

# EB-5 IMMIGRATION



The Klasko EB-5 immigration attorney team is adept at navigating the complex investor visa program. EB-5 is a multi-year process to obtaining a US green card and you need an experienced attorney with you every step of the way.

**The EB-5 Immigrant Visa Program is a complex immigration program. Klasko Immigration Law Partners has a breadth of experience representing and working with every stakeholder in the EB-5 visa program, including investors, regional centers, and project developers.**

## EB-5 INVESTOR SERVICES

The EB-5 Immigrant Investor Program is a permanent residence option for wealthy individuals from any country. For many foreign nationals, it is the best option, and for foreign nationals with no family or employment sponsorship in the U.S., it may be the only option for obtaining permanent residence status.

The EB-5 Investor Immigrant category requires an initial investment of at least \$800,000 or \$1,050,000 (depending on the project's location) in a new commercial enterprise that will result in the employment of ten full-time U.S. workers. Direct EB-5 projects require the investor to invest in a business that will employ 10 full-time U.S. worker employees. Regional center EB-5 projects allow for the employment creation to be indirect or induced jobs based on economic projections. For both, it is critically important that investors be able to provide

## TEAM MEMBERS



**H. Ronald  
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**Alison  
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**Daniel  
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documentation of the lawful source of the investment funds.

Klasko's seasoned and renowned EB-5 immigration attorney team has helped thousands of foreign nationals successfully navigate the EB-5 investor program to obtain conditional and permanent residency in the United States. The EB-5 immigration services we offer help investors reach each milestone. Since the EB-5 immigration attorney team is part of one of the largest full-service immigration law firms in the world, we are also able to assist our clients with all other U.S. immigration needs, such as travel permission, naturalization, and sponsorship of family members. Our firm is highly experienced in the permanent residence process for investors, either the immigrant visa application at the U.S. consulate or the I-485 adjustment of status for investors who are in nonimmigrant status in the U.S.

In addition, we also have the experience needed when things don't go as planned. For example, if a project does not go forward, is failing, or is the subject of fraudulent activity, we are the "go-to" law firm to help investors protect their immigration interests, including litigation when necessary.

#### EB-5 IMMIGRATION SERVICES FOR DIRECT EB-5 INVESTORS

Our services for direct EB-5 investors can be divided into 3 parts: advising on and structuring the investment enterprise to be EB-5 compliant; documenting the lawful source of the investor's funds; and applying for removal of conditions on permanent residence (Form I-829).

The condition removal process can be especially challenging for direct EB-5 investors since we have to track all employment from the time of investment to the time of the filing of the I-829 petition.

#### REGIONAL CENTER AND DEVELOPER SERVICES

Regional centers require an EB-5 immigration lawyer with a unique set of skills. The Klasko EB-5 team is adept at navigating the complexities of the EB-5 program for regional centers and developers. The Klasko EB-5 lawyers work with an accomplished network of securities lawyers, economists, business plan writers, and

other professionals to structure projects that are EB-5 compliant. The team has the knowledge and experience to assess business plans, economic reports, securities offerings, and corporate documents for EB-5 compliance.

#### **EB-5 SERVICES FOR REGIONAL CENTERS AND DEVELOPERS:**

- Preparation of Form I-956, regional center designation applications
- Preparation of Form I-956F, project approval applications
- Preparation of regional center annual statements
- Preparation of Form I-956H for persons involved with regional centers
- Preparation of regional center amendments – – geography, ownership, etc.
- Preparation of templates for investor petitions
- Advice regarding direct and 3rd party promoters
- Advice regarding fund administration, audit, and other compliance issues
- Responding to project-related RFEs on investor and regional center petitions
- Defending against Notice of Intent to Terminate regional center
- Advice regarding the marketing of projects
- Litigation of EB-5 denials

#### **EB-5 COMPLIANCE SERVICES**

With the passage of the EB-5 Reform and Integrity Act in March 2022, compliance is one of the most important topics in EB-5. Verifying job creation for each investor requires a team of dedicated professionals who understand the complexities of EB-5, and are prepared to chart the course for clients from project proposal, through job creation, to documentation and eventually permanent residence for the immigrant investors. Our industry-leading EB-5 immigration attorney team includes highly skilled lawyers and professionals who do just that. Our services include setting up procedures and processes for collecting, organizing, and presenting documents related to the flow of investor funds and job creation, with a specific focus on the annual reporting requirements and preparing for investor I-829 filings.

#### **REGIONAL CENTER COMPLIANCE SERVICES:**

- Systems to track condition removal dates and age-out dates for children

- Systems to track I-829 filings, RFEs, approvals, etc.
- Systems to monitor job creation
- Systems to monitor information and documents necessary for the preparation of I-829 condition removal petitions
- Dealing with material change issues
- Coping with job delay issues
- Responding to project-related RFEs on I-829 petitions
- Assisting with annual reporting, including systems to track requested information
- Reviewing potential new projects
- Representation in connection with potential projects to be adopted and overseen by the regional center
- Preparing and filing regional center annual statements
- Advising on regional center best practices

## EB-5 SERVICES FOR LAWYERS

Lawyer-client relationships are very intimate and private and can still require the expertise of a third-party attorney without impeding that relationship. Some clients and attorneys prefer to work together to hire an EB-5 immigration attorney. The Klasko EB-5 team offers these services to lawyers who prefer to be intermediaries with their clients.

### SERVICES FOR LAWYERS AND AGENTS:

We provide the following options for EB-5 services upon request of lawyers:

- **Service 1:** Lawyer prepares the EB-5 petition and Klasko reviews
  - Lawyer has all contact with investor
  - Klasko is available to answer questions and review documents
  - Klasko has engagement letter with lawyer
- **Service 2:** Klasko prepares the EB-5 petition and is primary counsel with investor
  - Klasko has engagement letter with investor
  - Klasko has direct contact with client

- Lawyer is copied on all emails, gets copies of all documents, and participates in all conference calls – used as a learning experience
- Lawyer prepares I-485, IV processing, reentry permit, and all other immigration work for the client
- **Service 3:** Klasko provides advice to developers regarding a new regional center
  - Lawyer may choose to represent investors in the regional center
- **Service 4:** Litigation of denied or delayed petitions

## EB-5 LITIGATION

Klasko Immigration Law Partners is a leading law firm for litigating immigration cases, which is rare among business immigration law firms. Managing Partner, Ron Klasko, was the founding chair of AILA's High Impact Litigation Committee and served for three terms. He was the lead attorney on the *Matters of Walsh and Pollard* case, the key precedent for E-2 visas. He also co-counseled the successful *Guilford College, et al v. Wolf*, which overturned an unlawful USCIS policy memorandum that changed the way unlawful presence was accrued by F, J, and M nonimmigrants.

Daniel Lundy has been involved in significant EB-5 litigation on behalf of EB-5 investors, regional centers, and projects that are facing unreasonable USCIS actions or delays. Most recently, he has been deeply involved in litigating USCIS denials of EB-5 petitions based on material change and redemption agreements. He has also advised clients on the immigration aspects of EB-5 projects that have been involved in civil litigation.

Most recently, Ronald Klasko and Daniel Lundy were co-counsel representing five regional centers and IIUSA (in *EB5 Capital et al v. United States Department of Homeland Security et al*) in the successful litigation challenging USCIS' decertification of all existing regional centers. The litigation resulted in a nationwide preliminary injunction against USCIS, which enabled the regional center EB-5 projects to resume.

## E-2 TREATY INVESTOR SERVICES

Immigrant investors can also consider an alternative visa option to the EB-5 visa program. For some investors, the E-2 visa is the better option. It requires a “substantial investment” (often much less than the EB-5 amount) in a business that will be owned at least 50% by the investor or other citizens of the investor’s country.

The E-2 visa is only available to citizens of countries with bilateral investment treaties with the US. The E-2 visa may be issued for up to 5 years subject to indefinite extensions and can be obtained much quicker than the EB-5. Some investors choose to apply for an E-2 visa as a short-term solution and an EB-5 visa as a long-term solution.

### WHY KLASKO?

KILP experienced attorneys develop creative solutions to complex problems and ensure our clients’ immigration needs are successfully met. Our expertise runs the gamut from frequent H-1Bs and TNs to complex O-1s or EB-1s; from developing Corporate Immigration Policies to defending corporations in I-9, LCA, and/or PERM audits.

We do not believe in a one-size-fits-all approach, usually offering multiple solutions to difficult problems presented by clients. We are particularly respected for our cutting-edge solutions to difficult business immigration problems. Our client feedback consistently ranks our extreme **responsiveness** as a highly valued feature of our service model.

### OTHER CORPORATE IMMIGRATION SERVICES

KILP attorneys also provide other related individual and employment-based immigration business services, including global immigration, worksite compliance, and litigation. The firm has specialized teams for these services.

- **Global Immigration** provides global mobility services for multinational companies with branches in the U.S. transferring employees overseas
- **Worksite Compliance** provides compliance services for any-sized employers

like training and conducting I-9 self-audit, as well as responding to federal agency audits, investigations, and enforcement-related litigation

- **Litigation** can be a powerful tool to hold federal agencies accountable for unreasonable delays and improper adjudication tactics.