

# The new route

Indians increasingly utilise the EB 5 programme to obtain permanent residency in the US now

There are several reasons for the Indian nationals' preference for the EB 5 route. First and the foremost is the cause of post-graduate employment. Many Indian Nationals obtain degrees at universities in the US. Unfortunately, without a Green Card it can be challenging for a non-US Citizen to obtain post-graduate work experience in the US. Most graduate students are dependent on the H1B visa to get work authorisation in the US. The current quota limits the issuance of visas to 85,000 per year. This has led to two-thirds of the applicants not making the H1B lottery. The parents of many Indian Nationals studying in the US, therefore, fund an EB 5-based Green Card for their children. Having obtained an EB 5-based Green Card, Indian graduates of US universities have a much easier time securing post-graduation employment.

Also, a non-immigrant visa grants the holder the right to engage in a limited range of business activities, whereas, an EB 5-based Green Card grants the holder and his/her family the right to engage in any lawful investment or business activity they may wish to. It provides an Indian investor significant business and investment opportunities.

Then, there is the lure of the market. The US has, by far, the largest consumer market in the world. Many EB 5 Green Card holders pursue multiple business activities from within the US, which enable them to access the US market and stimulate demand for their Indian businesses. Instead of accessing the US market through intermediaries and third parties as Indian businesses often do, which absorbs most of the margin on the goods and services sold, the EB 5 route can help an Indian businessperson directly access the US market and eliminate intermediaries, Indian businessmen may be able to recapture the lost margin and thereby improve their profitability.

The EB 5 Regional Centre programme is due to expire in September 2016 and may not be extended. Even if extended, it is likely that the investment required for an EB 5-based Green Card will be increased. That is why many Indian nationals are trying to make their EB 5 qualifying investment before September 2016. Compared to investment visa options in other countries



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including the UK, Canada and Australia, the US remains an extremely cost-effective option.

## Funding for Indian start-ups

There are a number of ways in which Indian start-ups can acquire funding with the assistance of the EB 5 programme. Many Indian nationals have opened or expanded businesses in the US funded by other EB 5 investors. Examples include using EB 5 investment dollars to build Indian-owned factories and hotels in the US. In return for their investment, each investor potentially receives an EB 5-based Green Card. The advantage of funding a new business using EB 5 investment funding is that it can be a relatively inexpensive and flexible funding option. Thus, through the offer of a Green Card, the EB 5 programme creates an incentive for non-US nationals to invest in a new business in the US. The family and friends of Indian nationals opening US businesses have invariably invested in those businesses in exchange for a Green Card.

Access to non-EB 5 funding includes banks, as also independent investors. Many Indian start-ups come to the US seeking non-EB 5 investment funding for their businesses. Additional sources of funding may become available to US Green Card holders that are not available to persons who are neither US citizens or US Green Card holders. Further, lower interest rates may be available to US Green Card holders or US citizens. Most US banks do not offer loans to non-US persons and companies. Establishing a company in US gives people access to US bank loans at low rates of interest.

Further, many investors feel comfortable funding companies incorporated in the US. Investors prefer this because the companies are governed by US laws and legal remedies are available within the country. Some entrepreneurs feel they get better valuation of their products and services if they have a US presence.

As permanent residents in the US, the holders of EB 5 based Green Cards may become eligible for tax credits, small business loans and other US government funded business assistance. In addition, students holding an EB 5 based Green Card may be eligible for US government assistance with the costs of their higher education. ♦

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