

EB-5 Industry Leaders Ponder Path To Long-Term Future

By **Nathan Hale**

Law360 (September 22, 2025, 9:50 PM EDT) -- At 35 years old, the EB-5 investment visa program has been enjoying arguably its strongest period, attracting record numbers of applications and putting a checkered past behind it under recent reforms. Yet, the program's fate came up frequently during the Advanced EB-5 Industry Conference last week in Miami — and that was before President Donald Trump signed an order to roll out his own "gold card" investment visa program late Friday.



President Donald Trump holds up a \$5 million gold card as he speaks to reporters while in flight on board Air Force One, en route to Miami, Thursday, April 3, 2025. (AP Photo/Pool)

As industry professionals and other stakeholders shared insights Thursday on various aspects of the EB-5 program — which reserves green cards for foreigners who make investments in U.S. projects or companies that create at least 10 jobs — their attention turned repeatedly to two upcoming sunset dates. On Sept. 30, 2027, the program's congressional authorization is set to expire. And expiring one year sooner is a "grandfather clause" intended to provide investors assurances on deal terms and their immigration applications.

Another layer was added to the picture with Friday's executive order, in which the president instructed the U.S. Department of Commerce and the U.S. Department of Homeland Security to start implementing plans for the new "gold card." The program is intended to make visas available to individual applicants for payments of \$1 million to the U.S. government, or \$2 million if a sponsor corporation or entity is covering the cost.

Questions remain about the path forward for the gold card, which might require congressional action to change immigration and tax laws. However, the head of Invest in the USA, a not-for-profit EB-5 industry trade association, said Monday that, based on what it has seen, the organization views the gold card plan as related but different enough from EB-5 to co-exist and actually benefit EB-5 reauthorization efforts.

Although the White House lowered the gold card payments from a \$5 million goal discussed in February to a price point closer to EB-5's \$800,000 and \$1.05 million categories, the gold card calls for one-way payments, whereas EB-5 applicants make true investments with the expectation for a recovery and even potential gain on that investment, IIUSA Executive Director Aaron Grau noted.

Also, while EB-5 applicants are able to draw in spouses and children, the gold card order appears to imply a \$1 million fee per person, Grau added.

"Usually, the conversation is really, with policymakers, trying to describe what EB-5 is. Since the announcement of the gold card, there's been a real focus on investment immigration, and people have started to ask us, 'What is it? How does it work? Can it benefit my state? Can it benefit my congressional district?'" Grau told Law360 Real Estate Authority. "So, we appreciate the attention, we support the president in his efforts, we understand what he's trying to do with regards to the deficit, but we think it's different enough not to freak out about it."

Strange Times, Big Opportunity

The annual Advanced EB-5 Industry Conference, co-hosted by EB-5 service provider JTC Group and law firm Saul Ewing LLP, took place in the glare of an intense spotlight shining on immigration, with the Trump administration's heightened immigration enforcement, dramatic shifts in international trade strategy and general disruption of norms in Washington, D.C.

It's a situation that keynote speaker George Foresman, a former DHS undersecretary and current chairman of Nysa Capital LLC, said has people around Washington, D.C., calling this the "strangest times" they have lived in but, he suggested, also presents a prime opportunity for the EB-5 industry.

Foresman, who served under four presidents — two Democrat, two Republican — told the audience that while so many norms in government operations and policymaking have been upset, this has also created openings for dialogue. Referencing the previous announcements about the gold card, he said this is an administration that is very focused on business and investment, as well as immigration.

"You're at an important moment in time, an inflection point, where the bureaucracy is open to dialogue, the legislative branch is open to dialogue, the executive branch is open to dialogue about the value proposition of EB-5 in the context of the future of the country," he said.

Foresman challenged the audience, as EB-5's leaders, to take advantage of this opportunity.

"It's a moment in time for you to be able to articulate not only the requirements for today, [but also] to build a durable EB-5 program that will last not just until the next reauthorization, but is durable and permanent and will last into the next 10, 20, 30, 40 years," he said.

Staving Off Sunsets

Long-term ambitions for EB-5 obviously depend on securing reauthorization before the programs' Sept. 30, 2027, sunset date, but there was also considerable discussion at the conference about the possible consequences of the Sept. 30, 2026, expiration date for the grandfather clause.

Several speakers questioned who would risk applying after that date without assurances that their immigration application won't lose its place in line, with H. Ronald Klasko of Klasko Immigration Law Partners LLP suggesting this is the real "fall off the cliff" day.

But some said they thought investors may still find EB-5 to be the most favorable path after that date, and projects will be able to move forward given proper care.

"We don't need to put pencils down on [Sept. 30, 2026]. We do need to tell investors what the risk is," said Lulu Gordon, general counsel of EB5 Capital, which helps structure EB-5 investment opportunities. "If someone truly understands what it means, and they want to invest anyway, I think that's OK."

Many speakers predicted a surge in activity as awareness of the pending sunset triggers a sense of urgency.

"I think this is a real problem that we have," said James S. Sozomenou, EB-5 group director at Metropolitan Commercial Bank. "A date certain in EB-5 is the scariest thing, and it creates these rush jobs, unfortunately."

"I think any bank that's involved in the EB-5 space is paying a lot of attention to due diligence behind who's involved in these projects, what do they look like just from a cursory standpoint, and what do we see coming to the market," he added.

Mine Ekim, managing director of Civitas Capital Group, said she thinks lessons have been learned from similar previous episodes.

"We should not leave anything to the last minute," Ekim said. "Promotion is important, but execution will be even more important in the days to come, and those stakeholders who are legally buttoned up and operationally disciplined will lead the industry forward."

Several speakers, including IIUSA leaders, expressed cautious optimism for recertification. They cited the program's proven economic impact, major strides achieved in rooting out past issues with fraud since its last recertification through passage of the 2022 EB-5 Reform and Integrity Act, and a greater awareness of the program on Capitol Hill.

The EB-5 program attracted \$75.2 billion in private investment, while creating 1.7 million American jobs and adding \$184 billion to gross domestic product from 2016 to 2019, according to an independent report recently released by IIUSA. And government data showed it attracted 1,918 applications in the second quarter of 2025, the highest amount since passage of the 2022 reforms.

Ronald R. Fieldstone, chair of the global immigration and foreign investment practice at Saul Ewing and an organizer of the conference, also noted to Law360 that the EB-5 program's incentives for projects in rural and high unemployment areas have also helped to direct jobs and capital to virtually every state.

"I think the program is very well-balanced, and it seems to be working very well," Fieldstone said. "The money is going right into districts, so your governors, your mayors — they want this. It's great for real estate. It's great for the chambers [of commerce]. They want to see development. They want to see money invested."

Industry leaders said they are making a push to obtain reauthorization and an extension of the program ahead of the 2026 grandfather clause sunset, to solve both issues at once. However, with expectations that Congress is unlikely to act on reauthorization so far ahead of the deadline, Klasko suggested it may prove more feasible to at least convince Congress to extend the grandfather clause by a year to line up with the overall program authorization.

Nevertheless, Jill Jones, general counsel of institutional client services USA at JTC and a moderator for multiple panels at last week's conference, said she thinks a push for early recertification is the way to go.

"I feel like if you're going to get enough attention to make any kind of a tweak, it should be towards reauthorization," Jones said. "That covers everything. If you just put a Band-Aid on and just change the grandfathering, you still have the bigger issues hanging over you."

Jones said the "pipe dream" would be to gain permanent authorization, but she also noted that the federal government recently made opportunity zones permanent.

"You compare the two programs: They're both serving underserved areas, they're both putting money into areas that need development, but opportunity zones has a cost. EB-5 has no cost to the taxpayers, and it's providing the job creation, it's providing the economics, it's providing everything the developers need," she said. "And yet we continue this path of reauthorization every so often and opportunity zones are permanent."

--Editing by Jay Jackson Jr.