

China Public Security Bureau Point Out Huge Risk of US EB-5 Projects

Recently, at the meeting of “Exit and Entry Service Association”, held by Division of exit and Entry Administration Department of Public Security of Canton Province, the speaker from the division relayed to the attendees the instructions of the Ministry of Public Security of the People Republic of China and pointed out the huge risk of US EB-5 Projects. According to the rule of The Ministry of Public Security, All agency engaged in EB-5 projects must supply the legal documents signed with Foreign Partner (those documents need to be notarized by Foreign Bodies), Agents should tell the investors the risks involved with EB-5 Investment. Some immigration professionals state clearly that people should be aware of the two risks “investing fund” and “Conditional Green card” even though EB-5 program are strongly accepted by Immigration Agency and Applicants.

Current Status: EB-5 Applicants Increased dramatically in Main Land China

The EB-5 Program was first introduced to China at the end of year 2005. With the increasing of trade between China and US, more and more Chinese entrepreneur need the Green Card to go to US for business purpose, expanding their business in US , as well as sending their kids to study in US, the EB-5 Investment Immigration program has been expanded since 2007. LiJuan Zhou, CEO of overseas branch of HONGHAI, said that EB-5 Chinese applicants are way more than Korean applicants now according to the latest statistic report from OCT, 2008 to Sept, 2009 by USCIS, Total 1795 Chinese from mainland China applied for EB-5, beside 142 Chinese from TaiWan. The General Manager of US Project Division of Fei Yang Group, Sheng Liu, said, that USCIS issued more than 1800 green cards to investors in year 2009, almost double than year 2008. Chinese applicants obtained one fifth of the total green cards, a little bit less than Korean, but the number of Chinese investors who applied the green card is increasing the most.

The EB-5 marketing promotion in China also expanded rapidly, for example, in year 2005, there was only one EB-5 project was promoted in Guang Zhou, at the end of year 2009, there were more than 20 EB-5 projected introduced with different scale, some projects are big, some are small, such as a restaurant project.

Analysis: EB-5 “Flexible Immigration Requirement”

Senior Immigration Consultant of GuoFeng LLC, ShaoHeng Lin indicate the reason why EB-5 program win the popularity among the immigration agency and investor at the recent two years is EB-5 “ Flexible Immigration Requirement.”

EB-5 “Flexible Immigration Requirement” gives you the flexibility to do what you want in the USA: No degree requirement, any age, no entrepreneur experience requirement, any person who reaches 21 years old and show source of \$500000 legally (business income, stock gain, house sale, house loan, gifts etc) can apply.

In Canton, A lot of people can easily meet Eb-5 Requirement. For instance, a kid who wants to study in US, as long as he is 21 years old and has \$500000 investment fund from parent, he can apply for it and come back China with green card after graduation.

The whole family can get the green card if one of the households applies for EB-5. For many Chinese Individual and families, it 's an easy and fast way to get green card. It's also very attractive to Immigration Agency, they can turn around cash in much shorter time since EB-5 program process only take about 3-8 months.

Risks: “Investment Fund” and “Greend Card” are two major risks

According to Eb-5 program, foreign immigration applicants must invest in a commercial enterprise will benefit US economy and create 10 full time jobs in order to get “conditional green card” for a two years period. Prior to the two-year anniversary of the granting, the EB-5 applicants must submit supporting documents that you have invested or are still in the process of investing to remove the “condition” and become the permanent US residents. Year 2010 is the first “mature year” for the EB-5 investors “5 year terms”, it's very sensitive topic now for the EB-5 investors if they can meet this two requirement.

However, recently Ministry of public security has warned the potential immigration applicants EB5 projects promoted by some of the immigration agency belong to private equity activity and have huge risks.

YouWen Zhen, General Manager of GuoHeLi investment consulting LLC in Shen Zheng, pointed out two huge risks:

First, Investing Fund Risk. The investors need to fund the project first before getting the visa, and the EB-5 projects are not financially guaranteed by US government, The investing fund can not be withdrew within 5 years. The investment must be truly at risk. From the EB-5 procedure, the applicants must fund \$500000, huge amount at once they start to apply through the agency, While, Canada investor immigration funding is backed up by Canada Government. USCIS ask all regional centers clearly states in their contract with EB-5 investors that EB-5 investment must be “at risk” and there can be no mention of redemption rights or guarantees. However, some of immigration agency and American personal ignore this rule and promote EB-5 illegally, as private equity.

Secondly, Green Card Risk. The EB-5 applicants cannot control and manage the investing process themselves, if the investment failed and did not create 10 jobs during the two years, their green card will be cancelled. At the beginning, the applicants and family only get “Conditional Green Card”, there is a long way to go to get the permanent green card, in case, the investment fail, they not only lose the green card, but also the investment fund. In China, there are Eb-5 investors got “conditional green card”, but as

for today, none of them has successfully changed to I-829. We encourage people to do their own due-diligence, especially studying the mutual-fund companies who actually run the EB-5 projects before they choose to invest the project.

公安部指美国EB-5项目存在巨大风险

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近日，在深圳举办的“因私出入境中介机构座谈会”上，广东省公安厅出入境管理处首次在会上传达了国家公安部关于美国EB-5类投资移民项目的通报，指出美国EB-5项目存在巨大风险。公安部规定，从事该项目的机构，必须提供外国签约合作机构的合法证明(须经外交机构认证)，从业人员应如实向申请人讲明项目的风险性，以规避投资风险。对此，有关移民专家表示，EB-5的“弹性移民要求”致使移民中介与申请者热捧该项目，但是其“资金”与“绿卡”两大风险不容轻视。

现状：中国内地申请人数跃居榜首

据悉，美国EB-5投资移民项目自2005年年底进入中国市场后，伴随着中美贸易升温，国内越来越多的企业家需要前往美国考察或开展生意，与此同时，越来越多的家长希望把孩子送往美国学习深造，该项目自2007年年底起呈现出快速增长势头。据联鸿海外董事长邹丽娟表示，根据美国移民局2008年10月至2009年9月的最新统计数据显示，来自中国内地的EB-5申请者，已经远远超过之前遥遥领先的韩国。中国内地的申请家庭是1795户，中国台湾的申请家庭是142户，在美国移

民局的排行榜上跃居第一位。而飞洋集团美国项目总监刘森介绍，从申请最后获批数字来看，美国移民局2009年发出的投资移民绿卡超过1800多张，几乎相当于2008年全年获批数量的两倍。中国申请人得到的绿卡占总数的五分之一左右，略落后于韩国；但从签证获批数量的增长速度上看，中国已经超过任何一个国家，位居榜首。

从市场上推广的项目看，以广州为例，在2005年，广州仅有一家从事该项目，到2009年年底，广州市场上活跃的EB-5投资移民项目多达20多个。大到美国跨区的投资计划，小到一个餐馆的移民计划。

分析：缘自EB-5的“弹性移民要求”

对此，国枫移民资深顾问林少恒指出，美国EB-5投资移民项目近两年迅速“走红”，只要分析EB-5具体的申请要求，就能发现其“弹性移民要求”不管是对移民申请者还是中介机构而言都有着极大的吸引力。

据林少恒介绍，EB-5“弹性移民要求”之美称并非浪得虚名：无学历、年龄、商业背景要求，只需年满21周岁，只要能证明50万美金的合法取得（商业所得、股票所得、房屋买卖、房屋贷款、亲属赠予均被接受）。在广东，尤其是广州、深圳符合要求的申请人为数不少。比如打算赴美读书的孩子，只需年满21周岁，手持父母的一笔赠款，毕业后就能携美国身份回来；或者一家三口通过一位主申请人申请，通过后全家都可获得美国绿卡。对于希望快、简单的中国申请人及其家庭

来说，无疑是提供了一条快速移民美国的绿色通道。而对于希望资金尽早回笼的中介来说，该项目3~8个月的审批速度也使得该项目在经营上更具吸引力。

风险：“资金”和“绿卡”是两大风险

根据EB-5投资移民方案，外国移民申请人在美投资创设有利于美国经济的商业性企业，并直接创造10个全职的就业机会，才可获发两年有效期的有“条件移民签证”。两年届满前90天，若移民投资者的投资行为仍存在，可申请“条件移除”，而成为永久居民。但是，自2005年进入中国后，2010年恰好是美国投资移民“5年期限”之后的首个“收成年”，是否能达到这两个预期目标都将直接触动美国投资移民申请者的“神经”。

然而，近日国家公安部发布今年首次移民预警却指出：目前国内某些移民公司推广的美国EB5投资移民项目，本质上属于私募行为，存在着巨大风险性。

对此，深圳国和立投资咨询有限公司总经理郑有文分析美国投资移民主要有以下两大风险：

第一，资金风险。此项目无政府担保，需先投资，后拿签证，5年后才能取回投资款，投资存在一定的风险。从美国投资移民办理流程

可以看到，申请人在确定办理投资移民委托之后便要进行50万美元的投资，其投资数额巨大。但是，与加拿大投资移民的投资款有政府担保不同，美国政府在 EB-5项目的规定上，对于区域中心的投资要求非常清楚，不允许任何项目提供回购，保证还款承诺。这就明确了申请人的投资款并没有美国政府担保。而一些不法移民中介，或者美国当地的不法分子利用美国EB-5投资移民该项政策，不排除其推广的项目有私募基金行为。

第二，绿卡的风险。因为 EB-5投资不由申请人本人操作和管理，申请人处于完全被动状态，如两年内投资失败或没有创造就业岗位，绿卡也将被取消。在申请办理成功之初，申请人及全家人获得的只是“有条件绿卡”，距离“正式绿卡”还有很长的一段路要走，万一投资失败，到时候不仅得不到“正式绿卡”，还可能连投资款都收不回，可谓是“赔了夫人又折兵”。另据记者了解，两年有条件绿卡目前在中国，包括广州、深圳都有申请人拿到，但是目前尚无投资人成功转为I-829申请。因此提醒广大申请者慎重选择该项目，尤其是运作该项目背后的基金公司等机构。