# The Real Estate Roundtable
# Reauthorizing Federal Terrorism Insurance
## Capital and Credit

## Summary

Today, the risk of terrorism remains as strong as ever. According to the 2025 Annual Threat Assessment from the Office of the Director of National Intelligence (ODNI), “A diverse set of foreign actors are targeting U.S. health and safety, critical infrastructure, industries, wealth, and government. State adversaries and their proxies are also trying to weaken and displace U.S. economic and military power in their regions and across the globe.”[1]

For more than two decades, at almost no cost to the taxpayer, the national terrorism insurance program established by the Terrorism Risk Insurance Act (TRIA) in 2002 has made it possible for businesses to purchase the terrorism risk coverage they need. Threatened with acts of terrorism, and in the absence of a viable private market, business insurance consumers would be unable to secure adequate coverage without such a program. The Real Estate Roundtable supports a long-term reauthorization of TRIA and urges prompt congressional action to renew this critical program in advance of its expiration on Dec. 31, 2027.

### Key Takeaways

- Terrorism risk is a national security challenge that requires a federal solution.
- TRIA has successfully maintained market stability for over 20 years at minimal taxpayer cost.
- Without TRIA, terrorism risk coverage would become scarce or unaffordable, threatening economic resilience and recovery.
- Should a terrorist attack occur without adequate coverage in place, underinsured businesses will face the risk of ruin, with potentially catastrophic local economic effects, and the federal government will face significant pressure to hastily assemble financial assistance to underinsured victims.
- Early reauthorization will ensure continued business confidence and prevent market disruption as the program approaches its 2027 expiration.
- It is important to enact a long-term reauthorization of TRIA well in advance of its termination date of December 31, 2027.

## Background

### Terrorism Risk Requires a Federal Insurance Backstop Takeaways

- For commercial real estate properties of all types—from hospitals and museums to public utilities and manufacturing facilities—maintaining adequate levels of insurance is essential to managing risk and protecting assets from all potential perils, including terrorism. These business consumers cannot properly manage the risks of today’s world if terrorism insurance coverage is not available.
- To help protect the economy from this peril, the nation’s current terrorism risk insurance program provides continuity to the marketplace so that policyholders—American businesses large and small—are able to obtain the insurance coverage they need to manage terrorism risk, grow their businesses, create jobs, and protect the workers they employ.
- Unfortunately, the nation’s federal terrorism risk insurance program established by TRIA and its subsequent extensions is scheduled to sunset at the end of 2027. Because a viable private sector marketplace for this coverage does not yet fully exist, the program’s expiration would leave policyholders and taxpayers exposed and unprotected—just as they were after 9/11. The Government Accountability Office (GAO), President’s Working Group on Financial Markets, and other terrorism risk observers have consistently

[1] 2025 Annual Threat Assessment (ATA), Office of the Director of National Intelligence, March 2025.

concluded that "acts of terrorism" are uninsurable risks.[2]

- Terrorism is not aimed at a specific business or property owner; it is aimed at America, our government, our people and our way of life. Maintaining a workable federal terrorism insurance mechanism is vital for the nation's economy, and private markets alone cannot and will not provide the level of terrorism insurance our economy demands.
- Some 22 other nations recognize that private markets alone cannot underwrite this risk, and each has a permanent terrorism insurance program.[3]
- RER helped establish the Coalition to Insure Against Terrorism (CIAT) in 2002. CIAT is a broad coalition of commercial insurance consumers formed immediately after 9/11 to ensure that American businesses could obtain comprehensive and affordable terrorism insurance.
- In the aftermath of 9/11, it was virtually impossible for commercial policyholders to secure coverage against terrorism risk; however, banks and other capital providers would not provide financing without it. According to an RER survey, over $15 billion in real estate-related transactions were stalled or even cancelled because of a lack of terrorism risk insurance in the 14 months between 9/11 and TRIA's enactment.
- CIAT's diverse membership represents key elements of the commercial facilities sector, including commercial real estate, banking, energy, construction, hotel and hospitality, higher education, manufacturing, transportation, entertainment, the major league sports and racing, as well as public sector buyers of insurance. According to a 2019 Marsh[4] study, the education, health care, financial institutions, and real estate sectors had the highest "take-up" rates among the 17 industry segments surveyed—all above 70 percent.
- The House Financial Services Subcommittee on Insurance, Housing, and Community Opportunity held a hearing on Sept. 17, 2025, just after the 24th anniversary of the September 11th attacks, to examine the terrorism risk capacity of the insurance industry and to discuss the future of the nation's federal terrorism risk insurance program. CIAT submitted a statement to the Subcommittee stressing the importance of enacting a long-term reauthorization well in advance of the sunset date. This hearing was just the first step in a much longer journey to extend the federal government's role in the terrorism risk insurance market.
- Despite our successful legislative efforts in 2002, 2005, 2007, 2015, and 2019, and the fact that terrorism remains a clear and present danger, we appreciate the work of the Subcommittee to focus on the importance of reauthorizing TRIA on a timely basis. While the program does not sunset until 2027, efforts to reauthorize the federal program have already begun.

## Recommendations

**Reauthorize and Strengthen TRIA:** TRIA has been a tremendous success. It is a comprehensive plan to provide for economic continuity and recovery in the wake of a major terrorist attack, while simultaneously protecting taxpayers via a mandatory recoupment mechanism. We urge Congress to promptly enact a long-term reauthorization of this important program.

- **TRIA has been, and remains, extremely effective in achieving its primary purpose**. The purpose was to stabilize the market following 9/11 and to ensure the continued availability of terrorism coverage for commercial policyholders in the future.
- **America needs a stable and reliable terrorism insurance market.** As part of its national economic security, the country must ensure that employers can invest in assets and create jobs without assuming the risk and liabilities of a terrorist attack. At almost no cost to the taxpayer, the program has been the key factor in ensuring that the private insurance market has remained intact and continues to meet the needs of

[2] *Terrorism Risk Insurance: Report of the President's Working Group on Financial Markets*, September 2006, p.12;
*Terrorism Insurance: Measuring and Predicting Losses from Unconventional Weapons Is Difficult, but Some Industry Exposure Exists,* United States Government Accountability Office, September 2006, p. 4.
[3] *Background on: Terrorism risk and insurance*, Insurance Information Institute, April 18, 2024.
[4] *2019 Terrorism Risk Insurance Report*, Marsh Risk Management Research, 2019.

commercial policyholders during the ongoing threat of a future terrorist attack.

- **Allowing the program to sunset would threaten economic and homeland security.** Should the program be allowed to sunset, we would expect a period of profound economic slow-down—posing a very real threat to our economic and homeland security. American businesses, schools, real estate owners, bond holders, and the entire financial services system all depend on their ability to finance insured collateral. Without the ability to maintain adequate insurance coverage, a business or a property owner's capacity to finance is materially impaired and its liquidity is jeopardized.
- **The absence of terrorism insurance had significant economic and employment impacts**. Due to deferred construction investment, the White House Council of Economic Advisors estimated that there was a direct loss of 300,000 jobs during the 14 months between 9/11 and TRIA's enactment. In short, the lack of availability of terrorism insurance for commercial policyholders had a very real and far-reaching impact on the economy.
- **Federal analysis confirms TRIA's ongoing effectiveness.** RER concurs with the 2024 Department of Treasury Federal Insurance Office's *Report on the Effectiveness of the Terrorism Risk Insurance Program*, which concluded that the current terrorism risk insurance program is "effective in making terrorism risk insurance available and affordable in the insurance marketplace,"[5] and that there is insufficient "private reinsurance capacity for the exposure the Program currently supports in connection with a catastrophic terrorism loss."[6] There has been no evidence that private markets can develop adequate terrorism risk capacity without some type of federal participation.
- **Letting TRIA lapse would destabilize the market and limit coverage.** Without TRIA in place, we believe the availability of terrorism risk coverage will diminish, or insurers will simply stop offering the coverage altogether. CIAT members have seen evidence of this each time that TRIA has been up for renewal (most recently in 2019). In each instance, policy renewals often included "springing exclusions," which would have voided terrorism coverage upon the expiration of TRIA.

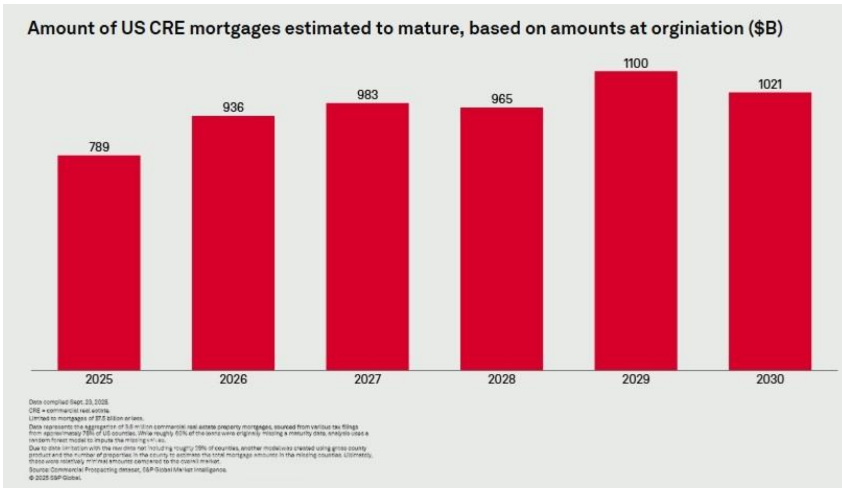
[5] Federal Insurance Office, U.S. Dept. of the Treasury, Report on the Effectiveness of the Terrorism Risk Insurance Program 2 (June 2018).
[6] Id. at 47.

The Real Estate Roundtable

# Addressing the Wave of Maturing CRE Debt and Pro-Cyclical Regulatory Policy

## Capital and Credit

## Summary




Source: S&P Global

Nearly $936 billion of U.S. commercial real estate mortgages are estimated to mature in 2026. To help rebalance the wave of maturing loans, it is important to advance measures that will encourage additional capital formation and loan restructuring.

- As urged by RER, a policy statement—*Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts*—issued by regulatory agencies encouraging financial institutions to work constructively with creditworthy borrowers on CRE loan workouts is helping to see loans through the current environment.
- Many of these loans require additional equity, and borrowers still need time to restructure this debt.
- Capital formation is vital to help restructure maturing debt and fill the equity gap.

It is also important to avoid pro-cyclical regulatory actions such as the *Basel III Endgame*.

A revised *Basel III Endgame* proposal announced in September 2024 would have increased Tier 1 capital requirements for global systemically important banks by roughly 9 percent. Concerns remain that any increase in capital requirements will have a pro-cyclical impact on credit capacity and carry a cost to commercial real estate and the overall economy, increasing the cost of credit and constraining capacity. Implementation remains uncertain.

In a January 2024 letter, RER raised industry concerns about the negative impact of the *Basel III Endgame* proposal, including the higher cost of credit and diminished lending capacity, and requested that the proposal be withdrawn.

Vice Chair for Supervision Michelle Bowman said that the central bank is working with the FDIC and the OCC on reproposal of the rule. A more industry-friendly version of contentious capital rules is expected in early 2026.

In a Dec. 19, 2025 letter to Vice Chair Bowman and other bank regulatory agencies, House Financial Services Committee Chairman French Hill (R-AR) urged regulators to design the Basel III Endgame capital rules in a way that protects bank safety without unnecessarily restricting credit or harming economic growth, while supporting households, businesses, and markets.

### Key Takeaways

- Providing banks with the flexibility to work constructively with their borrowers during times of economic stress has led to **billions of dollars of loan restructurings and reduced undue stress in bank loan portfolios**.
- The original *Basel III Endgame* proposal would have had a **significant economic cost** without clear benefits to the economy.
- The largest U.S. banks' capital and liquidity levels have grown dramatically since the original Basel III standards were implemented in 2013 in response to the 2008 Global Financial Crisis. **Since 2009, Tier 1 capital has increased by 56 percent and Common Equity Tier 1 capital has tripled**. Today, as the Federal Reserve recently observed, the U.S. "banking system is sound and resilient, with strong capital and liquidity."[7]
- Further, it is important to bring more foreign capital into U.S. real estate by lifting legal barriers to investment, as well as **repealing or reforming** the archaic Foreign Investment in Real Property Tax Act (FIRPTA).

## Background

### Basel III Endgame

- The original *Basel III Endgame* proposal would have increased capital requirements for the largest banks by as much as 20 percent.
- Based on the resounding opposition to the proposal from industry participants, a revised proposal was announced in September 2024 by Michael Barr, the former Fed Vice Chair for Supervision, that would have increased Tier 1 capital requirements for systemically important global banks by approximately 9 percent—less than half of what would have been required in the original proposal.
- The core idea is to require large banks to hold more capital by more accurately measuring the riskiness of their assets, but concerns remain about the potential impact on lending and economic growth.
- Nonetheless, there are still concerns about the impact the change will have on commercial real estate and the overall economy. Former Fed Vice Chair Randy Quarles warned it is a "mistake," saying, "It will restrict the ability of the financial system to provide support for the real economy."
- The revised proposal reduces risk weights for certain residential mortgages and retail exposures, extending this reduction to low-risk corporate debt. Commercial real estate risk weights remain unclear.

## Recommendations

**Withdraw the Proposal to Increase Capital Requirements:** While well-intentioned, we are concerned that the proposals could increase the cost of credit, diminish lending capacity, and undermine the essential role banks play in lending and financial intermediation for real estate.

- As outlined in RER's January 2024 comment letter, the potential significant increase in capital requirements for large banks' capital market activities due to the *Basel* proposal could materially reduce the depth of banks' product and services offerings to the real estate sector, which will in turn lead to an **increase in hedging risk and the cost of raising capital in the industry**.

**Support Robust Capital Formation:** Additional capital is called for to help restructure and transition the ownership and refinancing of commercial real estate from a period of low rates to a time of higher rates. Additional capital is an essential element to this restructuring, and enacting policies that will encourage robust capital formation is imperative.

[7] https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf

# The Real Estate Roundtable

# Commercial Insurance Coverage in an Evolving Threat Environment

### Capital and Credit

## Summary

The proliferation of natural catastrophe threats has raised concerns about commercial insurance coverage for real estate. These concerns have highlighted the lack of—and need for—insurance capacity and various lines of commercial insurance. Risks from natural disasters like floods, hurricanes, wildfires, hail, tornadoes, and drought cost the U.S. billions of dollars each year. Even if policyholders are able to find coverage for these various lines, prices are increasing dramatically. A lack of adequate coverage will lead to economic uncertainty, harm stakeholders, and undermine the growth of communities.

The budget debate in Congress has called into question the future of the National Flood Insurance Program (NFIP), which is subject to temporary funding extensions. Congress must now reauthorize the NFIP by no later than Jan. 30, 2026.

RER, along with its industry partners, continues to work constructively with policymakers and stakeholders to address market failure and enact a long-term reauthorization of an **improved NFIP**.

### Key Takeaways

- The increased frequency and severity of natural disasters is leading to increased premiums for commercial properties.
- As economic losses caused by disasters increase, it is important to find new strategies in order to effectively manage natural catastrophe risk.
- Expanding coverage gaps and increased costs present challenges for businesses across many industries, including real estate.
- Without adequate coverage, the vast majority of natural catastrophe losses **are likely to be absorbed by policyholders**. These widening coverage gaps and price hikes bring about serious economic concerns about protection gaps, coverage capacity, and increased costs from natural catastrophes and business interruption losses.
- Commercial property owners can take steps to mitigate the risk of natural disasters and potentially lower their insurance costs.

## Background

### Current Insurance Environment

- Real estate insurance rates have spiked, with consecutive quarterly increases in overall premiums.
- The nation has seen years of atypical weather patterns and historic losses from natural catastrophes attributed to climate change—economic damages have tripled in cost from just 10 years ago.
- High reinsurance costs and a lack of reinsurance capacity also contribute to higher premiums.
- The U.S. insurance industry is regulated at state-level, with no central federal regulation.

### National Flood Insurance Program (NFIP)

- Floods are the most common, costliest natural peril in the U.S. The NFIP was enacted in 1968 due to a lack of private insurance and increases in federal disaster aid.
- The Program is administered by the Federal Emergency Management Agency (FEMA) and is essential for homeowners, renters, and small businesses in affected areas.

- Under the NFIP, commercial property flood insurance limits are low—$500,000 per building and $500,000 for its contents. NFIP has approximately 5 million total properties, and only 6.7 percent are commercial. Nearly 70 percent of NFIP is devoted to single-family homes and 20 percent to condominiums. In the total program, 80 percent pay actuarial sound rates; however, in the commercial space, only 60 percent pay actuarial sound rates.
- Congressional hearings have **illuminated numerous acute problems** surrounding the NFIP, such as insolvency, increased risk of flooding across the country, and insufficient and inaccurate flood mapping. The unintended negative outcomes generated by the NFIP continue to grow and are now spreading to GSEs (government-sponsored enterprises) Fannie Mae and Freddie Mac.
- The NFIP was operating with short-term funding under a continuing resolution. Since 2017, Congress has extended the NFIP's authorization 34 times, and the program will lapse again without congressional action by Jan. 30, 2026.
- As policymakers continue to debate potential changes and improvements to the program, their challenge is to find a balance between improving the financial solvency of the program, reducing taxpayer exposure, and addressing affordability concerns.

## Recommendations

**Enact a Long-Term Reauthorization of NFIP:** The level of flood damage from recent storms makes it clear that FEMA needs a holistic plan to prepare the nation for managing the cost of catastrophic flooding under the NFIP.

- RER and its partners support a long-term reauthorization of an improved NFIP that helps property owners and renters prepare for and recover from future flood losses. NFIP is **essential** for residential markets, overall natural catastrophe insurance market capacity, and the broader economy.
- Going forward, it is important to protect American jobs and to ensure a **sustainable and speedy economic recovery** from future natural catastrophe events. If not remedied, these insurance gaps could hinder economic growth.

**Increase Private Market Participation:** By permitting certain private issue insurance policies to satisfy the NFIP's "mandatory purchase requirement" for properties in flood plains financed by loans from federally guaranteed institutions, commercial property owners would have the ability to "opt out" of mandatory NFIP commercial coverage if they have adequate private coverage outside the NFIP to cover financed assets.

- Lenders typically require base NFIP coverage, and commercial owners must purchase Supplemental Excess Flood Insurance for coverage above the NFIP limits. The NFIP's low commercial limits make it problematic for most commercial owners.
- As a result, RER has been seeking **a voluntary exemption** for mandatory NFIP coverage if property owners have flood coverage from commercial insurers.

The Real Estate Roundtable

# Beneficial Ownership & Corporate Transparency Act

### Capital and Credit

## Summary

The Corporate Transparency Act (CTA) requires certain companies to disclose information about their beneficial owners to the Treasury Department's Financial Crimes Enforcement Network (FinCEN). The goal was to create a national directory of beneficial owners to curb illicit finance, drug cartels, terrorist groups, and other harmful activities.

As of March 2025, the Treasury Department announced it will suspend enforcement of the CTA against U.S. domestic reporting companies and their beneficial owners, focusing solely on foreign entities. This means U.S. commercial real estate entities are now exempt from providing beneficial ownership information to FinCEN.

FinCEN intends to issue new rules to narrow the scope of the CTA's reporting requirements to only apply to foreign-formed companies that have registered to do business in the U.S.

The Real Estate Roundtable continues to work with policymakers in support of a balanced approach that would inhibit illicit money laundering activity without the imposition of costly reporting requirements for real estate investors.

### Key Takeaways

- Thanks to the Treasury's action to suspend CTA enforcement for domestic reporting companies, much of the concern about the CTA's far-reaching scope and its impact on many commercial and residential real estate businesses that use the LLC structure for conducting business is allayed.

## Background

### CTA Requirements

- The stated goal of the CTA is to prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity by requiring companies to disclose beneficial ownership information, or BOI, to FinCEN, a bureau of the U.S. Department of the Treasury.
- A beneficial owner refers to an individual who owns at least 25 percent of an entity or indirectly exercises "substantial control" over it.
- The CTA amended the Bank Secrecy Act to require corporations, limited liability companies, and similar entities to supply three categories of information: information about the entity, BOI, and information about the company applicants involved in forming the entity.
- The CTA authorizes FinCEN to collect and disclose beneficial ownership information to authorized government authorities and financial institutions, subject to effective safeguards and controls. The statute requires the submission of regular reports to the federal government that include a litany of sensitive personal identifiers of the owners, senior employees, and/or advisors of covered entities.
- While this disclosure obligation began on Jan. 1, 2024, the U.S. Court of Appeals for the Fifth Circuit vacated the stay on Dec. 26, 2024 and reinstated the nationwide preliminary injunction enjoining enforcement of the CTA and the Reporting Rule, including the impending reporting deadlines. The appellate court said it was taking such action in order to preserve the constitutional status quo while that court considers the parties' weighty substantive arguments in an expedited appeal.
- On March 2, 2025, the U.S. Treasury Department announced it would suspend enforcement of the CTA against U.S. citizens and domestic reporting companies, and later issued an interim final rule through FinCEN that eliminated their reporting requirements entirely. This action removes the beneficial ownership information (BOI) reporting obligations for most U.S. entities, leaving only foreign reporting companies subject to the CTA.

## Recommendations

**Support Measures that Encourage Capital Formation:** RER, along with its coalition partners, repeatedly raised concerns about the regulatory burden posed by the CTA and has supported the court challenges to the law. We are pleased by the Treasury's constructive action to exempt domestic reporting companies.

- Although the CTA is intended to provide support for law enforcement investigations into shell companies engaged in money laundering, tax evasion, and terrorism financing, it places many **costs and legal burdens on small businesses**, especially those in the real estate industry.
- In 2021, RER and its coalition partners submitted detailed comments to FinCEN regarding the development, disclosure, and maintenance of a new federal registry that will contain beneficial ownership information.
- In 2022, RER and its coalition partners submitted comments to Treasury and FinCEN that support efforts to thwart illegal money laundering in real estate, while encouraging policymakers to find a balanced approach that does not unfairly burden law-abiding businesses.
- RER welcomes the Treasury's action to exempt domestic reporting companies and continues to push for measures that encourage capital formation for the commercial real estate industry.

## The Real Estate Roundtable

# Real Estate Capital Formation

### Capital and Credit

## Summary


In 2023, the Securities and Exchange Commission (SEC) proposed changes to require SEC-registered investment advisers to put all their clients' assets, including all digital assets like Bitcoin and certain physical assets like real estate, with "qualified custodians." The proposal would also require a written agreement between custodians and advisers, expand the "surprise examination" requirements, and enhance recordkeeping rules. These rules were originally designed for digital assets. "Reasonable" safeguarding requirements is ambiguous as applied to real estate. Furthermore, the SEC's release contains an inaccuracy regarding the way deeds evidencing ownership of real estate are recorded.

RER sees no policy reason to impose the proposed rule on real estate and has advocated for an exception for real estate.


### Key Takeaways

- Due to a variety of factors, real estate cannot readily be stolen, making the rule seem irrelevant to this asset class.
- In addition to the proposed Custody Rule, the SEC has a number of proposed rulemaking measures that could have a chilling effect on real estate capital markets, further impair liquidity, and be a "death by a thousand cuts" for commercial real estate.
- Capital formation is vital when credit markets tighten to restructure maturing debt.

## Background

### SEC Proposal

- On Feb. 15, 2023, the SEC proposed *Safeguarding Advisory Client Assets*, which would significantly expand the requirements of the Custody Rule to maintain client assets with a qualified custodian for certain physical assets such as real estate.
- The SEC's release indicates that deeds evidencing ownership of real estate can be held at a qualified custodian—this is not accurate.
    - Deeds are recorded with a government authority. Land and buildings cannot be physically absconded.
    - Lenders and other interested parties have an interest in ensuring no misappropriation of real estate.
- Fortunately, on June 5, 2024, the U.S. Fifth Circuit Court of Appeals issued an opinion that vacated the SEC Private Fund Adviser Rules, holding that the SEC exceeded its statutory authority in adopting the rule. Specifically, the court held that the "promulgation of the [Rule] was unauthorized... no part of it can stand."
- The SEC previously considered expanding its Safeguarding Rule to include physical assets like real estate under the prior administration but faced significant industry pushback, with groups like RER urging its exclusion due to existing protections.
- The initial proposal aimed to broaden the rule's application beyond traditional privately offered securities but was met with concerns that it would create compliance burdens, raise costs for clients, and inadequately address the unique nature of real estate assets.
- As of October 2023, there was active discussion to exclude real estate from the final rule, though the outcome of the proposal remains uncertain.
- With the change of administration, SEC Chair Gary Gensler has been replaced by SEC veteran Paul Atkins. Under Atkins' leadership, it is likely that the Commission may either withdraw the proposed rule altogether or grant an exception for real estate.

## Recommendations

**Grant an Exemption for Real Estate:** RER believes that the SEC's policy reasons for imposing the rule on real estate seem irrelevant.

- Real estate cannot readily be stolen. As stated above, lenders and others have an interest in ensuring no misappropriation of real estate.
- Title insurance protects real estate investors against covered title defects, such as a previous owner's debt, liens, and other claims of ownership. It's an insurance policy that protects against past problems, whereas other insurances usually deal with future risks. Titles are recorded in the name of the acquiring entity by a government entity.
- Different jurisdictions present even more challenges. Different laws for titles exist between not only states but also countries. The rule applies to registered investment advisors regardless of where the asset is located.
- RER has submitted a comment letter to the SEC and met with senior staff from the investment management division, requesting an exception for real estate.

The Real Estate Roundtable

# Gold and Platinum “Trump Cards” and the EB-5 Visa

Capital and Credit

## Summary

On Sept. 19, 2025, the White House released an Executive Order, fact sheet, and website announcing Gold and Platinum “Trump Cards.” The program is intended to grant permanent residency in the U.S. for immigrants with high net worth. The administration’s announcement directs the Secretaries of Commerce, State, and Homeland Security to coordinate and establish a program that expedites “green cards” issued under the EB-1 and EB-2 visa categories for foreign nationals who make a “significant financial gift to the Nation.”

This new green card program raises important questions:

- Will Trump Cards appeal to overseas investors and American employers as viable options for permanent residency in the U.S.?
- Will Trump Cards impact the separate EB-5 “regional center” program, which confers green cards on foreign investors who make capital commitments to finance job-creating projects in the U.S.?
- Will Trump Cards speed up backlogs for visas—particularly in markets like China, India, and other countries—where investors must wait years to advance in the process to get a green card?

It will take some time to see how Trump Cards resonate in foreign capital markets, and what further program guidelines entail, before these and similar questions are fully sorted out.

### Key Takeaways

- The new Trump Cards and the EB-5 visa program provide separate visa pathways to **attract global capital and top-tier talent**.
- Trump Cards do not and legally cannot replace EB-5 visas.
- The EB-5 program is the established, statutorily authorized pathway to attract foreign investors to the U.S. It has delivered **$350 billion in economic impact and created over 1.5 million American jobs—at no cost to taxpayers—and should continue to be fully supported by Congress and the administration**.
- **Congress should permanently authorize the EB-5 program.** It should give the foreign investment market stability by authorizing regional centers in 2026, ahead of their scheduled expiration in 2027.

## Background

### The EB-5 Visa Program

- The EB-5 visa is a job creation program that attracts overseas investors to provide capital for economic development projects in the U.S.
- EB-5 requires $800,000 investments in targeted employment area (TEA) projects (i.e., infrastructure, rural, high unemployment census tracts)—or $1.05 million investments in projects not within favored TEA categories.
- In 2022, Congress modernized the investor visa through the EB-5 Reform and Integrity Act. These reforms have helped improve the program’s transparency and accountability. **They should be made permanent.**

### The “Trump Card” Program

- According to the Sept. 19 Executive Order:
    - **Cost:** Gold Cards will require $1 million payments from individuals, and $2 million payments from companies. Platinum Cards will require $5 million payments. The $2 million Corporate Gold Card is “per employee.” That is, the company (not the employee) “owns” the Corporate Gold Card, and it is portable to other workers.

  - **Taxes:** Platinum Card holders can spend up to 270 days in the U.S. without being subject to U.S. taxes on non-U.S. income. Gold Card holders are treated similarly to other permanent residents and citizens.
  - **Trump Card holders will not get their money back.** They are making a gift and buying a green card. In contrast, EB-5 investors expect their money back—with a return on their investment.
  - **Trump Cards do not create new visa programs or add more visas.** Payments for a Trump Card are considered “evidence” to support green card eligibility under either the EB-1 visa category, for people of “extraordinary” ability, and/or the EB-2 visa category, for professionals with advanced degrees and those with “exceptional” ability.
  - **Trump Cards do not replace EB-5 visas.** And, they will not add to or subtract from the number of EB-5 visas available in a given year. However, Section 3(f) of the Executive Order states that the agencies shall “consider… expanding the Gold Card program” to EB-5 visa applicants.

## Recommendations

**Permanently authorize EB-5 Regional Centers: Give stability to foreign investment markets—and maximize U.S. job growth opportunities**—by making permanent the 2022 reforms that have created a fair and workable balance for urban and rural projects.

- EB-5 investment helps finance **housing, grid modernization, infrastructure, and manufacturing plants** to further recent Executive Orders and national priorities.

## The Real Estate Roundtable

# Democratizing Access to Alternative Assets for 401(k) Investors

### Capital and Credit

## Summary

On Aug. 7, 2025, President Trump issued an Executive Order entitled, “Democratizing Access to Alternative Assets for 401(k) Investors,” signaling a fundamental shift in federal policy regarding access to asset classes previously reserved for institutional investors.

The Executive Order aims to allow ordinary workers to invest in alternative assets such as private equity and real estate through their 401(k) plans. The initiative seeks to reduce regulatory obstacles for plan fiduciaries and clarify their duties through ongoing work by the U.S. Department of Labor (DOL) and the U.S. Securities & Exchange Commission (SEC).

The DOL is nearing the release of a proposed rule on advisors’ duties when recommending alternative investments for defined contribution plans. According to the White House’s Office of Management and Budget (OMB), the DOL submitted its proposed rule entitled, “Fiduciary Duties in Selecting Designated Investment Alternatives” on Jan. 13, 2026.

### Key Takeaways

- In the August order, Trump directed the DOL to propose new regulations on alts in retirement plans subject to the Employee Retirement Income Security Act (ERISA) within six months. It also directed the DOL to work with other regulators to determine necessary rule changes to ease alternative investment access in 401(k)s, and for the SEC to help with that effort in participant-directed retirement plans.
- While such alternative investments have long been part of defined-benefit plan portfolios, such as pensions, they are not expressly barred from defined contribution plans. Nonetheless, fiduciary rules make it challenging to include them in 401(k)s.

## Background

### Action Post-Executive Order

- Since the Executive Order was issued in August, SEC Chair Paul Atkins has affirmed the need for access to retail alternative investments–such as real estate–“within reason,” while Commissioner Mark Uyeda called for litigation reform to protect plan sponsors by making it harder for investors to sue ERISA fiduciaries for offering alts in 401(k) plans.
- While the Executive Order and rescission of DOL guidance demonstrate a change may be on the horizon for 401(k) plans and investors, they do not bring with them any regulatory change; further guidance and rulemaking from the DOL and SEC will clarify what comes next for fund sponsors, general partners, and their institutional investors.

## Recommendations

**Prepare for DOL Public Comment and Next Steps:** Once the OMB signs off on the proposal, the DOL’s Employee Benefits Security Administration will then release it for public comment, which typically is a 60-day period.

- RER will continue to engage with regulatory agencies on this issue.