

9 FAM 42.32(e) N7 IMMIGRANT INVESTOR PILOT PROGRAM

(CT:VISA-1460; 07-30-2010)

Section 610 of Public Law 102-395, as amended by Public Law 111-83, modified INA 203(b)(5) (8 U.S.C. 1153(b)(5)) by creating a pilot program (*set to expire on September 30, 2012*), which sets aside up to 3,000 immigrant visas annually for aliens who make qualifying investments in commercial enterprises located in “regional centers” in the United States. These regional centers will promote economic growth, including increased sales, improved regional productivity, job creation, and increased domestic capital investment. Under current law, you must cease issuing visas under this program after close of business on September 30, 2012.

9 FAM 42.32(e) N8 “REGIONAL CENTER” DEFINED

(CT:VISA-674; 01-14-2005)

DHS regulations (8 CFR 204.6(e)) define “regional center” as any economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased capital investment. This can include entities ranging from a state government agency to a consortium of exporters, specifically an entity benefiting a particular geographic region of the United States. If the new commercial enterprise is engaged indirectly or directly in lending money to job-creating businesses, such job-creating businesses must be located within the geographic limits of the regional center to help improve regional productivity. In addition, to be eligible for the reduced minimal capital requirement, such a money-lending enterprise may only lend money to businesses located within targeted areas.

9 FAM 42.32(e) N9 PETITION REQUIREMENTS FOR INVESTOR VISA PILOT PROGRAM

(CT:VISA-1298; 09-15-2009)

Aliens petitioning as investors under the Investor Visa Pilot Program must demonstrate the following:

- (1) The investment is within a DHS-approved regional center;
- (2) The investment will create 10 or more jobs through revenues generated from increased exports generated by the program;
- (3) There is an actual commitment of the required capital in the commercial enterprise;
- (4) The capital invested was lawfully gained;
- (5) The investment is bona fide; and
- (6) He or she will play an active role in the day-to-day managerial control or in the job policy formulation.

NOTE: If the enterprise is a limited partnership, U.S. Citizenship and Immigration Services (USCIS) has determined that investment in a limited partnership will meet the active investment requirement of the regulations without the need for further involvement as long as the partnership agreement permits active involvement by the limited partners.

9 FAM 42.32(e) N10 MEETING THE JOB CREATION REQUIREMENT

(TL:VISA-183; 12-18-1998)

Aliens under the pilot program meet the requirement of job creation by establishing “reasonable methodologies” for determining the number of jobs created, including such jobs created

indirectly through revenues generated from increased exports resulting from the investment. Such methodologies may include:

- (1) Multiplier tables;
- (2) Feasibility studies;
- (3) Analyses of foreign and domestic markets for goods or services exported; or
- (4) Economically or statistically valid forecasting devices which indicate the likelihood that the business will result in increased employment.

<http://www.state.gov/documents/organization/87836.pdf> (Accessed Aug. 24, 2012)