



February 13, 2025

Letter to EB-5 Stakeholders

Re: Concerns Arising from the IIUSA Lawsuit against USCIS

Dear EB-5 Stakeholders:

EB5AN is deeply concerned about the implications of the lawsuit brought by Invest in the USA (IIUSA) against U.S. Citizenship and Immigration Services (USCIS) over the October 2023 sustainment period policy.

The 2023 policy interpreted the language of the EB-5 Reform and Integrity Act of 2022 to mean that an EB-5 investor's money must be kept at risk for two years from the time of investment. This interpretation differed from prior USCIS policy, which required the money to be kept at risk for the two years of an investor's conditional residence.

Unfortunately, this lawsuit is creating uncertainty with regard to the sustainment period for current investors and investors considering moving forward with EB-5. Clarity is essential to the success of the EB-5 program. While there are nuances to this case that could validate various positions on the sustainment period, we believe that, on the whole, this lawsuit reduces clarity for EB-5 investors.

EB5AN's position on this is very clear: We respectfully request IIUSA to drop the lawsuit and end this uncertainty.

For more details, please read [our full article on this subject](#).

Although we are a member of IIUSA, we are disappointed with the decision by [the IIUSA board of directors](#) to challenge the new sustainment period policy. A two-year sustainment period is better for EB-5 investors, which is, in our opinion, better for regional centers and all EB-5 stakeholders.

Sincerely,

Samuel B. Silverman and Michael B. Schoenfeld
Founders and Managing Partners, EB5AN