U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37988680

Date: SEPT. 16, 2025

Appeal of Field Operations Directorate (FOD) Decision

Form I-924, Application for Regional Center Under the Immigrant Investor Pilot Program

The Applicant seeks designation as a regional center to participate in the EB-5 Regional Center Program pursuant to the Immigration and Nationality Act (the Act). On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 (RIA) was signed into law, repealing the prior legislation authorizing the Regional Center Program. Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). In addition, the RIA revises general eligibility requirements, substantially reforms and codified the Regional Center Program, and adds significant new integrity provisions. *Id.* The RIA also instructs the Secretary of Homeland Security to collect annually the "EB-5 Integrity Fund." Section 203(b)(5)(J) of the Act.

Field Operations Directorate (FOD) initially approved the Applicant's regional center designation application in 2013 prior to the enactment of the RIA. Subsequently, in [redacted] 2025, FOD terminated the Applicant's designation as a regional center to participate in the EB-5 Regional Center Program for failure to pay the EB-5 Integrity Fund. *See* Section 203(b)(5)(J) of the Act. The Applicant appeals FOD's termination to us.

The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. *See also* Section 203(b)(5)(P)(i)(I) of the Act. We are independent of the field offices and exercise de novo review of all issues of fact, law, policy, and discretion. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). This means that, on appeal, we look at the record anew and our decision may address new issues that were not raised or resolved in the prior decision. Upon de novo review, as explained below, we determine that the record does not support the Applicant's contention and thus its appeal must be dismissed.

I. LAW

In 2022, Congress passed the RIA. Pub. L. No. 117-103, div. BB, 136 Stat. 49, 1070-109 (2022). Through this legislative action, and specifically, under Section 103 of the public law, entitled "Reauthorization and Reform of the Regional Center Program," Congress "repealed" the prior legislation under which the Applicant was designated to participate as a regional center in the EB-5 Regional Center Program. *Id.* § 103(a). In place of the previous law, the RIA enacted a new framework for the EB-5 Regional Center Program, authorizing the program through September 2027,

and codified several protections against fraud and abuse. *Id.* § 103(b)(1) (codified at Section 203(b)(5) of the Act).

One of those protections is codified under Section 203(b)(5)(J) of the Act, which provides in pertinent part:

> (i) Establishment
>
> There is established in the United States Treasury a special fund, which shall be known as the "EB-5 Integrity Fund" (referred to in this subparagraph as the "Fund"). Amounts deposited into the Fund shall be available to the Secretary of Homeland Security until expended for the purposes set forth in clause (iii).
>
> (ii) Fees
>
> (I) Annual fee
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> On October 1, 2022, and each October 1 thereafter, the Secretary of Homeland Security shall collect for the Fund an annual fee –
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> (aa) except as provided in item (bb), of $20,000 from each regional center designated under [Section 203(b)(5)(E) of the Act]; and
>
> (bb) of $10,000 from each such regional center with 20 or fewer total investors in the preceding fiscal year in its new commercial enterprises.

The RIA lists the Department of Homeland Security's (DHS) permissible uses of the EB-5 Integrity Fund, including for the "monitoring and investigating program-related events and promotional activities," "to detect and investigate fraud or other crimes," and "to conduct audits and site visits." Section 203(b)(5)(J)(iii) of the Act.

Citing the RIA, U.S. Citizenship and Immigration Services (USCIS) Policy Manual states, in pertinent part:

> Every October 1st, each designated regional center must pay the following amounts into the EB-5 Integrity Fund (the Fund):
>
> - $20,000; or
> - $10,000 if the regional center has 20 or fewer investors.

See generally 6 *USCIS Policy Manual* G.4(G), https://www.uscis.gov/policy-manual/volume-6-part-g-chapter-4; *see also* Notice of EB-5 Regional Center Integrity Fund Fee, 88 Fed. Reg. 13141-01, 13142 (Mar. 2, 2023) (noting the RIA "requires the Fund to be financed through the collection of an annual fee paid by and collected from designated regional centers (Integrity Fund Fee)").

In *Sunshine State Regional Center Inc. v. Dir., USCIS*, 143 F.4th 1331, 1334 (11th Cir. 2025), the Court of Appeals for the Eleventh Circuit explains that the RIA "established an 'EB-5 Integrity Fund' to pay for efforts to ensure compliance with the rules of the EB-5 program" and that the EB-5 Integrity Fund "in turn, gets money from various sources, including an annual fee that regional centers must pay." *See also EB5 Holdings, Inc. v. Jaddou*, 717 F.Supp.3d 86, 102-05 (D.D.C. 2024) (concluding that "in enacting the RIA, Congress expressed an unambiguous intent that the annual Integrity Fund Fee apply to both pre-existing and post-RIA regional centers alike" and that the RIA "unambiguously requires both pre-and post-RIA regional centers to pay the annual Integrity Fund Fee").

II. DISCUSSION

As noted, FOD initially approved the Applicant's regional center designation application in 2013, before the enactment of the RIA in 2022. Subsequently, in July 2024, FOD issued a Notice of Intent to Terminate (NOIT) the Applicant's regional center designation on the ground that it failed to pay the EB-5 Integrity Fund required under Section 203(b)(5)(J) of the Act. While the Applicant responded to the NOIT, it did not pay the EB-5 Integrity Fund. In [redacted] 2025, FOD terminated the Applicant's designation as a regional center to participate in the EB-5 Regional Center Program.

On appeal, the Applicant submits a brief and additional evidence, maintaining that FOD's termination was "clearly erroneous."[1] Specifically, it notes that its designation as a regional center was approved prior to the enactment of the RIA. It argues that it "was not . . . and has never been approved [to participate as a regional center] pursuant to the RIA" and "is therefore not required to pay [the EB-5 Integrity Fund] under the plain meaning of the RIA statute."

As explained by the Court of Appeals for the Eleventh Circuit in a recent case, while a regional center may "first became 'designated' under a different statute, one that predated the [RIA]'s addition of subparagraph (E) [Section 203(b)(5)(E) of the Act]," the regional center "was [nonetheless] designated as part of the same regional-center program that now finds a home in subparagraph (E)." *Sunshine State Regional Center Inc.*, 143 F.4th at 1340. Significantly, after an examination of the EB-5 Regional Center Program from its inception through the enactment of the RIA, the Court of Appeals concluded that all designated regional centers, regardless of when they were designated, must pay the EB-5 Integrity Fund, because "[t]he only regional-center program is the one under subparagraph (E) [Section 203(b)(5)(E) of the Act]," and that "any designation for that program must now operate under subparagraph (E), too." *Id.*; *see also EB5 Holdings, Inc.*, 717 F.Supp.3d at 102-05.

The Court of Appeals further observed:

> [T]he [RIA]'s text reveals no intent [from Congress] to exempt pre-Act regional centers from the Integrity Fund Fee. And the [RIA]'s structure suggests the opposite. [The regional center]'s arguments also likely prove too much: If we accepted its claims, their logical implication would be that [the regional center] must redo the process of becoming a designated regional center before it can participate in the EB-5 program.

[1] The Applicant acknowledges on appeal that it filed a Form I-956, Application for Regional Center Designation, in 2023, but it later voluntarily withdrew the application in 2024.

Sunshine State Regional Center Inc., 143 F.4th at 1334.

While we are not bound to follow the holding of the Court of Appeals for the Eleventh Circuit, because the matter before us did not originate within that circuit's geographic boundaries, we nonetheless find the court's reasoning persuasive. *See N.L.R.B. v. Ashkenazy Prop. Mgmt. Corp.*, 817 F.2d 74, 75 (9th Cir. 1987); *Matter of Garcia*, 28 I&N Dec. 693, 699-700 (BIA 2023). In this case, it is undisputed that the Applicant was initially designated under the prior legislation authorizing the Regional Center Program, before the enactment of the RIA. However, it is required to pay the EB-5 Integrity Fund under Section 203(b)(5)(J) of the Act if it wishes to continue its participation in the program, because as explained in *Sunshine State Regional Center Inc.*, 143 F.4th at 1340, the only valid and current EB-5 Regional Center Program is the one authorized under the RIA, which includes Section 203(b)(5)(E) and Section 203(b)(5)(J) of the Act.

III. CONCLUSION

Based on the reasons we have discussed above, we conclude that FOD's ground for terminating the Applicant's regional center designation to participate in the EB-5 program is supported by the statutory language of the RIA as well as USCIS policy. *See* Section 203(b)(5)(J) of the Act; 6 *USCIS Policy Manual*, *supra*, at G.4(G); 88 Fed. Reg. at 13142. As such, its appeal must be dismissed.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.