

PUBLICATION

Keeping EB-5 Regional Centers Alive

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EB-5 regional centers approved before the enactment of the EB-5 Reform and Integrity Act of 2022 (RIA) have been given new clarity and mercy about the new Integrity Fee, but they remain in limbo about filing I-956 amendments and I-956G annual reports.

USCIS originally asserted that prior regional centers were voided by the RIA, but a federal court ruled otherwise, and USCIS settled saying that Pre-RIA regional centers may retain their designation if they file an amendment using new Form I-956 by December 29, 2022.

USCIS created Form I-956G for regional center annual reports, due December 29, 2022, for the fiscal year ended on September 30, 2022. The I-956G Attachment 1 asks questions that do not relate to pre-RIA projects.

Just before the December 29, 2022, deadline for Forms I-956 and I-956G, USCIS issued on its [website](#) an "Alert" that it was "extending this deadline until we publish guidance that clarifies the requirements of these forms." USCIS still has not published that guidance, even as the time to file I-956G for the fiscal year September 30, 2023, has arrived. Unless USCIS applies the time extension to FY 2023 filings or provides the missing guidance, regional centers will be required to file I-956G for FY 2023 but not yet for FY 2022.

Congress imposed a new Integrity Fee on regional centers effective October 1, 2022. By statute, the Fee for FY 2023 should have been due by October 31, 2022, (paid in advance, contrary to I-956G annual reports filed after fiscal year end), but USCIS failed to publish procedures for paying it until March 2, 2023. That [Federal Register notice](#) required all regional centers' payment by May 31, 2022, to avoid mandatory termination of designation by USCIS. On September 29, 2023, "because information about the due dates and penalties might not have been clear," USCIS published an "Alert" extending the due date for the Integrity Fee payment to October 1, 2023, the same due date as the new FY 2024 filing. All regional centers need to pay those fees by October 31, 2023, to avoid penalties, and by December 30, 2023, to avoid termination. (For guidance on Integrity Fee calculations and mechanics, see our [alert](#)).

USCIS administration of the EB-5 program in terms of guidance implementing the RIA has been comically abysmal. USCIS needs to avoid further embarrassment by issuing sensible guidance about I-956 amendments by pre-RIA regional centers and about I-956G filings by all regional centers. It needs to clarify again what it originally stated: that regional centers that do not intend to sponsor new investors under RIA can refrain from any of the above filings and payments without harm to their investors' immigration eligibility.

If you have any questions related to the EB-5 program or its guidelines please reach out to [Robert C. Divine](#), [Brandy N. Williams](#), or any member of Baker Donelson's [Immigration Group](#).