

BIGLAW REDEFINED

Introduction to Greenberg Traurig, LLP and the Taiwanese EB-5 Experience

**Jennifer Hermansky
Kate Kalmykov**

Greenberg Traurig, LLP



Jennifer Hermansky

Shareholder, Immigration & Compliance Practice

PHILADELPHIA +1 215.988.7817

Jennifer Hermansky focuses her immigration practice on employment-based immigration. Jennifer has structured a wide range of EB-5 visa projects across real estate, health care and hospitality industries. She specializes in complex I-526 and I-829 Petitions. Jennifer also advises many regional centers and projects regarding ongoing EB-5 investor compliance with USCIS.



Kate Kalmykov

Global Immigration & Compliance Practice Co-Chair

NEW JERSEY +1 973.443.3276

NEW YORK +1 212.801.2287

Kate Kalmykov focuses her practice on business immigration and compliance. She represents clients in a wide-range of employment based immigrant and non-immigrant visa matters including students, trainees, professionals, managers and executives, artists and entertainers, treaty investors and traders, persons of extraordinary ability and immigrant investors.

Kate has deep experience working on EB-5 immigrant investor matters. She regularly works with developers across a variety of industries, as well as private equity funds on developing new projects that qualify for EB-5 investments. This includes creation of new Regional Centers, having projects adopted by existing Regional Centers or through pooled individual EB-5 petitions. For existing Regional Centers, Kate regularly helps to prepare amendment filings, file exemplar petitions, address removal of conditions issues and ensure that they develop an internal program for ongoing compliance with applicable immigration regulations and guidance. She also counsels foreign nationals on obtaining green cards through either individual or Regional Center EB-5 investments, as well as issues related to I-829 Removal of Conditions.

GT Law – By the Numbers

Over 100

Attorneys and
Legal Professionals

47

Offices Worldwide

4 Locations in Asia

Seoul | Shanghai
Singapore | Tokyo



Our team has traveled to **dozens of countries** in Latin America, Europe, the Middle East, and Asia, as well as across the United States, presenting on EB-5 matters.

\$12 Billion+

worth of **EB-5 deals** have been managed by our team*

(projects currently funded or in the market)

8000+
I-526 Petitions

filed with virtually **100%** approval of I-526, I-829 & I-924 applications

The GT EB-5 group is actively working on over 8,000 immigrant visa and adjustment of status applications.

Attorneys on the EB-5 team have founded, co-chaired, volunteered and are members and board members of over 100 professional, industry, legal, international and community organizations.

GT Law By the Numbers

Industry Thought Leadership

GT GreenbergTraurig



Jennifer Hermansky
Recognized as a
"Lawyer on the Fast Track"
In *The Legal Intelligencer's*
2020 Professional Excellence Awards

5 Greenberg Traurig
Immigration Attorneys
Recognized as Lawdragon 500
U.S. Corporate Employment
Lawyers

RANKED & RECOGNIZED

GT GreenbergTraurig GTLAW.COM



Kate Kalmykov
Included in the 2023 Edition of
The Best Lawyers in America
Immigration Law | New York

Jennifer Hermansky and
Nataliya Rymer
Recognized as
Pennsylvania Super
Lawyers 2022

RANKED & RECOGNIZED

GT GreenbergTraurig GTLAW.COM



Kate Kalmykov
Included in *The Legal 500*
U.S. 2022 Edition
Labor and Employment; Immigration

Kate Kalmykov and
Jennifer Hermansky + 4
Other GT Immigration
Attorneys Recognized as
The National Law Journal
"Trailblazer"

GT EB-5
Immigration and
Securities
Attorneys
Featured in Top
25 EB-5 Attorneys
by EB-5 Investor
Magazine from
2013 to Present

GT GreenbergTraurig



Kate Kalmykov
Recognized as one of the
"2019 Best 50 Women in
Business" by *NJBIZ*

9 GT Immigration and
Compliance Practice
Attorneys Listed in Best
Lawyers in America 2021

AWARDS & ACCOLADES

GT GreenbergTraurig

Lawdragon Names
**Greenberg Traurig Attorneys
to 2022 Leading Corporate
Employment Lawyers of
America List**
BIGLAW REDEFINED.
gtlaw.com

Kate Kalmykov and Jennifer
Hermansky Authored "What
Every Lawyer Needs To
Know About Immigration
Law" Published By the ABA

Kate Kalmykov
Recognized as "Rising
Stars" by New York Super
2012-2020 and New York
Super Lawyers 2021

RANKED & RECOGNIZED

GT GreenbergTraurig GTLAW.COM



Kate Kalmykov
Included in the 2022
Chambers USA Guide
Immigration | New York

Kate Kalmykov, Jennifer
Hermansky and Dillon Colucci
have served as EB-5 Committee of
the American Immigration
Lawyers Association (AILA)

RANKED & RECOGNIZED

GT GreenbergTraurig GTLAW.COM



Jennifer A. Hermansky
Included in the 2022 Edition of
Best Lawyers in America
Immigration Law | Philadelphia

GT GreenbergTraurig

Industry Thought Leadership – Quoted, Published, Featured and Interviewed

Bloomberg Law



New Jersey Law Journal



New York Law Journal

THE JERUSALEM POST



GlobeSt.com

THE NATIONAL LAW JOURNAL

WEALTH DAILY
Fortune Favors the Bold

dbr DAILY BUSINESS REVIEW

EB-5 Basics

- 10,000 immigrant visas annually for investors and their immediate family members.
- Foreign nationals can get a green card if:
 - Invest \$1,050,000 OR \$800,000 if in a high unemployment area, rural area, or government infrastructure project
 - Investment creates full-time jobs for 10 U.S. workers
- Green cards conditional for 2 years
- Conditions removed if investment sustained and jobs created

Benefits of the EB-5 Program

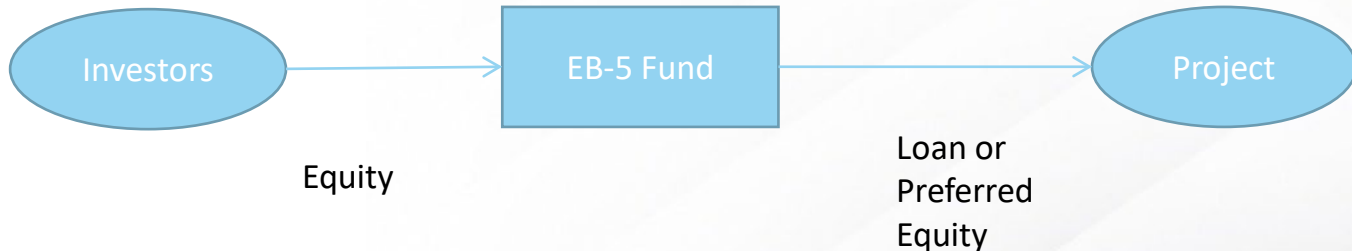
- Live indefinitely in the U.S.
- Employer Mobility – self sponsored petition
- No Family Sponsorship Required
- Derivative Applicants – also get permanent residence
 - Spouse
 - Unmarried son or daughter under the age of 21 at time of I-526 petition filing

EB-5: 3 Part Process

- File Form I-526E with US Citizenship and Immigration Services (USCIS)
 - Processing Time: 36 months
- Once the I-526E Petition is approved (and any visa backlog period passed), process for an immigrant visa at the US Consulate
 - Approximately 12-month process
 - Or, if in the U.S. in temporary status, file for the green card in the U.S.
 - Concurrent Filing of I-485 now available in certain cases
- Receive 2-year conditional green card
- File Form I-829 Petition with USCIS at expiry of 2-year CPR green card
- Naturalization to Citizenship possible

Regional Center EB-5 Requirements

- Investor invests personal funds into an EB-5 “Fund” or new commercial enterprise
- EB-5 Fund makes a loan or equity investment into an EB-5 Project
- EB-5 Project uses the funds and creates jobs for investors



Lawful Source and Path of Funds Requirement

- Lawful source of Investment Funds
- Examples:
 - Business earnings, distributions, salary, gifts, mortgage loan, etc.
 - Evidenced by personal tax returns, financial statements, etc.
- Investor must trace the funds to escrow



Lawful Source and Path of Funds Requirement (cont'd)

- We must pinpoint the exact source of the \$1,050,000 or \$800,000 USD investment and any administrative fee.
- 7 Years of Tax Returns
- CV of investor
- Other documents tailored to specific facts of investor
- Gifts are OK

Lawful Source and Path of Funds Requirement (cont'd)

- Salary and Savings: tax returns, employment letters, paystubs, bank statements showing savings
- Sale of Property: contract for purchase, proof of how and when property purchased, sale contract, flow of funds
- Loans: source collateral, appraisal, and flow of funds
- Company Distributions: source investments in company, 7 years of taxes and financial statements, approval of distribution and flow of funds.

Lawful Source and Path of Funds Requirement – Path of Funds (cont'd)

- Numerous transactions between investor and the EB-5 enterprise investment would require the investor to provide documentation from each transaction
- If transferring through family members, investor must show all bank statements into which funds flowed, and then transfer to the U.S. escrow account.

Why is the Green Card Valid for 2 Years? I-829 Requirements

- Within 90-day period preceding conditional green card expiration, investor must file Form I-829 and supporting documentation with USCIS
- Investment has been sustained throughout two-year conditional residence period; and
- Investor created —or can be expected to create within a reasonable period of time – 10 full-time jobs.
 - Project creates jobs through construction generally

Why is the Green Card Valid for 2 Years? I-829 Requirements (cont'd)

- Once approved, investor and family receive 10-year green cards
- Investor is eligible to naturalize after 5 years of permanent residence
 - Includes 2 years of conditional green card

EB-5 Reform Act of 2022

– Top Issues for Taiwanese Investors

- Changes to Source of Funds requirements in the new law:
 - Gifts and loans
 - Tax Returns
- Changes to USCIS processing of Source of Funds requirements:
 - Documenting sources from long ago
 - Documenting changes in the real estate market in Taiwan
- Changes to the Path of Funds:
 - Documenting a currency transfer and the parties involved
- Concurrent filing of Form I-485 for certain EB-5 Investors

Questions? Contact Us!

