

DIVISION BB--EB-5 REFORM AND INTEGRITY ACT OF 2022

SEC. 101. SHORT TITLE.

This division may be cited as the ``EB-5 Reform and Integrity Act of 2022''.

SEC. 102. EB-5 VISA REFORMS.

(a) Employment Creation.--Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended--

(1) in subparagraph (A)--

inserting  
(A) in clause (i), by striking ``(C), and'' and

``(C) and which is expected to remain invested for not less than 2 years; and''; and

(B) in clause (ii)--

(i) by striking ``and create'' and inserting ``by creating''; and

after  
(ii) by inserting `` , United States nationals, ''

``citizens'';

(2) by amending subparagraph (B) to read as follows:

``(B) Designations and reserved visas.--

``(i) Reserved visas.--

``(I) In general.--Of the visas made available under this paragraph in each fiscal year--

``(aa) 20 percent shall be reserved for qualified immigrants who invest in a rural area;

``(bb) 10 percent shall be reserved for qualified immigrants who invest in an area designated by the Secretary of Homeland Security under clause (ii) as a high unemployment area;

and

``(cc) 2 percent shall be reserved for qualified immigrants who invest in

infrastructure

projects.

``(II) Unused visas.--

``(aa) Carryover.--At the end of each fiscal year, any unused visas reserved for qualified immigrants investing in each of the categories described in items (aa) through (cc) of

subclause

(I) shall remain available within the same

category

for the immediately succeeding fiscal year.

``(bb) General availability.--Visas

described

in items (aa) through (cc) of subclause (I) that are not issued by the end of the succeeding

fiscal

year referred to in item (aa) shall be made available to qualified immigrants described

under

subparagraph (A).

“(ii) Designation of high unemployment area.--

“(I) In general.--The Secretary of Homeland Security, or a designee of the Secretary who is an employee of the Department of Homeland Security, may designate, as a high unemployment area, a census

tract,

or contiguous census tracts, in which--

“(aa) the new commercial enterprise is principally doing business; and

unemployment

“(bb) the weighted average of the

rate for the census tracts, based on the labor force employment measure for each applicable

census

tract and any adjacent tract included under subclause (III), is not less than 150 percent of the national average unemployment rate.

“(II) Prohibition on designation by any other official.--A targeted employment area may not be designated as a high unemployment area by--

the

“(aa) a Federal official other than the Secretary of Homeland Security or a designee of

Secretary; or

“(bb) any official of a State or local government.

under

“(III) Inclusion.--In making a designation

may

subclause (I), the Secretary of Homeland Security

include a census tract directly adjacent to a census tract or contiguous census tracts described in that subclause.

“(IV) Duration.--

“(aa) In general.--A designation under this clause shall be in effect for the 2-year period beginning on--

not

“(AA) the date on which an application under subparagraph (F) is filed; or

“(BB) in the case of an alien who is

subject to subparagraph (F), at the time of investment.

2-

``(bb) Renewal.--A designation under this clause may be renewed for 1 or more additional

year periods if the applicable area continues to meet the criteria described in subclause (I).

area

``(V) Additional investment not required.--An immigrant investor who has invested the amount of capital required by subparagraph (C) in a targeted employment area designated as a high unemployment

during the period in which the area is so designated shall not be required to increase the amount of investment due to the expiration of the designation.

``(iii) Infrastructure projects.--

``(I) In general.--The Secretary of Homeland Security shall determine whether a specific capital investment project meets the definition of 'infrastructure project' set forth in subparagraph (D)(iv).

not

``(II) Prohibition on designation by any other official.--A determination under subclause (I) may be made by--

the

``(aa) a Federal official other than the Secretary of Homeland Security or a designee of

Secretary; or

``(bb) any official of a State or local government.'';

(3) in subparagraph (C)--

that

(A) in clause (i), by striking ``\$1,000,000'' and all

follows through ``previous sentence'' and inserting ``\$1,050,000'';

(B) by amending clause (ii) to read as follows:

``(ii) Adjustment for targeted employment areas and infrastructure projects.--The amount of capital required under subparagraph (A) for an investment in a targeted employment area or in an infrastructure project shall be \$800,000.'';

(C) by redesignating clause (iii) as clause (iv);

(D) by inserting after clause (ii) the following:

``(iii) Automatic adjustment in minimum investment amount.--

(i)

``(I) In general.--Beginning on January 1, 2027, and every 5 years thereafter, the amount in clause

shall automatically adjust for petitions filed on or after the effective date of each adjustment, based

on  
consumers  
Bureau  
amounts  
the

the cumulative annual percentage change in the unadjusted consumer price index for all urban (all items; U.S. city average) reported by the Bureau of Labor Statistics between January 1, 2022, and the date of adjustment. The qualifying investment shall be rounded down to the nearest \$50,000. The Secretary of Homeland Security shall update such amounts by publication of a technical amendment in the Federal Register.

to

“(II) Beginning on January 1, 2027, and every 5 years thereafter, the amount in clause (ii) shall automatically adjust for petitions filed on or after the effective date of each adjustment, to be equal to 75 percent of the standard investment amount under subclause (I).”; and

(E) in clause (iv), as redesignated, in the undesignated matter following subclause (II)--

(iii)“(i) by striking ‘‘Attorney General’’ and inserting ‘‘Secretary of Homeland Security’’; and (ii) by inserting ‘‘, as adjusted under clause

before the period at the end; and

(4) by amending subparagraph (D) to read as follows:

“(D) Definitions.--In this paragraph:

the commercial

“(i) Affiliated job-creating entity.--The term ‘affiliated job-creating entity’ means any job-creating entity that is controlled, managed, or owned by any of the people involved with the regional center or new enterprise under section 203(b)(5)(H)(v).

“(ii) Capital.--The term ‘capital’--

mixed alien

“(I) means cash and all real, personal, or tangible assets owned and controlled by the alien investor, or held in trust for the benefit of the

and to which the alien has unrestricted access;

under

“(II) shall be valued at fair market value in United States dollars, in accordance with Generally Accepted Accounting Principles or other standard accounting practice adopted by the Securities and Exchange Commission, at the time it is invested

this paragraph;

“(III) does not include--

acquired  
of  
note,  
the  
rate  
agreement  
commercial  
mandatory  
occurrence  
of  
may  
paragraph.  
person  
management

``(aa) assets directly or indirectly  
by unlawful means, including any cash proceeds  
indebtedness secured by such assets;  
``(bb) capital invested in exchange for a  
bond, convertible debt, obligation, or any other  
debt arrangement between the alien investor and  
new commercial enterprise;  
``(cc) capital invested with a guaranteed  
of return on the amount invested by the alien  
investor; or  
``(dd) except as provided in subclause (IV),  
capital invested that is subject to any  
between the alien investor and the new  
enterprise that provides the investor with a  
contractual right to repayment, such as a  
redemption at a certain time or upon the  
of a certain event, or a put or sell-back option  
held by the alien investor, even if such  
contractual right is contingent on the success  
the new commercial enterprise, such as having  
sufficient available cash flow; and  
``(IV) includes capital invested that--  
``(aa) is subject to a buy back option that  
be exercised solely at the discretion of the new  
commercial enterprise; and  
``(bb) results in the alien investor  
withdrawing his or her petition unless the alien  
investor has fulfilled his or her sustainment  
period and other requirements under this  
``(iii) Certifier.--The term `certifier' means a  
in a position of substantive authority for the  
or operations of a regional center, new commercial  
enterprise, affiliated job-creating entity, or issuer of  
securities, such as a principal executive officer or  
principal financial officer, with knowledge of such  
entities' policies and procedures related to compliance  
with the requirements under this paragraph.

project administered by a governmental entity contracting with a regional center or new commercial enterprise to receive capital investment under the center program described in subparagraph (E) from alien investors or the new commercial enterprise as financing maintaining, improving, or constructing a public works project.

entity regional for States sole general), or its each investment under subparagraph the partnership is corporation, entity

``(iv) Infrastructure project.--The term `infrastructure project' means a capital investment in a filed or approved business plan, which is administered by a governmental entity (such as a Federal, State, or local agency or authority) that is the job-creating contracting with a regional center or new commercial enterprise to receive capital investment under the center program described in subparagraph (E) from alien investors or the new commercial enterprise as financing maintaining, improving, or constructing a public works project.

``(v) Job-creating entity.--The term `job-creating entity' means any organization formed in the United States for the ongoing conduct of lawful business, including proprietorship, partnership (whether limited or general), corporation, limited liability company, business trust, or other entity, which may be publicly or privately owned, including an entity consisting of a holding company and its wholly owned subsidiaries or affiliates (provided that each subsidiary or affiliate is engaged in an activity formed for the ongoing conduct of a lawful business) that receives, or is established to receive, capital investment from alien investors or a new commercial enterprise under the regional center program described in this subparagraph and which is responsible for creating jobs to satisfy requirement under subparagraph (A)(ii).

``(vi) New commercial enterprise.--The term `new commercial enterprise' means any for-profit organization formed in the United States for the ongoing conduct of lawful business, including sole proprietorship, partnership (whether limited or general), holding company and its wholly owned subsidiaries (provided that each subsidiary is engaged in a for-profit activity formed for the ongoing conduct of a lawful business), joint venture, corporation, business trust, limited liability company, or other entity

receives, (which may be publicly or privately owned) that  
or is established to receive, capital investment from  
investors under this paragraph.

statistical (vii) Rural area.--The term 'rural area' means any  
area other than an area within a metropolitan  
area (as designated by the Director of the Office of  
Management and Budget) or within the outer boundary of  
any  
city or town having a population of 20,000 or more  
(based  
on the most recent decennial census of the United  
States).

'targeted (viii) Targeted employment area.--The term  
employment area' means, at the time of investment, a  
rural  
area or an area designated by the Secretary of Homeland  
Security under subparagraph (B)(ii) as a high  
unemployment  
area.''

(b) Age Determination for Children of Alien Investors.--Section  
203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is  
amended by adding at the end the following:

(5) Age determination for children of alien investors.--An  
alien who has reached 21 years of age and has been admitted  
under  
subsection (d) as a lawful permanent resident on a conditional  
basis as the child of an alien lawfully admitted for permanent  
residence under subsection (b)(5), whose lawful permanent  
resident  
status on a conditional basis is terminated under section 216A  
or  
subsection (b)(5)(M), shall continue to be considered a child of  
the principal alien for the purpose of a subsequent immigrant  
petition by such alien under subsection (b)(5) if the alien  
remains  
unmarried and the subsequent petition is filed by the principal  
alien not later than 1 year after the termination of conditional  
lawful permanent resident status. No alien shall be considered a  
child under this paragraph with respect to more than 1 petition  
filed after the alien reaches 21 years of age.''

(c) Enhanced Pay Scale for Certain Federal Employees  
Administering  
the Employment Creation Program.--The Secretary of Homeland Security  
may establish, fix the compensation of, and appoint individuals to  
designated critical, technical, and professional positions needed to  
administer sections 203(b)(5) and 216A of the Immigration and  
Nationality Act (8 U.S.C. 1153(b)(5) and 1186b).

(d) Concurrent Filing of EB-5 Petitions and Applications for  
Adjustment of Status.--Section 245 of the Immigration and  
Nationality  
Act (8 U.S.C. 1255) is amended--

(1) in subsection (k), in the matter preceding paragraph (1),

by striking ``or (3)'' and inserting ``(3), or (5)''; and

(2) by adding at the end the following:

``(n) If the approval of a petition for classification under section 203(b)(5) would make a visa immediately available to the alien beneficiary, the alien beneficiary's application for adjustment of status under this section shall be considered to be properly filed whether the application is submitted concurrently with, or subsequent to, the visa petition.''.

(e) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 103. REAUTHORIZATION AND REFORM OF THE REGIONAL CENTER PROGRAM.

(a) Repeal.--Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is repealed.

(b) Authorization.--

(1) In general.--Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

``(E) Regional center program.--

shall be made available through September 30, 2027, to qualified immigrants (and the eligible spouses and children of such immigrants) pooling their investments with 1 or more qualified immigrants participating in a program implementing this paragraph that involves a regional center in the United States, which has been designated by the Secretary of Homeland Security on the basis of a proposal for the promotion of economic growth, including prospective job creation and increased domestic capital investment.

``(ii) Processing.--In processing petitions under section 204(a)(1)(H) for classification under this paragraph, the Secretary of Homeland Security--

``(I) shall prioritize the processing and adjudication of petitions for rural areas;

order ``(II) may process petitions in a manner and established by the Secretary; and

``(III) shall deem such petitions to include

to records previously filed with the Secretary pursuant  
that subparagraph (F) if the alien petitioner certifies  
such records are incorporated by reference into the  
alien's petition.

regional ``(iii) Establishment of a regional center.--A  
center shall operate within a defined, contiguous, and  
limited geographic area, which shall be described in the  
proposal and be consistent with the purpose of  
concentrating pooled investment within such area. The  
proposal to establish a regional center shall  
demonstrate that the pooled investment will have a substantive  
economic impact on such geographic area, and shall include--

investment ``(I) reasonable predictions, supported by  
economically and statistically valid and transparent  
forecasting tools, concerning the amount of  
that will be pooled, the kinds of commercial  
enterprises that will receive such investments,  
details of the jobs that will be created directly or  
indirectly as a result of such investments, and other positive  
economic effects such investments will have;  
procedures ``(II) a description of the policies and  
commercial in place reasonably designed to monitor new  
enterprises and any associated job-creating entity  
to seek to ensure compliance with--

offerors ``(aa) all applicable laws, regulations, and  
Executive orders of the United States, including  
immigration laws, criminal laws, and securities  
laws; and  
``(bb) all securities laws of each State in  
which securities offerings will be conducted,  
investment advice will be rendered, or the  
or offerees reside;

meet ``(III) attestations and information confirming  
that all persons involved with the regional center  
the requirements under clauses (i) and (ii) of  
subparagraph (H);

``(IV) a description of the policies and

procedures  
program

in place that are reasonably designed to ensure  
compliance; and

``(V) the identities of all natural persons  
involved in the regional center, as described in  
subparagraph (H)(v).

``(iv) Indirect job creation.--

``(I) In general.--The Secretary of Homeland  
Security shall permit aliens seeking admission under  
this subparagraph to satisfy only up to 90 percent

of

the requirement under subparagraph (A)(ii) with jobs  
that are estimated to be created indirectly through  
investment under this paragraph in accordance with

this

subparagraph. An employee of the new commercial  
enterprise or job-creating entity may be considered

to

hold a job that has been directly created.

``(II) Construction activity lasting less than 2  
years.--If the jobs estimated to be created are

created

by construction activity lasting less than 2 years,

the

Secretary shall permit aliens seeking admission

under

this subparagraph to satisfy only up to 75 percent

of

the requirement under subparagraph (A)(ii) with jobs  
that are estimated to be created indirectly through  
investment under this paragraph in accordance with

this

subparagraph.

``(v) Compliance.--

``(I) In general.--In determining compliance

with

subparagraph (A)(ii), the Secretary of Homeland  
Security shall permit aliens seeking admission under  
this subparagraph to rely on economically and  
statistically valid methodologies for determining

the

number of jobs created by the program, including--

``(aa) jobs estimated to have been created  
directly, which may be verified using such  
methodologies; and

jobs

``(bb) consistent with this subparagraph,  
estimated to have been directly or indirectly

regional  
domestic  
created through capital expenditures, revenues generated from increased exports, improved productivity, job creation, and increased capital investment resulting from the program.

``(II) Job and investment requirements.--

``(aa) Relocated jobs.--In determining compliance with the job creation requirement under created investments created are Secretary to other general has lasting may total the construction

subparagraph (A)(ii), the Secretary of Homeland Security may include jobs estimated to be under a methodology that attributes jobs to prospective tenants occupying commercial real estate created or improved by capital if the number of such jobs estimated to be has been determined by an economically and statistically valid methodology and such jobs not existing jobs that have been relocated.

``(bb) Publicly available bonds.--The of Homeland Security shall prescribe regulations ensure that alien investor capital may not be utilized, by a new commercial enterprise or otherwise, to purchase municipal bonds or any bonds, if such bonds are available to the public, either as part of a primary offering or from a secondary market.

``(cc) Construction activity jobs.--If the number of direct jobs estimated to be created been determined by an economically and statistically valid methodology, and such direct jobs are created by construction activity less than 2 years, the number of such jobs that be considered direct jobs for purposes of clause (iv) shall be calculated by multiplying the number of such jobs estimated to be created by the fraction of the 2-year period that the activity lasts.

Security                   ``(vi) Amendments.--The Secretary of Homeland  
shall--

                  ``(I) require a regional center--

                  ``(aa) to notify the Secretary, not later  
than  
significant  
structure,  
of  
the  
to  
subparagraph  
any  
business

                  120 days before the implementation of  
proposed changes to its organizational  
ownership, or administration, including the sale  
such center, or other arrangements which would  
result in individuals not previously subject to  
requirements under subparagraph (H) becoming  
involved with the regional center; or  
                  ``(bb) if exigent circumstances are present,  
provide the notice described in item (aa) to the  
Secretary not later than 5 business days after a  
change described in such item; and

                  ``(II) adjudicate business plans under  
(F) and petitions under section 204(a)(1)(H) during  
notice period as long as the amendment to the  
or petition does not negatively impact program  
eligibility.

``(vii) Record keeping and audits.--

                  ``(I) Record keeping.--Each regional center  
shall  
beginning  
any  
to  
certifications  
seeking

                  make and preserve, during the 5-year period  
on the last day of the Federal fiscal year in which  
transactions occurred, books, ledgers, records, and  
other documentation from the regional center, new  
commercial enterprise, or job-creating entity used  
support--

                  ``(aa) any claims, evidence, or  
contained in the regional center's annual  
statements under subparagraph (G); and  
                  ``(bb) associated petitions by aliens

classification under this section or removal of conditions under section 216A.

5           ``(II) Audits.--The Secretary shall audit each regional center not less frequently than once every years. Each such audit shall include a review of any documentation required to be maintained under

subclause           (I) for the preceding 5 years and a review of the flow of alien investor capital into any capital investment project. To the extent multiple regional centers are located at a single site, the Secretary may audit multiple regional centers in a single site visit.

terminate           ``(III) Termination.--The Secretary shall the designation of a regional center that fails to consent to an audit under subclause (II) or deliberately attempts to impede such an audit.

``(F) Business plans for regional center investments.--

associated           ``(i) Application for approval of an investment in a petition commercial enterprise.--A regional center shall file an application with the Secretary of Homeland Security for each particular investment offering through an new commercial enterprise before any alien files a for classification under this paragraph by reason of investment in that offering. The application shall include--

specific           ``(I) a comprehensive business plan for a capital investment project;

economically       ``(II) a credible economic analysis regarding methodologies;       estimated job creation that is based upon and statistically valid and transparent

and                ``(III) any documents filed with the Securities Exchange Commission under the Securities Act of 1933 (15 U.S.C. 77a et seq.) or with the securities regulator of any State, as required by law;

term               ``(IV) any investment and offering documents, including subscription, investment, partnership, and operating agreements, private placement memoranda,

directors,         sheets, biographies of management, officers, and any person with similar responsibilities, the

description of the business plan to be provided to potential alien investors, and marketing materials used, or drafts prepared for use, in connection with the offering, which shall contain references, as appropriate, to--

associated                   ``(aa) all material investment risks  
with the new commercial enterprise and the job-  
creating entity;  
currently                   ``(bb) any conflicts of interest that  
exist or may arise among the regional center,  
the                           new commercial enterprise, the job-creating  
entity,                      or the principals, attorneys, or individuals  
responsible for recruitment or promotion of such  
entities;  
10-                          ``(cc) any pending material litigation or  
bankruptcy, or material adverse judgments or  
bankruptcy orders issued during the most recent  
creating                     year period, in the United States or in another  
country, affecting the regional center, the new  
commercial enterprise, any associated job-  
other                        entity, or any other enterprise in which any  
principal of any of the aforementioned entities  
held majority ownership at the time; and  
to                            ``(dd)(AA) any fees, ongoing interest, or  
investment;                 compensation paid, or to be paid by the regional  
performed,                  center, the new commercial enterprise, or any  
issuer of securities intended to be offered to  
any                          alien investors, to agents, finders, or broker  
dealers involved in the offering of securities  
procedures,                 alien investors in connection with the  
``(BB) a description of the services  
or that will be performed, by such person to  
entitle the person to such fees, interest, or  
compensation; and  
any                          ``(CC) the name and contact information of  
such person, if known at the time of filing;  
``(V) a description of the policies and  
procedures,                 such as those related to internal and external due  
diligence, reasonably designed to cause the regional  
center and any issuer of securities intended to be

offered to alien investors in connection with the relevant capital investment project, to comply, as applicable, with the securities laws of the United States and the laws of the applicable States in connection with the offer, purchase, or sale of its securities; and

to  
capital  
regional  
the  
center and such issuer of securities affiliated with the regional center are in compliance with the securities laws of the United States and the laws of the applicable States in connection with the offer, purchase, or sale of its securities, to the best of certifier's knowledge, after a due diligence investigation.

enterprise.--  
of  
classification  
by  
safety  
applicant  
material

``(ii) Effect of approval of a business plan for an investment in a regional center's commercial

The approval of an application under this subparagraph, including an approval before the date of the enactment

this subparagraph, shall be binding for purposes of the adjudication of subsequent petitions seeking

under this paragraph by immigrants investing in the same offering described in such application, and of petitions

the same immigrants filed under section 216A unless--

``(I) the applicant engaged in fraud, misrepresentation, or criminal misuse;

``(II) such approval would threaten public

or national security;

``(III) there has been a material change that affects eligibility;

``(IV) the discovery of other evidence affecting program eligibility was not disclosed by the

during the adjudication process; or

``(V) the previous adjudication involved a

mistake of law or fact.

``(iii) Amendments.--

Security  
may  
information,  
offering  
than

``(I) Approval.--The Secretary of Homeland  
may establish procedures by which a regional center  
seek approval of an amendment to an approved  
application under this subparagraph that reflects  
changes specified by the Secretary to any  
documents, or other aspects of the investment  
described in such approved application not later  
30 days after any such changes.

any  
incorporated  
eligibility

``(II) Incorporation.--Upon the approval of a  
timely filed amendment to an approved application,  
changes reflected in such amendment may be  
into and considered in determining program  
through adjudication of--

approved

``(aa) pending petitions from immigrants  
investing in the offering described in the  
application who are seeking classification under  
this paragraph; and  
``(bb) petitions by immigrants described in  
item (aa) that are filed under section 216A.

Security  
shall--

``(iv) Site visits.--The Secretary of Homeland

not

``(I) perform site visits to regional centers  
earlier than 24 hours after providing notice of such  
site visit; and  
``(II) perform at least 1 site visit to, as  
applicable, each new commercial enterprise or job-  
creating entity, or the business locations where any  
jobs that are claimed as being created.

Security  
shall--

``(v) Parameters for capital redeployment.--

title

``(I) In general.--The Secretary of Homeland  
Security shall prescribe regulations, in accordance  
with subchapter II of chapter 5 and chapter 7 of  
5, United States Code (commonly known as the  
'Administrative Procedure Act'), that allow a new  
commercial enterprise to redeploy investment funds  
anywhere within the United States or its territories  
for the purpose of maintaining the investors'

capital

at risk if--

investment requirements set the the job stocks

``(aa) the new commercial enterprise has executed the business plan for a capital project in good faith without a material change;

``(bb) the new commercial enterprise has created a sufficient number of new full time positions to satisfy the job creation of the program for all investors in the new commercial enterprise, either directly or indirectly, as evidenced by the methodologies forth in this Act;

``(cc) the job creating entity has repaid capital initially deployed in conformity with initial investment contemplated by the business plan; and

``(dd) the capital, after repayment by the creating entity, remains at risk and it is not redeployed in passive investments, such as or bonds.

regional of

``(II) Termination.--The Secretary of Homeland Security shall terminate the designation of a center if the Secretary determines that a new commercial enterprise has violated any of the requirements under subclause (I) in the redeployment funds invested in such regional center.

in Security.

``(G) Regional center annual statements.--

``(i) In general.--Each regional center designated under subparagraph (E) shall submit an annual statement, a manner prescribed by the Secretary of Homeland Security. Each such statement shall include--

of best

``(I) a certification stating that, to the best the certifier's knowledge, after a due diligence investigation, the regional center is in compliance with clauses (i) and (ii) of subparagraph (H);

``(II) a certification described in subparagraph (I)(ii)(II);

``(III) a certification stating that, to the

of the certifier's knowledge, after a due diligence investigation, the regional center is in compliance with subparagraph (K)(iii);

``(IV) a description of any pending material litigation or bankruptcy proceedings, or material litigation or bankruptcy proceedings resolved during the preceding fiscal year, involving the regional center, the new commercial enterprise, or any affiliated job-creating entity;

``(V) an accounting of all individual alien investor capital invested in the regional center,

new

commercial enterprise, and job-creating entity;

``(VI) for each new commercial enterprise associated with the regional center--

``(aa) an accounting of the aggregate

capital

invested in the new commercial enterprise and

any

job-creating entity by alien investors under

this

paragraph for each capital investment project

being

undertaken by the new commercial enterprise;

``(bb) a description of how the capital described in item (aa) is being used to execute each capital investment project in the filed business plan or plans;

capital

``(cc) evidence that 100 percent of the

each

described in item (aa) has been committed to

capital investment project;

made

``(dd) detailed evidence of the progress

toward the completion of each capital investment project;

``(ee) an accounting of the aggregate direct jobs created or preserved;

administrative

``(ff) to the best of the regional center's knowledge, for all fees, including

fees,

fees, loan monitoring fees, loan management

the

commissions and similar transaction-based compensation, collected from alien investors by

any

regional center, the new commercial enterprise,

affiliated job-creating entity, any affiliated issuer of securities intended to be offered to alien investors, or any promoter, finder,

broker-

dealer, or other entity engaged by any of the  
aforementioned entities to locate individual  
investors--

collected;  
that  
were  
collected;  
that  
were

``(AA) a description of all fees  
``(BB) an accounting of the entities

received such fees; and

``(CC) the purpose for which such fees  
collected;  
``(gg) any documentation referred to in  
subparagraph (F)(i)(IV) if there has been a  
material change during the preceding fiscal

year;

and

center  
``(hh) a certification by the regional

that the information provided under items (aa)  
through (gg) is accurate, to the best of the  
certifier's knowledge, after a due diligence  
investigation; and

the  
labor

``(VII) a description of the regional center's  
policies and procedures that are designed to enable  
regional center to comply with applicable Federal  
laws.

Secretary

``(ii) Amendment of annual statements.--The  
of Homeland Security--

or

``(I) shall require the regional center to amend  
supplement an annual statement required under clause  
(i) if the Secretary determines that such statement  
is  
deficient; and

is

or

``(II) may require the regional center to amend  
supplement such annual statement if the Director  
determines that such an amendment or supplement is  
appropriate.

with

submit

``(iii) Sanctions.--

``(I) Effect of violation.--The Director shall  
sanction any regional center entity in accordance  
subclause (II) if the regional center fails to  
an annual statement or if the Director determines

that

the regional center--

subparagraph

``(aa) knowingly submitted or caused to be submitted a statement, certification, or any information submitted pursuant to this

that contained an untrue statement of material fact; or

plan

``(bb) is conducting itself in a manner inconsistent with its designation under subparagraph (E), including any willful, undisclosed, and material deviation by new commercial enterprises from any filed business

for such new commercial enterprises.

``(II) Authorized sanctions.--The Director shall establish a graduated set of sanctions based on the severity of the violations referred to in subclause (I), including--

percent

``(aa) fines equal to not more than 10

in

of the total capital invested by alien investors

or

the regional center's new commercial enterprises

any

job-creating entities directly involved in such violations, the payment of which shall not in

investors'

circumstance utilize any of such alien

deposited

capital investments, and which shall be

into the EB-5 Integrity Fund established under subparagraph (J);

participation

``(bb) temporary suspension from

which

in the program described in subparagraph (E),

or

may be lifted by the Director if the individual

entity cures the alleged violation after being provided such an opportunity by the Director;

the

``(cc) permanent bar from participation in

more

program described in subparagraph (E) for 1 or

or

individuals or business entities associated with the regional center, new commercial enterprise,

job-creating entity; and

``(dd) termination of regional center

designation.

an  
to  
be  
alien  
creating  
center  
Security  
regional  
entity  
committed--

``(iv) Availability of annual statements to investors.--Not later than 30 days after a request from alien investor, a regional center shall make available to such alien investor a copy of the filed annual statement and any amendments filed to such statement, which shall be redacted to exclude any information unrelated to such alien investor or the new commercial enterprise or job creating entity into which the alien investor invested.

``(H) Bona fides of persons involved with regional program.--

``(i) In general.--The Secretary of Homeland Security may not permit any person to be involved with any regional center, new commercial enterprise, or job-creating entity if--

``(I) the person has been found to have

imprisonment

``(aa) a criminal or civil offense involving fraud or deceit within the previous 10 years;  
``(bb) a civil offense involving fraud or deceit that resulted in a liability in excess of \$1,000,000; or  
``(cc) a crime for which the person was convicted and sentenced to a term of imprisonment of more than 1 year;

for  
of a  
of

``(II) the person is subject to a final order, the duration of any penalty imposed by such order, State securities commission (or an agency or officer of a State performing similar functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing similar functions), an appropriate

Federal  
a

banking agency, the Commodity Futures Trading Commission, the Securities and Exchange Commission, financial self-regulatory organization recognized by

National the Securities and Exchange Commission, or the  
Credit Union Administration, which is based on a  
violation of any law or regulation that--

or                   ``(aa) prohibits fraudulent, manipulative,  
deceptive conduct; or  
regulated           ``(bb) bars the person from--  
                    ``(AA) association with an entity  
by such commission, authority, agency, or  
officer;  
                    ``(BB) appearing before such commission,  
authority, agency, or officer;  
                    ``(CC) engaging in the business of  
securities, insurance, or banking; or  
or                   ``(DD) engaging in savings association  
credit union activities;

is                   ``(III) the Secretary determines that the person  
engaged in, has ever been engaged in, or seeks to  
engage in--

(as                   ``(aa) any illicit trafficking in any  
Substances           controlled substance or in any listed chemical  
defined in section 102 of the Controlled  
Act);  
                    ``(bb) any activity relating to espionage,  
sabotage, or theft of intellectual property;  
                    ``(cc) any activity related to money  
laundering  
18,                   (as described in section 1956 or 1957 of title  
United States Code);  
                    ``(dd) any terrorist activity (as defined in  
section 212(a)(3)(B));  
                    ``(ee) any activity constituting or  
facilitating human trafficking or a human rights  
offense;  
                    ``(ff) any activity described in section  
212(a)(3)(E); or  
                    ``(gg) the violation of any statute,  
regulation, or Executive order regarding foreign  
financial transactions or foreign asset control;  
or

                    ``(IV) the person--  
                    ``(aa) is, or during the preceding 10 years

has  
List  
publicly  
deceit  
is  
or was a member.  
``(ii) Foreign involvement in regional center program.--  
``(I) Lawful status required.--A person may not  
be  
involved with a regional center unless the person--  
an  
``(aa) is a national of the United States or  
individual who has been lawfully admitted for  
in  
permanent residence (as such terms are defined  
paragraphs (20) and (22) of section 101(a)); and  
``(bb) is not the subject of rescission or  
removal proceedings.  
``(II) Foreign governments.--No agency,  
official,  
foreign  
or  
commercial  
investment  
or  
an  
affiliated job-creating entity.  
after  
``(III) Rulemaking.--Not later than 270 days  
the date of the enactment of the EB-5 Reform and  
Integrity Act of 2022, the Secretary shall issue  
regulations implementing subparagraphs (I) and (II).

``(iii) Information required.--The Secretary of Homeland Security--

fingerprints  
new  
creating  
with  
respect  
and  
(ii);  
require  
may  
involved  
with

``(I) shall require such attestations and information, including the submission of or other biometrics to the Federal Bureau of Investigation with respect to a regional center, a commercial enterprise, and any affiliated job entity, and persons involved with such entities (as described in clause (v)), as may be necessary to determine whether such entities are in compliance with clauses (i) and (ii);

``(II) shall perform such criminal record checks and other background and database checks with respect to a regional center, a new commercial enterprise, any affiliated job-creating entity, and persons involved with such entities (as described in clause (v)), as may be necessary to determine whether such entities are in compliance with clauses (i) and (ii);

and

``(III) may, at the Secretary's discretion, the information described to in subclause (I) and perform the checks described in subclause (II) with respect to any job creating entity and persons involved with such entity if there is a reasonable basis to believe such entity or person is not in compliance with clauses (i) and (ii).

``(iv) Termination.--

Secretary

``(I) In general.--The Secretary of Homeland Security may suspend or terminate the designation of any regional center, or the participation under the program of any new commercial enterprise or job-creating entity under this paragraph if the Secretary determines that such entity--

``(aa) knowingly involved a person with such entity in violation of clause (i) or (ii) by failing, within 14 days of acquiring such knowledge--

person's  
Secretary;  
clause  
attestation  
in  
shall  
job-  
prohibited  
new  
as  
have  
by

``(AA) to take commercially reasonable efforts to discontinue the prohibited involvement; or  
``(BB) to provide notice to the  
``(bb) failed to provide an attestation or information requested by the Secretary under  
(iii)(I); or  
``(cc) knowingly provided any false or information under clause (iii)(I).

``(II) Limitation.--The Secretary's authorized sanctions under subclause (I) shall be limited to entities that have engaged in any activity described in subclause (I).

``(III) Information.--  
``(aa) Notification.--The Secretary, after performing the criminal record checks and other background checks described in clause (iii),  
notify a regional center, new commercial enterprise, or job-creating entity whether any person involved with such entities is not in compliance with clause (i) or (ii), unless the information that provides the basis for the determination is classified or disclosure is otherwise prohibited under law.  
``(bb) Effect of failure to respond.--If the regional center, new commercial enterprise, or job-creating entity fails to discontinue the person's involvement with the regional center, commercial enterprise, or job-creating entity, as applicable, within 30 days after receiving such notification, such entity shall be deemed to have knowledge under subclause (I)(aa) that the involvement of such person with the entity is in violation of clause (i) or (ii).

``(v) Persons involved with a regional center, new commercial enterprise, or job-creating entity.--For the purposes of this paragraph, unless otherwise determined by the Secretary of Homeland Security, a person is involved with a regional center, a new commercial enterprise, any affiliated job-creating entity, as applicable, if the

person is, directly or indirectly, in a position of substantive authority to make operational or managerial decisions over pooling, securitization, investment, release, acceptance, or control or use of any funding that was procured under the program described in subparagraph (E). An individual may be in a position of substantive authority if the person serves as a principal, a representative, an administrator, an owner, an officer, a board member, a manager, an executive, a general partner, a fiduciary, an agent, or in a similar position at the regional center, new commercial enterprise, or job-creating entity, respectively.

``(I) Compliance with securities laws.--

``(i) Jurisdiction.--

``(I) In general.--The United States has jurisdiction, including subject matter jurisdiction, over the purchase or sale of any security offered or sold, or any investment advice provided, by any regional center or any party associated with a regional center for purposes of the securities laws.

``(II) Compliance with regulation s.--For purposes of section 5 of the Securities Act of 1933 (15 U.S.C. 77e), a regional center or any party associated with a regional center is not precluded from offering or selling a security pursuant to Regulation S (17 C.F.R. 230.901 et seq.) to the extent that such offering or selling otherwise complies with that regulation.

``(III) Savings provision.--Subclause (I) is not intended to modify any existing rules or regulations of the Securities and Exchange Commission related to the application of section 15(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78o(a)) to foreign brokers or dealers.

``(ii) Regional center certifications required.--

``(I) Initial certification.--The Secretary of Homeland Security may not approve an application for regional center designation or regional center amendment unless the regional center certifies that, to the best of the certifier's knowledge, after a due

diligence investigation, the regional center is in compliance with and has policies and procedures, including those related to internal and external due diligence, reasonably designed to confirm, as applicable, that all parties associated with the regional center are and will remain in compliance

with

the securities laws of the United States and of any State in which--

``(aa) the offer, purchase, or sale of securities was conducted;  
``(bb) the issuer of securities was located;

or

``(cc) the investment advice was provided by the regional center or parties associated with the regional center.

the

``(II) Reissue.--A regional center shall annually reissue a certification described in subclause (I), in accordance with subparagraph (G), to certify compliance with clause (iii) by stating that--

in

compliance

``(aa) the certification is made by a certifier;  
``(bb) to the best of the certifier's knowledge, after a due diligence investigation,

all

or

such offers, purchases, and sales of securities the provision of investment advice complied with the securities laws of the United States and the securities laws of any State in which--

``(AA) the offer, purchase, or sale of securities was conducted;  
``(BB) the issuer of securities was located; or  
``(CC) the investment advice was

provided;

and

related

``(cc) records, data, and information

to such offers, purchases, and sales have been maintained.

not

``(III) Effect of noncompliance.--If a regional center, through its due diligence, discovered during the previous fiscal year that the regional center or any party associated with the regional center was

the in compliance with the securities laws of the United States or the securities laws of any State in which securities activities were conducted by any party associated with the regional center, the certifier shall--

the ``(aa) describe the activities that led to noncompliance;  
``(bb) describe the actions taken to remedy noncompliance; and

all ``(cc) certify that the regional center and parties associated with the regional center are currently in compliance, to the best of the certifier's knowledge, after a due diligence investigation.

``(iii) Oversight required.--Each regional center shall--

sales ``(I) use commercially reasonable efforts to monitor and supervise compliance with the securities laws in relations to all offers, purchases, and of, and investment advice relating to, securities

made by parties associated with the regional center;  
``(II) maintain records, data, and information relating to all such offers, purchases, sales, and investment advice during the 5-year period beginning on the date of their creation; and

Secretary ``(III) make the records, data, and information described in subclause (II) available to the or to the Securities and Exchange Commission upon request.

any ``(iv) Suspension or termination.--In addition to other authority provided to the Secretary under this paragraph, the Secretary, in the Secretary's discretion, may suspend or terminate the designation of any regional center or impose other sanctions against the regional center if the regional center, or any parties associated with the regional center that the regional center knew or reasonably should have known--

or ``(I) are permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction in connection with the offer, purchase,

sale of a security or the provision of investment advice;

``(II) are subject to any final order of the Securities and Exchange Commission or a State securities regulator that--

with  
Exchange  
violation  
the  
advice

``(aa) bars such person from association an entity regulated by the Securities and Commission or a State securities regulator; or  
``(bb) constitutes a final order based on a finding of an intentional violation or a related to fraud or deceit in connection with offer, purchase, or sale of, or investment relating to, a security; or

contained

``(III) submitted, or caused to be submitted, a certification described in clause (ii) that an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

``(v) Defined term.--In this subparagraph, the term 'parties associated with a regional center' means--

affiliated  
associated  
attorneys,  
regional  
is  
any

``(I) the regional center;  
``(II) any new commercial enterprise or job-creating entity or issuer of securities with the regional center;  
``(III) the regional center's and new commercial enterprise's owners, officers, directors, managers, partners, agents, employees, promoters and or similar position, as determined by the Secretary; and  
``(IV) any person under the control of the center, new commercial enterprise, or issuer of securities associated with the regional center who responsible for the marketing, offering, or sale of security offered in connection with the capital investment project.

``(vi) Savings provision.--Nothing in this

subparagraph

may be construed to impair or limit the authority of the Securities and Exchange Commission under the Federal securities laws or any State securities regulator under State securities laws.

``(J) EB-5 integrity fund.--

known

``(i) Establishment.--There is established in the United States Treasury a special fund, which shall be

as the `EB-5 Integrity Fund' (referred to in this subparagraph as the `Fund'). Amounts deposited into the Fund shall be available to the Secretary of Homeland Security until expended for the purposes set forth in clause (iii).

``(ii) Fees.--

``(I) Annual fee.--On October 1, 2022, and each October 1 thereafter, the Secretary of Homeland Security shall collect for the Fund an annual fee--

under

``(aa) except as provided in item (bb), of \$20,000 from each regional center designated

subparagraph (E); and

``(bb) of \$10,000 from each such regional center with 20 or fewer total investors in the preceding fiscal year in its new commercial enterprises.

2022,

``(II) Petition fee.--Beginning on October 1,

the Secretary shall collect a fee of \$1,000 for the Fund with each petition filed under section 204(a)(1)(H) for classification under subparagraph

(E).

The fee under this subclause is in addition to the

fee

that the Secretary is authorized to establish and collect for each petition to recover the costs of adjudication and naturalization services under

section

286(m).

the

``(III) Increases.--The Secretary may increase

amounts

amounts under this clause by prescribing such regulations as may be necessary to ensure that

in the Fund are sufficient to carry out the purposes set forth in clause (iii).

``(iii) Permissible uses of fund.--The Secretary shall--

``(I) use not less than  $\frac{1}{3}$  of the amounts

deposited into the Fund for investigations based outside of the United States, including--

compliance                   ``(aa) monitoring and investigating program-related events and promotional activities; and  
                                  ``(bb) ensuring an alien investor's  
with subparagraph (L); and  
                                  ``(II) use amounts deposited into the Fund--  
                                  ``(aa) to detect and investigate fraud or  
other crimes;  
                                  ``(bb) to determine whether regional  
centers, new commercial enterprises, job-creating  
entities, and alien investors (and their alien spouses and  
alien children) comply with the immigration  
laws;  
                                  ``(cc) to conduct audits and site visits;  
and                                ``(dd) as the Secretary determines to be  
                                  necessary, including monitoring compliance with  
the requirements under section 107 of the EB-5  
Reform and Integrity Act of 2022.  
                                  ``(iv) Failure to pay fee.--The Secretary of  
Homeland Security shall--  
                                  ``(I) impose a reasonable penalty, which shall  
be deposited into the Fund, if any regional center does  
not pay the fee required under clause (ii) within 30  
days after the date on which such fee is due; and  
                                  ``(II) terminate the designation of any regional  
center that does not pay the fee required under  
clause (ii) within 90 days after the date on which such fee  
is due.  
                                  ``(v) Report.--The Secretary shall submit an annual  
report to the Committee on the Judiciary of the Senate  
and the Committee on the Judiciary of the House of  
Representatives that describes how amounts in the Fund  
were expended during the previous fiscal year.  
                                  ``(K) Direct and third-party promoters.--  
                                  ``(i) Rules and standards.--Direct and third-party

job- promoters (including migration agents) of a regional  
be center, any new commercial enterprise, an affiliated  
particular creating entity, or an issuer of securities intended to  
and offered to alien investors in connection with a  
Security capital investment project shall comply with the rules  
to standards prescribed by the Secretary of Homeland  
and any applicable Federal or State securities laws, to  
oversee promotion of any offering of securities related  
to the EB-5 Program, including--

``(I) registration with U.S. Citizenship and  
Immigration Services, which--

of ``(aa) includes identifying and contact  
information for such promoter and confirmation  
the existence of the written agreement required  
under clause (iii); and

``(bb) may be made publicly available at the  
discretion of the Secretary;

(i); ``(II) certification by each promoter that such  
promoter is not ineligible under subparagraph (H)

the ``(III) guidelines for accurately representing  
visa process to foreign investors; and

``(IV) guidelines describing permissible fee  
arrangements under applicable securities and  
immigration laws.

the ``(ii) Effect of violation.--If the Secretary  
determines that a direct or third-party promoter has  
violated clause (i), the Secretary shall suspend or  
permanently bar such individual from participation in  
the program described in subparagraph (E).

entity ``(iii) Compliance.--Each regional center, new  
commercial enterprise, and affiliated job-creating  
operating shall maintain a written agreement between or among such  
entities and each direct or third-party promoter  
on behalf of such entities that outlines the rules and  
standards prescribed under clause (i).

section ``(iv) Disclosure.--Each petition filed under  
204(a)(1)(H) shall include a disclosure, signed by the

investor, that reflects all fees, ongoing interest, and other compensation paid to any person that the regional center or new commercial enterprise knows has received, or will receive, in connection with the investment, including compensation to agents, finders, or broker dealers involved in the offering, to the extent not already specifically identified in the business plan filed under subparagraph (F).

``(L) Source of funds.--

demonstrate ``(i) In general.--An alien investor shall that the capital required under subparagraph (A) and any funds used to pay administrative costs and fees associated with the alien's investment were obtained from a lawful source and through lawful means.

Homeland ``(ii) Required information.--The Secretary of Security shall require that an alien investor's petition under this paragraph contain, as applicable--

records, ``(I) business and tax records, or similar including--

records; ``(aa) foreign business registration

(or ``(bb) corporate or partnership tax returns

filed tax returns of any other entity in any form

and in any country or subdivision of such country),

franchise, personal tax returns, including income,

intangible), property (whether real, personal, or

during or any other tax returns of any kind, filed

the past 7 years (or another period to be determined by the Secretary to ensure that the investment is obtained from a lawful source of funds) with any taxing jurisdiction within or outside the United States by or on behalf of the alien investor; and

other ``(cc) any other evidence identifying any source of capital or administrative fees;

``(II) evidence related to monetary judgments against the alien investor, including certified

copies

of any judgments, and evidence of all pending governmental civil or criminal actions, governmental administrative proceedings, and any private civil actions (pending or otherwise) involving possible monetary judgments against the alien investor from

any

court within or outside the United States; and  
``(III) the identity of all persons who transfer into the United States, on behalf of the investor,

any

funds that are used to meet the capital requirement under subparagraph (A).

``(iii) Gift and loan restrictions.--

funds--

``(I) In general.--Gifted and borrowed funds may not be counted toward the minimum capital investment requirement under subparagraph (C) unless such

circumvent

``(aa) were gifted or loaned to the alien investor in good faith; and

of

``(bb) were not gifted or loaned to

not

any limitations imposed on permissible sources of capital under this subparagraph, including but limited to proceeds from illegal activity.

includes

``(II) Records requirement.--If funds invested under subparagraph (A) are gifted or loaned to the alien investor, the Secretary shall require that the alien investor's petition under this paragraph

the records described in subclauses (I) and (II) of clause (ii) from the donor or, if other than a bank, the lender.

program

``(M) Treatment of good faith investors following

noncompliance.--

Except

``(i) Termination or debarment of eb-5 entity.--

as provided in clause (vi), upon the termination or debarment, as applicable, from the program under this paragraph of a regional center, a new commercial enterprise, or a job-creating entity--

section

``(I) an otherwise qualified petition under

of

204(a)(1)(H) or the conditional permanent residence

an alien who has been admitted to the United States pursuant to section 216A(a)(1) based on an investment in a terminated regional center, new commercial enterprise, or job-creating entity shall remain valid or continue to be authorized, as applicable, consistent with this subparagraph; and

``(II) the Secretary of Homeland Security shall notify the alien beneficiaries of such petitions of such termination or debarment.

``(ii) New regional center or investment.--The petition clause (i) and the conditional permanent resident status of an alien described in clause (i) shall be terminated 180 days after notification of the termination from the program under this paragraph of a regional center, a new commercial enterprise, or a job creating entity (but not sooner than 180 days after the date of the enactment of the EB-5 Reform and Integrity Act of 2022) unless--

``(I) in the case of the termination of a regional center--

``(aa) the new commercial enterprise associates with an approved regional center, regardless of the approved geographical boundaries of such regional center's designation; or

``(bb) such alien makes a qualifying investment in another new commercial enterprise; or

``(II) in the case of the debarment of a new commercial enterprise or job-creating entity, such alien--

``(aa) associates with a new commercial enterprise in good standing; and

``(bb) invests additional investment capital solely to the extent necessary to satisfy remaining job creation requirements under subparagraph

(A)(ii).

``(iii) Amendments.--

applicable

``(I) Filing requirement.--The Secretary shall permit a petition described in clause (i)(I) to be amended to allow such petition to meet the

requirements

eligibility requirements under clause (ii), or to notify the Secretary that a pending or approved petition continues to meet the eligibility

or

described in clause (ii) notwithstanding termination

is

debarment described in clause (i) if such amendment

a

filed not later than 180 days after the Secretary provides notification of termination or debarment of

job-

regional center, a new commercial enterprise, or a

creating entity, as applicable.

purposes

``(II) Determination of eligibility.--For

of determining eligibility under subclause (I)--

to

``(aa) the Secretary shall permit amendments

and

the business plan, without such facts underlying the amendment being deemed a material change;

recovered

``(bb) may deem any funds obtained or

from

by an alien investor, directly or indirectly,

insurance

claims against third parties, including

subparagraph

proceeds, or any additional investment capital provided by the alien, to be such alien's investment capital for the purposes of

the

(A) if such investment otherwise complies with

216A.

requirements under this paragraph and section

``(iv) Removal of conditions.--Aliens described in subclauses (I)(bb) and (II) of clause (ii) shall be eligible to have their conditions removed pursuant to section 216A beginning on the date that is 2 years after the date of the subsequent investment.

clause

``(v) Remedies.--For petitions approved under clause (ii), including following an amendment filed under

(iii), the Secretary--

date  
of  
paragraph.

``(I) shall retain the immigrant visa priority related to the original petition and prevent age-out derivative beneficiaries; and  
``(II) may hold such petition in abeyance and extend any applicable deadlines under this

center,  
described

``(vi) Exception.--If the Secretary has reason to believe that an alien was a knowing participant in the conduct that led to the termination of a regional new commercial enterprise, or job-creating entity in clause (i)--

benefit

``(I) the alien shall not be accorded any under this subparagraph; and  
``(II) the Secretary shall--

approval  
benefit

``(aa) notify the alien of such belief; and  
``(bb) subject to section 216A(b)(2), shall deny or initiate proceedings to revoke the of such alien's petition, application, or (and that of any spouse or child, if applicable) described in this paragraph.

Homeland  
petition,  
that  
is  
for

``(N) Threats to the national interest.--  
``(i) Denial or revocation.--The Secretary of Security shall deny or revoke the approval of a application, or benefit described in this paragraph, including the documents described in clause (ii), if the Secretary determines, in the Secretary's discretion, the approval of such petition, application, or benefit contrary to the national interest of the United States reasons relating to threats to public safety or national security.

to

``(ii) Documents.--The documents described in this clause are--  
``(I) a certification, designation, or amendment the designation of a regional center;  
``(II) a petition seeking classification of an alien as an alien investor under this paragraph;  
``(III) a petition to remove conditions under

section 216A;  
subparagraph (F); or  
permanent (V) a document evidencing conditional  
to resident status that was issued to an alien pursuant  
to section 216A.

(iii) Debarment.--If a regional center, new  
safety commercial enterprise, or job-creating entity has its  
creating designation or participation in the program under this  
permanently paragraph terminated for reasons relating to public  
this barred from future participation in the program under  
of paragraph if the Secretary of Homeland Security, in the  
in Secretary's discretion, determines, by a preponderance  
the evidence, that such person was a knowing participant  
the conduct that led to the termination.

(iv) Notice.--If the Secretary of Homeland  
Security determines that the approval of a petition, application,  
or benefit described in this paragraph should be denied or  
revoked pursuant to clause (i), the Secretary shall--

(I) notify the relevant individual, regional  
application, center, or commercial entity of such determination;  
status (II) deny or revoke such petition,  
children or benefit or terminate the permanent resident  
of the alien (and the alien spouse and alien  
of such immigrant), as of the date of such  
determination; and  
the (III) provide any United States-owned regional  
center, new commercial enterprise, or job creating  
entity an explanation for such determination unless  
relevant information is classified or disclosure is  
otherwise prohibited under law.

(v) Judicial review.--Notwithstanding any other

provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other such denial or revocation under this subparagraph. Nothing in this clause may be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with section 242.

``(O) Fraud, misrepresentation, and criminal misuse.--

``(i) Denial or revocation.--Subject to subparagraph (M), the Secretary of Homeland Security shall deny or revoke the approval of a petition, application, or benefit described in this paragraph, including the documents described in subparagraph (N)(ii), if the Secretary determines, in the Secretary's discretion, that such petition, application, or benefit was predicated on or involved fraud, deceit, intentional material misrepresentation, or criminal misuse.

``(ii) Debarment.--If a regional center, new commercial or person associated with such regional center, new commercial enterprise, or job-creating entity, including an alien investor, shall be permanently barred from future participation in the program if the Secretary determines, in the Secretary's discretion, by a preponderance of the evidence, that such person was a knowing participant in the conduct that led to the termination.

``(iii) Notice.--If the Secretary determines that approval of a petition, application, or benefit described in this paragraph should be denied or revoked pursuant to clause (i), the Secretary shall--

``(I) notify the relevant individual, regional center, or commercial entity of such determination; and

``(II) deny or revoke such petition, application, or benefit or terminate the permanent resident

status  
children  
as  
of the alien (and the alien spouse and alien  
of such immigrant), in accordance with clause (i),  
of the date of such determination.

``(P) Administrative appellate review.--  
``(i) In general.--The Director of U.S. Citizenship  
and  
Immigration Services shall provide an opportunity for an  
administrative appellate review by the Administrative  
Appeals Office of U.S. Citizenship and Immigration  
Services  
including--  
of any determination made under this paragraph,

``(I) an application for regional center  
designation or regional center amendment;  
``(II) an application for approval of a business  
plan filed under subparagraph (F);  
``(III) a petition by an alien investor for  
status  
as an immigrant under this paragraph;  
``(IV) the termination or suspension of any  
benefit  
accorded under this paragraph; and  
``(V) any sanction imposed by the Secretary  
under  
this paragraph.

``(ii) Judicial review.--Subject to subparagraph (N)  
(v)  
and section 242(a)(2), and notwithstanding any other  
provision of law (statutory or nonstatutory), including  
section 2241 of title 28, United States Code, or any  
other  
such  
habeas corpus provision, and sections 1361 and 1651 of  
title, no court shall have jurisdiction to review a  
determination under this paragraph until the regional  
center, its associated entities, or the alien investor  
has  
exhausted all administrative appeals.

``(Q) Fund administration.--  
``(i) In general.--Each new commercial enterprise  
shall  
alien  
in  
escrow.  
deposit and maintain the capital investment of each  
investor in a separate account, including amounts held  
may  
``(ii) Use of funds.--Amounts in a separate account

only--

or  
intended;  
this

``(I) be transferred to another separate account  
a job creating entity;  
``(II) otherwise be deployed into the capital  
investment project for which the funds were  
or  
``(III) be transferred to the alien investor who  
contributed the funds as a refund of that investor's  
capital investment, if otherwise permitted under  
paragraph.

(I)--

``(iii) Deployment of funds into an affiliated job-  
creating entity.--If amounts are transferred to an  
affiliated job-creating entity pursuant to clause (ii)

they  
affiliated  
the

``(I) the affiliated job-creating entity shall  
maintain such amounts in a separate account until  
are deployed into the capital investment project for  
which they were intended; and  
``(II) not later than 30 days after such amounts  
are deployed pursuant to subclause (I), the  
job-creating entity shall provide written notice to  
fund administrator retained pursuant to clause (iv)  
that a construction consultant or other individual  
authorized by the Secretary has verified that such  
amounts have been deployed into the project.

this

``(iv) Fund administrator.--Except as provided in  
clause (v), the new commercial enterprise shall retain a  
fund administrator to fulfill the requirements under  
subparagraph. The fund administrator--

regional  
enterprise,

``(I) shall be independent of, and not directly  
related to, the new commercial enterprise, the  
center associated with the new commercial  
the job creating entity, or any of the principals or  
managers of such entities;  
``(II) shall be licensed, active, and in good  
standing as--

- ``(aa) a certified public accountant;
- ``(bb) an attorney;
- ``(cc) a broker-dealer or investment adviser

registered with the Securities and Exchange Commission; or  
otherwise      ``(dd) an individual or company that  
meets such requirements as may be established by the Secretary;

separate      ``(III) shall monitor and track any transfer of amounts from the separate account;  
separate      ``(IV) shall serve as a cosignatory on all accounts;  
separate      ``(V) before any transfer of amounts from a separate account, shall--

with      ``(aa) verify that the transfer complies  
organizational,      all governing documents, including  
operational, and investment documents; and  
or      ``(bb) approve such transfer with a written  
electronic signature;

is      ``(VI) shall periodically provide each alien investor with information about the activity of the account in which the investor's capital investment  
held, including--

by      ``(aa) the name and location of the bank or financial institution at which the account is maintained;  
``(bb) the history of the account; and  
``(cc) any additional information required  
the Secretary; and

year      ``(VII) shall make and preserve, during the 5-  
fiscal      period beginning on the last day of the Federal  
to      year in which any transactions occurred, books,  
the      ledgers, records, and other documentation necessary  
Secretary upon request.

Homeland      ``(v) Waiver.--  
Security, after consultation with the Securities and

Exchange Commission, may waive the requirements under clause (iv) for any new commercial enterprise or affiliated job-creating entity that is controlled by or under common control of an investment adviser or broker-dealer that is registered with the Securities and Exchange Commission if the Secretary, in the Secretary's discretion, determines that the Securities and Exchange Commission provides comparable protections and transparency for alien investors as the protections and transparency provided under clause (iv).

``(II) Waiver required.--The Secretary of Homeland Security shall waive the requirements under clause (iv) for any new commercial enterprise that commissions an annual independent financial audit of such new commercial enterprise or job creating entity conducted in accordance with Generally Accepted Auditing Standards, which audit shall be provided to the Secretary and all investors in the new commercial enterprise.

``(vi) Defined term.--In this subparagraph, the term 'separate account' means an account that--

``(I) is maintained in the United States by a new commercial enterprise or job creating entity at a federally regulated bank or at another financial institution (as defined in section 20 of title 18, United States Code) in the United States;

``(II) is insured; and

``(III) contains only the pooled investment funds of alien investors in a new commercial enterprise with respect to a single capital investment project.''.

(2) Effective date.--The amendment made by this subsection shall take effect on the date that is 60 days after the date of the enactment of this Act.

(c) Required Checks.--

(1) In general.--Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), as amended by subsection (b), is further amended by adding at the end the following:

``(R) Required checks.--Any petition filed by an alien

under section 204(a)(1)(H) may not be approved under this paragraph unless the Secretary of Homeland Security has searched for the alien and any associated employer of such alien on the Specially Designated Nationals List of the Department of the Treasury Office of Foreign Assets

Control.''.

(2) Effective date.--The amendment made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 104. CONDITIONAL PERMANENT RESIDENT STATUS FOR ALIEN INVESTORS, SPOUSES, AND CHILDREN.

(a) In General.--Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended--

(1) by striking ``Attorney General'' each place such term appears (except in subsection (d)(2)(C)) and inserting ``Secretary of Homeland Security'';

(2) by striking ``entrepreneur'' each place such term appears and inserting ``investor'';

(3) in subsection (a), by amending paragraph (1) to read as follows:

``(1) Conditional basis for status.--An alien investor, alien spouse, and alien child shall be considered, at the time of obtaining status as an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.'';

(4) in subsection (b)--

(A) in the subsection heading, by striking ``Entrepreneurship'' and inserting ``Investment''; and

(B) by amending paragraph (1)(B) to read as follows:

``(B) the alien did not invest the requisite capital;

or'';

(5) in subsection (c)--

(A) in the subsection heading, by striking ``of Timely Petition and Interview'';

(B) in paragraph (1)--

(i) in the matter preceding subparagraph (A), by striking ``In order'' and inserting ``Except as provided

in

paragraph (3)(D), in order'';

(ii) in subparagraph (A)--

(I) by striking ``must'' and inserting

``shall'';

and

(II) by striking `` , and'' and inserting a semicolon;

(iii) in subparagraph (B)--

(I) by striking ``must'' and inserting

``shall'';

(II) by striking ``Service'' and inserting

``Department of Homeland Security''; and  
(III) by striking the period at the end and  
inserting ``; and''; and

(iv) by adding at the end the following:

``(C) the Secretary shall have performed a site visit to  
the relevant corporate office or business location described

in

section 203(b)(5)(F)(iv).''; and

(C) in paragraph (3)--

(i) in subparagraph (A), in the undesignated matter  
following clause (ii), by striking ``the'' before ``such  
filing''; and

(ii) by amending subparagraph (B) to read as

follows:

``(B) Removal or extension of conditional basis.--

``(i) In general.--Except as provided in clause

(ii),

if the Secretary determines that the facts and

information

contained in a petition submitted under paragraph (1)(A)  
are true, including demonstrating that the alien

complied

with subsection (d)(1)(B)(i), the Secretary shall--

``(I) notify the alien involved of such  
determination; and

``(II) remove the conditional basis of the

alien's

status effective as of the second anniversary of the  
alien's lawful admission for permanent residence.

``(ii) Exception.--If the petition demonstrates that  
the facts and information are true and that the alien is

in

compliance with subsection (d)(1)(B)(ii)--

``(I) the Secretary, in the Secretary's

discretion,

may provide a 1-year extension of the alien's  
conditional status; and

``(II)(aa) if the alien files a petition not

later

than 30 days after the third anniversary of the

alien's

lawful admission for permanent residence

demonstrating

that the alien complied with subsection (d)(1)(B)

(i),

the Secretary shall remove the conditional basis of

the

alien's status effective as of such third

anniversary;

or

``(bb) if the alien does not file the petition described in item (aa), the conditional status shall terminate at the end of such additional year.'';

(6) in subsection (d)--

(A) in paragraph (1)--

(i) by amending subparagraph (A) to read as follows:

``(A) invested the requisite capital.'';

subparagraph (ii) by redesignating subparagraph (B) as

(C); and

(iii) by inserting after subparagraph (A) the following:

``(B)(i) created the employment required under section 203(b)(5)(A)(ii); or

``(ii) is actively in the process of creating the employment required under section 203(b)(5)(A)(ii) and will create such employment before the third anniversary of the alien's lawful admission for permanent residence, provided

that

such alien's capital will remain invested during such time; and'';

read (B) in paragraph (2), by amending subparagraph (A) to

as follows:

``(A) Ninety-day period before second anniversary.--

``(i) In general.--Except as provided in clause (ii) and subparagraph (B), a petition under subsection (c)(1)

(A)

shall be filed during the 90-day period immediately preceding the second anniversary of the alien investor's lawful admission for permanent residence.

``(ii) Exception.--Aliens described in subclauses (I)(bb) and (II) of section 203(b)(5)(M)(ii) shall file

a

petition under subsection (c)(1)(A) during the 90-day period before the second anniversary of the subsequent investment.''; and

(C) in paragraph (3)--

(i) by striking ``The interview'' and inserting the following:

``(A) In general.--The interview'';

``Department (ii) by striking ``Service'' and inserting

of Homeland Security''; and

the (iii) by striking the last sentence and inserting

following:

the ``(B) Waiver.--The Secretary of Homeland Security, in

Secretary's discretion, may waive the deadline for an

interview under subsection (c)(1)(B) or the requirement for such an interview according to criteria developed by U.S.

Citizenship

and Immigration Services, in consultation with its Fraud Detection and National Security Directorate and U.S. Immigration and Customs Enforcement, provided that such criteria do not include a reduction of case processing times

or

the allocation of adjudicatory resources. A waiver may not

be

granted under this subparagraph if the alien to be interviewed--

``(i) invested in a regional center, new commercial enterprise, or job-creating entity that was sanctioned under section 203(b)(5); or

``(ii) is in a class of aliens determined by the Secretary to be threats to public safety or national security.''; and

(7) in subsection (f)(3), by striking ``a limited partnership''

and inserting ``any entity formed for the purpose of doing for-profit business''.

(b) Effective Dates.--

(1) In general.--Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of

the enactment of this Act.

(2) Exceptions.--

(A) Site visits.--The amendment made by subsection (a)(5)(B)(iv) shall take effect on the date that is 2 years after the date of the enactment of this Act.

(B) Petition beneficiaries.--The amendments made by subsection (a) shall not apply to the beneficiary of a petition

that is filed under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) if the underlying petition

was

filed under section 203(b)(5) of such Act (8 U.S.C. 1153(b)

(5))

before the date of the enactment of this Act.

SEC. 105. PROCEDURE FOR GRANTING IMMIGRANT STATUS.

(a) Filing Order and Eligibility.--Section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) is amended to

read as follows:

``(H)(i) Any alien seeking classification under section 203(b) (5)

may file a petition for such classification with the Secretary of Homeland Security. An alien seeking to pool his or her investment with

1 or more additional aliens seeking classification under section 203(b)(5) shall file for such classification in accordance with section

203(b)(5)(E), or before the date of the enactment of the EB-5 Reform and Integrity Act of 2022, in accordance with section 203(b)(5). An alien petitioning for classification under section 203(b)(5)(E) may

file a petition with the Secretary after a regional center has filed an application for approval of an investment under section 203(b)(5)(F).

“(ii) A petitioner described in clause (i) shall establish eligibility at the time he or she files a petition for classification under section 203(b)(5). A petitioner who was eligible for such classification at the time of such filing shall be deemed eligible for such classification at the time such petition is adjudicated, subject to the approval of the petitioner's associated application under section 203(b)(5)(F), if applicable.”.

(b) Effective Dates.--

(1) In general.--The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Applicability to petitions.--Section 204(a)(1)(H)(i) of the Immigration and Nationality Act, as added by subsection (a), shall apply to any petition for classification pursuant to section 203(b)(5)(E) of such Act (8 U.S.C. 1153(b)(5)(E)) that is filed with the Secretary of Homeland Security on or after the date of the enactment of this Act.

(c) Adjudication of Petitions.--The Secretary of Homeland Security shall continue to adjudicate petitions and benefits under sections 203(b)(5) and 216A of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5) and 1186b) during the implementation of this Act and the amendments made by this Act.

SEC. 106. TIMELY PROCESSING.

(a) Fee Study.--Not later than 1 year after the date of the enactment of this Act, the Director of U.S. Citizenship and Immigration Services shall complete a study of fees charged in the administration of the program described in sections 203(b)(5) and 216A of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5) and 1186b).

(b) Adjustment of Fees To Achieve Efficient Processing.--Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and except as provided under subsection (c), the Director, not later than 60 days after the completion of the study under subsection (a), shall set fees for services provided under sections 203(b)(5) and 216A of such Act (8 U.S.C. 1153(b)(5) and 1186b) at a level sufficient to ensure the full recovery only of the costs of providing such services, including the cost of attaining the goal of completing adjudications, on average, not later than--

(1) 180 days after receiving a proposal for the establishment

of a regional center described in section 203(b)(5)(E) of such Act;

(2) 180 days after receiving an application for approval of an

investment in a new commercial enterprise described in section 203(b)(5)(F) of such Act;

(3) 90 days after receiving an application for approval of an

investment in a new commercial enterprise described in section 203(b)(5)(F) of such Act that is located in a targeted employment

area (as defined in section 203(b)(5)(D) of such Act);

(4) 240 days after receiving a petition from an alien desiring

to be classified under section 203(b)(5)(E) of such Act;

(5) 120 days after receiving a petition from an alien desiring

to be classified under section 203(b)(5)(E) of such Act with respect to an investment in a targeted employment area (as

defined in section 203(b)(5)(D) of such Act); and

(6) 240 days after receiving a petition from an alien for removal of conditions described in section 216A(c) of such Act.

(c) Additional Fees.--Fees in excess of the fee levels described in subsection (b) may be charged only--

(1) in an amount that is equal to the amount paid by all other

classes of fee-paying applicants for immigration-related benefits,

to contribute to the coverage or reduction of the costs of processing or adjudicating classes of immigration benefit applications that Congress, or the Secretary of Homeland

Security in the case of asylum applications, has authorized to be

processed or adjudicated at no cost or at a reduced cost to the applicant; and

(2) in an amount that is not greater than 1 percent of the fee

for filing a petition under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), to make improvements

to the information technology systems used by the Secretary of Homeland Security to process, adjudicate, and archive

applications and petitions under such section, including the conversion to

electronic format of documents filed by petitioners and applicants

for benefits under such section.

(d) Exemption From Paperwork Reduction Act.--During the 1-year period beginning on the date of the enactment of this Act, the requirements under chapter 35 of title 44, United States Code, shall not apply to any collection of information required under this

division, any amendment made by this division, or any rule promulgated by the Secretary of Homeland Security to implement this division or the amendments made by this division, to the extent that the Secretary determines that compliance with such requirements would impede the expeditious implementation of this division or the amendments made by this division.

(e) Rule of Construction Regarding Adjudication Delays.--Nothing in this division may be construed to limit the authority of the Secretary of Homeland Security to suspend the adjudication of any application or petition under section 203(b)(5) or 216A of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5) and 1186b) pending the completion of a national security or law enforcement investigation relating to such application or petition.

(f) Rule of Construction Regarding Modification of Fees.--Nothing in this section may be construed to require any modification of fees before the completion of--

(1) the fee study described in subsection (a); or

(2) regulations promulgated by the Secretary of Homeland Security, in accordance with subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly known as the ``Administrative Procedure Act''), to carry out subsections (b) and

(c).

#### SEC. 107. TRANSPARENCY.

(a) In General.--Employees of the Department of Homeland Security, including the Secretary of Homeland Security, the Secretary's counselors, the Assistant Secretary for the Private Sector, the Director of U.S. Citizenship and Immigration Services, counselors to such Director, and the Chief of the Immigrant Investor Programs Office (or any successor to such Office) at U.S. Citizenship and Immigration Services, shall act impartially and may not give preferential treatment to any entity, organization, or individual in connection with any aspect of the immigrant visa program described in section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)).

(b) Improper Activities.--Activities that constitute preferential treatment under subsection (a) shall include--

(1) working on, or in any way attempting to influence, in a manner not available to or accorded to all other petitioners, applicants, and seekers of benefits under the immigrant visa

of program referred to in subsection (a), the standard processing  
of an application, petition, or benefit for--

- (A) a regional center;
- (B) a new commercial enterprise;
- (C) a job-creating entity; or
- (D) any person or entity associated with such regional center, new commercial enterprise, or job-creating entity;

and (2) meeting or communicating with persons associated with  
the entities listed in paragraph (1), at the request of such

persons,  
in a manner not available to or accorded to all other  
petitioners,  
applicants, and seekers of benefits under such immigrant visa  
program.

(c) Reporting of Communications.--

(1) Written communication.--Employees of the Department of  
Homeland Security, including the officials listed in subsection  
(a), shall include, in the record of proceeding for a case under  
section 203(b)(5) of the Immigration and Nationality Act (8  
U.S.C.

1153(b)(5)), actual or electronic copies of all case-specific  
written communication, including emails from government and  
private accounts, with non-Department persons or entities advocating for  
regional center applications or individual petitions under such  
section that are pending on or after the date of the enactment

of this Act (other than routine communications with other agencies  
of the Federal Government regarding the case, including

communications involving background checks and litigation defense).

(2) Oral communication.--If substantive oral communication,  
including telephonic communication, virtual communication, or  
in-person meetings, takes place between officials of the Department  
of Homeland Security and non-Department persons or entities

advocating for regional center applications or individual petitions under  
section 203(b)(5) of such Act that are pending on or after the  
date of the enactment of this Act (except communications exempted

under paragraph (1))--  
(A) the conversation shall be recorded; or  
(B) detailed minutes of the session shall be taken and  
included in the record of proceeding.

(3) Notification.--

(A) In general.--If the Secretary, in the course of  
written

or oral communication described in this subsection, receives evidence about a specific case from anyone other than an affected party or his or her representative (excluding Federal Government or law enforcement sources), such information may not be made part of the record of proceeding and may not be considered in adjudicative proceedings unless--

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

(ii) if such evidence is derogatory, the affected party has been given an opportunity to respond to the evidence.

(B) Information from law enforcement, intelligence agencies, or confidential sources.--

(i) Law enforcement or intelligence agencies.-- Evidence received from law enforcement or intelligence agencies may not be made part of the record of proceeding without the consent of the relevant agency or law enforcement entity.

(ii) Whistleblowers, confidential sources, or intelligence agencies.--Evidence received from whistleblowers, other confidential sources, or the intelligence community that is included in the record of proceeding and considered in adjudicative proceedings shall be handled in a manner that does not reveal the identity of the whistleblower or confidential source, or reveal classified information.

(d) Consideration of Evidence.--

(1) In general.--No case-specific communication with persons or entities that are not part of the Department of Homeland Security may be considered in the adjudication of an application or petition under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) unless the communication is included in the record of proceeding of the case.

(2) Waiver.--The Secretary of Homeland Security may waive the requirement under paragraph (1) only in the interests of national security or for investigative or law enforcement purposes.

(e) Channels of Communication.--

(1) Email address or equivalent.--The Director of U.S. Citizenship and Immigration Services shall maintain an email account (or equivalent means of communication) for persons or entities--

(A) with inquiries regarding specific petitions or

applications under the immigrant visa program described in section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)); or

the (B) seeking information that is not case-specific about the immigrant visa program described in such section 203(b)(5).

(2) Communication only through appropriate channels or offices.--

(A) Announcement of appropriate channels of communication.--Not later than 40 days after the date of the enactment of this Act, the Director of U.S. Citizenship and Immigration Services shall announce that the only channels

or offices by which industry stakeholders, petitioners, applicants, and seekers of benefits under the immigrant visa program described in section 203(b)(5) of the Immigration

and Nationality Act (8 U.S.C. 1153(b)(5)) may communicate with

the Department of Homeland Security regarding specific cases

under such section (except for communication made by applicants

and petitioners pursuant to regular adjudicatory procedures), or information that is not case-specific about the visa program applicable to certain cases under such section, are

through--

described (i) the email address or equivalent channel

in paragraph (1);

(ii) the National Customer Service Center, or any successor to such Center; or

(iii) the Office of Public Engagement, Immigrant Investor Program Office, including the Stakeholder Engagement Branch, or any successors to those Offices or that Branch.

(B) Direction of incoming communications.--

in (i) In general.--Employees of the Department of Homeland Security shall direct communications described

subparagraph (A) to the channels of communication or offices listed in clauses (i) through (iii) of

subparagraph

(A).

(ii) Rule of construction.--Nothing in this subparagraph may be construed to prevent--

Services (I) any person from communicating with the Ombudsman of U.S. Citizenship and Immigration

section regarding the immigrant investor program under

203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)); or

to  
Homeland  
(II) the Ombudsman from resolving problems regarding such immigrant investor program pursuant to the authority granted under section 452 of the Security Act of 2002 (6 U.S.C. 272).

and  
electronic  
(C) Log.--  
(i) In general.--The Director of U.S. Citizenship Immigration Services shall maintain a written or log of--

which  
(I) all communications described in subparagraph (A) and communications from Members of Congress, shall reference the date, time, and subject of the communication, and the identity of the Department official, if any, to whom the inquiry was forwarded;

the  
(II) with respect to written communications described in subsection (c)(1), the date on which communication was received, the identities of the sender and addressee, and the subject of the communication; and

described  
(III) with respect to oral communications in subsection (c)(2), the date on which the communication occurred, the participants in the conversation or meeting, and the subject of the communication.

described  
(ii) Transparency.--The log of communications in clause (i) shall be made publicly available in accordance with section 552 of title 5, United States

Code  
(commonly known as the ``Freedom of Information Act``).

after a  
about  
as  
of  
has  
of  
(3) Publication of information.--Not later than 30 days after a person or entity inquiring about a specific case or generally about the immigrant visa program described in section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) receives, a result of a communication with an official of the Department of Homeland Security, generally applicable information that is not case-specific about program requirements or administration that has not been made publicly available by the Department, the Director of U.S. Citizenship and Immigration Services shall publish such

information on the U.S. Citizenship and Immigration Services website as an update to the relevant Frequently Asked Questions page or by some other comparable mechanism.

(f) Penalty.--

(1) In general.--Any person who intentionally violates the prohibition on preferential treatment under this section or intentionally violates the reporting requirements under subsection

(c) shall be disciplined in accordance with paragraph (2).

(2) Sanctions.--Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish a graduated set of sanctions based on the severity of the

violation referred to in paragraph (1), which may include, in addition to any criminal or civil penalties that may be imposed, written reprimand, suspension, demotion, or removal.

(g) Rule of Construction Regarding Classified Information.-- Nothing

in this section may be construed to modify any law, regulation, or policy regarding the handling or disclosure of classified information.

(h) Rule of Construction Regarding Private Right of Action.-- Nothing in this section may be construed to create or authorize a private right of action to challenge a decision of an employee of the Department of Homeland Security.

(i) Effective Date.--This section, and the amendments made by this section, shall take effect on the date of the enactment of this Act.

#### SEC. 108. PROTECTION FROM EXPIRED LEGISLATION.

Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), as amended by sections 102 and 103 of this division, is further amended by adding at the end the following:

``(S) Protection from expired legislation.-- Notwithstanding

the expiration of legislation authorizing the regional center

program under subparagraph (E), the Secretary of Homeland Security--

a  
center  
(i) shall continue processing petitions under sections 204(a)(1)(H) and 216A based on an investment in a new commercial enterprise associated with a regional center

that were filed on or before September 30, 2026;

(i) (ii) may not deny a petition described in clause

based on the expiration of such legislation; and

of (iii) may not suspend or terminate the allocation

described visas to the beneficiaries of approved petitions

in clause (i).''.

