularly focused on the investor: proving where the investor got his money for the investment.

The EB-5 process consists of two distinct phases: filing of the I-526 to obtain a conditional Green Card, and after that expires in two years, the filing of the I-829 to receive a permanent Green Card which is valid for ten years. The most important task that is required of the investor during either of these stages is evidence of the lawful source of funds of the investor as well as documenting their path from their home country to the United States.

Clients often ask how to prove their source of funds. Oftentimes they believe that having gone through the due diligence process with their bank when opening an account is sufficient proof that their money is “clean.” Or that providing some statement from their tax authority that they have paid all their taxes. Unfortunately, the process is not that easy. Adding to the complications is the ever-evolving manner in which USCIS reviews these cases and what criteria they apply. However, the guidance below should provide a good understanding of the general requirements.

In the EB-5 context, proving the source of capital means showing where the investor earned or received his original capital. For example, it is not sufficient to sell a home for \$1 million dollars and say this was the source of the EB-5 investment. USCIS wants to know where the investor earned the money that was used to buy the house in the first place. In the past, if the real estate was acquired more than 8-10 years ago, it was not always required to show the source to purchase the real estate since it was so long ago. However, these days USCIS has stretched that timeframe out further to 15 years and possibly longer. The immigration service is fortunately more flexible in cases where the property was purchased 15-20

years ago or more. However, they nonetheless are looking for reasonable explanations as to where the funds originated from.

Similarly, if the parents of an investor gift their child money for EB-5, we would need to show how the parents earned the money that they gifted to their child. Another common example is using dividends from an investor's company as the source for their EB-5 investment. Here too they would need to demonstrate how they got the money to originally open and start up the company (fortunately, many companies are started with minimal capital investments by the owners).

Once the source of funds is documented, the next task involves proving what is called the path of funds: USCIS requires evidence that the money being invested is specifically that money which was earned from the source demonstrated in the source of funds analysis. The easiest scenario is when the earned money was placed in a bank account until its investment in the EB-5 project. Unfortunately, things are generally not this straight-forward with clients. Proving the path of funds can be tricky in emerging markets where investors do not trust the banking system and oftentimes keep their saving in cash completely outside of the banking system. Other countries have limits on the amount of hard currency that can be sent out of the country in one year by an individual, which also creates complications. Our firm has extensive experience dealing with these scenarios, and we have developed proven strategies that can be applied and customized, when needed, based on an investor's particular scenario.

## PROJECT-RELATED ISSUES

What follows are general questions that any investor should pose to the developer and regional center in which he is considering investing. This is by no means an exhaustive list, but it does cover the most important issues to help investors avoid less-than-reliable projects.

**Question 1:**

*Who are the principals of the regional center and project developer and what are their professional backgrounds and reputations?*

The project structures for deals involving regional centers are generally complex. They interact with several business entities that are created solely for managing the particular project at hand. When evaluating a regional center, it is critical to find out more about the individuals who are behind these temporary single-purpose businesses. Who are the principals or sponsors of the regional center? Most importantly, what are their track records? What are their reputations? An investor should determine whether the principals have experience in similar business endeavors and if they have been successful in the past. After all, failure is much more likely if this is their first attempt at this type of business.

Ideally, the founders and managers of the regional center should have considerable professional experience related to fund management and project development—specifically in the EB-5 sector. It is equally important to investigate the background and history of the project management company that actually oversees the development of the project. Last but not least, what is the track record of the regional center? Although each project of a regional center operates completely independently of every other project sponsored by the regional center, our experience has shown that properly managed and experienced regional centers tend to work with well-managed and experienced developers. Therefore, although there is no direct relationship between prior projects and the one an investor is considering for investment, there is a general correlation that can be helpful in making a reasoned decision. Generally speaking, good regional centers do not select unreliable developers with whom to work.



**Question 2:**

*Have any investors' petitions for the project already been approved?*

It is not a prerequisite for a project to have approved I-526 petitions for it to be considered a safe project. The reality is that the majority of projects will NOT have approved I-526's by the time an investor is considering the project, simply because it is taking so long (approximately two years at the time of this writing) for I-526 petitions to be approved. In most cases, projects will have already recruited all of the needed investors long before the first investors filed their petitions. However, in cases where there is a large amount of investors (say, more than one hundred) or the organizers were not very aggressively attracting investors, it's possible that there will be approvals by the time one of the later investors is considering investing. In that case, it certainly is reassuring to an investor if there have been approvals. That means that there is a very small likelihood of there being any problems for future petitions regarding the project-side of the paperwork. However, it is no guarantee, since USCIS may always raise new issues regarding a project that it did not object to in earlier filings. In conclusion, we would say that although it certainly is a positive sign if a project has approved I-526's, it is really not a disqualifying factor if it doesn't. There is also the concept of "exemplar approvals." This occurs when the project sponsors decide to get advance approval of a project prior to filing any I-526 petitions. Because of the very long wait times to get an exemplar approval from USCIS, relatively few projects currently have them. If a project does not have an exemplar approval, we generally do not view it as a negative component.

**Question 3:**

*What is the difference between a "loan model" and "equity model" for EB-5 projects?*

Investors will likely hear discussions about equity and loan models for projects. In the early 2000's equity structures were much more common, while over the last 5-10 years debt models have come to dominate the industry, in large part due to preferences of Chinese investors. The following chart gives an overview of the difference. The primary distinction to keep in mind is that a debt model generally has a set date for returning

an investor's money, since the EB-5 money is being loaned to the project for a specific term. By comparison, an equity structure foresees an EB-5 investor's money going directly into a project as equity. The challenge with an equity model is that although it generally provides for a higher return, the exit strategy is not nearly as clear as with a debt model. An equity structure generally requires the sale of the project for investors to recover their funds. When exactly that will occur is very difficult to predict; thus it's more limited popularity vis-a-vis debt structures.

**Equity:**

- Investors theoretically play a more active role since they are equity shareholders.
- Own a direct share of the project and theoretically share more in the upside of the project's success than in a debt structure.
- The structure is traditionally used in smaller deals where EB-5 owners are directly involved in management and/or want meaningful returns.
- Some markets demand more of an equity-style investment. As a general matter, investors in China prefer capital preservation over equity style returns. However, other markets may be more receptive to traditional equity structures.
- Generally not as commonly used today as in the past.

**Debt:**

- Investors play a more passive role since they are creditors of the project, not owners.
- This structure is preferred by investors due to the perception as a more secure form of investment. The typical EB-5 investor's top priority is to secure a green card and ensure capital preservation.
- Debt instruments are often secured by collateral and have priority over any equity in the project.

- There is a clear path to exit since debt instruments have a maturity date.
- The loan structure allows for more standard terms, covenants and obligations

**Question 4:**

*What is the capital stack of the project?*

An investor should always analyze what is called the “capital stack,” i.e. where all the funds are coming from for the investment project. Obviously, at least some portion of the funds for the project will come from EB-5 investors. You might recall from a previous chapter that it is common for developers to partially finance the project through traditional debt from a lending agency, such as a bank or a government institution. From the perspective of an EB-5 investor, the financial involvement of the government or a bank is a good sign. It means that the bank’s loan underwriters and government officials had confidence that the project would generate enough revenue to pay back the loan. Generally speaking, if the project is being funded exclusively by EB-5 investors, this is a major red flag. If this is the case, an investor should not only be concerned about the reliability of the investment but also the possibility of fraud.

Often, EB-5 investments and bank loans are not the only sources of funds for the project. The regional center’s sponsors and the project management company will also contribute some of their own capital to the project. This is called “putting skin in the game,” whereby the project owners invest their own cash into the equity of the project. This of course is also a good sign and a prerequisite for any project worth considering. In terms of funding sources, the ideal scenario is that the project will be funded with EB-5 investments, bank loans and capital from principals of the regional center or project developer, where roughly a third of the total amount invested in the project will come from each source.

The capital stack is typically reflected in both percentages and hard numbers. For example, for a project that costs \$100 million, a typical capital stack may have 65% senior financing (\$65 million), 15% EB-5 mezzanine

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financing (\$15 million), and 20% developer equity (\$20 million). In general, EB-5 investors should strongly avoid projects with more than 50% EB-5 financing in the capital stack and projects that do not utilize third-party bank financing.

**Question 5:**

*Will the regional center be able to get enough funding to complete the project?*

No matter how well things have proceeded so far, what is most consequential is whether the project is completed. If the project is not completed, the developer will not be able to repay the loan and no jobs will be created. This is the worst-case scenario for EB-5 investors, who will likely lose their money and their opportunity to obtain a Green Card. There are numerous ways to avoid this scenario. The first one is to ensure that the loan with the lender has been closed and is in effect. This means that the bank is committed to provide the funds it has promised to loan. In many cases, what is even more advantageous to investors is if the lender has agreed to loan the full amount of what it has committed as well as the amount of the EB-5 investors. In this manner, if the developer is not able to recruit all of the EB-5 investors it was planning, it won't have a shortfall of funds since the bank will cover the difference.

Reputable and experienced regional centers will generally insist that projects which they sponsor meet a number of criteria, including offering a completion guarantee. If a developer has a completion guarantee, it is akin to an insurance policy that guarantees that the project will be completed even if the developer runs out of money or some disaster strikes the project. Therefore, we strongly recommend clients select projects that have completion guarantees.

**Question 6:**

*Does the project developer have the necessary building permits and approvals to undertake the project?*

Undertaking a major development project requires many forms of official approval from various departments within the local government (at the city or county level). Together, these forms of approval are called the

“entitlements” of the land on which the intended project will be built. Obtaining these entitlements can be a long, uncertain and expensive process. Without them, no project—no matter how promising or how well thought out—can break ground and proceed with construction. You should confirm that the necessary approvals have been obtained and the local government agencies have been participating in the planning of the project. These include the city or county planning departments, redevelopment agencies, and community development departments.

**Question 7:**

*How has investment and project development proceeded so far?*

At the time you are considering investing in a regional center, it is very likely that project development would have already begun. If so, the regional center may have already opened several funds and attracted the maximum number of investors for each one. Generally, information about number of units that have been subscribed in a regional center’s limited partnership is not available to the general public. It is usually only disclosed when an EB-5 investor shows a genuine and a good faith interest in investing in the project and typically signs a confidentiality agreement. Once this information is available to you, your securities professional should inquire about previous funds. How many have been created and filled? Is it half funded or almost full? How has the money from these funds been allocated for project development?

Why is it important to inquire into how the current project has been funded by other EB-5 investors? Knowing how many other EB-5 investors have subscribed to the project is important to determine whether or not the regional center’s project will obtain sufficient funding to proceed. For example, if the regional center has projected 200 EB-5 investors as a minimum number of subscribers, and only a tenth of the EB-5 investors have subscribed, this may impact the likelihood that the project will be financed to completion and may potentially signal that the project is in trouble. Additionally, your securities professional should find out how much funding the project developers have received to commence development. If the majority of the funds have already been released to the developers, but the project is only 50% completed, this may be a sign

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that the project may run out of funding before it can be completed. If this occurs, the project may fail, which would prevent EB-5 investors from ultimately getting a Green Card and recouping their \$800,000 investment.

**Question 8:**

*Based on the financial model, what is the estimated job creation?*

An investor should review the financial model for an estimation of job creation, since 10 new jobs must be created for each EB-5 investor. It is essential that this model predict that enough jobs will be created per investor. Of course, this is a virtual certainty. If the regional center did not predict sufficient job creation, it wouldn't market its offering to EB-5 investors. What matters is whether the model being used by the regional center is a credible model and is based on sound analyses of economic conditions. Another important issue is how much of a "job cushion" there is for the project. This refers to the practice of having an extra buffer of jobs (usually at least 20-30% above the minimum needed) to cover for any unexpected contingencies.

One of the characteristic features of the regional center path is that the job creation requirement can be satisfied through "indirect" job creation. It is not necessary for the project itself to directly create 10 full-time jobs for each investor. For example, if the project is a hotel, it is not necessary for the hotel to hire enough employees to qualify all the EB-5 investors for Green Cards. Rather, the project must contribute to the local economy to a degree that would likely result in sufficient job creation. Indirect jobs that are based more on construction spending are safer and more conservative than job estimates based on revenue. The more a project depends on construction spending alone for EB-5 job creation, the greater the certainty that a sufficient number of EB-5 jobs will be created. If EB-5 job creation depends on future revenues, the immigration risk to EB-5 investors is higher because not only must the project's construction spending match its budget, but the project's revenues must meet expectations. Revenues are projected years into the future and may not

adequately account for changes to the market or other factors. The safest projects will have not only started construction but will be far enough along in construction that they have already created the required jobs for all of the EB-5 investors. Such projects effectively have effectively eliminated the immigration risk. However, it does not mean that a project is risky if the jobs have not all been created at the time of investment.

**Question 9:**

*How will the investors be paid back?*

A project's exit strategy is how the project will ultimately make money—specifically, enough money to pay back all EB-5 investment capital. Many EB-5 projects are structured as real estate projects because real estate projects have hard assets as collateral and a relatively easy-to-understand exit strategy in a well-known and mature market. While emerging, venture capital, and speculative investments may qualify for the EB-5 Program, they typically are not a good fit because of the greater financial risk associated with such investments. Gambling on speculative investments makes sense for those chasing a high return, but such investments do not make sense for EB-5 investors who want to ensure that they obtain Green Cards and safeguard the return of their capital in a defined time period.

There are three common exit strategies for project developers to repay its EB-5 investors. The first is to sell the project's assets—usually a building or some form of real estate—after construction has been finished. The second common exit strategy is to take out another loan to repay the EB-5 investors. This additional loan usually comes from a commercial lender—a bank, in other words. In effect, the project developer uses the money from this loan to buy out its EB-5 investors. The third option is using revenue from operations to pay back the EB-5 investors. Once again, take the example of a hotel. Rather than selling the hotel, the project developer could retain ownership and wait for it to become sufficiently profitable, and then repay its EB-5 investors with the money it generated. Which exit strategy a project developer intends to use often depends on the type of project. Another important indicator is whether the developer or project sponsor previously sold or re-financed similar projects in the past, and did those past projects meet their anticipated financial targets?



Reputable project developers have successfully executed on similar projects in the past with conservative financial assumptions that were either met or exceeded in terms of sale price or exit strategy assumptions.

It's also important to know if there is a backup plan. If, for instance, it eventually becomes clear that selling the real estate is not an option, is there a viable alternative for repaying the loan? Reputable projects often provide that the developer cannot receive any profit from operations until the EB-5 investors are paid off, or that if the developer does not timely repay the loan to the EB-5 investors, then the investors can take over management of the project.

**Question 10:**

*What is the redeployment plan for the developer and regional center?*

Because of the increased wait times for processing I-526 petitions as well as I-829 petitions, the situation increasingly arises whereby the developer is ready to return the money to the investors, but the investors are not allowed to take the money because they have not yet filed their I-829 petition for a permanent Green Card. Since an investor's money must stay "at risk" until the 829 petition is filed, regional centers are required to "redeploy" the investors' funds into another project or asset until the funds can be returned to the investors.

While your money must stay at risk, there is no specified guidance from USCIS on what type of risk this refers to and what requirements there are for these redeployed funds.

Each regional center has its own policy regarding redeployment. Therefore, the investor needs to carefully understand what their policy is and ensure they feel comfortable with the redeployment plan if it is necessary to execute it. Because USCIS has not given clear guidance as to what exactly is needed for redeployment, it is difficult to give specific guidance as to what redeployment plans could be characterized as good.



To keep your money at risk, the company you invested in could loan the capital to the same developer it worked with before—just to a different project. There are pros and cons to this strategy.

If you had a positive experience with your original investment, you may find it a welcome advantage to be able to redeploy your capital with them. Since the developer finished the project earlier than estimated, you may view the company as extremely efficient and welcome the opportunity to reinvest.

But the investor still needs to be careful, as the new project you will redeploy your capital to may not have as favorable of a timeline. It's important to also find out at what time you can recover your project from the redeployment. Some centers have flexible policies that allow investors every quarter to recover their funds once their I-829 has been filed. Other projects will lock in investors' funds for several years before they can be recovered. Therefore, all these should be discussed with your attorney and the regional center prior to your initial investment.

**Question 11:**

*Where is the investor's place in the waterfall of loan repayment?*

Recall that EB-5 investment is unlikely to be the only source of funding for the project. Once the project is converted to cash, the debt will be repaid in a particular order. This is known as the "waterfall" of cash payments. The relevant question is, how much and how quickly will an EB-5 investor be repaid their investment, assuming the profits from the project are available to institute repayment? The order of repayment is usually determined by the terms of the loan. Typically, the government and banks have priority over EB-5 investors. However, this leaves the question of the order in which the various EB-5 investors will be repaid. Your securities professional will investigate this question. Ideally, the regional center will be able to provide a clear answer, which may be that the order of repayment follows the chronological order with which investors join the limited partnership.

**Question 12:**

*What protections and guarantees are provided to the EB-5 investors?*

If you none of the preceding questions in this list, you may do just fine. But this question above all should by all means be addressed to the regional center. The following are some common guarantees and protections:

- **An I-526 refund guarantee** ensures that if an EB-5 investor's I-526 petition is denied, his or her money will be refunded. Without this guarantee, a denial could mean that an investor's capital remains invested for an extended period with no Green Card benefit and little or no return. An I-526 refund guarantee should be from a strong, well-capitalized entity, which helps ensure that an investor will be able to receive his or capital back promptly in the case of an I-526 denial.
- **A completion guarantee** ensures that the developer will fund any project costs in excess of the budgeted amount. Developers securing senior bank financing should always have this type of guarantee. Without it, any costs over budget could result in a delayed or incomplete project.
- **Repayment terms** ensure repayment within a set timeframe. Projects typically have loan terms, but they may allow extensions for long periods, or even indefinitely. They may also have equity conversion options. In such cases, the project sponsor may be able to keep EB-5 capital invested even after investors have received permanent Green Cards. Well-structured projects usually require repayment within a certain period once an EB-5 investor has received his or her permanent Green Card or, even better, once each investor has filed his or her I-829 petition.
- **Other guarantees or protections.** Strong projects offer multiple guarantees and other similar protections for EB-5 investors to reduce both

the immigration and financial risk. These might include cross-collateralization with other assets; restrictions on the developer's ability to accrue any profits prior to repayment of the EB-5 money; and non-recourse carve outs against the developers.

Guarantees and protections are all for the investor's benefit. Their absence may raise concerns or indicate high immigration or financial risk.





## WHAT TO DO NOW?

**STEP 1:** Schedule a consultation with AmLaw Group. In our consultation—whether in person, through correspondence or on the telephone— we will review your personal immigration needs to make certain that the EB-5 visa is both a viable option and indeed the best vehicle to reach your personal immigration goals, both for yourself and your family. We will review in detail the legal requirements of the EB-5 visa, including proving the legal source of your funds, and discuss the process of applying for a Green Card.

**STEP 2:** Retain AmLaw Group. If all sides believe the EB-5 program is a viable option for the investor, then the next step would be execution of an agreement with AmLaw Group to commence work on the case.

**STEP 3:** Discuss your source of funds and develop a strategy with AmLaw for providing the needed paperwork. Probably the MOST important aspect of a I-526 petition is documenting the investor's source of funds. This can be especially difficult for investors from emerging markets who are not used to maintaining banking and tax documentation that will reflect the source of the investor's funds. Unfortunately, clients often think that if they went through a similar process with a bank when opening an account, say, in Europe, then it is the same for EB-5. Unfortunately, it is not. USCIS applies its own, often idiosyncratic, rules for deciding whether an investor has proven the legality of his or her funds.

**STEP 4:** Collect your source of funds documents as well as path of funds documentation. It is not enough to merely show *how* the investor earned his money. We must also show how the funds were legally converted into US dollars and transferred to the U.S. into the project. Again, because many clients in emerging markets do not trust the banks in their home country, there are complications with proving the lawful path of funds. AmLaw Group can work with you in developing an effective strategy based on the firm's 10+ years of experience with similar cases.

**STEP 5:** Select a regional center Once we have decided that the EB-5 pro-

gram is the best option for you, the next step is to select a regional center. At this stage, selecting a regional center does not mean making a firm commitment or actual investment. Rather, it means beginning the process of learning about the regional center and allowing the regional center to learn about you.

**STEP 6:** Fill Out the qualifying questionnaire from the regional center. After you have selected a regional center to pursue, we will work with you to complete the investor questionnaire from the regional center. This questionnaire will help my firm and the regional center determine that you are a qualified investor, both from a financial and a legal standpoint. Once you have completed the questionnaire, and once the regional center and my firm have reviewed it carefully, we will be ready to proceed to the next step.

**STEP 7:** Wire \$800,000 plus any administrative fee the regional center charges to the escrow account of the regional center. These funds must be wired PRIOR to the filing of the I-526 petition. From what account you wire the funds must be discussed in advance with AmLaw Group pursuant to the strategy developed with AmLaw to document the source and path of the investor's funds. Some projects allow for partial payment of the \$800,000, provided that the investor executes a promissory note with very strict terms as to when the remainder needs to be paid. However, this is a path we generally recommend avoiding given the possibility for complications during the adjudicatory process with USCIS. Where possible, it's generally best to keep things simple!

**STEP 8:** File the I-526 petition. At this point, we are ready to prepare and file your I-526 petition with USCIS. In addition to the petition itself, there are two critical pieces of the application. First will be the extensive personal and investment funds documentation that you have compiled. The second critical piece will typically be provided by the regional center, fully documenting the regional center and its project or projects.

**STEP 9:** Await approval of the I-526. If your I-526 is approved, you and your family will be issued a conditional Green Card valid for two years. If you are in the U.S. when it is approved, you may file for an adjustment of status without leaving the U.S. Formal interviews for EB-5 applicants undergoing an adjustment of status were implemented starting in 2018. For a number of reasons, we generally prefer our clients to process their EB-5 at a U.S. embassy overseas. In this case you and your family will have to submit an immigrant visa application to the U.S. Embassy. Soon thereafter, you will be notified of the date and time of your interview. Only after the conclusion of a successful interview you will receive an EB-5 visa in your passport. This visa is valid for 180 days, and during that time you need to enter the U.S. Within a few months after entering the U.S., your Green Card will be mailed to you at your U.S. address. No matter where you live, the only condition of your “conditional” U.S. Permanent Resident Green Card is that your investment in the regional center remains intact for two years. There are no restrictions on where you and your family live, work, or go to school in the U.S.

**STEP 10:** File for a permanent Green Card. After two years, the investor will need to file an I-829 petition to remove the restrictions on the conditional Green Card. The regional center will again work closely with us to provide USCIS with all the necessary documentation, showing that your funds are still invested and the necessary number of jobs has been created. Once USCIS has approved the petition, you will be granted an unconditional Green Card, allowing you and your family to live and work in the U.S. indefinitely. Once you have filed your I-829, you are theoretically eligible to receive your funds back from the project, if the time for returning the funds has already passed based on the project’s progress. If you have not filed your I-829 but the developer is ready to repay your funds, then likely your funds will be “redeployed” (See discussion above about redeployment policies).

**STEP 12:** Become an American citizen. If you wish, you and your family will have the option to become Naturalized Citizens of the U.S. after you have held your Green Cards for a period of five years and met other requirements.

## ABOUT THE AUTHOR

Charles Raether is the Managing Partner and founder of AmLaw Group, a boutique law firm based in the greater Miami, Florida area dedicated to assisting foreign businesses and entrepreneurs with immigration, business and investment matters in the U.S. Mr. Raether focuses much of his energy working with entrepreneurs and investors to make a successful transition to the United States for their families and businesses with a focus on E-2, EB-5, and L-1 petitions. In particular, he has led the firm's growth of its EB-5 practice in Russian-speaking markets. In 2018 alone, for example, AmLaw Group accounted for over a third of all EB-5 petitions from Russia.

Mr. Raether is regularly invited to speak on business immigration and the EB-5 program in the U.S. and abroad with a particular focus on trends in the Russian and CIS markets. He is a regularly commentator on TV and radio on immigration matters and has appeared on Discovery Channel, RTVi, RenTV and other media outlets in the U.S. and abroad. He frequently presents at industry-related public and private events throughout Europe and Asia. His articles have been published in numerous industry periodicals.

Mr. Raether has a diverse career in business, law, and government. He has worked at a number of leading law firms in corporate law, venture capital, and private equity. He previously worked for Jones Lang LaSalle in its Moscow office as well as serving as its General Director for its Kazakhstan office. He also worked in numerous other business capacities in Kazakhstan and Russia in the 1990s. Mr. Raether also served at the U.S. Department of Commerce where he headed the Kazakhstan country desk and actively worked with Eurasian and American government officials and businesses in expanding business opportunities across these markets. He received his J.D. from Georgetown University and studied at Moscow State University. He is fluent in Russian.



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