

# 区域 中心 商业期刊

2014年12月

IIUSA

ASSOCIATION  
TO INVEST IN USA

# #EB5 已创造实际 效益

## 本期看点:

2014 & 2015: EB-5区域中心行业的关键两年

项目的成功传达了EB-5投资获得的广泛支持

IIUSA第四届年度EB-5国际投资论坛将EB-5项目利益相关者汇聚一堂,开展行业培训、社交活动和倡议行动

重大变化:处理在签证排期倒退期间无法避免的事宜

新能源:EB-5投资移民带来的影响力投资

2014 USCIS EB-5 审核官培训材料

各州目标就业区(TEA)认证方式比较

EB-5年度数据展现了2014财政年EB-5区域中心项目前所未有的重大增长

IIUSA在中国 - 2014年度回顾





IIUSA is proud to host its 2015 Webinar Series, featuring a comprehensive array of EB-5 panel topics and an online event schedule designed to give you expert insights and analysis of crucial themes affecting the EB-5 Regional Center industry today. Click on the QR code or visit [www.IIUSA.org](http://www.IIUSA.org) and click on the IIUSA Event Calendar.

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- |  |  |   |
|--|--|---|
| <b>1/29</b> – Review of IIUSA EB-5 Regional Center Industry Best Practices                   | <b>5/7</b> – EB-5 Industry Advocacy: Post-Conference Review*                             | <b>9/10</b> – IIUSA EB-5 Advocacy Webinar: Pushing for Permanent Authorization of the EB-5 Regional Center Program* |
| <b>2/5</b> – EB-5 Industry Advocacy: Strategies for a New Congress*                          | <b>5/28</b> – Going Global: The Importance of Diversifying the EB-5 Investor Marketplace | <b>9/24</b> – EB-5 Litigation: Strategies & Trends  |
| <b>2/26</b> – Securities Laws and EB-5: Broker-Dealer Business Model                         | <b>6/25</b> – Best Practices: Working with Sales Intermediaries in an EB-5 Transaction   | <b>10/29</b> – Form I-924A: Strategies for Fulfilling the Annual EB-5 Regional Center Reporting Requirement         |
| <b>3/26</b> – Technology: How IIUSA is Empowering the EB-5 Industry Through Technology Tools | <b>7/30</b> – Banking & EB-5: Understanding the Roles of a Bank in EB-5 Transactions     | <b>11/19</b> – EB-5 Regional Center Project Case Studies: The Good, Bad, & Ugly                                     |
| <b>4/30</b> – EB-5 Visa Retrogression: What Does It Mean for Your Business?                  | <b>8/20</b> – USCIS EB-5 Adjudication Trends: I-526/I-829 Petitions & I-924 Applications | <b>12/17</b> – EB-5 Industry Year in Review & Look ahead to 2016  |

*\*Member-Only Webinars*

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# Letter from the Editor

DEAR READERS:

**T**his final edition of the Regional Center Business Journal for 2014 certainly captures the whirlwind sensation that arises from a rapidly-growing industry hitting a milestone that just a few years ago seemed to be light years away. This edition includes excellent year-in-review presentations that reveal an array of events and developments in the EB-5 industry. Atop the watershed that exists now that the EB-5 industry has a taste of annual visa limits, the question is what lies ahead for the EB-5 industry.

Of course there is even more hard evidence that “EB-5 is Working” -- to borrow from the theme of IIUSA’s effective Advocacy Conference in Washington DC this past May. The data, which always is a focus at IIUSA, says that in FY-2014 the total number of I-526 receipts was 10,928, representing a 72.2% increase from FY-2013, and that EB-5 capital has a meaningful impact in terms of Foreign Direct Investment contributions to the U.S. economy. Investment of EB-5 capital also is impacting certain high-priority sectors of the economy such as alternative energy and other important industry sectors we hope to showcase in future editions. These substantive results should prove critical as IIUSA advocates for legislation to make the EB-5 regional center program permanent.

**Lincoln Stone**

Chair of the Editorial Committee, IIUSA

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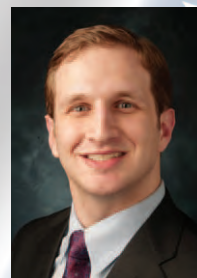
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# 政府事务时间表

## ★ ★ ★ ★ ★ 2014 年回顾 ★ ★ ★ ★ ★



作者：ASHLEY  
SANISLO CASEY

IIUSA 倡议/研究协调员

**下**方给出的时间表是对过去一年发生的与IIUSA和EB-5行业均相关的政府事务活动的总结梳理。

2014年又是EB-5区域中心行业创纪录的一年。今年递交和获批的I-526和I-829申请数量比往年都高，获批的区域中心保持稳定增长，行业成长情况令人振奋，因此，政府事务方面值得更多关注，也比以往更加需要杰出的倡议行动。2014财政年有5,115份I-526申请获得批准，相当于有超过25亿美金投资投入到美国的创造就业中。相比2013财政年和2012财政年，该数据增长率超过38%，相比2011财政年，增长率更是达到惊人的225.5%。另外，截至

2014年10月13日，有超过12,453份I-526申请仍待USCIS审核，相当于超过62亿外来对美直接投资。

2014年中，IIUSA始终支持EB-5区域中心项目，不断地展现EB-5项目在无数美国社区内持续产生的积极经济影响。一些组织，比如说美国郡县协会(NACo)，非常欢迎这样的积极影响，也已经通过了正式决议，决定支持立法通过永久项目法案。今年，IIUSA创立了协会构建委员会(ABC)，委员会成员专注于为EB-5行业发展和维护各类战略伙伴关系，例如和NACo的关系。另外，智囊团和学术研究机构今年发布的独立报告把EB-5行业定位为一项可行的创造就业和经济发展项目。感谢IIUSA的集体付出、会员倡议行动的努力、政府事务团队的贡献和IIUSA战略伙伴的支持，立法通过永久项目法案的

议案已被提出，国会中涌现出了新的强大盟友。

走向2015，项目法案到期日(2015年9月30日)就在眼前。IIUSA对协会在2014年打下的坚实基础和培养的资源工具很有信心，这都是为了顺利实现项目法案延期。一如既往，IIUSA鼓励各位会员积极参与倡议活动，为EB-5行业发声。

- **1/22-23** – IIUSA参加在华盛顿特区举办的美国市长会议年度冬季会面，讨论继续支持EB-5区域中心项目的相关事务
- **2/05** – 布鲁金斯学会发布正面评价报告，“促进EB-5投资移民项目：美国区域经济发展的国际融资方式”，称EB-5区域中心项目是一种区域经济发展工具
- **2/20** – IIUSA回复尊敬的参议员Tom A. Coburn M.D.关于询问各个区域中心运营实际情况的来信，回信中附上了一份360页的文件，回答了具体提问，并细致讲述了EB-5区域中心项目给美国带来的不断增长的经济贡献
- **2/26** – USCIS举办本年第一次公开季度会议，介绍了新任投资移民项目办公室主任Nicholas Colucci
- **3/03** – 美国郡县协会(NACo)通过暂行性决议，支持IIUSA立法通过永久项目法案的倡议





- **3/06** – 美国众议员Polis(D-CO), Garcia(D-FL), Salmon(R-AZ)和Amodoi(R-NV)提出H.R. 4178法案, 提议改革并立法通过永久EB-5区域中心项目法案
- **3/12** – 参议院司法委员会确认Leon Rodriguez将接任成为下一任USCIS局长
- **3/12** – 国会预算办公室宣布对H.R. 2131 (专业学科签证优惠法案SKILLS Visa Act)的官方评估, 称如果该法案颁布生效, 将在十年内削减财政赤字1100亿美金。该法案包含了可以通过改革方式立法永久通过并改进EB-5项目的内容。该法案经常规程序由众议院司法委员会批准通过
- **4/16** – USCIS宣布开始征集对EB-5项目监管变化的评论意见, 即日起截止5月8日
- **4/23** – USCIS为EB-5利益相关者举办关于可能的EB-5项目监管变化的意见听取会
- **5/1** – 新失业率数据和由州认证的目标就业区(TEAs)在加利福尼亚州生效, 有效期至2015年4月20日
  - **5/7-9** – IIUSA在华盛顿特区举办第七届年度区域经济发展倡议会, 会议火爆, 门票全部售罄, 有超过440名来宾前来参加。荣誉嘉宾有参议员Patrick Leahy, 国会议员Aaron Schock, 国会女议员Zoe Lofgren和USCIS投资移民项目办公室主任Nicholas Colucci。
  - **5/8** – SEC执法部门副主任Steve Cohen, 新兴监管事务主任Kavita Jain, 美国金融监管局(FINRA)会员申请组William Guli组成专家组在IIUSA倡议会上开展题为“EB-5项目的证券法相关”的座谈会
  - **5/8** – SelectUSA副执行主席Aaron Brickman在IIUSA EB-5倡议会上作关于EB-5和外来对美直接投资的主题演讲
- **5/14** – 国会议员Aaron Schock (R-IL)和附议者Tulsi Gabbard (D-HI)提出H.R. 4659法案。该法案如通过, 将实现永久EB-5项目法案并移除签证配额中的国家配额限制。该法案提出后, 获得了额外六名两党附议者
- **5/19-23** – IIUSA主席K. David Andersson参加SelectUSA在日本举办的路演并发言
- **5/20** – 奥巴马总统宣布下一次SelectUSA投资峰会将于2015年3月23-24日在马里兰州国家港湾举办
- **5/21** – IIUSA执行董事Peter D. Joseph参加SelectUSA在墨西哥梅里达举办的路演
- **5/22** – 行政管理和预算局(OMB)经济分类政策委员会(ECPC)宣布向公众征集关于未来可能修订2017版北美工业分类系统(NAICS)的建议
- **5/28** – USCIS行政上诉办公室(AAO)举办关于近期与AAO有关的发展变化和上诉进程的利益相关者电话会议和意见听取会
- **6/1** – IIUSA创建若干新委员会, 体现了EB-5行业不断提升的需求, 包括协会构建委员会、履行委员会、技术委员会和银行委员会
- **6/11** – 参议院司法委员会举办移民相关意见听取会, 国土安全部部长Jeh Johnson出席了该会议。IIUSA递交了一封展示EB-5区域中心项目经济影响数据的信件
- **6/19** – IIUSA启动新的倡议电子报《“EB-5已产生实际效果”倡议行动更新》。电子报将刊登EB-5行业相关政策和倡议行动更新, 并定期呈送给IIUSA会员和国会工作人员
- **6/21** – IIUSA在达拉斯的NYLO酒店(某EB-5项目所建酒店)为全美市长年会举行欢迎酒会。达拉斯市长Mike Rawlings出席了该酒会
- **6/25** – USCIS向个人和组织征集关于EB-5监管变化的评论意见

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# GOVERNMENT AFFAIRS TIMELINE:

## ★ ★ ★ ★ ★ 2014 IN REVIEW (CONT.) ★ ★ ★ ★ ★

- **7/1** – Initiative for a Competitive Inner City (ICIC) publishes a report, “Increasing Economic Opportunity in Distressed Urban Communities with EB-5”. The report demonstrates EB-5 to be an effective funding tool for community organizations and foundations as they work to improve the economy of inner city communities.
- **7/1** – IIUSA Executive Director Peter D. Joseph and other IIUSA members participate at ICIC’s “Putting Foreign Capital to Work through EB-5” forum at the Harvard Kennedy School in Cambridge, MA.
- **7/10** – The New York Times publishes an op-ed by American entrepreneurs and business titans Sheldon Adelson, Warren Buffett and Bill Gates. The piece applauds EB-5 for creating American jobs and bringing foreign investment to the U.S.
- **7/12** – NACo passes a permanent resolution supporting permanent authorization of the EB-5 Program at its Annual Meeting in New Orleans, LA with the help of IIUSA’s Association Building Committee
- **8/1** – IIUSA Public Policy Committee establishes a “Regulations Task Force” to develop recommendations to USCIS for its proposed changes to EB-5 regulations.
- **8/12-13** – IIUSA Executive Director Peter D. Joseph moderates a two-day EB-5 seminar in Washington, DC, hosted by the Council for Development Finance Agencies (CDFA).
- **8/14** – USCIS holds a special stakeholder engagement teleconference with the newly appointed USCIS Director, Leon Rodriguez. The dialogue included a brief question and answer session which illuminated Director Rodriguez’s position on EB-5 issues.
- **8/23** – Charles Oppenheim, Chief of the Visas Control Office as the Department of State, announces EB-5 visa for China are unavailable for the remainder of FY2014.
- **8/28** – IIUSA releases a statement on the Aug. 27 federal indictment of Mr. Anshoo Sethi. The statement applauds the enforcement of U.S. securities laws, which are a main factor that make the U.S. the number one destination for foreign direct investment.
- **9/3** – SEC releases a statement that they and the Department of Justice are charging a California regional center with defrauding investors through the EB-5 Program. IIUSA immediately announces support of the legal action taken on the non-member regional center to protect investors and the integrity of the EB-5 Program from alleged fraud.
- **9/6-9** – IIUSA leads a 200+ American delegation to the China International Fair for Investment & Trade (CIFIT) in Xiamen, China.
- **9/10** – USCIS holds another quarterly EB-5 stakeholder engagement teleconference. IIUSA submits several questions regarding statistics, administration and policy of the Program.
- **9/13** – SEC’s Office of Investor Education and Advocacy issues an investor bulletin to educate investors about investing in unregistered securities offering under Regulation D of the 1934 Securities Act.
- **9/16** – At the request of the U.S. Department of Commerce, IIUSA submits a letter to the International Trade Administration (ITA) giving feedback on SelectUSA – which promotes the U.S. as a destination for foreign direct investment – regarding its important contributions to the EB-5 marketplace.
- **9/17** – USCIS makes a call for comments on form I-829. The commenting period remained open until November 14.
- **9/23** – IIUSA Executive Director Peter D. Joseph moderates an EB-5 forum hosted by the Federal Reserve Bank of New York in Syracuse.
- **9/25** – IIUSA Director Chris Marlin moderated a panel at the National Association of Business Economists Annual Conference in Chicago, IL on the long-term relationship between China and the U.S.
- **9/30** – One year mark until the sunset date of the EB-5 Program on September 30, 2015.
- **9/30** – American Immigration Council (AIC) publishes a report through its Immigration Policy Center titled “New American Investors Making a Difference in the Economy”. The report demonstrates the positive economic impact of EB-5 by highlighting successful projects and partnerships with local economic development agencies.
- **10/22-24** – IIUSA hosts its 4th Annual EB-5 Market Exchange in San Francisco, CA. Guests of Honor included Congressman Aaron Schock, former Mayor to the City of San Francisco, Willie L. Brown, Jr., and former U.S. Ambassador to China, former Governor of Washington and former Secretary of the U.S. Department of Commerce, Gary Locke.
- **11/4** – National mid-term elections result in Republicans maintaining control the House of Representatives and winning a majority in the Senate
- **11/18** – USCIS makes a call for public comment on forms I-924 and I-924A through Dec. 22.
- **11/20** – President Obama announces executive action on immigration. The order does not address reform in any of the employment-based visa categories, including EB-5.
- **11/21** – USCIS publishes updated data on I-526 and I-829 petitions for FY2014. The data reflects tremendous growth in the industry from FY2013, including a 72.2% increase in I-526 receipts and an estimated 50,000+ jobs created from EB-5 investments.
- **11/20-21** – IIUSA exhibits and Executive Director Peter D. Joseph speaks at CDFA’s Development Finance Summit in Scottsdale, AZ.
- **12/5** – USCIS holds its final quarterly EB-5 stakeholder engagement of 2014. IIUSA submits several questions on policy, statistics, and administration in advance of the call. ■



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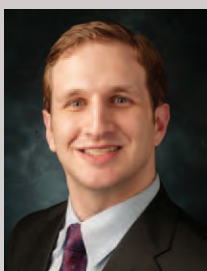


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# 2014 & 2015:

## Pivotal Years for the EB-5 Regional Center Industry



**BY PETER D. JOSEPH**  
EXECUTIVE DIRECTOR, IIUSA

### LOOKING BACK AT 2014: A HALLMARK YEAR OF GROWTH & PROGRESS

2014 was a busy year for all of us involved in putting foreign direct investment (FDI) to work creating American jobs through the EB-5 Regional Center Program (the “Program”). Together, we set new records for investor demand, capital formation, economic impact, and more. Along the way, the EB-5 Regional Center industry made substantial progress establishing the Program as a potent regional economic development tool.

It is important understand what we accomplished this year to chart our course moving forward with re-authorization of the Program needed before September 30, 2015.

Key accomplishments in 2014 included:

- **Record-setting growth of the EB-5 Regional Center Program**
- **Broad bipartisan support for the Program and expanded outreach efforts**
- **Standing up of USCIS’ new Investor Program Office (IPO) in Washington, D.C. and increased public engagement**
- **Strengthened interagency collaboration to protect the integrity of the Program**
- **Improvement of industry best practices**
- **Economic development projects around the country funded by EB-5 capital delivering on the promise of American job creation through FDI**

“Together, we set new records for investor demand, capital formation, economic impact, and more. Along the way, the EB-5 Regional Center industry made substantial progress establishing the Program as a potent regional economic development tool.”

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The details below demonstrate how these accomplishments lay a strong foundation for what promises to be a pivotal year ahead in 2015. We all need to work together and focus on our shared interests to ensure the future of EB-5 as a tool for U.S. job creation and regional economic development.

**Record-setting growth of the EB-5 Regional Center Program.** As of the start of the federal government's new fiscal year on October 1, 2014, there are 600 approved Regional Centers—an increase of approximately 51 percent from last year. IIUSA now represents 249 Regional Centers, up 45 percent from 135 in 2013, and boasts 211 Associate Members, up 12 percent from 185 last year. Our members contribute over 95 percent of all EB-5 capital raised and deployed for U.S. job creation.

Investor demand and EB-5 capital formation also set records in FY2014, with 10,928 investor petitions received, 5,115 approved, and 12,453 pending. This translates into more than \$5 billion in capital submitted for intended deployment into the U.S. economy, over \$2.5 billion approved for investment and an additional \$6.2 billion in capital awaiting federal adjudication.

This tremendous growth means not only more business and more opportunities within the industry but also a need for stronger advocacy efforts than in the past. IIUSA has been working diligently to keep members informed of activities in Washington, D.C., while also playing an active role in shaping policy as it pertains to the industry by fostering relationships with both Congress and the federal agencies that oversee the Program.

**Broad bipartisan support for the Program and expanded outreach efforts.** While neither comprehensive immigration reform nor specific EB-5 reforms passed Congress this year, we will build on a number of legislative victories in 2015. All of the EB-5 related

legislative proposals considered in the 113<sup>th</sup> Congress (S. 744, H.R. 2131, H.R. 4178, and H.R. 4659) included permanent authorization of the Program. At IIUSA's Advocacy Conference in May, Representative Aaron Schock (R-IL) announced to attendees that he would introduce stand-alone EB-5 legislation in short order. The following week, along with cosponsor Rep. Tulsi Gabbard (D-HI), he introduced H.R. 4659, a bill that would permanently authorize the Program while also removing the per-country visa cap. Since its introduction, the bill has gained an additional six bipartisan co-sponsors. Although the bill will have to be reintroduced in the 114<sup>th</sup> Congress, the initial support for it is strong and gives us confidence in its potential. We look forward to revisiting these proposals as the basis for EB-5 legislation in the 114<sup>th</sup> Congress.

IIUSA also broadened its outreach efforts to educate important stakeholder groups about the Program and generate additional support. The new Association Building Committee, for example, worked closely with the National Association of Counties (NACo) in the drafting and adoption of a resolution stating NACO's support of permanent reauthorization of the Program.

In addition, individual members of the Board of Directors and I spoke and presented at events all around the world, including SelectUSA Roadshows throughout Asia, the Council of Development Finance Agencies' seminars, Initiative for a Competitive Inner City's seminar on EB-5, a forum sponsored by the New York State Federal Reserve, and more. IIUSA's 7<sup>th</sup> Annual EB-5 Regional Economic Development Conference in Washington, D.C. in May and the EB-5 Market Exchange in San Francisco in October both boasted record attendance, and educational

**“IIUSA now represents 249 Regional Centers, up 45 percent from 135 in 2013, and boasts 211 Associate Members, up 12 percent from 185 last year.”**

panels featuring leading industry experts and government officials. We were honored to hear the perspectives of former Ambassador to China Gary Locke; Chairman of the Senate Judiciary Committee, Senator Patrick Leahy; Representatives Aaron Schock and Zoe Lofgren; former Mayor of San Francisco Willie L. Brown, Jr.; SelectUSA Executive Director Aaron Brickman; SEC Associate Director Stephen L. Cohen; FINRA Director of Emerging Regulatory Affairs, Kavita Jain; and State Department Chief of the Visas Control Office Charles Oppenheim.

**Standing up of USCIS' new Investor Program Office (IPO) in Washington, D.C. and Increased Public Engagement.** In 2014, USCIS moved all EB-5 operations to its new Investor Program Office in Washington, D.C., which now has more than 100 employees including adjudicators, experts in fraud detection and national security, business experts, and economists.

While this move was meant to improve the backlog of petitions, the problem remains and despite progress on IPO output generally, the problem worsened in FY2014. In FY2014, 10,928 I-526 petitions were received and 5,115 were approved. As of September 30, 12,453 petitions were pending adjudication. This represents over \$6.2 billion in FDI intended on supporting well over 124,000 American jobs. IIUSA is committed to improving this backlog so investments can flow into economic development projects, creating jobs and improving communities across the United States.

Following through on its commitment to improve public engagement for the Program, USCIS hosted quarterly EB-5 stakeholder public engagements in 2014 which could be attended via teleconference or in person on a limited basis. For each session, IIUSA submitted questions on topics ranging from

**“USCIS enhanced its interagency collaboration efforts to strengthen the program and ensure its integrity. This includes working closely with the Securities & Exchange Commission (SEC), Department of Justice (DOJ), and the Department of Commerce, specifically SelectUSA.”**

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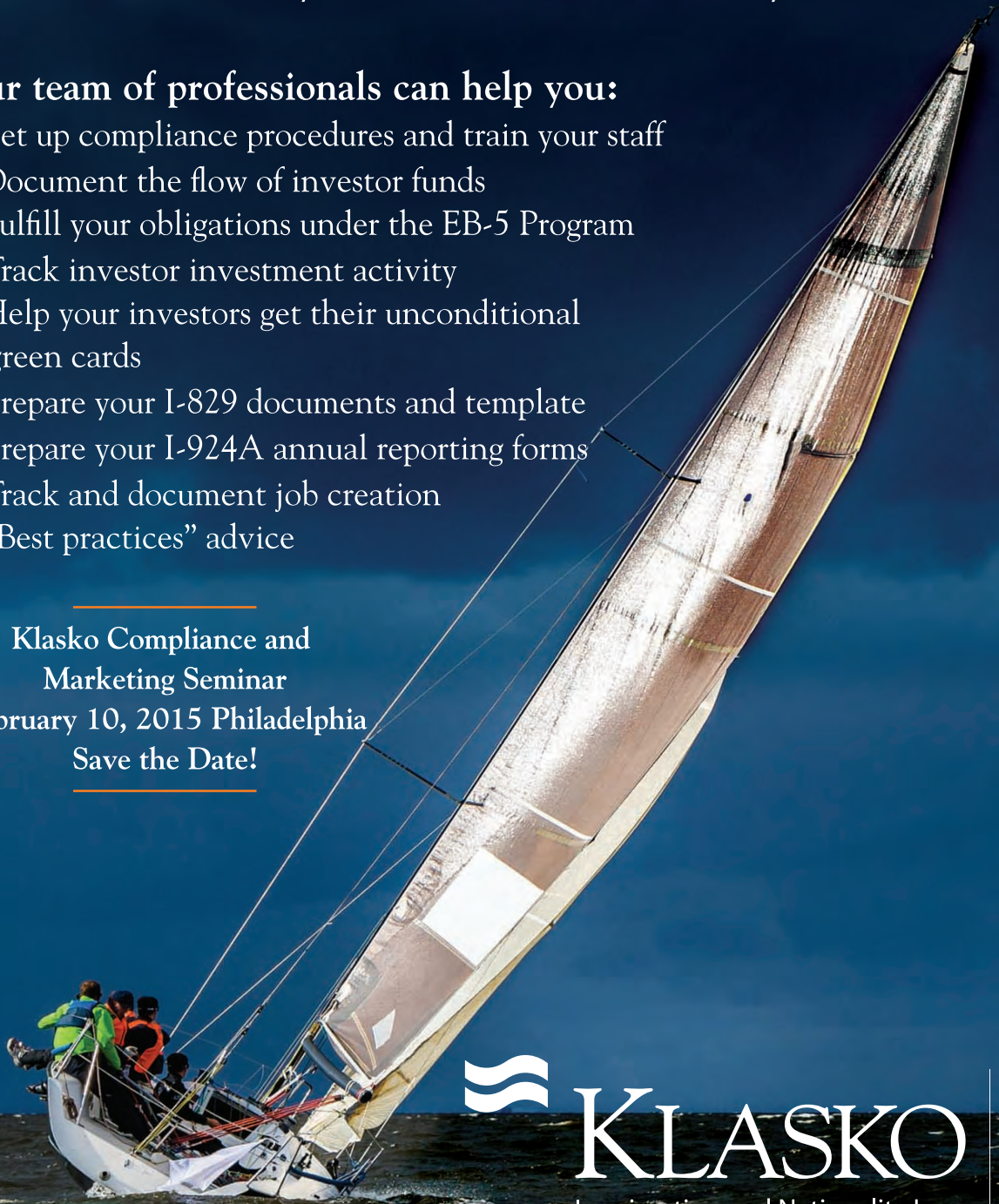
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Program policy, administration, and statistics. IPO is also in the process of overhauling EB-5 regulations and drafting policy guidance on visa retrogression – two key components of ensuring that the policies governing the Program reflect current market conditions.

**Strengthened interagency collaboration to protect the integrity of the Program.** Additionally, USCIS enhanced its interagency collaboration efforts to strengthen the program and ensure its integrity. This includes working closely with the Securities & Exchange Commission (SEC), Department of Justice (DOJ), and the Department of Commerce, specifically SelectUSA. At the request of the International Trade Administration (ITA), a bureau within the Department of Commerce that oversees SelectUSA, IIUSA submitted comments and recommendations about SelectUSA and its interactions with the EB-5 industry. IIUSA was happy to provide this documentation and appreciates the work

**“Holding the industry to the highest standard of conduct is essential to maintain the confidence of investors, policymakers and other stakeholders.”**

of SelectUSA in promoting foreign direct investment to the United States.

**Significant improvement of industry best practices.** Internally, IIUSA made great strides this year towards improved self-regulation of the industry. In May at the Annual Membership Meeting, IIUSA members approved an enhanced set of best practices, which now includes a complaint process and form for members to report bad actors that they feel are not in compliance with the IIUSA Code of Ethics and Standards of Professional Conduct. Holding the industry to the highest standard of conduct is essential to maintain the confidence of investors, policymakers and other stakeholders.

**Economic development projects around the country touched by EB-5 delivering on their promise of American job creation**

**through foreign direct investment.** In upstate New York, EB-5 investments helped get the award-winning Gates Vascular Institute up and running -- supporting thousands of jobs in the Buffalo area -- while EB-5 funds in Arizona were critical in launching the Green Valley Hospital, set to

open early next year. SolarMax, a large solar panel manufacturing and installation facility currently revitalizing the economy in Riverside County, California, used EB-5 capital to get started; as did the first new ethanol facility in North Dakota.

In Philadelphia, \$18.5 million in EB-5 capital supported development at the Philadelphia Naval Shipyard, a site that once housed numerous military facilities. After rehabilitating the site for commercial tenants, the Navy Yard is now an important regional employment center- home to 130 companies and 10,000 employees. Similar developments in California funded by EB-5 turned a defunct military base into a thriving regional airport and business distribution center.

These are only a few examples of the tangible economic development that EB-5 was responsible for in FY2014. These results were documented in great detail in reports published in 2014 by policy think tanks like the Brookings Institute and Initiative for a Competitive Inner City (ICIC). Partnering with foundations and other community leaders, these organizations set out to explore how the Program could be improved from a policy perspective going forward. We at IIUSA appreciate the interest from these organizations and gladly participated in the research process. We look forward to working with other policy and community leaders interested in EB-5 as a tool for regional economic development and “impact investing.”

**“As part of the 10th anniversary of our incorporation, we are moving headquarters from Chicago, IL to Washington, D.C. effective January 1. With USCIS’s Immigrant Investor Program Office now in D.C. and the federal nature of the Regional Center industry, relocation to the nation’s capital is an exciting way to start the year.”**





“We are currently compiling signatories for a letter of support that will be sent to the new 114th Congress, urging permanent authorization. IIUSA sent a similar letter in 2012 with 375+ diverse signatories from across sectors, a number we have already exceeded for our 2015 letter. We encourage you to send your partners and supporters to [IIUSA.org](http://IIUSA.org) to sign onto the letter!”

#### LOOKING AHEAD AT 2015: A FOCUS ON ADVOCACY EFFORTS

2015 marks a year of important milestones for IIUSA and the EB-5 Regional Center industry. February will mark five years as Executive Director for me (and seven years of working at IIUSA) and IIUSA turns ten years old in May. As part of the 10<sup>th</sup> anniversary of our incorporation, we are moving headquarters from Chicago, IL to Washington, D.C. effective January 1. With USCIS's Immigrant Investor Program Office now in D.C. and the federal nature of the Regional Center industry, relocation to the nation's capital is an exciting way to start the year. It will allow IIUSA

to be at the forefront of policy deliberations while reinforcing the billions of dollars of economic impact of the EB-5 Program.

With the Program approaching a September 30, 2015 deadline for reauthorization, IIUSA's advocacy efforts will focus on securing permanent authorization of the Program along with measures to maximize capacity for economic impact, streamline processing of EB-5 petitions/applications, and strengthen Program integrity. We are currently compiling signatories for a letter of support that will be sent to the new 114<sup>th</sup> Congress, urging permanent authorization. IIUSA sent a similar letter in 2012 with 375+ diverse signatories from across sectors, a number we have already exceeded for our 2015 letter. **We encourage**

**you to send your partners and supporters to [IIUSA.org](http://IIUSA.org) to sign onto the letter!**

To support and lead the industry's advocacy efforts, IIUSA will host free quarterly advocacy webinars exclusively for IIUSA members. The goal of these events is to keep our members informed and ensure that they are empowered with tools and resources to be effective advocates for this industry. We also will publish our annual peer-reviewed economic impact report that uses FY2013 data. A preliminary analysis indicates that the new report will show even greater impact than FY2012 when the Program contributed \$3.4 billion to U.S. gross domestic product (GDP), supported over 42,000 American jobs, and

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WRIGHT JOHNSON

*professional authors and analysts*

**Experience Matters**

generated over \$712 million in federal/state/local tax revenue. Lastly, in April, we will host our 8<sup>th</sup> Annual EB-5 Regional Economic Development Advocacy Conference in Washington, D.C. Members and attendees can expect a stellar lineup of speakers, and educational panels and high-energy as we take to our message to Capitol Hill.

The growth of the EB-5 Program brings increased attention from the media and policymakers. We can expect a number of issues and events to shape this interest in year ahead:

**More projects maturing with I-829 filings, investor exits, and lasting economic impacts.** We expect to see a spike in I-829 filings in 2015 from investors who initially invested before 2013. For projects that have gotten through the I-829 stage, there will be more examples of Regional Centers and their projects exiting investors. Finally, the lasting economic impact of these projects in communities across the U.S. will garner attention from a variety of Program beneficiaries ranging from local government, economic development authorities, chambers of commerce, unions, workers, etc. We anticipate that these milestones are likely to generate press coverage, illustrating the true story of EB-5 – that is a job-creating, economic development tool

making good in American communities.

**Backlog in availability of EB-5 visas for Chinese applicants (“visa retrogression”).** The announcement in August 2014 by the Department of State that for the first time ever, visas for mainland China applicants would not be available until the start of the new fiscal year on October 1 was a reminder of the popularity of the Program and the benefits the U.S. has to offer, attracting foreigners to become residents and contributors to U.S. communities, tax base, and economies. It is expected that EB-5 visa availability will formally retrogress in summer of this current FY2015 which will hinder the Program’s economic impact, make it less competitive in the global marketplace, and impact policies currently in place with billions of dollars on the line. USCIS plans on issuing guidance on policy ramifications of visa retrogression which will be made available for public comment before implementation.

**Public engagement from USCIS “in the field” through site visits, “EB-5 Interactive” events around the country, and regulatory reform.** In May 2014 USCIS announced it was considering reforms to EB-5 regulations and made an open call for comments. IIUSA’s Public Policy Committee was tasked with

drafting IIUSA’s recommendations and a Task Force was formed accordingly. Work is still pending but expected to finish in 2015.

**Federal Interagency Collaboration.** Several federal agencies collaborate with USCIS to ensure the integrity of the EB-5 Regional Center Program, including: Committee on Foreign Investment in the U.S., Department of Commerce, DOJ, Department of Labor, Government Accountability Office (GAO), and Securities & Exchange Commission. The Department of Commerce and GAO will both publish reports about the Program sometime in 2015, with Commerce studying the Program’s economic impact and the GAO auditing various aspects of the Program.

As stakeholders of the EB-5 Regional Center industry, your support and activism is needed more than ever in 2015. It promises to be the busiest year for our industry yet. Our story is more compelling than ever thanks to your hard work and support. We at IIUSA look forward to working with you and are thankful for the growth and opportunity to represent a dynamic global industry that is using macroeconomics of globalization to create jobs here in the U.S. at no cost to the taxpayer. May it be our most successful year yet on that patriotic endeavor! ■

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# “Program Champions” Convey Broad-based Support for EB-5 Investment

The EB-5 Regional Center Program has seen unprecedented bi-partisan support on a local and national level over the past year. With the sunset date of September 30, 2015 looming in the not too distant future, it is incumbent on IIUSA, as the trade association representing 240+ EB-5 Regional Centers and service providers from every corner of the industry, to synthesize a cohesive message that EB-5 stands for economic development and job creation.

At the EB-5 Regional Economic Development Advocacy Conference in Washington,

D.C. this past May, IIUSA debuted the slogan, “EB-5 is Working. For You. For America.” The essence of this messaging is the EB-5 Program contributes billions of dollars to the U.S. gross domestic product (GDP) and tens of thousands of jobs to the American economy each year. In fact, a comprehensive peer-reviewed economic study found that during fiscal year 2012, investments made through the EB-5 program contributed \$3.39 billion to U.S. GDP and supported over 42,000 U.S. jobs. IIUSA fully expects these figures to increase in subsequent economic analyses of the EB-5 Program, which are currently underway.

Each of IIUSA’s three major events on the 2014 calendar – the EB-5 Advocacy Conference, the September trade mission to China (EB-5’s largest investor market) and the October EB-5 Market Exchange in San Francisco (Read More on Page 22) – featured powerful remarks from EB-5 Program supporters from across the public arena. Below, we share a selection of quotes that applaud EB-5 stakeholders for their transformative work in bringing capital to communities around the country and building the oversight needed to ensure the “EB-5 is Working” mantra is here to stay.

“EB-5 funds have been used to repurpose military bases in both Southern California and Philadelphia, and in support of major infrastructure projects such as airports and public transit systems. In Seattle, EB-5 funding has revitalized the city’s SoDo industrial district. As an economic development tool, EB-5 investments made through regional centers offer a way of obtaining pooled investments that can contribute to the financing of deals that benefit local economies. State and metropolitan areas should be able to make better strategic use of the EB-5 investor visa program for projects that fit with the character and industries of their own region, especially if the investment is used strategically and in tandem with greater economic development objectives... Regardless of whether immigration reform happens, the recent growth in the number of regional centers and geographic areas in which they are permitted to operate, as well as the rise in the number of immigrants requesting visas in order to make investments, is an indication that EB-5 financing will become an even more popular source of funding for economic development projects.”

**AUDREY SINGER**, Senior Fellow, Brookings Metropolitan Policy Program, “Improving the EB-5 Investor Visa Program: International Financing for U.S. Regional Economic Development,” February 5, 2014

“The EB-5 Regional Center Program has incentivized hundreds of millions of dollars of foreign investment here in America. It has created tens of thousands of jobs across the country. It has spurred more than \$200 million worth of investment here in Vermont. It has created thousands of jobs here in the Northeast Kingdom alone. Perhaps most importantly, it has not cost the tax payer a single penny.”

**PATRICK LEAHY** (D-VT), Chairman, Senate Judiciary Committee, IIUSA Membership Meeting, May 7, 2014



“Foreign direct investment (FDI) is unequivocally important to this country. FDI is responsible for about 6 million direct jobs, a similar amount of indirect jobs, tens of billions of dollars in research and development (R&D) and tens of billions in other capital expenditures across industry sectors from services, manufacturing to agriculture. Why do investors come to the United States? Because we are a large, sophisticated, robust, continental economy, which is highly-ranked across numerous business indicators.”

**AARON BRICKMAN**, Deputy Executive Director of SelectUSA, IIUSA EB-5 Advocacy Conference, May 8, 2014



“The vast majority of the members of the House and Senate support the EB-5 Program. Now why is that important? Next year, this program expires, unless it is renewed. And so we have to put together a good, solid package so that we renew this program and make sure that the benefits for our country are preserved.

My grandfather was an immigrant. He came to the United States when he was sixteen. He did not have anything. And now his grand-daughter is in Congress. That's the country. That's the way the country works. And if we don't have vibrant immigration in our future, we are putting at risk the whole American spirit in my judgment.”

**ZOE LOFGREN** (CA-19), Ranking Member of the House Immigration Subcommittee (of the Judiciary Committee), IIUSA EB-5 Advocacy Conference, May 8, 2014



“I think it's no surprise to most people in this room that the SEC (Securities and Exchange Commission) and the U.S. Citizenship and Immigration Services (USCIS) formed a strong partnership over the last couple of years to combat fraud in other securities-related issues relate to the EB-5 Program. Part of our ongoing partnership is to ensure that folks that are sensitized to understand securities-related issues that involve the EB-5 Program. Because of the requirement that the money be at risk or invested when someone applies to engage in EB-5 Program, most investments related to EB-5 visas will be securities, whether they are registered or not. As a consequence, they bring a certain type of misconduct within the jurisdiction of SEC.”

“It is true that enforcement has largely focused on the anti-fraud provisions of our statute, which is the SEC's broadest area of jurisdiction. But, I would note, we have been looking at and are interested in non-fraud related issues such as unregistered broker-dealers, unregistered investment advisors and the like.”

**STEVE COHEN**, Associate Director of the Division of Enforcement, Securities and Exchange Commission (SEC), IIUSA EB-5 Advocacy Conference, May 8, 2014



“I urge you to hit the Hill, and if you don't have a relationship with your House and Senate members, get into them. And if they are not out here in Washington, D.C., back in your home state. Educate them. Invite them to your regional centers. Take them to projects that you have done. Let them understand the impact of EB-5 and the value of the dollars that are invested in our economy and the jobs created both in terms of construction on the project you work on but also the long term, recurring revenue streams that it incorporates. Those are the type of real stories they are going to help move needle to help us get done what we need to do with EB-5.”

**CONGRESSMAN AARON SCHOCK** (IL-18), IIUSA EB-5 Advocacy Conference, May 8, 2014

“FINRA is the regulator of securities industries in the U.S. Our mission is to protect investors and ensure market integrity. FINRA is a non-governmental and independent entity, although our job is authorized by Congress.”

“We write rules for our member firms, for the broker-dealer firms and we enforce them. We examine firms on a regular basis; sometimes these are cycle exams. Sometimes these are cause exams. Sometimes they are risk-based exams. And when we see non-compliant behavior, we can fine them, suspend them, or even bar them.”

“We require that to the extent a broker is making a recommendation of a private placement, the broker is responsible to conduct reasonable due diligence of the offering. In the world of EB-5, it means reviewing and connecting due diligence of the issuer, the regional center, the project, making sure that all claims and representations that are made are reasonable, making sure that projects offered or the transaction that the broker is suggesting meets the requirements of the EB-5 Program.”

**KAVITA JAIN**, Director of Emerging Regulatory Affairs, Financial Industry Regulatory Authority (FINRA), IIUSA EB-5 Advocacy Conference, May 8, 2014

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“Throughout the past year, IIUSA has demonstrated its commitment to industry development and an establishment of common understanding with our partners in China, the EB-5 industry’s largest investor market. In May, IIUSA signed memoranda of understanding with the American Chambers of Commerce in Shanghai and South China as well as eight provincial level entry-exit associations. Focused on issues of due diligence, compensation practices, and market transparency/integrity, these partnerships were strengthened in September when a delegation of 250+ IIUSA members participated in a trade mission to the China International Fair for Investment and Trade (CIFIT). At the annual Market Exchange in October, IIUSA invited its international partners to join the conference in kicking off a tour of EB-5 project site visits in the U.S.”

**K. DAVID ANDERSSON**, President IIUSA; President, Whatcom Opportunities Regional Center & EB-5 Northwest Regional Center, China International Fair for Investment and Trade (CIFIT), September 9, 2014



“Many agencies intersect with EB-5, whether it is the Securities and Exchange Commission, Immigration and Customs Enforcement, or the Department of Commerce. One of the things I propose to do, and one of the reasons that the Program was relocated to Washington, DC, is to facilitate greater interaction among the interagency community. Just as the EB-5 Program cannot be successful without your support, we need to build strong partnerships with other federal agencies who are likewise stakeholders in the Program.

We can only continue to improve the Program so long as you, as our stakeholders, are willing to share your thoughts and concerns with us and we can have that open and honest dialogue I discussed at the beginning of my comments. EB-5 is not simply a government or USCIS program, it is a program of the entire EB-5 stakeholder community and it is through our combined efforts that the Program provides the greatest possible benefit to the U.S. economy, job-seekers, and the immigrant entrepreneurs and investors.”

**NICHOLAS COLUCCI**, Chief, Immigrant Investor Program, U. S. Citizenship and Immigration Services, IIUSA EB-5 Advocacy Conference, May 8, 2014

“I’d like to thank IIUSA for not just promoting the EB-5 Program, but for promoting high standards for all participating entities and helping build best practices to make sure the Program thrives and yet we also have satisfied and happy investors.”

“We know that foreign direct investment in America is vital to our economic growth, job creation as well as productivity. Wealthy entrepreneurs, and their families, are attracted by our stable and transparent legal system and political system and also the educational opportunities available to their children. The EB-5 Program provides Chinese investors the opportunity to give their families and children a better future”

**GARY LOCKE**, former Ambassador to China, U.S. Secretary of Commerce and Governor of Washington

“The American Chamber of Commerce in South China is proud of our established partnership with IIUSA to co-host the U.S. Pavilion at the 18th Annual China International Fair for Investment & Trade (CIFIT) in Xiamen, China for a second consecutive year. Our collaboration brings together international partners from across sectors to strengthen the bonds of economic friendship between China and the U.S. - including through the EB-5 Regional Center Program.”

**HARLEY SEYEDIN**, President, American Chamber of Commerce (AmCham) in South China, China International Fair for Investment and Trade (CIFIT), September 9, 2014



“The formal partnership between IIUSA and Council of Development Finance Agencies (CDFA) is centered upon a commitment to collectively move the development finance industry and the EB-5 Regional Center Program industry forward. We are very proud of our partnership with IIUSA to educate the economic development community on EB-5 rules, regulations, policies, and best practices.”

**TOBY RITTNER**, President/CEO, Council of Development Finance Agencies, EB-5 Market Exchange, Oct. 23, 2014

“Cities are places with competitive advantages for businesses. Initiative for a Competitive Inner City (ICIC) highlights these advantages and profile businesses that are growing successfully in these areas. With investments in the billions of dollars annually, ICIC has become very excited about the potential for driving EB-5 investments into many capital-starved areas around the country.”

**KIM ZEULI**, Senior Vice President & Director of Research, Initiative for a Competitive Inner City, IIUSA, EB-5 Market Exchange, Oct. 23, 2014



“The EB-5 Program is very critical to the economic development of our communities because it can mean investment, it can mean jobs. Just in the last year, the EB-5 Program is responsible for \$5.5 billion dollars of potential investment in our communities. [As USCIS Director] I have the desire not merely to be an operator and manager of the EB-5 Program, but to be an enthusiast of the EB-5 Program and to champion the potential that it represents for our communities in the United States, subject to the fact that we have to do our job with respect to national security and the integrity of the Program.”

**LEÓN RODRÍGUEZ**, Director, U.S. Citizenship and Immigration Services (USCIS), EB-5 Stakeholder Meeting, December 5, 2014

“One question we need to ask ourselves is how do we make sure that the EB-5 Program is being integrated into broader economic development strategies that are in the interest of everybody? Interests must be aligned, all the way from the investor and investor advisor overseas to the Regional Center, the project, the moving parts involved within a project and finally the community where that project is being built. We are seeing this alignment of interests around the country with results that speak for themselves to the annual tune of billions of dollars in capital investment and GDP in the U.S., tens of thousands of American jobs, and over a billion dollars on federal/state/local tax revenue. More importantly, these results speak for themselves to the tune of community development and revitalization through 21st century regional economic development.”

**PETER D. JOSEPH**, Executive Director, IIUSA, EB-5 Market Exchange, Oct. 23, 2014



“There are more applications pending in this country than any other country, all because the investment opportunities are here in America. What we need to make sure is that the end product is equally beneficial to those at the local level as those at the international level (investors).”

“Think Globally. Think in terms of the most creative way you can engage international investors. There are organizations enthusiastic about the prospect of helping implement that creativity on a global scale while meeting all of the standards required under [the EB-5 Program].”

**WILLIE L. BROWN, Jr.** Former San Francisco Mayor and former Speaker of the California state legislature

# IIUSA'S 4TH ANNUAL EB-5 MARKET EXCHANGE

## Unites Regional Center Program Stakeholders for Week of Industry Education, Networking & Advocacy



**BY ALLEN WOLFF**  
IIUSA MARKETING AND  
COMMUNICATIONS  
COORDINATOR

**T**his year, IIUSA's 4th Annual EB-5 Market Exchange was held in the world-class city of

San Francisco, California from October 22-24, 2014. In total, over 550 EB-5 stakeholders attended this year's conference, including 47 exhibitors and 29 sponsors, making it the largest and most successful IIUSA conference ever!

It was not just the sheer size of the conference that made it so successful, it was also the thought-provoking discussions and leadership demonstrated by a multitude of IIUSA members throughout the week that made a lasting impression and will serve as a catalyst for Program re-authorization in 2015.

### ON-SITE GRASSROOTS ADVOCACY CAMPAIGN - EB-5 IS WORKING!

While the EB-5 Market Exchange is characterized by an abundance of opportunities to develop and strengthen business connections and the sharing of industry knowledge with fellow stakeholders, there were constant reminders throughout the conference that an existential threat exists to the EB-5 Regional Center Program. Absent Congressional action to reauthorize the Program in advance of the September 30, 2015 "sunset date," the EB-5 Regional Center Program will not continue. This sobering realization energized conference attendees to stop by the on-site "Advocacy Center" to utilize IIUSA's online Legislative Action Center to send powerful letters in support of the EB-5 Program directly to their respective congressional representatives. The outpouring of support was impressive. Over three days, 300+ letters were sent, each with a unique perspective on how the EB-5 Program benefits diverse communities around the na-

tion. IIUSA is excited to make this type of grassroots advocacy a staple of future events.

We encourage all EB-5 stakeholders to visit our Legislative Action Center at [advocacy.iiusa.org](http://advocacy.iiusa.org) and take action today!

### KICKOFF EVENT AT SAN FRANCISCO MARITIME MUSEUM TUESDAY OCTOBER 21ST

The 4th Annual EB-5 Market Exchange began on a high-note on Tuesday evening, October 21st, as attendees were treated to the breathtaking sights, sounds and smells of the San Francisco Maritime Museum on Fisherman's Wharf. Everybody in attendance enjoyed the opportunity to mingle with industry peers while gazing out at Alcatraz and into the bright blue Pacific Ocean with the sun setting behind the Golden Gate Bridge.

Midway through the gathering, attendees were joined by Congressman Aaron Schock (IL-18), one of the EB-5 Program's biggest supporters in the House of Representatives and sponsor of H.R. 4659, legislation that was introduced in May 2014 to permanently extend the EB-5 Regional Center Program and eliminate country caps. Congressman Schock urged attendees to reach out to their local representatives and insist they support legislation for EB-5 Program permanency.

### EB-5 101 BASICS SEMINAR, COMMITTEE MEETINGS & WELCOME RECEPTION WEDNESDAY OCTOBER 22ND

Activities began bright and early on Wednesday, October 22nd with a sold-out gathering of 100 attendees for the first-ever IIUSA EB-5 101 Basics seminar. Consisting of five one-hour panels on topics ranging from basic concepts, business plan writing/economic reporting, EB-5 financing, securities laws and marketing projects overseas, the

seminar provided keen insights into various facets of the EB-5 Regional Center Program. Over 20 speakers with diverse backgrounds and specialties within the EB-5 industry helped contribute to the overall success of the seminar.

In between the morning and afternoon sessions, attendees had a chance to enjoy the stunning 360 degree views of San Francisco from the 32nd floor of the Westin St. Francis. During this lunch break, the IIUSA Membership Committee fanned out among the tables to speak with new and potential IIUSA members about their respective businesses and how IIUSA membership aligns with their long-term interests.

Throughout the day, IIUSA's nine committees, as well the Board of Directors, held meetings of strategic importance toward advancing industry goals and initiatives. Meeting first were members of the Association Building, Banking and Best Practices committees followed by Public Policy, Public Relations and Technology and lastly Compliance, Editorial and Membership Committees. In sum, over 90 members serve on IIUSA committees and it is through their selfless hard work and dedication that IIUSA has become a strong advocate for the EB-5 Regional Center Program industry.

The first full day of the EB-5 Market Exchange concluded on Wednesday evening in spectacular fashion with a cocktail reception held in the exhibit hall. Hundreds of EB-5



IIUSA Board Meeting





Cleveland International Fund received an award for I-829 approvals in FY-2014



Developer/Regional Center Relationship Panel

stakeholders enjoyed valuable networking time and had the opportunity to meet with representatives from 47 exhibitors and 29 sponsors set up throughout the two adjoining rooms. With a vibrant jazz band playing in the balcony overhead, a palpable excitement for the following two days permeated each and every person at the event.

### **IIUSA HONORS 17 MEMBER REGIONAL CENTERS WITH I-829 APPROVAL AWARDS**

For the second consecutive year, IIUSA honored member Regional Centers who have been successful in bringing EB-5 projects “full circle” – that is those who have had clients’ I-829 petitions approved by U.S. Citizenship and Immigration Services (“USCIS”) in Fiscal Year 2014. Collectively, these projects have created thousands of jobs for the U.S. economy and stand as primary examples for why the EB-5 Regional Center Program should be permanently authorized by Congress.

The full list of Regional Centers honored this year include:

- Aero Space Port International Group (ASPI Group) Regional Center
- American Life, Inc.
- Birch Capital LLC
- California Consortium for Agricultural Export (CCAE)
- CanAm Enterprises, LLC
- Civitas Capital Group
- Cleveland International Fund
- CMB Regional Centers
- EB-5 New York State Regional Center
- Florida Overseas Investment Center
- Georgia Center for Foreign Investment and Development

- M&D Regional Center
- Metropolitan Milwaukee Association of Commerce (MMAC)
- New York City Regional Center (NYCRC)
- Vermont EB-5 Regional Center
- Whatcom Opportunities Regional Center
- YK America Regional Center

### **GUEST OF HONOR SPEAKERS THURSDAY OCTOBER 23RD**

**Honorable Willie L Brown Jr., Former Mayor of the City of San Francisco, Former Speaker of California State Assembly**

Willie Brown, the 41st Mayor of San Francisco (serving between 1996 and 2004) and former Speaker of the California State Assembly energized EB-5 Market Exchange attendees with a warm welcome to the city of San Francisco. Brown urged EB-5 stakeholders in attendance to “think globally” and “be creative” by attracting investment to local communities around the country.

**Charles Oppenheim, Chief, Visa Controls Office, U.S. Department of State**

On Thursday afternoon, Charles Oppenheim, Chief of the Visa Controls Office at the U.S. Department of State (DOS) along with Bernard Wolfsdorf, Managing Partner of Wolfsdorf & Rosenthal, and Robert Gaffney, Managing Partner at the Law Offices of Robert P. Gaffney, addressed the looming issue of EB-5 visa retrogression in FY2015. It is predicted that quota retrogression will commence in the April to July 2015 time frame and the “cutoff date” will likely be sometime in 2013. Attendees were also presented with fascinating DOS data including the number of visas issued in FY2014 (9,228), the top country’s for EB-5 visas, as well as markets

that are seeing an uptick in EB-5 visa allocations.

**Honorable Gary Locke, Former U.S. Ambassador to China; Former Secretary, U.S. Dept. of Commerce; Former Governor, State of Washington**

On Thursday afternoon, Gary Locke took to the podium to discuss the growing importance of the U.S.-China relationship and how the intertwining of the world’s two largest economies is reflected through the growth of EB-5 Program. As former U.S. Ambassador to China (2011-2014), Secretary of U.S. Dept. of Commerce (2009-2011) and Governor of the State of Washington (1997-2005), Mr. Locke discussed his extensive experience working with China, his ancestral ties to China and why the EB-5 Program is so attractive to Chinese investors. Mr. Locke noted, “Wealthy entrepreneurs and their families are attracted by a stable and transparent legal system and political system and also the educational opportunities available to their children [in the U.S.]. The EB-5 Program provides Chinese investors the opportunity to give their families and children a better future.”

### **GENERAL SESSION PANELS THURSDAY/FRIDAY OCTOBER 23-24**

IIUSA conferences are known to bring together EB-5 industry leaders to discuss pertinent topics affecting EB-5 stakeholders. This year’s EB-5 Market Exchange included eight general session panels and 33 speakers on topics including EB-5 advocacy in the 114th Congress, industry best practices/compliance, alignment of interests, the Regional Center and developer relationship, China market update, the evolving nature of USCIS policies and I-829 filing (and post I-829 investor relations).

CONTINUED ON NEXT PAGE >>



Best Practices Panel



I-829 Know-How Panel

### ALIGNMENT: BUILDING EB-5 INTO COMMUNITY/ ECONOMIC DEVELOPMENT STRATEGIES

**Peter D. Joseph**, Executive Director, IIUSA

**Toby Rittner**, President/CEO, Council of  
Development Finance Agencies

**Kim Zeuli**, Senior Vice President & Director  
of Research, Initiative for a Competitive  
Inner City

### DEVELOPER/REGIONAL CENTER RELATIONSHIP: DEFINING ROLES TO BUILDING THE FOUNDATION FOR SUCCESS

**Ginny Fang**, CEO, Golden Gate Global

**Kyle Walker**, Membership Committee  
Chairman, IIUSA; Managing Partner,  
Green Card Fund

**Adam Greene**, President, Live in America  
Financial Services

### EB-5 ADVOCACY: WHAT THE 2014 MID-TERM ELECTIONS MEANS FOR THE YEAR AHEAD AND BEYOND

**Peter D. Joseph**, Executive Director, IIUSA

**Hans Rickhoff**, Senior Policy Counsel, Akin  
Gump Strauss Hauer Feld LLP

**Matt Virkstis**, Principal, Cartwright & Virk-  
stis Public Affairs

**Liz Poston**, Executive Vice President,  
Rasky|Baerlein Prism Public Affairs

**Tom Loeffler**, Senior Counsel, Akim Gump  
Strauss Hauer Feld LLP

### EB-5 BEST PRACTICES & COMPLIANCE: HOW IIUSA IS ELEVATING INDUSTRY STANDARDS

**Dan Healy**, Director, IIUSA; CEO, Civitas  
Capital Group

**Dawn Lurie**, Partner, Polsinelli

**Mariza McKee**, Associate, Kutak Rock

### EB-5 VISA RETROGRESSION UPDATE WITH CHAR- LIE OPPENHEIM, U.S. DEPARTMENT OF STATE

**Charles Oppenheim**, Chief, Visa Controls  
Office, U.S. Department of State

**Bernard Wolfsdorf**, Attorney, Wolfsdorf Im-  
migration Law

**Robert Gaffney**, Attorney, Law Offices of  
Robert P. Gaffney

### I-829 KNOW-HOW: UNDERSTANDING TRENDS, THE BUBBLE AND PREPARING TO FILE

**Robert Divine**, Vice President, IIUSA; Chair  
of Global Immigration Practice, Baker  
Donelson Bearman Caldwell & Berkowitz

**Lincoln Stone**, Editorial Committee Chair-  
man, IIUSA; Partner, Stone Grzegorek &  
Gonzalez

**Steve Yale-Loehr**, President Emeritus,  
IIUSA; Of Counsel, Miller Mayer LLP

**Reid Thomas**, Executive Vice President, NES  
Financial

### NAVIGATING CHINA: TOOLS FOR MARKETING IN EB-5 LARGEST INVESTOR MARKET

**Kelvin Ma**, IIUSA International Member-  
ship Subcommittee Chairman; Partner,  
Shanghai Demei Law Firm

**George Ekins**, Director, IIUSA; CEO,  
American Dream Fund

**Howard Wu**, CEO, CanAchieve Consultants

**Larry Wang**, President, Welltrend United,  
Inc.

### THE ART OF INVESTOR RELATIONS POST-829 APPROVAL

**David Andersson**, President, IIUSA; Presi-  
dent, Whatcom Regional Center & Pacific  
Northwest EB-5 Regional Center

**Pat Hogan**, Director, IIUSA; President, CMB  
Regional Centers

**Mary King**, COO, New York City Regional  
Center

**Marsha Corchado**, Vice President, Client  
Relations, CanAm Enterprises

### THE POLICY PERSPECTIVE: KEEPING UP WITH THE EVER EVOLVING USCIS EB-5 POLICIES

**Martin Lawler**, Managing Partner, Lawler &  
Lawler

**Ira Kurzban**, Partner, Kurzban, Kurzban,  
Weinger, Tetzeli & Pratt

**Carolyn Lee**, Partner, Miller Mayer LLP

**Ron Klasko**, Partner, Klasko, Rulon, Stock &  
Seltzer LLP

### **BREAKOUT SESSION PANELS** THURSDAY/FRIDAY OCTOBER 23-24

Unlike the EB-5 Advocacy Conference, the EB-5 Market Exchange features breakout sessions which allow attendees to choose from alternate topics on processes, roles and updates within the EB-5 Regional Center industry. This year's conference featured 12 total panels over two days while featuring 38 speakers from across the industry.

### BANKING & EB-5: UNDERSTANDING THE ROLE OF A BANK IN EB-5 TRANSACTIONS

**Rebecca Lozano**, VP Private Banking, Bank  
United

**Bonnie Novella**, VP, Business Development,  
NES Financial

**Gina Nisbeth**, Director, CitiGroup

### EB-5 DUE DILIGENCE: PROCESS AND COMPO- NENTS FOR SUCCESS

**John Tishler**, Partner, Sheppard Mullin





*EB-5 & Securities Law: The Emerging Role of Broker/Dealers*



*Urban Development Panel*

**Rupy Cheema**, Partner, EB5 Diligence

**Al Rattan**, President, USA Continental Regional Center

#### **EB-5 & SECURITIES LAW: SEC ENFORCEMENT ACTIONS & RELEVANT POLICY UPDATES**

**Jennifer Moseley**, Partner, Barnes & Thornburg LLP

**Michael Homeier**, Homeier & Law PC

**Kevin Callaghan**, Principal, Aspyre Capital Group

**CJ Arrigo**, Sr. Advisor & Co-Compliance Officer, Antarctica Advisors, LLC

#### **EB-5 & SECURITIES LAW: THE EMERGING ROLE OF BROKER/DEALERS**

**Cathy Holmes**, Partner, Jeffer, Mangels, Butler & Mitchel LLP

**Mike Xenick**, President, InvestAmerica Capital Advisors

**Lili Wang**, Managing Partner, New City Advisors

**Edward Villanueva**, Chrysalis Capital Group

#### **DIVERSIFIED CAPITAL STACKS: HOW EB-5 FITS WITHIN THE CAPITAL MARKETS OF TODAY**

**Angel Brunner**, President, EB5 Capital

**Steve Strnisha**, CEO, Cleveland International Fund

**Greg White**, Partner, Seyfarth Shaw LLP

**Michael Fitzpatrick**, Partner, CPA, Baker Tilly Capital

#### **PUBLIC SECTOR & PUBLIC PRIVATE PARTNERSHIPS: A MODEL SERVING THE INDUSTRY WELL TO DATE**

**Brent Raymond**, Investment Official, State of Vermont Regional Center

**Michael Bailkin**, Managing Principal, CapSpan

**Rafael Anchia**, Managing Director, Civitas Capital Group

#### **RURAL DEVELOPMENT WITH EB-5 CAPITAL: MAKING IT WORK TO CREATE JOBS IN YOUR COMMUNITY**

**Bob Honts**, President/CEO, Texas Lonestar Enterprises

**Bill Stenger**, President, Jay Peak Resort

#### **TAX PLANNING & COMPLIANCE FOR EB-5: PLANNING AND IMPLICATIONS FOR IMMIGRATING TO THE U.S.**

**Enrique Gonzalez**, Partner, Fragomen, Del Rey, Bersen & Loewy

**Ajay Whittemore**, Partner, Sharp Partners PC

**David Appel**, Partner, Marcum LLP

#### **TECHNOLOGY & EB-5: HOW IIUSA AIMS TO EMPOWER YOU AS AN ADVOCATE & INDUSTRY PLAYER**

**David Bovee**, Founder, Zenith Capital

**David Kay**, Economist, IMPLAN Group

**Scott Ramsey**, Vice President, Product Marketing, NES Financial

#### **THINKING GLOBAL: COMPETITION FROM IMMIGRANT INVESTOR PROGRAMS & INVESTOR MARKET DIVERSIFICATION**

**Daniel Perron**, Managing Partner, Henley & Partners

**David Enterline**, WTW Taipei Commercial Law Firm

**William Cook**, Managing Member, Global Migration Law Group

#### **TRENDS AND BEST PRACTICES IN DOCUMENTING LAWFUL SOURCE OF FUNDS FOR EB-5 INVESTORS**

**David Hirson**, Partner, David Hirson & Partners LLP

**Brandon Meyer**, Principal, Meyer Law Group

**Gillian Shuang**, Partner, PKF Consulting

#### **URBAN DEVELOPMENT WITH EB-5 CAPITAL: MAKING IT WORK TO CREATE JOBS IN THE CITY**

**Bill Gresser**, President, EB-5 New York State Regional Center

**Bob Kraft**, President/CEO, First Pathways Partners

**Matt Brown**, Vice President, EB5 Global

#### **LOOKING AHEAD TOWARD IIUSA CONFERENCES IN 2015—BUILDING MOMENTUM FOR EB-5 PROGRAM REAUTHORIZATION**

In just a few short months, the EB-5 Regional Center industry will convene again in Washington D.C. for IIUSA's 8th Annual EB-5 Regional Economic Development Advocacy Conference. The 2015 edition, from April 12-14, will mark IIUSA's 10-year anniversary as an association representing the diverse interests of the EB-5 Regional Center industry. With each subsequent year, this event has grown in numbers and content. We are counting on YOU to join us for this momentous occasion and to help us lead the charge for EB-5 Program re-authorization! ■

# Emphasizing Self-Regulation



**MARIZA MCKEE**

ESQ., ASSOCIATE, KUTAK ROCK, LLP, CHICAGO



**KURT REUSS**

PARTNER, EB5 DILLIGENCE

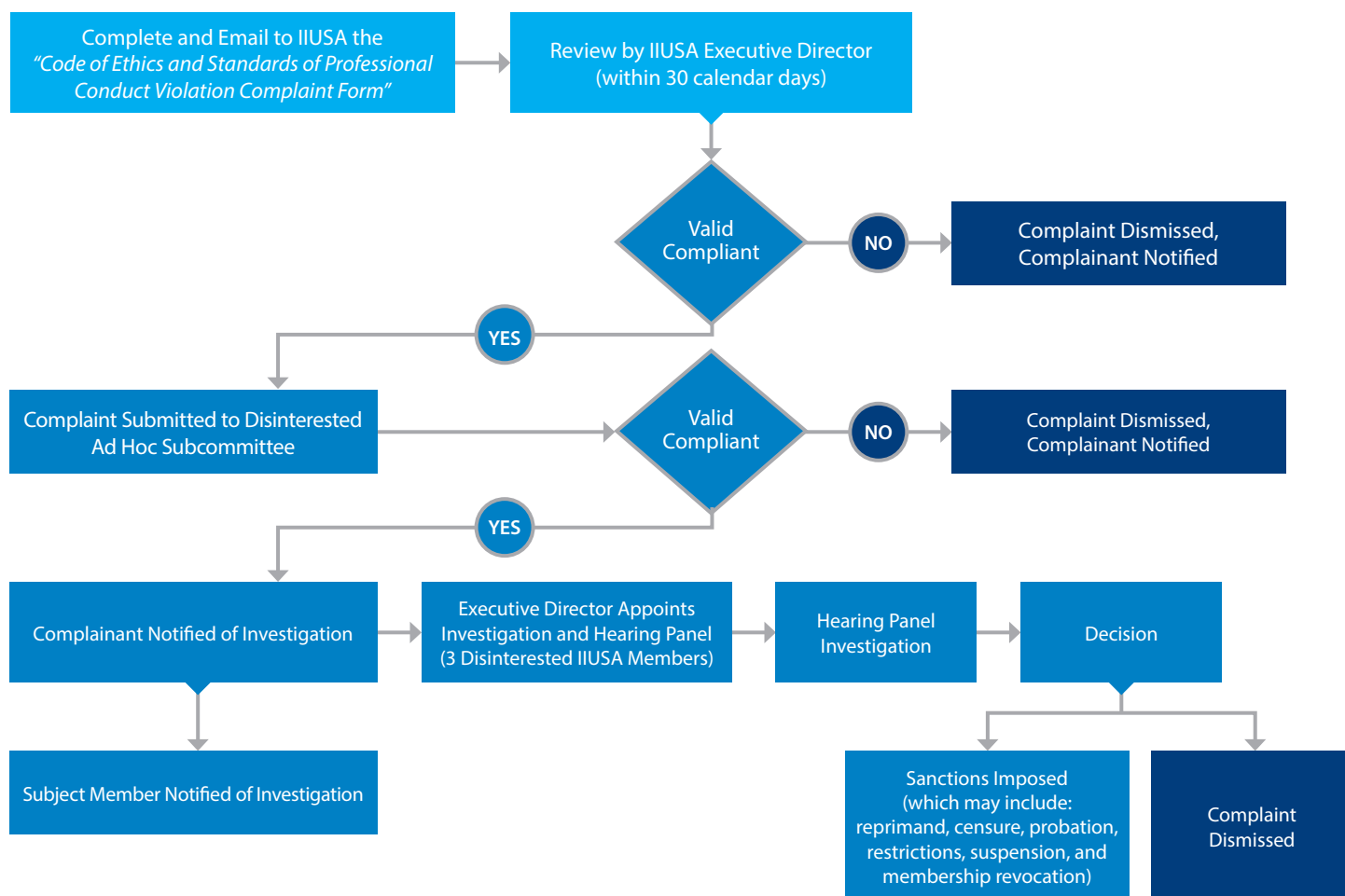
**I**IUSA promotes self-regulation and has set a high bar for EB-5 industry standards through encouraging member adherence to its Code of Ethics and Standards of Professional Conduct.

In an attempt to address violations of IIU-

SA's Code of Ethics and Standards of Professional Conduct within the industry, which could undermine the success and credibility of the EB-5 Regional Center Program, IIUSA's Best Practices Committee developed a procedure for filing complaints. To assist members

in understanding and using the complaint procedure, a diagram of the process has been developed by IIUSA's Compliance Committee. To access the chart and the complaint form, visit [www.iiusa.org/en/iiusa-approved-best-practices](http://www.iiusa.org/en/iiusa-approved-best-practices). ■

## IIUSA Code of Ethics and Standards of Professional Conduct VIOLATIONS COMPLAINT PROCEDURE







**Bob Kraft**  
President, Chairman and CEO  
FirstPathway Partners LLC

Board of Directors  
IIUSA

✓ 10 Projects    ✓ I-526 Approval    ✓ I-829 Approval

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# Material Change:

## MANAGING THE INEVITABLE DURING EB-5 VISA RETROGRESSION



**BY CAROLYN S. LEE**  
PARTNER, MILLER MAYER, LLP

I have written before about the faulty legal premise supporting the material change policy of the United States Citizenship and Immigration Services (USCIS). At bottom, those articles advance a simple advocacy point: USCIS should rely on correct authority in formulating its policies. This article is more immediately practical and aimed at an audience of EB-5 project managers, by which I mean regional centers, developers, and funds responsible for structuring and maintaining EB-5 compliant projects. I have two goals here: first, to alert EB-5 project managers that material change will be a far greater threat to achieving investors' immigration goals once we have backlogs in the EB-5 preference category, currently anticipated to occur mid-2015; and second, in the absence of guidance from USCIS on what kinds of changes are "material," to provide guidance based on my own analysis of changes to assess whether USCIS might view presented changes as "material."

As we go into an era of EB-5 backlogs, EB-5 projects and the USCIS material change policy are certain to collide as projects will undergo change – some substantial – in the several years between when a project is first filed with USCIS to the time when all its investors become conditional residents. EB-5 stakeholders will be served by focusing thoughtful advocacy on this problem in the coming year. In the meantime, this article may give regional centers, developers and fund managers and investors a sense of when inevitable changes may rise to the level of a material change. In so doing, I hope to at least give a sense of what the craggy rocks looks like in the hope that it will help pilots to identify and navigate around them.

### MATERIAL CHANGE PROBLEM RECAP.

"Material change" is a concept that first found expression in the December 11, 2009 USCIS Policy Memorandum ("December 2009 Memo"). Importantly, this is not a concept that is rooted in the statute or USCIS regulations. USCIS in its December 2009 Memo and again in the May 30, 2013 USCIS Policy Memo ("May 2013 Memo") refer to two USCIS precedent decisions of the Administrative Appeals Office's predecessor, *Matter of Katigbak* and *Matter of Izummi*. However, as I've explained in my prior two articles on material change, neither decision in fact stands for the propositions USCIS claims to ground its material change policy.

Having said that, USCIS's concern about mid-stream changes is not unreasonable; it's merely questionably lawful in its current articulation. Let us take an example. A project is affiliated with a regional center and proposes to manufacture widgets in Idaho. The relevant entities are described in the I-526 petition or I-924 exemplar amendment, as are the use of EB-5 funds, project budget, other funding, and other factors describing the investment. Jobs are modeled out by an economist and included along with a detailed market study, organizational and securities disclosure documents, all measuring 3-4 inches thick, seeking to establish bona fides and job creation potential of this widget making project. The weight and relevance of each piece of evidence requires careful evaluation. USCIS approves the widget project, finding that a credible case is made as to project compliance and viability. Then let us suppose that after all that, the project takes a different course. Instead of manufacturing widgets, potatoes will be produced. EB-5 proceeds will go to seed capital to grow the genetically superior potato, an offshoot of an existing giant potato producer. From a USCIS standpoint, there is a problem because it has greenlighted granting conditional green cards to investors of the widget project, not the potato project. USCIS

does not know whether the potato project is credible and compliant, and moreover doesn't know the reason for the switch. Was there fraud, bad faith, poor planning, or some other culpable conduct precipitating the change?

Under current USCIS policy as set out in the May 2013 Memo, if these changes occur before the EB-5 investors are admitted in conditional permanent residency status, the approved I-526 petition is revocable. Pending I-526 petitions may be denied. In either event, investors are required to start from the beginning of the process to file a new I-526 based on the changed project. This is plenty bad enough for investors. This risk increases multiple-fold once we have delays spanning several years before investors are admitted in conditional residency due to EB-5 visa retrogression.

It is reasonable for USCIS to conclude that conditional green cards should not be allowed for investors who have invested in a project that may not be EB-5 eligible. USCIS has a valid interest in seeking a policy and procedural framework to review large-scale changes that may affect eligibility. The current material change policy has three problems, however: (1) it is based on flawed application of legal authority; (2) it does not define "material change;" and (3) it ignores equally effective methods to accomplish understandable government objectives with far less harsh consequences found in other immigration contexts. These problems magnify exponentially in retrogression.

### MATERIAL CHANGE "ON/OFF" SWITCH: LONGER "ON" PERIODS WITH RETROGRESSION

As mentioned above, material change under the May 2013 Memo has a rather unique timing feature. Before an investor's conditional residency starts, material change nullifies an approved I-526 and makes a pending I-526 deniable. After an investor's conditional





residency starts, however, the approved I-526 is undisturbed. Moreover the I-829 based on the changed project may still be approved as long as the independent I-829 requirements are met – i.e. requirements to have invested, sustain the investment, and create the required jobs. So the period of material change exposure for an investor starts when she files the I-526 (assuming that the project in fact is still as described in the I-526 business plan), through adjudication of the I-526 and the immigrant visa consular processing or adjustment stage, to admission into the U.S. as a conditional permanent resident. For consular processing investors under current USCIS and NVC processing times, this period is about 22 months to Immigrant Visa issuance plus an average of 3 months to enter the U.S., for a total of about 25 months. Considering that a project is scribed in the business plan months, say around 3 months, before the first investor files a Form I-526, and further considering that for a large project the I-526 filing period for investors may span many more months, let's say 9 months, the last investor in a large project may not be admitted in conditional residency until about three years from the time the project was first penned in the business plan. This would be the hypothetical timeframe when the EB-5 visa category is “current,” meaning there is no wait required for an investor to proceed to consular processing or adjustment after I-526 approval.

Once we have visa retrogression requiring investors to wait after I-526 approval for their priority date to become current before pro-

ceeding to consular processing or adjustment, we will have significantly longer time periods – spanning perhaps 4+ years based on the two year backlog the Visa Office currently anticipates – from the time an EB-5 project was first set out in a business plan to the time all the project investors are admitted in conditional residency. It would be unreasonable to think that there could be no change in a project during that time frame. The risk of changes rising to the level of “material change” increases with time, so retrogression escalates material change risks.

Aside from the increased risk of material change occurring with retrogression, we also have increased likelihood of investors in the same project arbitrarily falling on the side of salvation or disaster. Suppose material change happens on date “x” in a \$100 million, 200 investor project. One hundred of those investors had obtained conditional residency before “x”; they are in the clear and their I-829s may be approved, material change notwithstanding. One hundred other investors had yet to obtain their conditional residency. Perhaps some had already received their immigrant visas but hadn't yet landed in the U.S. Some have children now over the age of 21 whose derivative status as “child” was protected under the Child Status Protection Act. These investors' I-526s are revoked or denied and are required to file new I-526s. With retrogression, that will mean that these investors will have to wait potentially 3 to 4 years before they obtain their conditional residency based on a second I-526 petition, dur-

ing which time children previously covered may age out. The disparate investor treatment problem will be more pronounced in larger projects with longer time periods for EB-5 fund raising and I-526 filing. There will be more material change risks, therefore, to later subscribing investors in large-scale projects under the current material change policy.

The project side of the EB-5 program – regional centers, developers, and funds sponsoring the EB-5 project – will also be affected. If investors' I-526 petitions are denied, it is currently market to return the full amount of the investment. While the revocation scenario has not yet been prevalent enough to trigger a refund obligation, it is probable that it will be if material change-based revocations become more common with retrogression. Projects will face the double prejudice of being deprived of the capital they initially raised and furthermore face difficulty in replacing those investors under the cloud of denial or revocation, and without assurance that USCIS will approve the changed project.

It's unlikely that USCIS considered these impacts of visa retrogression when formulating its material change policy, either in its first articulation in the December 2009 Memo or in its current version in the May 2013 Memo. Year 2015 will be the first year the EB-5 program will face retrogression since the preference category was created in 1990. However, there will be a pressing need for USCIS to address the three problems I've outlined above – sooner rather than later to get ahead of what may be potentially very serious consequences for investors and U.S. projects using EB-5 capital.

## BETTER SOLUTIONS.

Again, USCIS's concern regarding project changes reflects a fair understanding of its mission as set out in the May 2013 – to assure EB-5 program integrity and compliance with requirements. USCIS should be apprised of and adjudicate project changes to assure both, but in a manner that avoids the three problems.

First, USCIS would have greater integrity if it did not rely on the authorities it currently cites to support a need to adjudicate project

CONTINUED ON NEXT PAGE >>

changes – namely, *Matter of Katigbak*, *Matter of Izummi*, and *Chang vs. United States*. If no authority on point can be found, simply resting on its general imperative to assure program integrity and compliance with program requirements is preferable to misapplying specifically referenced authority.

Second, USCIS must articulate standards for when a change is “material.” The current formulation in the May 2013 Memo amounts to “it’s material if it’s material.” It borrows the materiality standard from a Supreme Court decision arising from a naturalization case, *Kungys vs. United States*, where the Court said that a fact is material if it has a predictable tendency to affect the adjudicator’s decision. That only makes sense where there are clear eligibility factors, almost in checklist-like fashion, such as length of U.S. residency, duration of physical presence, and residence within a USCIS district for 3 months prior to application. So for example, a matter is material under *Kungys* if it affects determination of whether an applicant has been physically present for the required time. This standard makes less sense, or requires greater elaboration, where the eligibility factors are more contextual and interdependent. The core of EB-5 project eligibility is feasibility of job creation. This cannot be determined by ticking down an objective check list of facts and so cannot be compared to determining naturalization eligibility. Because it’s a totality of the evidence determination by a USCIS examiner, the petitioner and applicant in the EB-5 context need more than “it’s material if it has a tendency to affect an examiner’s decision.” That is so because any one thing or a number of things in different combinations may have such a tendency in EB-5 adjudication and so no one fact or a set of factors can be identified predictably.

Third, there must be a better process with less harsh consequences. USCIS need only to look to its own precedents in other immigration contexts permitting amendments. Currently, investors, EB-5 project managers, and advisors all have no idea whether a change is material. It is not entirely certain whether USCIS, itself, knows and whether or how it trains examiners to identify material changes. If a change amounts to one project changing to a completely different project with no claim otherwise, under the May 2013 Memo, new I-526 petitions would need to be filed. For changes short of delivering that level of cer-

tainty, there is no guidance.

Understanding that USCIS has a valid interest in being apprised of changes and to adjudicate such changes to determine whether investors still qualify for EB-5 immigration benefits, USCIS should consider the following which would achieve its objectives, and provide clearer procedure with more appropriately nuanced consequences:

- Permit investors and EB-5 project managers to give notice to USCIS of the change on a Form I-924 if regional center-based or on a Form I-526 if not, both with fee, setting forth an amended business plan and economic impacts report, related disclosure supplements and transactional documents – all the documents reflecting the change.
- USCIS should adjudicate the Form I-924 or the Form I-526 disclosure. If it deems the change not “material,” it gives a Reaffirmation notice, as it does after adjudicating Intent to Terminate regional centers, that the project is still eligible.
- If USCIS deems the change “material,” then adjudicate the changed documents to determine whether the post-change project is still eligible. If the changed project is not eligible and does not meet EB-5 requirements, then USCIS should deny the I-924 or the I-526. As the investors are no longer participants in an EB-5 eligible project, at that point, their immigration benefits may be revoked or denied.
- If upon adjudication of the changed documents, USCIS deems the project is still eligible and meets EB-5 requirements, then it approves the I-924 or the I-526 as amendments to the previously filed I-924 or I-526, and the investors may continue their immigration process without interruption. These investors, despite the material change, would not suffer loss of priority date and all its harsh consequences, amplified in retrogression, because the changed project still qualifies as meeting EB-5 requirements.
- USCIS indicated in the May 2013 Memo that it will devise a procedure to notify USCIS of changes. As it has yet to do so, the above procedure offers a balanced solution respecting USCIS interests. The proposed procedure contemplates a two-part test to adjudicating material change: first, adjudicate the change as material or not; if material, then adjudicate whether the ma-

terially changed project still qualifies. If it does, then allow the investors’ immigration process to continue without interruption. If it does not, then the changed project cannot support its investors’ conditional green cards.

Finally, the effect of an ultimately adverse material change finding – meaning, a finding that the change is material and the subsequent change renders the project as not qualifying – is intolerable where some investors have cleared the conditional residency threshold while others have not in the same project. If at least half of investors in the project have already obtained conditional residency status, there are strong policy and equitable reasons in favor of treating the remaining investors alike. Given the inevitability of change, and the greater likelihood of large scale change occurring in the 4+ years from the time a project is first committed to a business plan, a project without material change for the time half its investors obtained conditional residency should be allowed to have the remaining investors also progress to conditional residency.

## MATERIAL CHANGE FACTORS.

In the absence of USCIS giving stakeholders guidance, I have devised my own list of factors against which I evaluate clients’ project changes.

First, I look at whether there is an impact on the job count. If there are more jobs – for example, by greater construction spending – then that’s a positive factor, meaning a factor against the change being determined “material.”

Second, I look at whether the primary industry or industries of the job creating activity have changed. For example, if the project was originally a project in the manufacturing sector and the project is now construction and operation of a hotel, that’s a change from the original job creating activity, requiring different inputs to the economic impact model. This is a negative factor. On the other hand, if the original project contemplated manufacturing spinal surgical devices but then changed to manufacturing knee joint replacements, I would deem that to be in very closely related industries if not the same industry, a positive factor. For the first two factors, consultation with economists is necessary.



Third, I look at the whether there are structural or organizational changes in the investment. By structural I mean, are there components of the project that have changed, and if so, what is the nature and scope of those changes? For example, the original project encompassed construction of retail and condominiums. The changed project encompasses retail, condos and apartments. These are usually fact-sensitive inquiries that often turn on the job creation impacts. If the project is in the same location with the same participants – that is, essentially an evolution of a project rather than a switch or change from one project to a different one – then I think a good case can be made as to the change being not “material” particularly if there is no adverse impact on job creation.

By organizational, I mean are there changes in management or ownership of the relevant entities such as the new commercial enterprise or the job creating enterprise? Does such a change impact project progress, for example by requiring additional consent or authority? Is there a change in the structure of the investment – for example, originally the new commercial enterprise was making a loan directly to the job creating entity, and

the change would involve the new commercial enterprise making an equity investment. The greater the degree and nature of these changes, there is proportional movement toward materiality.

Fourth, I look at whether there is an economic impact, in particular adverse economic impact, to the investors. For example, if originally investors were to get their pro rata share of 3% interest revenue, and now they’re getting only .25%. If nothing else has changed to impact the business plan, this factor alone might not tip the change into “material,” but it could be in a basket of other changes that in their totality tip the balance.

Fifth, I look at change from the perspective of the fiduciary: is the general partner or managing member’s role in the change, if any, in furtherance of its fiduciary obligations to its investors? For example, is the change of a major scale but is it necessary to protect the investors’ immigration and/or economic interests, in particular their immigration interests? If so, then it’s a positive factor in defense of the change.

Lastly, I check my intuition both before and after running the more technical analy-

sis. Does this change feel like one that USCIS ought to be concerned about? Is it the kind of change that USCIS wants to guard the EB-5 program from?

It must be said that even if my “gut,” colloquially speaking, tells me that a change should not concern USCIS – either because the change arises in good faith and/or because the change is substantial but the changed project is still eligible – that change may still be deemed material under the current policy and therefore trigger new I-526 filings.

## CONCLUSION.

Material change has not yet emerged as among the most pressing problems retrogression will herald. This article is intended, therefore, as an alert. To balance the alarm, I provide a proposal for a more sensible policy with specific procedural fixes, along with factors I examine in my own analysis of clients’ project changes. With retrogression increasing the risk to every project encountering material change, it is clear we need a revised material change policy, and in the interim, greater awareness. ■

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- \$105 Million In Returned Capital By Borrowers
- Repayment Within Multiple EB-5 Partnerships
- Over 1,650 I-526 Approvals
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# Alternative Energy:

## Impact Investment with EB-5

## Immigrant Investor Capital



### BY LINCOLN STONE

IJUSA EDITORIAL COMMITTEE  
CHAIR, STONE GREZGOREK &  
GONZALES, LLP

**A**lternative energy development is an important national policy goal:

Energy independence is essential for national security; reduced fossil fuel consumption is essential to environmental health; and, the addition of alternative energy sources to the national supply of energy sources helps to contain energy costs, which is essential to the national economy. (Energy Independence and Security Act of 2007 ("EISA"), <http://www.gpo.gov/fdsys/pkg/BILLS-110hr6enr/pdf/BILLS-110hr6enr.pdf>) But major national policy goals of this kind come with multi-billion dollar price tags. Consider too that certain states, like California, also impose renewable energy mandates, <http://www.energy.ca.gov/renewables/> It is a good thing, then, that at least some of the foreign investment capital coming through the EB-5 immigrant investor program is helping to stimulate alternative energy production. Bearing in mind a theme of channeling immigrant EB-5 capital for impact investment (see [http://www.icic.org/ee\\_uploads/publications/ICIC\\_EB5Impact\\_Report.pdf](http://www.icic.org/ee_uploads/publications/ICIC_EB5Impact_Report.pdf)), there in fact have been very substantial expenditures of EB-5 capital in major alternative energy projects. This briefing features just a few of the alternative energy EB-5 projects we have represented as US immigration counsel.

### UTILITY SCALE SOLAR POWER

#### IVANPAH SOLAR

A total \$90 million of EB-5 capital was raised by CMB Regional Centers and invested to help fund the development of the Ivanpah Solar power generating facility in San Bernardino County, California. Located in the Mojave Desert on public land managed by the Bureau of Land Management, this is the first large-scale solar thermal power development in the United States in two decades. The developer, BrightSource Energy, met the project costs exceeding \$2 billion with the aid of a \$1.6 billion loan from the U.S. Department of Energy, and the equity investments from Google, NRG Solar, and BrightSource Energy, [www.brightsourceenergy.com](http://www.brightsourceenergy.com).

The new facility is designed to deliver 392 megawatts of power, as required under contracts between BrightSource Energy and the two major utility companies in California. The power generating facility includes three solar concentrating thermal power plants, based on distributed power tower and heliostat mirror technology, in which the heliostats focus solar energy on power tower receivers near the center of each heliostat array.

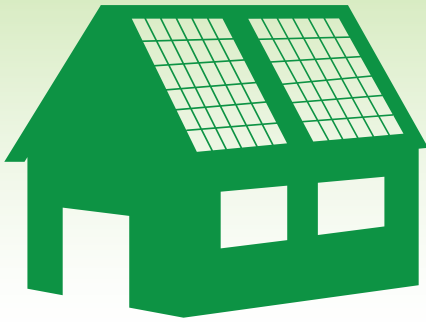
As of February 2014, the facility is up and running. When at full operating capacity, it will produce enough clean energy to power more than 140,000 homes. It is expected to reduce carbon dioxide emissions to the tune of 400,000 tons annually. It stands as the world's largest solar thermal project, and has received numerous accolades – including POWER

magazine's plant of the year, <http://www.powermag.com/ivanpah-solar-electric-generating-system-earns-powers-highest-honor/>, and the Project Excellence award from the Council of Development Finance Agencies in recognition of the creative financing structure for the project, [http://www.cdfa.net/cdfa/cdfaweb.nsf/0/2225071859E5798588257D56004A095F/\\$file/CAFR%20Awards%20Press%20Release.pdf](http://www.cdfa.net/cdfa/cdfaweb.nsf/0/2225071859E5798588257D56004A095F/$file/CAFR%20Awards%20Press%20Release.pdf).

#### TONOPAH SOLAR

Another solar power project is located in Nevada, near the city of Tonopah in Nye County, on public land managed by the federal government. Two different partnerships sponsored by CMB Regional Centers provided EB-5 capital totaling \$160 million. The developer is a subsidiary of SolarReserve, a privately-held alternative energy company based in California, [www.solarreserve.com](http://www.solarreserve.com). The total cost of the project is approximately \$974 million, which has been funded by a \$715 million loan from the U.S. Department of Energy, and equity investments by SolarReserve, Santander Group, and Grupo COBRA, a Spanish company specializing in energy production with presence in over 40 countries, [www.grupocobra.com](http://www.grupocobra.com).

The solar plant has a 25-year power purchase agreement with Nevada Energy. Using proprietary technology, the new facility will deliver 110 megawatts of power using a molten salt system with a central receiver tower and heliostat mirror technology. The facility also will include storage tanks for the heated and cooled salts, and a steam tur-



bine building to generate electricity from the heated salt. It will be operational first quarter 2015.

## ETHANOL PRODUCTION

In another alternative energy EB-5 project, \$75 million in EB-5 capital raised by CMB Regional Centers was invested to help fund the costs of infrastructure construction of “Dakota Spirit AgEnergy,” an ethanol production plant near Jamestown, Stutsman County, North Dakota, under development by Midwest AgEnergy Group, LLC (“MAG”). Other funding sources include the developer, construction loans, and the county economic development corporation.

Ethanol currently is used in low-level (for most vehicles) and high-level (for only flexible fuel vehicles) ethanol blends. As required EISA, the federal Renewable Fuel Standard mandates what effectively is a 400% increase of ethanol usage in vehicles over a 10-year period. <http://www.epa.gov/otaq/fuels/renewablefuels/index.htm> Studies have estimated that ethanol and other biofuels could replace 30% or more of U.S. gasoline demand by 2030, [http://www.afdc.energy.gov/fuels/ethanol\\_fuel\\_basics.html](http://www.afdc.energy.gov/fuels/ethanol_fuel_basics.html)

And, according to the federal government, ethanol as a form of renewable biomass is reducing oil dependence and greenhouse gas emissions, <http://www.fueleconomy.gov/feg/ethanol.shtml>.

MAG is an upper Midwest-based biofuels company owned by Great River Energy, LLC, a large not-for-profit cooperative that invests in the production and transmission of electricity. The ethanol production facility is located adjacent to Great River Energy’s combined heat and power plant. As a result, the biorefinery will purchase steam from the power plant, making the biorefinery one of the most cost-effective, energy efficient and environmental-



ly friendly biorefineries in the country, <http://www.midwestenergygroup.com/about/>. It also is the first corn ethanol plant to be built since EISA required new corn-based plants to reduce greenhouse gas emissions by 20%. The groundbreaking ceremony was held in 2013, <http://ethanolproducer.com/articles/11319/dakota-spirit-rising>. The plant will become operational in mid-2015, and at capacity it will produce 65 million gallons of ethanol annually from North Dakota corn.

## LITHIUM EXTRACTION FOR GREEN VEHICLE BATTERIES

Green vehicle production is hugely complex, and requires hundreds of innovations and new technologies. Skyrocketing demand for lithium has particularly focused on battery-grade lithium derivatives used in electric and hybrid vehicle batteries and for alternative energy production. The global battery market for electric vehicles is expected to grow five times from 2013 to 2020, putting enormous stress on lithium hydroxide supplies and potentially fueling dramatic price inflation. <http://www.wallstreetdaily.com/2014/11/18/gigafactory-lithium-shortage/>

American Regional Center Group is raising up to \$35 million in EB-5 funding to be used for the development of a new commercial lithium extraction and lithium derivatives production facility under development by Simbol, Inc. in the Salton Sea geothermal field in Imperial County California. <https://gigaom.com/2014/09/08/lithium-the-salton-sea-and-a-startup-thats-trying-to-change-the-game/>

Simbo—a joint venture of Mohr Davidow Ventures, Itochu Corporation, and Firelake Capital Management—is a sustainable materials technology company that has developed proprietary processes to extract lithium and other minerals from geothermal brine, and to



produce specialty chemicals used in consumer electronics and electric vehicles, among other applications. [http://www.simbolmaterials.com/who\\_we\\_are.htm](http://www.simbolmaterials.com/who_we_are.htm)

The Imperial County facility will process mineral-rich brine drawn from the operations of the neighboring Hudson Ranch I geothermal power generating facility by EnergySource LLC. The mineral extraction facility will have a capacity of 15,000 tons of lithium products, primarily lithium carbonate and lithium hydroxide, which would make Simbol the largest lithium producer in the United States. The facility is expected to begin operations in early 2017. The lithium extraction and manufacturing plant is situated in Imperial County, which has consistently experienced unemployment rates above 25%, the highest of any county in the United States.

Certainly, there also is a smattering of EB-5 capital investment in relatively smaller-scale enterprises such as with distributed solar and solar panel installation. (See <http://gerc.us/about-us/>, as well as <http://www.naco.org/newsroom/countynews/Current%20Issue/8-25-2014/Pages/Counties-share-for-foreign-investor-program-experiences.aspx>) The larger-scale projects featured in this briefing, though, demonstrate the huge potential for EB-5 capital in substantially advancing the cause of alternative energy production and in making high impact investment in the green energy economy. ■

*Lincoln Stone practices immigration law in Los Angeles with Stone Grzegorek & Gonzalez LLP – [www.sggimmigration.com](http://www.sggimmigration.com) -- and over the course of 23 years he has successfully represented more than 3,000 EB-5 investors with their I-526 petitions, and more than 1,000 investor families with removal of conditions on permanent residence. His EB-5 capital group clients have raised and expended more than \$3 billion in EB-5 capital in more than 100 separate projects in a wide variety of industries.*





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## Investing in a Greener America

**The Trucking Industry** is critical to the health of the U.S. economy. New emissions standards came into effect January 1, 2014. Recognizing the urgent need for environmentally compliant trucks, David Andersson, founder of WORC, established Pacific Northwest EB-5 Regional Center (PNWERC).

**PNWERC** will inject much-needed capital into the American trucking industry throughout its designated geographic region of Washington, Oregon, Idaho, and Montana. Opportunities for immigration through investment are **now available!**

## Celebrating Past Success

As we advance into 2014, we look back with pride on WORC's achievements, which include not only a 100% approval rate on I-526 and I-829 petitions, but three vibrant job-creating retirement communities in Whatcom County, Washington. We congratulate our immigrant partners who have each realized their dream of living in America.

## Looking Forward to the Future

We are excited about our expansion through PNWERC and to serving new immigrant investors with the same diligence and expertise that is a hallmark of our past projects.

**Please contact us for more information**



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# 2014 USCIS EB-5 Adjudicator Training Materials



**BY SUZANNE LAZICKI**

LUCID PROFESSIONAL WRITING

## WHAT DO WE HAVE?

Through a Freedom of Information Act (FOIA) request, IIUSA has obtained copies of materials used in a training program for new personnel at the USCIS Investor Program Office (IPO) in April 2014. The 502 pages of slide presentations and handouts introduce USCIS and the EB-5 program, describe and interpret statutory and regulatory requirements, and teach guidelines and procedures for file review.

## WHAT'S NEW?

The April 2014 materials indicate that USCIS has significantly revised and expanded its EB-5 training since 2011, the date of the last set of EB-5 training documents released via FOIA request.

- **Regional Center Adjudication:** The 2014 training program has six modules plus a two-week practice period dedicated to Regional Center adjudications, as compared with four Regional Center-focused modules in 2011 and two in 2008. The 2014 presentations take care to distinguish how investment and job creation requirements apply in Regional Center cases and direct EB-5 cases.
- **Economist Training:** While the 2011 EB-5

training program introduced a short session on economic analysis, the 2014 program devotes a full day to economist training. The materials for economist training define the role of economists in the adjudication process, explain typical Regional Center investment structures, define business plan credibility, discuss economic model job verification, and describe how economic models and multipliers work. The training materials feature a template for economist due diligence review, including lists of questions to ask of Regional Center applications, business plans, and economic impact analysis. They also address issues related to expense eligibility, construction cost evidence, tenant occupancy, hotel visitor spending, and I-O model misuse.

- **Collaboration:** The 2014 training materials reflect a commitment to interagency and intra-agency collaboration. The program begins with a day of presentations that describe the mission and organization of DHS and USCIS as background for the Investor Program Office, and that place EB-5 within the wider context of immigrant and non-immigrant visa programs. The presentations emphasize the importance of USCIS cooperation with Customs and Border Protection and Immigration and Customs Enforcement, as well as with strategic partners such as the State Department and FBI. Collaboration within the Investor Program Office is encouraged through an information-sharing intranet. This "Electronic Communications Network" allows employees to search for documents and ask and answer questions such as "What is the dress code policy?" (FAQ section), "What organization has authority to designate TEAs for a given state?" (TEA Designation Letters section), "Where can I find previously-approved exemplar documents associated with

## OVERVIEW OF APRIL 2014 IPO NEW PERSONNEL TRAINING CONTENT

### WEEK 1

Meet the Chief and Deputy (45 min)  
Communicate BASIC training requirement (15 min)  
DHS Overview (1 hour)  
Nonimmigrant Overview (2 hours)  
Immigrant Overview (2 hours)  
Computer System Training (5 hours)  
Burden and Standard of Proof in EB-5 Cases (2 hours)  
EB-5 Overview (1.5 hours)  
Establishing a New Commercial Enterprise (1.5 hours)

### WEEK 2

Active Involvement in the NCE (1.5 hours)  
Comprehensive Business Plans (1.5 hours)  
TEAs (1 hour)  
I-924 Adjudications Overview (1.5 hours)  
I-924 Exemplar Adjudications (45 minutes)  
I-924 Basic Adjudications (45 minutes)  
I-924 Exercise (3 hours)  
Electronic Communications Network Exercise (3 hours)  
Direct Job Creation (1.25 hours)  
Job Creation through the Regional Center (1.25 hours)  
In-depth Capital Issues (1.25 hours)  
In-depth Source of Funds (1.25 hours)  
I-526 Adjudications (2 hours)  
I-526 Adjudication Practice (all day)  
Economist Training (all day)

### WEEKS 3-4

Active mentoring for case certification. Trainee reviews ten Regional Center I-526 cases with mentor feedback.



my petition?” (Exemplar Organizational Documents section), and “Where can I find the documents and decision and adjudicator associated with a given case number?” (Case Adjudication Section). This intranet apparently makes case information readily available to all staff and facilitates knowledge-sharing among employees.

- **Fraud Prevention:** In describing each EB-5 requirement, the 2014 training materials take care to give examples of red flags and to instruct trainees on proper procedures for dealing with deficiencies, derogatory evidence, and signs of fraud.
- **Restraint:** While encouraging vigilance, the 2014 training materials also emphasize that USCIS evaluation must be restrained by procedures and guidelines. The presentation on burden and standard of proof is placed early in the training program and significantly expanded from previous years. In subsequent presentations, descriptions of regulatory requirements and appropriate types of evidence are often followed by

a reminder to trainees not to impose additional requirements (e.g. for source of funds) or demand unreasonable evidence (e.g. for legal employment) or exceed their mandate (e.g. assessing investment suitability). Trainees are instructed to adhere to the preponderance of the evidence standard and to follow defined procedures in the event that they identify a problem.

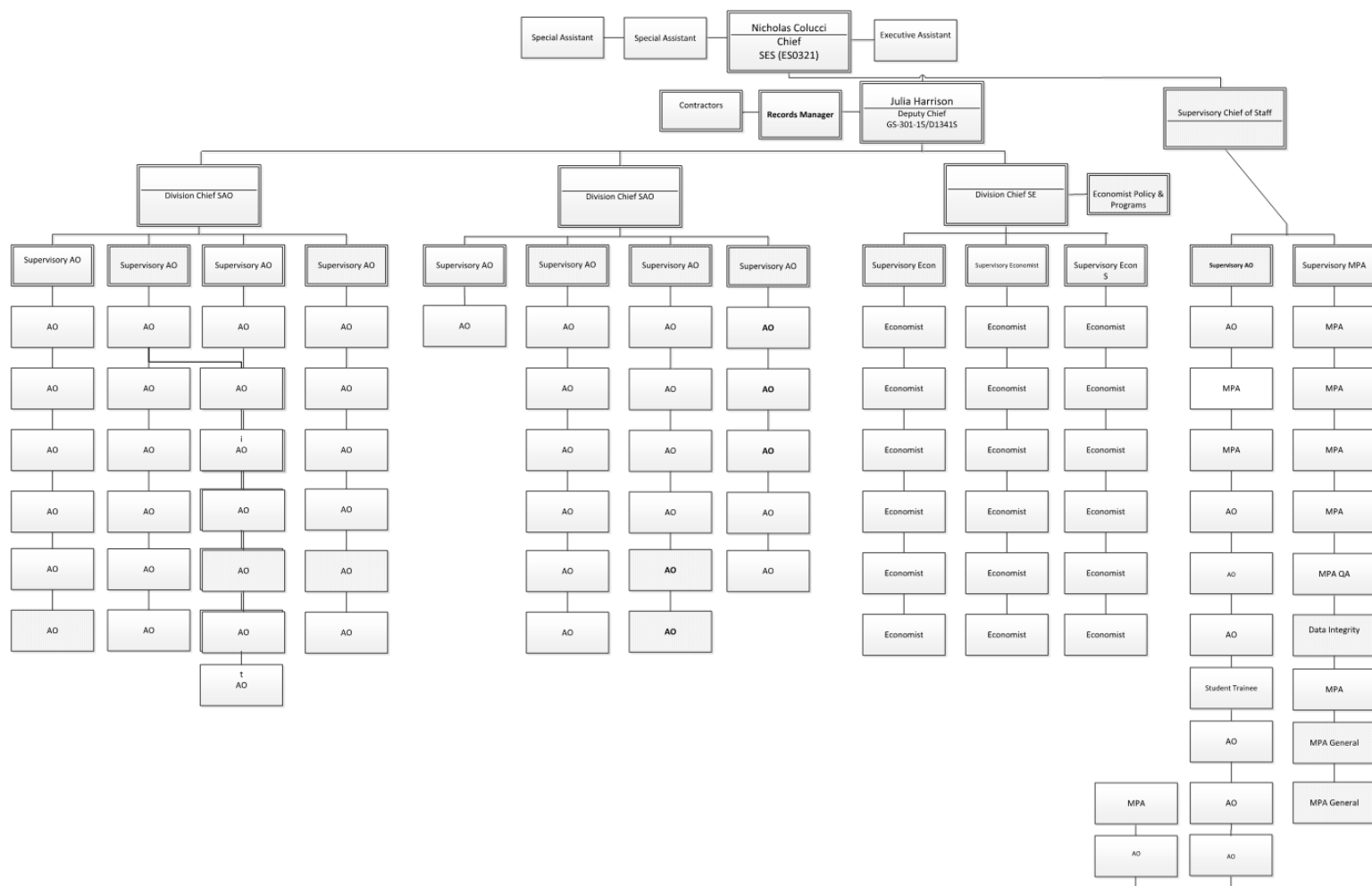
- **Practical Guidance and Guided Practice:** The 2014 program includes more practical tips and practice sessions than evident in the training materials from previous years. The new materials contain less theoretical background than before (for example no in-depth presentations on the AAO precedent decisions or federal EB-5 cases) and more slides devoted to interpretation and practical application of regulatory requirements. The first two weeks focus on imparting information and teaching trainees what to do with that information, while the third and fourth weeks involve guided practice. The 2014 training program culminates in a

case certification with a practical goal: “to have the AO trainee demonstrate a clear understanding of the underlying case eligibility issues and to render the appropriate decision/action.”

The April 2014 training materials obtained by IIUSA through the FOIA process represent only a subset of the on-going training activities at USCIS. In his May 2014 address at the IIUSA Advocacy Conference, IPO Chief Nicholas Colucci mentioned additional professional development activities and special courses on topics such as business organizations and documents, international banking and money laundering, and drafting clear and concise requests for evidence and decision letters. This training reflects Mr. Colucci’s commitment to build a foundation of knowledgeable staff and to strengthen the EB-5 program through improved performance and predictability.

The training materials are available in-full by accessing the USCIS resources folder in the IIUSA member portal on Basecamp. ■

### IPO ORGANIZATIONAL CHART AS OF OCTOBER 2014



# A Comparison of States' Approaches to Targeted Employment Area Certification



**BY PAUL SCHEUREN**  
PRINCIPAL ECONOMIST,  
IMPACT DATASOURCE, LLC.

**F**or EB-5 project sponsors, the step of determining whether a project is located in a targeted employment area (TEA) can be critical. Unfortunately it can also be frustrating. While the federal regulations that broadly define a TEA do apply nationally, states administer the certification process, and their individual policies vary significantly, causing some obvious confusion. Some states take a very open, flexible stance and will provide the data they use and outline their official policy on the designating authority's website, while other states

offer more of a black box procedure where the project sponsor provides an address and the state responds with a simple Yes or No. This article describes the policies of three different states to illustrate how different the TEA process can be depending on the project location.

## CALIFORNIA: CLEAR, CONSISTENT, INVESTED

California has one of the most transparent TEA policies in the country. The State of California designated the Governor's Office of Business and Economic Development (GO-Biz) to certify targeted employment areas in the state. GO-Biz implemented a reasonably flexible policy and publishes the census tract level unemployment estimates on its website, along with other helpful information to allow

stakeholders to evaluate project sites on their own prior to making an official request. For targeted employment area certifications made at the census tract level, California will certify an individual high unemployment tract. Additionally, California will certify a combination of census tracts as long as there are no more than 12 census tracts and the combined multiple-tract area meets or exceeds the 150% of the national unemployment threshold. The state's policy includes no other requirements or restrictions related to the shape of the resulting contiguous area. California dubs this process a "Special TEA."

The state's Special TEA policy requires a letter of support from the local Economic Development Corporation (EDC) or County or City in which the project is to be located. The letter must indicate the local EDC's concurrence that the proposed area will reasonably be a source of workforce for the project. Generally, obtaining this local support letter is a straightforward process, as most California EDCs are familiar with the EB-5 program and Go-Biz's requirements. However, if a local EDC has never received a request to provide a local support letter, it can be a more time consuming process to get them comfortable.

Recently, Go-Biz published an online web application where TEA certification requests can be generated based on an address. The useful tool shortcuts several steps in the typical process by (1) identifying the precise census tract for the address, (2) presenting the local area unemployment statistics, (3) determining if the single census tract qualifies as a high unemployment area, (4) allowing the user to create a multiple-tract targeted employment area, all while keeping track of the combined area unemployment rate, and (5) generating the official TEA request based on the inputs. California's investment in the TEA web tool is evidence of the popularity of the EB-5 program, the volume of TEA requests in the state, and its commitment to serve EB-5 stakeholders.

While the new Go-Biz tool makes analyzing a project site for TEA-eligibility easier, it

## THE ROLE AND DEFINITION OF A TARGETED EMPLOYMENT AREA

The minimum qualifying EB-5 investment is \$1 million unless the project is located in a TEA, whereby the minimum qualifying investment is just \$500,000. A TEA is an area that, at the time of investment, is experiencing unemployment of at least 150 percent of the national average rate OR is considered a rural area. A rural area is any area outside a metropolitan statistical area (MSA) AND outside the boundary of any city or town having a population of 20,000 or more according to the most recent decennial census.

States have no role in determining rural TEAs. Additionally, evidence from the Bureau of Labor Statistics can be provided by the petitioner directly to the USCIS to establish a TEA for qualifying high unemployment areas at the metropolitan statistical area (MSA) or county level. This is discussed in 8 CFR §204.6(j)(6)(ii)(A).

In practice however, most TEA designations are made at the census tract level which require a state's certification. The states' authority to provide a TEA letter is discussed in 8 CFR §204.6(i) and CFR §204.6(j)(6)(ii)(B): The following is an excerpt from CFR §204.6(i):

The state government of any state of the United States may designate a particular geographic or political subdivision located within a metropolitan statistical area or within a city or town having a population of 20,000 or more within such state as an area of high unemployment (at least 150 percent of the national average rate). Evidence of such designation, including a description of the boundaries of the geographic or political subdivision and the method or methods by which the unemployment statistics were obtained, may be provided to a prospective alien entrepreneur for submission with Form I-526. Before any such designation is made, an official of the state must notify the Associate Commissioner for Examinations of the agency, board, or other appropriate governmental body of the state which shall be delegated the authority to certify that the geographic or political subdivision is a high unemployment area.



	CALIFORNIA	NEW YORK	TEXAS
<b>Authority</b>	Governor's Office of Business and Economic Development	Empire State Development*	City Mayor or County Judge
<b>Data Set</b>	2013 BLS / 2011 ACS	2013 BLS / 2000 Census	Depends
<b>Update Frequency</b>	Annually (May 1st)	Annually (April)	Depends
<b>Subareas</b>	Census Tracts Only	Census Tracts & Block Groups	Depends
<b>Combinations</b>	Yes, Up to 12 tracts, vertices allowed, requester defines area	Yes, No explicit limit on tracts, vertices allowed, DOL reviews each location on a case-by-case basis	Depends
<b>Procedure</b>	Evaluate state's published data and make request.	Send project location to state contact	Contact City Mayor or County Judge

\* Empire State Development issues the actual TEA letters, but the Department of Labor is responsible for reviewing the location to determine TEA - eligibility.

does have some drawbacks. The tool will only accept exact addresses, although this information is often not known at the time when TEA-eligibility needs to be determined. Also, as with all “address finders”, it does not always find a match or identify the correct census tract. Due to the uniqueness of each request, there will likely be other pitfalls as Go-Biz tries to make the TEA process as automated as possible.

## NEW YORK: NO FUSS, NO MUSS, NO TELLING

New York is one of the easiest states in which to make a TEA certification request. Whereas some states require a detailed TEA analysis to be provided to them, the New York Department of Labor (DOL) only requires the project location (specific address, cross-streets, etc.). Upon receiving the location information, the DOL analyzes the site independently and informs the requestor if the location qualifies or not. In our experience, the state will evaluate subarea unemployment data at both the census tract level and census block group level. Additionally, the state will certify combined multiple-subarea TEAs. Although the DOL does the heavy lifting in evaluating and creating TEAs, it is our experience that the state does not have any significant restrictions with regard to the shape of the resulting TEA or the number of tracts or block groups. The process does not require a support letter from a local economic development corporation or local government as is the case in California.

While New York is easy to work with on an administrative level, they are one of the few states that are still utilizing 2000 census data

to develop the share ratios as part of the census-share calculation. Almost all states utilize more recent American Community Survey (ACS) data to develop the share ratios. It is not exactly clear when or if New York will switch from the 2000 census data to the more recent ACS data. However, if they do make this switch, the change in unemployment rate calculations at the census tract level could potentially be drastic. For further information on how this data change can affect census tract calculations and the census-share methodology, see P. Scheuren, “Targeted Employment Area Data Changes”, Regional Center Business Journal (June 2014).

## TEXAS: WILD WILD WEST

On balance, Texas can be one of the most frustrating states in which to obtain a TEA certification. On the plus side, there is seeming flexibility: Governor Rick Perry issued a memo delegating the authority to designate TEAs to city mayors or county judges. Also, because there is no official statewide data set that is recognized or required by the individual cities and counties, all acceptable data sets can be evaluated to establish the TEA and analysts can investigate subarea unemployment data at both the census tract level and census block group level. This task is facilitated for many larger cities in Texas which have defined certain acceptable data sets or procedures. While this flexibility seems useful, there are several major considerations on the negative side of TEA practice in Texas.

As a consequence of having no specific data set that is required, project sponsors typically need to rely on an experienced economist to evaluate local area unemployment. Also,

despite the seeming flexibility gained in delegating the authority to local governments in Texas, cities and counties are often concerned about the legal implications of providing such a designation—and possibly the political implications of providing a letter that advertises their community has high unemployment. In our experience, cities and counties appear uneasy with the EB-5 program in general. Furthermore, in some instances it is clear the city or county wishes to be the gatekeeper of which projects receive TEA designation irrespective of the data or a standard policy. Still other Texas TEA designations are derailed by jurisdictional concerns. Cities and counties are often reluctant to provide TEA letters if the combined TEA crosses city or county boundaries. All of these considerations, falling outside the scope of inquiry focused on unemployment data calculated in accordance with the federal regulations, should not be an issue for TEA analysis. But unfortunately that does not appear to always be the case in Texas. (See Table 1)

The three states discussed in this article illustrate only a small portion of the variation that EB-5 project sponsors face when seeking a TEA certification. For project sponsors seeking to utilize the EB-5 program nationally, it is not enough to understand the federal regulations regarding TEAs, or even to understand how a TEA certification is obtained in one particular state. Each state has its own and ever-evolving policy regarding TEA certifications and one must work within those parameters and with the state authority to understand and provide the data or analysis required to obtain a TEA certification. ■

# EB-5 DATA OF THE YEAR

## PRESENTS AN UNPRECEDENTED GROWTH OF THE EB-5 REGIONAL CENTER PROGRAM IN FY2014



**BY LEE LI**

IIUSA POLICY ANALYST

**F**iscal year (FY) 2014 was definitely another record breaking year for the EB-5 Regional Center Program (the

“Program”) - data does not lie. The comprehensive data set of I-526/I-829 petitions, I-924 applications, and EB-5 visa usage statistics of FY2014 illustrates an undeniable fact that the Program is delivering its promises of generating a significant amount of foreign direct investment (FDI) and enhancing economic development in U.S. communities as well as creating substantial numbers of American jobs- all at no cost to the taxpayers.

Statistics on I-526 petitions are good indicators of the demand for the Program and they also correspond to the amount of FDI that the Program contributes to the U.S. economy. As Figure 1-A shows, the United States Citizenship & Immigration Services (USCIS) received 10,928 I-526 petitions in FY2014, which increased by 72.2% from FY2013. In addition, it represents more than \$5.5 billion in potential FDI brought by the Program to stimulate economic development in just one single fiscal year. Moreover, 5,115 I-526 petitions were approved in FY2014, which indicates more than \$2.56 billion FDI has already been injected into projects across different industries to create American jobs and promote regional economic development. Additionally, Figure 2-A indicates the amount of FDI generated by the Program in FY2014 is a 4-fold increase from FY2009! This not only demonstrates the Program is experiencing unprecedented growth during the past five fiscal years, but also job creation and economic stimulation.

However, as Figure 1-B shows, 12,453 I-526 petitions are still pending in the end of FY2014, which has increased by 74.6% from 7,131 in FY2013. These petitions awaiting adjudication represent \$6.2 billion in capital investment (see Figure 2-B) that could be used to create more than 24,000 American jobs. From FY2013 to FY2014, the growth rate of I-526 pending (74.6%) is still higher than the growth rate of I-526 receipts (72.2%), which indicates that investor demand for the Program is so strong that USCIS needs to optimize the adjudication process in order to fully unleash the potential power of the Program in a timely manner to maximize its economic impact to the country.

Furthermore, I-829 data illustrates the substantial success of the Program in FY2014 that benefits the entire country. As Figure 3 shows, 1,603 I-829 petitions were approved by USCIS in FY2014, which is not only a 90% increase from FY2013, but also a record breaking number since the beginning of the Program in 1992. It represents tens of thousands of jobs successfully created by the Program and more than a thousand foreign entrepreneurs living out their immigration dreams to become proud contributors to U.S. communities.

Both the Program and the industry experience significant growth in FY2014. Based on the briefing provided by USCIS Investor Program Office Chief Nicholas Colucci at the last EB-5 stakeholder engagement meeting in Washington D.C. this December 2014, the number of approved Regional Centers increased by 230 from FY2013 to near 600 at the end of FY2014 (see Figure 4)- a 62% growth rate from FY2013. However, 28 Regional Centers were sent Notices of Intent to Terminate (NOITs) since they “no longer served to promote economic growth” and seven Regional Centers were terminated in FY2014

due to failure to file Form I-924A, according to Mr. Colucci.

The EB-5 visa usage statistics demonstrate the substantial growth of the Program from a different angle. In FY2014, it was the first time the Program reached its 10,000 annual visa quota. According to the U.S. Department of State, 10,692 EB-5 visas were issued in FY2014 with a growth rate of 24.8% from FY2013. As Figure 5-A shows, 9,128 EB-5 visas were issued to Mainland China investors and their family members, which accounts for 85% of total EB-5 visa usage in FY2014. The EB-5 visa unavailability in FY2014 indicates the current 10,000 EB-5 visa quota is no longer meeting the drastic demand and growth of the Program. A new visa allocation policy as well as the permanent reauthorization of the Program are needed to fulfill the Program’s capability of enhancing economic development and creating jobs for Americans. In addition, Figure 5-B presents the other top four investor markets using the highest amount of EB-5 visas in FY2014, which are South Korea, Mexico, Taiwan, and Vietnam.

On the other hand, EB-5 processing time and I-526/I-829 approval rate statistics shed some light on the adjudication trends of the Program in FY2014.

Figures 6 represents the trends of EB-5 processing time by quarter in FY2014. For I-526 petitions, the processing time continued to increase from the first quarter from 9.9 months to 14.3 months in the end of FY2014. Also, as of September 30, 2014, the processing time to adjudicate I-924 petitions for a potential regional center was 6.8 months, while it took 8.5 months to process the I-829 petition to remove conditions for an EB-5 investor.

The I-526 approval rate slightly increased to 80.2% in FY2014 from 79.7% in FY2013. As Figure 7-A indicates, it is higher than the



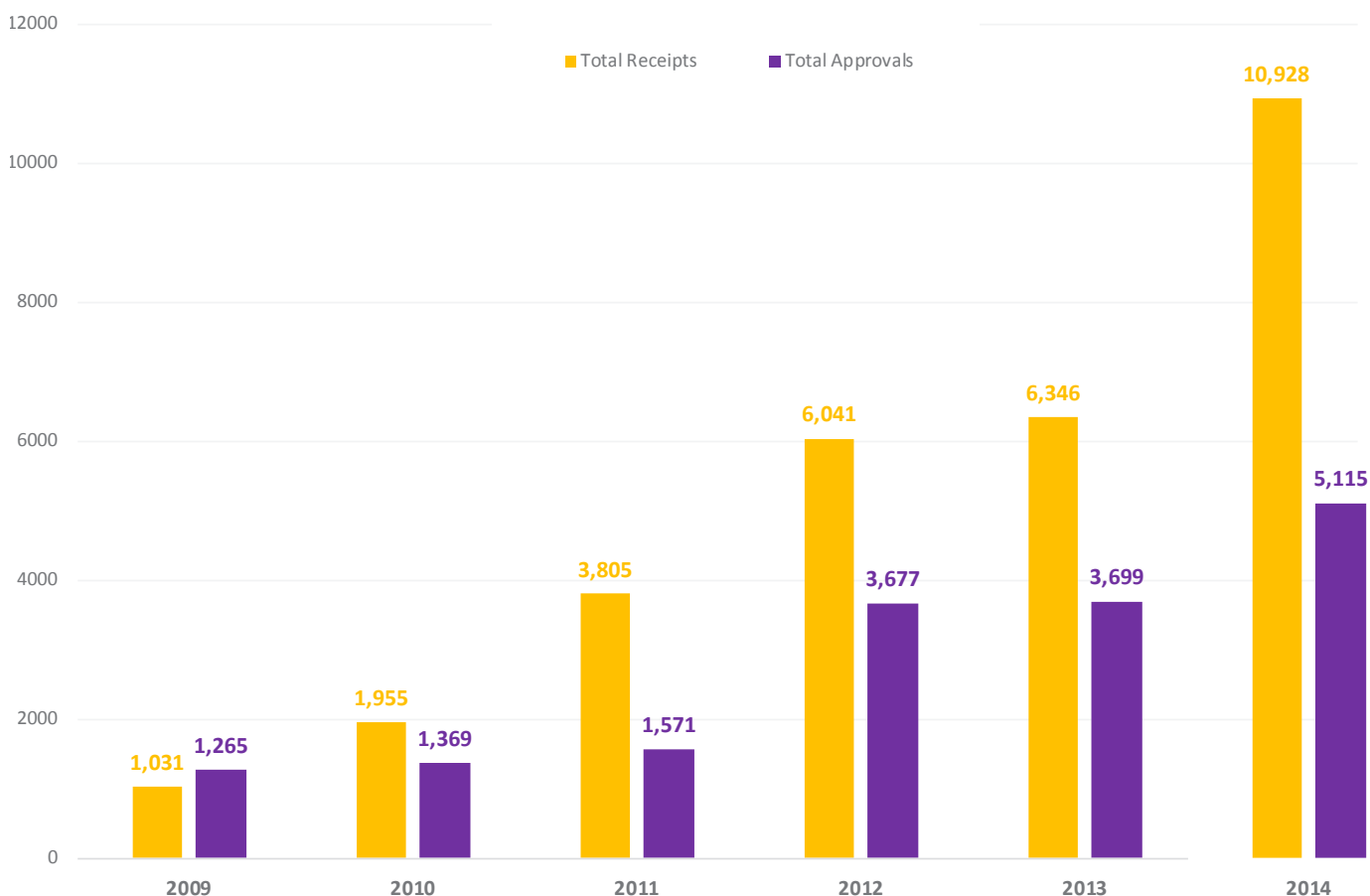
overall average approval rate of 73.66% since the beginning of the Program in 1992 and is approaching the average level of 81.14% during the post-recession time period (FY2008-FY2014). For I-829 petitions, the approval rate in FY2014 was 90% (see Figure 7-B), which has, however, decreased by 5% from the approval rate of 95% in FY2013. But it is still considerably higher than the overall average approval rate of 81.2% from FY1992 to

FY2014 and very close to the average level of 90.8% of the post-recession time period.

Looking back on FY2014, I-526 statistics show a significant increase of investor demand for the Program as well as the billions of dollars of capital investments the Program is generating for the U.S. economy. I-829 data demonstrates that as conditions are removed and investors earn their permanent green

cards, at the same time tens of thousands of U.S. jobs are being created across the country. The substantial increase of I-924 approvals represents the fast growing EB-5 Regional Center industry that is contributing to regional economic development in U.S. communities. All data together is speaking with a loud and clear voice: “EB-5 is Working. For You. For America.” ■

**FIGURE 1-A: I-526 PETITIONS STATISTICS - NUMBER OF RECEIPTS VS. APPROVALS (FY2009 – FY2014)**



Source: USCIS Performance Analysis System (PAS) by Office of Performance & Quality (OPQ), Data Analysis and Reporting Branch (DARB)

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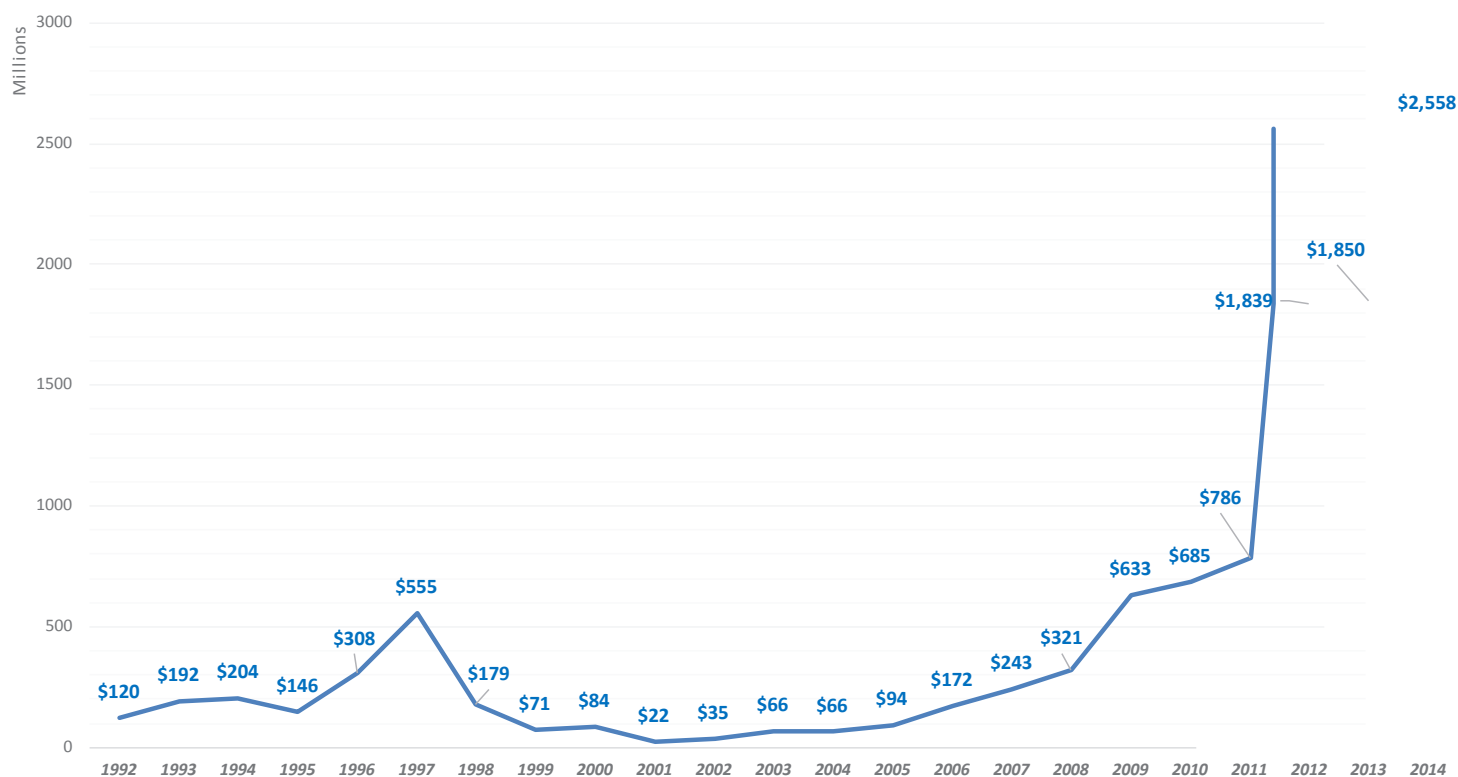
# EB-5 2014 DATA OF THE YEAR

FIGURE 1-B: NUMBER OF I-526 PENDING (FY2009 – FY2014)



Source: USCIS Performance Analysis System (PAS) by Office of Performance & Quality (OPQ), Data Analysis and Reporting Branch (DARB)

FIGURE 2-A: FOREIGN DIRECT INVESTMENTS (\$MILLIONS) CONTRIBUTED BY EB-5 PROGRAM BY FISCAL YEAR (1992–2014)



Note: FDI = Number of I-526 Approvals \* \$0.5 Million

Source: USCIS Performance Analysis System (PAS) by Office of Performance & Quality (OPQ), Data Analysis and Reporting Branch (DARB)



# EB-5 2014 DATA OF THE YEAR

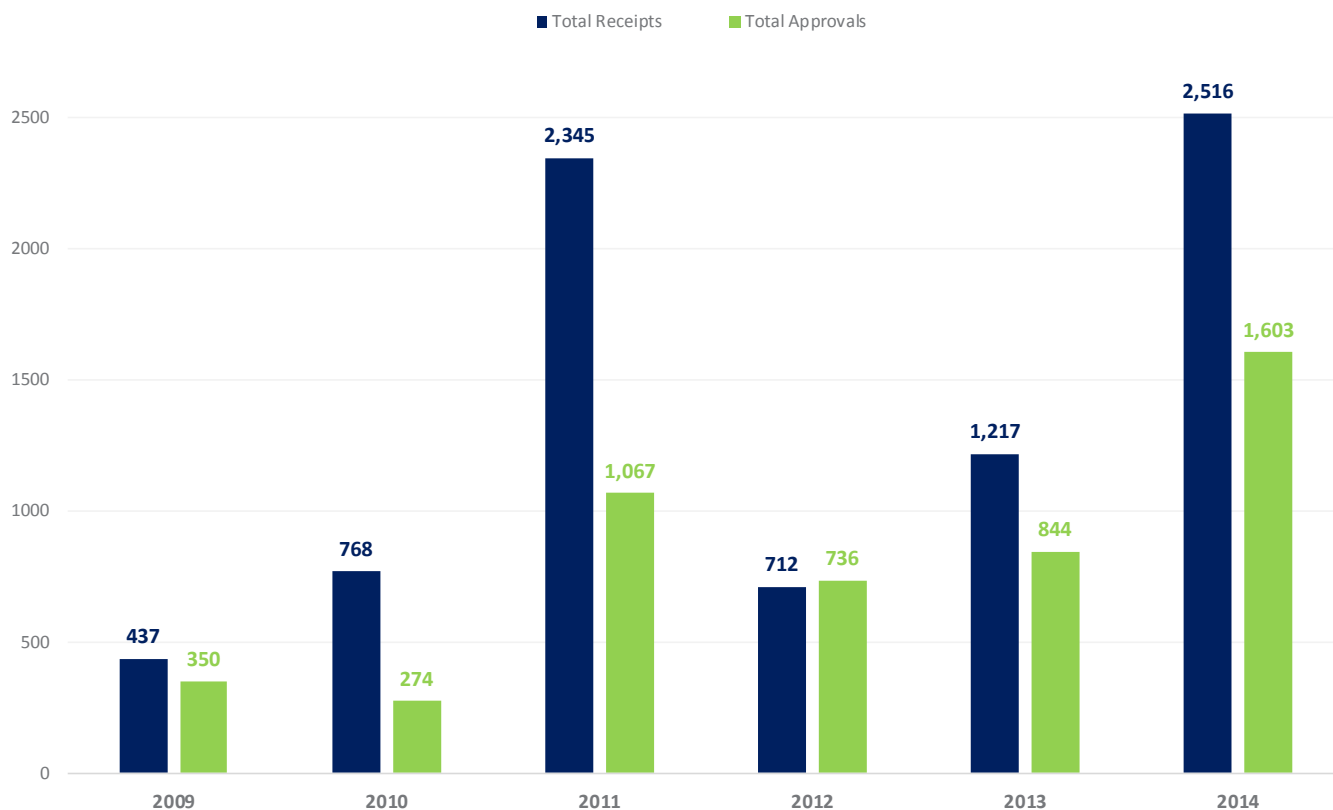
**FIGURE 2-B: MINIMUM FOREIGN DIRECT INVESTMENTS (\$MILLIONS) PENDING BY FISCAL YEAR (1992-2014)**



Note: Minimum FDI Pending = Number of I-526 Pendings \* \$0.5 Million

Source: USCIS Performance Analysis System (PAS) by Office of Performance & Quality (OPQ), Data Analysis and Reporting Branch (DARB)

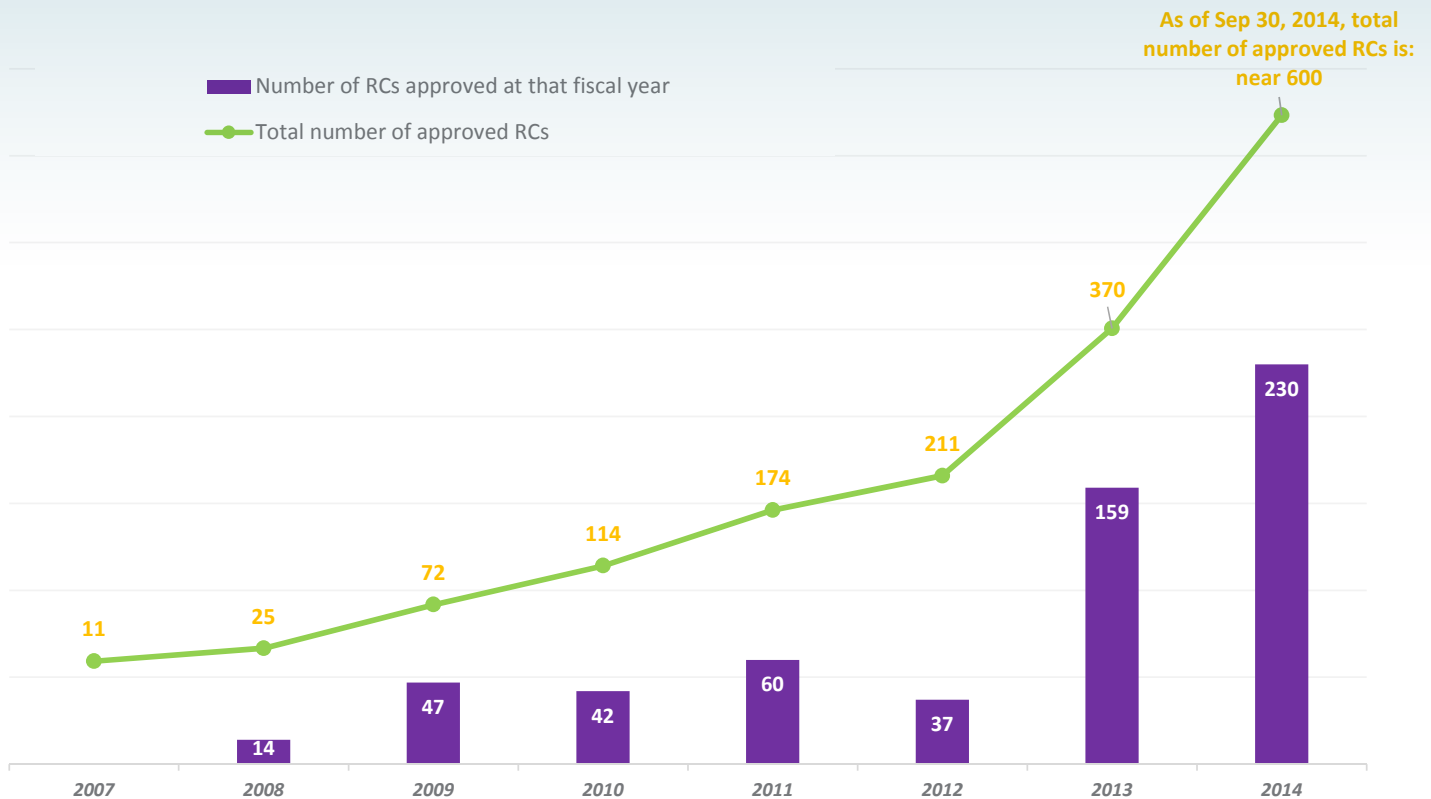
**FIGURE 3: I-829 PETITIONS STATISTICS - NUMBER OF RECEIPTS VS. APPROVALS (FY2009-FY2014)**



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# EB-5 2014 DATA OF THE YEAR

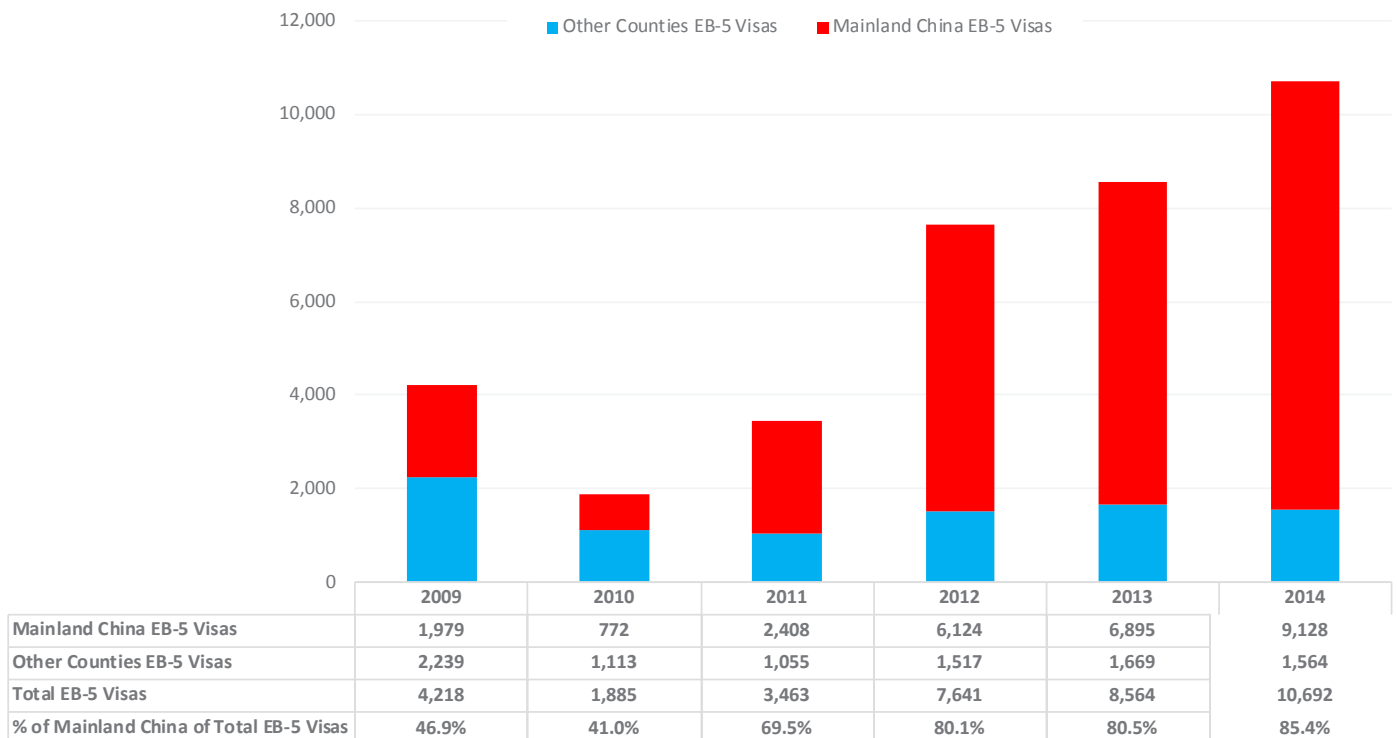
FIGURE 4: NUMBER OF REGIONAL CENTERS APPROVED BY FISCAL YEAR



Data source: Office of Performance and Quality (OPQ), Data Analysis and Reporting Branch (DARB)

Note: FY2014 data is from USCIS EB-5 Stakeholder Engagement Meeting (2014-12-05)

FIGURE 5-A: NUMBER OF EB-5 VISA ISSUED TO CHINESE INVESTORS VS. INVESTORS FROM OTHER COUNTRIES (FY2009–FY2014)

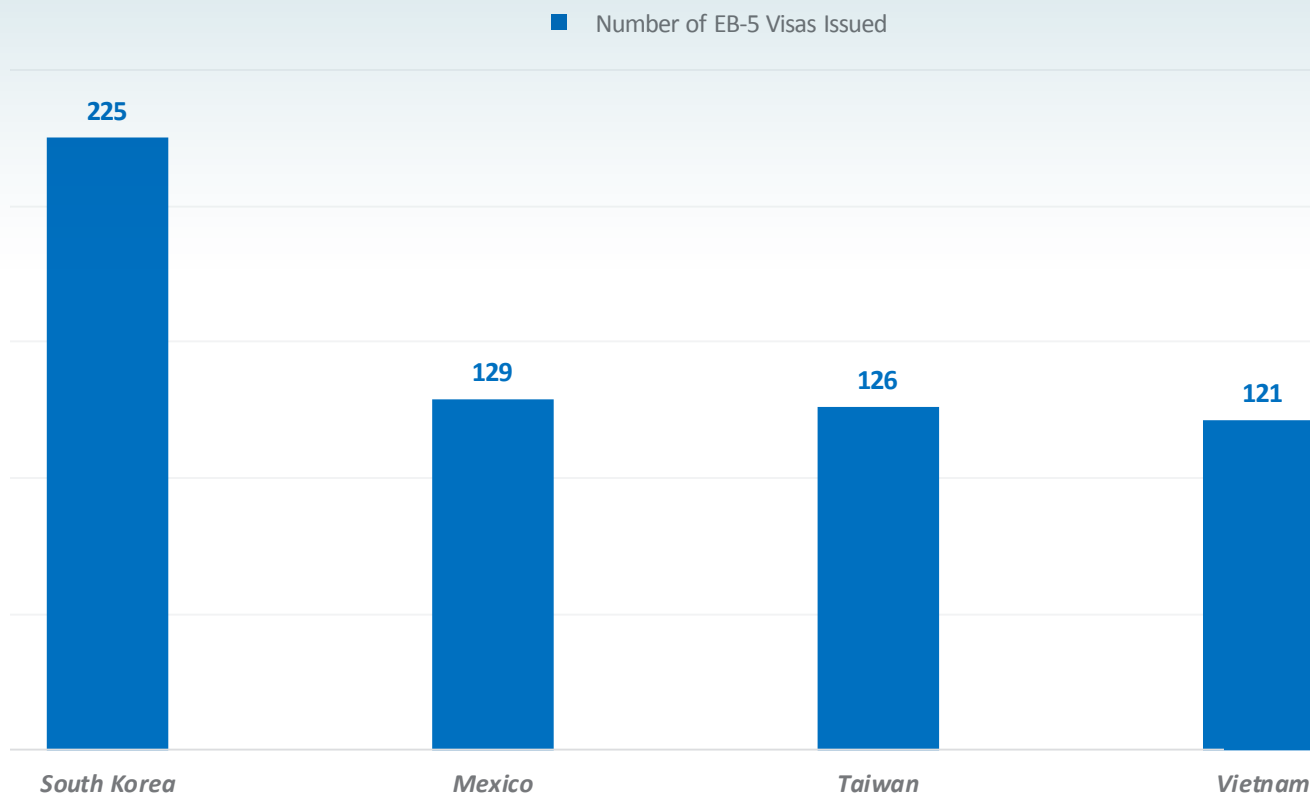


Data Source: Courtesy of the U.S. Department Of State



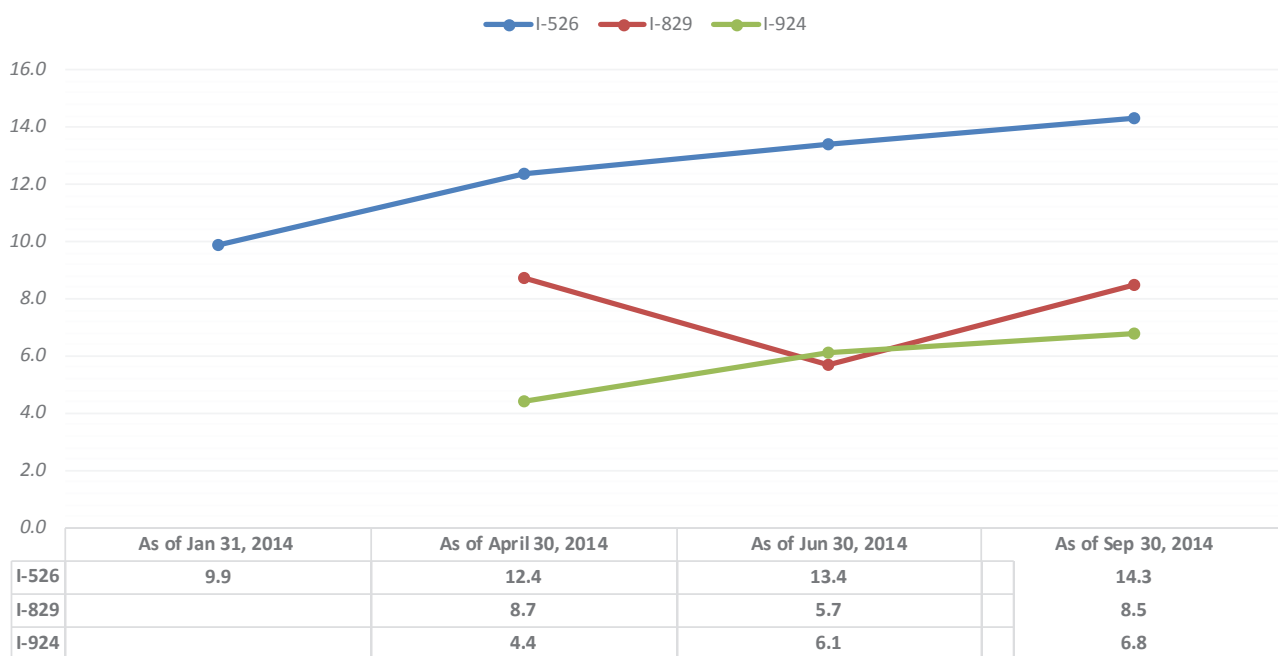
# EB-5 2014 DATA OF THE YEAR

FIGURE 5-B: FY2014 TOP FOUR COUNTRIES FOR EB-5 VISA (OTHER THAN MAINLAND CHINA)



Data Source: Courtesy of the U.S. Department Of State

FIGURE 6: USCIS EB-5 PETITION PROCESSING TIMES (MONTHS)  
(FISCAL YEAR 2014 BY QUARTER)

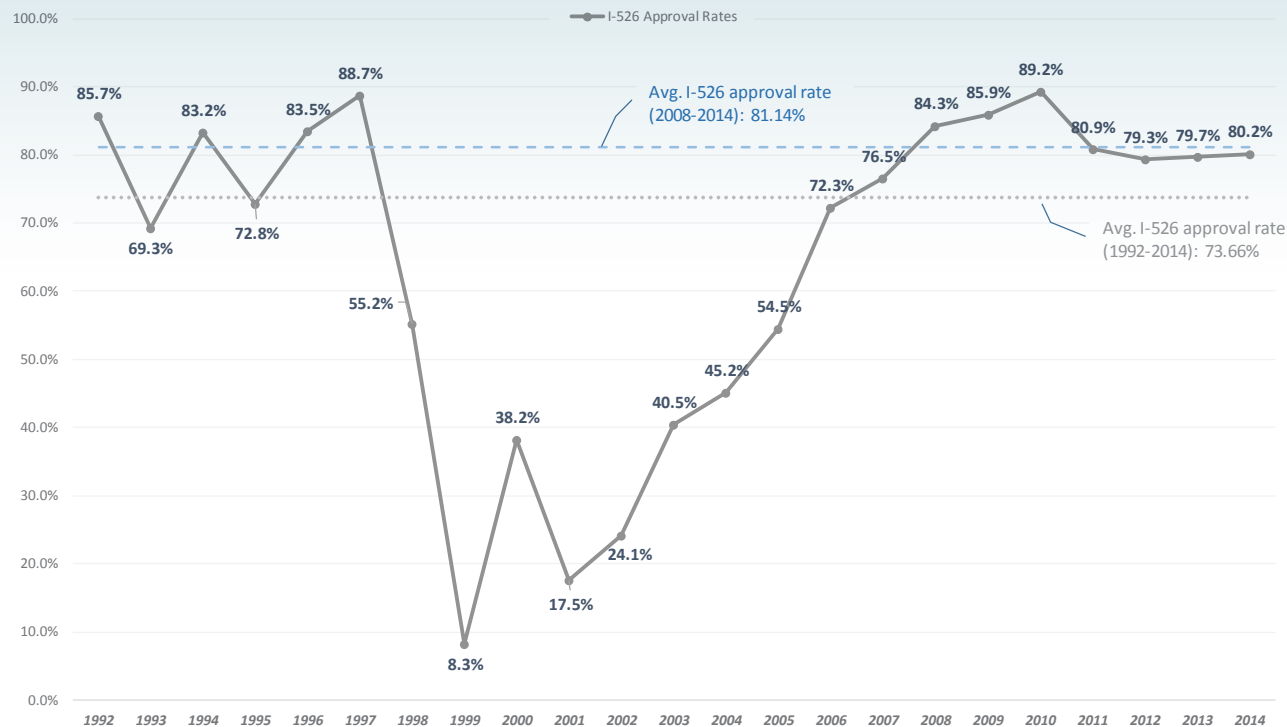


Data source: USCIS Processing Time Information

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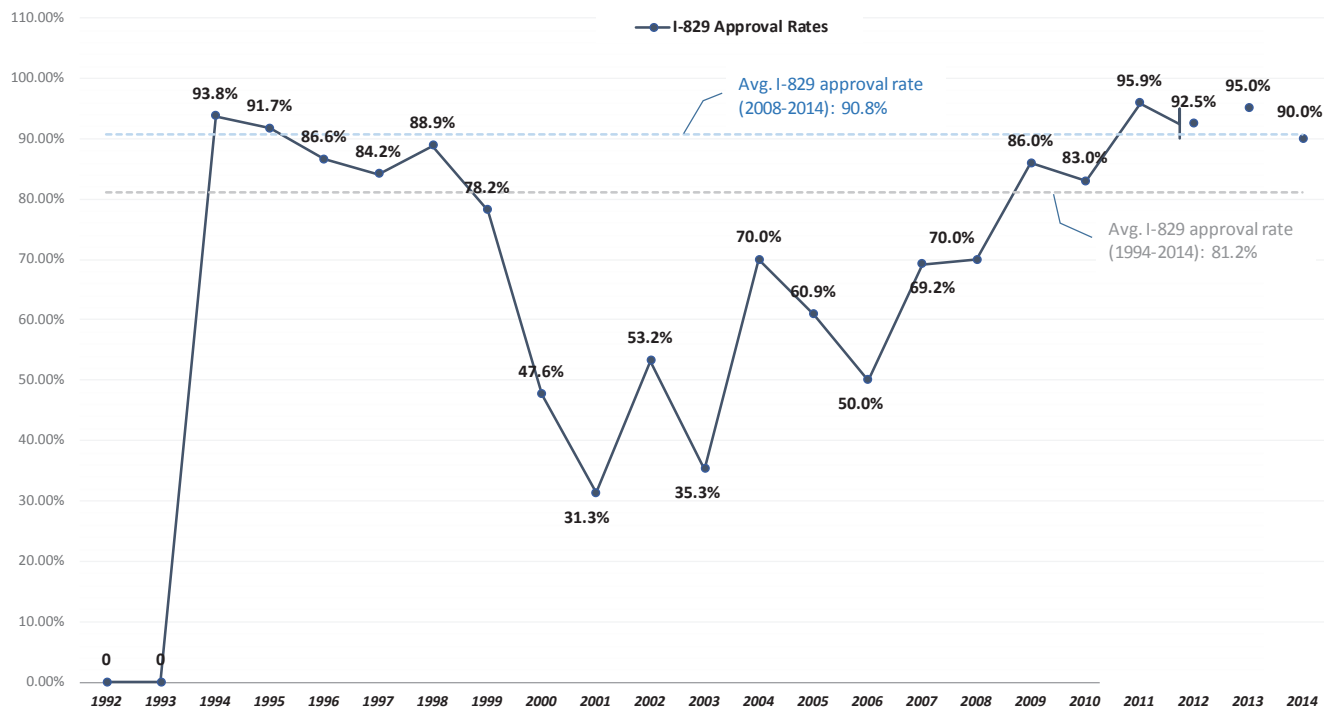
# EB-5 2014 DATA OF THE YEAR

## FIGURE 7-A: I-526 APPROVAL RATES COMPARING TO THE AVERAGE LEVEL (FY1992–FY2014)



Source: USCIS Performance Analysis System (PAS) by Office of Performance & Quality (OPQ), Data Analysis and Reporting Branch (DARB)

## FIGURE 7-B: I-829 APPROVAL RATES COMPARING TO THE AVERAGE LEVEL (FY1992–FY2014)



Source: USCIS Performance Analysis System (PAS) by Office of Performance & Quality (OPQ), Data Analysis and Reporting Branch (DARB)





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U.S. EB-5 IMMIGRATION ATTORNEYS  
APPROVABLE SOLUTIONS SINCE 1983

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**BESHARA PROFESSIONAL ASSOCIATION** manages an experienced team of professionals from other experienced firms, including Economists, Business Planners, Securities Attorneys, Marketing Analysis, and registered Broker-Dealers, to ensure **compliance and marketability**.

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### Experience and Approvable Solutions in Various EB-5 Industries, including:

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RESTAURANTS    ENERGY AND MINING    FILM AND TV PRODUCTION STUDIOS  
ENTERTAINMENT    ASSISTED LIVING    AQUA FARMS    FRANCISES  
AND MORE

**BESHARA PROFESSIONAL ASSOCIATION** also has **strong and strategic alliances** with Groups that provide investors for EB-5 project funding and professional firms with offices in more than 50 countries, including in Asia, the Middle East, Europe, and South America, providing both **EB-5 and non-EB-5 legal services**.

Our **EB-5 Team** below, all based in the United States, remains up-to-date with new EB-5 rules and policies, and are recognized members of national and international organizations like **Association to Invest in USA**, AILA, EB5Info.com, and EB5Investors.com.



**Edward C. Beshara**  
Managing Partner  
BESHARA P.A.  
B. Juris, LL.B., J.D.  
Attorney at Law  
*In attendance in Las Vegas*



**Salvatore Picataggio**  
Associate Attorney  
BESHARA P.A.  
J.D., B.S.  
Attorney At Law



**Elana Laverty**  
Associate Attorney  
BESHARA P.A.  
J.D., B.A.  
Attorney At Law



**Francis Brink**  
Associate Attorney  
BESHARA P.A.  
J.D., B.A.  
Attorney At Law



**Robin Mulack**  
Senior Paralegal  
Legal Administrator  
BESHARA P.A.



**Jiaqi Cheng**  
Chinese Liaison  
BESHARA P.A.  
B.S. Finance



**Erika Fernanda Teixeira**  
Brazilian/Latin Liaison  
Attorney at Law (Brazil), LL.M  
Orlando, FL



**Sonia Johary**  
Middle Eastern Liaison  
Attorney at Law (Lebanon),  
Doctorate of Law  
Orlando, FL



**Philip M. Zyne**  
Latin American Liaison  
Attorney at Law, J.D., B.A.  
Miami, FL



**Theodora Uniken Venema**  
European Liaison (Netherlands, Germany)  
J.D. (U.S., NED), Certified International Property  
Specialist  
Orlando, FL





# Industry Event Schedule

LEARN ABOUT ALL THESE EVENTS AND MORE ON THE IIUSA EVENT CALENDAR AT [WWW.IIUSA.ORG](http://WWW.IIUSA.ORG)!

- **1/21-1/23:** 12th Annual Winter Forum On Real Estate Opportunity & Private Fund Investing (Laguna Beach, CA)
- **1/29:** Review of IIUSA EB-5 Regional Center Industry Best Practices (IIUSA Webinar)
- **2/5:** EB-5 Advocacy: Strategies for a New Congress (IIUSA Webinar, Members-Only)
- **2/26:** Securities Laws & EB-5: Broker Dealer Business Model (IIUSA Webinar)
- **2/23-2/25:** The P3 Conference (Dallas, TX)
- **3/8-3/10:** NABE: The 31st Annual Economic Policy Conference (Washington, D.C.)
- **3/23-3/24:** SelectUSA 2015 Investment Summit (National Harbor, MD)
- **3/26:** Technology: How IIUSA is Empowering the EB-5 Industry Through Technology Tools (IIUSA Webinar)
- **4/12, 2015:** 10th Annual IIUSA Membership Meeting (Washington, DC)
- **4/12-4/14, 2015:** 8th Annual IIUSA EB-5 Regional Economic Development Advocacy Conference (Washington, DC)
- **4/30:** EB-5 Visa Retrogression: What Does It Mean for Your Business? (IIUSA Webinar)
- **5/5-5/6:** Henley & Partners Forum 2015 (Zurich, Switzerland)
- **5/7:** EB-5 Advocacy: Post-Conference Review (IIUSA Webinar, Members-Only)
- **5/28:** Going Global: The Importance of Diversifying the EB-5 Investor Marketplace (IIUSA Webinar)
- **6/17-6/20, 2015:** AILA National Conference (National Harbor, MD)

## Connect with IIUSA



Association to Invest  
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Association to Invest  
In the USA (IIUSA)



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Weibo



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# IIUSA in China – 2014 Review



## BY KELVIN MA

PARTNER, SHANGHAI  
DEMEI LAW FIRM;  
CHAIR INTERNATIONAL  
SUBCOMMITTEE OF IIUSA  
MEMBERSHIP COMMITTEE

For over two years now, IIUSA has been developing relationships in China and 2014 was a year marked by close collaboration with entry-exit associations from various Chinese provinces and development of further ties with American Chambers of Commerce in China. These important partnerships are the result of significant hard work by IIUSA members, committees, leadership, and staff to bring the most accurate/recent statistics and policy updates to the EB-5 industry in China. A mutual interest in accessing practical industry information by entry-exit associations and American Chambers of Commerce members – the practitioners in the market – makes up the founda-

tion of this relationship and also empowers IIUSA to report important market intelligence to the United States side of the industry.

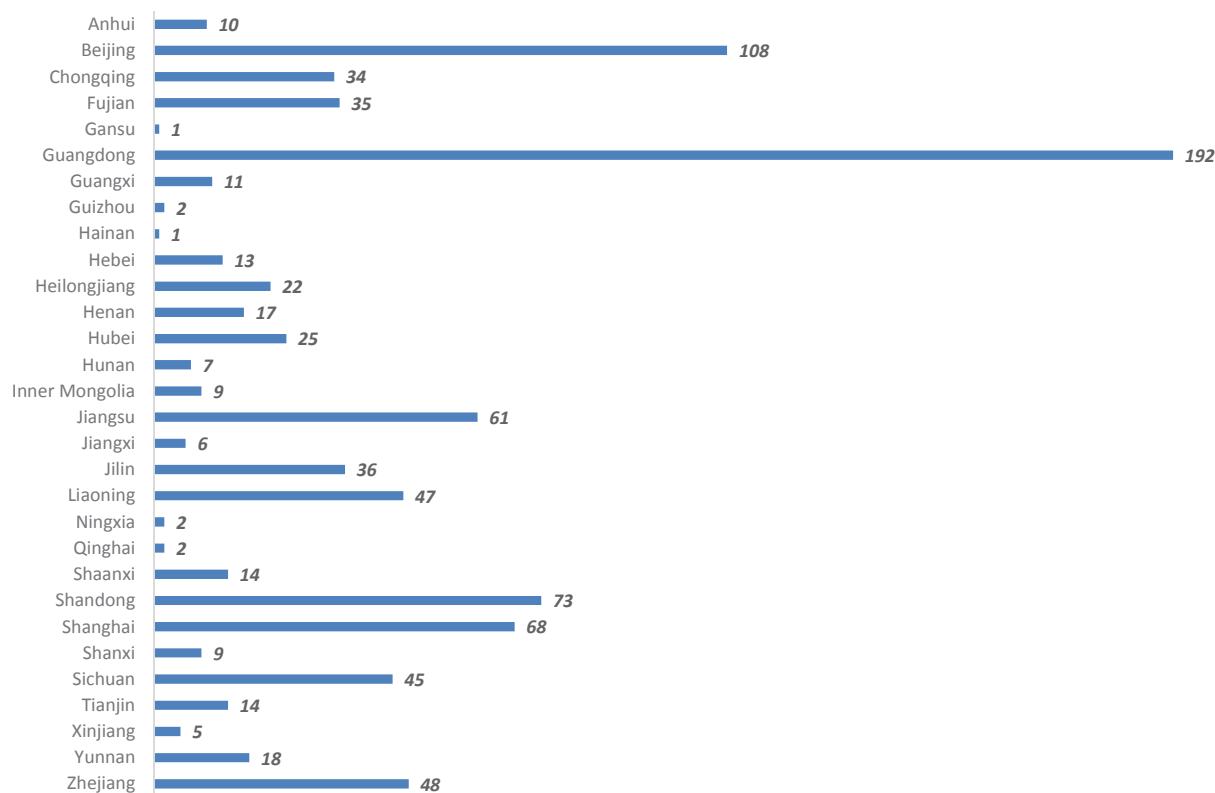
Most EB-5 stakeholders are aware of the exponential growth of the Program in the last few years in terms of investor demand, Regional Center proliferation, and economic impact. What is less understood is the equally impressive growth of migration advisory (or “entry-exit”) agencies in China. Between 2012 and 2013, there was more than a 15% jump in the number of entry-exit agencies in China, as announced by China’s Ministry of Public Security (from 789 agencies in 2012 to 935 in 2013). The chart below shows each province and the corresponding number of entry-exit agencies it has. It is important to note that not all agencies provide EB-5 immigration services for their clients. However, with the growing demand among Chinese investors to emigrate to the U.S., it is likely that more agencies will begin providing EB-5 services in the future.

To ensure efficient communication with the growing stakeholder community in China, IIUSA put an emphasis on developing a strong social media presence with the goal of delivering industry news, in Mandarin, every day. That led to the launch of an official “WeChat” account, a mobile text and blogging platform that has over 400 million active users in China. Since May, the account has grown to nearly 1,400 followers and is poised to attract more attention in the year ahead. In 2015, IIUSA will distribute a Mandarin-language version of the Regional Center Business Journal, its quarterly magazine, to EB-5 stakeholders around China.

If 2014 is any indication, 2015 will be marked by strong growth in demand for EB-5 visas by investors from China, in spite of visa retrogression likely beginning in the summer. Also, with China and the U.S. recently streamlining and expanding travel between the two countries, more travelers from China are likely to be attracted to the U.S. for invest-

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FIGURE: NUMBER OF MIGRATION AGENCIES BY CHINESE PROVINCE





ment and a new life. The busy year makes up the foundation from which even more important work will be done to protect the vitality of EB-5's largest investor marketplace.

To illustrate the hard work in 2014 that brought such a large and growing set of partnerships with entry-exit associations and American Chambers of Commerce in China, we have created the comprehensive timeline below – with an eye towards what is ahead in 2015.

## MARCH

- IIUSA representatives travel to Guangzhou. There they meet with American Chamber of Commerce (AmCham) in South China's President, Harley Seyedin and President He of the Guangdong Entry-Exit Association.
- Meet with President Lu of Fuzhou Entry-Exit Association in Fuzhou.
- Meet with President He, Secretary-General Luo and Director-General Cai of Guang-

dong Entry-Exit Association in Guangzhou

- IIUSA representatives visit Hong Kong to attend the Immigrant Investor Capital Forum and Global Asset Allocation Program Conference.

## MAY

- IIUSA signs memoranda of understanding (MOUs) with 8 Chinese entry-exit associations at its 7th Annual EB-5 Regional Economic Development Advocacy Conference.
- President David Andersson meets with Beijing Entry-Exit Association representatives, discussing the takeaways from IIUSA's Advocacy Conference in Washington, DC earlier this month
- In Shanghai, IIUSA meets with President Yao Yao and Secretary-General Huang Weijun of the Shanghai Entry-Exit Association.

## JUNE

- IIUSA attends a seminar held by the Sichuan Entry-Exit Association in Chengdu, Sichuan.
- President Andersson presents at the Global Overseas Investment Conference in Chongqing; IIUSA also holds a seminar at the event with the Chongqing Association.

## AUGUST

- President Andersson and Mr. Kelvin Ma meet with President Ning Shao of the Shanghai Office of the American States.
- In Guangzhou, IIUSA meets with the Entry-Exit Association of Guangdong Province's newly elected officials.
- IIUSA Director George Ekins and Mr. Ma speak at the Guangdong Province Entry-Exit Association's conference. Presidents from several other provincial entry-exit associations were also present.

## SEPTEMBER

- IIUSA leads a 200+ American delegation to the China International Fair for Investment and Trade (CIFIT) in Xiamen. IIUSA worked with AmCham South China and the Fujian Entry-Exit Association to host the U.S. pavilion.
- In addition to the U.S. pavilion, IIUSA also hosts industry exchange meetings during CIFIT to discuss important issues and topics in the EB-5 Regional Center industry.

## OCTOBER

- IIUSA hosts its 4th Annual EB-5 Market Exchange in San Francisco, CA. Representatives from several Chinese entry-exit associations attend, engaging in discussions and presentations on pertinent industry topics with the help of simultaneous translations services provided to attendees. ■



# Alice H. Sun

ATTORNEY AT LAW, AILA MEMBER, IIUSA MEMBER



Alice H. Sun, member of AILA (1996 to present) and IIUSA (2013 to present), has been doing research and practice of EB-5 Investment Visa laws since 1994. Together with highly experienced staff of the law firm, she strives to provide outstanding legal advice and highly successful representation to all

EB5 clients. Having a Master's Degree of Law from the Chinese Academy of Social Sciences in Mainland China and a J.D. degree in the United States, she has exceptional ability to communicate sophisticated legal terms with EB5 investors in both Chinese and English language to enhance effective and successful legal representation of EB-5 Investors. Alice H. Sun also hosts periodic EB5 seminars for potential investors and foreign emigration agencies to promote understanding of EB-5 laws and EB-5 regional center projects.

## Law Offices of Sun

12121 Wilshire Blvd. Ste. 600, Los Angeles, CA 90025  
www.sunlawfirm.us • Tel 310-481-6118  
Email: alicesunlaw@gmail.com  
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seeking additional staffing in the following areas:

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- Project Development Representative
- Project Development Administrative Assistant
- US based Mandarin speaking representative
- US based Vietnamese speaking representative

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# COMMITTEE CORNER

## ASSOCIATION BUILDING (ABC)

Lead IIUSA's outreach to interest groups whose members are benefiting from the EB-5 Regional Center Program and are natural strategic partners in advocacy, education, and/or otherwise.

## BANKING

Develop educational materials for banks on the EB-5 Regional Center Program and best practices in popular financial services (escrow, bridge or other) loans, fund administration, etc.) that provides leadership in the ongoing institutionalization of the Program.

## BEST PRACTICES

Develop recommended industry best practices that contribute to a transparent and informed marketplace with the highest degree of professional behavior that aligns the interests between investor, project, and Regional Center to the greatest extent possible.

## BUDGET AND FINANCE

Recommends IIUSA annual budget to membership, oversee budget reporting, and ensure compliance with all applicable laws and regulations.

## BYLAWS

Ad hoc committee that recommends amendments to IIUSA's corporate bylaws on an as needed basis.

## COMPLIANCE

Proactively seek out market intelligence to inform IIUSA of current trend drivers, while contributing to market transparency by making potentially aggrieved parties aware of IIUSA's industry code of ethics policies and enforcement processes to address unethical behavior in the marketplace.

## EDITORIAL

Curate IIUSA's industry-leading quarterly magazine, the *Regional Center Business Journal* (and other select publications) by providing essential input into IIUSA industry data collection/analysis process and carefully considering submissions for publication on various IIUSA communication platforms.

## INVESTOR MARKETS

Track how world events are driving EB-5 investor market demand around the world and report through IIUSA's various communication platforms, while also providing essential input into IIUSA's market research efforts that empower member marketing decisions.

## MEMBERSHIP

Improve IIUSA's value proposition to members through consistent benefits analysis, recommending new programming, and leading outreach efforts to desirable new members.

**INTERNATIONAL SUBCOMMITTEE:** Recruit desirable new members based outside of the United States, while leading efforts to develop partnerships with international governmental entities and interest groups.

## PUBLIC POLICY

Consider public policy issues, both proactively and reactively, while developing and recommending industry positions for all elements of IIUSA's advocacy and government affairs activities.

## PUBLIC RELATIONS

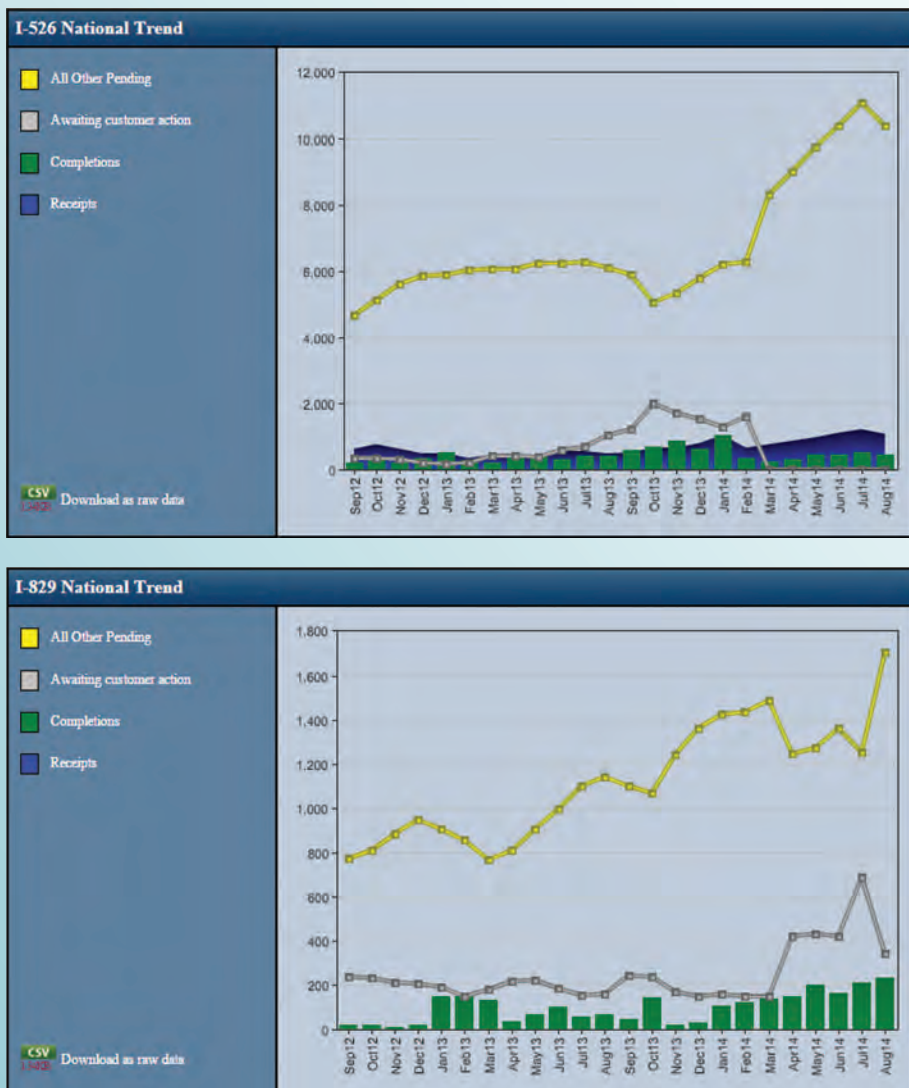
Provide ongoing input to IIUSA public affairs strategy and its implementation, and assisting with outreach efforts to members and media alike.

## TECHNOLOGY

Lead IIUSA efforts in understanding members technology needs, delivering empowering, cutting-edge industry technology tools to members, and optimizing all facets of IIUSA's existing web presence

## I-526 & I-829 Trends

AS OF DECEMBER 2014







Visit the updated IIUSA Marketplace by going to [iiusa.org](http://iiusa.org), select Visit Our Shop, and chat with an IIUSA representative if you have any questions.

- Register for the 8th Annual IIUSA EB-5 Regional Economic Development Advocacy Conference in Washington D.C., April 12-14, 2015
- Sign Up for upcoming EB-5 webinars
- Purchase the All Access Pass
- Advertise in the *Regional Center Business Journal*
- Advocacy Brochures, Conference Handbooks and industry reports
- Exclusive Video Content, including webinars and conference presentations, available for OnDemand Purchase.
- Leadership Fund Contributions



IIUSA members can purchase an **All Access Pass** for 2015 which will grant you attendance to all 12 IIUSA monthly webinars, unlimited access to past webinar recordings on demand and other digital content including past presentations. Additionally, All Access Pass holders get exclusive IIUSA EB-5 reports and raw data on EB-5 statistics and trends.

***The All Access Pass is getting even better in 2015!***

- Regional Center "data tracker" reports featuring aggregated reporting on all Regional Centers' annual I-924A filings and designations/amendments
- I-829 request for evidence (RFE)/denial raw data and report (2011-2013)
- Notice of Intent to Terminate (NOITs) and final termination notices for terminated Regional Centers
- Notices/reports of Securities & Exchange Commission (SEC) enforcement actions on against Regional Centers

**[iiusa.org/marketplace](http://iiusa.org/marketplace)**

## By the Numbers

**100** - EB-5 Program Director Nicholas Colucci stated on the December 5 EB-5 Program Stakeholder Engagement that the USCIS Immigrant Investor Program Office (IPO) is projected to pass 100 staff members by the end of the calendar year.

**15 & 35** - IIUSA's library of OnDemand video content now includes 14 webinars and 35 panels from the past three IIUSA conferences! Purchase the All Access Pass today (\$1,200, members-only) to gain access to 50+ hours of video as well as thousands of pages of comprehensive research & analysis!

**12,453** - There are a total of 12,453 petitions pending at USCIS as of 10/1/14, representing over \$6.2 billion dollars in foreign direct investment into the U.S

**1,122** - IIUSA President Advisory Council member New York City Regional Center (NYCRC) announced that over 1,100 individuals have now obtained permanent residency through their participation in NYCRC EB-5 project offerings. At the EB-5 Market Exchange in October, IIUSA honored 17 Regional Center Members with I-829 approvals.

**1,250** - From FY 2001-2014, there have been a 1,250% increase in EB-5 visas handed out, according to the Department of State Bureau of Consular Affairs

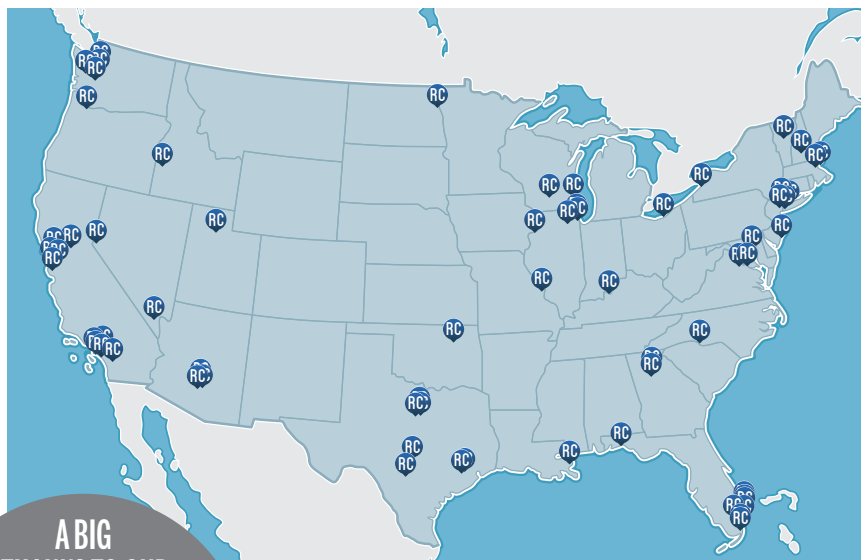
**504, 505, 506** - On September 24, the SEC's Office of Investor Education and Advocacy issued an Investor Bulletin to educate investors about investing in unregistered securities offerings, or private placements, under Regulation D of the Securities Act. Rules 504, 505 and 506 are SEC rules that issuers often rely on to sell securities in unregistered offerings

# IIUSA SURPASSES 245 REGIONAL CENTER MEMBERS!

**I**IIUSA is proud to announce that we recently surpassed **245 Regional Center members!** Thank you to everyone for your continued and dedicated support as we enter the one year mark until the Program needs reauthorization. Our organization, and the industry as a whole, is stronger thanks to your hard work and commitment.

Visit IIUSA's Legislative Action Center ([advocacy.iiusa.org](http://advocacy.iiusa.org)) to share your story with your members of Congress to ensure the Program's future. Additionally, stay tuned for IIUSA's new online member portal, a powerful tool that will equip our industry with the necessary information to engage the public with data-driven industry analysis and powerful anecdotes that drive the narrative of the 21st century economic development through the Program. ■

A BIG  
THANKS TO OUR  
MEMBERS FOR YOUR  
SUPPORT, AND TO THOSE  
WHO HELPED MAKE THIS  
EXCITING MILESTONE  
POSSIBLE!



## Regional Center Member Map

Our Interactive Regional Center Members Map on [www.iiusa.org](http://www.iiusa.org) includes each Regional Center's date of approval, states they serve, and I-526 or I-829 approvals. These updates to the map and accompanying information will promote even greater visibility for your Regional Center to EB-5 stakeholders. If you are a Regional Center member, please visit the site and make certain that all the data associated with your Regional Center is correct. Should there be a need for any edits to your information on the interactive map, please e-mail Allen Wolff at [allen.wolff@iiusa.org](mailto:allen.wolff@iiusa.org).



## "I3" Online Member Database Update

**I**IIUSA Members should take note of the recent additions to the Basecamp Industry Intelligence Online ("I3 Online") database. The following materials, and more, are available for full viewing:

- Webinar Presentation Documents: Year in Review and 2015 Look Ahead (12/18/15) Escrow, Bridge, Fund Administration (11/21/14), Year Four of Regional Center Annual Reporting on Form I-914A (11/6/14)
- USCIS EB-5 Stakeholders Engagement Teleconference Recording (12/5/14)
- USCIS Immigrant Investor Program Office New Personnel Training Materials (12/3/14)
- FY2014 Adjudication Data: I-526/I-829 (11/25/14)
- Media Kit Updates: How to Write an Op-Ed, Template Presentation, Project Tombstone Template (11/10/14)
- 2012 IIUSA Peer-Reviewed EB-5 Economic Impact Study by IMPLAN (11/2014)



IIUSA has over 1,000 documents (totaling tens of thousands of pages) easily accessible from I3 Online including resources, presentations and files relating to advocacy, economic methodology, litigation, securities laws, USCIS adjudication and SEC Enforcement Actions. ■



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projects to filing EB-5 petitions.



**Elizabeth Peng, Esq.**

- Editor-in-Chief, Chinese edition of The EB-5 Handbook (EB5investors.com, 2014 forthcoming).
- Author of “How to Represent Chinese Investors in EB-5 cases.”
- Frequent speaker on EB-5 law and practice, especially related to investors from China.
- Earned law degrees in both China and USA.



**Cletus M. Weber, Esq.**

- Member of national EB-5 Committee of American Immigration Lawyers Association (AILA).
- Editor of several major books on EB-5, published by AILA and EB5investors.com.
- Frequent author and speaker on EB-5 law and practice.
- Invited reviewer of EB-5 section of Kurzban’s Immigration Sourcebook, America’s “bible” on immigration law.

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