A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Immigrant Investor Program Reform Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Invest in American job creation.
Sec. 3. Transparency.
Sec. 4. Treatment of period for purposes of naturalization.
Sec. 5. Concurrent filing of EB–5 petitions and applications for adjustment of status.
Sec. 6. Parole status for petitioners and dependents awaiting availability of an immigrant visa.

1 SEC. 2. INVEST IN AMERICAN JOB CREATION.

(a) In General.—Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended to read as follows:

“(5) Employment Creation.—

“(A) In General.—Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified immigrants seeking to enter the United States for the purpose of investing in a new commercial enterprise, directly or in a new commercial enterprise associated with a regional center under subparagraph (B)—

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

“(ii) that will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immi-
grant and the immigrant’s spouse, sons, or
daughters).

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

“(C) Reservation for targeted em-
ployment areas.—

“(i) In general.—Of the number of
visas allocated under subparagraph (A), 30
percent shall be reserved in each fiscal
year before fiscal year 2026 for qualified
immigrants who invest in a new commer-
cial enterprise in a targeted employment
area, of which 50 percent shall be reserved
for rural areas.
“(ii) UNUSED VISAS.—At the end of each fiscal year, any unused visa numbers that were reserved under this subparagraph shall be made generally available in the next fiscal year to immigrants who have filed applications for classification as an immigrant investor under subparagraph (A).

“(D) AMOUNT OF CAPITAL REQUIRED.—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the amount of capital required under subparagraph (A) shall be $1,100,000.

“(ii) MINIMUM INVESTMENT FOR TARGETED EMPLOYMENT AREAS.—Subject to clause (iii), the amount of capital required under subparagraph (A) in the case of a targeted employment area shall be $1,000,000.

“(iii) PROGRAM IMPROVEMENT FEE.—Each immigrant investor shall pay, to the Treasury of the United States, a program improvement fee of $50,000 in conjunction with each I–526 petition submitted under this paragraph after the date of the enact-
ment of the Immigrant Investor Program Reform Act.

“(iv) ADJUSTMENT OF REQUIRED CAPITAL.—

“(I) AUTOMATIC ADJUSTMENT.—

Beginning on October 1, 2022 and every 3 years thereafter, the qualifying investment amounts under clauses (i) and (ii) shall be automatically adjusted based on the cumulative annual percentage change in the unadjusted All Items Consumer Price Index for All Urban Consumers (CPI–U) for the U.S. City Average reported by the Bureau of Labor Statistics compared to such amounts in September 2019. The qualifying investment amount will be rounded down to the nearest $100,000.

“(II) NOTICE OF ADJUSTMENT.—

“(aa) IN GENERAL.—Immediately after each adjustment under subclause (I), the Secretary of Homeland Security
shall publish a technical amendment in the Federal Register that includes the amounts set forth in clauses (i) and (ii), as adjusted by subclause (I).

“(bb) APPLICABILITY.—Any petition for classification of an alien as an immigrant investor under this paragraph that is filed on or after October 1 in the year an automatic adjustment to the minimum qualifying investment amount occurs under subclause (I) shall be subject to such adjusted amount.

“(E) REGIONAL CENTER PROGRAM.—

“(i) PROCESSING.—

“(I) IN GENERAL.—In processing petitions under section 204(a)(1)(H) for classification under this paragraph, the Secretary of Homeland Security—

“(aa) may process petitions in a manner and order established by the Secretary; and
“(bb) shall deem such petitions to include records previously filed with the Secretary under subparagraph (F) if the alien petitioner certifies that such records are incorporated by reference into the alien’s petition.

“(II) PRIORITY.—In processing applications for designation as a regional center, amendments, specific investment offerings, and annual certifications submitted under this paragraph, the Secretary may give priority, upon the payment of a $50,000 premium processing fee, to such applications and certifications, notwithstanding other pending applications or petitions filed under other employment-based visa categories.

“(III) PREMIUM PROCESSING OF EB–5 REGIONAL CENTER APPLICATIONS.—

“(aa) IN GENERAL.—An entity seeking designation as an EB–5 regional center or an
amendment of a previously ap-
proved regional center may, upon
the payment of a $50,000 pre-
mium processing fee, request
that the Secretary process the
application within 120 days.

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

“(IV) EXPEDITED PROCESSING
OF TARGETED EMPLOYMENT AREA
PETITIONS.—A petition relating to a
project in a targeted employment
area, including individual investor pe-
titions, will be subject to expedited re-
view without payment of an additional
premium processing fee.
“(ii) Establishment of Regional Centers.—A regional 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—

“(I) demonstrate that the pooled investment will have a significant economic impact on such geographic area;

“(II) include reasonable predictions, supported by economically and statistically valid forecasting tools, concerning—

“(aa) the amount of investment that will be pooled;

“(bb) the types of commercial enterprises that will receive such investments;

“(cc) the details of the jobs that will be created directly or indirectly as a result of such investments; and
“(dd) other positive economic effects such investments will have; and

“(III) include a description of the policies and procedures that are reasonably designed to ensure program compliance; and

“(IV) include a description of the policies and procedures in place that are reasonably designed to monitor new commercial enterprises, third-party promoters (including migration agents), and any affiliated job-creating entity to ensure compliance with—

“(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 offerors or offerees reside.
“(iii) JOB CREATION.—

“(I) IN GENERAL.—In determining compliance with subparagraph (A)(ii), the Secretary of Homeland Security shall permit aliens seeking admission based on an investment in a new commercial enterprise associated with a regional center 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, provided that the Secretary may request additional evidence to verify that the directly created jobs satisfy the requirements under subparagraph (A)(ii); and

“(bb) consistent with this subparagraph, jobs estimated to have been created indirectly through revenues generated from increased exports, improved re-
regional productivity, job creation, and increased domestic capital investment resulting from the program.

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

“(I) require regional centers to provide 120 days advance notice to the Secretary of significant proposed changes to their organizational structure, ownership, or administration, including the sale of such centers or other arrangements in which individuals not previously subject to the requirements under subparagraph (H) become involved with the regional center, before any such proposed changes may take effect unless exigent circumstances are present in which case the regional center shall provide notice to the Secretary not later than 5 business days after such change; and

“(II) notwithstanding the pendency of a determination described in subclause (II), adjudicate business
plans under subparagraph (F) and petition under section 204(a)(1)(H).

“(v) SANCTIONS.—

“(I) VIOLATIONS.—The Secretary shall sanction a regional center, in accordance with subclause (II), if—

“(aa) the regional center fails to submit an annual statement, attestation, certification, or other information required under this paragraph;

“(bb) the regional center fails to pay the fee required under subparagraph (J)(ii) within 30 days after the date on which such fee is due or, after being fined, fails to pay the fine within 90 days after the date on which such fine is due;

“(cc) the Secretary determines that the regional center knowingly submitted, or caused to be submitted, a statement, attestation, certification, or any other information under this
paragraph that contained an untrue statement of material fact or omitted to state a material fact necessary in order to make the statement, attestation, certification or provision of information, in light of the circumstances under which they were made, not misleading;

“(dd) the Secretary determines a person involved with the regional center, an associated new commercial enterprise, or any affiliated job-creating entity was knowingly involved by the regional center in violation of subparagraph (H); or

“(ee) the Secretary determines that the regional center is otherwise conducting itself in a manner inconsistent with its designation, including—

“(AA) conduct that fails to demonstrate that the
regional center is operating reliably or with integrity;

“(BB) failure to promote economic growth in compliance with this paragraph; or

“(CC) any willful, undisclosed, and material deviation by new commercial enterprises from any filed business plan for such commercial enterprises.

“(II) AUTHORIZED SANCTIONS.—The Secretary shall establish a graduated set of sanctions based on the severity of the violations referred to in subclause (I), including 1 or more of the following:

“(aa) Fines equal to not more than 10 percent of the total capital invested by alien investors in the regional center’s new commercial enterprises or job-creating entities, which—
“(AA) may not be paid from any of such alien investor’s capital investments; and

“(BB) shall be deposited into the EB–5 Integrity Fund established under subparagraph (J)(i).

“(bb) Temporary suspension from participation in the regional center program, which may be lifted by the Secretary if the individual or entity cures the alleged violation after being provided such an opportunity by the Secretary.

“(cc) Permanent bar from program participation for 1 or more individuals or entities associated with the regional center or new commercial enterprise or affiliated job-creating entity.

“(dd) Termination of the regional center designation.
“(F) APPLICATION FOR APPROVAL OF AN INVESTMENT IN A COMMERCIAL ENTERPRISE.—

“(i) IN GENERAL.—The director of a regional center shall file an application with the Secretary of Homeland Security for each investment offering through an associated commercial enterprise. An alien may not file a petition for classification under this paragraph by reason of investment in such offering until after such application has been approved.

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

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

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

“(III) any documents filed with the Securities and 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;

“(IV) any investment and offering documents, including subscription, investment, partnership, and operating agreements, private placement memoranda, term sheets, biographies for management, officers, directors, and any person with similar responsibilities, the description of the business plan to be provided to potential alien investors, and marketing materials used or to be used in connection with the offering as of the time of the filing, which shall contain references, as appropriate, to—

“(aa) any investment risks associated with the new commercial enterprise and the affiliated job-creating entity;

“(bb) any conflicts of interest that exist or may arise among the regional center, new commercial enterprise, job-creating entity, or the principals, attorneys,
or individuals responsible for recruitment or promotion of such entities;

“(cc) any pending litigation or bankruptcy, or adverse judgments or bankruptcy orders issued during the most recent 10-year period, in the United States or abroad, affecting the regional center, new commercial enterprise, any affiliated job-creating entity, or any other enterprise in which any principal of the aforementioned entities held majority ownership at the time; and

“(dd)(AA) any fees, ongoing interest, or other compensation paid or to be paid by regional center or new commercial enterprise to agents, finders, or broker dealers involved in the offering;

“(BB) a description of the services performed, or which will be performed, by such person to
entitle the person to such fees, interest, or compensation; and

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

“(V) a description of the policies and procedures, including those related to internal and external due diligence, reasonably designed to cause the regional center, new commercial enterprise, and any affiliated job-creating entity, their agents, employees, advisors, and attorneys, and any persons in active concert or participation with the regional center, new commercial enterprise, or any affiliated job-creating entity 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.

“(iii) Effect of approval of an application for an investment in a regional center’s commercial enter-
PRISE.—The approval of an application under this subparagraph shall be binding for purposes of the adjudication of subsequent petitions seeking classification under this paragraph by immigrants investing in the same offering described in such application, and of petitions filed under section 216A by the same immigrants, except in the case of—

“(I) fraud;
“(II) misrepresentation;
“(III) criminal misuse;
“(IV) a threat to public safety or national security;
“(V) a material change that affects eligibility;
“(VI) other evidence affecting program eligibility that was not disclosed by the applicant during the adjudication process; or
“(VII) a material mistake of law or fact in the prior adjudication.
“(iv) SITE VISITS.—The Secretary shall—
“(I) perform site visits to regional centers; and

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

“(G) Regional Center Annual Statements.—

“(i) In general.—The director of each regional center designated under subparagraph (E) shall annually submit a statement, in a manner prescribed by the Secretary of Homeland Security, which includes—

“(I) a certification stating that the regional center, any associated new commercial enterprises, and any affiliated job-creating entity 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 the regional center is in compliance with subparagraph (K);

“(IV) a description of any pending material litigation or bankruptcy proceedings, or litigation or bankruptcy proceedings resolved during the preceding fiscal year, involving the regional center, any associated new commercial enterprises, or any job-creating entities;

“(V) an accounting of all foreign investor capital invested in the regional center, new commercial enterprise, or affiliated 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 affiliated job-creating entity by alien investors under this paragraph for each capital invest-
ment 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;

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

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

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

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

“(gg) an accounting of all
fees, including administrative
fees, loan monitoring fees, loan
management fees, commissions
and similar transaction-based compensation, collected from alien investors by the regional center, any associated new commercial enterprises, any job-creating entities or any promoter, finder, broker-dealer or other entity engaged by any such entity to locate individual investors;

“(hh) any documentation referred to in subparagraph (F)(i)(IV) if there has been a material change during the preceding fiscal year; and

“(ii) a certification by the regional center that such statements are accurate; and

“(VII) a description of the regional center’s policies and procedures that are designed to enable the regional center, any associated new commercial enterprises, and any job-creating entities to comply with applicable Federal and State labor laws.
“(ii) Amendment of annual statements.—The Secretary—

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

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

“(iii) Record keeping.—

“(I) In general.—Each regional center shall make and preserve, during the 5-year period beginning on the last day of the Federal fiscal year in which any transactions occurred, books, ledgers, records, and other documentation from the regional center, new commercial enterprise, or affiliated job-creating entity that was used to support—

“(aa) any claims, evidence, or certifications contained in the
regional center’s annual statements under subparagraph (G); and

“(bb) associated petitions by aliens seeking classification under this section or removal of conditions under section 216A.

“(II) Availability.—All of the books, ledgers, records, and other documentation described in subclause (I) shall be made available to the Secretary upon request.

“(iv) Verifications by Securities and Exchange Commission.—The certifications required under clause (i) shall be verified by the Securities and Exchange Commission.

“(H) Bona Fides of Persons Involved with the EB–5 Program.—

“(i) In General.—No person may be a person involved with a regional center, new commercial enterprise, or affiliated job-creating entity who—

“(I) has been found by a court of competent jurisdiction, or any final
order of the Securities and Exchange
Commission, or a State securities reg-
ulator to have committed—

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

“(bb) a civil offense involv-
ing 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 was
sentenced to a term of imprison-
ment of more than 1 year;

“(II) is subject to a final order,
for the duration of any penalty im-
posed by such order, of a State securi-
ties commission (or an agency or offi-
cer of a State who performs similar
functions), a State authority that su-
pervises or examines banks, savings
associations, or credit unions, a State
insurance commission (or an agency
of or officer of a State who performs
similar functions), an appropriate
Federal banking agency, the Commodity Futures Trading Commission, the Securities and Exchange Commission, a financial self-regulatory organization recognized by the Securities and Exchange Commission, or the National Credit Union Administration, which is based on a violation of any law or regulation that—

“(aa) prohibits fraudulent, manipulative, deceptive, or negligent conduct; or

“(bb) bars the person from—

“(AA) association with an entity regulated 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
“(DD) engaging in savings association or credit union activities;

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

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

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

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

“(dd) any terrorist activity;

“(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)(aa) is, or during the preceding 10 years has been, included on the Department of Justice’s List of Currently Disciplined Practitioners; or

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

“(V) is debarred from participation in the program under this paragraph pursuant to subparagraph (S).

“(ii) FOREIGN INvolVEMENT IN THE EB–5 PROGRAM.—

“(I) LAWFUL STATUS REQUIRED.—An individual may not be
involved with a regional center unless the individual—

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

“(bb) has been lawfully admitted for permanent residence and is not the subject of removal proceedings.

“(II) FOREIGN GOVERNMENTS.—

“(aa) IN GENERAL.—Except as provided in item (bb), no agency, official, or other similar entity or representative of a foreign government may provide capital to, or be directly or indirectly involved with the ownership or administration of, a regional center, a new commercial enterprise, or affiliated job-creating entity.

“(bb) EXCEPTION.—A foreign or domestic investment fund or other investment vehicle that is wholly or partially owned, directly or indirectly, by a bona
fide foreign sovereign wealth fund or a foreign state-owned enterprise otherwise permitted to do business in the United States may be involved with the ownership, but not the administration, of a job-creating entity that is not an affiliated job-creating entity.

“(III) Review of Transactions.—Any transaction involving a regional center, new commercial enterprise, or affiliated job-creating entity that is a ‘covered transaction’ (as defined in section 721(a)(4) of the Defense Production Act of 1950 (50 U.S.C. 4565(a)(4))) is subject to review by the Committee on Foreign Investment in the United States.

“(IV) Rulemaking.—Not later than 180 days after the date of the enactment of the Immigrant Investor Program Reform Act, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury
and the Secretary of Commerce, shall
issue regulations implementing sub-
clauses (I) and (II).

“(iii) INFORMATION REQUIRED.—

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

“(II) EFFECT OF NONCOMPLI-
ANCE.—The Secretary, after the com-
pletion of the background checks de-
scribed in subclause (I), shall notify a
regional center, new commercial enterprise, or affiliated job-creating entity whether any individual involved with such entities is not in compliance with clause (i) or (ii). If the regional center, new commercial enterprise, or affiliated job-creating entity fails to discontinue the prohibited individual’s involvement with such entity within 30 days after receiving a notification under this subclause, the regional center, new commercial enterprise, or affiliated job-creating entity shall be deemed to have knowledge that such person is in violation of clause (i) or (ii).

“(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 by any regional center or any
party associated with a regional center for purposes of the securities laws.

“(II) Compliance with regulations.—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 such regulation. Subclause (I) may not be construed to modify any existing regulations or interpretations of the Securities and Exchange Commission related to the application of section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) to foreign broker dealers.

“(ii) Regional center certifications required.—

“(I) Initial certification.—

The Secretary of Homeland Security may not approve an application for regional center designation or a regional
center amendment unless the regional center certifies that 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 the regional center, any associated new commercial enterprises, any job-creating entities, and all persons involved with such entities 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, any associated new commercial enterprises, any job-creating entities, or persons involved with such entities.
“(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—

“(aa) the certifier is in a position to have knowledge of the offers, purchases, and sales of securities or the provision of investment advice by the regional center, any associated new commercial enterprises, any job-creating entities, and all persons involved with such entities;

“(bb) all such offers, purchases, and sales of securities or the provision of investment advice complied with the securities laws of the United States and the securities laws of any State in which the offer, purchase, or sale of securities was conducted, the issuer of securities was located,
or the investment advice was provided; and

“(cc) records, data, and information related to such offers, purchases, and sales have been maintained.

“(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 not in compliance with the securities laws of the United States or the securities laws of any State in which the securities activities were conducted by any party associated with the regional center, the certifier shall—

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

“(bb) describe the actions taken to remedy the noncompliance; and

“(cc) certify that the regional center, any associated new
commercial enterprises, any job-
creating entities, and all persons
involved with such entities are
currently in compliance.

“(IV) DUE DILIGENCE INVESTI-
GATION.—Any certification provided
by a certifier under this clause with
respect to an entity in which the cer-
tifier is not in a position of sub-
stantive authority shall be made to
the best of the certifier’s knowledge
after due diligence investigation.

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

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

“(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 creation of such records, data, or information, which shall be made available to the Secretary upon request; and

"(III) make the records, data, and information described in subclause (II) available to the Secretary upon request.

"(iv) 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.—

"(i) ESTABLISHMENT.—There is established in the United States Treasury a special fund, which shall be known 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 April 1, 2020, and on January 1 of each year thereafter, the Secretary of Homeland Security shall—

“(aa) except as provided in item (bb), collect a fee of $20,000 from each regional center designated under subparagraph (E);

“(bb) collect a fee of $10,000 from each regional center designated under subparagraph (E) that is a not-for-profit regional center, or has 20 or fewer total investors in the preceding fiscal year in its new commercial enterprises; and

“(cc) deposit the fees collected pursuant to items (aa) and (bb) into the Fund.

“(II) PETITION FEE.—Beginning on April 1, 2020, the Secretary shall
collect a fee of $1,000 with each petition filed under section 204(a)(1)(H) for classification under subparagraph (E) and deposit each fee collected under this subclause into the Fund.

“(III) Increases.—The Secretary may prescribe such regulations as may be necessary to increase the dollar amounts under this clause to ensure that the Fund is sufficient to carry out the purposes set forth in clause (iii). Increases under this subclause may not exceed 100 percent in any 12-month period.

“(iii) Permissible Uses of Fund.—The Secretary of Homeland Security shall—

“(I) use not less than 1⁄3 of the amounts deposited into the Fund to conduct audits and site visits (with or without notice);

“(II) use not less than 1⁄3 of the amounts deposited into the Fund for investigations based outside of the United States, including—
“(aa) monitoring and investigating program-related events and promotional activities; and

“(bb) ensuring the compliance of alien investors with subparagraph (L);

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

“(IV) use amounts deposited into the Fund to conduct interviews of the owners, officers, directors, managers, partners, agents, employees, promoters, and attorneys of regional centers, new commercial enterprises, and job-creating entities; and

“(V) use amounts deposited into the Fund—

“(aa) to detect and investigate fraud or other crimes; and

“(bb) to determine whether regional centers, new commercial enterprises, any job-creating enti-
ties, and alien investors (and their alien spouses and alien children) comply with the immigration laws.

“(iv) REPORT.—The Secretary of Homeland Security 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 promoters of a regional center, any new commercial enterprise, or any affiliated job-creating entity shall comply with the rules and standards prescribed by the Secretary of Homeland Security and any applicable Federal or State securities laws, to oversee promotion of any offering of securities related to the immigrant investor program under this paragraph, including—
“(I) registration with U.S. Citizenship and Immigration Services, which—

“(aa) may be limited to identifying and contact information of such promoter and confirmation of the existence of the written agreement required under clause (iii);

“(bb) may not include any requirement that U.S. Citizenship and Immigration Services approve the registration of such promoter; and

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

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

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

“(IV) permissible fee arrangements, if applicable.
“(ii) Compliance.—Each regional center, new commercial enterprise, and affiliated job-creating entity shall maintain a written agreement between or among such entities and each direct or third-party promoter operating on behalf of such entities or associated issuer that outlines the rules and standards prescribed under clause (i).

“(iii) Disclosure.—Each petition filed under section 204(a)(1)(H) shall include a disclosure by the regional center, new commercial enterprise, or affiliated job-creating entity, as applicable, acknowledged by the investor, that reflects all fees, ongoing interest, and other compensation paid or to be paid to any person 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.—

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

“(ii) REQUIRED INFORMATION.—The Secretary of Homeland Security shall require that an alien investor’s petition under this paragraph contain, as applicable—

“(I) business and tax records, including—

“(aa) foreign business registration records, if applicable;

“(bb) corporate or partnership tax returns (or tax returns of any other entity in any form filed in any country or subdivision of such country), and personal tax returns including income, franchise, property (whether real, personal, or intangible), or any other tax returns of any kind, filed during the past 7 years, or another period to be de-
terminated by the Secretary to ensure that the investment is obtained from a lawful source of funds, with any taxing jurisdiction in or outside the United States by or on behalf of the alien investor, if applicable; and

“(cc) evidence identifying any other 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 involving possible monetary judgments against the alien investor from any court in or outside the United States; and

“(III) the identity of all persons who transfer into the United States, on behalf of the investor—
“(aa) any funds that are used to meet the capital requirement under subparagraph (A); and

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

“(iii) Gift and Loan Restrictions.—

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

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

“(bb) were not gifted or loaned to circumvent any limitations imposed on permissible sources of capital under this subparagraph.

“(II) Records requirement.—If a significant portion of the capital...
invested under subparagraph (A) was
gifted or loaned to the alien investor,
the Secretary shall require that the
alien investor’s petition under this
paragraph includes the records de-
scribed in subclauses (I) and (II) of
clause (ii) from the donor or, if other
than a bank, the lender.

“(M) Petition for classification as
an immigrant investor.—

“(i) Filing.—An alien seeking classi-
fication as an immigrant investor under
this paragraph shall file a petition with the
Secretary of Homeland Security, with the
appropriate filing fees (including the EB–
5 Fraud Prevention and Detection Fee re-
quired under section 286(w)(3)), and with
such evidence as the Secretary shall pre-
scribe. The approval of a petition for class-
sification as an immigrant investor under
this paragraph does not, by itself, establish
that the alien is entitled to immigrant sta-
tus.

“(ii) Treatment of children.—A
child of an alien investor on the date on
which a petition is filed under clause (i) shall continue to be considered a child until the removal of the conditional basis of the child’s lawful permanent resident status unless—

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

“(II) the child’s lawful permanent resident status is otherwise terminated.

“(iii) DECISIONS.—

“(I) WITHHOLDING ADJUDICATION.—The Secretary of Homeland Security may suspend adjudication of any petition for classification under this paragraph until all background and security checks and any national security or law enforcement investigation relating to such application or the alien seeking classification is completed.

“(II) DENIALS AND REVOCATIONS.—

“(aa) NOTICE OF DENIAL OR REVOCATION.—The Secretary
shall provide an alien investor
with a notice of the Secretary’s
denial of a petition or revocation
of an approved petition under
this subparagraph.

“(bb) Denial for fraud,
misrepresentation, and
criminal misuse.—The Sec-

retary shall deny a petition for
classification of an alien as an
immigrant investor under this
paragraph if the Secretary deter-
mines that the petition was
predicated on or involved fraud,
deceit, intentional material mis-
representation, or criminal mis-

use.

“(cc) National security
or public safety.—The Sec-

retary may deny a petition or re-
voke an approved petition under
this section if the Secretary de-
determines that approval of such a
petition would be contrary to the
national interests of the United
States for reasons relating to national security or public safety.

“(III) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a 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.

“(N) THREATS TO THE NATIONAL INTEREST.—The Secretary of Homeland Security shall deny or revoke the approval of a petition, application, certification, or benefit under this paragraph, including the documents described in subclause (II), if the Secretary determines, in the Secretary’s unreviewable discretion, that the approval of such petition, application, or
benefit is contrary to the national interest of
the United States for reasons relating to
threats to public safety or national security.

“(O) ADMINISTRATIVE APPELLATE RE-
VIEW.—

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

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

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

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

“(IV) the termination or suspen-
sion of any benefit accorded under
this paragraph; and
“(V) any sanction imposed by the Secretary of Homeland Security under this paragraph.

“(ii) **JUDICIAL REVIEW.**—Subject to section 242(a)(2), and notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a determination under this subparagraph (O)(i)(III) until the regional center, its associated entities, or the alien investor has exhausted all administrative appeals.

“(P) **TREATMENT OF INVESTORS IF A REGIONAL CENTER HAS BEEN TERMINATED.**—

“(i) **IN GENERAL.**—Upon termination or debarment, as applicable, from the program under this paragraph of a regional center, new commercial enterprise, or affiliated job-creating entity under this paragraph, and except as provided in clauses (iii) and (vi) of subparagraph (S), the conditional permanent residence of 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 affiliated job-creating entity shall remain valid or continue to be authorized, as applicable, in accordance with this subparagraph.

“(ii) NEW REGIONAL CENTER OR INVESTMENT.—The conditional permanent resident status of an alien described in clause (i) shall be terminated on the date that is 180 days after the termination from the program under this paragraph of a regional center, a new commercial enterprise, or a job-creating entity unless—

“(I) if a regional center was terminated—

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

“(bb) the alien makes a qualifying investment in another commercial enterprise associated
with an approved regional center; or

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

“(II) if a new commercial enterprise or affiliated job-creating entity was debarred, the alien invests in another commercial enterprise associated with an approved regional center.

“(iii) Removal of Conditions.— Aliens described in subclause (I)(bb), (I)(cc), or (II) of clause (ii) who have obtained conditional permanent residence before making the subsequent investment 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.

“(Q) Fraud, Misrepresentation, and Criminal Misuse.—

“(i) Denial or Revocation.—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 (M)(iv)(II), if the Secretary determines that such petition, application, or benefit was predicated on or involved fraud, deceit, intentional material misrepresentation, or other criminal activity.

“(ii) Notice.—If the Secretary 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 center, or commercial entity of such determination; and

“(II) deny or revoke such petition, application, or benefit or terminate the permanent resident status of the alien (and the alien spouse and alien children of such immigrant) as of the date of such determination.

“(R) Debarment.—
“(i) Suspension or termination.—

A regional center, new commercial enterprise, affiliated job-creating entity or any person involved with any such entity may be suspended or terminated from participating in the program under this paragraph—

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

“(II) for fraud, intentional material misrepresentation, or criminal misuse;

“(III) for reasons related to public safety or national security; or

“(IV) for engaging in any activity described in paragraph (2) or (3) of section 212(a).

“(ii) Direct or third-party promoters.—If the Secretary determines that a direct or third-party promoter has violated subparagraph (K)(i), the Secretary shall suspend or permanently bar such individual from participation in the immigrant investor program under this paragraph.
“(iii) Temporary or Permanent Bars.—Any person, including an immigrant investor, who the Secretary determines, by a preponderance of the evidence, was a knowing or negligent participant in the conduct that led to the suspension or termination under clause (i) or (ii) may be temporarily or permanently barred from future participation in the immigrant investor program under this paragraph.

“(iv) Effect of Debarment.—A person who is suspended, terminated, or barred under this subparagraph—

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

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

“(III) may not be involved with any regional center, new commercial enterprise or any affiliated job-creating entity; and
“(IV) may not have any authority, connection, or other form of association with the offer, sale, purchase or promotion of any securities offered by an entity described in subclause (III) in connection with the immigrant investor program under this paragraph.

“(v) Denial or revocation.—Subject to subparagraph (P), the Secretary may deny or revoke any pending or approved application, petition, or other benefit request under this paragraph in connection with the suspension, termination, or bar of any person under this subparagraph that was filed by the suspended, terminated, or barred person or relies on such person for eligibility.

“(vi) Termination of status.—If the Secretary has reason to believe an alien was a knowing participant in the conduct that led to a suspension or termination under this subparagraph, the Secretary shall—
“(I) notify the alien of such belief; and

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

“(S) CONFLICT OF INTEREST.—An individual may not contract to provide services as a loan monitor for a business or project with which the individual was associated while employed by a regional center.

“(T) DEFINITIONS.—In this paragraph:

“(i) AFFILIATED JOB-CREATING ENTITY.—The term ‘affiliated job-creating entity’ means any organization that—

“(I) is formed in the United States for the ongoing conduct of lawful business, including a partnership (whether limited or general), corporation, limited liability company, or other entity that receives, or is established to receive, capital investment from alien investors or a new commercial enterprise under the regional cen-
ter program described in subparagraph (E); and

“(II) is responsible for the creation of jobs to satisfy the requirement under subparagraph (A)(ii).

“(ii) CAPITAL.—The term ‘capital’—

“(I) means cash (including the cash proceeds of indebtedness that are fully secured by the petitioner’s assets) and all real, personal, or mixed tangible assets owned and controlled by the alien investor, or held in trust for the benefit of the alien and to which the alien has unrestricted access;

“(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 such capital is invested under this paragraph; and

“(III) does not include assets directly or indirectly acquired by unlaw-
ful means, including any cash proceeds of indebtedness secured by such assets.

“(iii) CERTIFIER.—The term ‘certifier’ means a person providing a certification for any entity under this paragraph who is in a position of substantive authority for the management or operations of the entity, including a principal executive officer or a principal financial officer, with knowledge of such entity’s policies and procedures related to compliance with the requirements under this paragraph.

“(iv) FULL-TIME EMPLOYMENT.—The term ‘full-time employment’ means employment in a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.

“(v) NEW COMMERCIAL ENTERPRISE.—The term ‘new commercial enterprise’ means any for-profit organization formed in the United States within 5 years after the earlier of the application for approval of an investment or the submission of a petition under this paragraph, for the
ongoing conduct of lawful business, including a partnership (whether limited or general), corporation, limited liability company, or other entity that receives, or is established to receive, capital investment from investors under this paragraph.

“(vi) **Persons involved with a regional center, new commercial enterprise, or affiliated job-creating entity.**—The term ‘persons involved’ with respect to a regional center, a new commercial enterprise, or any affiliated job-creating entity means a person directly or indirectly in a position of substantive authority to make operational or managerial decisions over or to legally bind such entities. A person may be in a position of substantive authority if the person serves as the principal, representative, administrator, owner, officer, board member, manager, executive, or general partner of the regional center, new commercial enterprise, or affiliated job-creating entity, respectively.
“(vii) RURAL AREA.—The term ‘rural area’ means any area that, based on the most recent decennial census of the United States—

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

“(II)(aa) is outside of a metropolitan statistical area; or

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

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

“(I) a qualified opportunity zone (as designated under section 1400Z–1 of the Internal Revenue Code of 1986; or

“(II) a rural area; or

“(III) an area within the geographic boundaries of any military installation that was closed before the filing of an application for classifica-
tion as an immigrant investor under this paragraph, based upon a recommenda-
tion by a Defense Base Closure and Realignment Commission.”.

(b) Effective Dates.—

(1) In General.—Except as provided in paragraph (2), the amendment made by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act.

(2) Exceptions.—Subparagraphs (E)(iv) and (L) of section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) shall not apply to a petition that—

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

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

(c) GAO Report.—Not later than December 31, 2021, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes—
(1) the economic benefits of the regional center program established under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), including the steps taken by U.S. Citizenship and Immigration Services to verify job creation;

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

(3) the extent to which U.S. Citizenship and Immigration Services has maintained records of regional centers and associated commercial enterprises, including annual statements and certifications;

(4) the steps taken by U.S. Citizenship and Immigration Services to verify the source of funds, as required under section 203(b)(5)(L) of the Immigration and Nationality Act, as added by subsection (a);

(5) the extent to which U.S. Citizenship and Immigration Services collaborates with other Federal and law enforcement agencies, particularly to detect illegal activity and threats to national security related to the regional center program;
(6) the extent to which U.S. Citizenship and Immigration Services has prevented fraud and abuse in regional center activities, including the designation of targeted employment areas in areas that otherwise have high employment;

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

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

(9) the extent to which employees of the Department of Homeland Security have complied with the ethical standards and transparency requirements set forth in section 3; and

(10) the amounts expended from the EB–5 Integrity Fund established under section 203(b)(5)(J) of the Immigration and Nationality Act, as added by subsection (a).

(d) INSPECTOR GENERAL REPORT.—Not later than December 31, 2021, the Inspector General of the Intelligence Community, in coordination with the Inspector General of the Department of Homeland Security and
after consultation with relevant Federal agencies, including U.S. Immigration and Customs Enforcement, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding the immigrant visa program set forth in section 203(b)(5) of the Immigration and Nationality Act, as amended by subsection (a) that describes—

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

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

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

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

(5) the actual or potential use of the program to facilitate terrorist activity, including funding terrorist activity or laundering terrorist funds.

(e) REVIEW OF JOB CREATION METHODOLOGIES.—
Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Bureau of Economic Analysis of the Department of Commerce, or another component within the De-
portion of Commerce, as determined by the Secretary
of Commerce, shall issue regulations to determine eco-
nomically and statistically valid general economic meth-
odologies that comply with section 203(b)(5)(A)(ii) of the
Immigration and Nationality Act, as amended by sub-
section (a).

(f) Department of Homeland Security Re-
port.—Not later than 18 months after the date of the
enactment of this Act, and annually thereafter, the Sec-
retary of Homeland Security shall submit a report to Con-
gress regarding—

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

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

SEC. 3. TRANSPARENCY.

(a) In General.—Employees of the Department of
Homeland Security, including the Secretary of Homeland
Security, the Secretary’s counselors, the Assistant Sec-
retary for the Private Sector, the Director of U.S. Citizen-
ship and Immigration Services, counselors to such Director, and the Chief of Immigrant Investor Programs 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, as amended by section 2.

(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 program described in section 203(b)(5) of the Immigration and Nationality Act, as amended by section 2, the standard processing of an application, petition, or benefit for—

(A) a regional center;

(B) a new commercial enterprise;

(C) an affiliated job-creating entity; or

(D) any person or entity associated with such regional center, new commercial enterprise, or affiliated job-creating entity; and
(2) meeting or communicating with persons associated with the entities described 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, as amended by section 2, 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, and 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 the Immigration and Nationality Act, as amended by section 2, 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)—

(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 of Homeland Security, 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 ad-
judicative 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 oppor-
tunity to respond to the evidence.

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

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

(ii) WHISTLEBLOWERS, CONFIDEN-
tIAL SOURCES, OR INTELLIGENCE AGEN-
cIES.—Evidence received from whistle-
blowers, 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 iden-
tity of the whistleblower or confidential source, or reveal classified information.

(d) Consideration of Evidence.—

(1) In general.—Case-specific communication with persons or entities that are not part of the Department of Homeland Security may not be considered in the adjudication of an application or petition under section 203(b)(5) of the Immigration and Nationality Act, as amended by section 2, unless the communication is included in the record of proceeding of the case.

(2) Waiver.—The Secretary of Homeland Security may waive the application of 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, as amended by section 2; or
(B) seeking non-case-specific information
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 seek-
ers of benefits under the immigrant visa pro-
gram described in section 203(b)(5) of the Im-
migration and Nationality Act, as amended by
section 2, may communicate with the Depart-
ment of Homeland Security regarding specific
cases under such section (except for commu-
ication made by applicants and petitioners
pursuant to regular adjudicatory procedures),
or non-case-specific information about the visa
program applicable to certain cases under such
section, are through—

(i) the email address or equivalent
channel described in paragraph (1);
(ii) the National Customer Service Center of U.S. Citizenship and Immigration Services, or any successor to that Center; or

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

(B) Direction of incoming communications.—

(i) In general.—Employees of the Department of Homeland Security shall direct communications described in subparagraph (A) to the channels of communication or offices listed in subparagraph (A).

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

(I) any person from communicating with the Ombudsman of U.S. Citizenship and Immigration Services regarding the immigrant investor program under section 203(b)(5) of the Immigration and Nationality Act, as amended by section 2; or

(C) Log.—

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

(I) all communications described in subparagraph (A) and communications from Members of Congress, which shall reference—

(aa) the date, time, and subject of the communication; and

(bb) the identity of the Department of Homeland Security official, if any, to whom the inquiry was forwarded;

(II) with respect to written communications described in subsection (e)(1)—

(aa) the date on which such communication was received;
(bb) the identities of the sender and addressee; and

(cc) the subject of such communication; and

(III) with respect to oral communications described in subsection (c)(2)—

(aa) the date on which such communication occurred;

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

(cc) the subject of such communication.

(ii) TRANSPARENCY.—The log of communications described 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”).

(3) PUBLICATION OF INFORMATION.—If, as a result of a communication with an official of the Department of Homeland Security, a person or entity inquiring about a specific case or about the immigrant visa program described in section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C.
1153(b)(5)) received generally applicable and non-
case-specific information about program require-
ments 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, not later than 30
days after the communication of such information to
such person or entity, as an update to the relevant
Frequently Asked Questions page or by some other
comparable mechanism.

(f) PENALTY.—

(1) IN GENERAL.—Any person who inten-
tionally violates the prohibition on preferential treat-
ment under this section or intentionally violates the
reporting requirements under subsection (e) 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, in addition to
any criminal or civil penalties that may be imposed,
a graduated set of sanctions based on the severity of
the violation referred to in paragraph (1), which
may include written reprimand, suspension, demo-
tion, or removal.
(g) Rule of Construction.—Nothing in this section may be construed to modify any law, regulation, or policy regarding the handling or disclosure of classified information.

(h) No Creation of 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. 4. Treatment of Period for Purposes of Naturalization.

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

"(e) Treatment of Period for Purposes of Naturalization.—For purposes of title III, an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, upon favorable determination and removal of the conditional basis of the alien's lawful permanent resident status under subsection (c)(3)(B), shall be considered to have been admitted as an alien lawfully admitted to the United States for permanent residence."
SEC. 5. 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)—

(A) in the matter preceding paragraph (1),

by striking “or (3)” and inserting “(3), or (5)”;

and

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

SEC. 6. PAROLE STATUS FOR PETITIONERS AND DEPENDENTS AWAITING AVAILABILITY OF AN IMMIGRANT VISA.

(a) Authorization.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended—

(1) in subparagraph (A), by striking “The Attorney General may, except as provided in subpara-
graph (B) or in section 214(f), in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis” and inserting “Except as provided in subparagraph (C) and section 214(f), the Secretary of Homeland Security may temporarily parole into the United States, under such conditions as the Secretary may prescribe, on a case-by-case basis,”;

(2) by redesignating subparagraph (B) as subparagraph (C); and

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

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

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

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

“(II) 3 years or more have elapsed since the petition was filed; and
“(III) an immigrant visa is not immediately available to the alien because the total number of visas issued under section 203(b)(5) has reached the maximum number of visas that may be made available to immigrants of the State or area under section 203(b).”.

(b) Employment Authorization for Alien Investors.—

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

(A) authorize any alien described in section 212(d)(5)(B) of the Immigration and Nationality Act, as added by subsection (a), to engage in employment in the United States; and

(B) provide the alien referred to in subparagraph (A) with appropriate endorsement of the authorization under such subparagraph.

(2) FEES.—

(A) IN GENERAL.—The Secretary may assess a fee for providing an employment authorization endorsement under paragraph (1) in an amount equal to not more than the average cost incurred by the Secretary in adjudicating applications for such endorsement. The Secretary
may provide for the payment of such fees by installments.

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

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

(ii) to limit the authority of the Secretary to set adjudication and naturalization fees.