

# U.S. House of Representatives

## Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

June 15, 2020

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
Washington, D.C. 20548

Dear Mr. Dodaro:

As Americans continue to suffer from the deadly coronavirus pandemic, Congress and the Trump Administration must hold the Chinese Communist Party (CCP) accountable for its lies and inaction. On May 21, 2020, President Trump announced a new strategic approach to the People's Republic of China, with a goal of "protect[ing] the American people, homeland, and way of life."<sup>1</sup> Consistent with this goal, we write to request that the U.S. Government Accountability Office (GAO) review the extent to which the CCP is abusing the EB-5 Immigrant Investor Visa Program.

Congress created the EB-5 program in 1990 with the goal of stimulating capital investment and job creation from foreign investors.<sup>2</sup> The program, run by U.S. Citizenship and Immigration Services (USCIS), provides a path to citizenship for immigrants who invest a certain amount of money and create jobs within the United States.<sup>3</sup> In 1992, Congress created the Regional Center Program, which allocates EB-5 visas for foreign nationals who invest in commercial enterprises associated with EB-5 Regional Centers.<sup>4</sup>

Although the EB-5 program's goal of stimulating capital investment and job creation in the United States is laudable, it has become clear in recent years that the CCP may be abusing the program to gain access to U.S. permanent residency for their members. Between 2012 and 2018, 80 percent of the nearly 10,000 EB-5 visas available each year went to Chinese-born investors.<sup>5</sup> The vast majority of the EB-5 backlog currently consists of Chinese investors.<sup>6</sup> The

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<sup>1</sup> United States Strategic Approach to the People's Republic of China, The White House (May 21, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/05/U.S.-Strategic-Approach-to-The-Peoples-Republic-of-China-Report-5.20.20.pdf>

<sup>2</sup> See About the EB-5 Visa Classification, U.S. Citizenship and Immigration Services (last updated Jan. 13, 2020), <https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/about-eb-5-visa-classification>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Winnie Ng, *An Analysis of the Current EB-5 Market in China*, EB5 Investors Magazine (June 21, 2018), <https://www.eb5investors.com/magazine/article/an-analysis-of-current-eb-5-market-in-china>.

<sup>6</sup> *Id.*

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Chinese investors have proven they are willing to wait as long as ten years to receive an immigrant visa.<sup>7</sup>

In 2016, GAO published a report about the EB-5 program.<sup>8</sup> The report analyzed the progress that USCIS had made to detect and prevent fraud within the program.<sup>9</sup> However, the report did not examine national security concerns associated with the program.<sup>10</sup> One potential concern is USCIS's inability to deny or revoke a regional center determination on the basis of national security.<sup>11</sup>

As Congress reevaluates our relationship with the People's Republic of China, the time is ripe for GAO to again examine the EB-5 program. Therefore, we respectfully request that GAO examine and report on the following:

1. USCIS's improvements to detect fraud in the EB-5 program, as well as the CCP's efforts to avoid fraud detection;
2. The extent to which the CCP has utilized the EB-5 program for its members to obtain immigrant visas;
3. The statutory and programmatic gaps in the EB-5 program's authorities that hinder USCIS from considering national security concerns in its adjudication of EB-5 related petitions and applications; and
4. The cumulative amount of EB-5 investment funding derived from the CCP or investors associated with the CCP.

If you have any questions about this request, please ask your staff to contact Committee staff at (202) 225-6906. Thank you for your attention to this request.

Sincerely,



Jim Jordan  
Ranking Member



Guy Reschenthaler  
Member of Congress

cc: The Honorable Jerrold L. Nadler, Chairman

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<sup>7</sup> *Id.*

<sup>8</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-16-828, IMMIGRANT INVESTOR PROGRAM: PROGRESS MADE TO DETECT AND PREVENT FRAUD, BUT ADDITIONAL ACTIONS COULD FURTHER AGENCY EFFORTS (2016).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 12.

<sup>11</sup> U.S. Citizenship and Immigration Services, *USCIS EB-5 Authority Gaps Fact Sheet*, (2019).