

Congress of the United States
Washington, DC 20515

July 11, 2016

The Honorable Robert W. Goodlatte
Chairman
House Committee on the Judiciary

The Honorable John Conyers, Jr.
Ranking Member
House Committee on the Judiciary

The Honorable Charles E. Grassley
Chairman
Senate Committee on the Judiciary

The Honorable Patrick J. Leahy
Ranking Member
Senate Committee on the Judiciary, J

Dear Chairman Goodlatte, Ranking Member Conyers, Chairman Grassley, and Ranking Member Leahy:

As Members of Congress representing the millions of Americans who reside in the five U.S. territories, we respectfully offer our views on the reform of the EB-5 program for immigrant investors, including both regional center and direct investments.

Reauthorization of Regional Center Program with Robust Integrity Reforms: We believe that the EB-5 regional center program, when used properly, can be an effective tool for creating jobs, opportunity and prosperity in those parts of the country—including the U.S. territories—that need the most assistance. We therefore support the reauthorization of the EB-5 Regional Center program beyond its current expiration date of September 30, 2016, although we encourage the addition of measures to ensure the integrity of the program and to prevent fraud and abuse..

Visa Set-Asides to Ensure That Capital is Directed to Areas That Need it the Most: Demand for EB-5 visas has far outstripped the supply in recent years, causing a significant backlog that threatens the viability of the program. We are concerned that projects in areas that were originally intended to benefit from the program, such as rural areas and high unemployment areas, will be usurped by projects in more affluent areas. We therefore support an annual set-aside of at least 2,000 EB-5 visas for investments made in rural areas and a set-aside of at least 2,000 visas for investments made in highly impoverished urban areas.

Use of Statutory Language That Does Not Inadvertently Exclude Territories: We respectfully request that every effort be made to ensure that the language in any reform legislation be carefully reviewed to ensure that it does not inadvertently exclude the U.S. territories. For example, references to “statewide” median family income would not have any meaning in reference to the territories. References to counties would also be inappropriate with respect to the territories. We respectfully request that our offices have the opportunity to review any reform bill, to ensure that the language does not inadvertently exclude the territories.

Correct Inadvertent Exclusion of U.S. Nationals from American Samoa in Definition of U.S. Workers: We respectfully urge you to adopt a small but extremely important correction to the EB-5 statute, to rectify the inadvertent exclusion of non-citizen U.S. nationals from American

Samoa as persons who can fill jobs created under the EB-5 program. As you know, in order for a petitioner to qualify for an EB-5 immigrant visa, the petitioner's investment must create full-time employment for not fewer than 10 "United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States." 8 U.S.C. section 1153(b) (5). This language inadvertently excludes people born in American Samoa who are U.S. nationals, but not citizens. Thousands of non-citizen nationals from American Samoa live in one of the 50 states, particularly in Hawaii, the West Coast, and on or near military installations throughout the country. The statute as currently drafted provides an incentive for EB-5 projects to discriminate against non-citizen nationals in hiring. In fact, the statute gives certain aliens preferred status over American Samoans—even though American Samoans volunteer to defend our freedom in uniform in numbers vastly disproportionate to their representation in the larger population. Non-citizen U.S. nationals from American Samoa, unlike lawful permanent residents, owe their allegiance to the U.S. and to no other country.

Allow EB-5 Investments to be Made in American Samoa: Qualifying investments under the EB-5 program can currently be made in any state or territory except American Samoa. While this is understandable because American Samoa is outside of the "United States" for immigration purposes, we believe that there is no reason why American Samoa should not be eligible to receive qualifying EB-5 investments. There is no requirement that EB-5 immigrants actually live in the areas where they invest—and indeed, if there were such a requirement, it would likely discourage investment in the rural and poor areas that the EB-5 program is intended to benefit. We support making American Samoa, a rural territory that suffers from the highest rate of poverty in the U.S., eligible for EB-5 investment. The territory is in desperate need of economic development, and a properly reformed EB-5 program would have a significant positive impact in achieving that development.

We appreciate your consideration of the above requests, and offer the assistance of our offices to help you incorporate them into any reform legislation.

Sincerely,



Aumua Amata Radewagen
Member of Congress



Gregorio Kilili Camacho Sablan
Member of Congress



Madeleine Z. Bordallo
Member of Congress



Pedro R. Pierluisi
Member of Congress



Stacey E. Plaskett
Member of Congress