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## EB-5 Changes

The EB-5 investor visa program saw major events in the past few weeks. On June 30<sup>th</sup>, the EB-5 Regional Center program expired when Congress failed to reach an agreement on its reauthorization. Despite the lapse, it is anticipated that negotiations to reauthorize the program will continue and that the program will eventually be reauthorized, though the timing remains uncertain and reauthorization is not guaranteed. United States Citizenship and Immigration Services (USCIS) offers [guidance](#) on its website for how it will handle EB-5 Regional Center filings during the lapse.

On June 22<sup>nd</sup>, a U.S. District Court issued a ruling in *Bebring Regional Center LLC vs. Wolf*, vacating the “[Modernization Regulations](#)” passed in November 2019, which substantially increased the required minimum investment amounts, among other changes. On July 6, 2021 USCIS issued a [notice](#) reinstating EB-5 regulations that were in effect prior to the Modernization Regulations while it considers the impact of the court’s decision. It is important to note that this expiration does not impact EB-5 investors applying through the Direct Jobs Program, which is separate from the Regional Center program.

### What does this mean?

The USCIS notice reinstating the pre-Modernization Regulations has no impact on new filings under the EB-5 Regional Center program, as it lapsed on June 30<sup>th</sup>. However, the ruling at least temporarily benefits EB-5 investors filing under the Direct Jobs program because they may now prove eligibility with a \$500,000 investment in targeted employment areas (TEAs) as opposed to \$900,000 under the Modernization Regulations, or a \$1,000,000 investment in non-TEAs, down from \$1,800,000 under the Modernization Regulations.

It is unclear whether USCIS will appeal the District Court’s decision in the case of *Bebring Regional Center LLC vs. Wolf*. We also do not know what impacts might come with I-526 filings relying on the reinstated Pre-Modernization Regulations if an appeals court reverses the lower court decision. We will continue to monitor events surrounding EB-5 regulations and will provide further updates as they arise.