

Congress Kicks the Can a Bit Further: The EB-5 Program Is Extended to September 30th

Article By:

Debbie A. Klis

On March 23, 2018, Congress passed and President Trump signed the [Omnibus Appropriations Act for Fiscal Year 2018](#) (the “Omnibus Act”), a \$1.3 trillion spending bill, as federal funding and the EB-5 program were due to expire. **The Omnibus Act includes a six-month extension to the Immigration Investor Program known as “EB-5,” without changes to the program. Since the Great Recession of 2008, the EB-5 program has emerged as a valuable source of capital for large and small public and private companies and real estate development projects from coast-to-coast, including solar plants, transportation and infrastructure improvements, manufacturing facilities and more. The [U.S. Department of Commerce’s data](#) corroborates the positive influence on the U.S. economy through the EB-5 program. The clean extension to the EB-5 program keeps the minimum investment amounts at \$500,000 for projects located in a targeted employment area (“TEA”) and \$1 million for projects outside of a TEA.**

The Omnibus Act’s clean extension of the EB-5 program brings relief to many. In recent weeks leading up to the April 23 expiry of the program, a very short-lived draft bill, the EB-5 Immigrant Investor Visa and Regional Center Reform Act (“Draft Reform Act”), appeared to have a formidable chance of inclusion in the Omnibus Act. The Draft Reform Act contained numerous favorable reform measures, but also missed the mark on others. **In particular, the Draft Reform Act failed to increase the annual visa quota to address the accumulating backlog. Moreover, the Draft Reform Act would have imposed a 120-day standstill upon enactment whereby USCIS would not have been authorized to accept any new Form I-526 or Form I-924. For companies and developers presently in the middle of fundraising, the four-month halt to fundraising could have been particularly harmful. The Draft Reform Act ultimately was not included in the Omnibus Act.**

Still in the works is more comprehensive reform to the EB-5 program through draft EB-5 regulations presently under review with the Office of Management and Budget. **The draft EB-5 regulations are likely to be an amalgamation of recent EB-5 reform proposals.**

These draft regulations could be enacted at any time, even before September 30, 2018.

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