

Investor Green Cards – Q&A*

What is an investor green card?

An investor green card (EB-5 category) is an immigrant visa category that creates permanent residency of foreign investors that invest in commercial enterprises in the United States that will benefit the U.S. economy.

Do I qualify for an investor immigrant visa?

You have to meet several thresholds to qualify for an investor immigrant visa:

- 1) The investor must invest at least \$1,000,000 (or under certain circumstances \$500,000) in a new commercial enterprise, an established business if he makes substantial changes to the business or in certain USCIS approved regional investment centers.
- 2) The investment must create at least 10 full-time jobs for United States citizens or authorized immigrant workers.

Can I buy an existing business?

Yes, you can qualify for an EB-5 visa through the acquisition of an existing business. However, you will have to restructure or expand the business thereafter.

There are special rules for investments in a troubled business that has been in existence for over two years and is incurring net losses. In such case, the investor does not have to create ten new jobs but will have to demonstrate that the number of employees maintained the same for two years after the initial investment.

What kind of business should I pursue?

It all depends on your personal situation and preferences. However, you should consider a business that is labor intensive because of the employment creation requirement. Manufacturing businesses as well as restaurants and hotels often create a large number of jobs. If you expand an existing business in the United States, you can expand into the United States and obtain a green card at the same time.

Does the investment amount have to be paid cash?

The investor can invest cash, equipment, inventory, other tangible property or cash equivalents.

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Can there be multiple investors?

Yes, multiple investors can pool their investments with others seeking EB-5 status. In that case each investor must invest the minimum amount of capital but all of the jobs created by the new business will be allocated among the EB-5 investors.

What kind of proof must I provide regarding the enterprise and investment?

The investor is obliged to provide proof that the investment has been made and the capital is at risk. As part of the initial petition numerous documents have to be submitted such as the articles of incorporation, other business and corporate documents, evidence regarding the investment such as bank statements, purchased assets, evidence of property transferred from abroad, stock certificates given for investment or loan or mortgage agreements.

Are there any requirements in terms of my financial situation?

Yes. The investor has to provide evidence that the capital has been obtained through lawful means. Generally, this is established by foreign business registration records, tax returns or evidence of other sources of capital such as the sale of real estate or businesses.

How long is the investor visa good for?

Obtaining permanent resident status through investments in the United States is a two-step process. First, the investor obtains conditional residence status for two years. During the second year, the investors can then file a petition to remove his or her conditional residency status by providing evidence demonstrating that he or she invested or was actively investing the capital investment and that he or she created time 10 full-time jobs for qualifying employees or will create ten full-time jobs within a reasonable period of time.

As a conditional resident, can I ever become a United States citizen?

Conditional permanent residents enjoy the same rights, privileges, responsibilities, and duties as any lawful permanent residents. Once you have been a permanent resident for five years you will be eligible to apply for naturalization.

How long will the process take?

The whole petition process is complex and several prerequisites have to be met. Apart from the filing process with the U.S. Citizenship and Immigration Services (USCIS) and the Department of State if applying from abroad, significant time will be required to

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decide which business to start or to purchase, where to invest in the United States and how to successfully implement a sophisticated business plan thereafter. As a rule of

thumb we advise our clients to expect anywhere between six months to a year for the first phase of the process which results in conditional permanent residency status.

What are the costs involved?

As with every substantial investment, there are costs involved:

First, there are USCIS filing fees. The initial petition costs \$1,435. In order to obtain unconditional permanent resident status, there is another fee of \$2,850 as well as a fee of \$80 for biometric services. In addition, there are additional fees for the adjustment of status application if the investor is within the United States or visa processing fees if the investor is outside the United States.

If you start a new business, you will incur expenses for business advisers, business brokers and legal fees. Regional investment centers are charging additional fees.

In terms of legal fees, setting up the business operations or buying an existing business as well as the immigration work involved will require legal services in the area of corporate, immigration and tax laws.

For more information on investor green cards or alternative immigration options, please contact Florian Hauswiesner at +1.703.992.8810 or florian@hfklp.com or visit our website at www.hfklp.com.