

Chinese Investors Get Picky Over U.S. Visa-For-Cash Deal

By JAMES V. GRIMALDI, ANGUS LOTEN and VANESSA O'CONNELL March 18, 2013, 11:01 p.m. ET



Under EB-5, an immigration program that pairs foreign investment with U.S. visas, descendants of Maria and Captain Von Trapp are trying to raise money to renovate the Trapp Family Lodge in Vermont. Photo: Lauren Stagnitti/Trapp Family Lodge.



STOWE, Vt.—Johannes von Trapp, a scion of the family depicted in "The Sound of Music," has spent the past year and a half trying to lure foreigners to invest in his ski lodge and brewery here in northern New England, dangling the possibility of U.S. visas as part of the deal.

He has flown to China three times and made his pitch to hundreds of the nation's wealthy. He has regularly invoked the story of his parents' escape from Nazi-occupied Austria and the resulting movie, which became a favorite in China decades after it was made. He even found himself reluctantly leading a group of Beijing children in a rendition of "Edelweiss."

The response thus far: just \$2.5 million from five investors, far short of his goal of \$22 million from 44 investors by June.

Sam von Trapp pitched investors in Beijing in December.

President Barack Obama has championed the special immigration program known as EB-5 as an engine of job creation. A foreigner who invests at least \$500,000 in a qualified U.S. business is entitled to a green card—provided the invested money puts at least 10 Americans to work. American businesses raised more than \$1.8 billion through the program in the fiscal year ended Sept. 30, and 7,641 would-be immigrants were issued visas. Eighty percent of them were Chinese.

But as the 74-year-old Mr. von Trapp has discovered, would-be investors are getting much pickier. American businesses ranging from fast-food franchises to biofuel facilities to meatpacking plants are now competing for EB-5 funds. Some projects haven't produced the requisite number of jobs—prompting U.S. immigration authorities to withhold green cards. And word has spread about investment money disappearing in failed businesses or outright frauds.



"It's much more difficult than I anticipated," says Mr. von Trapp.

U.S. authorities say they have slowed visa approval because of fraud suspicions and defects in job-creation estimates by developers. Authorities also acknowledge their reviews of those estimates have been flawed. Last year, the federal Citizenship and Immigration Services agency, which oversees the program, hired a half dozen economists to better assess the job-production claims.

"We have been very focused on ensuring the integrity of the program, working collaboratively with the Securities and Exchange Commission and other regulatory and enforcement authorities," says U.S. Citizenship and Immigration Services Director Alejandro Mayorkas, a former federal prosecutor.

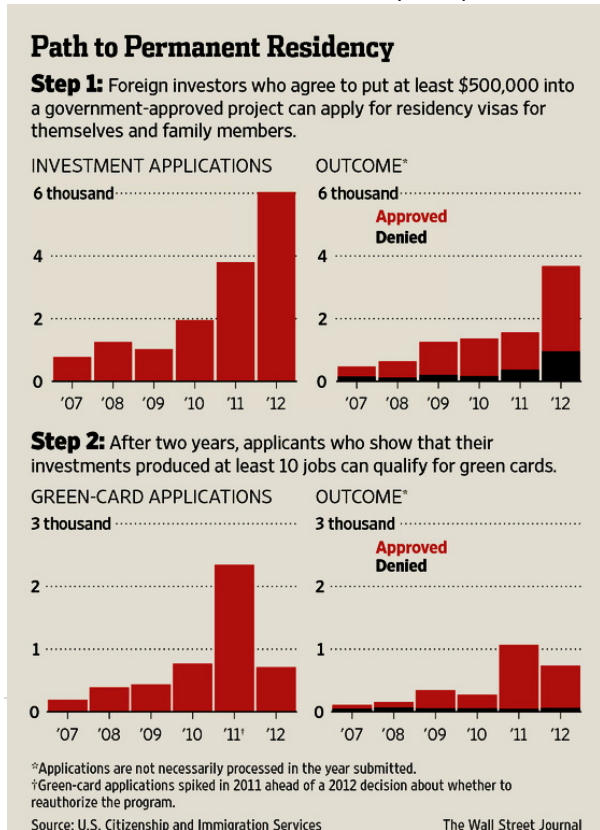
See a map of EB-5 funds across the U.S.

Last month, the SEC said it had filed its first lawsuit against an EB-5 project, in Chicago federal court, alleging that the promoters of a Chicago hotel-and-convention-center plan had fraudulently sold more than \$145 million in securities and collected \$11 million in administrative fees from more than 250 Chinese investors. The SEC said some of the funds had been misappropriated and nothing had been built. A lawyer for the developer told a federal judge late last month that his client favors returning the \$145 million, now in an escrow fund, to investors.

The added scrutiny has created a bottleneck. In the two-year period ended Sept. 30, 9,845 foreigners applied to invest in EB-5 projects. During that same period, 5,240 waiting applicants were approved and 1,328 denied. Thousands remain in limbo or have dropped out as the immigration agency continues to assess their applications.

The EB-5 program was created by Congress in 1990 to help lift the economy out of recession. It attracted minimal interest from U.S. businesses until the financial crisis hit in 2008 and traditional sources of financing got harder to tap.

Since then, numerous reputable businesses, large and small, have used the program to raise money. [Marriott International Inc.](#), [MAR -0.90%](#) [Hyatt Hotels Corp.](#) [H -0.74%](#) and Hilton Worldwide Inc. are teaming up with EB-5 investment funds to build new hotels. An EB-5 project in Los Angeles raised money for Sony Pictures Entertainment and Warner Bros. Another in Brooklyn helped fund the Barclays Center, new home of the NBA's Brooklyn Nets.



Entrepreneurs across the nation have set up so-called regional centers to market local EB-5 projects, for a fee, and to provide economic analysis to establish that the projects meet job-production requirements. There are now more than 230 such regional centers. Some of them, such as one in Vermont, were set up by governments for economic-development purposes.

A surge of would-be investors from China has fed the EB-5 boom. Wealthy Chinese have become more interested in planting roots in the U.S., which they view as a desirable place to park assets, educate their children and, in many cases, establish residency.

An entire industry has cropped up in China to connect such investors with EB-5 opportunities. Hundreds of immigration-

consulting firms, licensed by China's regional authorities, help U.S. businesses find investors, collecting fees and commissions as high as \$175,000 per investor.

Bob Kraft, the president of FirstPathways Partners LLC, which oversees EB-5 projects for a regional center in Milwaukee, has been to China 43 times in recent years and has raised more than \$100 million from 200 investors for Wisconsin hotel and manufacturing projects. "A lot of the new folks who have jumped in don't understand how complex it is," says Mr. Kraft. "It takes time to build trust over there."

Problem projects promoted by incompetent or dishonest American businessmen have put Chinese investors on edge. Albert Young, an EB-5 consultant in Shanghai who knows of Chinese families sent home without green cards, said: "No one really knows the rules, and there is a lot of misrepresentation going on to get those investors."

Dozens of investors from China and other countries have sued various businesses participating in the program. In Louisiana last year, about 31 investors, at least 15 from China, filed a federal lawsuit alleging the only thing they had to show for a \$15.5 million investment was an undeveloped plot of land across the Mississippi River from New Orleans. A lawyer for two American fundraisers for the project says they are seeking to dismiss the suit, arguing in part that immigration authorities thwarted the project by rejecting investors's job-creation estimates.

In San Bruno, Calif., three Chinese investors allege in a lawsuit filed last year in state court that they lost \$3 million when an EB-5 developer disappeared after he faked a heart attack in a karaoke bar and his associates concocted a story about his death. In January the court awarded investors a default judgment because the developers never appeared.

Cherry Qian, 24, a graduate student from Shanghai living in Washington, invested \$500,000 in a Moberly, Mo., artificial-sweetener factory in 2011. Last year, Missouri officials arrested the developer and accused him of stealing \$700,000 in municipal-bond money and using some of it to save his Beverly Hills home from a foreclosure auction. A lawyer for the developer says his client denies the charges. The case is pending. Ms. Qian says she recovered her money from a licensed immigration consultant in Beijing, but lost a \$40,000 fee.

That was the landscape Mr. von Trapp faced when he began his quest in 2011. The family business, centered on the Trapp Family Lodge, needed money to renovate guest rooms, build more timeshare units and expand a craft-beer business. Jay Peak Resorts and Sugarbush Resort, two other ski resorts in the state, and Country Home Products Inc., an outdoor-power-equipment maker, had cumulatively raised more than \$300 million in EB-5 money, according to the state. Those businesses are part of the Vermont Regional Center set up by the state.



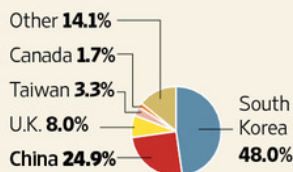
agents in China told Mr. von Trapp his family's history would be a big plus in reaching the Chinese. Beginning in the late 1970s, as censorship receded at the end of the Cultural Revolution, "The Sound of Music" was screened widely, becoming a favorite.

Eric Roth/Trapp Family Lodge The Trapp Family Lodge is seeking investors under the EB-5 visa program

American Dream

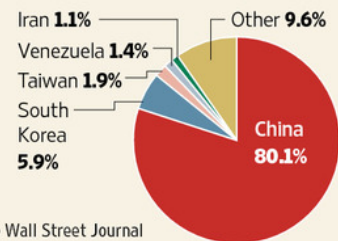
Chinese families interested in planting roots in the U.S. have led to a surge in visas issued under the EB-5 program.

2008: 1,443 visas



Source: State Department

2012: 7,641 visas



The Wall Street Journal

Mr. von Trapp considered other financing options, including a Vermont Economic Development Authority program that uses bond money combined with a bank loan. He decided that the most favorable option would be to use mostly EB-5 money.

The Trapp Family Lodge had been hit hard by the recession, as was the entire Vermont tourism industry. In 2012, the lodge notched a net loss of \$456,053, compared with a profit of \$166,000 the prior year, according to Mr. von Trapp's accountant.

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James Dwinell, a former Trapp Family Lodge board member who twice traveled with Mr. von Trapp in China, said the 1965 movie resonates with the Chinese. "For a generation of, in particular, women in China, they grew up with the 'The Sound of Music,' and they know every word to every song," he says.

On Mr. von Trapp's first marketing trip to China, he tried to sell limited partnership shares that would give investors preferred stock in the company. Chinese investors "were unimpressed," he says. They didn't understand why a limited partnership would give them no control over lodge management.

So he restructured the deal as debt. He is now offering shares in a limited partnership that will lend money to the business, at a low 1% annual interest rate, to be paid off in five years.

Under EB-5 rules, the lodge's losses last year were significant enough for it to qualify as a "troubled business." There is a benefit to that. In its job-production tally—the all-important number that determines whether green cards will be issued—the Trapp Family Lodge can count preserved jobs as well as created jobs.

In the offering materials, Mr. von Trapp's economist asserts the finished project will not only preserve 200 jobs at the lodge, but also will create 904 new jobs within three years—66 jobs at the Trapp Lager brewery and restaurant, and the rest "indirect" jobs as the capital spending ripples through the economy.

"The number one concern of investors is whether the brewery project will create enough jobs," says Mr. von Trapp.

For obvious reasons, the troubled-business label can spook potential investors. Sam von Trapp, the 40-year-old son of Johannes, who traveled to China for 18 days in November and December to recruit investors, says it has been a "a huge stigma."

One Saturday in December, about two dozen people gathered in a hotel conference room in Beijing. Sam von Trapp, wearing a jacket like Christopher Plummer's in "The Sound of Music," presented a slide show. "Our motto at the Trapp Family Lodge is: 'A little bit of Austria, a lot of Vermont,'" he said. "Some of you may be familiar with my family's history from the movie 'The Sound of Music.'"

One 55-year-old attendee said she is an employee of a state-owned enterprise. She said she is looking for a better living environment and a good education for her child.

"My daughter is 10 years old now, and I want her to study in the U.S. after middle school," said the woman, who identified herself only as Mrs. Wang. "What I'm concerned about this project is that we might lose money if this project is not successful. Or we need to spend more than we expected to invest in this 'Sound of Music' project." Johannes von Trapp later said she didn't invest.

In addition to the five investors he says have already put funds in escrow, about 20 others are "in various stages of transferring their money out" of China to invest, he says—a complex process because of Chinese restrictions on moving money overseas.

Back in the snowy ski town of Stowe, Mr. von Trapp sat down recently with a 42-year-old architect from Beijing who was considering investing.

"My family was fortunate enough to come to the United States in 1938," he told his visitor, pausing for a translation into Mandarin. "It is an honor for us to help families come to the United States."

The architect asked detailed questions about the project and the terms of the deal. "How do I know my investment is secure?" he asked at one point. "How will I know that it creates enough jobs for me to qualify for a green card?"

Sam von Trapp gave him a tour of the resort property, showing him von Trapp family homes, a pasture where the family raises cattle for meat for its restaurants, and the existing brewery that made about 1,000 barrels of beer last year, sold at the lodge and in Vermont bars and cafes.

The lodge was full that weekend, so the architect was staying at Johannes von Trapp's house. Mr. von Trapp's gun cabinet, which contains more than 30 rifles, caught his attention.

"If I get a green card, can I buy one of these?" he asked.

"Sure, absolutely," Mr. von Trapp replied. "No problem. I'll take you hunting."

In a later email, the architect, who gave his name only as Mr. Pan, said he wants to expose his two children to a non-Chinese education system—but he had decided that now wasn't the right time. "I want to wait until the kids are a little bigger," he said, "around high school or so, then immigrate."

—Jamila Trindle, Lilian Lin and James Oberman contributed to this article.

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