

March 28, 2019



The Honorable Russ Vought
Acting Director, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Acting Director Vought:

On behalf of the undersigned organizations, we write to oppose promulgation of Obama-era regulations regarding the employment-based fifth preference (EB-5) visa program. Undercutting the EB-5 program is a mistake that will hurt the U.S. economy by limiting the program's ability to create jobs and fund infrastructure projects.

We urge you and your designees to withdraw this EB-5 "midnight rule" proposed by the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) on January 13 (see 82 Federal Register 4738).

USCIS is proposing to dramatically increase the financial burdens placed on EB-5 investors and would raise these amounts to levels that far exceed those that have been proposed and are under consideration by Congress. If implemented these changes will chill EB-5 investment into U.S. companies indefinitely.

A sharp increase in eligibility requirements as proposed is unnecessary and counterproductive. EB-5 visas are currently capped at 10,000 per year and are available for individuals who invest at least \$1 million in a U.S. business, half of that for economically depressed areas, that create at least 10 full-time American jobs.

In recent years, the total number of EB-5 visas issued to investor immigrants has approached the 10,000 cap. However, that is due only to the fact that visas for family members are being erroneously counted toward the cap. Otherwise, there would be ample room to meet demand at the current investment threshold.

Despite the backlog this practice has created, the EB-5 program has attracted a significant amount of foreign investment to the U.S. to date. A study from the American Action Forum found the program increased foreign investment in the United States by \$20 billion since 2008. A 2017 Department of Commerce report similarly found that the EB-5 program increased investment in the U.S. by \$5.8 billion in 2012 and 2013 alone. Using data from FY12-FY13, these projects were expected to create an estimated 174,039 jobs for American workers.

EB-5 investment provides alternative sources of funding for worthwhile projects that may otherwise go overlooked. Urban areas often struggle to secure development investment despite significant interest, but now, for instance, dilapidated parts of the nation's capital are being revitalized thanks to EB-5 investment and the hard work of an American entrepreneur.





Global competitiveness has been a top objective of the Trump administration. Tax reform and efforts to streamline government regulations have contributed to historic lows in unemployment numbers and made America more competitive for business. Furthermore, many countries seek to attract foreign investment through economic citizenship programs. **The EB-5 program allows for the U.S. to compete for mobile foreign investment and the jobs that these funds bring.**



Congress must reauthorize and reform the EB-5 “regional center” program—which allows for pooling of capital from multiple investors—before it lapses. Moving ahead on regulations now puts the cart before the horse.

Enacting the Obama-era regulatory proposal would undermine the Trump Administration’s economic policies and greatly reduce foreign investment in the U.S. economy. Even the rule’s consideration has created uncertainty and rendered the program less effective. For these reasons, we urge that the Obama midnight regulation be abandoned immediately.



The American Consumer Institute
Center for Citizen Research

Sincerely,

- Andrew F. Quinlan ~ President, Center for Freedom and Prosperity
- Grover Norquist ~ President, Americans for Tax Reform
- Iain Murray ~ Vice President, Competitive Enterprise Institute
- Jason Pye ~ Vice President of Legislative Affairs, FreedomWorks
- Tim Andrews ~ Executive Director, Taxpayers Protection Alliance
- Jerry Taylor ~ President, Niskanen Center
- Thomas A. Schatz ~ President, Citizens Against Government Waste
- George Landrith ~ President, Frontiers of Freedom
- Karen Kerrigan ~ President & CEO, Small Business & Entrepreneurship Council
- Tom Giovanetti ~ President, Institute for Policy Innovation
- Charles Sauer ~ President, Market Institute
- Steve Pociask ~ President, The American Consumer Institute
- Norman Singleton ~ President, Campaign for Liberty
- Lew Uhler ~ President, National Tax Limitation Committee
- James L. Martin ~ Founder/Chairman, 60 Plus Association



Cc:

- The Honorable Mike Pence, Vice President of the United States
- Office of Management and Budget Director Mick Mulvaney
- Director of the National Economic Council Lawrence Kudlow
- Senior Advisor to President Donald J. Trump Jared Kushner
- Chairman of the Council of Economic Advisers Kevin Hassett