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## Client Alert: Trump Proposes Ending EB-5 in Favor of “Gold Card” Visa – But Can He?

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On February 25, 2025, President Trump announced his intention to terminate the EB-5 Immigrant Investor Program and introduce a new “Gold Card” visa requiring a \$5 million investment. While the proposal has drawn significant attention, questions remain about its legal viability and economic impact.

#### 1. Can the President End EB-5 on His Own?

No. The EB-5 program was reauthorized by Congress in 2022 through the Reform and Integrity Act (RIA), which includes protections for existing investments until September 2026. The program itself is set to sunset in September 2027.

For EB-5 to be discontinued earlier, Congress would need to pass new legislation—an unlikely scenario given the current political landscape. Immigration law is under Congressional authority (Article I, Section 8 of the Constitution), and past unilateral attempts to alter immigration policy through executive action (*DHS v. Regents of the University of California*, 2020) have faced legal challenges.

Any unilateral effort to repeal or change EB-5 laws will almost certainly face significant legal obstacles, as previous attempts to modify immigration programs without Congressional approval have been struck down in court.

#### 2. Congressional Support for EB-5 in 2022

The EB-5 Reform and Integrity Act (RIA) of 2022, which reauthorized the EB-5 Immigrant Investor Program, passed with bipartisan support as part of the Consolidated Appropriations Act of 2022. This demonstrated Congress’s recognition of the program’s economic benefits, particularly in job creation and foreign investment in the U.S. economy.

Key aspects of the 2022 reauthorization included:

- **Program Stability:** A five-year extension, ensuring EB-5 remains in effect until at least September 30, 2027.
- **Grandfathering Protections:** Investors who file before September 2026 are safeguarded, even if the

program is later modified.

- **Integrity Measures:** Stricter compliance, oversight, and fraud prevention to address prior concerns about program abuse.

The passage of this law reflected a significant commitment from Congress to maintain EB-5 as a viable immigration pathway while enhancing transparency and accountability. Given this legislative history, any attempt to unilaterally terminate the program without Congressional approval would face major legal and political challenges.

While future modifications to EB-5 remain possible, its bipartisan support in 2022 suggests that a complete termination would be difficult, particularly in a divided Congress where immigration-related issues are often contentious.

### **3. What Do We Know About the “Gold Card” Visa?**

While details remain unclear, this proposed visa appears to differ from EB-5 in that it may not require job creation. Speculated benefits include faster processing and potential tax incentives, such as exemption from worldwide taxation. Rather than replacing EB-5, the “Gold Card” could serve as an additional option for ultra-high-net-worth individuals seeking U.S. residency.

### **4. Will This Program Help Reduce the National Deficit?**

Unlikely. Trump has suggested that issuing 10 million visas under this program could generate \$50 trillion, helping to offset the \$34 trillion U.S. deficit. However, this projection does not align with economic reality.

According to the *Knight Frank Wealth Report*, only about 400,000 individuals worldwide (excluding the U.S.) have a net worth exceeding \$30 million. Even if every single one participated—which is improbable—the program would generate only \$2 trillion, covering just six percent of the U.S. deficit.

Furthermore, many wealthy individuals already have access to alternative investment residency options, such as Portugal’s Golden Visa or the UK Investor Visa. A more realistic estimate suggests the program would attract a few thousand applicants per year, generating billions—not the trillions Trump envisions.

### **Recommendation for Investors: Act While EB-5 Remains in Effect**

Given the uncertainty surrounding the “Gold Card” visa and the legislative protections currently in place for EB-5, investors should consider taking advantage of the existing EB-5 program while it is still available. The program remains a proven pathway to U.S. permanent residency, with established regulations and investor protections. Those who initiate their EB-5 investments now can secure their place under existing law before any potential policy changes take effect.

Trump’s announcement has already motivated many individuals to proceed with filing their EB-5 petitions quickly, recognizing the advantage of the grandfathering protections established by the current EB-5 legislation. Under the RIA, investors who file their EB-5 petitions before the September 2026 deadline will remain protected even if legislative changes occur in the future.

### **The Bottom Line**

Ending EB-5 requires Congressional action, and any new investor visa introduced through executive authority could be reversed by future administrations. Just as Biden’s humanitarian immigration policies are being undone, a future leader could dismantle a “Gold Card” visa if it lacks statutory backing.

Additionally, any unilateral attempt to repeal or modify EB-5 without Congressional approval would face serious legal challenges, making such a move highly uncertain and difficult to implement.

For now, EB-5 remains in effect unless Congress decides otherwise. Investors who wish to secure U.S. residency through investment should act now while the program remains open and legally protected.

If you have questions or need more information, please contact [Wilka Toppins](#) or another member of our [Immigration Team](#).