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2018 AILA & IIUSA EB-5 Industry Forum

It's no secret that, after over a quarter century of stimulating the U.S. economy, the EB-5 program has reached a crossroads in its existence. Profound changes have taken place throughout the industry, with more potentially looming on the horizon. Expert guidance is thus sorely needed to make sense of these changes and navigate a successful path forward. To this end, AILA, the preeminent immigration bar association, and IIUSA, the nation's leading EB-5 trade association, have joined forces to present this two-day conference aimed at providing cutting-edge review and analysis of all aspects of EB-5 direct and regional center investments. Both newcomers and advanced EB-5 specialists attending this conference will have ample opportunity to learn more about the program, network with others in the industry, and develop their businesses, as well as ensure that their clients and customers are well-served. Sarah M. Kendall, the new leader of USCIS's Immigrant Investor Program Office (IPO), and Charles Oppenheim, Chief, Immigrant Visa Control & Reporting, at the U.S. Department of State have both confirmed their participation and will be featured as Keynote speakers. This unique conference promises to be the most important EB-5 event of the year, so don't miss it!

Monday and Tuesday October 29–30, 2018
Sheraton Grand Chicago Hotel
301 East North Water Street
Chicago, IL

MONDAY, OCTOBER 29, 2018

7:15 am–5:00 pm **REGISTRATION AND EXHIBITS**

EB-5 NEWCOMER SESSION (BREAKOUT ROOM)

Day Coordinator: TBD

8:00 am–9:30 am **AN INTRODUCTION TO EB-5: INVESTMENT, JOBS, AND CITIZENSHIP**

An EB-5 investment is unlike any traditional investment. The panelists will cover how investment, job creation, immigration, U.S. permanent residence and citizenship, EB-5 program compliance, and other issues all intertwine. The process is challenging, but it can be done successfully and achieve the goals of all parties involved.

- What Is EB-5? The Oversight, Administration, and Regulation of the Program
- “The Best Laid Plans...”: What to Consider When Planning for Success
- Who Measures Success? And What Is Success for the Parties Involved?

Faculty:

Joseph Martin Barnett (DL), Wolfsdorf Rosenthal LLP, Santa Monica, CA
Alex Brown, Impact DataSource, Austin, TX

(DL) = Discussion Leader

* = Invited Speakers, Not Confirmed

- All events, sessions, and conference materials are subject to change -

*Matthew T. Galati, Green and Spiegel LLC, AILA EB-5 Investor Committee, Philadelphia, PA
Noreen Hogan, CMB Regional Centers, Rock Island, IL*

MAIN ROOM

Day Coordinator: Swati V. Rawani, Washington, DC

9:25 am–9:30 am

OPENING REMARKS

*Aaron Grau, IIUSA Interim Executive Director, Washington, DC
Bernard P. Wolfsdorf, Conference Program Chair, AILA Past President/EB-5 Investor Committee,
Wolfsdorf Rosenthal LLP, Santa Monica, CA*

9:30 am–10:25 am

KEYNOTE SPEAKER: DAY ONE

Sarah M. Kendall, Chief, USCIS, Immigrant Investor Program Office (IPO), Washington, DC

Introduction by:

*Robert Kraft, IIUSA President/President, FirstPathway Partners, Milwaukee, WI
Marketa Lindt, AILA President-Elect, Sidley Austin LLP, Chicago, IL*

10:25 am–10:40 am

NETWORKING BREAK

10:40 am–11:40 am

LOOKING AHEAD: POST-SEPTEMBER 30TH AND THE 116TH CONGRESS

The panelists will consider the likelihood of legislative or administrative EB-5 program reform after September 30, 2018. Given the absence of congressional action, is USCIS likely to push ahead with its proposed EB-5 regulations? Will some stakeholders seek to stop enactment by way of judicial review? Will a potential Democratic majority in the House (and/or possibly the Senate) affect the likelihood for reform? Panelists will address these questions and more on how the government will affect the future of the EB-5 industry.

Faculty:

*Bill Gresser (DL), IIUSA Vice President, EB-5 New York State Regional Center, Buffalo, NY
Jon Baselice, U.S. Chamber of Commerce, Washington, DC
George McElwee, Commonwealth Strategic Partners, Washington, DC
Laura Foote Reiff, Greenburg Traurig LLP, Washington, DC*

11:45 am–12:45 pm

PENDING REGULATIONS AND OTHER ADMINISTRATIVE POLICY UPDATES: TURNING UNCERTAINTY INTO OPPORTUNITY

If adopted, the proposed USCIS EB-5 regulations without visa reform could severely impact the EB-5 industry. The panelists will discuss the current status of the regulations and the content, and the potential impact on investors, regional centers and developers. Is there a silver lining for the industry if the regulations are adopted? The panelists also will consider USCIS policy updates, including its recent guidance on “placeholder” filings.

Faculty:

*Adam Greene (DL), IIUSA Director, EB-5 New York State Regional Center, Buffalo, NY
Carolyn S. Lee, Miller Mayer LLP, AILA EB-5 Investor Committee Chair, Ithaca, NY
Joseph McCarthy, IIUSA Director, American Dream Fund, Huntington Beach, CA
Leon Rodriguez, Seyfarth Shaw, AILA EB-5 Investor Committee, Washington, DC*

12:45 pm–1:25 pm

LUNCH (INCLUDED WITH REGISTRATION)

1:25 pm–2:25 pm

CAPITAL STACK TRENDS: HOW TO FIND AND SUCCESSFULLY INCORPORATE NON-EB-5 FUNDS

(DL) = Discussion Leader

** = Invited Speakers, Not Confirmed*

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From New Market Tax Credits and Tax-Increment Financing to Tax Exempt Bonds, learn how to leverage federal, state, and municipal economic growth incentives with traditional bank financing and equity. When EB-5 capital becomes increasingly difficult or untimely to obtain, plan for shortfalls in EB-5 capital with last-minute sources for equity and bridge financing.

- How to Pair Capital Sources
- Updates on Current Lending Conditions
- Discover New and Traditional Economic Growth Incentives

Faculty:

Steve Strnisha (DL), IIUSA Secretary-Treasurer, Cleveland International Fund, Cleveland, OH

Michael Fitzpatrick, Baker Tilly Capital, Madison, WI

David Morris, DC Regional Center, AILA EB-5 Investor Committee Vice Chair, Washington, DC

Reid Thomas, NES Financial, San Jose, CA

2:25 pm–2:55 pm

POST-SESSION DIALOGUE

Attendees and speakers are encouraged to continue the discussion of the issues addressed on the preceding panels.

2:55 pm–3:55 pm

REGIONAL CENTER OPERATIONS: LESSONS LEARNED AND RISK MITIGATION IN 2018

The EB-5 Regional Center Pilot Program was originally enacted in 1993. In the 25 years since, there have been numerous developments, with many of these changes happening recently. The panelists will present lessons learned from a regional center's perspective, as well as how that knowledge will benefit a regional center in the years ahead.

- Recent Policy Updates and Guidance from USCIS
- The Role of the U.S. Securities and Exchange Commission (SEC) in EB-5
- Fraud and Abuse in the EB-5 Program, and Tips to Avoid These Pitfalls

Faculty:

Dave Souders (DL), IIUSA Director, Todd & Associates, Beachwood, OH

Mary King, New York City Regional Center, New York, NY

Robert Kraft, IIUSA President/President, FirstPathway Partners, Milwaukee, WI

4:00 pm–5:00 pm

THE IDEAL EB-5 PROJECT: CASE STUDIES, CHECKING ALL THE BOXES, AND MAKING THE RIGHT DECISIONS FOR SUCCESS IN TODAY'S MARKET

Today's EB-5 market looks much different than it did in the past, as investor preferences, risk profile, real estate market dynamics, and foreign exchange logistics change continuously. In an industry where independent data is scarce and news about failed projects are on the rise, it can be difficult to identify reliable EB-5 projects. Listen to our expert panelists to learn the fundamentals of due diligence when reviewing potential EB-5 projects.

- Learning the Basics of Real Estate and EB-5 Due Diligence
- Understanding the State of the EB-5 Financing Industry
- Making Data-Driven Decisions in Immigration Investment

Faculty:

Al Rattan (DL), IIUSA Director, Continental Regional Center, Murrieta, CA

Rupy Cheema, EB5 Diligence, Toronto, Canada

Douglas D. Hauer, Mintz Levin, Boston, MA

Patrick Hogan, IIUSA Director, CMB Regional Centers, Rock Island, IL

Alexei Kondenkov, BOFI Federal Bank, San Diego, CA

BREAKOUT ROOM

Day Coordinator: TBD

(DL) = Discussion Leader

** = Invited Speakers, Not Confirmed*

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1:25 pm–2:25 pm

CHOICES IN EB-5: EXAMINING DIRECT VS. REGIONAL CENTER OPPORTUNITIES FROM KEY PERSPECTIVES

Investors considering the EB-5 program face a threshold issue of whether to opt for EB-5 regional center investment projects, or pursue direct EB-5 investments through a new commercial enterprise (NCE) in which they directly participate in management. In recent years, EB-5 investors have overwhelmingly favored EB-5 regional center investments. Nevertheless, direct EB-5 investments have remained attractive for reasons ranging from regulatory predictability to investors' desire to carefully manage their business. Panelists will share insights on key perspectives that investors use to decide whether to pursue an EB-5 regional center or direct EB-5 investment.

- Regulatory Risk: Reliance on Regional Center Program Renewal and Other Features of Proposed Legislative and Regulatory Reform
- Project Design: What Works for a Regional Center May Not Work Under Direct EB-5
- Job Creation: Evidentiary Requirements for Successful Job Creation
- Management Control: Own and Manage Your Own Business vs. Rely on Regional Center Managers
- Return on Investment (ROI): Potential for Commercial Grade ROI vs. Low ROI
- Capital Risk: Cash Call Risk vs. Risks Related to Capital Stack
- Immigration Benefits and Risks: Matching Direct EB-5 with Temporary Visa Processes (Such as E-2)

Faculty:

Ignacio A. Donoso (DL), Conference Program Committee, I.A. Donoso & Associates LLC, Bethesda, MD

Tammy Fox-Isicoff, Rifkin & Fox-Isicoff P.A., AILA Board of Governors/Latin America and Caribbean Chapter Chair, Miami, FL

Edward C. Besbara, Conference Program Committee, Besbara PA, Maitland, FL

Samuel Duggins Newbold, Barst Mukamel & Kleiner, AILA EB-5 Investor Committee, New York, NY

2:25 pm–2:55 pm

POST-SESSION DIALOGUE

Attendees and speakers are encouraged to continue the discussion of the issues addressed on the preceding panels.

2:55 pm–3:55 pm

INSIGHTS FROM INVESTMENT REGULATIONS: SEC ENFORCEMENT ACTIONS—WHAT WE KNOW AND WHY IT MATTERS

The Jay Clayton-led SEC may be more selective in bringing enforcement actions. However, there is no indication that EB-5 misappropriations and illegal brokering of EB-5 securities sales will not remain subject to SEC enforcement actions. The panelists will share insights from 2017–18 SEC enforcement actions involving immigration lawyers and EB-5 transaction parties.

Faculty:

Catherine DeBono Holmes (DL), Jeffer Mangels Butler & Mitchell, Manhattan Beach, CA

Ronald R. Fieldstone, Saul Ewing Arnstein & Lebr LLP, Miami, FL

Scot O'Brien, Akerman LLP, Washington, DC

Oswaldo F. Torres, Torres Law PA, Ft. Lauderdale, FL

Clem Turner, New York, NY

4:00 pm–5:00 pm

EB-5 SITE VISITS AND COMPLIANCE REVIEWS: WHAT THEY MEAN FOR YOU AND HOW TO PREPARE YOUR REGIONAL CENTER, PROJECT, AND EMPLOYEES

In 2017, the Immigrant Investor Program Office (IPO) Fraud Detection and National Security Directorate (FDNS) utilized the USCIS Administrative Site Visit and Verification Program to conduct 232 site

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visits and created a new Compliance Division that conducts regional center compliance reviews. The panelists will discuss the differences between USCIS site visits and compliance reviews, and share experiences from actual audits. Panelists will discuss how to prepare your regional centers, investors, and project sites. They also will provide tips to help avoid termination for failure to maintain regional center eligibility and secure I-829 approval.

- The Difference Between Site Visits and Compliance Reviews
- Preparing Your Regional Center, NCE, Job Creating Entity (JCE), and Tenants at Different Phases of the Project Life Cycle
- Site Visit Compliance for Loan and Equity Project Models
- Compliance Review Toolkit

Faculty:

Kristal Jeanette Ozmun (DL), Miller Mayer, LLP, Ithaca, NY

Rafael Anchia, Civitas Capital, Dallas, TX

Linda W. Lau, Global Law Group, Pasadena, CA

Darrell Sanders, American Life Inc., Seattle, WA

5:00 pm–6:30 pm **MONDAY EVENING RECEPTION SPONSORED BY CMB REGIONAL CENTERS**

TUESDAY, OCTOBER 30, 2018

8:00 am–5:00 pm **REGISTRATION AND EXHIBITS**

MAIN ROOM

Day Coordinator: *Swati V. Rawani, Washington, DC*

8:30 am–9:30 am **WHAT'S HAPPENING IN CHINA? INVESTOR WITHDRAWAL REQUESTS, AGENT MARKETING, AND WHAT IT MEANS FOR THE MARKET**

Facing long EB-5 visa waiting lines, the Chinese market that previously supplied 80 percent of investors has rapidly decreased, putting capital raises in jeopardy. Chinese investors are concerned about age-out issues and frustrated that their investments are “at risk” for longer periods of time. Our panel of experts will discuss waiting line strategies, including short- and long-term visa options.

- Solutions to the EB-5 Visa Waiting Line
- Investor Drop-Out and “Age-Out” Issues
- “Sustaining” the Investment: Redeployment Concerns
- Ethical Issues
- Long-Term Strategic Planning

Faculty:

Tom Rosenfeld (DL), IIUSA Director Emeritus, CanAm Enterprises, New York, NY

David Chen, Visas Consulting Group, Shanghai, China

Robert P. Gaffney, Law Offices of Robert P. Gaffney, San Francisco, CA

Cletus M. Weber, IIUSA Director, Peng & Weber PLLC, Mercer Island, WA

9:35 am–10:40 am **CONVERSATION WITH THE KEYNOTE: DAY TWO**
Charles Oppenheim, Chief, Immigrant Visa Control & Reporting, U.S. Department of State, Washington, DC

Robert C. Divine (DL), IIUSA Vice President Emeritus, Baker Donelson, Chattanooga, TN
Cletus M. Weber, IIUSA Director, Peng & Weber PLLC, Mercer Island, WA

(DL) = Discussion Leader

* = Invited Speakers, Not Confirmed

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Bernard P. Wolfsdorf, Conference Program Chair, AILA Past President/EB-5 Investor Committee, Wolfsdorf Rosenthal LLP, Santa Monica, CA

10:40 am–10:50 am **NETWORKING BREAK**

10:50 am–11:50 am **DISTRESSED AND TROUBLED PROJECTS: HOW TO REVERSE COURSE AND WHAT IT MEANS FOR MATERIAL CHANGE**

Capital investment projects sponsored by regional centers can be complex deals involving layers of financing, multiple developers, and the need for state and local regulatory approval or support (such as favorable tax treatment). What happens to EB-5 investors when planned financing fails, developers face disputes or misconduct, or state and local support evaporates? The panelists will provide insights into EB-5 regional center projects experiencing distress, and how EB-5 investors and regional centers can plan for solutions to these situations.

- Do's and Don'ts: What Is Permitted for EB-5 Investors Seeking to Comply with the Sustainment and At-Risk Rules in Addition to the Material Change Policy?
- Negotiating with Senior Lenders and Developers
- Managing the Managers: EB-5 Investors and the Management of the New Commercial Enterprise
- Time Is of the Essence: Dealing with USCIS Timelines for Job Creation and Annual Reporting
- Unwinding: When to Unwind the Deal, and How NCE Capital Can Be Redirected to Another Project

Faculty:

Eren Cicekdagi (DL), Conference Program Committee, Golden Gate Global, San Francisco, CA

Robert C. Divine, IIUSA Vice President Emeritus, Baker Donelson, Chattanooga, TN

Robit Kapuria, Saul Ewing Arnstein & Lebr, Miami, FL

Andrew F. O'Neill, Sidley Austin LLP, Chicago, IL

Lincoln Stone, Stone Grzegorek & Gonzalez LLP, Los Angeles, CA

11:50 am–12:30 pm **LUNCH (INCLUDED WITH REGISTRATION)**

12:30 pm–1:30 pm **SOURCE OF FUNDS ISSUES WITH CHINA, OTHER EB-5 INVESTOR MARKETS, AND THIRD-PARTY EXCHANGES**

The source of the investor's funds continues to be a central component in all EB-5 petitions. The panelists will discuss the latest trends and issues from recent USCIS adjudications, including RFEs and NOIDs on Chinese source of funds (SOF), as well as frequently asked questions by investors of other markets.

- SOF RFEs and NOIDs with China: Third-Party Value Exchange, Tax and Social Insurance Records, Mortgage Registration, and Inconsistencies from Prior Visa Applications
- India: How to Document Multiple Sources and Complicated Path of Funds
 - Is It Advisable to Accept Gifts from Non-Family Members?
- South Korea: Is the Rent Deposit (“Key Money”) an Acceptable SOF?
- Taiwan: The American Institute in Taiwan’s Review on EB-5 SOF After I-526 Approval
- New Policy Memo (Straight Denials): Does It Impact EB-5 SOF Documentation?

Faculty:

Anusree “Anu” Nair (DL), Klasko Immigration Law Group, Philadelphia, PA

Jana Aristizabal, Marcum LLP, Ft. Lauderdale, Florida

June Cheng, Fredrickson & Byron P.A., Minneapolis, MN

1:35 pm–2:35 pm **EB-5 QUOTA BACKLOG: LEGISLATIVE, ADMINISTRATIVE, AND JUDICIAL SOLUTIONS**

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EB-5 quota backlogs already are a fact of life for two countries, and on the horizon for others. The panelists will discuss the present and future extent of these backlogs and any hope for addressing them. They also will explore other visa and permanent residence options instead of, or in addition to, EB-5.

- Projections for Quota Backlogs in Specific Countries
- Is There Any Hope for Solutions by Legislation, Litigation, or Attrition?
- Parameters for Minors as Investors to Avoid Age-Out Problems
- When Is EB-1 a Realistic Alternative?
- Is Third-Country Citizenship and an E-2 Visa a Realistic Option to Fill the Gap?

Faculty:

Bernard P. Wolfsdorf (DL), Conference Program Chair, AILA Past President/EB-5 Investor Committee,

Wolfsdorf Rosenthal LLP, Santa Monica, CA

Charles C. Foster, Foster Global, IIUSA Director, AILA Past President, Houston, TX

David Hirson, David Hirson & Partners, LLP, Costa Mesa, CA

Kraig Schwigen, Conference Program Committee, CMB Regional Centers, Rock Island, IL

2:35 pm–2:55 pm

POST-SESSION DIALOGUE

Attendees and speakers are encouraged to continue the discussion of the issues addressed on the preceding panels.

2:55 pm–3:55 pm

USCIS ADJUDICATIONS: TRENDS, RESPONSE STRATEGIES, AND IMPLICATIONS FOR INVESTORS REGARDING RFEs, NOITs, AND NOIDs

Panelists will provide an update on USCIS trends for both investor I-526 petitions and regional center I-924 applications, particularly with regard to Requests for Evidence (RFEs), Notices of Intent to Terminate (NOITs), and Notices of Intent to Deny (NOIDs). The panelists will provide insight “from the trenches” on effective approaches to address USCIS’ ever-shifting standards and concerns, including bridge financing, third-party swaps, and redemption.

Faculty:

Michele A. Franchett (DL), Stone Grzegorek & Gonzalez LLP, AILA EB-5 Investor Committee, Los Angeles, CA

Chun Yun “Elizabeth” Peng, Peng & Weber PLLC, Mercer Island, WA

John Patrick Pratt, Kurzban, Kurzban, Weinger, Tetzeli & Pratt, AILA Board of Governors/EB-5 Investor Committee, Miami, FL

Rebecca S. Singh, Mona Shah & Associates, New York, NY

4:00 pm–5:00 pm

REDEPLOYING EB-5 INVESTMENTS: A ROADMAP TO HELP NAVIGATE SECURITIES LAWS AND USCIS GUIDANCE

Redeployment of EB-5 investments implicates securities law issues that should be thoughtfully addressed upfront and continually throughout the process when structuring EB-5 financings. The panelists will provide a roadmap to help EB-5 stakeholders identify the common securities laws triggered in redeployment—i.e., investor consents and the Securities Act of 1933, the general partner/manager’s role and the Investment Advisers Act of 1940, and several other securities laws along the path to compliant redeployments.

Faculty:

Mariza E. McKee (DL), Conference Program Committee, Kutak Rock, Chicago, IL

Benjamin Cummings, Birch Capital, Wellesley, MA

Michael G. Homeier, Law Office of Michael G. Homeier, PC, Sherman Oaks, CA

Rana Jazayerli, Klingner Jazayerli LLP, Washington, DC

Abteen Vaziri, IIUSA Director, Brevet Capital, New York, NY

BREAKOUT ROOM

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** = Invited Speakers, Not Confirmed*

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Day Coordinator: TBD

10:50 am–11:50 am **INVESTOR MARKETS DISCUSSION: ASIA (VIETNAM, INDIA, AND BEYOND)**
As Chinese EB-5 funding slows down, what are the emerging markets for EB-5 fundraising in Asia? The panelists will discuss specific markets where EB-5 issuers are focusing their efforts. Learn more about the EB-5 prospects of other popular (and lesser-known) Asian markets.

- Vietnam: Is It Similar to China 10 Years Ago, or a Market with Its Own Dynamics?
- India: Hotspot for the Next Wave of EB-5 Investors, or a Gateway to U.S.-Based H-1B Holders?
- Is South Korea Trending?
- Other Opportunities in the Asian Market: The Philippines, Singapore, and More

Faculty:
Brandon Meyer (DL), Fakhoury Global Immigration, San Francisco, CA
David A. Enterline, WTW – Taipei Commercial Law Firm, Taipei, Taiwan
Janak Mehta, FRR Immigration, Mumbai, India
Jinhee K. Wilde, Wilde & Associates, Rockville, MD

11:50 am–12:30 pm **LUNCH (INCLUDED WITH REGISTRATION)**

12:30 pm–1:30 pm **INVESTOR MARKET DISCUSSIONS: THE AMERICAS (BRAZIL, VENEZUELA, MEXICO, AND BEYOND)**
Foreign national investors are now comparing the costs and timelines of pursuing an EB-5 visa through a regional center to alternative U.S. investor and work visas. The current administration's policies—e.g., the travel ban (affecting Venezuelans specifically), and the strict compliance with the intent to return on temporary visas—are making most immigration options more difficult. Ultimately, some foreign national investors consider EB-5 regional center projects as the most favorable option for entry into the United States. The panelists will discuss how these restrictive policies are affecting potential foreign national investors from North, South, and Central America.

- Due Diligence Questions: Either Immigration or Business/Investment Analysis
- The Comparison of Costs and Timelines for Alternative Visa Options
- Travel Ban 3.0: The Effect and Solutions
- Current USCIS and U.S. Consulate Policy: Strict Compliance with the Intent to Return as the Basis for Issuance of Temporary Work Visas
- What Is the Realistic End-Goal of the Foreign National Investor?

Faculty:
Maria Isabel Casablanca (DL), Akerman LLP, AILA EB-5 Investor Committee, Miami, FL
Victor A. Espinosa, Golden Gate Global, San Francisco, CA
Gonzalo Lopez-Jordan, American Regional Center Group, Miami, FL
Manuel Ortiz, Civitas Capital, Dallas, TX

1:35 pm–2:35 pm **INVESTOR MARKET DISCUSSIONS: EUROPE AND THE MIDDLE EAST**
It is an often overlooked fact that many of the earliest investors in the EB-5 program came from Europe and the Middle East, and there has been a steady stream of investors from these regions since. The panelists will discuss issues related to these markets and areas developers should focus on when looking for investors from these countries.

- History of European EB-5 Investment
- Hubs: London and Dubai ... and Now Cyprus and Baden (Germany)? Why?
- The Middle East North Africa Region and Ex-Patriots

(DL) = Discussion Leader

* = Invited Speakers, Not Confirmed

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- Anomalies of Marketing in the Middle East
- Is It Worthwhile to Market in Regions with E-2 Treaties Such as Turkey or Egypt?
- Look for Agents or Focus on Business to Business?
- Source of Funds Issues

Faculty:

Mona Shah (DL), Conference Program Committee, Mona Shah & Associates, New York, NY

Reza Rabbaran, Rabbaran & Associates, PLLC, Miami, FL

Irina Rostova, Rostova Westerman Law Group, Fort Lauderdale, FL

2:35 pm–2:55 pm

POST-SESSION DIALOGUE

Attendees and speakers are encouraged to continue the discussion of the issues addressed on the preceding panels.

2:55 pm–3:55 pm

EB-5 FINANCING STRUCTURES: WHAT'S RIGHT FOR ME?

In a complex time when High Volatility Commercial Real Estate requirements are impacting terms, term sheets fail the burden of proof, and impermissible guarantees are evolving, learn how preferred equity, a pledge of the borrower's ownership interest, and structuring loan terms for sustainment could benefit your project. Panelists will illuminate the interplay between complex business, financial, securities, and EB-5 requirements.

- Limited Circumstances Which Allow EB-5 to Replace Bridge Financing
- Flow of Funds for Bridge Loan Repayment
- Complex Multi-Layer Structures
- Mortgage Loan, Mezzanine Loan, Equity, and Preferred Equity: What Is the Relationship of EB-5 Funds to All Other Capital in the JCE?
- How Is the Typical Capital Stack Evolving?

Faculty:

Richard Booth (DL), Signature Bank, New York, NY

Gary "Skip" Stern, CanAm Enterprises, Chicago, IL

** Richard Fischer, Sterling National Bank, New York, NY*

4:00 pm–5:00 pm

EB-5 LITIGATION AND WHAT IT MEANS: WHO IS SUING WHOM AND WHY IT MATTERS

With legislation and liaison unlikely to address errors in USCIS legal interpretations and delays in adjudications, litigation is increasingly the best (or only) option. The panelists will review recent litigation trends and decisions and preview the expected issues to be litigated in the coming months and years. The panelists also will discuss suits against USCIS, as well as suits initiated by aggrieved investors.

- Review of Recent EB-5 Litigation in Federal Courts
- Preview of Likely Issues for Future Litigation
- Litigation Arising out of Regional Center Terminations
- Motion to Reopen, Appeal to the Administrative Appeals Office, or Federal Court: Which Is Best and When?
- When Is the Right Time to File for Mandamus?
- Litigation by Investors: Against USCIS, Regional Centers, and Developers (Respectively)

Faculty:

H. Ronald Klasko (DL), Conference Program Committee, AILA Past President/ Administrative Litigation Task Force Chair, Klasko Immigration Law Partners, Philadelphia, PA

Ira J. Kurzban, Kurzban, Kurzban, Weinger, Tetzeli & Pratt, AILA Author, Kurzban's Immigration Law Sourcebook/ AILA Past President, Miami, FL

Alan Tantleff, FTI Consulting, New York, NY

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5:00 pm

CONFERENCE CONCLUDES

CONFERENCE PROGRAM COMMITTEE

Bernard P. Wolfsdorf, Conference Program Chair, AILA Past President/EB-5 Investor Committee, Santa Monica, CA

Edward C. Besbara, Besbara P.A., Maitland, FL

Eren Cicekdagi, Golden Gate Global, San Francisco, CA

Ignacio A. Donoso, I.A. Donoso & Associates, Bethesda, MD

Nicolai Hinrichsen, Miller Mayer, LLP, Ithaca, NY

Noreen Hogan, CMB Regional Centers, Rock Island, IL

H. Ronald Klasko, AILA Past President/ Administrative Litigation Task Force Chair/

EB-5 Investor Committee, Klasko Immigration Law Partners, Philadelphia, PA

Mariza E. McKee, Kutak Rock, Chicago, IL

Mona Shab, Mona Shab & Associates, New York, NY

Jennifer Sberer, FirstPathway Partners, Milwaukee, WI

Kraig Schwigen, CMB Regional Centers, Rock Island, IL

John M. Area IV, AILA Education Programs Manager, Washington, DC

Ashley Sanislo Casey, IIUSA Director of Education & Professional Development, Nashville, TN

McKenzie Penton, IIUSA Director of Events & Business Development, Portland, ME

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