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VIA EMAIL – public.engagement@uscis.dhs.gov
U.S. Citizenship and Immigration Services (“USCIS”)
Customer Service and Public Engagement Directorate

RE: Questions for September EB-5 Engagement

Dear USCIS Office of Public Engagement:

Thank you for the opportunity to provide agenda items for the upcoming quarterly EB-5 engagement. Please accept this letter with questions/suggestions for agenda items on behalf of the Association to Invest In the USA (IIUSA), the industry trade association for the EB-5 Regional Center Program (the “Program”), with over 220 Regional Center members that account for well over 95% of the capital flowing through the Program. See www.iiousa.org for more information.

Questions for September 2014 Quarterly EB-5 Engagement

Statistics

1. Please provide the most recent quarterly statistics for:
 - a. Form I-526 received/approved/denied/pending;
 - b. Form I-829 received/approved/denied/pending;
 - c. Form I-924 Regional Center proposals received/approved/denied?
 - d. Form I-924 Regional Center amendments received/approved/denied?
 - e. How do these statistics compare to the preceding four quarters?
 - f. How many Regional Center proposals are pending?
 - g. How many Regional Center amendments are pending?

2. Please list the processing times for the following EB-5 related Forms and how the times compared to target processing times.
 - a. Form I-526
 - b. Form I-829
 - c. Form I-924 for new Regional Centers
 - d. Form I-924 for amendments to Regional Centers

3. What is the percentage and/or number of immigrant entrepreneur petitioners who have their I-526 approved, but do not file an I-829 within the appropriate timeframe?

4. How many questions are currently pending in the EB-5 e-mailbox? What is the average response time for these inquiries?
5. How many adjudicators currently work on EB-5 related petitions?

Administrative

6. Is the EB-5 unit in the DC office fully staffed now? If so, how many adjudicators do you have? How many supervisors? How many economists? If not fully staffed yet, when do you plan to be fully staffed? How many personnel will you have when fully staffed? What forms are currently being adjudicated there?
7. Do you operate in teams by regional center? In other words, do you have the same adjudications team and economists review I-526 petitions filed through a particular regional center?
8. How do you handle I-526 petitions filed with an associated pending or approved I-924 for a given regional center project?
9. When will I-829 adjudications be transferred to the DC office? Will I-829 adjudications be decided by the same team in the EB-5 unit that adjudicated the related I-526 petitions?
10. On average, how long does it take for USCIS to decide an EB-5 case after an RFE reply has been submitted?
11. What are the major goals for the EB-5 unit in 2015?
12. How much is the Electronic Immigration System (ELIS) being used for the EB-5 Program?
13. To what extent does USCIS share information with other agencies, particularly the SEC and Commerce Department? Does USCIS have a formal or informal memorandum of understanding with those agencies or any others regarding EB-5 cases or issues? If so, could we obtain a copy of that?
14. What is the schedule for FY2015 quarterly EB-5 engagements? IIUSA is hosting a conference in Washington, DC at the Hyatt Regency on Capitol Hill on 5/7-5/9. Since space is so limited at the venues used for previous DC venues, this event may be an ideal opportunity for you to address the industry all in one room. IIUSA would be honored to welcome a USCIS official as a keynote speaker in this regard.
15. Has the “Special Review Board” announced in July been implemented? If so, what actions has it taken thus far? Are records available for the proceedings?
16. What other federal agencies does USCIS collaborate with on administration and enforcement of the EB-5 Program?

17. How are the newly hired corporate and securities attorneys at USCIS involved in the adjudications process?
18. What is the status of USCIS drafting new regulations for the EB-5 Program, as described in the USCIS response to the recent Office of Inspector General (OIG) report on the EB-5 Program?

Policy

19. What is the standard for determining the geographic range of a regional center? This is particularly critical when RCs can sponsor projects/investors outside their approved area, as there needs to be reasonable predictability for investors whether the expansion will be considered approvable in the context of I-526 petitions. Is the standard more flexible in the expansion context than in initial filing?
20. What is required to “maintain investment” for I-829 purposes? More specifically, can USCIS devise a policy that allows successful projects to be sold or refinanced (i.e., not have to miss out on an attractive liquidation opportunity) before the end of conditional residence of EB-5 investors?
21. What if any limits on bridge financing should investors know about? The May 30 memo does not mention any temporal or other limits on using EB-5 funds to repay bridge financing. For instance, the USCIS response to the recent OIG report stated that “USCIS has denied and will continue to deny cases where a project is already completed and circumstances do not warrant attribution of jobs to a proposed late-stage investment.” This concept was not mentioned in the memo. What is it that must have occurred before a project is completed? Subscription of the EB-5 investment? I-526 filing? It seems inappropriate to require I-526 approval before project completion, because investors cannot know how long I-526 adjudication can take, and sometimes it takes years—longer than most projects, and such a policy would undermine the entire purpose of a bridge loan. Likewise, is there any particular EB-5-related event that must have occurred before bridge financing is advanced for EB-5 funds to be allowed to replace such financing?
22. Portfolio investments: is there any policy that prevents the combination of one or more sub-projects that would not independently meet the ratio of 10 new U.S. jobs per EB-5 investor with sub-projects whose job creation to investor ratio will make up for the other sub-projects’ shortfall?

Thank you again for consideration of these questions and suggested agenda items. IIUSA believes addressing these issues will clarify key issues and data points within the EB-5 Regional Center Program. Please feel free to contact me with any questions.

Sincerely,



Peter D. Joseph
Executive Director