

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To reform the EB–5 Immigrant Investor Program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. ROUNDS (for himself, Mr. GRAHAM, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To reform the EB–5 Immigrant Investor Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Immigrant Investor Program Reform Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Invest in American job creation.
- Sec. 3. Transparency.
- Sec. 4. Treatment of period for purposes of naturalization.
- Sec. 5. Concurrent filing of EB–5 petitions and applications for adjustment of status.

Sec. 6. Parole status for petitioners and dependents awaiting availability of an immigrant visa.

1 **SEC. 2. INVEST IN AMERICAN JOB CREATION.**

2 (a) IN GENERAL.—Section 203(b)(5) of the Immi-  
3 gration and Nationality Act (8 U.S.C. 1153(b)(5)) is  
4 amended to read as follows:

5 “(5) EMPLOYMENT CREATION.—

6 “(A) IN GENERAL.—Visas shall be made  
7 available, in a number not to exceed 7.1 percent  
8 of such worldwide level, to qualified immigrants  
9 seeking to enter the United States for the pur-  
10 pose of investing in a new commercial enter-  
11 prise, directly or in a new commercial enterprise  
12 associated with a regional center under sub-  
13 paragraph (B)—

14 “(i) in which such alien has invested  
15 or, is actively in the process of investing,  
16 capital in an amount not less than the  
17 amount specified in subparagraph (D); and

18 “(ii) that will benefit the United  
19 States economy and create full-time em-  
20 ployment for not fewer than 10 United  
21 States citizens or aliens lawfully admitted  
22 for permanent residence or other immi-  
23 grants lawfully authorized to be employed  
24 in the United States (other than the immi-

1 grant and the immigrant’s spouse, sons, or  
2 daughters).

3 “(B) REGIONAL CENTER PROGRAM.—Visas  
4 made available under subparagraph (A) shall be  
5 made available through September 30, 2025, to  
6 qualified immigrants pooling their investments  
7 with 1 or more additional qualified immigrants  
8 in a new commercial enterprise associated with  
9 a regional center in the United States that has  
10 been designated by the Secretary of Homeland  
11 Security on the basis of a proposal for the pro-  
12 motion of economic growth, including prospec-  
13 tive job creation and increased domestic capital  
14 investment.

15 “(C) RESERVATION FOR TARGETED EM-  
16 PLOYMENT AREAS.—

17 “(i) IN GENERAL.—Of the number of  
18 visas allocated under subparagraph (A), 30  
19 percent shall be reserved in each fiscal  
20 year before fiscal year 2026 for qualified  
21 immigrants who invest in a new commer-  
22 cial enterprise in a targeted employment  
23 area, of which 50 percent shall be reserved  
24 for rural areas.

1           “(ii) UNUSED VISAS.—At the end of  
2 each fiscal year, any unused visa numbers  
3 that were reserved under this subpara-  
4 graph shall be made generally available in  
5 the next fiscal year to immigrants who  
6 have filed applications for classification as  
7 an immigrant investor under subparagraph  
8 (A).

9           “(D) AMOUNT OF CAPITAL REQUIRED.—

10           “(i) IN GENERAL.—Except as other-  
11 wise provided in this subparagraph, the  
12 amount of capital required under subpara-  
13 graph (A) shall be \$1,100,000.

14           “(ii) MINIMUM INVESTMENT FOR TAR-  
15 GETED EMPLOYMENT AREAS.—Subject to  
16 clause (iii), the amount of capital required  
17 under subparagraph (A) in the case of a  
18 targeted employment area shall be  
19 \$1,000,000.

20           “(iii) PROGRAM IMPROVEMENT FEE.—  
21 Each immigrant investor shall pay, to the  
22 Treasury of the United States, a program  
23 improvement fee of \$50,000 in conjunction  
24 with each I-526 petition submitted under  
25 this paragraph after the date of the enact-

1                   ment of the Immigrant Investor Program  
2                   Reform Act.

3                   “(iv) ADJUSTMENT OF REQUIRED  
4                   CAPITAL.—

5                   “(I) AUTOMATIC ADJUSTMENT.—  
6                   Beginning on October 1, 2022 and  
7                   every 3 years thereafter, the quali-  
8                   fying investment amounts under  
9                   clauses (i) and (ii) shall be automati-  
10                  cally adjusted based on the cumulative  
11                  annual percentage change in the  
12                  unadjusted All Items Consumer Price  
13                  Index for All Urban Consumers (CPI-  
14                  U) for the U.S. City Average reported  
15                  by the Bureau of Labor Statistics  
16                  compared to such amounts in Sep-  
17                  tember 2019. The qualifying invest-  
18                  ment amount will be rounded down to  
19                  the nearest \$100,000.

20                  “(II) NOTICE OF ADJUST-  
21                  MENT.—

22                  “(aa) IN GENERAL.—Imme-  
23                  diately after each adjustment  
24                  under subclause (I), the Sec-  
25                  retary of Homeland Security

1 shall publish a technical amend-  
2 ment in the Federal Register  
3 that includes the amounts set  
4 forth in clauses (i) and (ii), as  
5 adjusted by subclause (I).

6 “(bb) APPLICABILITY.—Any  
7 petition for classification of an  
8 alien as an immigrant investor  
9 under this paragraph that is filed  
10 on or after October 1 in the year  
11 an automatic adjustment to the  
12 minimum qualifying investment  
13 amount occurs under subclause  
14 (I) shall be subject to such ad-  
15 justed amount.

16 “(E) REGIONAL CENTER PROGRAM.—

17 “(i) PROCESSING.—

18 “(I) IN GENERAL.—In processing  
19 petitions under section 204(a)(1)(H)  
20 for classification under this para-  
21 graph, the Secretary of Homeland Se-  
22 curity—

23 “(aa) may process petitions  
24 in a manner and order estab-  
25 lished by the Secretary; and

1                   “(bb) shall deem such peti-  
2                   tions to include records pre-  
3                   viously filed with the Secretary  
4                   under subparagraph (F) if the  
5                   alien petitioner certifies that such  
6                   records are incorporated by ref-  
7                   erence into the alien’s petition.

8                   “(II) PRIORITY.—In processing  
9                   applications for designation as a re-  
10                  gional center, amendments, specific  
11                  investment offerings, and annual cer-  
12                  tifications submitted under this para-  
13                  graph, the Secretary may give pri-  
14                  ority, upon the payment of a \$50,000  
15                  premium processing fee, to such appli-  
16                  cations and certifications, notwith-  
17                  standing other pending applications or  
18                  petitions filed under other employ-  
19                  ment-based visa categories.

20                  “(III) PREMIUM PROCESSING OF  
21                  EB-5 REGIONAL CENTER APPLICA-  
22                  TIONS.—

23                  “(aa) IN GENERAL.—An en-  
24                  tity seeking designation as an  
25                  EB-5 regional center or an

1 amendment of a previously ap-  
2 proved regional center may, upon  
3 the payment of a \$50,000 pre-  
4 mium processing fee, request  
5 that the Secretary process the  
6 application within 120 days.

7 “(bb) RESPONSE TO PRE-  
8 MIUM PROCESSING REQUEST.—If  
9 the Secretary cannot render a  
10 final decision on the application  
11 or petition for which premium  
12 processing was requested, as evi-  
13 denced by an approval notice or  
14 denial notice, the Secretary shall  
15 refund the premium processing  
16 fee.

17 “(IV) EXPEDITED PROCESSING  
18 OF TARGETED EMPLOYMENT AREA  
19 PETITIONS.—A petition relating to a  
20 project in a targeted employment  
21 area, including individual investor pe-  
22 titions, will be subject to expedited re-  
23 view without payment of an additional  
24 premium processing fee.

1                   “(ii) ESTABLISHMENT OF REGIONAL  
2                   CENTERS.—A regional center shall operate  
3                   within a defined, contiguous, and limited  
4                   geographic area, which shall be described  
5                   in the proposal and be consistent with the  
6                   purpose of concentrating pooled investment  
7                   within such area. The proposal to establish  
8                   a regional center shall—

9                   “(I) demonstrate that the pooled  
10                  investment will have a significant eco-  
11                  nomic impact on such geographic  
12                  area;

13                  “(II) include reasonable pre-  
14                  dictions, supported by economically  
15                  and statistically valid forecasting  
16                  tools, concerning—

17                  “(aa) the amount of invest-  
18                  ment that will be pooled;

19                  “(bb) the types of commer-  
20                  cial enterprises that will receive  
21                  such investments;

22                  “(cc) the details of the jobs  
23                  that will be created directly or in-  
24                  directly as a result of such in-  
25                  vestments; and

1           “(dd) other positive eco-  
2           nomic effects such investments  
3           will have; and

4           “(III) include a description of the  
5           policies and procedures that are rea-  
6           sonably designed to ensure program  
7           compliance; and

8           “(IV) include a description of the  
9           policies and procedures in place that  
10          are reasonably designed to monitor  
11          new commercial enterprises, third-  
12          party promoters (including migration  
13          agents), and any affiliated job-cre-  
14          ating entity to ensure compliance  
15          with—

16           “(aa) all applicable laws,  
17           regulations, and executive orders  
18           of the United States, including  
19           immigration laws, criminal laws,  
20           and securities laws; and

21           “(bb) all securities laws of  
22           each State in which securities of-  
23           ferings will be conducted, invest-  
24           ment advice will be rendered, or  
25           the offerors or offerees reside.

1 “(iii) JOB CREATION.—

2 “(I) IN GENERAL.—In deter-  
3 mining compliance with subparagraph  
4 (A)(ii), the Secretary of Homeland Se-  
5 curity shall permit aliens seeking ad-  
6 mission based on an investment in a  
7 new commercial enterprise associated  
8 with a regional center under this sub-  
9 paragraph to rely on economically and  
10 statistically valid methodologies for  
11 determining the number of jobs cre-  
12 ated by the program, including—

13 “(aa) jobs estimated to have  
14 been created directly, which may  
15 be verified using such methodolo-  
16 gies, provided that the Secretary  
17 may request additional evidence  
18 to verify that the directly created  
19 jobs satisfy the requirements  
20 under subparagraph (A)(ii); and

21 “(bb) consistent with this  
22 subparagraph, jobs estimated to  
23 have been created indirectly  
24 through revenues generated from  
25 increased exports, improved re-

1 regional productivity, job creation,  
2 and increased domestic capital  
3 investment resulting from the  
4 program.

5 “(iv) AMENDMENTS.—The Secretary  
6 of Homeland Security shall—

7 “(I) require regional centers to  
8 provide 120 days advance notice to  
9 the Secretary of significant proposed  
10 changes to their organizational struc-  
11 ture, ownership, or administration, in-  
12 cluding the sale of such centers or  
13 other arrangements in which individ-  
14 uals not previously subject to the re-  
15 quirements under subparagraph (H)  
16 become involved with the regional cen-  
17 ter, before any such proposed changes  
18 may take effect unless exigent cir-  
19 cumstances are present in which case  
20 the regional center shall provide no-  
21 tice to the Secretary not later than 5  
22 business days after such change; and

23 “(II) notwithstanding the pend-  
24 ency of a determination described in  
25 subclause (II), adjudicate business

1 plans under subparagraph (F) and pe-  
2 titions under section 204(a)(1)(H).

3 “(v) SANCTIONS.—

4 “(I) VIOLATIONS.—The Sec-  
5 retary shall sanction a regional center,  
6 in accordance with subclause (II), if—

7 “(aa) the regional center  
8 fails to submit an annual state-  
9 ment, attestation, certification, or  
10 other information required under  
11 this paragraph;

12 “(bb) the regional center  
13 fails to pay the fee required  
14 under subparagraph (J)(ii) with-  
15 in 30 days after the date on  
16 which such fee is due or, after  
17 being fined, fails to pay the fine  
18 within 90 days after the date on  
19 which such fine is due;

20 “(cc) the Secretary deter-  
21 mines that the regional center  
22 knowingly submitted, or caused  
23 to be submitted, a statement, at-  
24 testation, certification, or any  
25 other information under this

1 paragraph that contained an un-  
2 true statement of material fact or  
3 omitted to state a material fact  
4 necessary in order to make the  
5 statement, attestation, certifi-  
6 cation or provision of informa-  
7 tion, in light of the circumstances  
8 under which they were made, not  
9 misleading;

10 “(dd) the Secretary deter-  
11 mines a person involved with the  
12 regional center, an associated  
13 new commercial enterprise, or  
14 any affiliated job creating entity  
15 was knowingly involved by the re-  
16 gional center in violation of sub-  
17 paragraph (H); or

18 “(ee) the Secretary deter-  
19 mines that the regional center is  
20 otherwise conducting itself in a  
21 manner inconsistent with its des-  
22 ignation, including—

23 “(AA) conduct that  
24 fails to demonstrate that the

1 regional center is operating  
 2 reliably or with integrity;

3 “(BB) failure to pro-  
 4 mote economic growth in  
 5 compliance with this para-  
 6 graph; or

7 “(CC) any willful, un-  
 8 disclosed, and material devi-  
 9 ation by new commercial en-  
 10 terprises from any filed  
 11 business plan for such com-  
 12 mercial enterprises.

13 “(II) AUTHORIZED SANCTIONS.—  
 14 The Secretary shall establish a grad-  
 15 uated set of sanctions based on the  
 16 severity of the violations referred to in  
 17 subclause (I), including 1 or more of  
 18 the following:

19 “(aa) Fines equal to not  
 20 more than 10 percent of the total  
 21 capital invested by alien investors  
 22 in the regional center’s new com-  
 23 mercial enterprises or job-cre-  
 24 ating entities, which—

1                   “(AA) may not be paid  
2                   from any of such alien inves-  
3                   tor’s capital investments;  
4                   and

5                   “(BB) shall be depos-  
6                   ited into the EB–5 Integrity  
7                   Fund established under sub-  
8                   paragraph (J)(i).

9                   “(bb) Temporary suspension  
10                  from participation in the regional  
11                  center program, which may be  
12                  lifted by the Secretary if the indi-  
13                  vidual or entity cures the alleged  
14                  violation after being provided  
15                  such an opportunity by the Sec-  
16                  retary.

17                  “(cc) Permanent bar from  
18                  program participation for 1 or  
19                  more individuals or entities asso-  
20                  ciated with the regional center or  
21                  new commercial enterprise or af-  
22                  filiated job-creating entity; and

23                  “(dd) Termination of the re-  
24                  gional center designation.

1                   “(F) APPLICATION FOR APPROVAL OF AN  
2 INVESTMENT IN A COMMERCIAL ENTERPRISE.—

3                   “(i) IN GENERAL.—The director of a  
4 regional center shall file an application  
5 with the Secretary of Homeland Security  
6 for each investment offering through an  
7 associated commercial enterprise. An alien  
8 may not file a petition for classification  
9 under this paragraph by reason of invest-  
10 ment in such offering until after such ap-  
11 plication has been approved.

12                   “(ii) CONTENTS.—Each application  
13 submitted under clause (i) shall include—

14                   “(I) a comprehensive business  
15 plan for a specific capital investment  
16 project;

17                   “(II) a credible economic analysis  
18 regarding estimated job creation that  
19 is based upon economically and statis-  
20 tically valid methodologies;

21                   “(III) any documents filed with  
22 the Securities and Exchange Commis-  
23 sion under the Securities Act of 1933  
24 (15 U.S.C. 77a et seq.) or with the

1 securities regulator of any State, as  
2 required by law;

3 “(IV) any investment and offer-  
4 ing documents, including subscription,  
5 investment, partnership, and oper-  
6 ating agreements, private placement  
7 memoranda, term sheets, biographies  
8 for management, officers, directors,  
9 and any person with similar respon-  
10 sibilities, the description of the busi-  
11 ness plan to be provided to potential  
12 alien investors, and marketing mate-  
13 rials used or to be used in connection  
14 with the offering as of the time of the  
15 filing, which shall contain references,  
16 as appropriate, to—

17 “(aa) any investment risks  
18 associated with the new commer-  
19 cial enterprise and the affiliated  
20 job-creating entity;

21 “(bb) any conflicts of inter-  
22 est that exist or may arise among  
23 the regional center, new commer-  
24 cial enterprise, job-creating enti-  
25 ty, or the principals, attorneys,

1 or individuals responsible for re-  
2 recruitment or promotion of such  
3 entities;

4 “(cc) any pending litigation  
5 or bankruptcy, or adverse judg-  
6 ments or bankruptcy orders  
7 issued during the most recent 10-  
8 year period, in the United States  
9 or abroad, affecting the regional  
10 center, new commercial enter-  
11 prise, any affiliated job-creating  
12 entity, or any other enterprise in  
13 which any principal of the afore-  
14 mentioned entities held majority  
15 ownership at the time; and

16 “(dd)(AA) any fees, ongoing  
17 interest, or other compensation  
18 paid or to be paid by regional  
19 center or new commercial enter-  
20 prise to agents, finders, or broker  
21 dealers involved in the offering;

22 “(BB) a description of the  
23 services performed, or which will  
24 be performed, by such person to

1 entitle the person to such fees,  
2 interest, or compensation; and

3 “(CC) the name and contact  
4 information of any such person,  
5 if known at the time of filing;  
6 and

7 “(V) a description of the policies  
8 and procedures, including those re-  
9 lated to internal and external due dili-  
10 gence, reasonably designed to cause  
11 the regional center, new commercial  
12 enterprise, and any affiliated job-cre-  
13 ating entity, their agents, employees,  
14 advisors, and attorneys, and any per-  
15 sons in active concert or participation  
16 with the regional center, new commer-  
17 cial enterprise, or any affiliated job-  
18 creating entity comply, as applicable,  
19 with the securities laws of the United  
20 States and the laws of the applicable  
21 States in connection with the offer,  
22 purchase, or sale of its securities.

23 “(iii) EFFECT OF APPROVAL OF AN  
24 APPLICATION FOR AN INVESTMENT IN A  
25 REGIONAL CENTER’S COMMERCIAL ENTER-

1           PRISE.—The approval of an application  
2           under this subparagraph shall be binding  
3           for purposes of the adjudication of subse-  
4           quent petitions seeking classification under  
5           this paragraph by immigrants investing in  
6           the same offering described in such appli-  
7           cation, and of petitions filed under section  
8           216A by the same immigrants, except in  
9           the case of—

10                   “(I) fraud;

11                   “(II) misrepresentation;

12                   “(III) criminal misuse;

13                   “(IV) a threat to public safety or  
14           national security;

15                   “(V) a material change that af-  
16           fects eligibility;

17                   “(VI) other evidence affecting  
18           program eligibility that was not dis-  
19           closed by the applicant during the ad-  
20           judication process; or

21                   “(VII) a material mistake of law  
22           or fact in the prior adjudication.

23                   “(iv) SITE VISITS.—The Secretary  
24           shall—

1                   “(I) perform site visits to re-  
2                   gional centers; and

3                   “(II) perform at least 1 site visit  
4                   to each new commercial enterprise or  
5                   affiliated job-creating entity, which  
6                   shall include a review for evidence of  
7                   direct job creation in accordance with  
8                   subparagraph (E)(iii)(I).

9                   “(G) REGIONAL CENTER ANNUAL STATE-  
10                   MENTS.—

11                   “(i) IN GENERAL.—The director of  
12                   each regional center designated under sub-  
13                   paragraph (E) shall annually submit a  
14                   statement, in a manner prescribed by the  
15                   Secretary of Homeland Security, which in-  
16                   cludes—

17                   “(I) a certification stating that  
18                   the regional center, any associated  
19                   new commercial enterprises, and any  
20                   affiliated job-creating entity is in com-  
21                   pliance with clauses (i) and (ii) of  
22                   subparagraph (H);

23                   “(II) a certification described in  
24                   subparagraph (I)(ii)(II);

1                   “(III) a certification stating that  
2                   the regional center is in compliance  
3                   with subparagraph (K);

4                   “(IV) a description of any pend-  
5                   ing material litigation or bankruptcy  
6                   proceedings, or litigation or bank-  
7                   ruptcy proceedings resolved during the  
8                   preceding fiscal year, involving the re-  
9                   gional center, any associated new  
10                  commercial enterprises, or any job-  
11                  creating entities;

12                  “(V) an accounting of all foreign  
13                  investor capital invested in the re-  
14                  gional center, new commercial enter-  
15                  prise, or affiliated job-creating entity;

16                  “(VI) for each new commercial  
17                  enterprise associated with the regional  
18                  center—

19                         “(aa) an accounting of the  
20                         aggregate capital invested in the  
21                         new commercial enterprise and  
22                         any affiliated job-creating entity  
23                         by alien investors under this  
24                         paragraph for each capital invest-

1                   ment project being undertaken by  
2                   the new commercial enterprise;

3                   “(bb) a description of how  
4                   the capital described in item (aa)  
5                   is being used to execute each  
6                   capital investment project in the  
7                   filed business plan or plans;

8                   “(cc) evidence that the ac-  
9                   count requirements under sub-  
10                  paragraph (D) have been met;

11                  “(dd) evidence that 100 per-  
12                  cent of the capital described in  
13                  item (aa) has been committed to  
14                  each capital investment project;

15                  “(ee) detailed evidence of  
16                  the progress made toward the  
17                  completion of each capital invest-  
18                  ment project;

19                  “(ff) an accounting of the  
20                  aggregate direct jobs created or  
21                  preserved;

22                  “(gg) an accounting of all  
23                  fees, including administrative  
24                  fees, loan monitoring fees, loan  
25                  management fees, commissions

1 and similar transaction-based  
2 compensation, collected from  
3 alien investors by the regional  
4 center, any associated new com-  
5 mercial enterprises, any job-cre-  
6 ating entities or any promoter,  
7 finder, broker-dealer or other en-  
8 tity engaged by any such entity  
9 to locate individual investors;

10 “(hh) any documentation re-  
11 ferred to in subparagraph  
12 (F)(i)(IV) if there has been a  
13 material change during the pre-  
14 ceding fiscal year; and

15 “(ii) a certification by the  
16 regional center that such state-  
17 ments are accurate; and

18 “(VII) a description of the re-  
19 gional center’s policies and procedures  
20 that are designed to enable the re-  
21 gional center, any associated new  
22 commercial enterprises, and any job-  
23 creating entities to comply with appli-  
24 cable Federal and State labor laws.

1 “(ii) AMENDMENT OF ANNUAL STATE-  
2 MENTS.—The Secretary—

3 “(I) shall require each regional  
4 center to amend or supplement the  
5 annual statement required under  
6 clause (i) if the Secretary determines  
7 that such statement is deficient; and

8 “(II) may require the regional  
9 center to amend or supplement such  
10 annual statement if the Secretary de-  
11 termines that such an amendment or  
12 supplement is appropriate.

13 “(iii) RECORD KEEPING.—

14 “(I) IN GENERAL.—Each re-  
15 gional center shall make and preserve,  
16 during the 5-year period beginning on  
17 the last day of the Federal fiscal year  
18 in which any transactions occurred,  
19 books, ledgers, records, and other doc-  
20 umentation from the regional center,  
21 new commercial enterprise, or affli-  
22 ated job-creating entity that was used  
23 to support—

24 “(aa) any claims, evidence,  
25 or certifications contained in the

1 regional center’s annual state-  
2 ments under subparagraph (G);  
3 and

4 “(bb) associated petitions by  
5 aliens seeking classification under  
6 this section or removal of condi-  
7 tions under section 216A.

8 “(II) AVAILABILITY.—All of the  
9 books, ledgers, records, and other doc-  
10 umentation described in subclause (I)  
11 shall be made available to the Sec-  
12 retary upon request.

13 “(iv) VERIFICATIONS BY SECURITIES  
14 AND EXCHANGE COMMISSION.—The certifi-  
15 cations required under clause (i) shall be  
16 verified by the Securities and Exchange  
17 Commission.

18 “(H) BONA FIDES OF PERSONS INVOLVED  
19 WITH THE EB-5 PROGRAM.—

20 “(i) IN GENERAL.—No person may be  
21 a person involved with a regional center,  
22 new commercial enterprise, or affiliated  
23 job-creating entity who—

24 “(I) has been found by a court of  
25 competent jurisdiction, or any final

1 order of the Securities and Exchange  
2 Commission, or a State securities reg-  
3 ulator to have committed—

4 “(aa) a criminal or civil of-  
5 fense involving fraud or deceit  
6 within the previous 10 years;

7 “(bb) a civil offense involv-  
8 ing fraud or deceit that resulted  
9 in a liability in excess of  
10 \$1,000,000; or

11 “(cc) a crime for which the  
12 person was convicted and was  
13 sentenced to a term of imprison-  
14 ment of more than 1 year;

15 “(II) is subject to a final order,  
16 for the duration of any penalty im-  
17 posed by such order, of a State securi-  
18 ties commission (or an agency or offi-  
19 cer of a State who performs similar  
20 functions), a State authority that su-  
21 pervises or examines banks, savings  
22 associations, or credit unions, a State  
23 insurance commission (or an agency  
24 of or officer of a State who performs  
25 similar functions), an appropriate

1 Federal banking agency, the Com-  
2 modity Futures Trading Commission,  
3 the Securities and Exchange Commis-  
4 sion, a financial self-regulatory orga-  
5 nization recognized by the Securities  
6 and Exchange Commission, or the  
7 National Credit Union Administra-  
8 tion, which is based on a violation of  
9 any law or regulation that—

10 “(aa) prohibits fraudulent,  
11 manipulative, deceptive, or neg-  
12 ligent conduct; or

13 “(bb) bars the person  
14 from—

15 “(AA) association with  
16 an entity regulated by such  
17 commission, authority, agen-  
18 cy, or officer;

19 “(BB) appearing before  
20 such commission, authority,  
21 agency, or officer;

22 “(CC) engaging in the  
23 business of securities, insur-  
24 ance, or banking; or

1                                   “(DD) engaging in sav-  
2                                   ings association or credit  
3                                   union activities;

4                                   “(III) is engaged in, has ever  
5                                   been engaged in, or seeks to engage  
6                                   in—

7                                   “(aa) any illicit trafficking  
8                                   in any controlled substance or in  
9                                   any listed chemical (as defined in  
10                                   section 102 of the Controlled  
11                                   Substances Act (21 U.S.C. 802));

12                                   “(bb) any activity relating to  
13                                   espionage, sabotage, or theft of  
14                                   intellectual property;

15                                   “(cc) any activity related to  
16                                   money laundering (as described  
17                                   in section 1956 or 1957 of title  
18                                   18, United States Code);

19                                   “(dd) any terrorist activity;

20                                   “(ee) any activity consti-  
21                                   tuting or facilitating human traf-  
22                                   ficking or a human rights of-  
23                                   fense;

24                                   “(ff) any activity described  
25                                   in section 212(a)(3)(E); or

1 “(gg) the violation of any  
2 statute, regulation, or Executive  
3 order regarding foreign financial  
4 transactions or foreign asset con-  
5 trol; or

6 “(IV)(aa) is, or during the pre-  
7 ceding 10 years has been, included on  
8 the Department of Justice’s List of  
9 Currently Disciplined Practitioners;

10 “(bb) during the preceding 10  
11 years, has received a reprimand or  
12 otherwise been publicly disciplined for  
13 conduct related to fraud or deceit by  
14 any bar association or other self-regu-  
15 lating professional association of  
16 which the person is or was a member;  
17 or

18 “(V) is debarred from participa-  
19 tion in the program under this para-  
20 graph pursuant to subparagraph (S).

21 “(ii) FOREIGN INVOLVEMENT IN THE  
22 EB-5 PROGRAM.—

23 “(I) LAWFUL STATUS RE-  
24 QUIRED.—An individual may not be

1 involved with a regional center unless  
2 the individual—

3 “(aa) is a national of the  
4 United States; or

5 “(bb) has been lawfully ad-  
6 mitted for permanent residence  
7 and is not the subject of removal  
8 proceedings.

9 “(II) FOREIGN GOVERNMENTS.—

10 “(aa) IN GENERAL.—Except  
11 as provided in item (bb), no  
12 agency, official, or other similar  
13 entity or representative of a for-  
14 eign government may provide  
15 capital to, or be directly or indi-  
16 rectly involved with the owner-  
17 ship or administration of, a re-  
18 gional center, a new commercial  
19 enterprise, or affiliated job-cre-  
20 ating entity.

21 “(bb) EXCEPTION.—A for-  
22 eign or domestic investment fund  
23 or other investment vehicle that  
24 is wholly or partially owned, di-  
25 rectly or indirectly, by a bona

1           fide foreign sovereign wealth  
2           fund or a foreign state-owned en-  
3           terprise otherwise permitted to  
4           do business in the United States  
5           may be involved with the owner-  
6           ship, but not the administration,  
7           of a job-creating entity that is  
8           not an affiliated job-creating en-  
9           tity.

10           “(III) REVIEW OF TRANS-  
11           ACTIONS.—Any transaction involving  
12           a regional center, new commercial en-  
13           terprise, or affiliated job-creating enti-  
14           ty that is a ‘covered transaction’ (as  
15           defined in section 721(a)(4) of the  
16           Defense Production Act of 1950 (50  
17           U.S.C. 4565(a)(4))) is subject to re-  
18           view by the Committee on Foreign In-  
19           vestment in the United States.

20           “(IV) RULEMAKING.—Not later  
21           than 180 days after the date of the  
22           enactment of the Immigrant Investor  
23           Program Reform Act, the Secretary of  
24           Homeland Security, in consultation  
25           with the Secretary of the Treasury

1 and the Secretary of Commerce, shall  
2 issue regulations implementing sub-  
3 clauses (I) and (II).

4 “(iii) INFORMATION REQUIRED.—

5 “(I) IN GENERAL.—Beginning on  
6 the date of the enactment of the Im-  
7 migrant Investor Program Reform  
8 Act, the Secretary of Homeland Secu-  
9 rity shall require such attestations  
10 and information, including the sub-  
11 mission of fingerprints or other bio-  
12 metrics to the Federal Bureau of In-  
13 vestigation, and shall perform such  
14 criminal record checks and other  
15 background and database checks with  
16 respect to a regional center, new com-  
17 mercial enterprise, and any affiliated  
18 job-creating entity, and persons in-  
19 volved with such entities, to determine  
20 whether such entities are in compli-  
21 ance with clauses (i) and (ii).

22 “(II) EFFECT OF NONCOMPLI-  
23 ANCE.—The Secretary, after the com-  
24 pletion of the background checks de-  
25 scribed in subclause (I), shall notify a

1 regional center, new commercial enter-  
2 prise, or affiliated job-creating entity  
3 whether any individual involved with  
4 such entities is not in compliance with  
5 clause (i) or (ii). If the regional cen-  
6 ter, new commercial enterprise, or af-  
7 filiated job-creating entity fails to dis-  
8 continue the prohibited individual's in-  
9 volvement with such entity within 30  
10 days after receiving a notification  
11 under this subclause, the regional cen-  
12 ter, new commercial enterprise, or af-  
13 filiated job-creating entity shall be  
14 deemed to have knowledge that such  
15 person is in violation of clause (i) or  
16 (ii).

17 “(I) COMPLIANCE WITH SECURITIES  
18 LAWS.—

19 “(i) JURISDICTION.—

20 “(I) IN GENERAL.—The United  
21 States has jurisdiction, including sub-  
22 ject matter jurisdiction, over the pur-  
23 chase or sale of any security offered  
24 or sold by any regional center or any

1 party associated with a regional cen-  
2 ter for purposes of the securities laws.

3 “(II) COMPLIANCE WITH REGU-  
4 LATION S.—For purposes of section 5  
5 of the Securities Act of 1933 (15  
6 U.S.C. 77e), a regional center or any  
7 party associated with a regional cen-  
8 ter is not precluded from offering or  
9 selling a security pursuant to Regula-  
10 tion S (17 C.F.R. 230.901 et seq.) to  
11 the extent that such offering or selling  
12 otherwise complies with such regula-  
13 tion. Subclause (I) may not be con-  
14 strued to modify any existing regula-  
15 tions or interpretations of the Securi-  
16 ties and Exchange Commission related  
17 to the application of section 15 of the  
18 Securities Exchange Act of 1934 (15  
19 U.S.C. 78o) to foreign broker dealers.

20 “(ii) REGIONAL CENTER CERTIFI-  
21 CATIONS REQUIRED.—

22 “(I) INITIAL CERTIFICATION.—  
23 The Secretary of Homeland Security  
24 may not approve an application for re-  
25 gional center designation or a regional

1 center amendment unless the regional  
2 center certifies that the regional cen-  
3 ter is in compliance with, and has  
4 policies and procedures (including  
5 those related to internal and external  
6 due diligence) reasonably designed to  
7 confirm, as applicable, that the re-  
8 gional center, any associated new  
9 commercial enterprises, any job-cre-  
10 ating entities, and all persons involved  
11 with such entities are and will remain  
12 in compliance with the securities laws  
13 of the United States and of any State  
14 in which—

15 “(aa) the offer, purchase, or  
16 sale of securities was conducted;

17 “(bb) the issuer of securities  
18 was located; or

19 “(cc) the investment advice  
20 was provided by the regional cen-  
21 ter, any associated new commer-  
22 cial enterprises, any job-creating  
23 entities, or persons involved with  
24 such entities.

1                   “(II) REISSUE.—A regional cen-  
2                   ter shall annually reissue a certifi-  
3                   cation described in subclause (I), in  
4                   accordance with subparagraph (G), to  
5                   certify compliance with clause (iii) by  
6                   stating that—

7                                 “(aa) the certifier is in a po-  
8                                 sition to have knowledge of the  
9                                 offers, purchases, and sales of se-  
10                                curities or the provision of invest-  
11                               ment advice by the regional cen-  
12                               ter, any associated new commer-  
13                               cial enterprises, any job-creating  
14                               entities, and all persons involved  
15                               with such entities;

16                               “(bb) all such offers, pur-  
17                               chases, and sales of securities or  
18                               the provision of investment ad-  
19                               vice complied with the securities  
20                               laws of the United States and the  
21                               securities laws of any State in  
22                               which the offer, purchase, or sale  
23                               of securities was conducted, the  
24                               issuer of securities was located,

1 or the investment advice was pro-  
2 vided; and

3 “(cc) records, data, and in-  
4 formation related to such offers,  
5 purchases, and sales have been  
6 maintained.

7 “(III) EFFECT OF NONCOMPLI-  
8 ANCE.—If a regional center, through  
9 its due diligence, discovered, during  
10 the previous fiscal year, that the re-  
11 gional center or any party associated  
12 with the regional center was not in  
13 compliance with the securities laws of  
14 the United States or the securities  
15 laws of any State in which the securi-  
16 ties activities were conducted by any  
17 party associated with the regional cen-  
18 ter, the certifier shall—

19 “(aa) describe the activities  
20 that led to noncompliance;

21 “(bb) describe the actions  
22 taken to remedy the noncompli-  
23 ance; and

24 “(cc) certify that the re-  
25 gional center, any associated new

1 commercial enterprises, any job-  
2 creating entities, and all persons  
3 involved with such entities are  
4 currently in compliance.

5 “(IV) DUE DILIGENCE INVES-  
6 TIGATION.—Any certification provided  
7 by a certifier under this clause with  
8 respect to an entity in which the cer-  
9 tifier is not in a position of sub-  
10 stantive authority shall be made to  
11 the best of the certifier’s knowledge  
12 after due diligence investigation.

13 “(iii) OVERSIGHT REQUIRED.—Each  
14 regional center shall—

15 “(I) monitor and supervise all of-  
16 fers, purchases, and sales of, and in-  
17 vestment advice relating to securities  
18 made by the regional center, any asso-  
19 ciated new commercial enterprises,  
20 any job-creating entities, and all per-  
21 sons involved with such entities to  
22 confirm compliance with the securities  
23 laws of the United States;

24 “(II) maintain records, data, and  
25 information relating to all such offers,

1 purchases, sales, and investment ad-  
2 vice during the 5-year period begin-  
3 ning on the date of creation of such  
4 records, data, or information, which  
5 shall be made available to the Sec-  
6 retary upon request; and

7 “(III) make the records, data,  
8 and information described in sub-  
9 clause (II) available to the Secretary  
10 upon request.

11 “(iv) SAVINGS PROVISION.—Nothing  
12 in this subparagraph may be construed to  
13 impair or limit the authority of the Securi-  
14 ties and Exchange Commission under the  
15 Federal securities laws or any State securi-  
16 ties regulator under State securities laws.

17 “(J) EB-5 INTEGRITY FUND.—

18 “(i) ESTABLISHMENT.—There is es-  
19 tablished in the United States Treasury a  
20 special fund, which shall be known as the  
21 EB-5 Integrity Fund (referred to in this  
22 subparagraph as the ‘Fund’). Amounts de-  
23 posited into the Fund shall be available to  
24 the Secretary of Homeland Security until

1                   expended for the purposes set forth in  
2                   clause (iii).

3                   “(ii) FEES.—

4                                 “(I) ANNUAL FEE.—On April 1,  
5                                 2020, and on January 1 of each year  
6                                 thereafter, the Secretary of Homeland  
7                                 Security shall—

8   “(aa) except as provided in  
9   item (bb), collect a fee of  
10   \$20,000 from each regional cen-  
11   ter designated under subpara-  
12   graph (E);

13   “(bb) collect a fee of  
14   \$10,000 from each regional cen-  
15   ter designated under subpara-  
16   graph (E) that is a not-for-profit  
17   regional center, or has 20 or  
18   fewer total investors in the pre-  
19   ceding fiscal year in its new com-  
20   mercial enterprises; and

21   “(cc) deposit the fees col-  
22   lected pursuant to items (aa) and  
23   (bb) into the Fund.

24                                 “(II) PETITION FEE.—Beginning  
25                                 on April 1, 2020, the Secretary shall

1 collect a fee of \$1,000 with each peti-  
2 tion filed under section 204(a)(1)(H)  
3 for classification under subparagraph  
4 (E) and deposit each fee collected  
5 under this subclause into the Fund.

6 “(III) INCREASES.—The Sec-  
7 retary may prescribe such regulations  
8 as may be necessary to increase the  
9 dollar amounts under this clause to  
10 ensure that the Fund is sufficient to  
11 carry out the purposes set forth in  
12 clause (iii). Increases under this sub-  
13 clause may not exceed 100 percent in  
14 any 12-month period.

15 “(iii) PERMISSIBLE USES OF FUND.—  
16 The Secretary of Homeland Security  
17 shall—

18 “(I) use not less than  $\frac{1}{3}$  of the  
19 amounts deposited into the Fund to  
20 conduct audits and site visits (with or  
21 without notice);

22 “(II) use not less than  $\frac{1}{3}$  of the  
23 amounts deposited into the Fund for  
24 investigations based outside of the  
25 United States, including—

1                   “(aa) monitoring and inves-  
2                   tigating program-related events  
3                   and promotional activities; and

4                   “(bb) ensuring the compli-  
5                   ance of alien investors with sub-  
6                   paragraph (L);

7                   “(III) use amounts deposited into  
8                   the Fund as the Secretary determines  
9                   to be necessary, including to monitor  
10                  compliance with the requirements  
11                  under this paragraph;

12                  “(IV) use amounts deposited into  
13                  the Fund to conduct interviews of the  
14                  owners, officers, directors, managers,  
15                  partners, agents, employees, pro-  
16                  moters, and attorneys of regional cen-  
17                  ters, new commercial enterprises, and  
18                  job-creating entities; and

19                  “(V) use amounts deposited into  
20                  the Fund—

21                         “(aa) to detect and inves-  
22                         tigate fraud or other crimes; and

23                         “(bb) to determine whether  
24                         regional centers, new commercial  
25                         enterprises, any job-creating enti-

1 ties, and alien investors (and  
2 their alien spouses and alien chil-  
3 dren) comply with the immigra-  
4 tion laws.

5 “(iv) REPORT.—The Secretary of  
6 Homeland Security shall submit an annual  
7 report to the Committee on the Judiciary  
8 of the Senate and the Committee on the  
9 Judiciary of the House of Representatives  
10 that describes how amounts in the Fund  
11 were expended during the previous fiscal  
12 year.

13 “(K) DIRECT AND THIRD-PARTY PRO-  
14 MOTERS.—

15 “(i) RULES AND STANDARDS.—Direct  
16 and third party promoters of a regional  
17 center, any new commercial enterprise, or  
18 any affiliated job-creating entity shall com-  
19 ply with the rules and standards prescribed  
20 by the Secretary of Homeland Security and  
21 any applicable Federal or State securities  
22 laws, to oversee promotion of any offering  
23 of securities related to the immigrant in-  
24 vestor program under this paragraph, in-  
25 cluding—

1                   “(I) registration with U.S. Citi-  
2                   zenship and Immigration Services,  
3                   which—

4                                 “(aa) may be limited to  
5                                 identifying and contact informa-  
6                                 tion of such promoter and con-  
7                                 firmation of the existence of the  
8                                 written agreement required under  
9                                 clause (iii);

10                                “(bb) may not include any  
11                                requirement that U.S. Citizen-  
12                                ship and Immigration Services  
13                                approve the registration of such  
14                                promoter; and

15                                “(cc) may permit the list of  
16                                such registered promoters to be  
17                                made publicly available;

18                                “(II) certification by each pro-  
19                                moter that such promoter is not ineli-  
20                                gible under subparagraph (H)(i);

21                                “(III) guidelines for accurately  
22                                representing the visa process to for-  
23                                eign investors; and

24                                “(IV) permissible fee arrange-  
25                                ments, if applicable.

1                   “(ii) COMPLIANCE.—Each regional  
2 center, new commercial enterprise, and af-  
3 filiated job-creating entity shall maintain a  
4 written agreement between or among such  
5 entities and each direct or third-party pro-  
6 moter operating on behalf of such entities  
7 or associated issuer that outlines the rules  
8 and standards prescribed under clause (i).

9                   “(iii) DISCLOSURE.—Each petition  
10 filed under section 204(a)(1)(H) shall in-  
11 clude a disclosure by the regional center,  
12 new commercial enterprise, or affiliated  
13 job-creating entity, as applicable, acknowl-  
14 edged by the investor, that reflects all fees,  
15 ongoing interest, and other compensation  
16 paid or to be paid to any person in connec-  
17 tion with the investment, including com-  
18 pensation to agents, finders, or broker  
19 dealers involved in the offering, to the ex-  
20 tent not already specifically identified in  
21 the business plan filed under subparagraph  
22 (F).

23                   “(L) SOURCE OF FUNDS.—

24                   “(i) IN GENERAL.—An alien investor  
25 shall demonstrate that the capital required

1 under subparagraph (A) and any amounts  
2 used to pay administrative costs and fees  
3 associated with the alien's investment were  
4 obtained from a lawful source and through  
5 lawful means.

6 “(ii) REQUIRED INFORMATION.—The  
7 Secretary of Homeland Security shall re-  
8 quire that an alien investor's petition  
9 under this paragraph contain, as applica-  
10 ble—

11 “(I) business and tax records, in-  
12 cluding—

13 “(aa) foreign business reg-  
14 istration records, if applicable;

15 “(bb) corporate or partner-  
16 ship tax returns (or tax returns  
17 of any other entity in any form  
18 filed in any country or subdivi-  
19 sion of such country), and per-  
20 sonal tax returns including in-  
21 come, franchise, property (wheth-  
22 er real, personal, or intangible),  
23 or any other tax returns of any  
24 kind, filed during the past 7  
25 years, or another period to be de-

1                   terminated by the Secretary to en-  
2                   sure that the investment is ob-  
3                   tained from a lawful source of  
4                   funds, with any taxing jurisdic-  
5                   tion in or outside the United  
6                   States by or on behalf of the  
7                   alien investor, if applicable; and

8                   “*(cc)* evidence identifying  
9                   any other source of capital or ad-  
10                  ministrative fees;

11                  “*(II)* evidence related to mone-  
12                  etary judgments against the alien in-  
13                  vestor, including certified copies of  
14                  any judgments, and evidence of all  
15                  pending governmental civil or criminal  
16                  actions, governmental administrative  
17                  proceedings, and any private civil ac-  
18                  tions involving possible monetary  
19                  judgments against the alien investor  
20                  from any court in or outside the  
21                  United States; and

22                  “*(III)* the identity of all persons  
23                  who transfer into the United States,  
24                  on behalf of the investor—

1                   “(aa) any funds that are  
2                   used to meet the capital require-  
3                   ment under subparagraph (A);  
4                   and

5                   “(bb) any funds that are  
6                   used to pay administrative costs  
7                   and fees associated with the  
8                   alien’s investment.

9                   “(iii) GIFT AND LOAN RESTRIC-  
10                   TIONS.—

11                   “(I) IN GENERAL.—Gifted and  
12                   borrowed funds may not be counted  
13                   toward the minimum capital invest-  
14                   ment requirement under subpara-  
15                   graph (C) unless such funds—

16                   “(aa) were gifted or loaned  
17                   to the alien investor in good  
18                   faith; and

19                   “(bb) were not gifted or  
20                   loaned to circumvent any limita-  
21                   tions imposed on permissible  
22                   sources of capital under this sub-  
23                   paragraph.

24                   “(II) RECORDS REQUIREMENT.—  
25                   If a significant portion of the capital

1           invested under subparagraph (A) was  
2           gifted or loaned to the alien investor,  
3           the Secretary shall require that the  
4           alien investor’s petition under this  
5           paragraph includes the records de-  
6           scribed in subclauses (I) and (II) of  
7           clause (ii) from the donor or, if other  
8           than a bank, the lender.

9           “(M) PETITION FOR CLASSIFICATION AS  
10          AN IMMIGRANT INVESTOR.—

11           “(i) FILING.—An alien seeking classi-  
12          fication as an immigrant investor under  
13          this paragraph shall file a petition with the  
14          Secretary of Homeland Security, with the  
15          appropriate filing fees (including the EB-  
16          5 Fraud Prevention and Detection Fee re-  
17          quired under section 286(w)(3)), and with  
18          such evidence as the Secretary shall pre-  
19          scribe. The approval of a petition for clas-  
20          sification as an immigrant investor under  
21          this paragraph does not, by itself, establish  
22          that the alien is entitled to immigrant sta-  
23          tus.

24           “(ii) TREATMENT OF CHILDREN.—A  
25          child of an alien investor on the date on

1           which a petition is filed under clause (i)  
2           shall continue to be considered a child  
3           until the removal of the conditional basis  
4           of the child’s lawful permanent resident  
5           status unless—

6                     “(I) the petition on which the  
7                     child’s status is based is revoked; or

8                     “(II) the child’s lawful perma-  
9                     nent resident status is otherwise ter-  
10                    minated.

11                   “(iii) DECISIONS.—

12                             “(I) WITHHOLDING ADJUDICA-  
13                             TION.—The Secretary of Homeland  
14                             Security may suspend adjudication of  
15                             any petition for classification under  
16                             this paragraph until all background  
17                             and security checks and any national  
18                             security or law enforcement investiga-  
19                             tion relating to such application or the  
20                             alien seeking classification is com-  
21                             pleted.

22                             “(II) DENIALS AND REVOCA-  
23                             TIONS.—

24                                     “(aa) NOTICE OF DENIAL  
25                                     OR REVOCATION.—The Secretary

1 shall provide an alien investor  
2 with a notice of the Secretary's  
3 denial of a petition or revocation  
4 of an approved petition under  
5 this subparagraph.

6 “(bb) DENIAL FOR FRAUD,  
7 MISREPRESENTATION, AND  
8 CRIMINAL MISUSE.—The Sec-  
9 retary shall deny a petition for  
10 classification of an alien as an  
11 immigrant investor under this  
12 paragraph if the Secretary deter-  
13 mines that the petition was  
14 predicated on or involved fraud,  
15 deceit, intentional material mis-  
16 representation, or criminal mis-  
17 use.

18 “(cc) NATIONAL SECURITY  
19 OR PUBLIC SAFETY.—The Sec-  
20 retary may deny a petition or re-  
21 voke an approved petition under  
22 this section if the Secretary de-  
23 termines that approval of such a  
24 petition would be contrary to the  
25 national interests of the United

1 States for reasons relating to na-  
2 tional security or public safety.

3 “(III) JUDICIAL REVIEW.—Not-  
4 withstanding any other provision of  
5 law (statutory or nonstatutory), in-  
6 cluding section 2241 of title 28,  
7 United States Code, or any other ha-  
8 beas corpus provision, and sections  
9 1361 and 1651 of such title, no court  
10 shall have jurisdiction to review a de-  
11 nial or revocation under this subpara-  
12 graph. Nothing in this clause may be  
13 construed as precluding review of con-  
14 stitutional claims or questions of law  
15 raised upon a petition for review filed  
16 with an appropriate court of appeals  
17 in accordance with section 242.

18 “(N) THREATS TO THE NATIONAL INTER-  
19 EST.—The Secretary of Homeland Security  
20 shall deny or revoke the approval of a petition,  
21 application, certification, or benefit under this  
22 paragraph, including the documents described  
23 in subclause (II), if the Secretary determines,  
24 in the Secretary’s unreviewable discretion, that  
25 the approval of such petition, application, or

1 benefit is contrary to the national interest of  
2 the United States for reasons relating to  
3 threats to public safety or national security.

4 “(O) ADMINISTRATIVE APPELLATE RE-  
5 VIEW.—

6 “(i) IN GENERAL.—The Director of  
7 U.S. Citizenship and Immigration Services  
8 shall provide an opportunity for an admin-  
9 istrative appellate review by the Adminis-  
10 trative Appeals Office of U.S. Citizenship  
11 and Immigration Services of any deter-  
12 mination made under this paragraph, in-  
13 cluding—

14 “(I) an application for regional  
15 center designation or regional center  
16 amendment;

17 “(II) an application for approval  
18 of a business plan under subpara-  
19 graph (F);

20 “(III) a petition by an alien in-  
21 vestor for status as an immigrant  
22 under this paragraph;

23 “(IV) the termination or suspen-  
24 sion of any benefit accorded under  
25 this paragraph; and

1                   “(V) any sanction imposed by the  
2                   Secretary of Homeland Security under  
3                   this paragraph.

4                   “(ii) JUDICIAL REVIEW.—Subject to  
5                   section 242(a)(2), and notwithstanding any  
6                   other provision of law (statutory or non-  
7                   statutory), including section 2241 of title  
8                   28, United States Code, any other habeas  
9                   corpus provision, and sections 1361 and  
10                  1651 of such title, no court shall have ju-  
11                  risdiction to review a determination under  
12                  this subparagraph (O)(i)(III) until the re-  
13                  gional center, its associated entities, or the  
14                  alien investor has exhausted all administra-  
15                  tive appeals.

16                  “(P) TREATMENT OF INVESTORS IF A RE-  
17                  GIONAL CENTER HAS BEEN TERMINATED.—

18                  “(i) IN GENERAL.—Upon termination  
19                  or debarment, as applicable, from the pro-  
20                  gram under this paragraph of a regional  
21                  center, new commercial enterprise, or af-  
22                  filiated job-creating entity under this para-  
23                  graph, and except as provided in clauses  
24                  (iii) and (vi) of subparagraph (S), the con-  
25                  ditional permanent residence of an alien

1 who has been admitted to the United  
2 States pursuant to section 216A(a)(1)  
3 based on an investment in a terminated re-  
4 gional center, new commercial enterprise,  
5 or affiliated job-creating entity shall re-  
6 main valid or continue to be authorized, as  
7 applicable, in accordance with this sub-  
8 paragraph.

9 “(ii) NEW REGIONAL CENTER OR IN-  
10 VESTMENT.—The conditional permanent  
11 resident status of an alien described in  
12 clause (i) shall be terminated on the date  
13 that is 180 days after the termination  
14 from the program under this paragraph of  
15 a regional center, a new commercial enter-  
16 prise, or a job creating entity unless—

17 “(I) if a regional center was ter-  
18 minated—

19 “(aa) the new commercial  
20 enterprise is associated with an  
21 approved regional center;

22 “(bb) the alien makes a  
23 qualifying investment in another  
24 commercial enterprise associated

1 with an approved regional center;

2 or

3 “(cc) the alien makes a  
4 qualifying investment in another  
5 commercial enterprise under this  
6 paragraph not associated with a  
7 regional center; or

8 “(II) if a new commercial enter-  
9 prise or affiliated job-creating entity  
10 was debarred, the alien invests in an-  
11 other commercial enterprise associated  
12 with an approved regional center.

13 “(iii) REMOVAL OF CONDITIONS.—  
14 Aliens described in subclause (I)(bb),  
15 (I)(cc), or (II) of clause (ii) who have ob-  
16 tained conditional permanent residence be-  
17 fore making the subsequent investment  
18 shall be eligible to have their conditions re-  
19 moved pursuant to section 216A beginning  
20 on the date that is 2 years after the date  
21 of the subsequent investment.

22 “(Q) FRAUD, MISREPRESENTATION, AND  
23 CRIMINAL MISUSE.—

24 “(i) DENIAL OR REVOCATION.—The  
25 Secretary of Homeland Security shall deny

1 or revoke the approval of a petition, appli-  
2 cation, or benefit described in this para-  
3 graph, including the documents described  
4 in subparagraph (M)(iv)(II), if the Sec-  
5 retary determines that such petition, appli-  
6 cation, or benefit was predicated on or in-  
7 volved fraud, deceit, intentional material  
8 misrepresentation, or other criminal activ-  
9 ity.

10 “(ii) NOTICE.—If the Secretary deter-  
11 mines that the approval of a petition, ap-  
12 plication, or benefit described in this para-  
13 graph should be denied or revoked pursu-  
14 ant to clause (i), the Secretary shall—

15 “(I) notify the relevant indi-  
16 vidual, regional center, or commercial  
17 entity of such determination; and

18 “(II) deny or revoke such peti-  
19 tion, application, or benefit or termi-  
20 nate the permanent resident status of  
21 the alien (and the alien spouse and  
22 alien children of such immigrant) as  
23 of the date of such determination.

24 “(R) DEBARMENT.—

1 “(i) SUSPENSION OR TERMINATION.—

2 A regional center, new commercial enter-  
3 prise, affiliated job-creating entity or any  
4 person involved with any such entity may  
5 be suspended or terminated from partici-  
6 pating in the program under this para-  
7 graph—

8 “(I) for failing to comply with  
9 subparagraphs (G), (H), (I) or (J);

10 “(II) for fraud, intentional mate-  
11 rial misrepresentation, or criminal  
12 misuse;

13 “(III) for reasons related to pub-  
14 lic safety or national security; or

15 “(IV) for engaging in any activ-  
16 ity described in paragraph (2) or (3)  
17 of section 212(a).

18 “(ii) DIRECT OR THIRD-PARTY PRO-  
19 MOTERS.—If the Secretary determines that  
20 a direct or third-party promoter has vio-  
21 lated subparagraph (K)(i), the Secretary  
22 shall suspend or permanently bar such in-  
23 dividual from participation in the immi-  
24 grant investor program under this para-  
25 graph.

1                   “(iii) TEMPORARY OR PERMANENT  
2                   BARS.—Any person, including an immi-  
3                   grant investor, who the Secretary deter-  
4                   mines, by a preponderance of the evidence,  
5                   was a knowing or negligent participant in  
6                   the conduct that led to the suspension or  
7                   termination under clause (i) or (ii) may be  
8                   temporarily or permanently barred from  
9                   future participation in the immigrant in-  
10                  vestor program under this paragraph.

11                  “(iv) EFFECT OF DEBARMENT.—A  
12                  person who is suspended, terminated, or  
13                  barred under this subparagraph—

14                         “(I) may not serve as a basis for  
15                         eligibility for any application, petition,  
16                         or other benefit request under this  
17                         paragraph;

18                         “(II) may not file an application,  
19                         petition, or other benefit request  
20                         under this paragraph;

21                         “(III) may not be involved with  
22                         any regional center, new commercial  
23                         enterprise or any affiliated job-cre-  
24                         ating entity; and

1                   “(IV) may not have any author-  
2                   ity, connection, or other form of asso-  
3                   ciation with the offer, sale, purchase  
4                   or promotion of any securities offered  
5                   by an entity described in subclause  
6                   (III) in connection with the immigrant  
7                   investor program under this para-  
8                   graph.

9                   “(v) DENIAL OR REVOCATION.—Sub-  
10                  ject to subparagraph (P), the Secretary  
11                  may deny or revoke any pending or ap-  
12                  proved application, petition, or other ben-  
13                  efit request under this paragraph in con-  
14                  nection with the suspension, termination,  
15                  or bar of any person under this subpara-  
16                  graph that was filed by the suspended, ter-  
17                  minated, or barred person or relies on such  
18                  person for eligibility.

19                  “(vi) TERMINATION OF STATUS.—If  
20                  the Secretary has reason to believe an alien  
21                  was a knowing participant in the conduct  
22                  that led to a suspension or termination  
23                  under this subparagraph, the Secretary  
24                  shall—

1                   “(I) notify the alien of such be-  
2                   lief; and

3                   “(II) subject to section  
4                   216A(b)(2), terminate the permanent  
5                   resident status of the alien (and the  
6                   alien’s spouse and child) as of the  
7                   date of such determination.

8                   “(S) CONFLICT OF INTEREST.—An indi-  
9                   vidual may not contract to provide services as  
10                  a loan monitor for a business or project with  
11                  which the individual was associated while em-  
12                  ployed by a regional center.

13                  “(T) DEFINITIONS.—In this paragraph:

14                  “(i) AFFILIATED JOB-CREATING ENTI-  
15                  TY.—The term ‘affiliated job-creating enti-  
16                  ty’ means any organization that—

17                  “(I) is formed in the United  
18                  States for the ongoing conduct of law-  
19                  ful business, including a partnership  
20                  (whether limited or general), corpora-  
21                  tion, limited liability company, or  
22                  other entity that receives, or is estab-  
23                  lished to receive, capital investment  
24                  from alien investors or a new commer-  
25                  cial enterprise under the regional cen-

1 ter program described in subpara-  
2 graph (E); and

3 “(II) is responsible for the cre-  
4 ation of jobs to satisfy the require-  
5 ment under subparagraph (A)(ii).

6 “(ii) CAPITAL.—The term ‘capital’—

7 “(I) means cash (including the  
8 cash proceeds of indebtedness that are  
9 fully secured by the petitioner’s as-  
10 sets) and all real, personal, or mixed  
11 tangible assets owned and controlled  
12 by the alien investor, or held in trust  
13 for the benefit of the alien and to  
14 which the alien has unrestricted ac-  
15 cess;

16 “(II) shall be valued at fair mar-  
17 ket value in United States dollars, in  
18 accordance with Generally Accepted  
19 Accounting Principles or other stand-  
20 ard accounting practice adopted by  
21 the Securities and Exchange Commis-  
22 sion, at the time such capital is in-  
23 vested under this paragraph; and

24 “(III) does not include assets di-  
25 rectly or indirectly acquired by unlaw-

1           ful means, including any cash pro-  
2           ceeds of indebtedness secured by such  
3           assets.

4           “(iii) CERTIFIER.—The term ‘cer-  
5           tifier’ means a person providing a certifi-  
6           cation for any entity under this paragraph  
7           who is in a position of substantive author-  
8           ity for the management or operations of  
9           the entity, including a principal executive  
10          officer or a principal financial officer, with  
11          knowledge of such entity’s policies and pro-  
12          cedures related to compliance with the re-  
13          quirements under this paragraph.

14          “(iv) FULL-TIME EMPLOYMENT.—The  
15          term ‘full-time employment’ means employ-  
16          ment in a position that requires at least 35  
17          hours of service per week at any time, re-  
18          gardless of who fills the position.

19          “(v) NEW COMMERCIAL ENTER-  
20          PRISE.—The term ‘new commercial enter-  
21          prise’ means any for-profit organization  
22          formed in the United States within 5 years  
23          after the earlier of the application for ap-  
24          proval of an investment or the submission  
25          of a petition under this paragraph, for the

1 ongoing conduct of lawful business, includ-  
2 ing a partnership (whether limited or gen-  
3 eral), corporation, limited liability com-  
4 pany, or other entity that receives, or is es-  
5 tablished to receive, capital investment  
6 from investors under this paragraph.

7 “(vi) PERSONS INVOLVED WITH A RE-  
8 GIONAL CENTER, NEW COMMERCIAL EN-  
9 TERPRISE, OR AFFILIATED JOB-CREATING  
10 ENTITY.—The term ‘persons involved’ with  
11 respect to a regional center, a new com-  
12 mercial enterprise, or any affiliated job-  
13 creating entity means a person directly or  
14 indirectly in a position of substantive au-  
15 thority to make operational or managerial  
16 decisions over or to legally bind such enti-  
17 ties. A person may be in a position of sub-  
18 stantive authority if the person serves as  
19 the principal, representative, adminis-  
20 trator, owner, officer, board member, man-  
21 ager, executive, or general partner of the  
22 regional center, new commercial enterprise,  
23 or affiliated job-creating entity, respec-  
24 tively.

1                   “(vii) RURAL AREA.—The term ‘rural  
2                   area’ means any area that, based on the  
3                   most recent decennial census of the United  
4                   States—

5                                 “(I) is outside of the boundary of  
6                                 any city or town with a population of  
7                                 20,000 or more people; and

8                                 “(II)(aa) is outside of a metro-  
9                                 politan statistical area; or

10                                “(bb) is within any census tract  
11                                that is greater than 100 square miles  
12                                in area and has a population density  
13                                of fewer than 100 people per square  
14                                mile.

15                                “(viii) TARGETED EMPLOYMENT  
16                   AREA.—The term ‘targeted employment  
17                   area’ means—

18                                “(I) a qualified opportunity zone  
19                                (as designated under section 1400Z-1  
20                                of the Internal Revenue Code of 1986;

21                                “(II) a rural area; or

22                                “(III) an area within the geo-  
23                                graphic boundaries of any military in-  
24                                stallation that was closed before the  
25                                filing of an application for classifica-

1                   tion as an immigrant investor under  
2                   this paragraph, based upon a rec-  
3                   ommendation by a Defense Base Clo-  
4                   sure and Realignment Commission.”.

5           (b) EFFECTIVE DATES.—

6                   (1) IN GENERAL.—Except as provided in para-  
7                   graph (2), the amendment made by subsection (a),  
8                   shall take effect on the date that is 90 days after  
9                   the date of the enactment of this Act.

10                   (2) EXCEPTIONS.—Subparagraphs (E)(iv) and  
11                   (L) of section 203(b)(5) of the Immigration and Na-  
12                   tionality Act (8 U.S.C. 1153(b)(5)) shall not apply  
13                   to a petition that—

14                           (A) was filed by an alien investor under  
15                           such section 203(b)(5) before the date of the  
16                           enactment of this Act; or

17                           (B) is filed under section 216A of such Act  
18                           (8 U.S.C. 1186b) if the underlying petition filed  
19                           under section 203(b)(5) of such Act was filed  
20                           before the date of the enactment of this Act.

21           (c) GAO REPORT.—Not later than December 31,  
22 2021, the Comptroller General of the United States shall  
23 submit a report to the Committee on the Judiciary of the  
24 Senate and the Committee on the Judiciary of the House  
25 of Representatives that describes—

1           (1) the economic benefits of the regional center  
2 program established under section 203(b)(5) of the  
3 Immigration and Nationality Act (8 U.S.C.  
4 1153(b)(5)), including the steps taken by U.S. Citi-  
5 zenship and Immigration Services to verify job cre-  
6 ation;

7           (2) the extent to which U.S. Citizenship and  
8 Immigration Services ensures compliance by regional  
9 center participants with their obligations under the  
10 immigrant investor program;

11           (3) the extent to which U.S. Citizenship and  
12 Immigration Services has maintained records of re-  
13 gional centers and associated commercial enter-  
14 prises, including annual statements and certifi-  
15 cations;

16           (4) the steps taken by U.S. Citizenship and Im-  
17 migration Services to verify the source of funds, as  
18 required under section 203(b)(5)(L) of the Immigra-  
19 tion and Nationality Act, as added by subsection (a);

20           (5) the extent to which U.S. Citizenship and  
21 Immigration Services collaborates with other Federal  
22 and law enforcement agencies, particularly to detect  
23 illegal activity and threats to national security re-  
24 lated to the regional center program;

1           (6) the extent to which U.S. Citizenship and  
2           Immigration Services has prevented fraud and abuse  
3           in regional center activities, including the designa-  
4           tion of targeted employment areas in areas that oth-  
5           erwise have high employment;

6           (7) the extent to which U.S. Citizenship and  
7           Immigration Services has used its authority to sanc-  
8           tion, suspend, bar, or terminate regional centers or  
9           individuals affiliated with regional centers;

10          (8) the steps taken to oversee direct and third-  
11          party promoters under section 203(b)(5)(K) of the  
12          Immigration and Nationality Act, as added by sub-  
13          section (a);

14          (9) the extent to which employees of the De-  
15          partment of Homeland Security have complied with  
16          the ethical standards and transparency requirements  
17          set forth in section 3; and

18          (10) the amounts expended from the EB-5 In-  
19          tegrity Fund established under section 203(b)(5)(J)  
20          of the Immigration and Nationality Act, as added by  
21          subsection (a).

22          (d) INSPECTOR GENERAL REPORT.—Not later than  
23          December 31, 2021, the Inspector General of the Intel-  
24          ligence Community, in coordination with the Inspector  
25          General of the Department of Homeland Security and

1 after consultation with relevant Federal agencies, includ-  
2 ing U.S. Immigration and Customs Enforcement, shall  
3 submit a report to the Committee on the Judiciary of the  
4 Senate and the Committee on the Judiciary of the House  
5 of Representatives regarding the immigrant visa program  
6 set forth in section 203(b)(5) of the Immigration and Na-  
7 tionality Act, as amended by subsection (a) that de-  
8 scribes—

9 (1) the vulnerabilities within the program that  
10 may undermine the national security of the United  
11 States;

12 (2) the actual or potential use of the program  
13 to facilitate export of sensitive technology;

14 (3) the actual or potential use of the program  
15 to facilitate economic espionage;

16 (4) the actual or potential use of the program  
17 by foreign government agents; and

18 (5) the actual or potential use of the program  
19 to facilitate terrorist activity, including funding ter-  
20 rorist activity or laundering terrorist funds.

21 (e) REVIEW OF JOB CREATION METHODOLOGIES.—

22 Not later than 1 year after the date of the enactment of  
23 this Act, the Secretary of Homeland Security, in consulta-  
24 tion with the Bureau of Economic Analysis of the Depart-  
25 ment of Commerce, or another component within the De-

1 partment of Commerce, as determined by the Secretary  
2 of Commerce, shall issue regulations to determine eco-  
3 nomically and statistically valid general economic meth-  
4 odologies that comply with section 203(b)(5)(A)(ii) of the  
5 Immigration and Nationality Act, as amended by sub-  
6 section (a).

7 (f) DEPARTMENT OF HOMELAND SECURITY RE-  
8 PORT.—Not later than 18 months after the date of the  
9 enactment of this Act, and annually thereafter, the Sec-  
10 retary of Homeland Security shall submit a report to Con-  
11 gress regarding—

12 (1) the geographic location and types of com-  
13 pleted and pending capital investment projects with-  
14 in the scope of business plans (whether approved or  
15 waiting approval) submitted pursuant to section  
16 203(b)(5)(F) of the Immigration and Nationality  
17 Act, as added by subsection (a); and

18 (2) the amount of foreign investments raised  
19 and expected to be raised to finance projects re-  
20 ferred to in paragraph (1).

21 **SEC. 3. TRANSPARENCY.**

22 (a) IN GENERAL.—Employees of the Department of  
23 Homeland Security, including the Secretary of Homeland  
24 Security, the Secretary’s counselors, the Assistant Sec-  
25 retary for the Private Sector, the Director of U.S. Citizen-

1 ship and Immigration Services, counselors to such Direc-  
2 tor, and the Chief of Immigrant Investor Programs at  
3 U.S. Citizenship and Immigration Services, shall act im-  
4 partially and may not give preferential treatment to any  
5 entity, organization, or individual in connection with any  
6 aspect of the immigrant visa program described in section  
7 203(b)(5) of the Immigration and Nationality Act, as  
8 amended by section 2.

9 (b) IMPROPER ACTIVITIES.—Activities that con-  
10 stitute preferential treatment under subsection (a) shall  
11 include—

12 (1) working on, or in any way attempting to in-  
13 fluence, in a manner not available to or accorded to  
14 all other petitioners, applicants, and seekers of bene-  
15 fits under the immigrant visa program described in  
16 section 203(b)(5) of the Immigration and Nation-  
17 ality Act, as amended by section 2, the standard  
18 processing of an application, petition, or benefit  
19 for—

20 (A) a regional center;

21 (B) a new commercial enterprise;

22 (C) an affiliated job-creating entity; or

23 (D) any person or entity associated with  
24 such regional center, new commercial enter-  
25 prise, or affiliated job-creating entity; and

1           (2) meeting or communicating with persons as-  
2           sociated with the entities described in paragraph (1),  
3           at the request of such persons, in a manner not  
4           available to or accorded to all other petitioners, ap-  
5           plicants, and seekers of benefits under such immi-  
6           grant visa program.

7           (c) REPORTING OF COMMUNICATIONS.—

8           (1) WRITTEN COMMUNICATION.—Employees of  
9           the Department of Homeland Security, including the  
10          officials listed in subsection (a), shall include, in the  
11          record of proceeding for a case under section  
12          203(b)(5) of the Immigration and Nationality Act,  
13          as amended by section 2, actual or electronic copies  
14          of all case-specific written communication, including  
15          e-mails from government and private accounts, with  
16          non-Department persons or entities advocating for  
17          regional center applications or individual petitions  
18          under such section that are pending on or after the  
19          date of the enactment of this Act (other than rou-  
20          tine communications with other agencies of the Fed-  
21          eral Government regarding the case, including com-  
22          munications involving background checks and litiga-  
23          tion defense).

24          (2) ORAL COMMUNICATION.—If substantive oral  
25          communication, including telephonic communication,

1 virtual communication, and in-person meetings,  
2 takes place between officials of the Department of  
3 Homeland Security and non-Department persons or  
4 entities advocating for regional center applications  
5 or individual petitions under section 203(b)(5) of the  
6 Immigration and Nationality Act, as amended by  
7 section 2, that are pending on or after the date of  
8 the enactment of this Act (other than routine com-  
9 munications with other agencies of the Federal Gov-  
10 ernment regarding the case, including communica-  
11 tions involving background checks and litigation de-  
12 fense)—

13 (A) the conversation shall be recorded; or

14 (B) detailed minutes of the session shall be  
15 taken and included in the record of proceeding.

16 (3) NOTIFICATION.—

17 (A) IN GENERAL.—If the Secretary of  
18 Homeland Security, in the course of written or  
19 oral communication described in this sub-  
20 section, receives evidence about a specific case  
21 from anyone other than an affected party or his  
22 or her representative (excluding Federal Gov-  
23 ernment or law enforcement sources), such in-  
24 formation may not be made part of the record

1 of proceeding and may not be considered in ad-  
2 judicative proceedings unless—

3 (i) the affected party has been given  
4 notice of such evidence; and

5 (ii) if such evidence is derogatory, the  
6 affected party has been given an oppor-  
7 tunity to respond to the evidence.

8 (B) INFORMATION FROM LAW ENFORCE-  
9 MENT, INTELLIGENCE AGENCIES, OR CON-  
10 FIDENTIAL SOURCES.—

11 (i) LAW ENFORCEMENT OR INTEL-  
12 LIGENCE AGENCIES.—Evidence received  
13 from law enforcement or intelligence agen-  
14 cies may not be made part of the record of  
15 proceeding without the consent of the rel-  
16 evant agency or law enforcement entity.

17 (ii) WHISTLEBLOWERS, CONFIDEN-  
18 TIAL SOURCES, OR INTELLIGENCE AGEN-  
19 CIES.—Evidence received from whistle-  
20 blowers, other confidential sources, or the  
21 intelligence community that is included in  
22 the record of proceeding and considered in  
23 adjudicative proceedings shall be handled  
24 in a manner that does not reveal the iden-

1                   tity of the whistleblower or confidential  
2                   source, or reveal classified information.

3           (d) CONSIDERATION OF EVIDENCE.—

4                   (1) IN GENERAL.—Case-specific communication  
5                   with persons or entities that are not part of the De-  
6                   partment of Homeland Security may not be consid-  
7                   ered in the adjudication of an application or petition  
8                   under section 203(b)(5) of the Immigration and Na-  
9                   tionality Act, as amended by section 2, unless the  
10                  communication is included in the record of pro-  
11                  ceeding of the case.

12                  (2) WAIVER.—The Secretary of Homeland Se-  
13                  curity may waive the application of paragraph (1)  
14                  only in the interests of national security or for inves-  
15                  tigative or law enforcement purposes.

16           (e) CHANNELS OF COMMUNICATION.—

17                   (1) E-MAIL ADDRESS OR EQUIVALENT.—The  
18                   Director of U.S. Citizenship and Immigration Serv-  
19                   ices shall maintain an e-mail account (or equivalent  
20                   means of communication) for persons or entities—

21                           (A) with inquiries regarding specific peti-  
22                           tions or applications under the immigrant visa  
23                           program described in section 203(b)(5) of the  
24                           Immigration and Nationality Act, as amended  
25                           by section 2; or

1           (B) seeking non-case-specific information  
2           about the immigrant visa program described in  
3           such section 203(b)(5).

4           (2) COMMUNICATION ONLY THROUGH APPRO-  
5           PRIATE CHANNELS OR OFFICES.—

6           (A) ANNOUNCEMENT OF APPROPRIATE  
7           CHANNELS OF COMMUNICATION.—Not later  
8           than 40 days after the date of the enactment of  
9           this Act, the Director of U.S. Citizenship and  
10          Immigration Services shall announce that the  
11          only channels or offices by which industry  
12          stakeholders, petitioners, applicants, and seek-  
13          ers of benefits under the immigrant visa pro-  
14          gram described in section 203(b)(5) of the Im-  
15          migration and Nationality Act, as amended by  
16          section 2, may communicate with the Depart-  
17          ment of Homeland Security regarding specific  
18          cases under such section (except for commu-  
19          nication made by applicants and petitioners  
20          pursuant to regular adjudicatory procedures),  
21          or non-case-specific information about the visa  
22          program applicable to certain cases under such  
23          section, are through—

24                   (i) the e-mail address or equivalent  
25                   channel described in paragraph (1);

1 (ii) the National Customer Service  
2 Center of U.S. Citizenship and Immigra-  
3 tion Services, or any successor to that Cen-  
4 ter; or

5 (iii) the Customer Service and Public  
6 Engagement Directorate, the Immigrant  
7 Investor Program Office, or any successor  
8 agencies.

9 (B) DIRECTION OF INCOMING COMMUNICA-  
10 TIONS.—

11 (i) IN GENERAL.—Employees of the  
12 Department of Homeland Security shall di-  
13 rect communications described in subpara-  
14 graph (A) to the channels of communica-  
15 tion or offices listed in subparagraph (A).

16 (ii) RULE OF CONSTRUCTION.—Noth-  
17 ing in this subparagraph may be construed  
18 to prevent—

19 (I) any person from commu-  
20 nicating with the Ombudsman of U.S.  
21 Citizenship and Immigration Services  
22 regarding the immigrant investor pro-  
23 gram under section 203(b)(5) of the  
24 Immigration and Nationality Act, as  
25 amended by section 2; or

1 (II) the Ombudsman from resolv-  
2 ing problems regarding such immi-  
3 grant investor program under section  
4 452 of the Homeland Security Act of  
5 2002 (6 U.S.C. 272).

6 (C) LOG.—

7 (i) IN GENERAL.—The Director of  
8 U.S. Citizenship and Immigration Services  
9 shall maintain a written or electronic log  
10 of—

11 (I) all communications described  
12 in subparagraph (A) and communica-  
13 tions from Members of Congress,  
14 which shall reference—

15 (aa) the date, time, and sub-  
16 ject of the communication; and

17 (bb) the identity of the De-  
18 partment of Homeland Security  
19 official, if any, to whom the in-  
20 quiry was forwarded;

21 (II) with respect to written com-  
22 munications described in subsection  
23 (c)(1)—

24 (aa) the date on which such  
25 communication was received;

1 (bb) the identities of the  
2 sender and addressee; and

3 (cc) the subject of such com-  
4 munication; and

5 (III) with respect to oral commu-  
6 nications described in subsection  
7 (c)(2)—

8 (aa) the date on which such  
9 communication occurred;

10 (bb) the participants in the  
11 conversation or meeting; and

12 (cc) the subject of such com-  
13 munication.

14 (ii) TRANSPARENCY.—The log of com-  
15 munications described in clause (i) shall be  
16 made publicly available in accordance with  
17 section 552 of title 5, United States Code  
18 (commonly known as the “Freedom of In-  
19 formation Act”).

20 (3) PUBLICATION OF INFORMATION.—If, as a  
21 result of a communication with an official of the De-  
22 partment of Homeland Security, a person or entity  
23 inquiring about a specific case or about the immi-  
24 grant visa program described in section 203(b)(5) of  
25 the Immigration and Nationality Act (8 U.S.C.

1 1153(b)(5)) received generally applicable and non-  
2 case-specific information about program require-  
3 ments or administration that has not been made  
4 publicly available by the Department, the Director of  
5 U.S. Citizenship and Immigration Services shall  
6 publish such information on the U.S. Citizenship  
7 and Immigration Services website, not later than 30  
8 days after the communication of such information to  
9 such person or entity, as an update to the relevant  
10 Frequently Asked Questions page or by some other  
11 comparable mechanism.

12 (f) PENALTY.—

13 (1) IN GENERAL.—Any person who inten-  
14 tionally violates the prohibition on preferential treat-  
15 ment under this section or intentionally violates the  
16 reporting requirements under subsection (c) shall be  
17 disciplined in accordance with paragraph (2).

18 (2) SANCTIONS.—Not later than 90 days after  
19 the date of the enactment of this Act, the Secretary  
20 of Homeland Security shall establish, in addition to  
21 any criminal or civil penalties that may be imposed,  
22 a graduated set of sanctions based on the severity of  
23 the violation referred to in paragraph (1), which  
24 may include written reprimand, suspension, demo-  
25 tion, or removal.

1 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion may be construed to modify any law, regulation, or  
3 policy regarding the handling or disclosure of classified in-  
4 formation.

5 (h) NO CREATION OF PRIVATE RIGHT OF ACTION.—  
6 Nothing in this section may be construed to create or au-  
7 thorize a private right of action to challenge a decision  
8 of an employee of the Department of Homeland Security.

9 (i) EFFECTIVE DATE.—This section, and the amend-  
10 ments made by this section, shall take effect on the date  
11 of the enactment of this Act.

12 **SEC. 4. TREATMENT OF PERIOD FOR PURPOSES OF NATU-**  
13 **RALIZATION.**

14 Section 216A(e) of the Immigration and Nationality  
15 Act (8 U.S.C. 1186b(e)) is amended to read as follows:

16 “(e) TREATMENT OF PERIOD FOR PURPOSES OF  
17 NATURALIZATION.—For purposes of title III, an alien who  
18 is in the United States as a lawful permanent resident  
19 on a conditional basis under this section, upon favorable  
20 determination and removal of the conditional basis of the  
21 alien’s lawful permanent resident status under subsection  
22 (c)(3)(B), shall be considered to have been admitted as  
23 an alien lawfully admitted to the United States for perma-  
24 nent residence.”.

1 **SEC. 5. CONCURRENT FILING OF EB-5 PETITIONS AND AP-**  
2 **PLICATIONS FOR ADJUSTMENT OF STATUS.**

3 Section 245 of the Immigration and Nationality Act  
4 (8 U.S.C. 1255) is amended—

5 (1) in subsection (k)—

6 (A) in the matter preceding paragraph (1),  
7 by striking “or (3)” and inserting “(3), or (5)”;  
8 and

9 (B) in paragraph (1), by adding “and” at  
10 the end; and

11 (2) by adding at the end the following:

12 “(n) If the approval of a petition for classification  
13 under section 203(b)(5) would make a visa immediately  
14 available to the alien beneficiary, the alien beneficiary’s  
15 application for adjustment of status under this section  
16 shall be considered to be properly filed whether the appli-  
17 cation is submitted concurrently with, or subsequent to,  
18 the visa petition.”.

19 **SEC. 6. PAROLE STATUS FOR PETITIONERS AND DEPEND-**  
20 **ENTS AWAITING AVAILABILITY OF AN IMMI-**  
21 **GRANT VISA.**

22 (a) **AUTHORIZATION.**—Section 212(d)(5) of the Im-  
23 migration and Nationality Act (8 U.S.C. 1182(d)(5)) is  
24 amended—

25 (1) in subparagraph (A), by striking “The At-  
26 torney General may, except as provided in subpara-

1 graph (B) or in section 214(f), in his discretion pa-  
2 role into the United States temporarily under such  
3 conditions as he may prescribe only on a case-by-  
4 case basis” and inserting “Except as provided in  
5 subparagraph (C) and section 214(f), the Secretary  
6 of Homeland Security may temporarily parole into  
7 the United States, under such conditions as the Sec-  
8 retary may prescribe, on a case-by-case basis,”;

9 (2) by redesignating subparagraph (B) as sub-  
10 paragraph (C); and

11 (3) by inserting after subparagraph (A) the fol-  
12 lowing:

13 “(B) The Secretary of Homeland Security, in the  
14 Secretary’s discretion, may temporarily parole into the  
15 United States, under such conditions as the Secretary may  
16 prescribe, any alien who is the beneficiary of a petition  
17 for immigrant status under section 203(b)(5) (including  
18 the spouse or child of such principal alien, if eligible to  
19 receive a visa under section 203(d)) if—

20 “(i) such petition has been pending for at least  
21 3 years; or

22 “(ii)(I) such petition has been approved;

23 “(II) 3 years or more have elapsed since the pe-  
24 tition was filed; and

1           “(III) an immigrant visa is not immediately  
2           available to the alien because the total number of  
3           visas issued under section 203(b)(5) has reached the  
4           maximum number of visas that may be made avail-  
5           able to immigrants of the State or area under sec-  
6           tion 203(b).”.

7           (b) EMPLOYMENT AUTHORIZATION FOR ALIEN IN-  
8           VESTORS.—

9           (1) IN GENERAL.—The Secretary of Homeland  
10          Security may—

11                   (A) authorize any alien described in section  
12                   212(d)(5)(B) of the Immigration and Nation-  
13                   ality Act, as added by subsection (a), to engage  
14                   in employment in the United States; and

15                   (B) provide the alien referred to in sub-  
16                   paragraph (A) with appropriate endorsement of  
17                   the authorization under such subparagraph.

18          (2) FEES.—

19                   (A) IN GENERAL.—The Secretary may as-  
20                   sess a fee for providing an employment author-  
21                   ization endorsement under paragraph (1) in an  
22                   amount equal to not more than the average cost  
23                   incurred by the Secretary in adjudicating appli-  
24                   cations for such endorsement. The Secretary

1           may provide for the payment of such fees by in-  
2           stallments.

3                   (B) SAVINGS PROVISION.—Nothing in this  
4           paragraph may be construed—

5                           (i) to require the Secretary to charge  
6                           fees for adjudication services provided to  
7                           alien investors; or

8                           (ii) to limit the authority of the Sec-  
9                           retary to set adjudication and naturaliza-  
10                          tion fees.