

Maintaining Eligibility for Permanent Residence for EB-5 Investors: Termination of CPR Status

Article By:

Jennifer Hermansky

As reported, U.S. Citizenship and Immigration Services (USCIS) issued a Policy Memorandum entitled “*Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*”^[1] on June 28, 2018. This Policy Memorandum was issued in response to President Trump’s Executive Order (EO), “*Enhancing Public Safety in the Interior of the United States*.” One of the priorities listed in the EO is to remove aliens from the United States where necessary, including those aliens who are deportable or inadmissible, with no exceptions. USCIS has the authority to file a Notice to Appear to start deportation proceedings against EB-5 investors who have already achieved conditional permanent residence in several instances:

1. There has been a termination of conditional permanent resident status;
2. There is fraud, misrepresentation, and abuse of public benefit programs; and
3. There is a conviction for a crime, or even an arrest for a criminal offense where the case has not yet been resolved.

This is a third post in a series that discusses how EB-5 investors and their dependents can maintain eligibility for permanent residence and I-829 Petition approval. This blog focuses on termination of permanent resident status.

An EB-5 investor who has been granted the two-year conditional green card should take steps to protect his or her conditional permanent resident (CPR) status. Spending significant amounts of time outside the U.S. is a serious problem for any permanent resident, including EB-5 investors. Absences of more than six (6) months from the U.S. can lead to extensive questioning at the airport or point of entry to the U.S. by U.S. Customs and Border Protection (CBP). The CBP officer can determine at the airport that the investor abandoned his or her CPR status. Absences of more than one (1) year may likely result in a finding at the point of entry that the CPR abandoned his or her status.

Additionally, a pattern of trips where the CPR spends significant amounts of time outside the U.S. and only takes short trips into the U.S. could lead to a finding of abandonment. **Finally, each member of the EB-5 investor’s family is responsible for protecting his or her own CPR status; each family member must individually meet the residence requirements to avoid abandonment of the green card.**

EB-5 investors and their dependent family members should consider the following:

- Spend as much time as possible physically present in the U.S. Generally, permanent residents of the U.S. should be spending at least six (6) months a year in the U.S. This time can be cumulative; it does not need to be in just one entry to the U.S.
- If it is not possible to spend six (6) months a year in the U.S., consider obtaining a re-entry permit from USCIS. A re-entry permit is advanced permission to spend longer periods of time outside the U.S. Contact your immigration attorney to understand more about this process.
- Maintain a residence in the U.S. This can be through the purchase of a home or renting an apartment. Utilities in the investor's name can also help, as does car ownership.
- Maintain bank accounts, credit cards, and investments in the U.S. to show financial ties.
- Maintain insurance in the U.S., including home, health, and life insurance.

CPR investors and their dependent family members should consider carrying with them evidence of their ties to the U.S. after an extended absence abroad in case he or she is questioned at the airport regarding their absence from the U.S.

Additionally, the Trump Administration has stated that it intends to interview all applicants for green cards, which would include EB-5 investors and their family members applying for permanent green cards on Form I-829. **During any I-829 Petition interview conducted by USCIS, the officer can ask the EB-5 investor and his or her dependents about their residency in the U.S. and their travel history during the two years of conditional residency. Extended absences from the U.S. and lack of ties to the U.S. could result in a denial of Form I-829.**

In order for dependent family members to remain protected, EB-5 investors must maintain their CPR status. If the EB-5 investor is found to have abandoned his or her residency in the U.S., the dependent family members have no basis to file Form I-829 without the investor, even if the dependents are living full-time in the U.S.

[1] As it is issued in accompaniment to the Presidential Executive Order, this Policy Memorandum is assumed to go into effect immediately upon publication.

©2025 Greenberg Traurig, LLP. All rights reserved.

National Law Review, Volume VIII, Number 260

Source URL: <https://natlawreview.com/article/maintaining-eligibility-permanent-residence-eb-5-investors-termination-cpr-status>