

117TH CONGRESS  
1ST SESSION

# H. R. 2901

To reauthorize the EB–5 Regional Center Program in order to prevent fraud and to promote and reform foreign capital investment and job creation in American communities.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2021

Mr. STANTON (for himself and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To reauthorize the EB–5 Regional Center Program in order to prevent fraud and to promote and reform foreign capital investment and job creation in American communities.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EB–5 Reform and In-  
5 tegrity Act of 2021”.

1 **SEC. 2. REAUTHORIZATION AND REFORM OF THE RE-**  
2 **GIONAL CENTER PROGRAM.**

3 (a) **REPEAL.**—Section 610 of the Departments of  
4 Commerce, Justice, and State, the Judiciary, and Related  
5 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
6 is repealed.

7 (b) **AUTHORIZATION.**—Section 203(b)(5) of the Im-  
8 migration and Nationality Act (8 U.S.C. 1153(b)(5)) is  
9 amended by adding at the end the following:

10 “(E) **REGIONAL CENTER PROGRAM.**—

11 “(i) **IN GENERAL.**—Visas under this  
12 paragraph shall be made available through  
13 September 30, 2026, to qualified immi-  
14 grants (and the eligible spouses and chil-  
15 dren of such immigrants) pooling their in-  
16 vestments with 1 or more qualified immi-  
17 grants participating in a program imple-  
18 menting this paragraph that involves a re-  
19 gional center in the United States, which  
20 has been designated by the Secretary of  
21 Homeland Security on the basis of a pro-  
22 posal for the promotion of economic  
23 growth, including prospective job creation  
24 and increased domestic capital investment.

25 “(ii) **PROCESSING.**—In processing pe-  
26 titions under section 204(a)(1)(H) for clas-

1 sification under this paragraph, the Sec-  
2 retary of Homeland Security—

3 “(I) may process petitions in a  
4 manner and order established by the  
5 Secretary; and

6 “(II) shall deem such petitions to  
7 include records previously filed with  
8 the Secretary pursuant to subpara-  
9 graph (F) if the alien petitioner cer-  
10 tifies that such records are incor-  
11 porated by reference into the alien’s  
12 petition.

13 “(iii) ESTABLISHMENT OF A RE-  
14 GIONAL CENTER.—A regional center shall  
15 operate within a defined, contiguous, and  
16 limited geographic area, which shall be de-  
17 scribed in the proposal and be consistent  
18 with the purpose of concentrating pooled  
19 investment within such area. The proposal  
20 to establish a regional center shall dem-  
21 onstrate that the pooled investment will  
22 have a substantive economic impact on  
23 such geographic area, and shall include—

24 “(I) reasonable predictions, sup-  
25 ported by economically and statis-

1 tically valid and transparent fore-  
2 casting tools, concerning the amount  
3 of investment that will be pooled, the  
4 kinds of commercial enterprises that  
5 will receive such investments, details  
6 of the jobs that will be created di-  
7 rectly or indirectly as a result of such  
8 investments, and other positive eco-  
9 nomic effects such investments will  
10 have;

11 “(II) a description of the policies  
12 and procedures in place reasonably  
13 designed to monitor new commercial  
14 enterprises and any associated job-  
15 creating entity to seek to ensure com-  
16 pliance with—

17 “(aa) all applicable laws,  
18 regulations, and executive orders  
19 of the United States, including  
20 immigration laws, criminal laws,  
21 and securities laws; and

22 “(bb) all securities laws of  
23 each State in which securities of-  
24 ferings will be conducted, invest-

1                   ment advice will be rendered, or  
2                   the offerors or offerees reside;

3                   “(III) attestations and informa-  
4                   tion confirming that all persons in-  
5                   volved with the regional center meet  
6                   the requirements under clauses (i)  
7                   and (ii) of subparagraph (H);

8                   “(IV) a description of the policies  
9                   and procedures in place that are rea-  
10                  sonably designed to ensure program  
11                  compliance; and

12                  “(V) the identities of all natural  
13                  persons involved in the regional cen-  
14                  ter, as described in subparagraph  
15                  (H)(v).

16                  “(iv) INDIRECT JOB CREATION.—

17                  “(I) IN GENERAL.—The Sec-  
18                  retary of Homeland Security shall  
19                  permit aliens seeking admission under  
20                  this subparagraph to satisfy only up  
21                  to 90 percent of the requirement  
22                  under subparagraph (A)(ii) with jobs  
23                  that are estimated to be created indi-  
24                  rectly through investment under this  
25                  paragraph in accordance with this

1           subparagraph. An employee of the  
2           new commercial enterprise or job-cre-  
3           ating entity may be considered to hold  
4           a job that has been directly created.

5           “(II) CONSTRUCTION ACTIVITY  
6           LASTING LESS THAN 2 YEARS.—If the  
7           jobs estimated to be created are cre-  
8           ated by construction activity lasting  
9           less than 2 years, the Secretary shall  
10          permit aliens seeking admission under  
11          this subparagraph to satisfy only up  
12          to 75 percent of the requirement  
13          under subparagraph (A)(ii) with jobs  
14          that are estimated to be created indi-  
15          rectly through investment under this  
16          paragraph in accordance with this  
17          subparagraph.

18          “(v) COMPLIANCE.—

19                 “(I) IN GENERAL.—In deter-  
20                 mining compliance with subparagraph  
21                 (A)(ii), the Secretary of Homeland Se-  
22                 curity shall permit aliens seeking ad-  
23                 mission under this subparagraph to  
24                 rely on economically and statistically  
25                 valid methodologies for determining

1 the number of jobs created by the pro-  
2 gram, including—

3 “(aa) jobs estimated to have  
4 been created directly, which may  
5 be verified using such methodolo-  
6 gies; and

7 “(bb) consistent with this  
8 subparagraph, jobs estimated to  
9 have been directly or indirectly  
10 created through capital expendi-  
11 tures, revenues generated from  
12 increased exports, improved re-  
13 gional productivity, job creation,  
14 and increased domestic capital  
15 investment resulting from the  
16 program.

17 “(II) JOB AND INVESTMENT RE-  
18 QUIREMENTS.—

19 “(aa) RELOCATED JOBS.—  
20 In determining compliance with  
21 the job creation requirement  
22 under subparagraph (A)(ii), the  
23 Secretary of Homeland Security  
24 may include jobs estimated to be  
25 created under a methodology that

1 attributes jobs to prospective ten-  
2 ants occupying commercial real  
3 estate created or improved by  
4 capital investments if the number  
5 of such jobs estimated to be cre-  
6 ated has been determined by an  
7 economically and statistically  
8 valid methodology and such jobs  
9 are not existing jobs that have  
10 been relocated.

11 “(bb) PUBLICLY AVAILABLE  
12 BONDS.—The Secretary of  
13 Homeland Security shall pre-  
14 scribe regulations to ensure that  
15 alien investor capital may not be  
16 utilized, by a new commercial en-  
17 terprise or otherwise, to purchase  
18 municipal bonds or any other  
19 bonds, if such bonds are available  
20 to the general public, either as  
21 part of a primary offering or  
22 from a secondary market.

23 “(cc) CONSTRUCTION ACTIV-  
24 ITY JOBS.—If the number of di-  
25 rect jobs estimated to be created



1 has been determined by an eco-  
2 nomically and statistically valid  
3 methodology, and such direct  
4 jobs are created by construction  
5 activity lasting less than 2 years,  
6 the number of such jobs that  
7 may be considered direct jobs for  
8 purposes of clause (iv) shall be  
9 calculated by multiplying the  
10 total number of such jobs esti-  
11 mated to be created by the frac-  
12 tion of the 2-year period that the  
13 construction activity lasts.

14 “(vi) AMENDMENTS.—The Secretary  
15 of Homeland Security shall—

16 “(I) require a regional center—

17 “(aa) to notify the Sec-  
18 retary, not later than 120 days  
19 before the implementation of sig-  
20 nificant proposed changes to its  
21 organizational structure, owner-  
22 ship, or administration, including  
23 the sale of such center, or other  
24 arrangements which would result  
25 in individuals not previously sub-

1           ject to the requirements under  
2           subparagraph (H) becoming in-  
3           volved with the regional center;  
4           or

5                   “(bb) if exigent cir-  
6                   cumstances are present, to pro-  
7                   vide the notice described in item  
8                   (aa) to the Secretary not later  
9                   than 5 business days after a  
10                  change described in such item;  
11                  and

12                  “(II) adjudicate business plans  
13                  under subparagraph (F) and petitions  
14                  under section 204(a)(1)(H) during  
15                  any notice period as long as the  
16                  amendment to the business or petition  
17                  does not negatively impact program  
18                  eligibility.

19                  “(vii) RECORD KEEPING AND AU-  
20                  DITS.—

21                   “(I) RECORD KEEPING.—Each  
22                   regional center shall make and pre-  
23                   serve, during the 5-year period begin-  
24                   ning on the last day of the Federal  
25                   fiscal year in which any transactions

1 occurred, books, ledgers, records, and  
2 other documentation from the regional  
3 center, new commercial enterprise, or  
4 job-creating entity used to support—

5 “(aa) any claims, evidence,  
6 or certifications contained in the  
7 regional center’s annual state-  
8 ments under subparagraph (G);  
9 and

10 “(bb) associated petitions by  
11 aliens seeking classification under  
12 this section or removal of condi-  
13 tions under section 216A.

14 “(II) AUDITS.—The Secretary  
15 shall audit each regional center not  
16 less frequently than once every 5  
17 years. Each such audit shall include a  
18 review of any documentation required  
19 to be maintained under subclause (I)  
20 for the preceding 5 years and a review  
21 of the flow of alien investor capital  
22 into any capital investment project.  
23 To the extent multiple regional cen-  
24 ters are located at a single site, the

1 Secretary may audit multiple regional  
2 centers in a single site visit.

3 “(III) TERMINATION.—The Sec-  
4 retary shall terminate the designation  
5 of a regional center that fails to con-  
6 sent to an audit under subclause (II)  
7 or deliberately attempts to impede  
8 such an audit.

9 “(F) BUSINESS PLANS FOR REGIONAL  
10 CENTER INVESTMENTS.—

11 “(i) APPLICATION FOR APPROVAL OF  
12 AN INVESTMENT IN A COMMERCIAL EN-  
13 TERPRISE.—A regional center shall file an  
14 application with the Secretary of Home-  
15 land Security for each particular invest-  
16 ment offering through an associated new  
17 commercial enterprise before any alien files  
18 a petition for classification under this  
19 paragraph by reason of investment in that  
20 offering. The application shall include—

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

24 “(II) a credible economic analysis  
25 regarding estimated job creation that

1 is based upon economically and statis-  
2 tically valid and transparent meth-  
3 odologies;

4 “(III) any documents filed with  
5 the Securities and Exchange Commis-  
6 sion under the Securities Act of 1933  
7 (15 U.S.C. 77a et seq.) or with the  
8 securities regulator of any State, as  
9 required by law;

10 “(IV) any investment and offer-  
11 ing documents, including subscription,  
12 investment, partnership, and oper-  
13 ating agreements, private placement  
14 memoranda, term sheets, biographies  
15 of management, officers, directors,  
16 and any person with similar respon-  
17 sibilities, the description of the busi-  
18 ness plan to be provided to potential  
19 alien investors, and marketing mate-  
20 rials used, or drafts prepared for use,  
21 in connection with the offering, which  
22 shall contain references, as appro-  
23 priate, to—

24 “(aa) all material invest-  
25 ment risks associated with the

1 new commercial enterprise and  
2 the job-creating entity;

3 “(bb) any conflicts of inter-  
4 est that currently exist or may  
5 arise among the regional center,  
6 the new commercial enterprise,  
7 the job-creating entity, or the  
8 principals, attorneys, or individ-  
9 uals responsible for recruitment  
10 or promotion of such entities;

11 “(cc) any pending material  
12 litigation or bankruptcy, or mate-  
13 rial adverse judgments or bank-  
14 ruptcy orders issued during the  
15 most recent 10-year period, in  
16 the United States or in another  
17 country, affecting the regional  
18 center, the new commercial enter-  
19 prise, any associated job-creating  
20 entity, or any other enterprise in  
21 which any principal of any of the  
22 aforementioned entities held ma-  
23 jority ownership at the time; and

24 “(dd)(AA) any fees, ongoing  
25 interest, or other compensation

1 paid, or to be paid by the re-  
2 gional center, the new commer-  
3 cial enterprise, or any issuer of  
4 securities intended to be offered  
5 to alien investors, to agents, find-  
6 ers, or broker dealers involved in  
7 the offering of securities to alien  
8 investors in connection with the  
9 investment;

10 “(BB) a description of the  
11 services performed, or that will  
12 be performed, by such person to  
13 entitle the person to such fees,  
14 interest, or compensation; and

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

18 “(V) a description of the policies  
19 and procedures, such as those related  
20 to internal and external due diligence,  
21 reasonably designed to cause the re-  
22 gional center and any issuer of securi-  
23 ties intended to be offered to alien in-  
24 vestors in connection with the relevant  
25 capital investment project, to comply,

1 as applicable, with the securities laws  
2 of the United States and the laws of  
3 the applicable States in connection  
4 with the offer, purchase, or sale of its  
5 securities; and

6 “(VI) a certification from the re-  
7 gional center, and any issuer of secu-  
8 rities intended to be offered to alien  
9 investors in connection with the rel-  
10 evant capital investment project, that  
11 their respective agents and employees,  
12 and any parties associated with the  
13 regional center and such issuer of se-  
14 curities affiliated with the regional  
15 center are in compliance with the se-  
16 curities laws of the United States and  
17 the laws of the applicable States in  
18 connection with the offer, purchase, or  
19 sale of its securities, to the best of the  
20 certifier’s knowledge, after a due dili-  
21 gence investigation.

22 “(ii) EFFECT OF APPROVAL OF A  
23 BUSINESS PLAN FOR AN INVESTMENT IN A  
24 REGIONAL CENTER’S COMMERCIAL ENTER-  
25 PRISE.—The approval of an application



1 under this subparagraph, including an ap-  
2 proval before the date of the enactment of  
3 this subparagraph, shall be binding for  
4 purposes of the adjudication of subsequent  
5 petitions seeking classification under this  
6 paragraph by immigrants investing in the  
7 same offering described in such applica-  
8 tion, and of petitions by the same immi-  
9 grants filed under section 216A unless—

10 “(I) the applicant engaged in  
11 fraud, misrepresentation, or criminal  
12 misuse;

13 “(II) such approval would threat-  
14 en public safety or national security;

15 “(III) there has been a material  
16 change that affects eligibility;

17 “(IV) the discovery of other evi-  
18 dence affecting program eligibility was  
19 not disclosed by the applicant during  
20 the adjudication process; or

21 “(V) the previous adjudication  
22 involved a material mistake of law or  
23 fact.

24 “(iii) AMENDMENTS.—

1           “(I) APPROVAL.—The Secretary  
2 of Homeland Security may establish  
3 procedures by which a regional center  
4 may seek approval of an amendment  
5 to an approved application under this  
6 subparagraph that reflects changes  
7 specified by the Secretary to any in-  
8 formation, documents, or other as-  
9 pects of the investment offering de-  
10 scribed in such approved application  
11 not later than 30 days after any such  
12 changes.

13           “(II) INCORPORATION.—Upon  
14 the approval of a timely filed amend-  
15 ment to an approved application, any  
16 changes reflected in such amendment  
17 may be incorporated into and consid-  
18 ered in determining program eligibility  
19 through adjudication of—

20                   “(aa) pending petitions from  
21 immigrants investing in the offer-  
22 ing described in the approved ap-  
23 plication who are seeking classi-  
24 fication under this paragraph;  
25 and

1                   “(bb) petitions by immi-  
2                   grants described in item (aa)  
3                   that are filed under section  
4                   216A.

5                   “(iv) SITE VISITS.—The Secretary of  
6                   Homeland Security shall—

7                   “(I) perform site visits to re-  
8                   gional centers not earlier than 24  
9                   hours after providing notice of such  
10                  site visit; and

11                  “(II) perform at least 1 site visit  
12                  to, as applicable, each new commercial  
13                  enterprise or job-creating entity, or  
14                  the business locations where any jobs  
15                  that are claimed as being created.

16                  “(G) REGIONAL CENTER ANNUAL STATE-  
17                  MENTS.—

18                  “(i) IN GENERAL.—Each regional cen-  
19                  ter designated under subparagraph (E)  
20                  shall submit an annual statement, in a  
21                  manner prescribed by the Secretary of  
22                  Homeland Security. Each such statement  
23                  shall include—

24                  “(I) a certification stating that,  
25                  to the best of the certifier’s knowl-

1 edge, after a due diligence investiga-  
2 tion, the regional center is in compli-  
3 ance with clauses (i) and (ii) of sub-  
4 paragraph (H);

5 “(II) a certification described in  
6 subparagraph (I)(ii)(II);

7 “(III) a certification stating that,  
8 to the best of the certifier’s knowl-  
9 edge, after a due diligence investiga-  
10 tion, the regional center is in compli-  
11 ance with subparagraph (K)(iii);

12 “(IV) a description of any pend-  
13 ing material litigation or bankruptcy  
14 proceedings, or material litigation or  
15 bankruptcy proceedings resolved dur-  
16 ing the preceding fiscal year, involving  
17 the regional center, the new commer-  
18 cial enterprise, or any affiliated job-  
19 creating entity;

20 “(V) an accounting of all indi-  
21 vidual alien investor capital invested  
22 in the regional center, new commercial  
23 enterprise, and job-creating entity;

1           “(VI) for each new commercial  
2 enterprise associated with the regional  
3 center—

4                   “(aa) an accounting of the  
5 aggregate capital invested in the  
6 new commercial enterprise and  
7 any job-creating entity by alien  
8 investors under this paragraph  
9 for each capital investment  
10 project being undertaken by the  
11 new commercial enterprise;

12                   “(bb) a description of how  
13 the capital described in item (aa)  
14 is being used to execute each  
15 capital investment project in the  
16 filed business plan or plans;

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

21                   “(dd) detailed evidence of  
22 the progress made toward the  
23 completion of each capital invest-  
24 ment project;

1           “(ee) an accounting of the  
2 aggregate direct jobs created or  
3 preserved;

4           “(ff) to the best of the re-  
5 gional center’s knowledge, for all  
6 fees, including administrative  
7 fees, loan monitoring fees, loan  
8 management fees, commissions  
9 and similar transaction-based  
10 compensation, collected from  
11 alien investors by the regional  
12 center, the new commercial enter-  
13 prise, any affiliated job-creating  
14 entity, any affiliated issuer of se-  
15 curities intended to be offered to  
16 alien investors, or any promoter,  
17 finder, broker-dealer, or other en-  
18 tity engaged by any of the afore-  
19 mentioned entities to locate indi-  
20 vidual investors—

21           “(AA) a description of  
22 all fees collected;

23           “(BB) an accounting of  
24 the entities that received  
25 such fees; and

1 “(CC) the purpose for  
2 which such fees were col-  
3 lected;

4 “(gg) any documentation re-  
5 ferred to in subparagraph  
6 (F)(i)(IV) if there has been a  
7 material change during the pre-  
8 ceding fiscal year; and

9 “(hh) a certification by the  
10 regional center that the informa-  
11 tion provided under items (aa)  
12 through (gg) is accurate, to the  
13 best of the certifier’s knowledge,  
14 after a due diligence investiga-  
15 tion; and

16 “(VII) a description of the re-  
17 gional center’s policies and procedures  
18 that are designed to enable the re-  
19 gional center to comply with applica-  
20 ble Federal labor laws.

21 “(ii) AMENDMENT OF ANNUAL STATE-  
22 MENTS.—The Secretary of Homeland Se-  
23 curity—

24 “(I) shall require the regional  
25 center to amend or supplement an an-

1 nual statement required under clause  
2 (i) if the Secretary determines that  
3 such statement is deficient; and

4 “(II) may require the regional  
5 center to amend or supplement such  
6 annual statement if the Director de-  
7 termines that such an amendment or  
8 supplement is appropriate.

9 “(iii) SANCTIONS.—

10 “(I) EFFECT OF VIOLATION.—

11 The Director shall sanction any re-  
12 gional center entity in accordance  
13 with subclause (II) if the regional cen-  
14 ter fails to submit an annual state-  
15 ment or if the Director determines  
16 that the regional center—

17 “(aa) knowingly submitted  
18 or caused to be submitted a  
19 statement, certification, or any  
20 information submitted pursuant  
21 to this subparagraph that con-  
22 tained an untrue statement of  
23 material fact; or

24 “(bb) is conducting itself in  
25 a manner inconsistent with its



1 designation under subparagraph  
2 (E), including any willful, undis-  
3 closed, and material deviation by  
4 new commercial enterprises from  
5 any filed business plan for such  
6 new commercial enterprises.

7 “(II) AUTHORIZED SANCTIONS.—  
8 The Director shall establish a grad-  
9 uated set of sanctions based on the  
10 severity of the violations referred to in  
11 subclause (I), including—

12 “(aa) fines equal to not  
13 more than 10 percent of the total  
14 capital invested by alien investors  
15 in the regional center’s new com-  
16 mercial enterprises or job-cre-  
17 ating entities directly involved in  
18 such violations, the payment of  
19 which shall not in any cir-  
20 cumstance utilize any of such  
21 alien investors’ capital invest-  
22 ments, and which shall be depos-  
23 ited into the EB–5 Integrity  
24 Fund established under subpara-  
25 graph (J);

1           “(bb) temporary suspension  
2           from participation in the pro-  
3           gram described in subparagraph  
4           (E), which may be lifted by the  
5           Director if the individual or enti-  
6           ty cures the alleged violation  
7           after being provided such an op-  
8           portunity by the Director;

9           “(cc) permanent bar from  
10           participation in the program de-  
11           scribed in subparagraph (E) for  
12           1 or more individuals or business  
13           entities associated with the re-  
14           gional center, new commercial  
15           enterprise, or job-creating entity;  
16           and

17           “(dd) termination of re-  
18           gional center designation.

19           “(iv) AVAILABILITY OF ANNUAL  
20           STATEMENTS TO INVESTORS.—Not later  
21           than 30 days after a request from an alien  
22           investor, a regional center shall make  
23           available to such alien investor a copy of  
24           the filed annual statement and any amend-  
25           ments filed to such statement, which shall

1 be redacted to exclude any information un-  
2 related to such alien investor or the new  
3 commercial enterprise or job creating enti-  
4 ty into which the alien investor invested.

5 “(H) BONA FIDES OF PERSONS INVOLVED  
6 WITH REGIONAL CENTER PROGRAM.—

7 “(i) IN GENERAL.—The Secretary of  
8 Homeland Security may not permit any  
9 person to be involved with any regional  
10 center, new commercial enterprise, or job-  
11 creating entity if—

12 “(I) the person has been found to  
13 have committed—

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

17 “(bb) a civil offense involv-  
18 ing fraud or deceit that resulted  
19 in a liability in excess of  
20 \$1,000,000; or

21 “(cc) a crime for which the  
22 person was convicted and sen-  
23 tenced to a term of imprisonment  
24 of more than 1 year;

1           “(II) the person is subject to a  
2           final order, for the duration of any  
3           penalty imposed by such order, of a  
4           State securities commission (or an  
5           agency or officer of a State per-  
6           forming similar functions), a State  
7           authority that supervises or examines  
8           banks, savings associations, or credit  
9           unions, a State insurance commission  
10          (or an agency or officer of a State  
11          performing similar functions), an ap-  
12          propriate Federal banking agency, the  
13          Commodity Futures Trading Commis-  
14          sion, the Securities and Exchange  
15          Commission, a financial self-regu-  
16          latory organization recognized by the  
17          Securities and Exchange Commission,  
18          or the National Credit Union Admin-  
19          istration, which is based on a violation  
20          of any law or regulation that—

21                   “(aa) prohibits fraudulent,  
22                   manipulative, or deceptive con-  
23                   duct; or

24                   “(bb) bars the person  
25                   from—

1                   “(AA) association with  
2                   an entity regulated by such  
3                   commission, authority, agen-  
4                   cy, or officer;

5                   “(BB) appearing before  
6                   such commission, authority,  
7                   agency, or officer;

8                   “(CC) engaging in the  
9                   business of securities, insur-  
10                  ance, or banking; or

11                  “(DD) engaging in sav-  
12                  ings association or credit  
13                  union activities;

14                  “(III) the Secretary determines  
15                  that the person is engaged in, has  
16                  ever been engaged in, or seeks to en-  
17                  gage in—

18                         “(aa) any illicit trafficking  
19                         in any controlled substance or in  
20                         any listed chemical (as defined in  
21                         section 102 of the Controlled  
22                         Substances Act);

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

1           “(cc) any activity related to  
2 money laundering (as described  
3 in section 1956 or 1957 of title  
4 18, United States Code);

5           “(dd) any terrorist activity  
6 (as defined in section  
7 212(a)(3)(B));

8           “(ee) any activity consti-  
9 tuting or facilitating human traf-  
10 ficking or a human rights of-  
11 fense;

12           “(ff) any activity described  
13 in section 212(a)(3)(E); or

14           “(gg) the violation of any  
15 statute, regulation, or Executive  
16 order regarding foreign financial  
17 transactions or foreign asset con-  
18 trol; or

19           “(IV) the person—

20           “(aa) is, or during the pre-  
21 ceding 10 years has been, in-  
22 cluded on the Department of  
23 Justice’s List of Currently Dis-  
24 ciplined Practitioners; or

1           “(bb) during the preceding  
2           10 years, has received a rep-  
3           rimand or has otherwise been  
4           publicly disciplined for conduct  
5           related to fraud or deceit by a  
6           State bar association of which  
7           the person is or was a member.

8           “(ii) FOREIGN INVOLVEMENT IN RE-  
9           GIONAL CENTER PROGRAM.—

10           “(I) LAWFUL STATUS RE-  
11           QUIRED.—A person may not be in-  
12           volved with a regional center unless  
13           the person—

14           “(aa) is a national of the  
15           United States or an individual  
16           who has been lawfully admitted  
17           for permanent residence (as such  
18           terms are defined in paragraphs  
19           (20) and (22) of section 101(a));  
20           and

21           “(bb) is not the subject of  
22           rescission or removal pro-  
23           ceedings.

24           “(II) FOREIGN GOVERNMENTS.—  
25           No agency, official, or other similar

1           entity or representative of a foreign  
2           government entity may provide capital  
3           to, or be directly or indirectly involved  
4           with the ownership or administration  
5           of, a regional center, a new commer-  
6           cial enterprise, or a job-creating enti-  
7           ty, except that a foreign or domestic  
8           investment fund or other investment  
9           vehicle that is wholly or partially  
10          owned, directly or indirectly, by a  
11          bona fide foreign sovereign wealth  
12          fund or a foreign state-owned enter-  
13          prise otherwise permitted to do busi-  
14          ness in the United States may be in-  
15          volved with the ownership, but not the  
16          administration, of a job-creating enti-  
17          ty that is not an affiliated job-creating  
18          entity.

19                   “(III) RULEMAKING.—Not later  
20                   than 270 days after the date of the  
21                   enactment of the EB–5 Reform and  
22                   Integrity Act of 2021, the Secretary  
23                   shall issue regulations implementing  
24                   subparagraphs (I) and (II).



1                   “(iii) INFORMATION REQUIRED.—The  
2                   Secretary of Homeland Security—

3                   “(I) shall require such attesta-  
4                   tions and information, including the  
5                   submission of fingerprints or other  
6                   biometrics to the Federal Bureau of  
7                   Investigation with respect to a re-  
8                   gional center, a new commercial enter-  
9                   prise, and any affiliated job creating  
10                  entity, and persons involved with such  
11                  entities (as described in clause (v)), as  
12                  may be necessary to determine wheth-  
13                  er such entities are in compliance with  
14                  clauses (i) and (ii);

15                  “(II) shall perform such criminal  
16                  record checks and other background  
17                  and database checks with respect to a  
18                  regional center, a new commercial en-  
19                  terprise, and any affiliated job-cre-  
20                  ating entity, and persons involved  
21                  with such entities (as described in  
22                  clause (v)), as may be necessary to de-  
23                  termine whether such entities are in  
24                  compliance with clauses (i) and (ii);  
25                  and

1           “(III) may, at the Secretary’s  
2 discretion, require the information de-  
3 scribed to in subclause (I) and may  
4 perform the checks described in sub-  
5 clause (II) with respect to any job cre-  
6 ating entity and persons involved with  
7 such entity if there is a reasonable  
8 basis to believe such entity or person  
9 is not in compliance with clauses (i)  
10 and (ii).

11           “(iv) TERMINATION.—

12           “(I) IN GENERAL.—The Sec-  
13 retary of Homeland Security may sus-  
14 pend or terminate the designation of  
15 any regional center, or the participa-  
16 tion under the program of any new  
17 commercial enterprise or job-creating  
18 entity under this paragraph if the  
19 Secretary determines that such enti-  
20 ty—

21           “(aa) knowingly involved a  
22 person with such entity in viola-  
23 tion of clause (i) or (ii) by fail-  
24 ing, within 14 days of acquiring  
25 such knowledge—

1                   “(AA) to take commer-  
2                   cially reasonable efforts to  
3                   discontinue the prohibited  
4                   person’s involvement; or

5                   “(BB) to provide notice  
6                   to the Secretary;

7                   “(bb) failed to provide an  
8                   attestation or information re-  
9                   quested by the Secretary under  
10                  clause (iii)(I); or

11                  “(cc) knowingly provided  
12                  any false attestation or informa-  
13                  tion under clause (iii)(I).

14                  “(II) LIMITATION.—The Sec-  
15                  retary’s authorized sanctions under  
16                  subclause (I) shall be limited to enti-  
17                  ties that have engaged in any activity  
18                  described in subclause (I).

19                  “(III) INFORMATION.—

20                  “(aa) NOTIFICATION.—The  
21                  Secretary, after performing the  
22                  criminal record checks and other  
23                  background checks described in  
24                  clause (iii), shall notify a regional  
25                  center, new commercial enter-

1           prise, or job-creating entity  
2           whether any person involved with  
3           such entities is not in compliance  
4           with clause (i) or (ii), unless the  
5           information that provides the  
6           basis for the determination is  
7           classified or disclosure is other-  
8           wise prohibited under law.

9           “(bb) EFFECT OF FAILURE  
10          TO RESPOND.—If the regional  
11          center, new commercial enter-  
12          prise, or job-creating entity fails  
13          to discontinue the prohibited per-  
14          son’s involvement with the re-  
15          gional center, new commercial  
16          enterprise, or job-creating entity,  
17          as applicable, within 30 days  
18          after receiving such notification,  
19          such entity shall be deemed to  
20          have knowledge under subclause  
21          (I)(aa) that the involvement of  
22          such person with the entity is in  
23          violation of clause (i) or (ii).

24          “(v) PERSONS INVOLVED WITH A RE-  
25          GIONAL CENTER, NEW COMMERCIAL EN-

1           TERPRISE, OR JOB-CREATING ENTITY.—  
2           For the purposes of this paragraph, unless  
3           otherwise determined by the Secretary of  
4           Homeland Security, a person is involved  
5           with a regional center, a new commercial  
6           enterprise, any affiliated job-creating enti-  
7           ty, as applicable, if the person is, directly  
8           or indirectly, in a position of substantive  
9           authority to make operational or manage-  
10          rial decisions over pooling, securitization,  
11          investment, release, acceptance, or control  
12          or use of any funding that was procured  
13          under the program described in subpara-  
14          graph (E). An individual may be in a posi-  
15          tion of substantive authority if the person  
16          serves as a principal, a representative, an  
17          administrator, an owner, an officer, a  
18          board member, a manager, an executive, a  
19          general partner, a fiduciary, an agent, or  
20          in a similar position at the regional center,  
21          new commercial enterprise, or job-creating  
22          entity, respectively.

23               “(I) COMPLIANCE WITH SECURITIES  
24           LAWS.—

25                       “(i) JURISDICTION.—

1           “(I) IN GENERAL.—The United  
2 States has jurisdiction, including sub-  
3 ject matter jurisdiction, over the pur-  
4 chase or sale of any security offered  
5 or sold, or any investment advice pro-  
6 vided, by any regional center or any  
7 party associated with a regional cen-  
8 ter for purposes of the securities laws.

9           “(II) COMPLIANCE WITH REGU-  
10 LATION S.—For purposes of section 5  
11 of the Securities Act of 1933 (15  
12 U.S.C. 77e), a regional center or any  
13 party associated with a regional cen-  
14 ter is not precluded from offering or  
15 selling a security pursuant to Regula-  
16 tion S (17 C.F.R. 230.901 et seq.) to  
17 the extent that such offering or selling  
18 otherwise complies with that regula-  
19 tion.

20           “(III) SAVINGS PROVISION.—  
21 Subclause (I) is not intended to mod-  
22 ify any existing rules or regulations of  
23 the Securities and Exchange Commis-  
24 sion related to the application of sec-  
25 tion 15(a) of the Securities and Ex-

1 change Act of 1934 (15 U.S.C.  
2 780(a)) to foreign brokers or dealers.

3 “(ii) REGIONAL CENTER CERTIFI-  
4 CATIONS REQUIRED.—

5 “(I) INITIAL CERTIFICATION.—

6 The Secretary of Homeland Security  
7 may not approve an application for re-  
8 gional center designation or regional  
9 center amendment unless the regional  
10 center certifies that, to the best of the  
11 certifier’s knowledge, after a due dili-  
12 gence investigation, the regional cen-  
13 ter is in compliance with and has poli-  
14 cies and procedures, including those  
15 related to internal and external due  
16 diligence, reasonably designed to con-  
17 firm, as applicable, that all parties as-  
18 sociated with the regional center are  
19 and will remain in compliance with  
20 the securities laws of the United  
21 States and of any State in which—

22 “(aa) the offer, purchase, or  
23 sale of securities was conducted;

24 “(bb) the issuer of securities  
25 was located; or

1           “(cc) the investment advice  
2           was provided by the regional cen-  
3           ter or parties associated with the  
4           regional center.

5           “(II) REISSUE.—A regional cen-  
6           ter shall annually reissue a certifi-  
7           cation described in subclause (I), in  
8           accordance with subparagraph (G), to  
9           certify compliance with clause (iii) by  
10          stating that—

11                   “(aa) the certification is  
12                   made by a certifier;

13                   “(bb) to the best of the cer-  
14                   tifier’s knowledge, after a due  
15                   diligence investigation, all such  
16                   offers, purchases, and sales of se-  
17                   curities or the provision of invest-  
18                   ment advice complied with the se-  
19                   curities laws of the United States  
20                   and the securities laws of any  
21                   State in which—

22                           “(AA) the offer, pur-  
23                           chase, or sale of securities  
24                           was conducted;



1                   “(BB) the issuer of se-  
2                   curities was located; or

3                   “(CC) the investment  
4                   advice was provided; and

5                   “(cc) records, data, and in-  
6                   formation related to such offers,  
7                   purchases, and sales have been  
8                   maintained.

9                   “(III) EFFECT OF NONCOMPLI-  
10                  ANCE.—If a regional center, through  
11                  its due diligence, discovered during  
12                  the previous fiscal year that the re-  
13                  gional center or any party associated  
14                  with the regional center was not in  
15                  compliance with the securities laws of  
16                  the United States or the securities  
17                  laws of any State in which the securi-  
18                  ties activities were conducted by any  
19                  party associated with the regional cen-  
20                  ter, the certifier shall—

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

23                   “(bb) describe the actions  
24                   taken to remedy the noncompli-  
25                   ance; and

1           “(cc) certify that the re-  
2           gional center and all parties asso-  
3           ciated with the regional center  
4           are currently in compliance, to  
5           the best of the certifier’s knowl-  
6           edge, after a due diligence inves-  
7           tigation.

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

10           “(I) use commercially reasonable  
11           efforts to monitor and supervise com-  
12           pliance with the securities laws in re-  
13           lations to all offers, purchases, and  
14           sales of, and investment advice relat-  
15           ing to, securities made by parties as-  
16           sociated with the regional center;

17           “(II) maintain records, data, and  
18           information relating to all such offers,  
19           purchases, sales, and investment ad-  
20           vice during the 5-year period begin-  
21           ning on the date of their creation; and

22           “(III) make the records, data,  
23           and information described in sub-  
24           clause (II) available to the Secretary

1 or to the Securities and Exchange  
2 Commission upon request.

3 “(iv) SUSPENSION OR TERMI-  
4 NATION.—In addition to any other author-  
5 ity provided to the Secretary under this  
6 paragraph, the Secretary, in the Sec-  
7 retary’s discretion, may suspend or termi-  
8 nate the designation of any regional center  
9 or impose other sanctions against the re-  
10 gional center if the regional center, or any  
11 parties associated with the regional center  
12 that the regional center knew or reason-  
13 ably should have known—

14 “(I) are permanently or tempo-  
15 rarily enjoined by order, judgment, or  
16 decree of any court of competent ju-  
17 risdiction in connection with the offer,  
18 purchase, or sale of a security or the  
19 provision of investment advice;

20 “(II) are subject to any final  
21 order of the Securities and Exchange  
22 Commission or a State securities reg-  
23 ulator that—

24 “(aa) bars such person from  
25 association with an entity regu-

1                   lated by the Securities and Ex-  
2                   change Commission or a State  
3                   securities regulator; or

4                   “*(bb)* constitutes a final  
5                   order based on a finding of an in-  
6                   tentional violation or a violation  
7                   related to fraud or deceit in con-  
8                   nection with the offer, purchase,  
9                   or sale of, or investment advice  
10                  relating to, a security; or

11                  “*(III)* submitted, or caused to be  
12                  submitted, a certification described in  
13                  clause *(ii)* that contained an untrue  
14                  statement of a material fact or omit-  
15                  ted to state a material fact necessary  
16                  in order to make the statements  
17                  made, in light of the circumstances  
18                  under which they were made, not mis-  
19                  leading.

20                  “*(v)* DEFINED TERM.—In this sub-  
21                  paragraph, the term ‘parties associated  
22                  with a regional center’ means—

23                          “*(I)* the regional center;

24                          “*(II)* any new commercial enter-  
25                  prise or affiliated job-creating entity

1 or issuer of securities associated with  
2 the regional center;

3 “(III) the regional center’s and  
4 new commercial enterprise’s owners,  
5 officers, directors, managers, partners,  
6 agents, employees, promoters and at-  
7 torneys, or similar position, as deter-  
8 mined by the Secretary; and

9 “(IV) any person under the con-  
10 trol of the regional center, new com-  
11 mercial enterprise, or issuer of securi-  
12 ties associated with the regional cen-  
13 ter who is responsible for the mar-  
14 keting, offering, or sale of any secu-  
15 rity offered in connection with the  
16 capital investment project.

17 “(vi) SAVINGS PROVISION.—Nothing  
18 in this subparagraph may be construed to  
19 impair or limit the authority of the Securi-  
20 ties and Exchange Commission under the  
21 Federal securities laws or any State securi-  
22 ties regulator under State securities laws.

23 “(J) EB-5 INTEGRITY FUND.—

24 “(i) ESTABLISHMENT.—There is es-  
25 tablished in the United States Treasury a

1 special fund, which shall be known as the  
2 ‘EB–5 Integrity Fund’ (referred to in this  
3 subparagraph as the ‘Fund’). Amounts de-  
4 posited into the Fund shall be available to  
5 the Secretary of Homeland Security until  
6 expended for the purposes set forth in  
7 clause (iii).

8 “(ii) FEES.—

9 “(I) ANNUAL FEE.—On October  
10 1, 2021, and each October 1 there-  
11 after, the Secretary of Homeland Se-  
12 curity shall collect for the Fund an  
13 annual fee—

14 “(aa) except as provided in  
15 item (bb), of \$20,000 from each  
16 regional center designated under  
17 subparagraph (E); and

18 “(bb) of \$10,000 from each  
19 such regional center with 20 or  
20 fewer total investors in the pre-  
21 ceding fiscal year in its new com-  
22 mercial enterprises.

23 “(II) PETITION FEE.—Beginning  
24 on October 1, 2021, the Secretary  
25 shall collect a fee of \$1,000 for the

1 Fund with each petition filed under  
2 section 204(a)(1)(H) for classification  
3 under subparagraph (E). The fee  
4 under this subclause is in addition to  
5 the fee that the Secretary is author-  
6 ized to establish and collect for each  
7 petition to recover the costs of adju-  
8 dication and naturalization services  
9 under section 286(m).

10 “(III) INCREASES.—The Sec-  
11 retary may increase the amounts  
12 under this clause by prescribing such  
13 regulations as may be necessary to en-  
14 sure that amounts in the Fund are  
15 sufficient to carry out the purposes  
16 set forth in clause (iii).

17 “(iii) PERMISSIBLE USES OF FUND.—  
18 The Secretary shall—

19 “(I) use not less than  $\frac{1}{3}$  of the  
20 amounts deposited into the Fund for  
21 investigations based outside of the  
22 United States, including—

23 “(aa) monitoring and inves-  
24 tigating program-related events  
25 and promotional activities; and

1 “(bb) ensuring an alien in-  
2 vestor’s compliance with subpara-  
3 graph (L); and

4 “(II) use amounts deposited into  
5 the Fund—

6 “(aa) to detect and inves-  
7 tigate fraud or other crimes;

8 “(bb) to determine whether  
9 regional centers, new commercial  
10 enterprises, job-creating entities,  
11 and alien investors (and their  
12 alien spouses and alien children)  
13 comply with the immigration  
14 laws;

15 “(cc) to conduct audits and  
16 site visits; and

17 “(dd) as the Secretary de-  
18 termines to be necessary, includ-  
19 ing monitoring compliance with  
20 the requirements under section 7  
21 of the EB–5 Reform and Integ-  
22 rity Act of 2021.

23 “(iv) FAILURE TO PAY FEE.—The  
24 Secretary of Homeland Security shall—



1           “(I) impose a reasonable penalty,  
2           which shall be deposited into the  
3           Fund, if any regional center does not  
4           pay the fee required under clause (ii)  
5           within 30 days after the date on  
6           which such fee is due; and

7           “(II) terminate the designation  
8           of any regional center that does not  
9           pay the fee required under clause (ii)  
10          within 90 days after the date on  
11          which such fee is due.

12          “(v) REPORT.—The Secretary shall  
13          submit an annual report to the Committee  
14          on the Judiciary of the Senate and the  
15          Committee on the Judiciary of the House  
16          of Representatives that describes how  
17          amounts in the Fund were expended dur-  
18          ing the previous fiscal year.

19          “(K) DIRECT AND THIRD-PARTY PRO-  
20          MOTERS.—

21                 “(i) RULES AND STANDARDS.—Direct  
22                 and third party promoters (including mi-  
23                 gration agents) of a regional center, any  
24                 new commercial enterprise, an affiliated  
25                 job-creating entity, or an issuer of securi-

1 ties intended to be offered to alien inves-  
2 tors in connection with a particular capital  
3 investment project shall comply with the  
4 rules and standards prescribed by the Sec-  
5 retary of Homeland Security and any ap-  
6 plicable Federal or State securities laws, to  
7 oversee promotion of any offering of secu-  
8 rities related to the EB-5 Program, in-  
9 cluding—

10 “(I) registration with U.S. Citi-  
11 zenship and Immigration Services,  
12 which—

13 “(aa) includes identifying  
14 and contact information for such  
15 promoter and confirmation of the  
16 existence of the written agree-  
17 ment required under clause (iii);  
18 and

19 “(bb) may be made publicly  
20 available at the discretion of the  
21 Secretary;

22 “(II) certification by each pro-  
23 moter that such promoter is not ineli-  
24 gible under subparagraph (H)(i);

1 “(III) guidelines for accurately  
2 representing the visa process to for-  
3 eign investors; and

4 “(IV) guidelines describing per-  
5 missible fee arrangements under ap-  
6 plicable securities and immigration  
7 laws.

8 “(ii) EFFECT OF VIOLATION.—If the  
9 Secretary determines that a direct or  
10 third-party promoter has violated clause  
11 (i), the Secretary shall suspend or perma-  
12 nently bar such individual from participa-  
13 tion in the program described in subpara-  
14 graph (E).

15 “(iii) COMPLIANCE.—Each regional  
16 center, new commercial enterprise, and af-  
17 filiated job-creating entity shall maintain a  
18 written agreement between or among such  
19 entities and each direct or third-party pro-  
20 moter operating on behalf of such entities  
21 that outlines the rules and standards pre-  
22 scribed under clause (i).

23 “(iv) DISCLOSURE.—Each petition  
24 filed under section 204(a)(1)(H) shall in-  
25 clude a disclosure, signed by the investor,

1 that reflects all fees, ongoing interest, and  
2 other compensation paid to any person  
3 that the regional center or new commercial  
4 enterprise knows has received, or will re-  
5 ceive, in connection with the investment,  
6 including compensation to agents, finders,  
7 or broker dealers involved in the offering,  
8 to the extent not already specifically identi-  
9 fied in the business plan filed under sub-  
10 paragraph (F).

11 “(L) SOURCE OF FUNDS.—

12 “(i) IN GENERAL.—An alien investor  
13 shall demonstrate that the capital required  
14 under subparagraph (A) and any funds  
15 used to pay administrative costs and fees  
16 associated with the alien’s investment were  
17 obtained from a lawful source and through  
18 lawful means.

19 “(ii) REQUIRED INFORMATION.—The  
20 Secretary of Homeland Security shall re-  
21 quire that an alien investor’s petition  
22 under this paragraph contain, as applica-  
23 ble—

24 “(I) business and tax records, or  
25 similar records, including—

1           “(aa) foreign business reg-  
2           istration records;

3           “(bb) corporate or partner-  
4           ship tax returns (or tax returns  
5           of any other entity in any form  
6           filed in any country or subdivi-  
7           sion of such country), and per-  
8           sonal tax returns, including in-  
9           come, franchise, property (wheth-  
10          er real, personal, or intangible),  
11          or any other tax returns of any  
12          kind, filed during the past 7  
13          years (or another period to be de-  
14          termined by the Secretary to en-  
15          sure that the investment is ob-  
16          tained from a lawful source of  
17          funds) with any taxing jurisdic-  
18          tion within or outside the United  
19          States by or on behalf of the  
20          alien investor; and

21          “(cc) any other evidence  
22          identifying any other source of  
23          capital or administrative fees;

24          “(II) evidence related to mone-  
25          tary judgments against the alien in-

1 investor, including certified copies of  
2 any judgments, and evidence of all  
3 pending governmental civil or criminal  
4 actions, governmental administrative  
5 proceedings, and any private civil ac-  
6 tions (pending or otherwise) involving  
7 possible monetary judgments against  
8 the alien investor from any court  
9 within or outside the United States;  
10 and

11 “(III) the identity of all persons  
12 who transfer into the United States,  
13 on behalf of the investor, any funds  
14 that are used to meet the capital re-  
15 quirement under subparagraph (A).

16 “(iii) GIFT AND LOAN RESTRIC-  
17 TIONS.—

18 “(I) IN GENERAL.—Gifted and  
19 borrowed funds may not be counted  
20 toward the minimum capital invest-  
21 ment requirement under subpara-  
22 graph (C) unless such funds—

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

1           “(bb) were not gifted or  
2           loaned to circumvent any limita-  
3           tions imposed on permissible  
4           sources of capital under this sub-  
5           paragraph, including but not lim-  
6           ited to proceeds from illegal ac-  
7           tivity.

8           “(II) RECORDS REQUIREMENT.—

9           If funds invested under subparagraph  
10          (A) are gifted or loaned to the alien  
11          investor, the Secretary shall require  
12          that the alien investor’s petition under  
13          this paragraph includes the records  
14          described in subclauses (I) and (II) of  
15          clause (ii) from the donor or, if other  
16          than a bank, the lender.

17          “(M) TREATMENT OF GOOD FAITH INVES-  
18          TORS FOLLOWING PROGRAM NONCOMPLI-  
19          ANCE.—

20          “(i) TERMINATION OR DEBARMENT  
21          OF EB-5 ENTITY.—Except as provided in  
22          clause (vi), upon the termination or debar-  
23          ment, as applicable, from the program  
24          under this paragraph of a regional center,

1 a new commercial enterprise, or a job-cre-  
2 ating entity—

3 “(I) an otherwise qualified peti-  
4 tion under section 204(a)(1)(H) or  
5 the conditional permanent residence of  
6 an alien who has been admitted to the  
7 United States pursuant to section  
8 216A(a)(1) based on an investment in  
9 a terminated regional center, new  
10 commercial enterprise, or job-creating  
11 entity shall remain valid or continue  
12 to be authorized, as applicable, con-  
13 sistent with this subparagraph; and

14 “(II) the Secretary of Homeland  
15 Security shall notify the alien bene-  
16 ficiaries of such petitions of such ter-  
17 mination or debarment.

18 “(ii) NEW REGIONAL CENTER OR IN-  
19 VESTMENT.—The petition under section  
20 204(a)(1)(H) of an alien described in  
21 clause (i) and the conditional permanent  
22 resident status of an alien described in  
23 clause (i) shall be terminated 180 days  
24 after notification of the termination from  
25 the program under this paragraph of a re-



1 gional center, a new commercial enterprise,  
2 or a job creating entity (but not sooner  
3 than 180 days after the date of the enact-  
4 ment of the EB-5 Reform and Integrity  
5 Act of 2021) unless—

6 “(I) in the case of the termi-  
7 nation of a regional center—

8 “(aa) the new commercial  
9 enterprise associates with an ap-  
10 proved regional center, regardless  
11 of the approved geographical  
12 boundaries of such regional cen-  
13 ter’s designation; or

14 “(bb) such alien makes a  
15 qualifying investment in another  
16 new commercial enterprise; or

17 “(II) in the case of the debar-  
18 ment of a new commercial enterprise  
19 or job-creating entity, such alien—

20 “(aa) associates with a new  
21 commercial enterprise in good  
22 standing; and

23 “(bb) invests additional in-  
24 vestment capital solely to the ex-  
25 tent necessary to satisfy remain-

1 ing job creation requirements  
2 under subparagraph (A)(ii).

3 “(iii) AMENDMENTS.—

4 “(I) FILING REQUIREMENT.—

5 The Secretary shall permit a petition  
6 described in clause (i)(I) to be amend-  
7 ed to allow such petition to meet the  
8 applicable eligibility requirements  
9 under clause (ii), or to notify the Sec-  
10 retary that a pending or approved pe-  
11 tition continues to meet the eligibility  
12 requirements described in clause (ii)  
13 notwithstanding termination or debar-  
14 ment described in clause (i) if such  
15 amendment is filed not later than 180  
16 days after the Secretary provides noti-  
17 fication of termination or debarment  
18 of a regional center, a new commercial  
19 enterprise, or a job-creating entity, as  
20 applicable.

21 “(II) DETERMINATION OF ELIGI-  
22 BILITY.—For purposes of determining  
23 eligibility under subclause (I)—

24 “(aa) the Secretary shall  
25 permit amendments to the busi-

1           ness plan, without such facts un-  
2           derlying the amendment being  
3           deemed a material change; and

4           “(bb) may deem any funds  
5           obtained or recovered by an alien  
6           investor, directly or indirectly,  
7           from claims against third parties,  
8           including insurance proceeds, or  
9           any additional investment capital  
10          provided by the alien, to be such  
11          alien’s investment capital for the  
12          purposes of subparagraph (A) if  
13          such investment otherwise com-  
14          plies with the requirements under  
15          this paragraph and section 216A.

16          “(iv) REMOVAL OF CONDITIONS.—  
17          Aliens described in subclauses (I)(bb) and  
18          (II) of clause (ii) shall be eligible to have  
19          their conditions removed pursuant to sec-  
20          tion 216A beginning on the date that is 2  
21          years after the date of the subsequent in-  
22          vestment.

23          “(v) REMEDIES.—For petitions ap-  
24          proved under clause (ii), including fol-

1           lowing an amendment filed under clause  
2           (iii), the Secretary—

3                   “(I) shall retain the immigrant  
4                   visa priority date related to the origi-  
5                   nal petition and prevent age-out of de-  
6                   rivative beneficiaries; and

7                   “(II) may hold such petition in  
8                   abeyance and extend any applicable  
9                   deadlines under this paragraph.

10                  “(vi) EXCEPTION.—If the Secretary  
11                  has reason to believe that an alien was a  
12                  knowing participant in the conduct that led  
13                  to the termination of a regional center,  
14                  new commercial enterprise, or job-creating  
15                  entity described in clause (i)—

16                   “(I) the alien shall not be ac-  
17                   corded any benefit under this sub-  
18                   paragraph; and

19                   “(II) the Secretary shall—

20                           “(aa) notify the alien of  
21                           such belief; and

22                           “(bb) subject to section  
23                           216A(b)(2), shall deny or initiate  
24                           proceedings to revoke the ap-  
25                           proval of such alien’s petition,

1 application, or benefit (and that  
2 of any spouse or child, if applica-  
3 ble) described in this paragraph.

4 “(N) THREATS TO THE NATIONAL INTER-  
5 EST.—

6 “(i) DENIAL OR REVOCATION.—The  
7 Secretary of Homeland Security shall deny  
8 or revoke the approval of a petition, appli-  
9 cation, or benefit described in this para-  
10 graph, including the documents described  
11 in clause (ii), if the Secretary determines,  
12 in the Secretary’s discretion, that the ap-  
13 proval of such petition, application, or ben-  
14 efit is contrary to the national interest of  
15 the United States for reasons relating to  
16 threats to public safety or national secu-  
17 rity.

18 “(ii) DOCUMENTS.—The documents  
19 described in this clause are—

20 “(I) a certification, designation,  
21 or amendment to the designation of a  
22 regional center;

23 “(II) a petition seeking classifica-  
24 tion of an alien as an alien investor  
25 under this paragraph;

1                   “(III) a petition to remove condi-  
2                   tions under section 216A;

3                   “(IV) an application for approval  
4                   of a business plan in a new commer-  
5                   cial enterprise under subparagraph  
6                   (F); or

7                   “(V) a document evidencing con-  
8                   ditional permanent resident status  
9                   that was issued to an alien pursuant  
10                  to section 216A.

11                 “(iii) DEBARMENT.—If a regional  
12                 center, new commercial enterprise, or job-  
13                 creating entity has its designation or par-  
14                 ticipation in the program under this para-  
15                 graph terminated for reasons relating to  
16                 public safety or national security, any per-  
17                 son associated with such regional center,  
18                 new commercial enterprise, or job-creating  
19                 entity, including an alien investor, shall be  
20                 permanently barred from future participa-  
21                 tion in the program under this paragraph  
22                 if the Secretary of Homeland Security, in  
23                 the Secretary’s discretion, determines, by a  
24                 preponderance of the evidence, that such

1 person was a knowing participant in the  
2 conduct that led to the termination.

3 “(iv) NOTICE.—If the Secretary of  
4 Homeland Security determines that the ap-  
5 proval of a petition, application, or benefit  
6 described in this paragraph should be de-  
7 nied or revoked pursuant to clause (i), the  
8 Secretary shall—

9 “(I) notify the relevant indi-  
10 vidual, regional center, or commercial  
11 entity of such determination;

12 “(II) deny or revoke such peti-  
13 tion, application, or benefit or termi-  
14 nate the permanent resident status of  
15 the alien (and the alien spouse and  
16 alien children of such immigrant), as  
17 of the date of such determination; and

18 “(III) provide any United States-  
19 owned regional center, new commer-  
20 cial enterprise, or job creating entity  
21 an explanation for such determination  
22 unless the relevant information is  
23 classified or disclosure is otherwise  
24 prohibited under law.

1           “(v) JUDICIAL REVIEW.—Notwith-  
2 standing any other provision of law (statu-  
3 tory or nonstatutory), including section  
4 2241 of title 28, United States Code, or  
5 any other habeas corpus provision, and  
6 sections 1361 and 1651 of such title, no  
7 court shall have jurisdiction to review a de-  
8 nial or revocation under this subparagraph.  
9 Nothing in this clause may be construed as  
10 precluding review of constitutional claims  
11 or questions of law raised upon a petition  
12 for review filed with an appropriate court  
13 of appeals in accordance with section 242.

14           “(O) FRAUD, MISREPRESENTATION, AND  
15 CRIMINAL MISUSE.—

16           “(i) DENIAL OR REVOCATION.—Sub-  
17 ject to subparagraph (M), the Secretary of  
18 Homeland Security shall deny or revoke  
19 the approval of a petition, application, or  
20 benefit described in this paragraph, includ-  
21 ing the documents described in subpara-  
22 graph (N)(ii), if the Secretary determines,  
23 in the Secretary’s discretion, that such pe-  
24 tition, application, or benefit was predi-  
25 cated on or involved fraud, deceit, inten-



1 tional material misrepresentation, or crimi-  
2 nal misuse.

3 “(ii) DEBARMENT.—If a regional cen-  
4 ter, new commercial enterprise, or job-cre-  
5 ating entity has its designation or partici-  
6 pation in the program under this para-  
7 graph terminated for reasons relating to  
8 fraud, intentional material misrepresenta-  
9 tion, or criminal misuse, any person associ-  
10 ated with such regional center, new com-  
11 mercial enterprise, or job-creating entity,  
12 including an alien investor, shall be perma-  
13 nently barred from future participation in  
14 the program if the Secretary determines,  
15 in the Secretary’s discretion, by a prepon-  
16 derance of the evidence, that such person  
17 was a knowing participant in the conduct  
18 that led to the termination.

19 “(iii) NOTICE.—If the Secretary de-  
20 termines that the approval of a petition,  
21 application, or benefit described in this  
22 paragraph should be denied or revoked  
23 pursuant to clause (i), the Secretary  
24 shall—

1           “(I) notify the relevant indi-  
2           vidual, regional center, or commercial  
3           entity of such determination; and

4           “(II) deny or revoke such peti-  
5           tion, application, or benefit or termi-  
6           nate the permanent resident status of  
7           the alien (and the alien spouse and  
8           alien children of such immigrant), in  
9           accordance with clause (i), as of the  
10          date of such determination.

11           “(P) ADMINISTRATIVE APPELLATE RE-  
12          VIEW.—

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

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

1           “(II) an application for approval  
2           of a business plan filed under sub-  
3           paragraph (F);

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

7           “(IV) the termination or suspen-  
8           sion of any benefit accorded under  
9           this paragraph; and

10           “(V) any sanction imposed by the  
11           Secretary under this paragraph.

12           “(ii) JUDICIAL REVIEW.—Subject to  
13           subparagraph (N)(v) and section  
14           242(a)(2), and notwithstanding any other  
15           provision of law (statutory or nonstatu-  
16           tory), including section 2241 of title 28,  
17           United States Code, or any other habeas  
18           corpus provision, and sections 1361 and  
19           1651 of such title, no court shall have ju-  
20           risdiction to review a determination under  
21           this paragraph until the regional center, its  
22           associated entities, or the alien investor  
23           has exhausted all administrative appeals.

24           “(Q) FUND ADMINISTRATION.—

1           “(i) IN GENERAL.—Each new com-  
2           mercial enterprise shall deposit and main-  
3           tain the capital investment of each alien  
4           investor in a separate account, including  
5           amounts held in escrow.

6           “(ii) USE OF FUNDS.—Amounts in a  
7           separate account may only—

8                   “(I) be transferred to another  
9                   separate account or a job creating en-  
10                  tity;

11                  “(II) otherwise be deployed into  
12                  the capital investment project for  
13                  which the funds were intended; or

14                  “(III) be transferred to the alien  
15                  investor who contributed the funds as  
16                  a refund of that investor’s capital in-  
17                  vestment, if otherwise permitted  
18                  under this paragraph.

19           “(iii) DEPLOYMENT OF FUNDS INTO  
20           AN AFFILIATED JOB-CREATING ENTITY.—  
21           If amounts are transferred to an affiliated  
22           job-creating entity pursuant to clause  
23           (ii)(I)—

24                   “(I) the affiliated job-creating  
25                   entity shall maintain such amounts in

1 a separate account until they are de-  
2 ployed into the capital investment  
3 project for which they were intended;  
4 and

5 “(II) not later than 30 days after  
6 such amounts are deployed pursuant  
7 to subclause (I), the affiliated job-cre-  
8 ating entity shall provide written no-  
9 tice to the fund administrator re-  
10 tained pursuant to clause (iv) that a  
11 construction consultant or other indi-  
12 vidual authorized by the Secretary has  
13 verified that such amounts have been  
14 deployed into the project.

15 “(iv) FUND ADMINISTRATOR.—Except  
16 as provided in clause (v), the new commer-  
17 cial enterprise shall retain a fund adminis-  
18 trator to fulfill the requirements under this  
19 subparagraph. The fund administrator—

20 “(I) shall be independent of, and  
21 not directly related to, the new com-  
22 mercial enterprise, the regional center  
23 associated with the new commercial  
24 enterprise, the job creating entity, or

1 any of the principals or managers of  
2 such entities;

3 “(II) shall be licensed, active,  
4 and in good standing as—

5 “(aa) a certified public ac-  
6 countant;

7 “(bb) an attorney;

8 “(cc) a broker-dealer or in-  
9 vestment adviser registered with  
10 the Securities and Exchange  
11 Commission; or

12 “(dd) an individual or com-  
13 pany that otherwise meets such  
14 requirements as may be estab-  
15 lished by the Secretary;

16 “(III) shall monitor and track  
17 any transfer of amounts from the sep-  
18 arate account;

19 “(IV) shall serve as a cosignatory  
20 on all separate accounts;

21 “(V) before any transfer of  
22 amounts from a separate account,  
23 shall—

24 “(aa) verify that the trans-  
25 fer complies with all governing

1 documents, including organiza-  
2 tional, operational, and invest-  
3 ment documents; and

4 “(bb) approve such transfer  
5 with a written or electronic sig-  
6 nature;

7 “(VI) shall periodically provide  
8 each alien investor with information  
9 about the activity of the account in  
10 which the investor’s capital invest-  
11 ment is held, including—

12 “(aa) the name and location  
13 of the bank or financial institu-  
14 tion at which the account is  
15 maintained;

16 “(bb) the history of the ac-  
17 count; and

18 “(cc) any additional infor-  
19 mation required by the Secretary;  
20 and

21 “(VII) shall make and preserve,  
22 during the 5-year period beginning on  
23 the last day of the Federal fiscal year  
24 in which any transactions occurred,  
25 books, ledgers, records, and other doc-

1                   umentation necessary to comply with  
2                   this clause, which shall be provided to  
3                   the Secretary upon request.

4                   “(v) WAIVER.—

5                   “(I) WAIVER PERMITTED.—The  
6                   Secretary of Homeland Security, after  
7                   consultation with the Securities and  
8                   Exchange Commission, may waive the  
9                   requirements under clause (iv) for any  
10                  new commercial enterprise or affili-  
11                  ated job-creating entity that is con-  
12                  trolled by or under common control of  
13                  an investment adviser or broker-dealer  
14                  that is registered with the Securities  
15                  and Exchange Commission if the Sec-  
16                  retary, in the Secretary’s discretion,  
17                  determines that the Securities and  
18                  Exchange Commission provides com-  
19                  parable protections and transparency  
20                  for alien investors as the protections  
21                  and transparency provided under  
22                  clause (iv).

23                  “(II) WAIVER REQUIRED.—The  
24                  Secretary of Homeland Security shall  
25                  waive the requirements under clause



1 (iv) for any new commercial enterprise  
2 that commissions an annual inde-  
3 pendent financial audit of such new  
4 commercial enterprise or job creating  
5 entity conducted in accordance with  
6 Generally Accepted Auditing Stand-  
7 ards, which audit shall be provided to  
8 the Secretary and all investors in the  
9 new commercial enterprise.

10 “(vi) DEFINED TERM.—In this sub-  
11 paragraph, the term ‘separate account’  
12 means an account that—

13 “(I) is maintained in the United  
14 States by a new commercial enterprise  
15 or job creating entity at a Federally  
16 regulated bank or at another financial  
17 institution (as defined in section 20 of  
18 title 18, United States Code) in the  
19 United States;

20 “(II) is insured; and

21 “(III) contains only the pooled  
22 investment funds of alien investors in  
23 a new commercial enterprise with re-  
24 spect to a single capital investment  
25 project.”.

1 (c) EFFECTIVE DATE.—Unless otherwise provided in  
2 this section, the amendments made by this section shall  
3 take effect on the date that is 90 days after the date of  
4 the enactment of this Act.

5 **SEC. 3. CONDITIONAL PERMANENT RESIDENT STATUS FOR**  
6 **ALIEN INVESTORS, SPOUSES, AND CHILDREN.**

7 (a) IN GENERAL.—Section 216A of the Immigration  
8 and Nationality Act (8 U.S.C. 1186b) is amended—

9 (1) by striking “Attorney General” each place  
10 such term appears (except in subsection (d)(2)(C))  
11 and inserting “Secretary of Homeland Security”;

12 (2) by striking “entrepreneur” each place such  
13 term appears and inserting “investor”;

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

16 “(1) CONDITIONAL BASIS FOR STATUS.—An  
17 alien investor, alien spouse, and alien child shall be  
18 considered, at the time of obtaining status as an  
19 alien lawfully admitted for permanent residence, to  
20 have obtained such status on a conditional basis sub-  
21 ject to the provisions of this section.”;

22 (4) in subsection (b)—

23 (A) in the subsection heading, by striking  
24 “ENTREPRENEURSHIP” and inserting “INVEST-  
25 MENT”; and

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

3 “(B) the alien did not invest the requisite  
4 capital; or”;

5 (5) in subsection (c)—

6 (A) in the subsection heading, by striking  
7 “OF TIMELY PETITION AND INTERVIEW”;

8 (B) in paragraph (1)—

9 (i) in the matter preceding subpara-  
10 graph (A), by striking “In order” and in-  
11 sserting “Except as provided in paragraph  
12 (3)(D), in order”;

13 (ii) in subparagraph (A)—

14 (I) by striking “must” and in-  
15 sserting “shall”; and

16 (II) by striking “, and” and in-  
17 sserting a semicolon;

18 (iii) in subparagraph (B)—

19 (I) by striking “must” and in-  
20 sserting “shall”;

21 (II) by striking “Service” and in-  
22 sserting “Department of Homeland Se-  
23 curity”; and

24 (III) by striking the period at the  
25 end and inserting “; and”; and

1 (iv) by adding at the end the fol-  
2 lowing:

3 “(C) the Secretary shall have performed a  
4 site visit to the relevant corporate office or busi-  
5 ness location described in section  
6 203(b)(5)(F)(iv).”; and

7 (C) in paragraph (3)—

8 (i) in subparagraph (A), in the undes-  
9 ignated matter following clause (ii), by  
10 striking “the” before “such filing”; and

11 (ii) by amending subparagraph (B) to  
12 read as follows:

13 “(B) REMOVAL OR EXTENSION OF CONDI-  
14 TIONAL BASIS.—

15 “(i) IN GENERAL.—Except as pro-  
16 vided in clause (ii), if the Secretary deter-  
17 mines that the facts and information con-  
18 tained in a petition submitted under para-  
19 graph (1)(A) are true, including dem-  
20 onstrating that the alien complied with  
21 subsection (d)(1)(B)(i), the Secretary  
22 shall—

23 “(I) notify the alien involved of  
24 such determination; and

1           “(II) remove the conditional  
2           basis of the alien’s status effective as  
3           of the second anniversary of the  
4           alien’s lawful admission for permanent  
5           residence.

6           “(ii) EXCEPTION.—If the petition  
7           demonstrates that the facts and informa-  
8           tion are true and that the alien is in com-  
9           pliance with subsection (d)(1)(B)(ii)—

10           “(I) the Secretary, in the Sec-  
11           retary’s discretion, may provide a 1-  
12           year extension of the alien’s condi-  
13           tional status; and

14           “(II)(aa) if the alien files a peti-  
15           tion not later than 30 days after the  
16           third anniversary of the alien’s lawful  
17           admission for permanent residence  
18           demonstrating that the alien complied  
19           with subsection (d)(1)(B)(i), the Sec-  
20           retary shall remove the conditional  
21           basis of the alien’s status effective as  
22           of such third anniversary; or

23           “(bb) if the alien does not file the  
24           petition described in item (aa), the

1 conditional status shall terminate at  
2 the end of such additional year.”;

3 (6) in subsection (d)—

4 (A) in paragraph (1)—

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

7 “(A) invested the requisite capital;”;

8 (ii) by redesignating subparagraph  
9 (B) as subparagraph (C); and

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

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

14 “(ii) is actively in the process of creating  
15 the employment required under section  
16 203(b)(5)(A)(ii) and will create such employ-  
17 ment before the third anniversary of the alien’s  
18 lawful admission for permanent residence, pro-  
19 vided that such alien’s capital will remain in-  
20 vested during such time; and”;

21 (B) in paragraph (2), by amending sub-  
22 paragraph (A) to read as follows:

23 “(A) NINETY-DAY PERIOD BEFORE SEC-  
24 OND ANNIVERSARY.—

1           “(i) IN GENERAL.—Except as pro-  
2           vided in clause (ii) and subparagraph (B),  
3           a petition under subsection (c)(1)(A) shall  
4           be filed during the 90-day period imme-  
5           diately preceding the second anniversary of  
6           the alien investor’s lawful admission for  
7           permanent residence.

8           “(ii) EXCEPTION.—Aliens described in  
9           subclauses (I)(bb) and (II) of section  
10          203(b)(5)(M)(ii) shall file a petition under  
11          subsection (c)(1)(A) during the 90-day pe-  
12          riod before the second anniversary of the  
13          subsequent investment.”; and

14          (C) in paragraph (3)—

15                 (i) by striking “The interview” and  
16                 inserting the following:

17                 “(A) IN GENERAL.—The interview”;

18                 (ii) by striking “Service” and insert-  
19                 ing “Department of Homeland Security”;  
20                 and

21                 (iii) by striking the last sentence and  
22                 inserting the following:

23                 “(B) WAIVER.—The Secretary of Home-  
24                 land Security, in the Secretary’s discretion, may  
25                 waive the deadline for an interview under sub-

1 section (c)(1)(B) or the requirement for such  
2 an interview according to criteria developed by  
3 U.S. Citizenship and Immigration Services, in  
4 consultation with its Fraud Detection and Na-  
5 tional Security Directorate and U.S. Immigra-  
6 tion and Customs Enforcement, provided that  
7 such criteria do not include a reduction of case  
8 processing times or the allocation of adjudica-  
9 tory resources. A waiver may not be granted  
10 under this subparagraph if the alien to be inter-  
11 viewed—

12 “(i) invested in a regional center, new  
13 commercial enterprise, or job-creating enti-  
14 ty that was sanctioned under section  
15 203(b)(5); or

16 “(ii) is in a class of aliens determined  
17 by the Secretary to be threats to public  
18 safety or national security.”; and

19 (7) in subsection (f)(3), by striking “a limited  
20 partnership” and inserting “any entity formed for  
21 the purpose of doing for-profit business”.

22 (b) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as provided in para-  
24 graph (2), the amendments made by subsection (a)



1 shall take effect on the date of the enactment of this  
2 Act.

3 (2) EXCEPTIONS.—

4 (A) SITE VISITS.—The amendment made  
5 by subsection (a)(5)(B)(iv) shall take effect on  
6 the date that is 2 years after the date of the  
7 enactment of this Act.

8 (B) PETITION BENEFICIARIES.—The  
9 amendments made by subsection (a) shall not  
10 apply to the beneficiary of a petition that is  
11 filed under section 216A of the Immigration  
12 and Nationality Act (8 U.S.C. 1186b) if the un-  
13 derlying petition was filed under section  
14 203(b)(5) of such Act (8 U.S.C. 1153(b)(5))  
15 before the date of the enactment of this Act.

16 **SEC. 4. EB-5 VISA REFORMS.**

17 (a) DEFINITIONS.—Section 203(b)(5)(D) of the Im-  
18 migration and Nationality Act (8 U.S.C. 1153(b)(5)(D))  
19 is amended to read as follows:

20 “(D) DEFINITIONS.—In this paragraph:

21 “(i) AFFILIATED JOB-CREATING ENTI-  
22 TY.—The term ‘affiliated job-creating enti-  
23 ty’ means any job-creating entity that is  
24 controlled, managed, or owned by any of  
25 the people involved with the regional center

1 or new commercial enterprise under section  
2 203(b)(5)(H)(v).

3 “(ii) CAPITAL.—The term ‘capital’—

4 “(I) means cash and all real, per-  
5 sonal, or mixed tangible assets owned  
6 and controlled by the alien investor,  
7 or held in trust for the benefit of the  
8 alien and to which the alien has unre-  
9 stricted access;

10 “(II) shall be valued at fair mar-  
11 ket value in United States dollars, in  
12 accordance with Generally Accepted  
13 Accounting Principles or other stand-  
14 ard accounting practice adopted by  
15 the Securities and Exchange Commis-  
16 sion, at the time it is invested under  
17 this paragraph;

18 “(III) does not include—

19 “(aa) assets directly or indi-  
20 rectly acquired by unlawful  
21 means, including any cash pro-  
22 ceeds of indebtedness secured by  
23 such assets;

24 “(bb) capital invested in ex-  
25 change for a note, bond, convert-

1           ible debt, obligation, or any other  
2           debt arrangement between the  
3           alien investor and the new com-  
4           mercial enterprise;

5                   “(cc) capital invested with a  
6                   guaranteed rate of return on the  
7                   amount invested by the alien in-  
8                   vestor; or

9                   “(dd) except as provided in  
10                  subclause (IV), capital invested  
11                  that is subject to any agreement  
12                  between the alien investor and  
13                  the new commercial enterprise  
14                  that provides the investor with a  
15                  contractual right to repayment,  
16                  such as a mandatory redemption  
17                  at a certain time or upon the oc-  
18                  currence of a certain event, or a  
19                  put or sell-back option held by  
20                  the alien investor, even if such  
21                  contractual right is contingent on  
22                  the success of the new commer-  
23                  cial enterprise, such as having  
24                  sufficient available cash flow; and

1                   “(IV) includes capital invested  
2                   that—

3                   “(aa) is subject to a buy  
4                   back option that may be exer-  
5                   cised solely at the discretion of  
6                   the new commercial enterprise;  
7                   and

8                   “(bb) results in the alien in-  
9                   vestor withdrawing his or her pe-  
10                  tition unless the alien investor  
11                  has fulfilled his or her  
12                  sustainment period and other re-  
13                  quirements under this paragraph.

14                  “(iii) CERTIFIER.—The term ‘cer-  
15                  tifier’ means a person in a position of sub-  
16                  stantive authority for the management or  
17                  operations of a regional center, new com-  
18                  mercial enterprise, affiliated job-creating  
19                  entity, or issuer of securities, such as a  
20                  principal executive officer or principal fi-  
21                  nancial officer, with knowledge of such en-  
22                  tities’ policies and procedures related to  
23                  compliance with the requirements under  
24                  this paragraph.

1           “(iv) **JOB-CREATING ENTITY.**—The  
2 term ‘job-creating entity’ means any orga-  
3 nization formed in the United States for  
4 the ongoing conduct of lawful business, in-  
5 cluding sole proprietorship, partnership  
6 (whether limited or general), corporation,  
7 limited liability company, business trust, or  
8 other entity, which may be publicly or pri-  
9 vately owned, including an entity con-  
10 sisting of a holding company and its whol-  
11 ly-owned subsidiaries or affiliates (provided  
12 that each subsidiary or affiliate is engaged  
13 in an activity formed for the ongoing con-  
14 duct of a lawful business) that receives, or  
15 is established to receive, capital investment  
16 from alien investors or a new commercial  
17 enterprise under the regional center pro-  
18 gram described in subparagraph (E) and  
19 which is responsible for creating jobs to  
20 satisfy the requirement under subpara-  
21 graph (A)(ii).

22           “(v) **NEW COMMERCIAL ENTER-**  
23 **PRISE.**—The term ‘new commercial enter-  
24 prise’ means any for-profit organization  
25 formed in the United States for the ongo-

1           ing conduct of lawful business, including  
2           sole proprietorship, partnership (whether  
3           limited or general), holding company and  
4           its wholly-owned subsidiaries (provided  
5           that each subsidiary is engaged in a for-  
6           profit activity formed for the ongoing con-  
7           duct of a lawful business), joint venture,  
8           corporation, business trust, limited liability  
9           company, or other entity (which may be  
10          publicly or privately owned) that receives,  
11          or is established to receive, capital invest-  
12          ment from investors under this para-  
13          graph.”.

14           (b) AGE DETERMINATION FOR CHILDREN OF ALIEN  
15 INVESTORS.—Section 203(h) of the Immigration and Na-  
16 tionality Act (8 U.S.C. 1153(h)) is amended by adding  
17 at the end the following:

18           “(5) AGE DETERMINATION FOR CHILDREN OF  
19 ALIEN INVESTORS.—An alien who has reached 21  
20 years of age and has been admitted under subsection  
21 (d) as a lawful permanent resident on a conditional  
22 basis as the child of an alien lawfully admitted for  
23 permanent residence under subsection (b)(5), whose  
24 lawful permanent resident status on a conditional  
25 basis is terminated under section 216A or subsection

1 (b)(5)(M), shall continue to be considered a child of  
2 the principal alien for the purpose of a subsequent  
3 immigrant petition by such alien under subsection  
4 (b)(5) if the alien remains unmarried and the subse-  
5 quent petition is filed by the principal alien not later  
6 than 1 year after the termination of conditional law-  
7 ful permanent resident status. No alien shall be con-  
8 sidered a child under this paragraph with respect to  
9 more than 1 petition filed after the alien reaches 21  
10 years of age.”.

11 (c) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
12 EMPLOYEES ADMINISTERING THE EMPLOYMENT CRE-  
13 ATION PROGRAM.—The Secretary of Homeland Security  
14 may establish, fix the compensation of, and appoint indi-  
15 viduals to designated critical, technical, and professional  
16 positions needed to administer sections 203(b)(5) and  
17 216A of the Immigration and Nationality Act (8 U.S.C.  
18 1153(b)(5) and 1186b).

19 (d) CONCURRENT FILING OF EB–5 PETITIONS AND  
20 APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section  
21 245 of the Immigration and Nationality Act (8 U.S.C.  
22 1255) is amended—

23 (1) in subsection (k), in the matter preceding  
24 paragraph (1), by striking “or (3)” and inserting  
25 “(3), or (5)”; and

1 (2) by adding at the end the following:

2 “(n) If the approval of a petition for classification  
3 under section 203(b)(5) would make a visa immediately  
4 available to the alien beneficiary, the alien beneficiary’s  
5 application for adjustment of status under this section  
6 shall be considered to be properly filed whether the appli-  
7 cation is submitted concurrently with, or subsequent to,  
8 the visa petition.”.

9 (e) TYPE OF INVESTMENT.—Section 203(b)(5)(A) of  
10 the Immigration and Nationality Act (8 U.S.C.  
11 1153(b)(5)(A)), as amended by subsection (a)(2), is fur-  
12 ther amended—

13 (1) in clause (i), by striking “(C), and” and in-  
14 serting “(C) and which is expected to remain in-  
15 vested for not less than 2 years; and”;

16 (2) in clause (ii)—

17 (A) by striking “and create” and inserting  
18 “by creating”; and

19 (B) by inserting “, United States nation-  
20 als,” after “citizens”.

21 (f) REQUIRED CHECKS.—Section 203(b)(5) of the  
22 Immigration and Nationality Act, as amended by this sec-  
23 tion and section 2, is further amended by adding at the  
24 end the following:



1           “(R) REQUIRED CHECKS.—Any petition  
2           filed by an alien under section 204(a)(1)(H)  
3           may not be approved under this paragraph un-  
4           less the Secretary of Homeland Security has  
5           searched for the alien and any associated em-  
6           ployer of such alien on the Specially Designated  
7           Nationals List of the Department of Treasury  
8           Office of Foreign Assets Control.”.

9           (g) EFFECTIVE DATE.—The amendments made by  
10          this section shall take effect on the date of the enactment  
11          of this Act.

12       **SEC. 5. PROCEDURE FOR GRANTING IMMIGRANT STATUS.**

13          (a) FILING ORDER AND ELIGIBILITY.—Section  
14          204(a)(1)(H) of the Immigration and Nationality Act (8  
15          U.S.C. 1154(a)(1)(H)) is amended to read as follows:

16          “(H)(i) Any alien seeking classification under section  
17          203(b)(5) may file a petition for such classification with  
18          the Secretary of Homeland Security. An alien seeking to  
19          pool his or her investment with 1 or more additional aliens  
20          seeking classification under section 203(b)(5) shall file for  
21          such classification in accordance with section  
22          203(b)(5)(E), or before the date of the enactment of the  
23          EB–5 Reform and Integrity Act of 2021, in accordance  
24          with section 203(b)(5). An alien petitioning for classifica-  
25          tion under section 203(b)(5)(E) may file a petition with

1 the Secretary after a regional center has filed an applica-  
2 tion for approval of an investment under section  
3 203(b)(5)(F).

4 “(ii) A petitioner described in clause (i) shall estab-  
5 lish eligibility at the time he or she files a petition for  
6 classification under section 203(b)(5). A petitioner who  
7 was eligible for such classification at the time of such fil-  
8 ing shall be deemed eligible for such classification at the  
9 time such petition is adjudicated, subject to the approval  
10 of the petitioner’s associated application under section  
11 203(b)(5)(F).”.

12 (b) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendment made by  
14 subsection (a) shall take effect on the date of the en-  
15 actment of this Act.

16 (2) APPLICABILITY TO PETITIONS.—Section  
17 204(a)(1)(H)(i) of the Immigration and Nationality  
18 Act, as added by subsection (a), shall apply to any  
19 petition for classification pursuant to section  
20 203(b)(5)(E) of such Act (8 U.S.C. 1153(b)(5)(E))  
21 that is filed with the Secretary of Homeland Secu-  
22 rity on or after the date of the enactment of this  
23 Act.

24 (c) ADJUDICATION OF PETITIONS.—The Secretary of  
25 Homeland Security shall continue to adjudicate petitions

1 and benefits under sections 203(b)(5) and 216A of the  
2 Immigration and Nationality Act (8 U.S.C. 1153(b)(5)  
3 and 1186b) during the implementation of this Act and the  
4 amendments made by this Act.

5 **SEC. 6. TIMELY PROCESSING.**

6 (a) FEE STUDY.—Not later than 1 year after the  
7 date of the enactment of this Act, the Director of U.S.  
8 Citizenship and Immigration Services shall complete a  
9 study of fees charged in the administration of the program  
10 described in sections 203(b)(5) and 216A of the Immigra-  
11 tion and Nationality Act (8 U.S.C. 1153(b)(5) and  
12 1186b).

13 (b) ADJUSTMENT OF FEES TO ACHIEVE EFFICIENT  
14 PROCESSING.—Notwithstanding section 286(m) of the  
15 Immigration and Nationality Act (8 U.S.C. 1356(m)), and  
16 except as provided under subsection (c), the Director, not  
17 later than 60 days after the completion of the study under  
18 subsection (a), shall set fees for services provided under  
19 sections 203(b)(5) and 216A of such Act (8 U.S.C.  
20 1153(b)(5) and 1186b) at a level sufficient to ensure the  
21 full recovery only of the costs of providing such services,  
22 including the cost of attaining the goal of completing adju-  
23 dications, on average, not later than—

1           (1) 180 days after receiving a proposal for the  
2           establishment of a regional center described in sec-  
3           tion 203(b)(5)(E) of such Act;

4           (2) 180 days after receiving an application for  
5           approval of an investment in a new commercial en-  
6           terprise described in section 203(b)(5)(F) of such  
7           Act;

8           (3) 90 days after receiving an application for  
9           approval of an investment in a new commercial en-  
10          terprise described in section 203(b)(5)(F) of such  
11          Act that is located in a targeted employment area  
12          (as defined in section 203(b)(5)(B) of such Act);

13          (4) 240 days after receiving a petition from an  
14          alien desiring to be classified under section  
15          203(b)(5)(E) of such Act;

16          (5) 120 days after receiving a petition from an  
17          alien desiring to be classified under section  
18          203(b)(5)(E) of such Act with respect to an invest-  
19          ment in a targeted employment area (as defined in  
20          section 203(b)(5)(B) of such Act); and

21          (6) 240 days after receiving a petition from an  
22          alien for removal of conditions described in section  
23          216A(c) of such Act.

24          (c) ADDITIONAL FEES.—Fees in excess of the fee lev-  
25          els described in subsection (b) may be charged only—

1           (1) in an amount that is equal to the amount  
2           paid by all other classes of fee-paying applicants for  
3           immigration-related benefits, to contribute to the  
4           coverage or reduction of the costs of processing or  
5           adjudicating classes of immigration benefit applica-  
6           tions that Congress, or the Secretary of Homeland  
7           Security in the case of asylum applications, has au-  
8           thorized to be processed or adjudicated at no cost or  
9           at a reduced cost to the applicant; and

10           (2) in an amount that is not greater than 1  
11           percent of the fee for filing a petition under section  
12           203(b)(5) of the Immigration and Nationality Act (8  
13           U.S.C. 1153(b)(5)), to make improvements to the  
14           information technology systems used by the Sec-  
15           retary of Homeland Security to process, adjudicate,  
16           and archive applications and petitions under such  
17           section, including the conversion to electronic format  
18           of documents filed by petitioners and applicants for  
19           benefits under such section.

20           (d) EXEMPTION FROM PAPERWORK REDUCTION  
21           ACT.—During the 1-year period beginning on the date of  
22           the enactment of this Act, the requirements under chapter  
23           35 of title 44, United States Code, shall not apply to any  
24           collection of information required under this subtitle, any  
25           amendment made by this subtitle, or any rule promulgated

1 by the Secretary of Homeland Security to implement this  
2 subtitle or the amendments made by this subtitle, to the  
3 extent that the Secretary determines that compliance with  
4 such requirements would impede the expeditious imple-  
5 mentation of this subtitle or the amendments made by this  
6 subtitle.

7 (e) RULE OF CONSTRUCTION REGARDING ADJUDICA-  
8 TION DELAYS.—Nothing in this subtitle may be construed  
9 to limit the authority of the Secretary of Homeland Secu-  
10 rity to suspend the adjudication of any application or peti-  
11 tion under section 203(b)(5) or 216A of the Immigration  
12 and Nationality Act (8 U.S.C. 1153(b)(5) and 1186b)  
13 pending the completion of a national security or law en-  
14 forcement investigation relating to such application or pe-  
15 tition.

16 (f) RULE OF CONSTRUCTION REGARDING MODIFICA-  
17 TION OF FEES.—Nothing in this section may be construed  
18 to require any modification of fees before the completion  
19 of—

- 20 (1) the fee study described in subsection (a); or
- 21 (2) regulations promulgated by the Secretary of  
22 Homeland Security, in accordance with subchapter  
23 II of chapter 5 and chapter 7 of title 5, United  
24 States Code (commonly known as the “Administra-

1        tive Procedure Act’), to carry out subsections (b)  
2        and (c).

3        **SEC. 7. TRANSPARENCY.**

4        (a) IN GENERAL.—Employees of the Department of  
5        Homeland Security, including the Secretary of Homeland  
6        Security, the Secretary’s counselors, the Assistant Sec-  
7        retary for the Private Sector, the Director of U.S. Citizen-  
8        ship and Immigration Services, counselors to such Direc-  
9        tor, and the Chief of the Immigrant Investor Programs  
10       Office (or any successor to such Office) at U.S. Citizen-  
11       ship and Immigration Services, shall act impartially and  
12       may not give preferential treatment to any entity, organi-  
13       zation, or individual in connection with any aspect of the  
14       immigrant visa program described in section 203(b)(5) of  
15       the Immigration and Nationality Act (8 U.S.C.  
16       1153(b)(5)).

17       (b) IMPROPER ACTIVITIES.—Activities that con-  
18       stitute preferential treatment under subsection (a) shall  
19       include—

20                (1) working on, or in any way attempting to in-  
21       fluence, in a manner not available to or accorded to  
22       all other petitioners, applicants, and seekers of bene-  
23       fits under the immigrant visa program referred to in  
24       subsection (a), the standard processing of an appli-  
25       cation, petition, or benefit for—

- 1 (A) a regional center;
- 2 (B) a new commercial enterprise;
- 3 (C) a job-creating entity; or
- 4 (D) any person or entity associated with
- 5 such regional center, new commercial enter-
- 6 prise, or job-creating entity; and

7 (2) meeting or communicating with persons as-

8 sociated with the entities listed in paragraph (1), at

9 the request of such persons, in a manner not avail-

10 able to or accorded to all other petitioners, appli-

11 cants, and seekers of benefits under such immigrant

12 visa program.

13 (c) REPORTING OF COMMUNICATIONS.—

14 (1) WRITTEN COMMUNICATION.—Employees of

15 the Department of Homeland Security, including the

16 officials listed in subsection (a), shall include, in the

17 record of proceeding for a case under section

18 203(b)(5) of the Immigration and Nationality Act (8

19 U.S.C. 1153(b)(5)), actual or electronic copies of all

20 case-specific written communication, including e-

21 mails from government and private accounts, with

22 non-Department persons or entities advocating for

23 regional center applications or individual petitions

24 under such section that are pending on or after the

25 date of the enactment of this Act (other than rou-



1       tine communications with other agencies of the Fed-  
2       eral Government regarding the case, including com-  
3       munications involving background checks and litiga-  
4       tion defense).

5           (2) ORAL COMMUNICATION.—If substantive oral  
6       communication, including telephonic communication,  
7       virtual communication, or in-person meetings, takes  
8       place between officials of the Department of Home-  
9       land Security and non-Department persons or enti-  
10      ties advocating for regional center applications or in-  
11      dividual petitions under section 203(b)(5) of such  
12      Act that are pending on or after the date of the en-  
13      actment of this Act (except communications exempt-  
14      ed under paragraph (1))—

15           (A) the conversation shall be recorded; or

16           (B) detailed minutes of the session shall be  
17      taken and included in the record of proceeding.

18           (3) NOTIFICATION.—

19           (A) IN GENERAL.—If the Secretary, in the  
20      course of written or oral communication de-  
21      scribed in this subsection, receives evidence  
22      about a specific case from anyone other than an  
23      affected party or his or her representative (ex-  
24      cluding Federal Government or law enforcement  
25      sources), such information may not be made

1 part of the record of proceeding and may not  
2 be considered in adjudicative proceedings un-  
3 less—

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

6 (ii) if such evidence is derogatory, the  
7 affected party has been given an oppor-  
8 tunity to respond to the evidence.

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

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

18 (ii) WHISTLEBLOWERS, CONFIDEN-  
19 TIAL SOURCES, OR INTELLIGENCE AGEN-  
20 CIES.—Evidence received from whistle-  
21 blowers, other confidential sources, or the  
22 intelligence community that is included in  
23 the record of proceeding and considered in  
24 adjudicative proceedings shall be handled  
25 in a manner that does not reveal the iden-

1                   tity of the whistleblower or confidential  
2                   source, or reveal classified information.

3           (d) CONSIDERATION OF EVIDENCE.—

4                   (1) IN GENERAL.—No case-specific communica-  
5                   tion with persons or entities that are not part of the  
6                   Department of Homeland Security may be consid-  
7                   ered in the adjudication of an application or petition  
8                   under section 203(b)(5) of the Immigration and Na-  
9                   tionality Act (8 U.S.C. 1153(b)(5)) unless the com-  
10                  munication is included in the record of proceeding of  
11                  the case.

12                  (2) WAIVER.—The Secretary of Homeland Se-  
13                  curity may waive the requirement under paragraph  
14                  (1) only in the interests of national security or for  
15                  investigative or law enforcement purposes.

16           (e) CHANNELS OF COMMUNICATION.—

17                   (1) E-MAIL ADDRESS OR EQUIVALENT.—The  
18                   Director of U.S. Citizenship and Immigration Serv-  
19                   ices shall maintain an e-mail account (or equivalent  
20                   means of communication) for persons or entities—

21                           (A) with inquiries regarding specific peti-  
22                           tions or applications under the immigrant visa  
23                           program described in section 203(b)(5) of the  
24                           Immigration and Nationality Act (8 U.S.C.  
25                           1153(b)(5)); or

1 (B) seeking information that is not case-  
2 specific about the immigrant visa program de-  
3 scribed in such section 203(b)(5).

4 (2) COMMUNICATION ONLY THROUGH APPRO-  
5 PRIATE CHANNELS OR OFFICES.—

6 (A) ANNOUNCEMENT OF APPROPRIATE  
7 CHANNELS OF COMMUNICATION.—Not later  
8 than 40 days after the date of the enactment of  
9 this Act, the Director of U.S. Citizenship and  
10 Immigration Services shall announce that the  
11 only channels or offices by which industry  
12 stakeholders, petitioners, applicants, and seek-  
13 ers of benefits under the immigrant visa pro-  
14 gram described in section 203(b)(5) of the Im-  
15 migration and Nationality Act (8 U.S.C.  
16 1153(b)(5)) may communicate with the Depart-  
17 ment of Homeland Security regarding specific  
18 cases under such section (except for commu-  
19 nication made by applicants and petitioners  
20 pursuant to regular adjudicatory procedures),  
21 or information that is not case-specific about  
22 the visa program applicable to certain cases  
23 under such section, are through—

24 (i) the e-mail address or equivalent  
25 channel described in paragraph (1);

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

3 (iii) the Office of Public Engagement,  
4 Immigrant Investor Program Office, in-  
5 cluding the Stakeholder Engagement  
6 Branch, or any successors to those Offices  
7 or that Branch.

8 (B) DIRECTION OF INCOMING COMMUNICA-  
9 TIONS.—

10 (i) IN GENERAL.—Employees of the  
11 Department of Homeland Security shall di-  
12 rect communications described in subpara-  
13 graph (A) to the channels of communica-  
14 tion or offices listed in clauses (i) through  
15 (iii) of subparagraph (A).

16 (ii) RULE OF CONSTRUCTION.—Noth-  
17 ing in this subparagraph may be construed  
18 to prevent—

19 (I) any person from commu-  
20 nicating with the Ombudsman of U.S.  
21 Citizenship and Immigration Services  
22 regarding the immigrant investor pro-  
23 gram under section 203(b)(5) of the  
24 Immigration and Nationality Act (8  
25 U.S.C. 1153(b)(5)); or

1 (II) the Ombudsman from resolv-  
2 ing problems regarding such immi-  
3 grant investor program pursuant to  
4 the authority granted under section  
5 452 of the Homeland Security Act of  
6 2002 (6 U.S.C. 272).

7 (C) LOG.—

8 (i) IN GENERAL.—The Director of  
9 U.S. Citizenship and Immigration Services  
10 shall maintain a written or electronic log  
11 of—

12 (I) all communications described  
13 in subparagraph (A) and communica-  
14 tions from members of Congress,  
15 which shall reference the date, time,  
16 and subject of the communication,  
17 and the identity of the Department of-  
18 ficial, if any, to whom the inquiry was  
19 forwarded;

20 (II) with respect to written com-  
21 munications described in subsection  
22 (c)(1), the date on which the commu-  
23 nication was received, the identities of  
24 the sender and addressee, and the  
25 subject of the communication; and

1 (III) with respect to oral commu-  
2 nications described in subsection  
3 (c)(2), the date on which the commu-  
4 nication occurred, the participants in  
5 the conversation or meeting, and the  
6 subject of the communication.

7 (ii) TRANSPARENCY.—The log of com-  
8 munications described in clause (i) shall be  
9 made publicly available in accordance with  
10 section 552 of title 5, United States Code  
11 (commonly known as the “Freedom of In-  
12 formation Act”).

13 (3) PUBLICATION OF INFORMATION.—Not later  
14 than 30 days after a person or entity inquiring  
15 about a specific case or generally about the immi-  
16 grant visa program described in section 203(b)(5) of  
17 the Immigration and Nationality Act (8 U.S.C.  
18 1153(b)(5)) receives, as a result of a communication  
19 with an official of the Department of Homeland Se-  
20 curity, generally applicable and information that is  
21 not case-specific about program requirements or ad-  
22 ministration that has not been made publicly avail-  
23 able by the Department, the Director of U.S. Citi-  
24 zenship and Immigration Services shall publish such  
25 information on the U.S. Citizenship and Immigra-

1 tion Services website as an update to the relevant  
2 Frequently Asked Questions page or by some other  
3 comparable mechanism.

4 (f) PENALTY.—

5 (1) IN GENERAL.—Any person who inten-  
6 tionally violates the prohibition on preferential treat-  
7 ment under this section or intentionally violates the  
8 reporting requirements under subsection (c) shall be  
9 disciplined in accordance with paragraph (2).

10 (2) SANCTIONS.—Not later than 90 days after  
11 the date of the enactment of this Act, the Secretary  
12 of Homeland Security shall establish a graduated set  
13 of sanctions based on the severity of the violation re-  
14 ferred to in paragraph (1), which may include, in  
15 addition to any criminal or civil penalties that may  
16 be imposed, written reprimand, suspension, demo-  
17 tion, or removal.

18 (g) RULE OF CONSTRUCTION REGARDING CLASSI-  
19 FIED INFORMATION.—Nothing in this section may be con-  
20 strued to modify any law, regulation, or policy regarding  
21 the handling or disclosure of classified information.

22 (h) RULE OF CONSTRUCTION REGARDING PRIVATE  
23 RIGHT OF ACTION.—Nothing in this section may be con-  
24 strued to create or authorize a private right of action to



1 challenge a decision of an employee of the Department of  
2 Homeland Security.

3 (i) EFFECTIVE DATE.—This section, and the amend-  
4 ments made by this section, shall take effect on the date  
5 of the enactment of this Act.

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