EB 5 visa nears grandfathering deadline: File before September 30 or pay $140,000 more; Here's what Indians should know

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$800,000 now or $940,000 later: Why the EB-5 deadline is driving a rush of investor activity

For wealthy families considering the US EB-5 investor visa route, September 30, 2026, is emerging as one of the most important dates on the immigration calendar.

The date, however, is being widely misread. September 30 is not the date the EB-5 Investor Visa Programme expires. It is the date its grandfathering clause does. The distinction matters, and the consequences of missing it are significant.

What actually expires in September 2026

Speaking to Business Today, Shilpa Menon, Managing Director (Commercial) at LCR Capital Partners, said, "We do not anticipate a lapse in the EB-5 Investor Visa Program. Under current law, the program is authorized through September 2027. What expires in September 2026 is the grandfathering clause, not the program itself. It is important to note this difference as petitions filed before that date will be adjudicated under today's rules, even if Congress later reforms the law. So investors who file before September 30, 2026 have full certainty, and nothing changes for those planning to file before the program's 2027 expiry," she said.

In practical terms, a family that files its I-526E petition before September 30, 2026 locks in the current rules for the entirety of their EB-5 journey, source of funds requirements, investment structure, job creation standards, and adjudication criteria, regardless of what Congress changes after that date.

Difference between two dates

September 30, 2026 is last day to file and receive legal protection against a future programme shutdown.

September 30, 2027 is the date the regional centre programme itself is currently authorised until.

These are two completely different deadlines. A petition filed on October 1, 2026 follows all current rules perfectly, but if Congress fails to renew the programme in 2027, that petition gets no protection and could be frozen just like the 2021 cases.

The investment threshold is also changing

The deadline carries a financial dimension as well. The minimum investment amount currently stands at $800,000. That figure is set to rise to approximately $940,000 in January 2027. For families already weighing the programme, filing this year is therefore compelling on two separate counts: regulatory certainty and cost.

Menon advises families not to wait. "Because assembling documentation and transferring capital takes time, we advise families to begin now. As the deadline approaches, attorneys working on your case file will become more and more stretched and high-quality EB-5 projects may grow scarce," she said.

A rush, but a rational one: Investors react

Nicholas A. Mastroianni III, President and CMO of USIF, describes the shift in investor behaviour as purposeful rather than panicked. "Families who have been working through their evaluation for months are beginning to move toward a decision with more purpose than they had six months ago. That shift is rational, and it has a specific cause," he said.

The cause, he explains, is the value of certainty. For a family committing $800,000 across a process that can run five years or more, knowing the rules will not change mid-journey carries real weight. "It is not anxiety driving the decision. It is the recognition that the certainty available today may not exist in the same form on the other side of September 30, 2026."

Mastroianni draws on the 2021 experience as a caution against leaving preparation too late. When the EB-5 programme was suspended that year, USCIS stopped processing regional centre-based petitions for the better part of eight months. Families who arrived at the deadline with documentation still outstanding faced difficulties that earlier planning would have prevented. "While September 30, 2026, is not a date certain for change just yet, it is a reason to start as soon as possible for those who have ever considered filing for EB-5," he said.

What a lapse would, and would not mean

apital already committed to a properly structured project is governed by the contract between the investment group and the project; **a programme pause does not alter that agreement,** according to Mastroianni**.**

The immigration track is different. A lapse directly halts USCIS processing, freezing cases mid-journey. For new projects, the pipeline of available EB-5 capital closes entirely during any suspension. In rural areas and high-unemployment communities, where EB-5 has historically provided financing on terms that other private capital sources do not routinely offer, that constraint is particularly acute.

"That is the real economic cost of prolonged uncertainty, and it falls on American workers and the communities these projects serve," Mastroianni said.

What this means for Indian investors specifically

For Indians, the stakes are even higher, and the timeline even tighter.

India already faces a backlog in the unreserved EB-5 category. According to the May 2026 Visa Bulletin, the priority date for Indian nationals in the unreserved EB-5 category is May 1, 2022, meaning investors filing today could wait years before a visa becomes available.

The good news: the reserved categories, for investments in rural areas, high-unemployment zones and infrastructure projects, are currently open with no backlog. Indian investors who qualify for these categories face significantly shorter waits.

But here is the crucial point: your priority date is set the day you file. Every month you delay is a month added to your wait. And for Indian investors in the unreserved category, that delay compounds over years, not months. Filing early does not speed up the queue, but it gets you into it sooner, permanently.

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