

The US EB-5 Program

The Safest Path to U.S. Permanent Residency

A Primer for Students, Professionals, and their Families

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Key Points

- Traditional visa paths for foreign students and professionals are unstable – F-1, J-1, OPT, and H-1B visas are increasingly subject to abrupt policy changes, tighter rules, and higher denial risk.
- H1-B is no longer a solution
 - Current visa holders are not secure – Job loss, employer changes, or regulatory shifts can quickly jeopardize lawful status and work authorization.
 - Getting an H1-B visa is hard, with only 12.5% winning one in the lottery, which may be phased out in favor of a skill/experience test to the detriment of recent graduates. The proposed \$100K fee for non-US-based applicants will be a roadblock.
 - Employment-based green cards are effectively unavailable for many – EB-2 and EB-3 backlogs, especially for India and China, stretch decades or longer.
 - New applicants and renewals may be subject to much higher prevailing wage requirements.
- EB-5 offers a direct, statutory path to a green card – It does not rely on employer sponsorship, lotteries, or temporary visa extensions.
 - Concurrent filing for US-located applicants provides immediate benefits – Eligible applicants can obtain work authorization and travel permission.
 - EB-5 covers the immediate family – Investors, spouses, and children under 21.
 - Timing is critical – Key protections for investors created in 2022 will expire in September 2026, making a near-term filing imperative.
- While the path to obtaining lawful permanent residency – the Green Card is more difficult, for those who can successfully navigate the new environment will be rewarded with a US market that supports higher wages, benefits and job security.

Introduction

The United States remains a premier destination for higher education and post-education career path advancement, attracting over a million international students each year and a vast number of professionals. Yet recent changes under the Trump administration have introduced unprecedented challenges for foreign students in the U.S and professionals abroad. Tightening visa rules and uncertainties around post-graduation work options have made the traditional F-1 student visa path increasingly precarious. In 2025, President Donald Trump's administration will revive and expand policies that restrict student and exchange visas, complicate work visas like H-1B, and even impose travel bans on certain countries – all of which threaten the prospects of international students seeking to study and build careers in America. This white paper examines these evolving challenges and presents the EB-5 immigrant investor program as a compelling alternative path to a green card. By obtaining permanent residency through EB-5, foreign students, professionals, and their families can bypass many of the obstacles now facing F-1, J-1, and H-1B visa holders, securing a more stable future in the United States.

Mounting Challenges for Student Visa Holders (F-1 and J-1)

The Trump administration has taken a markedly restrictive stance toward international student visas. In June 2025, President Trump signed a proclamation titled 'Restricting the Entry of Foreign Nationals,' which bans the entry of students and exchange visitors from 19 countries under the F-1 and J-1 visa categories. This sweeping travel ban includes a full suspension of entry for nationals of countries such as Iran, Libya, Somalia, Yemen, Afghanistan, and others, and a partial suspension for countries like Cuba, Burundi, and Venezuela. For students from these affected nations, even obtaining or renewing a student visa has become extremely difficult, if not impossible, under the new rules.

Perhaps even more consequential is the administration's move to end 'duration of status' (D/S) for F-1 and J-1 visas. Since 1978, most student (F-1) and exchange (J-1) visitors have been admitted for the duration of their program – meaning their visa status remained valid as long as they stayed enrolled and in good standing. In late 2025, the Department of Homeland Security (DHS) unveiled a proposed rule to replace this flexible system with fixed end dates and limited stays. Under the proposal, international students and exchange scholars would be admitted only for the length of

their academic program (capped at a maximum of four years) and then required to apply for extensions if their studies go longer.

The impact on students would be profound. If duration of status is eliminated, every international student would have a hard expiration date on their status, regardless of whether their degree is finished. Many Ph.D. students, for example, take more than four years to graduate; under the new rule they would have to file extensions or leave the country mid-program. Even routine degree progress could be interrupted by burdensome paperwork and the risk of visa renewal denials.

Post-Graduation Roadblocks: H-1B and OPT Under Threat

For international students approaching the end of their degree programs, one traditional route to stay in the U.S. has been to work for a few years via Optional Practical Training (OPT) and then transition to an H-1B work visa sponsored by an employer. Under the Trump administration's second term, however, both OPT and H-1B are facing new constraints that jeopardize the ability of students to smoothly continue into the U.S. workforce.

Optional Practical Training (OPT) allows F-1 students to work in the U.S. for up to 12 months after graduation (or up to 36 months for STEM graduates) without a separate work visa. While OPT itself has not been formally canceled, recent signals suggest it is on precarious ground. In mid-2025, an increasing number of international students granted OPT have received warnings to update their records with employer information or face removal, indicating much closer monitoring of OPT compliance than in the past.

Even if a student does utilize OPT, the next hurdle – the H-1B specialty occupation visa – is also slated for major changes. The H-1B program, which allows U.S. companies to hire foreign professionals, has long been the primary pathway for international students to stay and work long-term. A proposed rule is expected to replace the random lottery with a system that allocates H-1B visas based on salary or wage level – effectively changing the H-1B lottery to favor higher-salaried applicants. This would disadvantage recent graduates seeking entry-level jobs, since new grads typically earn lower salaries than experienced workers. Recently, the Administration proposed a fee of \$100,000 for each H-1B applicant not located within the United States. This new fee, if finalized, will all but destroy the ability of foreign professionals to enter the US on the H-1B program.

Moreover, when coupled with the new proposed rules that would serve as a detriment to new graduates seeking H-1B, the net effect is an all-out assault on the H-1B program.

The Department of State has also expanded security and social-media vetting for F-1, J-1, H-1B, and H-4 applicants, requiring applicants to provide access to certain online accounts. These reviews create additional avenues for delays or denials. They require detailed information about family members as well.

Current H-1B Holders are not safe.

Many current H-1B workers assume that steady employment and repeated approvals mean their immigration situation is secure. In reality, H-1B status can change abruptly due to job loss, corporate restructuring, or policy shifts. Workers generally have a 60-day grace period after termination to find a new employer, change status, or depart the United States. This short window, combined with processing delays and inconsistent adjudications, creates significant vulnerability for many families.

The administration has initiated a rule-making process to amend prevailing wage requirements that could significantly increase the wages required for both new H-1B petitions and renewals. If finalized, this could make some renewals more difficult, potentially placing long-time H-1B holders at risk of losing status if their employers are unable to meet the higher wage requirements, even where an I-140 petition is pending.

H-4 dependents face separate vulnerabilities. The H-4 EAD program—which allows certain spouses to work once the H-1B principal has an approved I-140—remains in place but is a regulatory benefit that can be changed or rescinded without congressional action. Ongoing litigation, proposed rulemaking, and shifting agency policies continue to introduce uncertainty for tens of thousands of families. The Trump Administration is considering ending this benefit, which would imperil the budgets of many H1-B households. They further announced requiring a new EAD every 18 months.

For nationals of ‘backlogged’ countries, such as India and China, the larger issue is not simply maintaining H-1B status but the extremely long wait for an EB-2 or EB-3 immigrant visa. The December 2025 Visa Bulletin shows that the government is still processing 2013 priority dates for India and 2021 for China. As a result, individuals with priority dates several years later face significantly longer timelines before a green card becomes available. In the case of Indian nationals, a recent H1-B recipient can

expect a wait of over 100 years. Even those with priority dates as early as 2017 can expect decade-long or longer wait times as the number of applicants in each year far exceeds the number of visas, resulting in a virtual standstill in the movement of current priority dates.

The EB-5 Immigrant Investor Program: A Secure Path to a Green Card

Amid the tightening of work visas and student visas, the EB-5 immigrant investor program stands out as a stable and direct route for international students, professionals, and their families to attain U.S. permanent residency. The EB-5 program, created by Congress in 1990, grants green cards to foreign nationals who invest a substantial amount of capital in a U.S. business that generates jobs. In practical terms, the EB-5 visa allows an investor (and their spouse and unmarried children under 21) to obtain U.S. green cards by making an investment of \$800,000 in a qualifying American enterprise. In return for this investment – which must create at least 10 full-time jobs for U.S. workers – the investor and immediate family can become lawful permanent residents, and eventually U.S. citizens if they choose.

For international students, professionals, and their families, EB-5 can be a strategic investment in the future. With permanent residency, both groups gain full work authorization, stability, educational benefits such as in-state tuition, and a direct path to citizenship. It also covers immediate family members, providing long-term security.

The EB-5 Reform and Integrity Act of 2022 introduced a powerful benefit for foreign nationals already in the United States under a valid non-immigrant visa status: it allows investors (and their dependents) with a pending EB-5 petition to immediately file for adjustment of status rather than waiting abroad for visa availability. This critical change means students and professional on H1-B can obtain work authorization (EAD) and advance parole travel permission while their green card application is pending. With these interim benefits, EB-5 applicants can continue their work or studies without interruption, accept paid internships, research positions, or full-time jobs without employer sponsorship, and travel internationally with far greater flexibility. In effect, the 2022 Act provides a bridge of stability during the application process, empowering students to integrate fully into academic and professional life in the U.S. long before their permanent residency is finalized.

The Timeline and the EB-5 Process – This year is crucial!

Those interested in pursuing a path to a green card via the EB-5 program should act sooner rather than later. The 2022 Act is set to expire in September 2027; however, crucially, the right of applicants to have their petitions processed even after the act expires only lasts through filings made as of September 30, 2026. This means that if someone were to file after September 30, 2026, and the 2022 Act is not reauthorized, their EB-5 application process will end.

Starting the EB-5 process takes time. The application is complex and requires sophisticated and experienced legal expertise. Filings, including all evidentiary materials, often run hundreds (and even thousands) of pages, all of which must be clearly organized to enable efficient adjudication and processing by USCIS. This is very often a one-to-two-month process or more.

Project selection is a key step in the EB-5 process. Each project is unique and has a different risk/reward profile, from both financial and immigration risk perspectives. The project selection process can be done in parallel with preparing the EB-5 petition and associated adjustment of status filings.

The EB-5 process requires significant financial resources. The EB-5 investment of \$800,000 plus approximately \$100,000 in filing fees and expenses must be proven to be from legal sources. The money can be given to the applicant as a gift or potentially a loan. But in either case, the source of wealth must be documented, which often a time-consuming exercise as is the process to aggregate the funds and make the necessary transfers to the United States.

Conclusion

The immigration landscape for international students in the U.S. and professionals seeking admission or adjustment in their visa has shifted dramatically in 2025. President Trump's policies – from travel bans and visa duration limits to heightened scrutiny of OPT and a restructured H-1B system – have made the road from foreign student/professional to U.S. professional far less certain. The risks of the traditional path are higher than ever. The EB-5 immigrant investor program provides a secure and reliable bridge to permanent residency, bypassing the turmoil of temporary visa categories. For students and families with the means to pursue EB-5, this investment represents not just a path to education, but to a lasting future in the United States. A

strong positive is that, for those who can navigate the path to the US, the reward should justify the effort. It is simple economics that the reduced supply of talented labor will lead to higher wages, benefits and improved job security for those who can obtain lawful permanent residence (a green card).

Those seeking to make their lives in America are those who truly deserve the credit for making this country great, time and again. The dark clouds of populism will pass, as they have many times throughout our history. Paraphrasing Warren Buffett, “Be bold when others are fearful and be fearful when others are bold.” Despite the many new challenges, those who move boldly this year to secure their rights to a US Green Card under the EB-5 program will be rewarded.

About the Author

Matt Gordon is the Managing Attorney of E3 Legal Advisors PLLC and the Managing Director of the affiliated EB-5 Consultancy, E3 Investment Group. Mr. Gordon represents both investment-based visa sponsors and investors, helping them the complexities of the US EB-5 and other programs.

Mr. Gordon’s career spans business operations, finance, and law. Since entering the visa-investment sector, Mr. Gordon has become a noted expert on legal topics related to investment visa structure and policy. He is the editor of the leading legal treatise on the EB-5 program, “The EB-5 Book” and is a frequent writer and lecturer. He has also done policy work at Harvard University’s Kennedy School of Government and with the White House. In February 2016, Mr. Gordon testified in front of the House of Representatives Judiciary Committee as a policy expert on EB-5 matters.

Mr. Gordon is a licensed attorney in New York, having practiced mergers and acquisitions law at the beginning of his career with the largest and most reputable Wall Street firms, including Fried Frank and Sullivan & Cromwell. Mr. Gordon received his B.S. in Policy Analysis from Cornell University and his J.D., cum laude, from the University of Pennsylvania School of Law.

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