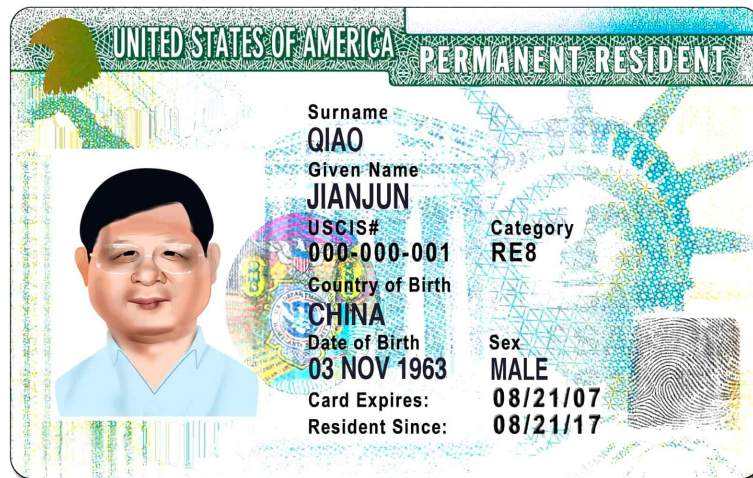


COVER STORY

The Price of Admission

How Chinese money and American greed turned the EB-5 visa program into a cesspool of illegality.

BY BRENT CRANE — AUGUST 23, 2020

*Illustration by Luis Grañena*

The fugitive kept many names. For an HSBC bank account in Canada, he was Feng Li. For an Industrial and Commercial Bank of China account, he was Ling Wang. For another, he was Bo Gong. The fugitive had a litany of companies too, though what they actually did was unclear: CJ Max Investments LLC, Faith Advance Limited, S&O Investments LLC. He had investments the world over: the United States, Panama, Cyprus, Austria, St. Kitts and Nevis. According to the U.S. Department of Justice, all of it — the aliases, the companies, the international investments — were a money laundering smokescreen for one man: [Qiao Jianjun](#).

When it comes to allegations of wrongdoing, Beijing and Washington agree on little. But on Qiao's misdeeds they are in sync. From 1998 to 2011, the Chinese government alleges, Qiao siphoned off \$98 million as director of the Zhoukou Municipal Grain Reserve, a grain storehouse in China's breadbasket of Henan Province. Qiao was a lauded employee of Sinograin, a state-owned agricultural corporation based in Beijing, and a mid-level Communist Party bureaucrat. China [alleges](#) that he and others solicited up massive bribes from grain retailers.

The investigation resulted in the arrest of more than 100 employees for taking part in the conspiracy. Qiao's boss, Li Changxuan, the chairman of Sinograin's Henan branch, was [sentenced](#) to life in prison for taking \$2.3 million in bribes. Qiao stood accused of raking in more than 40 times that. In 2015, as part of President Xi Jinping's signature [anti-corruption campaign](#), Beijing released a wanted list of 100 corrupt officials who had fled overseas, referred to as "foxes." The pudgy, bespectacled grain storehouse director from Henan ranked third. With that, Qiao Jianjun, now 56, became one of the most wanted fugitives in the world, a fox on the run.

But if Qiao's gargantuan theft from Sinograin seems reckless, he did appear to have an escape plan. In 2008, Qiao's ex-wife Zhao Shilan applied for U.S. residency for them and

their two sons, through a fast-tracked visa program known as EB-5. The program issues foreign nationals and their families two-year conditional green cards that can become permanent after making an investment in a new American enterprise that creates at least ten jobs.



Part of a list [released](#) by the Chinese government of corrupt officials that fled overseas.

At the time, the minimum investment was \$500,000, and it had to be earmarked for areas of high unemployment, such as the Rust Belt region or inner-city Chicago. Under normal circumstances, green cards can take up to a decade to be approved. But in the “golden visa program,” some were approved in as little as a month.

“The program, when it works, is a great program,” says Michael Gibson, managing director of [USAAdvisors](#), an investment advisory firm focused on EB-5 projects. New York City, for example, has successfully used EB-5 funds to finance development projects for years, including Hudson Yards and Brooklyn’s Atlantic Yards, which used \$228 million from EB-5 investors to help build the Barclays Center Arena. Elsewhere, however, Gibson says, “this program is the essence of non-transparency.”

Still, big corporations and well-known Americans took part in the program, including Warren Buffett’s Berkshire Hathaway, and a group from Texas that hired [Neil Bush](#), the son of President George H.W. Bush, to recruit Chinese investors. [Anthony Rodham](#), the brother of Hillary Clinton, was also involved with an EB-5 firm that raised money in China.

In fact, it was only natural that Chinese nationals would come to dominate the program. Wealthy Chinese had gravitated towards [similar investment visa programs](#) in Portugal, St. Kitts and Nevis, and the United Kingdom. Because of the surging Chinese interest, the number of total EB-5 visas [increased five-fold](#) from 2010 to 2013, when China hit its annual cap for the first time with 6,895 visas issued.¹ Between 2011 and 2016, Chinese applicants never accounted for less than 70 percent of total applicants. Last year, 4,484 EB-5 visas [went to Chinese applicants](#). India was next, with 760, followed by Vietnam, South Korea and Brazil.

But over the last decade, America’s EB-5 program has become a symbol of what can go wrong when countries put green cards or citizenship up for sale. It’s been plagued by scandals and financial fraud on the part of both investors and enterprises, the vast majority of which were real estate projects. Shady developers and middlemen (both Chinese and American fraudsters), routinely cheated Chinese investors out of their money. Even the family business of Jared Kushner, President Trump’s son-in-law and advisor, was probed by federal prosecutors for EB-5 deals. Meanwhile, Chinese investors like Qiao, eager to get a foothold in the U.S. and transfer ill-gotten money overseas, snuck in under the radar. That the U.S. approved a visa for one of China’s most-wanted fugitives, critics say, exemplifies the program’s weak oversight.

The cesspool of illegality has turned a once obscure and idealistic immigration program into a rare source of bipartisan agreement: the program is far too rotten. In recent years, calls to reform the program have grown louder, culminating in some changes last year.

But as Qiao, who was [extradited](#) to Los Angeles in May, awaits trial, questions remain about why so many disreputable developers were able to scam Chinese investors with impunity, and why the U.S. approved visas for some wealthy Chinese who appeared to be using the program to launder money, while seeking a faster path to American citizenship.

THE PIGGY BANK


The EB-5 (“employment based”) immigration program was christened by the Immigration Act of 1990 “[to benefit](#) the U.S. economy by providing an incentive for foreign capital investment that creates or preserves U.S. jobs.” It [surged in popularity after the 2008 financial crash](#), when a drop in U.S. investment coincided with the spread of Chinese wealth around the globe. Though the program allows applicants to invest in their own businesses, most applicants opt for the quicker route, putting money into someone else’s enterprise, one already approved by the U.S. Citizenship and Immigration Services (USCIS), an entity under the [Department of Homeland Security](#). This aspect of the program, critics say, is the sore thumb.

“They are not business experts. They’re not economists. They’re visa people,” Gibson, at USAAdvisors, says of the USCIS employees charged with approving EB-5 enterprises. “You send them a business plan, but they don’t know anything about business plans.” That lack of expertise or public accounting made the program particularly susceptible to fraud.

Approved enterprises are organized through hundreds of “Regional Centers” that applicants may choose from. Such “Centers” are merely legal entities; they can be a single individual, and Regional Center owners do not have to be American or even have a Green Card. The Regional Center must only be a registered LLC. They have a variety of [vague names](#) — the New York Immigration Fund, Philadelphia Industrial Development Corporation — and many have been accused of fraud.

The U.S. government has warned investors about the risks and insists that when it approves an application, it is not endorsing projects. But that didn’t stop Regional Centers from taking advantage of the situation.

“The Regional Centers have proven themselves again and again to be cesspits with an unwholesome commingling of greedy ‘developers’ and politicians, or family and friends of such politicians,” says [Dan Cadman](#), a retired Immigration and Naturalization Service official and fellow at the [Center for Immigration Studies](#).


For developers of hotels, restaurants, condos and casinos, the Regional Centers have proven a reliable font, providing billions in capital with enticingly low interest rates. “In many cases, the Chinese accepted half of one percent a year, or less,” says [Gary Friedland](#), an economist at [New York University](#) and [an expert on the EB-5 program](#) .

Many projects have indeed borne fruit and bolstered the program’s mission to spur economic growth in underserved areas, including a remodelled shipyard outside Philadelphia and a new healthcare facility in Ohio. The program has created 85,500 jobs and attracted \$5 billion



Hudson Yards viewed from the top of Hudson Commons. The project was financed by EB-5 money.

Credit: Rhododendrites, [Creative Commons](#)

in capital, much of it since 2010, according to a [Brookings report](#) .



Pennsylvania governor Tom Wolf visits Philly Shipyard on June 1, 2017 as part of his Jobs That Pay Tour. Renovations of the shipyard were funded by EB-5 investment money.

Credit: Governor Tom Wolf on Flickr, [Creative Commons](#)

The problem — what makes it such a magnet for fraud — is one of transparency and accountability. There is no public database where one can look up EB-5 projects or their backers, or monitor their performance.

“There’s no government scrutiny over the flow of the capital until a very late stage in the process,” Friedland says. “In many cases, the money never reaches the project because it goes into the pockets of these Regional Center operators.”

To attract capital, Regional Centers can tell investors anything they want

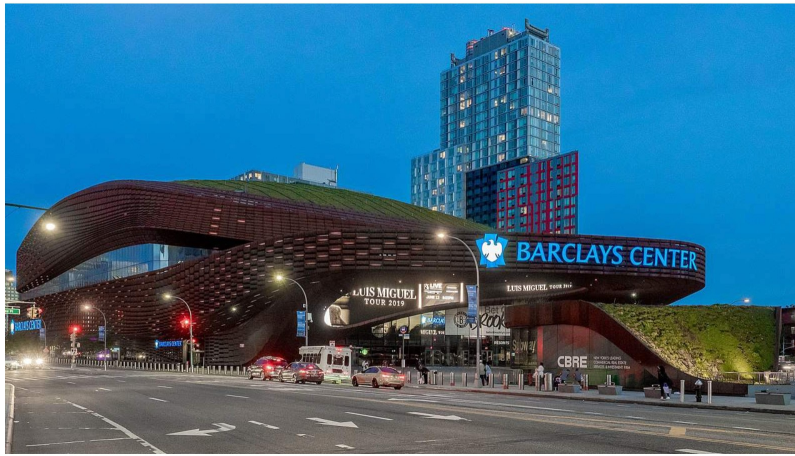
without consequence. “Say the Regional Center goes to China and they’re having a presentation,” says Gibson. “They can say, ‘We’ve sponsored 1,000 projects and have had 100 percent I-526 and I-829 approval [the petition forms required for approved EB-5 applicants],’ and nobody in the world can challenge that.”

Chinese applicants began applying for the program en masse in 2014, when Canada cancelled its own [investor visa program](#). Canada’s program was popular with Chinese, but the Canadian government found that it didn’t benefit the economy. Many Chinese turned to America’s EB-5 instead. At only \$500,000 for an entire family including any children under age 21, it was an exceptionally good deal.

For most applicants, investing in EB-5 wasn’t about the money. “It’s basically for the ‘American Dream,’” says [Danny Zhang](#), an EB-5 consultant in Beijing. “To seek a better education for their children.”

Compared to China’s highly competitive and notoriously stressful high school “gaokao” exam, a U.S. education was often preferred by Chinese parents with means. There were other appealing aspects, such as getting money out of China (which has strict capital controls), and moving it around the world more freely, not to mention being able to use a green card to travel more freely in and out of the U.S., says [Ronald Fieldstone](#), a Miami attorney specializing in EB-5.

Sensing that Chinese were clamoring to get into the program and often cared little about profiting from their EB-5 investment, American enterprises saw they could raise money cheaply, and perhaps also recognized that investors still residing in China had no way to hold them accountable.



The EB-5-funded Barclays Center in Brooklyn, New York.

Credit: Ajay Suresh, [Creative Commons](#)

Scores were duped, their money misappropriated in phony development projects, many of which never broke ground. “You would have countless cases where developers pocketed the money, bought yachts, went to casinos, and spent it any which way they wanted,” Gibson says. “There was no forensic accounting of where the money was going.”

Chinese investors lost both money and green cards when projects did not come to fruition. Some Chinese investors sued USCIS.

“Once the Chinese actually invest, the money is practically ‘free’ since the interest paid to them is so minimal, so delayed, and accrues so slowly, and is subject to so many fees,” read [a complaint](#) from one EB-5 lawsuit. “The Chinese money is a piggy bank or a piñata for EB-5 fund sponsors and developers.”

[Dawei Gongsun](#), a New York attorney, represents several groups of Chinese investors who have sought relief in the courts, arguing that they have been unfairly punished when a project they invested in goes broke or runs into trouble with prosecutors over fraud, wrongdoing they had no role in. Some investors in China, she says, have set up online support groups to protect their money and green card status, and even compiled [spreadsheets](#) listing EB-5 fraud cases.


In one case, Gongsun says her clients invested in a \$400 million Las Vegas hotel and casino, only to see their investment nearly wiped out when the project was restructured. In another, 88 Chinese investors put money into a failed, \$44 million property development. They claim the project owners used some of the proceeds to buy a mansion and a yacht.


“They don’t want the EB-5 program killed, they want it reformed,” says Gongsun, an attorney at [DGW Kramer LLP](#). “If the developer was engaged in corruption, the Chinese investors shouldn’t be penalized. They were victims too.”

Many lawsuits didn’t go anywhere. In the eye of the law, the program was inherently risky, and it was up to investors to protect themselves. In 2013, the U.S. Securities and Exchange Commission issued an investor alert, warning investors about risks in the EB-5 program.

Yet the fraud continued, and not just on the developer side. In China, brokers who acted as middlemen between developers and investors adopted increasingly predatory practices. [Michael Thomas](#), whose organization, [Americas Watchdog](#), investigates EB-5 cases, says brokers hosted “lavish parties” where “they’d raise a billion dollars, literally, and a portion of that money would be sent” to EB-5 projects in the U.S. “There were hookers, there were drugs, there was too much alcohol, it was just crazy,” Thomas says.

By 2015, U.S. regulators were catching on to the stink. The U.S.-China Economic and

Security Review Commission, a congressionally mandated body, [called for reforms](#) , as did a [report](#) from the Government Accountability Office (GAO), which said it could not be certain that money used for EB-5 visas was not derived from “the drug trade, human trafficking or other criminal activities.”

At a 2015 Senate hearing, a [DHS](#) whistleblower named Taylor Johnson relayed her concerns that the program posed a threat to national security. “I discovered that EB-5 applicants from China, Russia, Pakistan and Malaysia had been approved in as little as 16 days and in less than a month at most,” she [testified](#) .²

Despite the warnings, there were few notable changes to EB-5. The maelstrom continued with wrongdoing on all sides: investors, developers, middlemen. The common thread running through much of it was Chinese money.

Allegations of EB-5 wrongdoing involving China even touched the White House. In 2017, federal prosecutors [investigated](#) a deal that Kushner Companies, owned by Jared Kushner’s family, was negotiating with potential Chinese EB-5 investors for a pair of luxury apartment towers in New Jersey. The company had previously amassed \$50 million through Chinese EB-5 financing for a Jersey City high-rise in 2013.³



A projector screen shows a footage of President Trump as workers wait for investors at a reception desk during an event promoting EB-5 investment in a Kushner Companies development at a hotel in Shanghai, China, Sunday, May 7, 2017. Jared Kushner’s sister had been courting Chinese investors using the EB-5 program.

Credit: AP Photo

Other notorious EB-5 cases included: [in 2018](#), a Chinese investor was charged with funneling over \$1 million from an EB-5 project in Cleveland into companies associated with Iran’s defense industry; [in 2017](#), a Tibetan-American in Bellevue, Washington, was charged with defrauding 281 mostly Chinese EB-5 investors out of millions through sham real estate projects; and [in a 2015 case](#), to “circumvent Chinese capital outflow rules,” a Chinese couple wired \$500,000 into an EB-5 project with money purportedly derived from the North Korean coal mining industry.

“Most of the [EB-5 fraud] cases we have studied have involved Chinese investors from mainland China,” says NYU’s Friedland. “Many of the cases have involved Chinese citizens as the owner or operator of the Regional Center and/or the manager of the new commercial enterprise.”

One particularly brazen operation broke in 2017, when the FBI [targeted](#) a \$50 million fraud ring involving 100 Chinese nationals. Under the guise of an entity called the California Investment Immigration Fund (CIIF), a father and daughter — both Chinese citizens — enticed Chinese EB-5 investments for hotels, cultural centers and restaurants around Los

Angeles.

While none of the USCIS-approved projects materialized, the father and daughter purchased luxury cars and goods. Among their list of investors: three officials on China's most wanted list, the same list that ranked Qiao Jianjun at No. 3.

ON THE RUN

Qiao Jianjun and Zhao Shilan were married in 1987, had two sons and divorced in 2001. This last detail was not disclosed when, in 2008, Zhao applied through the EB-5 program for green cards for her, their teenage sons and Qiao, whom she listed as her husband.

In her application, Zhao also noted her partial ownership of two Chinese flour companies as the source of her investment funds. This claim, too, the Justice Department asserts, was false: the money came from her ex-husband's corrupt activities at Sinograin.

In 2009, Zhao received an I-51 visa, which is issued to approved EB-5 investors. Qiao and the children received corresponding visas. Then the money started flowing. Starting in 2011, Zhao and Qiao transferred millions of dollars from China into the U.S., through banks in China, Singapore, Hong Kong and Canada.

In 2012, Zhao registered two companies — one in Bellevue, Washington, and another in British Columbia. Soon after, hundreds of thousands of dollars were transferred into accounts associated with the companies.⁴

With funds from a Canadian bank account, Zhao purchased a \$504,000 house in a Seattle suburb, where she moved with the kids. Zhao also bought a condo in Flushing, N.Y., and two properties in British Columbia. Around the same time, Qiao bought and sold three properties in Monterey Park, near Los Angeles: a Best Western Inn, an apartment complex and an Asian supermarket.

In 2015, around the time regulators were catching on to EB-5 abuse, Zhao was indicted for immigration fraud, for lying about the source of her funds and saying she was married to Qiao. She pleaded guilty in 2017 and, under a plea deal, agreed to relinquish the properties and to cooperate with prosecutors against her ex-husband.

But Qiao never resided in the United States. After fleeing China in 2011, the disgraced bureaucrat bounced between several countries — Cyprus, Hungary, Liechtenstein, Switzerland, Austria, and St. Kitts and Nevis, where he had acquired citizenship under the name Li Feng. In Panama, Qiao reportedly managed to flee just before the Chinese government issued an extradition request, according to an hour-long [CCTV documentary](#) about Qiao's case. In 2014, he followed a new wife, an Austrian citizen, to Stockholm.

In Sweden, Qiao bought property and attempted to settle down. But by 2018, Beijing had located him and requested his extradition. Qiao was arrested by Swedish authorities. By this time, the other two nationals on Beijing's wanted list of corrupt officials had been apprehended. Qiao was now No. 1.

"There was a lot of bargaining with the Chinese authorities," says his Swedish lawyer, Henrik Olsson Lilja. "They were so eager to get him back to China."

While in detention, Chinese officials met with Qiao. "They were quite aggressive," Lilja says. "They wanted to show him a video showing his relatives in China. That's quite a common way of trying to make [Chinese fugitives] say yes to extradition, because usually when they do that, you realize that your family is under threat in China."

But Qiao, dressed in a pine-green jumpsuit with thick eye-glasses, refused to watch the video. "Instead, they took pictures at his detention facility in Stockholm with a concealed camera," says Lilja. The photos eventually appeared on Chinese state media, which

emphasized that his dramatic bone-white hair was a sure sign of guilt.

In Sweden, Qiao's case raised questions about the country's extradition obligations with China. The stakes were high and the case eventually made it to the Swedish Supreme Court.

"Being a European country, it didn't concern the extradition law in Sweden but the European Convention on Human Rights, which is binding for all European countries, not just the E.U.," says Peter Dahlin, founder of Safeguard Defender, a China-focused human rights group in Sweden.⁵

While the court [found](#) "probable suspicion that [Qiao] committed the deeds [alleged by the Chinese government]," they ruled that extraditing him would violate Sweden's human rights obligations against torture and the death penalty. The extradition request was denied, and Qiao went free in July of last year.⁶

A few days later, Qiao was arrested again. This time, the Americans wanted him for immigration fraud under the EB-5 program. Lilja challenged the extradition request, but lost. In late May 2020, Qiao flew to Los Angeles, where he is set to stand trial. If convicted, he could spend the rest of his life behind bars. (Both federal prosecutors and attorneys for Qiao and Zhao refused to comment for this article.)⁷

THE WILD WEST

Just months after Qiao was finally nabbed, Congress initiated long awaited reforms to the EB-5 program, including raising the minimum investment amount to \$900,000 and increasing USCIS scrutiny over which areas get designated as "high-unemployment areas."

"For years, the EB-5 program has been riddled with fraud, abuse and national security concerns," Sen. Chuck Grassley, the Iowa Republican, said in 2019. Grassley promised the new regulations would restore "incentives for investments in rural America and truly distressed areas."

Observers, however, are split on whether the reforms will really help, especially as incomes continue to rise in China.

“ Demand for U.S. residency among wealthy Chinese has not declined. Our clients tell us that they are just as interested in the EB-5 now as a year ago. ”

— *Georg Chmiel, executive chairman of Juwai IQI*

"Demand for U.S. residency among wealthy Chinese has not declined," says [Georg Chmiel](#), executive chairman of [Juwai IQI](#), a Chinese property investment firm. "Our clients tell us that they are just as interested in the EB-5 now as a year ago."

But while applications surged before the change, analysts say the higher investment threshold has reduced EB-5 applications from all nationalities. Moreover, the surge of Chinese applicants starting around 2014 had caused a backlog so severe that, for many, the wait was just too long. Fieldstone, the Miami attorney, says applications from China have decreased, with many turning to investment visa programs in Cyprus, Portugal and Australia.

USCIS is also trying to step up its game.

"They are being a lot more aggressive in trying to ferret out those projects that are probably not viable," says Gibson, the EB-5 consultant. While the recent changes were a positive first step, he is hopeful that the program can be reformed, especially to ensure transparency.

Others, like Cadman, would like to see it nixed entirely. “There are no reforms,” he says, “that will ever be able to remove the taints of fraud and corruption from such a program.”

It’s not clear, for instance, that the recent reforms would have stopped Zhao and her fugitive ex-husband if they were applying today. And if the program can’t spot one of China’s most wanted criminals, what hope does it have for less audacious frauds?

“There’s really no integrity rules,” Friedland says. “It’s really still the wild west.”



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COVER STORY



Pole Position

BY EYCK FREYMANN

In public, Chinese diplomats and climate negotiators deny that they see any link between climate change and geopolitics. But there is a deeply cynical consensus within China’s academic and policy communities that climate change creates geopolitical opportunities that China can exploit — and must exploit before its rivals do. Greenland was the proof of concept for this strategy. And it caught the U.S. flat-footed.

THE BIG PICTURE



Transsion's Triumph

BY GARRETT O'BRIEN

A look at Transsion’s monumental growth, unique marketing strategies and future growth potential.

Q & A



Jörg Wuttke on China's Self-Destruction

BY ANDREW PEAPLE

The EU Chamber of Commerce in China president talks about China’s self-inflicted problems; how he gets away with being so outspoken; and why he believes in China’s comeback gene.



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