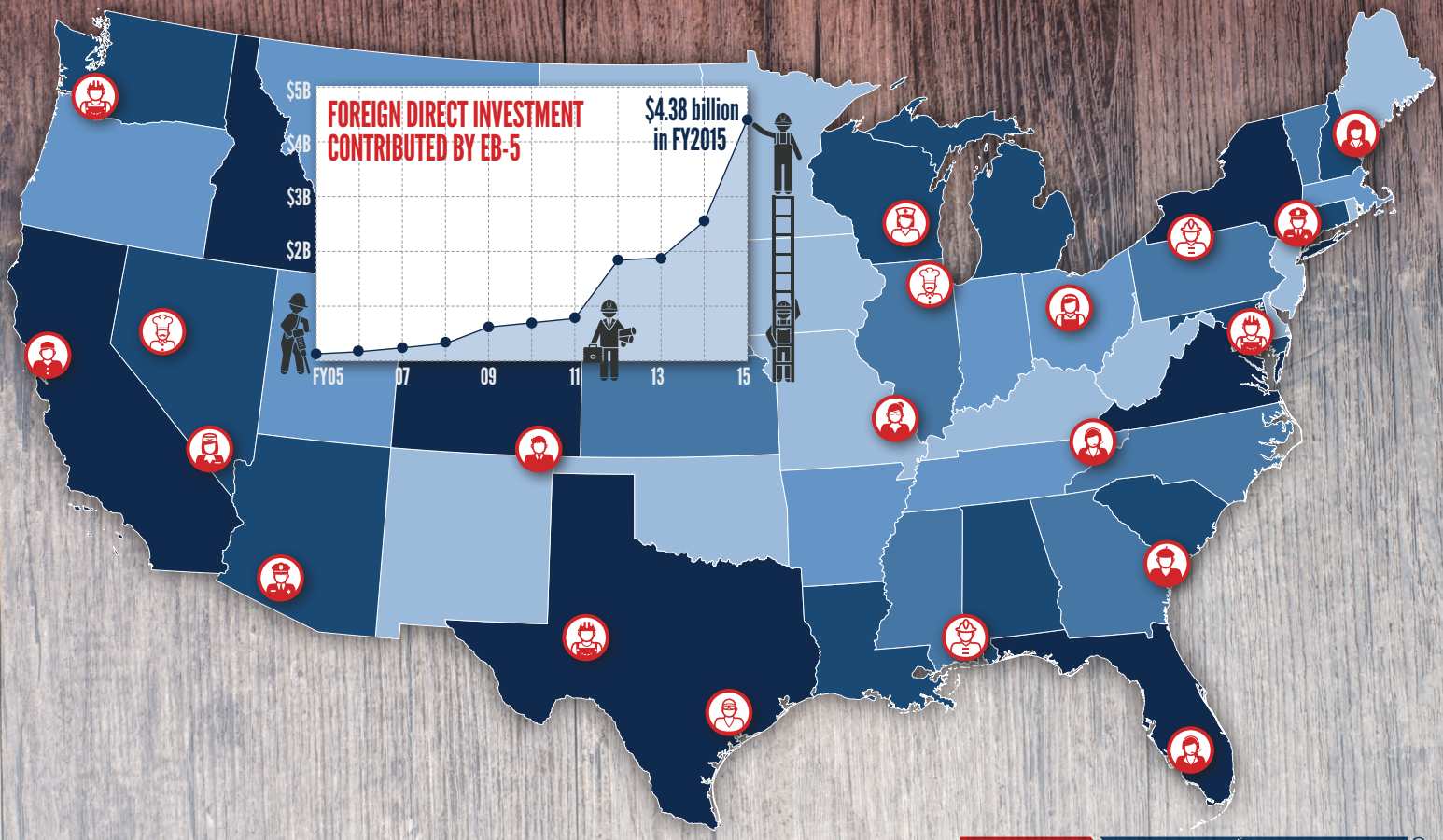
REGIONAL CENTER BUSINESS JOURNAL

September 2016

REAUTHORIZATION 2016

EB-5 IS *Essential* TO THE U.S. ECONOMY



IIUSA INVEST IN THE USA®

IN THIS ISSUE:

THE YEAR'S PREMIER EB-5 CONFERENCE

FOCUSING ON EDUCATIONAL AND BUSINESS DEVELOPMENT ON A GLOBAL SCALE

IIUSA Invest In the USA

6th Annual

EB-5 INDUSTRY FORUM

Los Angeles, CA • October 10-11, 2016

Navigating the Now. Envisioning the Future.

On October 10-11, Invest in the USA (IIUSA), the national not-for-profit industry trade association for the EB-5 Regional Center Program, will hold its **6th Annual EB-5 Industry Forum** on the campus of the **University of California Los Angeles (UCLA)** in Westwood, CA. Attended by international investment and economic development professionals from around the world, the EB-5 Industry Forum will feature panels on legislative and regulatory activities that will shape the future of the EB-5 Program.

CONFERENCE REGISTRATION

MONDAY
$349 (MEMBER) | $549 (NON-MEMBER)

- Case Studies on Emerging EB-5 Topics Seminar
- Attendee Welcome Luncheon (Invite-only)
- Due Diligence ("DD") Seminar

TUESDAY
$600 (MEMBER) | $850 (NON-MEMBER)

- Five (5) general sessions featuring three interactive "symposiums":
  1) EB-5 Legislation/Regulatory Reform;
  2) Program Integrity; and
  3) Visa Capacity
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PRESIDENT'SADVISORYCOUNCIL

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VOL. 4, ISSUE #2: SEPTEMBER 2016

WELCOME

Letter from the Editor

Dear Readers:

IIUSA's 2016 Summer/Fall Issue of *The Regional Center Business Journal* comes at a time of great importance for the EB-5 industry. With the Regional Center Program due to expire September 30th, IIUSA has been busy building consensus among the EB-5 industry stakeholders and the American business community, calling on Congress to act to extend the Program and enhance the Program's integrity and effectiveness.

This edition of the *Journal* underscores the work underway by many industry stakeholders to ensure that the EB-5 Program continues serve as an indispensable economic development tool and job-creating program for communities all across the country. IIUSA Executive Director Peter D. Joseph writes why reform, automation and enhancement of the EB-5 Regional Center Program is essential to the U.S. economy in 2016 and beyond. To help inform meaningful discussion among EB-5 industry stakeholders regarding reform of Targeted Employment Area (TEA) policy, IIUSA introduced its EB-5 project and policy mapping tool. In addition, resolutions in support of EB-5 on behalf of public interest groups such as the National Conference of State Legislatures (NCSL), National Association of Counties (NACo), U.S. Conference of Mayors (USCOM), and the Association of University Research Parks (AURP) provide important validation for the billions of dollars in foreign direct investment (FDI) contributed by the EB-5 Program to the U.S. economy each year.

In addition, this issue covers several hot-button issues, including that of "redeployment" of EB-5 capital and preparing for increased scrutiny from regulators, including Regional Center audits and site visits. As you will read in the international perspectives section, recent growth markets of Vietnam and Brazil may become the new frontier for EB-5 projects in lieu of visa capacity relief that has led to a multi-year backlog for Mainland China EB-5 applicants.

Thank you for your continued support of IIUSA and its *Journal*. As always, we welcome your comments on how the *Journal* can better serve the needs of IIUSA members

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Chair of the Editorial Committee, IIUSA
Stone Grzegorek & Gonzalez LLP

IIUSA Editorial Committee

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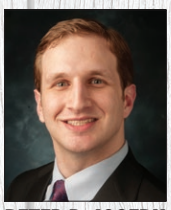

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*All CMB EB-5 Limited Partnerships (New Commercial Enterprise [NCE]) Have Been Independently Audited (Financials and EB-5 Statistics) From 2007 Through Tax Year 2014. The 2015 Audits Will Begin Shortly.

IIUSA GOVERNMENT AFFAIRS TIMELINE

- **4/2** – The Congressional Research Service (CRS) publishes a report *EB-5 Immigrant Investor Visa* which highlights the EB-5 Program history, requirements, the petition process, admissibility, economic impact, policy issues and legislation from the 114th Congress.
- **4/18** – IIUSA issues a statement welcoming the continued efforts by the SEC to protect the integrity of the EB-5 Program through enforcement actions and interagency collaboration with federal, state, and international partners, particularly as it related to the action taken against several EB-5 projects in Vermont.
- **4/19** – The U.S. Department of State's Bureau of Consular Affairs releases its Visa Bulletin for the month of May 2016. The bulletin reveals the cutoff date of February 8, 2014 for Mainland-China born visa applicants.
- **4/20-23** – IIUSA hosts its 11th Annual Membership Meeting in Washington D.C. and the 9th Annual EB-5 Advocacy Conference, the longest running EB-5 conference attended by international investment and economic development professionals around the world. This year's event was attended by 400+ EB-5 professionals and featured 40+ sponsors. The IIUSA membership elected one new officer and three new directors to the Board.
- **4/25** – The U.S. Citizenship and Immigration Services (USCIS) hosts an EB-5 Stakeholder Listening Session to discuss ideas regarding: minimum investment amounts, the TEA designation process, the regional center designation process, including, but not limited to, the exemplar process and the designation of the geographic scope of a regional center, and indirect job creation methodologies.
- **4/25** – USCIS releases preliminary 2016 adjudication data at its Stakeholder Engagement. For the first time in Program history, I-829 receipts outpace I-526 petitions.
- **4/27** – USCIS sends a message to EB-5 stakeholders encouraging the use of its "Idea Community", an online crowdsourcing tool for comment on potential EB-5 regulatory and policy changes.
- **5/4** – USCIS proposes significant increases in EB-5 Program filing fees for both projects, regional centers, and investors along with a notice of proposed rulemaking in the Federal Register inviting for comment.
- **5/6** – The U.S. Department of State's Bureau of Consular Affairs releases its Visa Bulletin for the month of May 2016. The bulletin reveals the cutoff date of February 15, 2014 for Mainland-China born visa applicants.
- **5/9** – USCIS posts updated versions of Form I-924, Application for a Regional Center, and Form I-924A, supplement to Form I-924 after IIUSA's Public Policy Committee submitted comments and recommendations to USCIS on the forms in February.
- **5/11** - The Financial Crimes Enforcement Network (FinCEN) publishes new Customer Due Diligence Requirements for Financial Institutions clarifying and strengthening customer due diligence requirements and imposing new requirements to identify and verify the identity of beneficial owners of legal entity customers.
- **5/12** – USCIS ends its campaign seeking feedback on four major regulatory policy considerations through the "Idea Community".
- **5/12** – IIUSA publishes the first-of-its kind *EB-5 Investor Markets Report*, a quantitative and qualitative analysis of established and emerging EB-5 investor markets. The report will be updated annually going forward.
- **5/16** – IIUSA announces that William P. Gresser, President of EB-5 New York State Regional Center, will serve as Director Emeritus. Mr. Gresser served on the IIUSA Board with class and honor between 2010 and 2016 and serves as Public Policy Committee chair for the 2016-17 committee year.
- **5/17** – IIUSA publishes a comprehensive report on the results of its online policy poll and interactive policy poll hosted at the Annual Meeting on April 10th and in focus group deliberations.
- **5/19** – IIUSA hosts a members-only Advocacy Webinar *Review of EB-5 Policy Poll and Focus Groups Results*.
- **5/24** – IIUSA hosts three focus groups to inform policy deliberations at the committee and board levels in determining IIUSA's official positioning. This broadened the perspectives and voices heard in the industry through a bottom-up approach.
- **5/25** – IIUSA Board of Directors passes multiple committee recommendations including: revisions to Regional Center Best Practices, replacing KYC Best Practices with new AML/KYC Best Practices, additions to Sales Intermediaries Best Practices, revisions to the Compliant Process, and an enhanced Member intake process.
- **5/25** – IIUSA publishes a members-only report on the proposed USCIS fee rules after the following proposed changes: Form I-924A: new $2,035 fee, Form I-924: increase from $6,230 to $17,795, Form I-526: increase from $1,500 to $3,675, Form I-829: no change.
- **5/26** – IIUSA releases its EB-5 Project & Policy Mapping Tool, an interactive, online tool based on a single census tract, place-based TEA policy proposal similar to New Market Tax Credits (NMTC).

- **6/1** – The Department of Homeland Security (DHS) proposes to update its EB-5 regulations to improve clarity by having two distinct regulatory sections – one for individual investors and one for regional center investors. This starts the regulatory updating process within the department.
- **6/1-3** – IIUSA hosts a Leadership Summit in Washington, D.C. In attendance were Board of Directors, President's Advisory Council members as well as committee chairs. The group formulated a strategic plan and to find consensus on policy issues facing the EB-5 industry.
- **6/6-8** – After formalizing a strategic partnership with the Investment Migration Council (IMC), IIUSA Executive Director Peter D. Joseph speaks at IMC's Inaugural Investment Migration Forum, the world's largest independent forum on the subject of citizenship-by-investment and investor immigration.
- **6/16** – The Steve L. Newman Real Estate Institute at Baruch College, in conjunction with IIUSA Member Mona Shah & Associates, PLLC, hosts an EB-5 conference titled: *EB-5 investments: Unique Opportunities and Challenges.* IIUSA Executive Director, Peter D. Joseph, participates in a panel along with IIUSA members Mona Shah, Ira Kurzban, Nima Korpivaara, and former New York State Governor, David Patterson.
- **6/17** – IIUSA exhibits at the 2016 SelectUSA Investment Summit, the premier event dedicated to promot¬ing foreign direct investment in the United States, run through the Department of Commerce.
- **6/20** – The U.S. Department of State's Bureau of Consular Affairs releases its Visa Bulletin for the month of June 2016. The bulletin reveals the cutoff date of February 15, 2014 for Mainland-China born visa applicants.
- **6/22-25** – AILA hosts its Annual Conference on Immigration Law in Las Vegas, NV with IIUSA in attendance. IIUSA members lead discussions on EB-5 in immigration law specific to EB-5.
- **6/24-27** – The U.S. Conference of Mayors (USCOM) passes a resolution of support of the reauthorization of the EB-5 Regional Center Program for the 5th year in a row.
- **6/30** – DHS Secretary Jeh Johnson testifies on his department's counterterrorism efforts and other department matters. The hearing briefly covered EB-5 where there was exchange on the status of regulatory reform of the EB-5 Program. This exchange reveals that USCIS intends to publish regulations in November for public comment before promulgating and implementing new rules.
- **7/5** – IIUSA publishes a data report on 2016 Q2 adjudication statistics. There was a drastic decrease in I-526 filings with the lowest volume since 2011 and a large increase in I-526 denials at 637, the second highest denials in Program history.
- **7/6** – IIUSA joins leading EB-5 trade associations/coalitions (U.S. Chamber of Commerce, Real Estate Roundtable, EB-5 Investment Coalition, and the American Immigration Lawyers Association) as signatories on a letter to Senate and House Judiciary Committee Leaders and Members expressing support for extending the EB-5 Regional Center Program and recommending reforms to enhance program integrity and effectiveness as an economic development tool.
- **7/8** – The Association of University Research Parks (AURP) passes a resolution of consent in support of reauthorization of the EB-5 Regional Center Program.
- **7/15** – The U.S. Department of State's Bureau of Consular Affairs releases its Visa Bulletin for the month of July 2016. The bulletin reveals the cutoff date of February 15, 2014 for Mainland-China born visa applicants.
- **7/22-25** The National Association of Counties (NACo) passes a permanent policy platform position in support of EB-5 permanent authorization.
- **7/28** – USCIS hosts its first in-person stakeholder engagement of the year in Miami, FL to provide EB-5 Program updates to the industry.
- **7/28** – IIUSA releases a data report on processing times for I-526, I-829 petitions and I-924 applications. I-526 petitions have the longest processing times in Program history at 16.6 months.
- **7/29** – The Financial Crimes Enforcement Network (FinCEN), part of the United States Department of Treasury, issues a FAQ to as¬sist in understanding the new Customer Due Diligence Requirements published in May.
- **8/10** – The National Conference of State Legislatures (NCSL) passes its first resolution in support of the EB-5 Regional Center Program's reauthorization at is Legislative Summit in Chicago, IL.
- **8/11** – The U.S. Department of State's Bureau of Consular Affairs releases its Visa Bulletin for the month of August 2016. The bulletin reveals the cutoff date of February 15, 2014 for Mainland-China born visa applicants. ■

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The Real Estate Roundtable

July 5, 2016

LETTER TO MEMBERS OF CONGRESS

– from the EB-5 Industry –

Dear Congressional Leaders and Judiciary Chairmen and Ranking Members:

Our organizations are joining together to urge Congress to reauthorize and reform the EB-5 "regional center" investment and job creation program. It is set to expire on September 30, 2016. Congress must not let this important job-creating program lapse, in large measure because of the immediate negative consequences to U.S. businesses and projects counting on EB-5 investment to create jobs for Americans.

EB-5 has generated over $15 billion over the 10-year period from 2005-2015, has conservatively created over 100,000 U.S. jobs, and has become an essential economic development financing tool in post-Great Recession capital markets that continue to work fundamentally differently today than before 2008. This important job creation program—which is administered at no cost to taxpayers—has helped finance infrastructure, transportation, real estate, community development, schools, elder care, energy, agriculture, manufacturing and other projects. EB-5 projects are prominent parts of the landscape of our nation's rural, suburban, and urban environments.

To avoid an EB-5 lapse, transparent, bicameral and bipartisan negotiations must occur in earnest. Lawmakers and stakeholders with diverse perspectives should all be involved to build consensus and forge a compromise reform package. We stand ready to assist Congress in the development of a consensus package of effective, fair, and lasting reforms to the program.

Our organizations agree that the following five key issues should be addressed as part of an EB-5 reform bill:

1. Program Integrity

We agree that program integrity and security are paramount. Our organizations support:

- Provisions to prevent and address fraud, including measures designed to be responsive to recent enforcement actions;
- Provisions to protect innocent investors who may be harmed by misconduct by bad actors; and
- Provisions to strengthen national security.

2. Targeted Employment Area (TEA) Reform and Investment Minimums

We recognize that the issue of TEA reform is a challenging one. We also recognize Congress' interest in increasing minimum investment amounts under the program. We support the following principles concerning both TEA policy and minimum investment amounts:

- A TEA designation system that conditions project eligibility on a set of objective, publicly available criteria that will

result in TEA eligibility being the exception, not the rule, and a smaller differential between TEA and non-TEA investment amount requirements than the 100% difference today so projects in both categories have the opportunity to compete for EB-5 investors.

- With respect to an increase of minimum investment amounts under the program, and the differential between TEA and non-TEA investments, we encourage Congress to act in a measured way to recalibrate investment minimums that will:
  - Take into consideration maintaining the global competitiveness of the United States' investor visa program in light of required investment minimums under similar programs abroad; and
  - Increase investment minimums in a way that will not shock and disrupt the global investor marketplace to the detriment of the United States' ability to attract foreign investors.

3. Visa Availability and USCIS Processing Backlog

The growing wait time for EB-5 visa availability threatens to undermine the important reforms Congress is considering for the program. With an estimated eight-year wait for an EB-5 visa to be available to the vast majority of investors, increasing visa capacity is a priority. We strongly support any mechanism that will address the current visa availability issue, which poses harm to program effectiveness and viability – especially when considering the global competition among countries to attract foreign investors via immigrant investor programs that come in a wide variety of forms.

In addition to the visa availability issue, there is currently a backlog of over 22,000 investor applications pending with U.S. Citizenship and Immigration Services ("USCIS") adjudication and which collectively represent over $11 billion in foreign direct investment. Processing times have increased to an average of almost 18 months for these investors. The lack of predictability in processing times coupled with the average length of processing poses a similar threat to program viability. The uncertainty simply scares away economic opportunity on both sides of the transaction. We encourage Congress to consider viable ways to address these important issues, which are central to sustaining the program's national positive economic impact.

4. Effective Dates

We strongly support effective date policies to promote fairness and predictability in the context of new program rules and policies. We support:

- No retroactive application of new program rules to individual investors who, on the date of enactment, have already made their EB-5 capital investment, have I-526 petitions pending or approved, and/or who will file I-829 petitions in the future based on the law as it existed when their I-526 petition was filed. These investors collectively account for tens of billions of EB-5 investment capital currently in the U.S. economy that support over 100,000 U.S. jobs at no cost to the taxpayer; and
- Reasonable implementation of new rules for projects that have filed for approval before enactment to protect U.S. businesses that have proceeded in reliance on current law. For example, as new regulations are promulgated based on reforms, EB-5 projects already pending at USCIS should have at least a six-month window where existing TEA designation, job creation methodology, and other provisions related to project structure remain valid. Other provisions to address fraud and national security concerns, along with minimum investment amounts, can take effect immediately upon enactment. This would minimize disruption to existing economic activity upon which so many Americans rely, while ensuring that reform is implemented in a timely manner.

5. Extension of the Regional Center Program

We support a permanent extension of the RC program. After more than 20 years in law, and in light of anticipated significant reforms, we believe it is appropriate for Congress to permanently authorize the program. Should Congress decide not to do so at this time, we recommend at a minimum that the reauthorization period should not be short term. Again, under either scenario, we strongly encourage Congress to avoid the severe economic impact to American businesses and investors that a program lapse would cause, disrupting tens of billions of dollars of investments around the country and the U.S. jobs that depend on them. Our organizations stand ready to assist on any and all of these matters. We submit this letter with appreciation of your efforts. We hope you look to us for assistance to help ensure that any EB-5 reforms will equitably preserve and enhance regional centers' positive economic impact on communities across the nation. Thank you for your consideration. ■

cc: Members of the Judiciary Committees of the U.S. Senate and House of Representatives

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Please contact any of our EB-5 immigration thought leaders for the immigration advice that can help you:

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BY PETER D. JOSEPH
EXECUTIVE DIRECTOR, IIUSA

Reform, Reauthorization and enhancement of the EB-5 Regional Center Program (the "Program") is essential to the U.S. economy in 2016 and beyond. From 2005-2015, over $15 billion of foreign direct investment ("FDI") flowed into the United States from across the world. In that time, and especially in the years that followed the Great Recession, the Program became a potent economic development tool for diverse communities and industries across the country. Over $14 billion of the $15+ billion (or 93%) in EB-5 capital was invested in the U.S. in the years after the global recession that followed the financial crisis of 2008.

Today, the EB-5 Regional Center industry needs to lead the cross-sector stakeholder community in educating the government, media, and public about the important work going on across the country thanks to the Program – creating vital American jobs at no cost to the taxpayer. With a September 30 expiration for the Program fast approaching, presidential and congressional election campaigns dominating the headlines, and the many considerations related to reauthorization and reform of the Program, it can be difficult to cut through the noise to navigate the now so we can envision and pursue a future of growth and opportunity for the industry.

At Invest In the USA (IIUSA), the national non-profit EB-5 trade association where I have had the privilege of serving as Executive Director for over six years, I have seen firsthand the challenging (yet rewarding) work industry stakeholders like you do to succeed in using the opportunities that come with globalization to address economic issues in your communities. It is thanks to our shared success in building this multi-billion dollar EB-5 capital market that Regional Centers have an integral role in the U.S. economy for the long-term. We must remain vigilant and diligent in our advocacy, education, and self-regulatory efforts as detailed below so EB-5 Regional Centers are able to continue and expand their growing contribution to the United States.

$18+ BILLION REASONS EB-5 MUST CONTINUE

As the EB-5 Regional Center industry contemplates and debates reform measures to include in legislation to reauthorize the Program, it is important we take time to understand the real world consequences of

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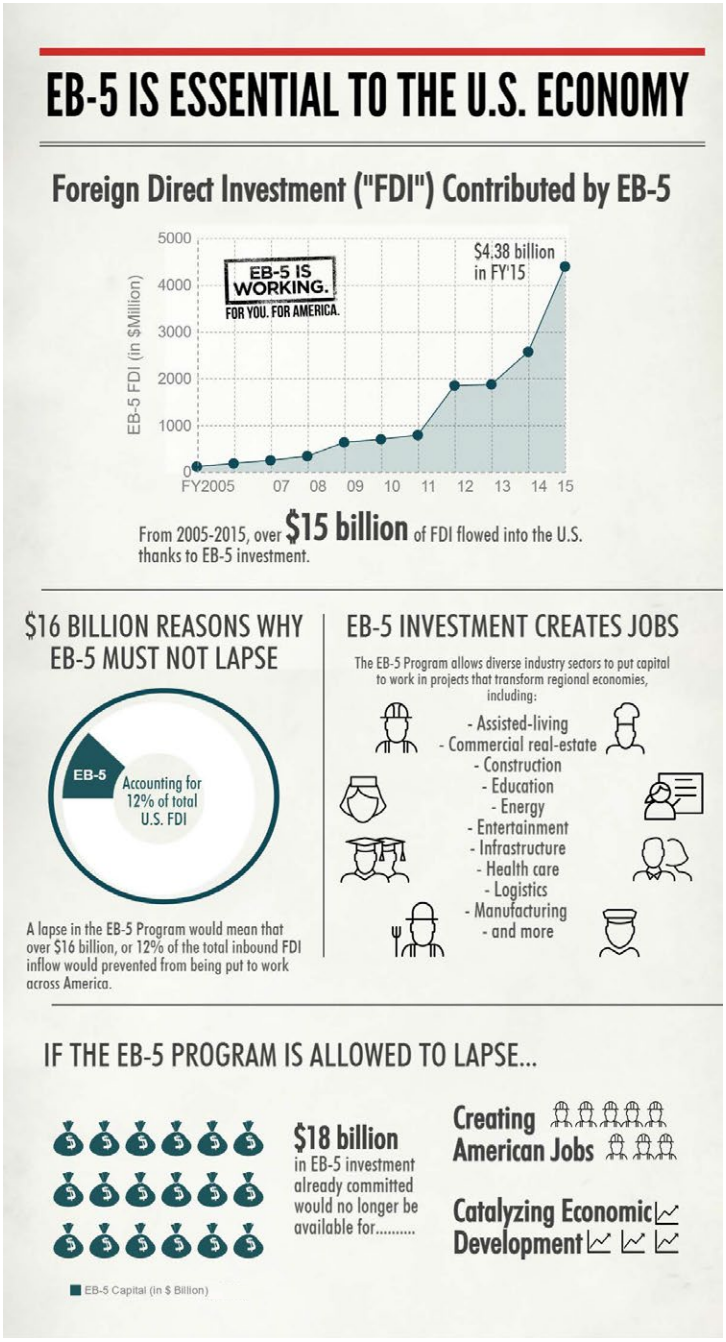
potential outcomes in the reauthorization effort. Some key legislators have publicly stated that the Program would need significant and substantive reform included in this year's reauthorization package or the Program should be allowed to expire or lapse. The industry knows that any outcome that results in program lapse or expiration would be a disaster for the United States economy with lingering damage that could not be undone. Why should Congress and the American public be concerned about an outcome where the Program was allowed to lapse, even a small one?

For starters, a lapse in the EB-5 Program would mean that over $16 billion in FDI (12% of the U.S.'s total inbound FDI flows in a given year) would be thrown into chaos – along with the tens of billions of other project financing that is leveraged and reliant on the EB-5 capital in a project's finance structure. Investors that have already had their eligibility for EB-5 petition ("I-526") approved by U.S. Citizenship & Immigration Services ("USCIS") but have no visa yet, and investors with pending I-526 petitions would – based on guidance provided by the federal government –no longer have statutory basis for adjudication under the rules that governed the Program at the time of filing. With no Program, investors have no grounds for I-829 adjudication and are left hanging in the balance. They undoubtedly would file lawsuits. This is essentially placing a "closed for business" sign on the door to America, deterring future foreign direct investment.



As funding for effected projects is halted and investor petitions are suspended in bureaucratic purgatory and incapable of escaping to be infused into the economy, the U.S. would watch litigation destroy the potential for this EB-5 capital to support hundreds of thousands of American jobs across the country. Furthermore, over 30,000 families that were willing to risk the personal wealth and immigration status for themselves and their family for the American Dream would be left disappointed, confused and betrayed. Congress needs to hear from the industry about the reality of the choices it has before it to ensure it understands expiration is not a viable option. The outcome that enjoys strong support from stakeholders across all sectors is quite simple: reauthorization and workable reforms that enhance program integrity and expand economic opportunity/benefits.

With so much at state, the industry must lead the way in achieving this principled outcome.

EB-5 INDUSTRY SELF-REGULATORY & FEDERAL AGENCY ACTIONS LEAD WAY IN IMPROVING PROGRAM INTEGRITY

Congress has prioritized program integrity, as we have seen in various bipartisan bills over the past year, including S. 1501 and S. 2414. Some of these measures include background checks for Regional Center owners, banning participation in the Program for anyone who committed certain crimes including drug trafficking and terrorism, and forbidding foreign ownership of a Regional Center. These measures go to address concerns of fraud that EB-5 could somehow be a vehicle for criminals to legally enter the United States. Overwhelmingly, IIUSA and the industry generally support improved integrity measures to ensure a productive and honest industry that weed out the fraudsters, cheats and criminals while allowing the rest of the industry to contribute to the American economy through job creation and economic development.

The Department of Homeland Security (DHS) has EB-5 on the White House's "unified regulatory agenda" to update the Program's regulations for the first time since the early 1990s. This regulatory overhaul will proceed at a slow pace before being finalized and implemented and will occur as USCIS also implements administrative enhancements to its law enforcement capabilities. For example, after successfully embedding inter-agency partners it is adjudications process at the Investor Program Office, USCIS now has almost 200 employees working on EB-5 that include entire departments on stakeholder compliance, policy and strategy, and public engagement. No matter what reforms are included by Congress, USCIS is clearly taking steps to do everything in its power to bring EB-5 policy up to date with 21st century policy standards in fraud deterrence, national security, and movement of capital internationally.

In the last few years, IIUSA has worked tirelessly to develop meaningful self-regulatory processes that hold its members and the industry to the highest of standards of ethical business practices. Additionally, IIUSA has a long history of supporting reforms that would improve program integrity – whether proposed via action by the legislative or executive branches. Several pieces of legislation have been introduced in Congress on EB-5 and are actively being considered in the process towards a single piece of broadly supported reauthorization and reform policy that results from constructive engagement and compromise.

Since 2014, IIUSA's membership has approved five new or updated best practices documents that strive to hold its members and the industry to the highest standards possible. Included in these best practices is the Code of Ethics and Standards for Professional Conduct, which was approved, hand-in-hand with an enforcement procedures process. In a effort to promote self-regulation of the industry as well as encourage people and organizations (IIUSA members or not), the enforcement procedures include a vehicle to file complaints against bad actors and a detailed process for how these complaints are handled internally.

IIUSA also has recommended best practices for Regional Centers, anti-money laundering/know your customer, engaging with sales intermediaries, and compliance with securities laws. These combined with the Code of Ethics – and enforcement thereof via complaint process – set a high bar from which the industry is expected to operate. Lastly, IIUSA uses it various education offerings (publications, conferences, and much more) to keep the industry informed of essential intelligence on compliance, market dynamics, and ever-evolving best practices. Long story short, EB-5 is not a spectator sport.

PUTTING EXISTING POLICY PIECES TOGETHER TO "MEND IT, NOT END IT"

The pieces of the puzzle are already on the table and many of them are already in their place for EB-5 reauthorization and reform. As many supporters in the Senate stated in a hearing on EB-5 earlier this year, Congress must "mend it, not end it." Here you read some of the implications for even a short lapse in program authorization, knocking billions of dollars out of the U.S. economy when it cannot afford such a shock and launching a litigation frenzy where everyone loses. With less than four months until the reauthorization deadline, the thought or idea of a lapse should not even be a consideration for Congress. But the onus is on the industry to achieve consensus and increase our collective voice for the Program in the coming months to spur Congress to reform and reauthorize this vital part of the post-recession economy in the U.S.

Years of success, advocacy, experience and relationship building have led us to this moment. The EB-5 industry and Congress are in an optimal place to negotiate durable reform that results in a stronger, more efficient Program. And, the message for all of us to carry is simple: the EB-5 Regional Center must be reauthorized without a lapse, or countless communities, Regional Centers, and investors will face desperate times and years of protracted, expensive court proceedings.

IIUSA looks forward to working with you! ■

EB-5 INDUSTRY GATHERS IN DC FOR EDUCATION AND ADVOCACY:

IIUSA's 2016 Regional Economic Development Advocacy Conference and Annual Meeting Recap

BY MCKENZIE PENTON
IIUSA MEMBERSHIP COORDINATOR

IIUSA's Annual EB-5 Regional Economic Development and Advocacy Conference is the industry's largest advocacy-focused gathering. The conference, in its 9th year, brought together a diverse set of leaders from the industry to learn, network and advocate for the future of the EB-5 Regional Center Program as well as to hear from industry experts and representatives from the federal government. The conference, held in conjunction with IIUSA's 11th Annual Membership Meeting, was hosted in Washington, DC to bring to life the advocacy theme and to encourage participants to take the message of "EB-5 is Working" up to Capitol Hill. Throughout the conference, participants were educated about the ongoing political discussions on Capitol Hill and empowered with the information necessary to be champions of the EB-5 Program nationally as well as in their local communities.

The conference featured over 400 attendees, 34 sponsors and 28 exhibitors, with an agenda that included 6 general session panel discussions, 35+ speakers on topics from alternative finance markets to visa backlog and of course important legislative updates and an advocacy workshop. The conference also featured guest of honor speakers from Congress, the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), the North American Securities Administrators Association (NASAA) and the Municipal Securities Rulemaking Board (MSRB).

FOCUS GROUPS, COMMITTEE MEETINGS, MEMBER & POTENTIAL MEMBER EVENTS
WEDNESDAY, APRIL 20

The conference got under way on Wednesday, April 20 and for the first time ever, IIUSA hosted professionally moderated focus groups. The purpose of hosting these groups was two-fold: 1) To ensure that our membership had the opportunity to voice their concerns and opinions about federal legislation that effects the industry, the current state of the EB-5 industry, and to measure feedback about IIUSA operations and organizational makeup; and 2) To utilize the results of the focus group study for policy deliberations and to replicate these focus groups on a monthly basis (May-July). Ongoing focus groups ensure feedback loops are created between the membership, IIUSA's Public Policy Committee and IIUSA Leadership and Board of Directors to reach a consensus on the industry's most pressing and divisive issues. Since the conference, IIUSA completed the second round of focus groups.

Additionally, IIUSA's ten committees held meetings on Wednesday to wrap-up their committee work from the past year and to begin preparing strategic plans for the year ahead. It is through the hard work of IIUSA committee members, who volunteer their time and industry expertise throughout the year, that IIUSA is able to be a strong voice both in education and government affairs for the EB-5 industry.

After committee meetings concluded, IIUSA's Membership Committee hosted a prospective member's luncheon. Nearly 40 potential members attended the lunch to learn about the value of IIUSA membership and how the organization can help them as they navigate the EB-5 industry.

MEMBERSHIP MEETING
WEDNESDAY, APRIL 20

On Wednesday afternoon, IIUSA held its 11th Annual Membership Meeting. During the meeting, the IIUSA membership elected one new officer and three new directors to the

Board. Stephen Strnisha, CEO of Cleveland International Fund, was chosen as the new Secretary-Treasurer, while Daniel J. Healy, CEO, Civitas Capital Group, Charles Foster, Chairman, Foster Global LLP and Kyle Walker, Managing Partner, Green Card Fund, LLC were elected to the Board of Directors.

In addition, Robert G. Honts, CEO, Texas Lone Star Enterprises, accepted the honorary position of Secretary-Treasurer Emeritus and William P. Gresser, President, EB-5 New York State Regional Center, accepted the honorary position of Director Emeritus.

The newly elected Board of Directors held their first meeting after the conclusion of the conference on Friday, April 22.

RE-ELECTED OFFICERS (ONE-YEAR TERMS)

- President: **K.David Andersson**, CEO, WORC Regional Centers (2010-Present)
- Vice President: **Robert C. Divine**, Chair of Global Immigration Practice, Baker Donelson, Bearman, Caldwell & Berkowitz, P.C. (2010-Present)

NEWLY ELECTED OFFICERS (ONE-YEAR TERMS)

- Secretary-Treasurer, **Stephen Strnisha**, CEO, Cleveland International Fund

NEWLY-ELECTED DIRECTORS (THREE-YEAR TERMS)

- **Charles Foster**, Chairman, Foster LLP
- **Daniel J. Healy**, CEO, Civitas Capital Group
- **Kyle Walker**, Managing Partner, Green Card Fund, LLC

NEW EMERITUS OFFICERS & DIRECTORS

- Secretary-Treasurer Emeritus: **Robert G. Honts**, CEO, Lone Star Enterprises
- Director Emeritus: **William P. Gresser**, President, EB-5 New York State Regional Center

KICKOFF RECEPTION
WEDNESDAY, APRIL 20

The kickoff reception for the Advocacy Conference was hosted in the conference exhibit hall of the Marriott Marquis, which, in addition to being the conference venue, is also an EB-5 Project developed by conference exhibitor EB5 Capital. The hotel is one of the newest and largest hotels in Washington, DC with 1,175 guest rooms and 49 suites and is a perfect example of the important economic development the EB-5 Program is undertaking across the United States.

The reception gave attendees the opportunity to meet with old acquaintances and friends as well as network with new ones, surrounded by the exhibit booths of all 28 exhibitors. At the conclusion of the reception, an air of excitement filled the room with the promise of an engaging and informational program to come over the next two days of the conference.

IIUSA GUEST OF HONOR SPEAKERS
THURSDAY-FRIDAY, APRIL 21-22

THE HONORABLE RAND PAUL - *Senator (R-KY) (2011-Present), Member, Senate Foreign Relations Committee; Member, Committee on Homeland Security and Governmental Affairs*

IIUSA was proud to welcome the Honorable Rand Paul (R-KY) as a guest of honor speaker on Wednesday morning. During his address, the Senator highlighted the important work the EB-5 Program is doing throughout the country and more importantly the economic benefits that EB-5 has to offered local communities.

In 2015, Senator Paul introduced S. 2122 which would not only reauthorize the EB-5 Program, but increase the visa capacity for the Program in an effort to reduce the processing backlog and promote continued growth for the industry.

CONTINUED ON NEXT PAGE >>

2016 REGIONAL ECONOMIC DEVELOPMENT ADVOCACY CONFERENCE AND ANNUAL MEETING

STEPHANIE AVAKIAN - *Deputy Director, Division of Enforcement, U.S. Securities and Exchange Commission (SEC)*

KAVITA JAIN - *Director of Emerging Regulatory Affairs, Financial Industry Regulatory Authority (FINRA)*

RITTA MCLAUGHLIN - *Chief Education Officer, Municipal Securities Rulemaking Board*

JOSEPH BORG - *Director, Alabama Securities Commission; Former President of North American Securities Administrators Association (NASAA)*

On Thursday afternoon Ms. Avakian, Ms. Jain, Ms. McLaughlin and Mr. Borg took the stage to discuss EB-5 and securities. Moderated by Ozzie Torres, Partner, Torres Law PA, the session gave attendees insight into understanding securities laws and EB-5 from the unique perspectives of the panelists from a regulatory and enforcement standpoint.

The panel was an unprecedented session with four of the industry's most important regulatory bodies represented in the same room. The panel spoke for over an hour and a half and fielded important questions from the audience. As the EB-5 industry continues to grow, the input from these agencies will continue to be of paramount importance and IIUSA looks forward to welcoming them back to speak at future events.

JULIA HARRISON - *Deputy Chief, USCIS Immigrant Investor Program Office*

On Thursday afternoon, Ms. Harrison discussed the important work of the Investor Program Office (IPO), including steps the IPO has taken to address current application/petition backlogs and answered questions from the audience. Of particular interest to the audience was the growing Chinese waiting line, issues with age outs, recent issues with fraud and potential impacts of regulatory reforms on the Program.

CHARLES OPPENHEIM - *Chief, Visa Controls Office, U.S. Department of State*

On Friday morning, Charles Oppenheim, Chief, Visa Controls Office, U.S. Department of State engaged with attendees to discuss potential solutions to the EB-5 visa waiting line for Chinese petitioners as well as to provide an update from the U.S. Department of State on EB-5 visa demand from important investor markets. Mr. Oppenheim was joined by Mona Shah, Partner, Shah & Associates and Bernard Wolfsdorf, Managing Partner, Wolfsdorf Rosenthal LLP.

GENERAL SESSION PANELS
THURSDAY-FRIDAY, APRIL 20-22

The EB-5 Advocacy Conference is the premier EB-5 advocacy-focused conference of the industry. In addition to hearing from experts from the U.S. government and regulatory agencies, attendees also had the opportunity to hear from industry experts on a variety of EB-5 topics. This year's event featured six general session panels with speakers from across the industry.

ADVOCACY WORKSHOP: USING AVAILABLE TOOLS TO ENGAGE IN EB-5 GOVERNMENT AND PUBLIC AFFAIRS

- **Warren Oaks**, Director of Operations, EB5 Bridge
- **Hans Rickoff**, Senior Counsel, Akin Gump Strauss Hauer & Feld, LLP
- **Stephen Strinisha**, CEO, Cleveland International Fund
- **Beth Zafonte**, Director of Economic Development Operations, Akerman LLP

POLICY REVIEW: MAJOR POLICY ISSUES & STAKEHOLDER VOICES

- **Jon Baselice**, Director Immigration Policy, U.S. Chamber of Commerce
- **David Morris**, Managing Partner, DC Regional Center

- **Matthew Virkstis**, Practice Group Attorney, Greenberg Traurig LLP
- **Mickayla Zinsli**, Director, North Dakota/ Minnesota EB-5 Regional Center
- **Peter D. Joseph**, Executive Director, IIUSA

WHAT CAN THE EB-5 INDUSTRY LEARN FROM ALTERNATIVE FINANCE CAPITAL MARKETS?

- **Dan Healy**, CEO, Civitas Capital Group
- **Michael Homeier**, Founding Shareholder, Homeier & Law PC
- **Steven Moreira**, President, CCIM Institute
- **Reid Thomas**, Executive Vice President, NES Financial
- **Kim Zueli**, Senior Vice President, Initiative for a Competitive Inner City

EB-5 REGULATIONS & POLICY GUIDANCE: HISTORICAL REVIEW & WHAT COMES NEXT

- **Robert C. Divine**, Chair of Global Immigration Practice, Baker Donelson Bearman Caldwell & Berkowitz, PC
- **Lincoln Stone**, Managing Partner, Stone Grzegorek & Gonzalez LLP
- **John Pratt**, Attorney at Law, Kurzban Kurzban Weinger, Tetzeli and Pratt P.A.
- **Stephen Yale-Loehr**, Of Counsel, Miller Mayer, LLP

POTENTIAL SOLUTIONS TO EB-5 VISA BACKLOG: MORE VISAS & INVESTOR MARKET DIVERSIFICATION

- **H. Ronald Klasko**, Managing Partner, Klasko Immigration Law Partners LLP
- **Enrique Gonzalez**, Partner, Fragomen Del Rey Bernsen & Loewy LLP
- **Lili Wang**, Managing Partner, New City Advisors
- **K. David Andersson**, President, IIUSA; President, WORC Regional Centers
- **Kelvin Ma**, Attorney, Shanghai Demei Law Firm

INTERACTIVE ROUNDTABLE DISCUSSION: THE EB-5 CRYSTAL BALL

- **Peter D. Joseph** (Moderator), Executive Director, IIUSA
- **Angel Brunner**, President, EB-5 Capital
- **Patrick F. Hogan**, CEO, CMB Regional Centers
- **Robert Kraft**, Chairman & CEO, First Pathway Partners LLC
- **Joe McCarthy**, Principal, American Dream Fund
- **Julia Park**, Managing Partner, Advantage America Regional Centers
- **Tom Rosenfeld**, President, CanAm Enterprises
- **Kyle Walker**, Managing Partner, Green Card Fund
- **Larry Wang**, President, Welltrend United, Inc.
- **William Gresser**, President, EB-5 New York State Regional Center
- **Rachel Zou**, Chairman, Guangzhou Lianhong Overseas Consultants Limited

This year's conference was another successful event for IIUSA that resulted in continued education of the industry as well as access to insight from other outside stakeholders on the current state of the EB-5 Program. Additionally, IIUSA's open and transparent election process allowed for the formation of a new Board of Directors to represent the growing and diverse views of the association. As we head into these very critical next two months with our eyes on reauthorization, the 9th Annual EB-5 Regional Economic Development Conference and 11th Annual IIUSA Membership Meeting both created a strong platform from which to launch the next steps of advocacy for IIUSA and the EB-5 Regional Center industry. ■

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◆ ◆ ◆

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EB-5 Regional Center Program Garners Growing List of Public Supporters Ahead of September 30th Sunset Date

ASHLEY SANISLO CASEY
IIUSA ASSOCIATE DIRECTOR OF ADVOCACY

In order to fulfill its mission of educating Congress and the general public about the benefits of the EB-5 Regional Center Program, IIUSA works hand-in-hand with a number of public interest groups who see EB-5 as an important tool for economic development. Moreover, in the push for EB-5 reauthorization ahead of September 30, IIUSA has mobilized its internal resources and relationships to build about a chorus of public support for the Program.

In 2014, IIUSA formed the Association Building Committee (ABC), which is tasked with cultivating existing relationships and forging new ones with organizations and entities outside of IIUSA to build an infrastructure of support for the Program.

As the committee has gained traction over the past two years, public support for the Program, through the help of committee member relationships and outreach, has continued to grow. Currently, the committee is working on a growing list of organizations to pledge their support for the EB-5 Program either through official resolutions that are passed through the organizational process or by submitting letters of support to federal lawmakers.

This summer, IIUSA celebrated several victories in its quest to build an ever-expanding record of public support for the EB-5 Program. In June, the U.S. Conference of Mayors (USCOM) passed a resolution in support of EB-5 for the fifth year in a row. Also in June, the Association of University Research Parks (AURP) passed an EB-5 support resolution for the first time, recognizing the impact EB-5 investment has had on their members who seek to "foster innovation, commercialization and economic growth in a global economy through university, industry and government partnerships".

The National Association of Counties (NACo) met in mid-July for its annual meeting where its Community, Economic and Workforce Development Committee considered a policy platform position in support of EB-5. In the previous three years, NACo adopted policy resolutions in support of the Program, which need to be renewed on an annual basis at its annual meeting. This year, with the help of our platform sponsor Supervisor John Benoit of Riverside County, CA, a policy platform position was submitted, and accepted, thus making support of the EB-5 Regional Center Program a permanent fixture in NACo's policy platform.

Lastly, in early August, the National Conference of State Legislatures (NCSL) considered for the first time an EB-5 support resolution at their annual Legislative Summit held in Chicago, IL. Thanks to its resolution sponsor, Representative Brent Yonts of Kentucky, the Labor and Economic Development Committee passed the EB-5 resolution, moving it on for full organization consideration. The resolution, which included provisions on long-term extension and enhanced integrity measures, was accepted and is now a part of NCSL's federal legislative priorities.

This incredible support that EB-5 has gained from national and local entities alike is an important building block for short and long-term industry advocacy efforts. As EB-5 stakeholder groups continue to work with lawmakers to achieve long-term reauthorization, having the support of influential and respected organizations like NACo, USCOM and NCSL will have a significant impact on decisions to reauthorize the EB-5 Program at the federal level. It should be noted that EB-5 cannot and does not operate in a vacuum, so the support of leaders and organizations that influence our cities, counties, states and other local entities is paramount. These very relationships which are so important to achieving a long-term reauthorization will continue to help IIUSA and the EB-5v industry deliver the promise of quality jobs and economic development to local communities and businesses.

To see a full list of public supporters of EB-5, visit **iiusa.org/public-support**. ■

Representing EB-5 Investors and Regional Centers in a Time of Upheaval

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- Securities Law Panels on Compliance and Enforcement
- Best Practices: Managing the Risk in EB-5 Practice
- Due Diligence and Market Considerations
- Advanced Source of Funds and Path of Funds Issues
- Representing Regional Centers with Setting Up, Maintaining Status, and Planning Projects
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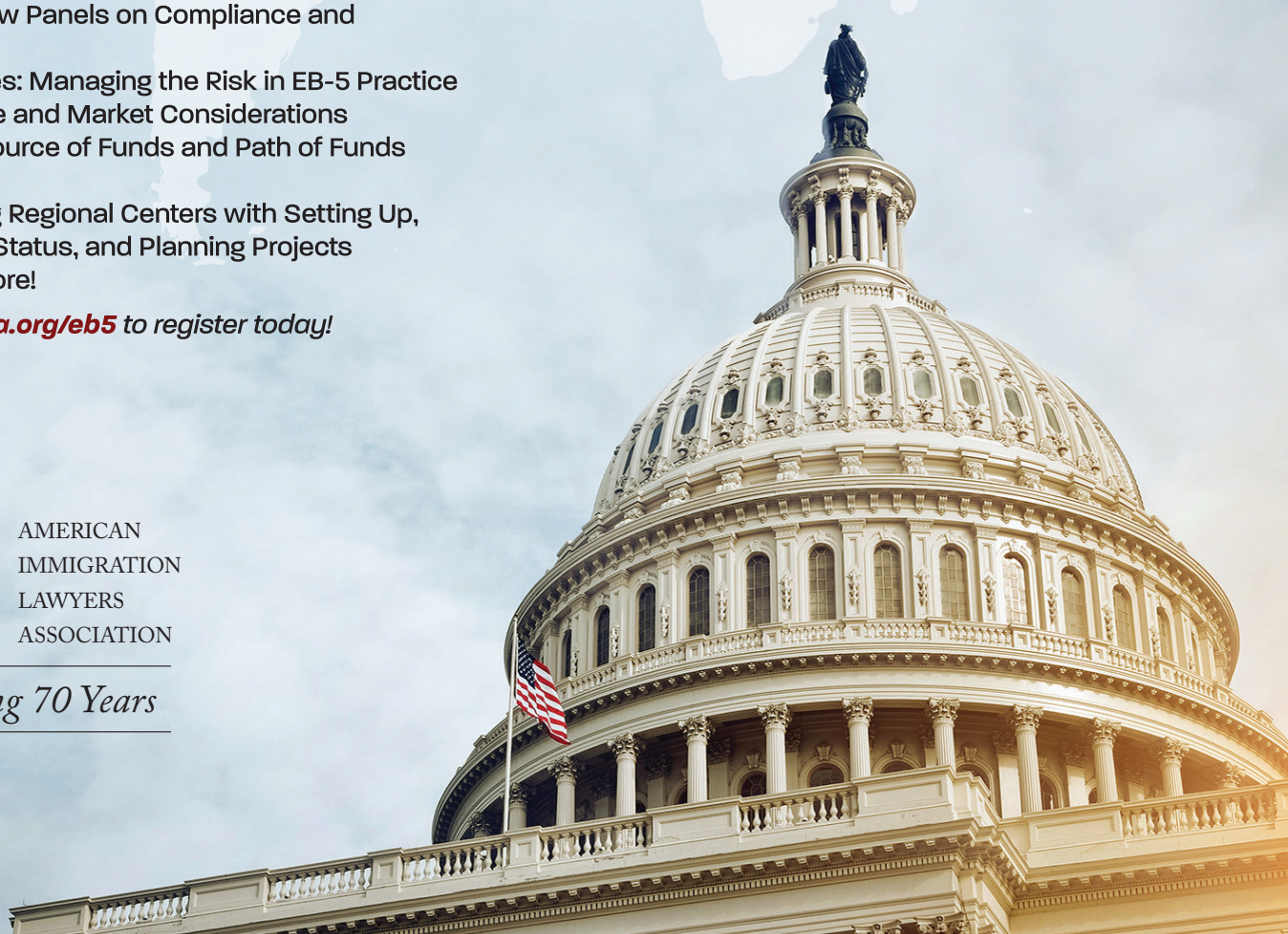

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EB-5 IN THE NEWS:
A LOOK BACK AT Q2 2016

Mayor wants expansion of visa program that put Dallas on 'international stage', *Dallas Morning News*, by **Graham Vyse**, 7/1/2016

"This is the sort of development you want in your city,' Rawlings said in an interview. 'Out saliency on the global market today is much higher than it ever has been — because of programs like [EB-5]."

– Mike Rawlings, Mayor of Dallas, TX

★ ★ ★

Demolition started on iconic Kauai resort featured in Elvis Movie, *Pacific Business Journal*, by **Duane Shimogawa**, 6/20/2016

"Coco Palms has been closed since Hurricane Iniki severely damaged the property in 1992, although several developers have tried to redevelop the well-known resort, which was featured in a 1961 film starring Elvis called "Blue Hawaii"...with EB-5 funding also being used to fund construction for the development."

★ ★ ★

More mixed-use heading for Allen Parkway, *Houston Chronicle*, by **Nancy Sarnoff**, 6/22/2016

"The creation of parkspace along Buffalo Bayou has been a catalyst for new development in the area just west of downtown...through a development and investment firm that uses the federal EB-5 program to finance some of its projects."

★ ★ ★

Birmingham sister city wins prestigious national award, *Birmingham Business Journal*, by **Rachael Gamlin**, 7/1/2016

"The sister cities have initiated an EB-5 visa [regional center] to entice investors to Birmingham...The goal is to increase contact and collaboration between local firms and Liverpool [England] companies, while bringing development to low-income areas."

Price for a Green Card: $500,000 Stadium Stake, *The New York Times*, by **Ken Belson**, 5/16/2016

"For years, sports teams have tried to defray the multimillion-dollar costs of their new stadiums by asking fans to pay thousands for personal seat licenses that entitle them to buy season tickets. Flavio Augusto da Silva is taking that concept further. In what may be the first deal of its kind, Mr. da Silva, the majority owner of Orlando City of Major League Soccer, is asking investors from Brazil, China, and elsewhere to pay $500,000 each for a stake in the stadium he is building...Mr. da Silva knew about the EB-5 program because he obtained his own green card in 2009..."

★ ★ ★

Navigating the construction lending drought, *The Real Deal New York*, by **Kathryn Brenzel**, 7/1/2016

"Many national and regional banks are shying away from financing luxury condos, leaving non-traditional lenders including hedge funds, EB-5 investors and a growing number of developers to fill the gap. To get a lender to do a condo financing now, you need to create a financing package that makes it almost impossible for them to say no to. Lenders don't want to stretch for condo deals. They're not interested in helping neophyte developers take the next step.'"

– Scott Singer, President, Singer & Bassuk Organization

★ ★ ★

Norfolk looks to lure foreign investors using federal visa program, *The Virginian Pilot*, by **Eric Hartley**, 6/1/2016

"EB-5 money could be a boon for Norfolk and might lessen the need for the city to invest money in developments upfront. 'It can take a chunk of that burden off the taxpayers for incentives for developers to come in and do [business].'"

– Kathy Owens, Principal, Virginia Atlantic Regional Center

U.S. Conference of Mayors Resolution in Support of the EB-5 Regional Center Program, **www.usmayors.org**, 6/27/2016

"EB-5 has become a vital source of urban redevelopment funds, and mayors are working with private parties to use EB-5 foreign direct investment to finance job-creating projects and downtown revitalization."

★ ★ ★

City Council Unanimously Approves Sale of Location Formerly Occupied by Jergins Trust Building, *Long Beach Post*, by **Jason Ruiz**, 5/18/2016

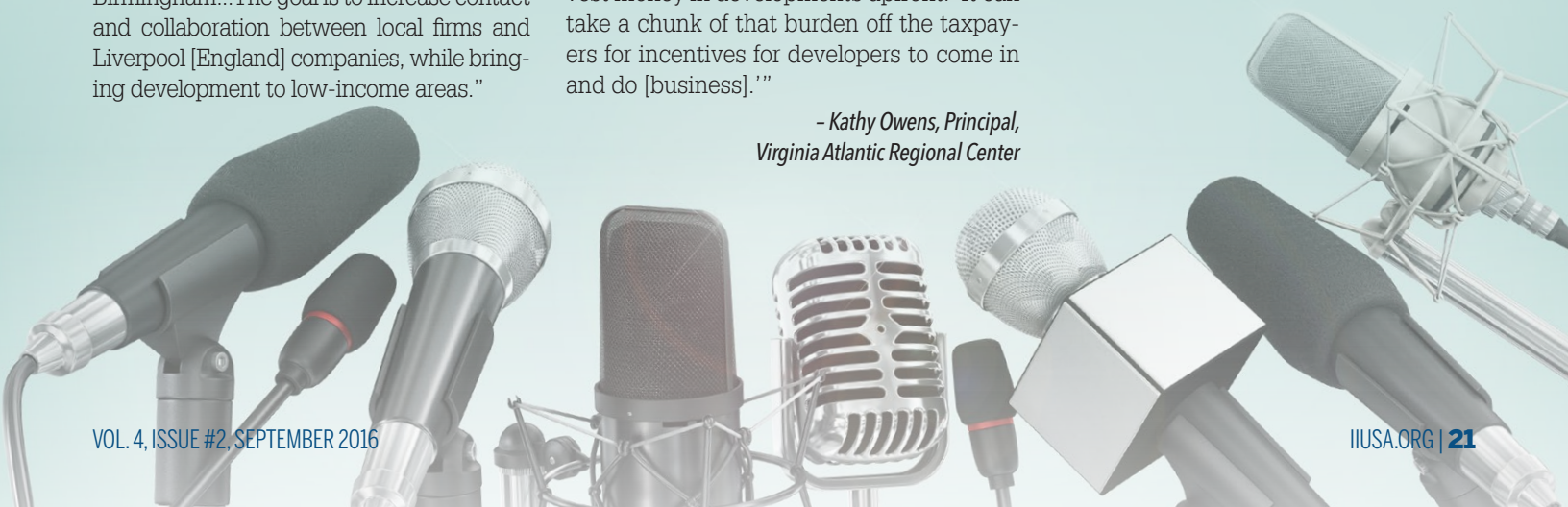
"Fifty percent of the funding for the [mix-use] project is expected to come from equity raised by the federal EB-5 Investor Program...This lot has been empty for almost 30 years now and not creating jobs, not creating convention business, not creating development for tourism and certainly has been a little bit of an eyesore over the years."

– Robert Garcia, Mayor of Long Beach, CA

★ ★ ★

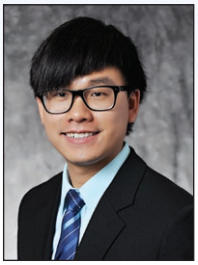
In US opioid crisis, green card seekers see opportunity, *Boston Globe*, by **Deirdre Fernandes**, 5/3/2016

"In Devens [MA], a 104-bed behavioral health and substance abuse center is being financed, in part, with $10 million from foreign investors through the EB-5 immigration program… The shortage of treatment beds in Massachusetts is putting pressure on hospital emergency rooms statewide." ■



GETTING TO CONSENSUS:

AN ANALYSIS OF IIUSA'S TARGETED EMPLOYMENT AREA (TEA) POLICY PROPOSAL



LEE LI
IIUSA POLICY ANALYST

NICOLE MERLENE
IIUSA ADVOCACY COORDINATOR

Since the EB-5 Regional Center Program's inception in 1992, the issue of Targeted Employment Areas (TEAs) has proven to be one of the most contentious and divisive policy issues surrounding the EB-5 reform debate. In many cases, advocates for different proposals made theoretical arguments and based their stances on personal assumptions about industry trends and project information. Now, thanks to the Project and Policy Mapping Tool (the "policy mapping tool"), we are able to present a transparent map of projects and policy proposals based upon IIUSA's internal database consisting of 480+ EB-5 projects. Advancing the TEA reform debate is a very important step in the EB-5 reauthorization efforts. With this "place-based" TEA map publicly available, stakeholders are able to conceptualize potential reforms thus helping the industry reach consensus on this difficult issue. IIUSA can now advance discussions with stakeholders and lawmakers on another important variable, how to incentivize investment into these areas.

The TEA policy as represented currently on the mapping tool, has evolved as IIUSA has solicited input from various EB-5 industry stakeholders. On April 13, IIUSA Executive Director Peter D. Joseph testified in front of Congress alongside Professor Gary Friedland of New York University (NYU) Stern School of Business and Dan Healy, CEO of Civitas Capital Group. During this hearing, Mr. Healy presented what would be the baseline for the TEA policy discussion moving forward. It is a "place-based" system based on, but more stringent than, New Market Tax Credits (NMTC) criteria. This approach helped shape the new basis of what would qualify for a TEA, from an unemployment-based system to a poverty-based one, and created a place-based single census tract approach that would eliminate any criticism of "gerrymandering" within the EB-5 Program.

When IIUSA Leadership, consisting of the Board of Directors, President's Advisory Council members and Committee Chairs, met in Washington, DC during an early June Leadership Summit, this approach was broadly agreed upon as acceptable solution after two-days of consideration. Independent of IIUSA Leadership, the IIUSA Public Policy Committee, led by William P. Gresser, President of New York State Regional Center, formed eight subcommittees – one of which covered the policy issue of TEAs. Although the urban poverty overlay was widely agreed upon, the rural poverty overlay was recommended to be removed. The reasoning behind this is that generally the industry wanted to see TEAs become "the exception and not the rule" and with no poverty overlay this is already the case. Ultimately, the full Public Policy Committee, consisting of 33 organizations from a wide spectrum of EB-5 stakeholders groups, voted in favor of the following TEA policy proposal and was subsequently approved unanimously by the IIUSA Board of Directors:

The basic principles for the definition of a TEA within an "urban" area as:

A single census tract that has any two of the following characteristics:

- *Poverty rate greater than 30%; or*
- *Median family income (MFI) which does not exceed 60% of statewide equivalent MFI or MSA-wide MFI; or*
- *Unemployment rate that is at least 1.5 times the national average.*

The basic principles for the definition of a TEA within a "rural" area as:

The definition of TEAs in rural areas should be left as it currently stands which is an area outside of a Metropolitan Statistical Area (MSA) and outside of any city or town with a population of at least 20,000.

DATA & METHODOLOGY

In order to accurately reflect the impact of IIUSA's proposed TEA reform on EB-5 projects and communities throughout the country, the online interactive mapping tool and the supporting analysis were created based on the most recent census data from the U.S. Census Bureau.

Data on poverty rate, median family income (MFI), and unemployment rate are from the 2010-2014 American Community Survey (ACS) 5-year estimates: Table ID S701 (Poverty Status in the Past 12 Months, in 2014

Inflation-Adjusted Dollars), Table ID B19113 (Median Family Income in the Past 12 Months, in 2014 Inflation-Adjusted Dollars), and Table ID 2301 (Employment Status); while the population data is from the 2010 Census, Table ID P1 (Total Population).

It is important to note that census tracts that are either partially or fully within any city or town with a population of at least 20,000 are excluded from the eligibility of a "rural" area based on IIUSA's TEA policy proposal, but may potentially qualify for an urban TEA if it meets the other designated criteria.

ANALYSIS OF IIUSA'S TEA POLICY PROPOSAL

As Table 1 shows, under IIUSA's TEA policy proposal, 28.6% of census tracts throughout the country would qualify as a TEA. Overall, 16.1% of the census tract located within a Metropolitan Statistical Area (MSA) would qualify as a TEA; while 91.6% of the census tracts outside an MSA would qualify as a TEA.

TABLE 1: Percentage of Census Tracts Qualified as TEAs by State* (Urban and Rural Areas)

Under the proposed IIUSA TEA policy, the percentage of state census tracts that would qualify as a TEA for each state is:

State	% Census Tracts in State Qualified as TEAs	% Census Tracts in MSAs Qualified as TEAs	% Census Tracts in Non-MSAs Qualified as TEAs
AK	39.5%	3.1%	91.3%
AL	39.5%	20.0%	91.9%
AR	48.5%	16.4%	92.4%
AZ	22.8%	18.1%	94.7%
CA	19.6%	17.7%	95.1%
CO	23.5%	9.7%	100.0%
CT	21.0%	17.1%	80.4%
DC	31.8%	31.8%	-
DE	7.3%	7.3%	-
FL	16.7%	13.4%	94.8%
GA	36.3%	20.0%	96.6%
HI	18.8%	3.2%	85.1%
IA	47.3%	10.0%	88.3%
ID	37.6%	6.7%	84.7%
IL	29.1%	19.0%	91.1%
IN	39.9%	21.6%	97.5%
KS	39.2%	14.6%	79.5%
KY	48.9%	14.6%	93.6%
LA	35.0%	22.2%	97.4%
MA	15.3%	13.6%	100.0%
MD	12.9%	10.2%	100.0%
ME	51.4%	8.9%	100.0%
MI	38.2%	24.2%	95.8%
MN	30.6%	8.6%	90.8%
MO	39.1%	16.1%	97.2%
MS	58.1%	19.7%	87.7%
MT	60.9%	3.8%	84.8%
NC	33.2%	14.7%	91.3%
ND	59.0%	6.4%	91.3%
NE	40.0%	13.1%	81.0%
NH	37.3%	4.5%	86.4%
NJ	14.5%	14.5%	-
NM	39.9%	18.3%	80.8%
NV	23.4%	15.1%	93.2%
NY	23.1%	16.6%	98.5%
OH	35.2%	23.3%	84.9%
OK	35.9%	14.5%	79.4%
OR	25.8%	8.2%	92.0%
PA	25.6%	15.5%	98.0%
RI	16.8%	16.8%	-
SC	28.9%	15.5%	96.2%
SD	52.3%	2.2%	86.4%
TN	36.4%	17.4%	96.1%
TX	28.8%	18.9%	87.5%
UT	18.0%	8.1%	90.1%
VA	20.0%	7.3%	95.6%
VT	75.0%	2.1%	100.0%
WA	18.3%	8.5%	89.3%
WI	36.8%	14.7%	93.0%
WV	45.9%	9.7%	100.0%
WY	52.3%	2.6%	73.1%
U.S.	28.6%	16.1%	91.6%

** Note: AS, MP, GU, PR, and VI are not included at the analysis above. Data Sources: 2010 Census & 2010-2014 ACS, U.S. Census Bureau. Prepared by: Lee Li, Policy Analyst, IIUSA*

Figures 1 – 3 show the percentages of qualified TEA census tracts by state. Overall, the state of Vermont, Montana, North Dakota, Mississippi, and Wyoming are the top five states with the most census tracts that would qualify as a TEA under IIUSA's policy proposal.

The top five states/district that have the highest percentage of census tracts within an MSA that would qualify as a TEA are: District of Columbia (32%), Michigan (24%), Ohio (23%), Louisiana (22%), and Indiana (21.6%). Furthermore, a total of 41 (out of 51) states/district would have at least 85% of census tracts outside an MSA to qualify as a TEA under this proposal.

FIGURE 1: Percentage of Total Census Tracts Qualified as TEAs by State

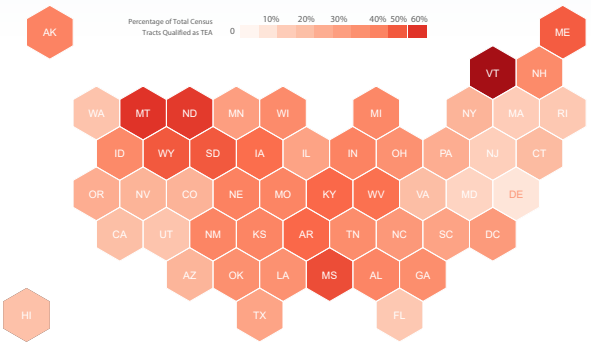


FIGURE 2: Percentage of Census Tracts **in an MSA** Qualified as TEAs by State

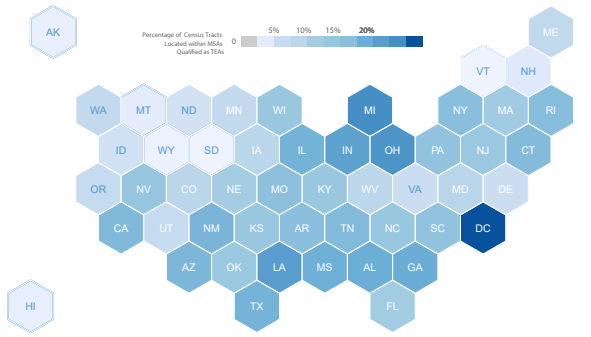
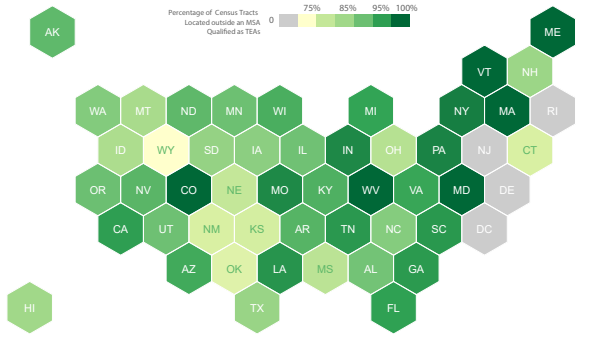


FIGURE 3: Percentage of Census Tracts **outside an MSA** Qualified as TEAs by State



Data Sources: 2010 Census & 2010-2014 ACS, U.S. Census Bureau. Prepared by: Lee Li, Policy Analyst, IIUSA

GETTING TO CONSENSUS: AN ANALYSIS OF IIUSA'S TARGETED EMPLOYMENT AREA (TEA) POLICY PROPOSAL

Over 480 EB-5 projects from a wide variety of industries and located in diverse communities across the U.S. are included at this analysis and plotted on the policy mapping tool. As Figure 4 illustrates, 92% of these projects are located within an MSA; while 8% of them are outside an MSA. Additionally, Figure 4 shows that California, New York, Florida, Texas, Washington, and Pennsylvania are the top six states with the highest number of EB-5 projects.

FIGURE 4: EB-5 Project Analysis - Percentage of Projects Currently Located in Urban/Rural Areas

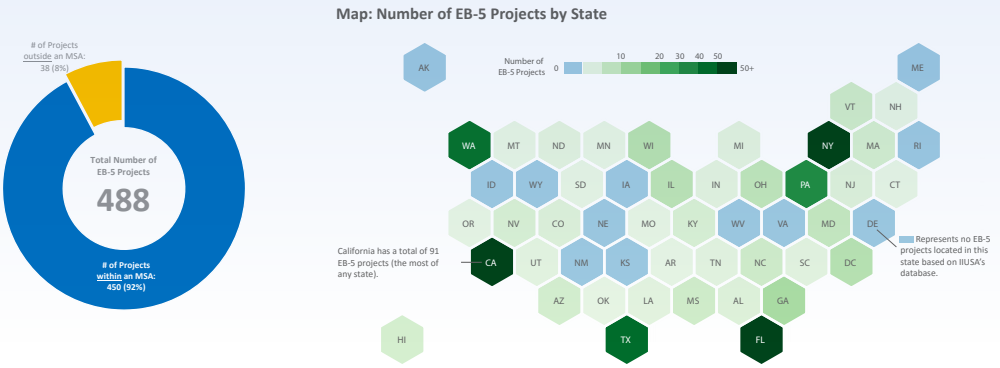


FIGURE 5A: Percentage of EB-5 Projects Located within a TEA

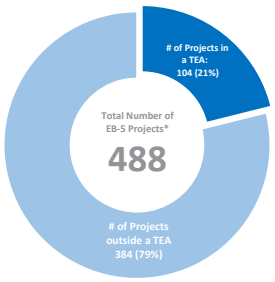
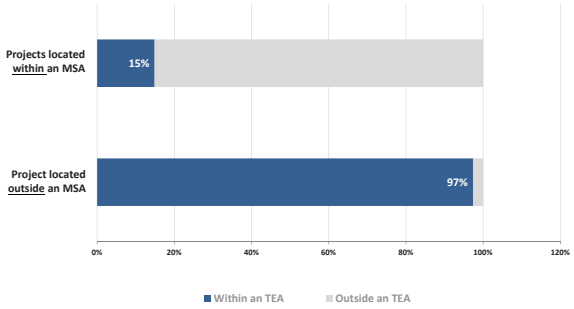
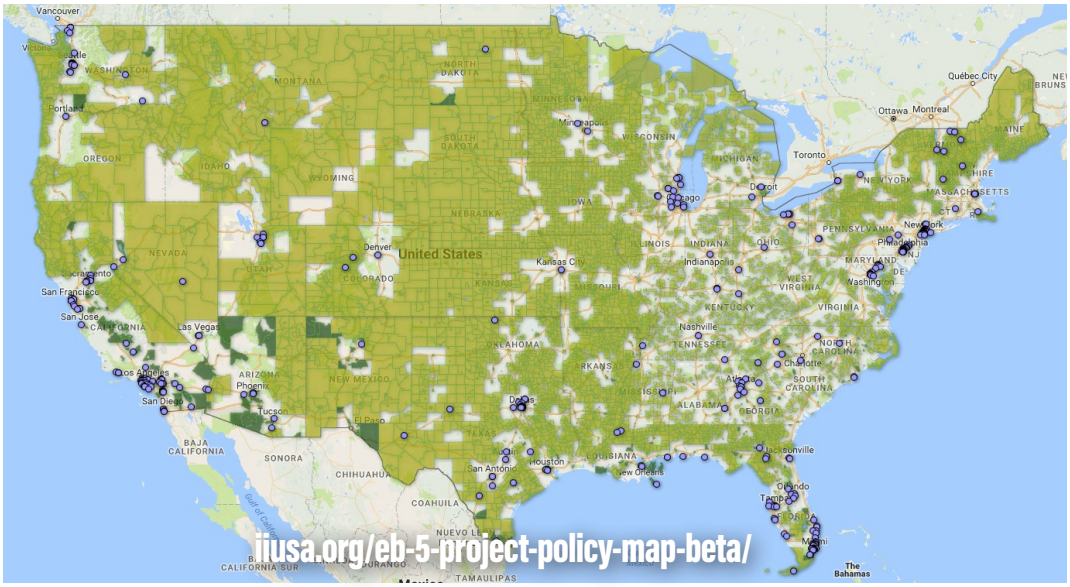


FIGURE 5B: Percentage of EB-5 Projects Located in a TEA v. outside a TEA by Urban & Rural Area



Under IIUSA's TEA policy proposal, 21% of these 480+ EB-5 projects are located within a TEA census tract. Particularly, as Figure 5B shows, 97% of the projects in rural areas would qualify as a TEA project; while 15% of the projects that are located within an MSA are eligible as TEAs.

We invite you to explore our online EB-5 Projects & Policy Mapping Tool at **iiusa.org/eb-5-project-policy-map-beta/**! If your project is not already listed on the map, share your data with us by sending your project name, location, and regional center affiliation to **tech@iiusa.org** so we can include your project in the policy mapping tool. This will help ensure our policy analysis reflects the most robust and accurate industry data possible to inform a meaningful discussion on TEA policy reform. ■



** Number of EB-5 projects above is for discussion purposes only and being displayed to the best of our knowledge based on publicly available information from sources including but not limited to: media reports, websites, and marketing materials.*
Data Sources: IIUSA EB-5 Project Database Prepared by: Lee Li, Policy Analyst, IIUSA

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EB-5 VERSION 2.0

LARRY WANG
PRESIDENT, WELL TREND UNITED

DAN HEALY
DIRECTOR, IIUSA; CEO, CIVITAS CAPITAL GROUP

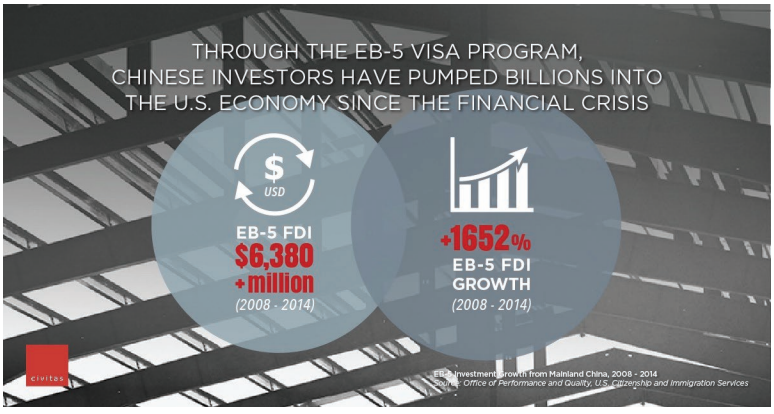
In the wake of the 2008 Lehman Brothers bankruptcy, global capital markets were chaotic at best and totally illiquid at worst. Banks stopped lending and ran for cover, exacerbating the downward spiral and leaving businesses across the country starved for capital. Amid this disarray, creative U.S. companies turned to the long-underutilized EB-5 Immigrant Investor Program, often partnering with established Chinese migration agencies to identify thousands of overseas investors and pool their capital. The result: scores of worthy U.S. projects—otherwise impossible to finance—were jumpstarted, creating thousands of much-needed jobs and making a concrete contribution to America's economic recovery.

By voting with their capital, EB-5 investors around the world—with China leading the way—proved that the U.S. economy remained worthy of their long-term trust and confidence, despite the depth of the recession. For U.S. companies, EB-5 morphed in a few short years from an afterthought to a dependable source of flexible investment capital. From 2011 to 2014, EB-5 capital flows from China grew 82.84% and exceeded $5.55 billion, accounting for 82.95% of all EB-5 investment, according to a report from the nonprofit trade association Invest in the USA (IIUSA). The two firms we lead—Chinese migration consultancy Well Trend United and U.S. EB-5 investment manager Civitas Capital Group—serve thousands of families and individual clients who have invested in over 120 job-creating projects across the United States. In the aggregate, we have capitalized investments that have created literally thousands of American jobs, all at no cost to the taxpayer.

In short, we and many others have experienced firsthand the power of EB-5 to drive economic activity and create American jobs across a range of industries. But for all its successes, the program has its critics in Washington, some of whom raise valid concerns which must be addressed. In doing so, it is critical that reform legislation be thoughtful and balanced, so it both addresses regulatory weaknesses and maintains EB-5's position as the preferred choice for global investors.

A VICTIM OF ITS OWN SUCCESS

Five years ago, U.S. Citizenship and Immigration Services (USCIS), the arm of the Department of Homeland Security charged with administering the EB-5 program, took a few months to adjudicate an investor's application. But USCIS has been unable able to keep up with the program's popularity. Now, with over 20,000 EB-5 investors in line, the agency routinely takes 15 or even 20 months to adjudicate an investor's initial petition. At the same time, the demand for EB-5 visas recently outstripped the annual available supply for the first time, leading to an unprecedented backlog of USCIS-approved investors awaiting an available visa. Unreasonably long initial processing times are bad enough in themselves, but the visa backlog also has a ripple effect, delaying subsequent steps each investor must take and thereby extending the entire process for years—an unsustainable, confidence-sapping trend.



From the Chinese perspective, it is difficult to understand why the U.S. government would permit such an inefficient system to continue, especially since global competition for immigrant investor capital is more intense than ever. If Chinese investors cannot reasonably expect to complete the EB-5 immigration process within a few years (at most), they cannot make plans for their lives, their families, their careers. And they can and will invest in other countries that are perceived to be more welcoming.

THE LANDSCAPE: COMPETITION FOR FOREIGN INVESTOR CAPITAL

In Washington, many have noted that the existing minimum EB-5 investment of $500,000 was set in 1990 and has never increased. There is broad consensus that an increase is overdue. The question is: to what level? The leading EB-5 industry trade association, Invest in the USA (IIUSA), recently recommended increasing the minimum investment amounts to $600,000 for Targeted Employment Area (TEA) locations and $700,000 everywhere else, as part of a broader proposal to restrict TEA designa-

CONTINUED ON NEXT PAGE >>

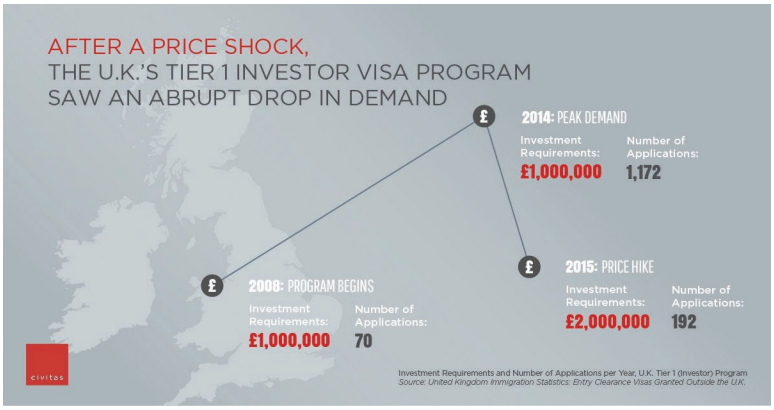
tion to truly distressed areas only, such that the vast majority of projects locations would not qualify for TEA status and would thus require investment at the higher $700,000 level. This represents a 40% price increase—a significant price increase by any measure. Some will object that this proposal does not index the existing $500,000 minimum to inflation. Others will note that some other countries require a higher investment. These are both fair points, but they should not be evaluated in a vacuum. Rather, it is critical that in comparing EB-5 to competitive programs from other countries, Congress take into account not just the required investment amount, but also two other key factors: time and risk.

Canada, for example, built much of modern Vancouver with Chinese capital that fled Hong Kong ahead of Britain's 1997 handover of the territory to Chinese control. Since then, Canada's investment immigration programs have been popular in China. However, Canada suspended its most popular program in 2014 due to, among other things, skyrocketing demand that was overwhelming their ability to process applicants, resulting in a six-year backlog of 65,000 applicants. Sound familiar? In addition, the Canadian program was criticized for failing to catalyze much economic activity. This criticism was well-founded; in stark contrast to EB-5, which has attracted more than $13 billion to U.S. companies in a range of industries and requires each investor to prove the creation of 10 American jobs within two years of receiving residency status, Canada historically required that investors simply invest CAN$800,000 (about USD$717,000) in government bonds.

From an American policymaker's perspective, the EB-5 program's job creation requirement results in a far superior policy outcome—every investor must help capitalize a real American business that creates jobs for U.S. workers, not just buy a T-bill. From the investor's perspective, however, the job creation requirements translate into a dramatically higher cost of participating in EB-5 in terms of both time and risk, compared with the Canadian program. Canada considered a six-year backlog unacceptable, but applicants at least knew that if they qualified, they qualified. In contrast, Chinese investors can today expect the EB-5 process to take eight years or even longer, and even after enduring the multi-year, opaque, bureaucratic application process, each EB-5 investor must literally risk losing residency status if the required jobs are not created within a specified window of time. Consider: Would you subject yourself and your family to eight years of uncertainty about the security of your new life, your children's educational plans, your career goals? That is a very high bar—one unmatched by Canada or any other country.

The U.K. offers another useful example. Compared to EB-5, the U.K.'s two available programs—the Tier 1 (Entrepreneur) and Tier 1 (Investor) visas—are streamlined and easy to understand, with dramatically less risk. The Tier 1 (Entrepreneur) visa program requires an investment of only £200,000, or about $300,000–40% less than the $500,000 currently required by EB-5 rules, and less than half of the $700,000 proposed by IIUSA. In this program, investors can invest in virtually any business, including their own if they will be self-employed, and must create only two jobs.

The other U.K. option, the Tier 1 (Investor) program, requires a higher investment of £2,000,000 (about $2,900,000). Some have pointed to this higher required investment as evidence that the U.S. EB-5 program is underpriced. However, the comparison is inapt because the U.K. program virtually eliminates financial risk altogether by permitting the foreign investor's funds to simply be deposited in a regulated U.K. financial institution and invested in liquid securities, including U.K. government bonds. And in contrast to EB-5 and the U.K.'s own Tier 1 (Entrepreneur) visa program, the Tier 1 (Investor) visa program has no job creation requirement at all. Thus, because this U.K. program involves dramatically less financial risk than any EB-5 investment and no job creation risk at all, a higher price point is more appropriate.



Even more instructive is the U.K.'s actual experience with its recent price hike for its Tier 1 (Investor) program, which doubled the minimum investment requirement from £1,000,000 to £2,000,000. Prior to the increase, the Tier 1 (Investor) program was increasingly attractive to global investors, with annual applications growing from 70 at the program's inception in 2008 to 1,172 in 2014. But after the price increase in late 2014, applications dropped by 83% in 2015, to just 192. This trend continued in the first quarter of 2016, with applications falling to 42 for the quarter, a further drop of 26% compared to the first quarter of 2015. It is difficult to overstate the importance of avoiding an EB-5 pricing shock that could lead to a similarly abrupt drop in demand, which benefits no one.

And then there is the stark difference in time and certainty between EB-5 and the U.K. programs. While the EB-5 process requires several years to complete, an investor can obtain this a U.K. visa under either program (which leads to permanent U.K. residency after 5 years) within 8 weeks. Like Canada, the U.K. program leaves much to be desired from a policy perspective. But the risk-reward profile for the potential investor—that is, the competitive threat to the United States—is very compelling.

The U.S. is alone in the world in requiring EB-5 investors to bet both a significant investment of capital and their and their family's residency status on whether their investment will result in a significant amount of verified job creation in a narrow window of time. This risk is enormous compared to any other program in the world. It is critical for U.S. policymakers to keep these competitive realities in mind as they increase—intentionally or unintentionally—the cost, time and risk associated with each EB-5 investment.

JET-SETTING BILLIONAIRES? NOT QUITE.

On Capitol Hill, there is a widely held misperception that EB-5 investors are mostly ultra-rich Chinese who smoke cigars wrapped with $100 bills. This stereotype could not be further from the truth. Civitas serves more than 1,000 individual EB-5 clients, over 70% of whom are Chinese. Well Trend has over 20 years of experience serving Chinese EB-5 clients, including helping them document the source of their investment capital. Because the documentation supporting each client's EB-5 application is so exhaus-

tive (often running to 1,000 pages or more), we gain considerable insight into clients' finances. In our experience, the net worth profile of EB-5 investors resembles, as is so often the case, a bell curve.

At one end of the curve is the small minority of truly wealthy EB-5 investors. For example, Civitas serves one client who, about a year after his EB-5 investment facilitated his move to Dallas, subsequently brought more than $200 million from overseas and invested it in various businesses—a giant foreign direct investment that cost U.S. taxpayers exactly nothing. At the other end of the spectrum are investors who struggle to find the money to participate in the program, who often pool the savings of a group of relatives. And in the middle, of course, are the majority: the 80% or so who are entrepreneurs and professionals that have saved enough to afford a life-transforming $500,000 investment for themselves or, more often, their son or daughter.

The fact is that for the vast majority of EB-5 investors, an increase in the minimum investment of $100,000 (for projects in TEA locations) or $200,000 (for everywhere else) is a very material amount of money. America now has several years of positive experience with how powerful an economic development tool EB-5 can be. With scores of U.S. companies depending on billions of dollars of EB-5 capital, Congress should avoid a sudden, shocking increase in the minimum investment amount that could disrupt what has become an important capital market. The lesson of the U.K. experience with doubling their program's investment amount—an 86% drop in demand in fifteen months—cannot be ignored.

EB-5 VERSION 2.0: RESTORING TRUST AND MAINTAINING COMPETITIVENESS

With EB-5 attracting billions of dollars in FDI, bad actors have inevitably surfaced. Nothing has done more to sap confidence in the program. Regulators are cracking down hard on wrongdoers, sending an important signal that fraud and abuse will not be tolerated. For their part, the Senate Judiciary Committee held hearings in February and April. Congress appears poised to implement tough reforms aimed at addressing weaknesses in the EB-5 regulatory regime and punishing bad actors. We strongly support these efforts, and have no doubt that a host of needed reforms are imminent.

But Congress should not lose sight of the bigger picture: EB-5 policy already gets a lot of things right. It has resulted in job-creating EB-5 investments that have catalyzed economic growth throughout the United States, all at no cost to the taxpayer. It would be a shame for Congress to spend so much time and energy on integrity measures to protect investors, only to gut the program's effectiveness by pricing a huge number of potential investors out of the market or failing to deal with the visa backlog. In other words, striking a thoughtful balance is key. This means enacting robust new integrity measures while avoiding crippling over-regulation. And with respect to minimum investment requirements, it means a 40% increase—as opposed to 100% or more, as some have suggested—with automatic adjustments for inflation. This measured approach will both address valid concerns among stakeholders and avoid a counterproductive shock to the market.

Global investors have more options for investment-based immigration every day. Those options are more attractive, and EB-5 less so, to the extent Congress increases the cost, time and risk associated with an EB-5 investment. Congress has an opportunity to make EB-5 an even more powerful engine of American job creation. Let's make the most of it. ■

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LOSING YOUR ATTORNEY-CLIENT CONFIDENTIALITY IN EB-5

BY MICHAEL G. HOMEIER, ESQ.
FOUNDING SHAREHOLDER, HOMEIER & LAW, P.C.

In "The Case of the Misguided Model," famous TV attorney Perry Mason's client confesses that he killed a man. When another man is charged with the murder, our hero Perry is torn between his professional duty as an officer of the court, his moral duty to prevent injustice, and his ethical duty to maintain his client's confidences.

Perry's ethical predicament flows directly from the attorney-client confidentiality privilege, long-enshrined as perhaps the most salient testimonial privilege existing under the Anglo-American legal system (and classic American television shows). The privilege protects the confidentiality of communications between clients and their attorneys from compelled disclosure in an evidentiary proceeding. Additionally, the rules of ethics governing the legal profession in every state (exemplified by ABA Model Rule 1.6) reflect the even broader principle that an attorney's duty to maintain client confidentiality extends to all information in the attorney's possession that is related to the representation. However, a lawful device now being actively deployed, including in the EB-5 industry, can effectively void the privilege, strip confidentiality from information and documents, and render attorney-client communications and files accessible by people other than clients and their lawyers.

The attorney-client privilege has long been defined along the following lines:

> *The attorney-client privilege … authorizes a client to refuse to disclose, and to prevent others from disclosing, information communicated in confidence to the attorney and legal advice received in return. The objective of the privilege is to enhance the value which society places upon legal representation by assuring the client the opportunity for full disclosure to the attorney unfettered by fear that others will be informed. … While the privilege belongs only to the client, the attorney is professionally obligated to claim it on his client's behalf whenever the opportunity arises unless he has been instructed otherwise by the client.*
>
> **GLADE V. SUPERIOR COURT, 76 CAL.APP.3D 738, 743 (1978) (CITATIONS OMITTED).**

The attorney cannot be compelled to disclose information related in confidence by the client, nor may the client be forced to disclose information communicated to the attorney. Similarly, the attorney is not permitted to voluntarily disclose client communications on his own initiative, because the privilege belongs to (is "held by") the client. Further, information not technically within the scope of the testimonial privilege may nonetheless be protected from disclosure by the attorney's ethical obligations to the client.

The device that effectively guts the attorney-client privilege and client confidentiality is the appointment of a "receiver."

A receivership is a provisional remedy under which the authority to control and operate a business or institution is vested in an outside person called a "receiver," often appointed by a court during litigation or enforcement proceedings, who is given custody of and made responsible to protect and manage the property of others and to prevent waste or theft of property or assets, often by taking legal action. See, http://legal-dictionary.thefreedictionary.com/receiver. Receivers are often used in bankruptcy cases, as an obvious example. They are also prevalent in securities fraud litigation cases, including those in the EB-5 industry. The vast majority of SEC enforcement actions brought in the EB-5 industry where fraud is alleged and substantial assets belonging to immigrant investors remain vulnerable, have been accompanied by the SEC seeking the appointment of a receiver by the court to take over control of the wrongdoing business and prevent further theft or waste. See, e.g., http://www.northcountrypublicradio.org/news/story/31574/20160415/jay-peak-resort-taken-over-by-federal-receiver-amid-alleged-investment-fraud.

How does appointment of a receiver lead to the effective gutting of attorney-client confidentiality?

The testimonial privilege applies both to natural persons, as well as to business entities, which are artificial persons established by law and which act through individuals representing the entity, such as officers, managers, or employees. Broadly speaking, in a corporate

CONTINUED ON NEXT PAGE >>

context, if the acts of the individual that are the subject of legal action were performed for (on behalf of) the entity as the acts of the entity, then it is the entity that is the client rather than the individual in his or her personal capacity—and therefore the privilege belongs to the entity.

Since the client, and not the attorney, holds the privilege, the client alone has the right to assert it or waive it. When the client is an entity, the entity's privilege is exercisable by management (a manager or managing member of an LLC, or the general partner(s) of a limited partnership). All communications between the entity's management and its attorneys (including corporate lawyers, immigration lawyers, and securities lawyers), are privileged—the confidentiality of these communications cannot be breached without the client's assent (or waiver). However, if and when there is a change in the entity's control, while the privilege remains held by the entity, its exercise passes to the successor managers; it does not remain with the former management themselves. Instead, the new managers may waive the privilege, and require that all previous communications between prior management and counsel be provided to new management. Similarly, new management also controls the extent to which non-privileged but confidential information related to the attorney's representation of the client may (or must) be disclosed.

Quoting directly from a receiver letter demanding copies of confidential communications:

> *[T]he Receiver is authorized, empowered and directed to have access to and to collect and take custody, control, possession, and charge of all assets and records of the Receivership Entities and their subsidiaries and affiliates. [B]y operation of law and by virtue of his appointment, the Receiver succeeds as legal representative to the Receivership Entities, with exclusive authority and control over their assets, including their books, records, and assets.* [Citations omitted.]

The receiver thereupon demanded "turnover [of] all files and documents… pertaining to any matter you or your firm have handled for any of the Receivership Entities." Essentially, the receiver is new management, able to waive the attorney-client privilege or duty to maintain confidentiality existing between the entity's counsel and the entity's prior management. As a result, confidentiality of the previous communications between the entity and counsel can no longer be maintained, and the receiver can review all of those communications.

The SEC has sought the appointment of a receiver to assume control of defendant entities (both new commercial enterprises and job creating entities, and their affiliates) and their assets in almost all of its EB-5 enforcement actions, starting with the Chicago Convention Center case in 2013, and continuing through its most recent, 2016's Jay Peak case (just as the SEC does in its non-EB-5 actions). Going forward, the pattern is likely to continue, whenever the SEC believes investor funds are at risk. And unlike Perry Mason's hapless opponent, District Attorney Hamilton Burger, in such cases the government usually prevails.

Accordingly, EB-5 entities cannot presume that their communications with counsel will remain privileged and confidential in all circumstances, in particular in any case where a receiver may be appointed. ■

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EB-5 COMPLIANCE: PREPARING FOR SITE VISITS

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One pillar of proposed recent reforms of the EB-5 program is administrative site visits. Picture a government officer knocking at the front door of the business, announcing that today is the day for a comprehensive review of the workplace, employer-employee records and maybe financial documents too, and possibly a few impromptu interviews with certain personnel. That is an administrative site visit.

The introduction of administrative site visits to the EB-5 industry presumably enjoys bipartisan support in Congress. In last year's Senate version of the proposed overhaul of the EB-5 program, the bipartisan American Job Creation and Investment Promotion Reform Act of 2015 ("S 1501"), the site visit is required annually and paid for with a new "EB-5 Integrity Fund" that is funded by a hefty $20,000 annual fee from regional centers. The House also featured site visits in its many formulations of EB-5 program reform, for instance, in the proposed EB-5 Integrity Act of 2016 ("HR 4530").

Not to be overshadowed, USCIS has been beating the administrative site visit drum for much of the past year. Whenever Nicholas Colucci, Chief of the Immigrant Investor Program Office ("IPO"), speaks of initiatives to enhance EB-5 program integrity, he highlights the recent collaboration of IPO with the Fraud Detection and National Security Directorate ("FDNS") and the expansion of the random site visit program to include EB-5 related adjudications. See Colucci's stakeholder meeting remarks,

https://www.uscis.gov/sites/default/files/USCIS/Outreach/Notes%20from%20Previous%20Engagements/PED_IPO_Chief_Colucci_Remarks.pdf

and Colucci's testimony before the House Committee on the Judiciary,

https://www.dhs.gov/news/2006/02/11/written-testimony-uscis-house-committee-judiciary-hearing-titled-%E2%80%9C-investor-visa.

While it is not clear that IPO has yet launched a comprehensive program for administrative site visits related to EB-5 adjudication, the pathway for doing so is clear. A central component of the mission of FDNS is to detect fraud in connection with certain applications for immigration benefits. See

https://www.uscis.gov/about-us/directorates-and-program-offices/fraud-detection-and-national-security/fraud-detection-and-national-security-directorate

Since 2009, with the implementation of the Administrative Site Visit and Verification Program,

https://www.uscis.gov/about-us/directorates-and-program-offices/fraud-detection-and-national-security/administrative-site-visit-and-verification-program

FDNS has developed substantial expertise in employer site visits conducted in connection with employer petitions for workers in the H and L nonimmigrant visa categories. Applying that expertise to the EB-5 industry should not rank among the IPO's difficult challenges.

Mr. Colucci's testimony confirms that IPO is sufficiently staffed and trained to direct the EB-5 adjudication related site visits and that FDNS is prepared to carry out its tasks. (Evidence of FDNS involvement is already apparent in the USCIS adjudications of individual I-526 petitioners' lawful source of funds.) However, what may exist as a speed bump for the EB-5 site visit initiative of IPO are the basic questions of which businesses are the target of the site visit and what specifically is the FDNS officer looking for in the EB-5 related site visit. Mr. Colucci has not publicly commented on these details except to suggest a sweeping scope for such site visits in order "to ensure documents are authentic and projects are proceeding as planned; auditing financial records to ensure funds are spent in accordance with the offering documents, economic analysis and business plan; and holding accountable those regional centers that violate the law, regulations or policy." See Colucci stakeholder meeting remarks in August 2015,

https://www.uscis.gov/outreach/eb-5-immigrant-investor-program-stakeholder-engagement-los-angeles.

The proposed legislation if enacted would establish a tall task for IPO in terms of staffing and establishing priorities. There are some 800 regional centers, and perhaps twice as many commercial enterprises in the EB-5 program. HR 4530 proposed a site visit of the regional center, and also of the new commercial enterprise or affiliated job-creating entity. S 1501 proposed that the EB-5 Integrity Fund will be used for determining whether region-

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al centers and associated commercial enterprises comply with the immigration laws and regulations (which could become voluminous if Congress enacts additional "integrity measures" concerning securities laws and other areas of compliance), and specifically mandates interviews of owners, officers, directors, managers, partners, agents, employees, promoters, and attorneys of regional centers and associated commercial enterprises. At the worksite level, S 1501 proposed to require a site visit to the job-creating entity as a prerequisite for the adjudication of the I-829 petition for removal of conditions. Both S 1501 and HR 4530 proposed that the site visit should occur sometime after the filing of an I-924 application for a particular commercial enterprise and should be linked to the adjudication of any related I-829 petitions. HR 4530 specifically references the need to review "evidence of direct job creation" as the central task of the employer site visit. Without congressional appropriations specifically for EB-5 site visits, IPO could be presently awaiting the clarification of funding for site visits. But once that is settled, it appears administrative visits could cover a very broad scope of matters including not only job creation data but also financial books and records of the business.

Based on experience with FDNS in connection with H and L nonimmigrant cases, the direction signaled by proposed legislation, and on what IPO has stated to date about EB-5 related site visits, the following considerations should inform the EB-5 compliance program designed to manage administrative site visits:

- Visits are likely to be unannounced, and could include document review and copying, touring the premises, taking photos, and interviewing personnel. Planning and training, consequently, must occur in advance.
- Just as employers need to have ready access to their Labor Condition Attestation documentation for H-1Bs and have a segregated binder for I-9s, it is advisable that employers create an electronic EB-5 compliance folder that can be promptly accessed.
- Key people should receive training, including reception personnel, Human Resources staff, and designated personnel who would have an understanding of EB-5 requirements at least as to job creation and the obligations of a regional center, and of the core facts in terms of EB-5 investment in the particular business.
- While it is advisable to call one's immigration counsel for assistance and involvement during the site visit, the FDNS site investigators have made it clear that they have the authority to conduct the site visit without counsel and will not wait for counsel's accessibility.
- The designated personnel should be on-site at the employer location (new commercial enterprise or job-creating entity) and be prepared to handle the site visit. It should be clearly understood who are the designated personnel for the regional center offices. If the designated personnel are within reach, the inspector should be requested to wait for the designated personnel before conducting the review, or one may request that the inspector return on another date.
- One should request identification of the inspector, accompany the inspector throughout the review, and include another employee who takes copious notes that contemporaneously record questions asked and responses provided. Notes should be provided promptly to senior management and to legal counsel after the inspection.
- With the suggested emphasis on "direct jobs" and considering I-829 adjudications that require proof of job creation, it is likely an inspector would request review of original I-9s, E-Verify verification forms, quarterly wage reports and payroll documents. Note that certain documents relating to former employees must be maintained for a minimum of three years and one year after termination.
- If the Forms I-9, the new hire document that evidences employment eligibility and identity, is not properly completed and updated, or if the supporting documentation reveals fraudulent documentation, it's possible that a referral may be made to ICE investigators for a follow-up I-9 audit. Targeted training in anticipation of site visits can be very helpful in minimizing I-9 risk.
- Typical "interview" questions would revolve around the number of employees in the business and whether they are working full-time. Better to respond with "I do not know, but I can l get that answer for you" or some similar language, rather than guess or provide inaccurate information.
- A broad directive to ensure "compliance with immigration laws" could lead to inspections that probe the financial details of how a job-creating business actually used EB-5 capital, which would point to the need for a Chief Financial Officer as a designated person rather than the HR Director, and the need for an entirely different set of documentation. Colucci's remarks suggest the broadest scope is intended, but IPO has not clearly signaled that is what the inspectors in fact will be doing -- which is driven typically by Xs and Os of feasibility and funding.
- At the regional center level, the inspector could focus on any documentation that is relevant to annual attestations appearing on the I-924A (which could become far more numerous with the updating of the Form or upon enactment by Congress of new integrity measures) as well as the statements made by a regional center in connection with the I-924 filing for a specific commercial enterprise. It could encompass review of marketing materials. Unless specific guidance from IPO indicates such information gathering would have a limited scope, the breadth of the EB-5 related inspection of a regional center could be exceptionally broad. At the regional center level, it requires little imagination to see FDNS work forming the basis for regional center termination.
- The site inspector would submit a complete report of its findings to FDNS, which in turn would compare the information against what was submitted in support of the EB-5 petition or application. Discrepancies could lead to an administrative inquiry. Adverse determinations could be the basis for denials or even revocation of already-approved petitions or applications. If this occurs, USCIS could request additional information or possibly issue a denial or revoke an approved petition/application.

With the advent of EB-5 administrative site visits a lot is at stake. Ample notice has been provided. Stakeholders must get serious very quickly about preparing for a site visit in order to enhance their EB-5 compliance program. ■

Lincoln Stone and Susan Pilcher are in the EB-5 practice group at Stone Grzegorek & Gonzalez LLP in Los Angeles. Josie Gonzalez leads the worksite enforcement practice of the law firm, and is Editor-in-Chief of Worksite Enforcement & Corporate Compliance (AILA 2008).

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THIRD PARTY FUND ADMINISTRATION: A NECESSARY BEST PRACTICE

BY EDWARD BESHARA
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The Best Practice Committee of IIUSA recently finalized a provision which addresses Third Party Fund Administration as a recommended Best Practice for Regional Centers and Project Developers. This newly recommended Best Practice reads as follows:

12. If a developer, acting as the issuer, puts together the professional team that will be preparing the EB-5 project and/or offering documents, the regional center should insist on a right to have its own or an independent third-party professional team review and provide comment on all documents. The regional center as an issuer will usually have its own team of professionals to prepare the EB-5 project and offering documents. If the EB-5 project wants to have its own team of professionals to review and comment, this may not be enough.

- A Regional Center should utilize a fund administrator that is independent of the job creating enterprise to implement due diligence fund control measures in order to track the lawful source, transfer, use and disbursement of funds.

- A Regional Center should obtain at least reviewed and ideally audited financial statements for all NCE's and JCE's.

- The regional center should actively monitor, or by written agreement, cause others to actively monitor, the ongoing activities of the project during the conditional residency period. This monitoring can include, but not be limited to the following:

•Tracking of construction expenditures through recording of invoices and canceled checks on a quarterly basis,

•If the project includes an operational phase of a business which is expected to create jobs, then the tracking of business-generated revenues, if the expenditure approach was used to estimate job creation at the I-526 stage, or the tracking of direct employee hiring through I-9s, E-Verify records and/or quarterly payroll records.

IIUSA Recommended Best Practices for EB-5 Regional Centers, at https://iiusa.org/regional-center-operations/.

Currently, EB-5 investors commit their personal funds (e.g. a principal investment of USD $500,000 and average administration of USD $55,000) to the Issuer, NCE (New Commercial Enterprise) which may be controlled by the Regional Center and/or the EB-5 Project Developer.

In each EB-5 project the intended uses of the EB-5 investor funds and non-EB-5 funds are stated in the required EB-5 project documentation including the Business Plan, Economic Report, and Securities Offering Documents.

When banks lend funds to the Project in the form of a construction loan, they monitor how the construction loan funds are being used and when, according to the construction timeline and construction budget. However, there is no SEC (U.S. Securities and Exchange Commission) regulation or USCIS (U.S. Citizenship and Immigration Services) regulation requiring reporting by the EB-5 Project, Regional Center, or Issuer of whether the EB-5 investor's funds or non-EB-5 funds have been used or committed consistently with the construction timeline and/or construction budget stated in the EB-5 supporting documentation.

If the USCIS, SEC, and banks (or financial institutions) do not require the EB-5 Project or Issuer to report to the EB-5 investors how

the non-EB-5 and EB-5 funds are being used, then how can the EB-5 Investor be assured that the EB-5 Project is using the non-EB-5 and EB-5 funds correctly and consistent with the Business Plan and Economic Report? The securities offering documents clearly provide the investor with the opportunity to review the Business Plan and Economic Report, which state how the non-EB-5 and EB-5 funds are going to be used, before the investor signs the Securities Offering Document committing their funds to the EB-5 project. Most importantly, the foundational premise for the EB-5 Investors to obtain conditional and unconditional permanent residency, and for the opportunity to execute a successful exit strategy, is that the non-EB-5 funds and EB-5 Investor funds are used correctly and consistent with the Economic Report and Business Plan.

The Best Practices Committee has recommended in clause 12 that there should be a Third Party Fund Administrator hired by the EB-5 Regional Center and/or Issuer and/or EB-5 Project Developer to audit and report how the non-EB-5 and EB-5 funds are being used. The fund administrator would address the consistency of the expenditures with the Business Plan and Economic Report, and report these findings to each investor on a monthly or quarterly basis. This approach will, no doubt, give piece of mind to the EB-5 Investors, especially in light of some of the fraudulent activities and misuse of non-EB-5 and EB-5 funds in some EB-5 Regional Center Projects.

The additional advantage of having a Third Party Fund Administrator is that the report of how the funds are being used may be sent directly to the investor, eliminating the possibility of an EB-5 Regional Center or Project changing or amending an accurate report. Of course, the Third Party Fund Administrator would provide the opportunity to the Regional Center EB-5 Project to clarify and change any misstatement of facts.

The Third Party Fund Administrator can also provide a Due Diligence Report on each individual investor, and their sources of funds, to make sure the EB-5 Regional Center Project is not receiving any AML funds or unlawful funds. These Due Diligence Reports would definitely be useful for the EB-5 projects' banks involved in providing escrow accounts for the EB-5 investors and non-EB-5 funding for the project.

A Third Party Fund Administrator can also initially provide a true valuation of the assets of the project such as land, building, etc., so that in case of a loan model where the job creating entity repays the loan to the NCE, the collateral (land, buildings, etc.) used for the repayment of the loan has a true valuation. This valuation would also be helpful to show the investors that the EB-5 Regional Center Project will have financial viability at the time the investors can exit the project.

For all of the above reasons, the Best Practices Committee has recommended the Third Party Fund Administration as a recommended Best Practice. In conclusion, the only way to ensure clarity and integrity to the investors and to the financial institutions that provided financial support for the EB-5 Regional Center Project, is the implementation of this Best Practice, Third Party Fund Administration. ■

REDEPLOYMENT OF CAPITAL: A Fund Administration Perspective

BY REID THOMAS
EXECUTIVE VICE PRESIDENT, NES FINANCIAL

Over 90% of EB-5 projects use the "Loan" model. This model is where a New Commercial Enterprise uses the subscription funds raised from the investors to make a loan to the Job Creating Enterprise. Until recently these loans have typically been made with five-year terms.

However with the combination of longer, unpredictable processing times at USCIS and China visa backlogs, a five-year term is unlikely to be enough to ensure that I-829 petitions will have been adjudicated prior to repayment of loan principal. Since current EB-5 policy appears to require the subscription funds to remain at risk until the I-829 is approved or denied, the issue of redeployment of the investment funds is now front and center. Unfortunately there has been no clear guidance from USCIS as to the parameters for implementing a redeployment strategy.

As discussed elsewhere in this issue, this leaves the industry in a tricky spot with regards to both immigration and securities compliance. Moreover, it puts the investors at additional risk because it creates an enormous opportunity for fraud and abuse.

Each EB-5 investor did initial due diligence on a project and made their own investment decision to invest into a fund with a sole purpose to help finance a specific project. However with redeployment being the proposed solution to the at-risk problem, once the initial project is complete and the return of capital is pending I-829 approval, that investor's money could end up in a completely different project. Since this situation is going to typically occur around 5 years after the initial investment, there is no realistic way that the investor could have done any quality due diligence on the second project. That makes proper administration of the fund to ensure the highest standards of security, transparency and compliance even more important.

The good news is that while this type of "blind" investment fund activity is new to EB-5, it's not new within more traditional private equity fund markets. These other more mature markets should be used as a guide by the EB-5 industry in defining best practices that will not only ensure compliance, but will also protect investors.

As a best practice, the private equity industry uses independent third parties to administer their funds. The fund administrator can provide a wide range of services but at its core provides daily tracking, and reporting on the fund activity for the benefit of the General Partner and the Limited Partners. The use of a third party for this function enhances the security of the investor funds by eliminating real or potential conflicts of interest. It also provides an additional layer of transparency for the investors, and helps ensure that the fund remains in compliance with the investment regulations.

While these benefits would certainly be of value in EB-5, simply hiring a third party fund administrator isn't sufficient. A fully compliant EB-5 fund administration service must meet the combined requirements of traditional investment funds with the complexity of a government sponsored job creation/immigration program. As a result EB-5 Issuers and Regional Centers need to find fund administrators and tools that are capable of dealing with a higher level of complexity.

As a baseline, quality financial reporting needs to be provided. Investors should be provided with the same level of services we all probably experience with our own investments such as regular statements and financial reports on the progress of their specific investment, and the status of the fund. In order to meet the need for both fund level, and individual level tracking, EB-5 issuers or Regional Centers should have systems and processes in place to enable for flexible reporting. There are multiple constituents involved at different levels that will often require unique reports based on the same core data. There are many capable administrators and technology solutions that can address these core requirements.

It is much more difficult to find a solution that addresses the above, while also addressing the unique requirements of the fund related to immigration and job creation. The good news is that at the time of a redeployment the job creation requirements in most cases will likely have been met. As a result the primary focus of the tracking effort is on maintaining an audit trail with evidence to support the sustaining the at-risk investment requirement. The flow of each investor's funds as they are redeployed from one project to another must be carefully tracked and supporting elements like bank statements and wire transfer receipts must be maintained. Regular statements as to how the funds are deployed, the status of the investment and fund overall are essential to demonstrating that the at-risk requirement is being met.

Given the fact that the guidance from US-

CIS has been minimal, and there is little precedent to date on this issue, Issuers and Regional Centers should err on the side of maintaining "too much information" and keep extremely detailed records on the investor funds to ensure compliance with USCIS.

In addition to quality record keeping, Issuers and Regional centers should go out of their way to provide transparency to investors. At least in the near term it is very likely that the investor will not have foreseen the redeployment option, let alone have had the opportunity to consider the investment alternatives for redeployment. As such, providing the highest levels of, and the most advanced tools for, transparency is even more critical.

If on-line access to information status of the investment was not available during the initial project phase, now is the time to step it up. From a technology standpoint, investors should have the ability to access and retrieve information on-line through any one of a number of devices.

As we are well into I-829 bubble, and processing times are slowing even more, issues associated with redeployment of funds will be taking on a new prominence. Solutions to help manage the complexities of this exist, and those committed to best practices will be early adopters and embrace them. Those that decide to defer implementing these types of solutions are putting their investors at risk unnecessarily.

The EB-5 industry has matured tremendously over the last 5 years. It is clearly now a mainstream source of capital, and is being treated as such by the same regulatory bodies that govern more traditional private equity funds. It took events like Madoff to cause wholesale changes in those industries – given the current political climate around EB-5, this industry cannot afford not to embrace proven best practices. ■

REDEPLOYMENT: *The New Frontier*

BY OSVALDO F. TORRES, ESQ.
TORRES LAW

Redeployment of EB-5 capital is just one more of the current issues with which the EB-5 industry is struggling. It is a complex matter, one which suffers from a dearth of clear United States Citizenship and Immigration Services (USCIS) guidance. The danger of redeployment is that its shadow, its underbelly, is diversion. In other words, if redeployment is not addressed or properly treated in the offering and related operative documents and a redeployment is effected, we run the risk of it being deemed a diversion of EB-5 funds, which would likely lead to securities law liability. The other danger of redeployment is denial of investor petitions. Should USCIS adjudicate that the investment into which EB-5 funds were redeployed failed to meet the EB-5 program's "at-risk" requirements, the investor's Form I-829 petition would be denied.

In recognition of the topic's emergence, USCIS issued a draft policy memorandum dated August 10, 2015 (USCIS Draft Memorandum) that attempts to, but does not definitively address, the main issues occasioned by redeployment. In fact, redeployment is so pressing that, coincidentally, just a few days ago a client emailed the following to me:

> *The redeployment term attached seems to mean that the fund[s] can be redeployed to [an]other project without EB-5 investors' approval. Is this correct? If so, investors may ask what if the new project has high risk. Is this redeployment term widely used in EB-5 industry now? How do you explain to investors about this matter which doesn't require investors' consent in choosing another project?*

The email raises important questions. What investor consent is needed? What if the investor funds are redeployed to a project with risk characteristics that materially differ from the original investment? This article attempts to elaborate on those questions as well as summarize the main securities laws concerns regarding proper disclosure.

WHY THIS NEW TENSION?

Redeployment emerges as an important consideration in an EB-5 offering due to the increasing visa backlog currently affecting investors born in Mainland China. A visa backlog occurs when the demand for visas in a particular category or country exceeds visa availability. For Mainland China investors, the visa backlog translates to a six-year (or longer) wait before a visa number is made available for immigration to the United States. This phenomenon is often (technically incorrectly) referred to as visa retrogression. The reader should now be asking why does that matter to my EB-5 project? The answer is because a visa backlog may interrupt or adversely impact the exit strategy for the project.

Most developers and creators of business opportunities seek a liquidity or capital event to cash in on gains. Typically, exit strategies contemplate a sale or refinancing after a prescribed or ideal period of time to hopefully unlock value and return profits and capital to owners. The "holding period" for the proj-

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ect (or the period during which there can be no exit from the project) in the typical EB-5 transaction is commonly tied to the maturity or term of the EB-5 loan made by the new commercial enterprise (NCE) to the project or job creating entity (JCE). Before visa backlogs became a prevalent problem, the typical EB-5 loan carried a term of five years, with perhaps a one-year extension. Today, common practice dictates that the EB-5 loan term extend to seven or even eight years to accommodate the likely possibility that an investor's Form I-829 petition will not have been adjudicated within the customary five-year period due to visa backlogs. As developers are asked to suspend their exit from five to seven or more years, significant tensions arise because the prolonged wait may not coincide with the developer's ideal exit or liquidity strategy.

AT-RISK REQUIREMENT

In the client email noted above, the concerns center on the possibility of greater risk and lack of investor control or consent regarding the redeployment decision. However, while the possibility of greater risk might and should sound investor alarms, an investor should be equally concerned if the funds are redeployed in a "safe" investment that might not meet the EB-5 program's "at-risk" rules, which would also result in a denial of immigration benefits. As noted in the USCIS Draft Memorandum, when a petitioner files the Form I-829 petition, pursuant to 8 C.F.R. 216.6(a)(4)(ii)-(iii), the petitioner must provide:

> *Evidence that the immigrant investor invested or was actively in the process of* ***investing the required capital and sustained this action throughout the period of the immigrant investor's residence in the United States****. The immigrant investor can make this showing if he or she has, in good faith, substantially met the capital investment requirement and continuously maintained his or her capital investment over the two years of conditional residence. At this stage the immigrant investor need not have invested all of the required capital, but must have substantially met that requirement.*

As such, the petitioner must show that he or she continuously maintained the capital investment over the two years of conditional residence when filing the Form I-829 petition. According to the USCIS Draft Memorandum, the continuous maintenance or sustainment of the capital investment requires that the capital be "at-risk" throughout the sustainment period and sustained in the NCE. Additionally, the USCIS Draft Memorandum states that regardless of whether an NCE has deployed funds to a wholly-owned business, or in the regional center context, to a JCE, the funds must remain invested in the same NCE throughout the conditional permanent residency period.

REDEPLOYMENT DISCLOSURES

As noted above, the issue of "sustaining" investor capital "at-risk" potentially puts the interests of the immigrant investor at odds with the economic interest of the developer who wants to sell or refinance as early as possible to realize potential profit. The investor must comply with the investment sustainment requirements through the end of conditional residency. A critical issue, however, is that there exists no clear USCIS guidance as to whether that moment is (i) at the time the Form I-829 petition must be filed (i.e., within 90 days before the two-year period ending after the investor has entered into conditional residency), or (ii) at the time USCIS adjudicates an investor's Form I-829 petition. Consequently, if the JCE engages in a capital event, the investor's funds may not have been "sustained" for adjudication purposes for the requisite period if repaid or distributed to the NCE.

Redeployment attempts to address this problem by providing a mechanism for the reinvestment of investors' funds upon a developer's exit. If properly structured and disclosed, redeployment could permit the NCE to reinvest in another JCE the funds that are repaid or distributed to it, bolstering the position that investor funds were sustained at risk. However, whether the investment must remain at risk even after the investment has been sustained through the two years of conditional residence, is reasonably disputable. Importantly, what also remains unclear is what conditions or parameters must a reinvestment satisfy in order to avoid a material change that could affect an investor's ability to immigrate under the EB-5 program. For instance, must the funds be redeployed within the same regional center and/or targeted employment area, etc.?

Although we may not yet definitively know what will suffice for immigration purposes, what is clear is that offering and operative documents must address redeployment if there is any likelihood that the developer will seek an exit before the complete adjudication of all Form I-829 petitions. The following is sample disclosure text addressing redeployment:

> *Subject to compliance with the requirements of the EB-5 Program, if all or a portion of the principal balance of the Loan is repaid to the Fund prior to the date that all Limited Partners have received final adjudication of their I-829 Petitions, the General Partner will, in its sole discretion, reinvest the proceeds of the Loan repayment, or that portion of the proceeds that is required to remain "at risk" under USCIS policies for those Limited Partners who have not received final adjudication of their I-829 Petitions, without further consent of the Limited Partners. The General Partner will use commercially reasonable efforts to reinvest the proceeds in an investment that qualifies as "at risk" under USCIS policies and that permits the Limited Partners to receive the return of their Capital Contributions as soon as reasonably possible following final adjudication of their I-829 Petitions. The Limited Partners will not have the ability to approve the nature or risks of the new investment made by the General Partner at the time of the reinvestment. The reinvestment of the Limited Partners' Capital Contribution may result in additional or different risks of loss of the Limited Partners' investment in the Fund than are described in this Memorandum.*

While the sample text above may be deemed adequate, it still begs the question of whether it goes far enough? Should additional parameters be included that would effectively limit the power of the General Partner to reinvest? In light of such concern, the following example attempts to provide more structured approach:

> *Subject to compliance with the requirements of the EB-5 Program, if all or a portion of the principal balance of the Loan is repaid to the Fund (via a sale or refinancing of the Project by the Project Company) prior to the I-829 Petition adjudication for a Limited Partner whose Capital Contribution was used to fund such portion of the repayment of the Loan, the proceeds from any such repayment will be redeployed by the Fund into alternate*

investments (which may be owned and/or controlled by affiliates of the Fund) ("Alternate Investments") within 180 days for the purpose of maintaining the "at-risk" nature of such Limited Partner's Capital Contribution as required under the EB-5 Program (a "Redeployment"). The General Partner, in its sole discretion, will be responsible for identifying Alternate Investments, and as of the date of this Memorandum, no Alternate Investments have been identified. ***The General Partner will use its best efforts to identify Alternate Investments that involve a project: (a) where the total capitalization would not result in a loan-to-value ratio that exceeds 85% (when combining the Redeployment proceeds with the senior financing in the Alternate Investment); (b) that has similar collateral to the Project.*** *Additionally, the General Partner will attempt to identify Alternate Investments that include the same or similar terms as the Loan to the Project Company, including but not limited to:* ***(a) an annual preferred return equal to approximately 0.25%; and (b) a service and/or management fee equal to approximately 5%.*** *Limited Partners will not have the ability to approve the nature or risks of Alternate Investments identified by the General Partner, and as such, a Redeployment may result in additional or different risks with respect to the loss of the Limited Partner's investment in the Fund, other than those described in this Memorandum. In the event of a Redeployment, the Alternate Investment may provide for additional returns, however, any such additional return is not guaranteed and the EB-5 Investor is not entitled to receive a return greater than the Preferred Return. Additionally, instead of a Redeployment into an Alternate Investment, the General Partner may effect a Redeployment into an at-risk money market account for the benefit of the Fund. Such account may result in different risks and returns with respect to the EB-5 Investor's investment in the Fund other than those described in this Memorandum. Notwithstanding the foregoing, in no event shall the Fund be permitted to effect a Redeployment if such Redeployment would affect the status of any EB-5 Investor's I-829 Petition and/or any EB-5 Investor's immigration status under the EB-5 Program.*

Although the latter text provides for more redeployment restrictions and may be adequate for disclosure purposes, no precedent or guidance exists confirming whether redeployment in such a manner would satisfy USCIS requirements. Importantly, it should be noted that in both examples the investor is not provided with consent rights over the reinvestment decision, which right is expressly granted to the General Partner. The purpose for this is two-fold: (i) if the investor has the right to decide, that might be construed as the making of a new investment decision (which would require a new offering or at least an adequate offering supplement); and (ii) avoid, as best as possible, the inference that a "material" change has occurred for immigration purposes.

Additionally, redeployment provisions may create new risk factors that should be noted and at the very least described in an operative document. Following is sample text to consider:

Redeployments by the Fund carry risks associated with unspecified transactions.

Any Redeployment of proceeds in Alternate Investments increases the financial risk to EB-5 Investors because there is no information about the nature and terms of such Alternate Investments that EB-5 Investors can evaluate. EB-5 Investors, therefore, will be relying solely on the ability of the Fund, General Partner and their respective affiliates and management personnel to identify such Alternate Investments. Accordingly, there can be no assurance that a Redeployment into an Alternate Investment will be successful. The failure by the Fund or the General Partner to identify and effect a Redeployment into an Alternate Investment may have a material adverse effect on the Fund's business, financial condition and results of operations, including its ability to repay all or any portion of an EB-5 Investor's investment.

The Fund may invest in Alternate Investments upon early repayment of the Loan

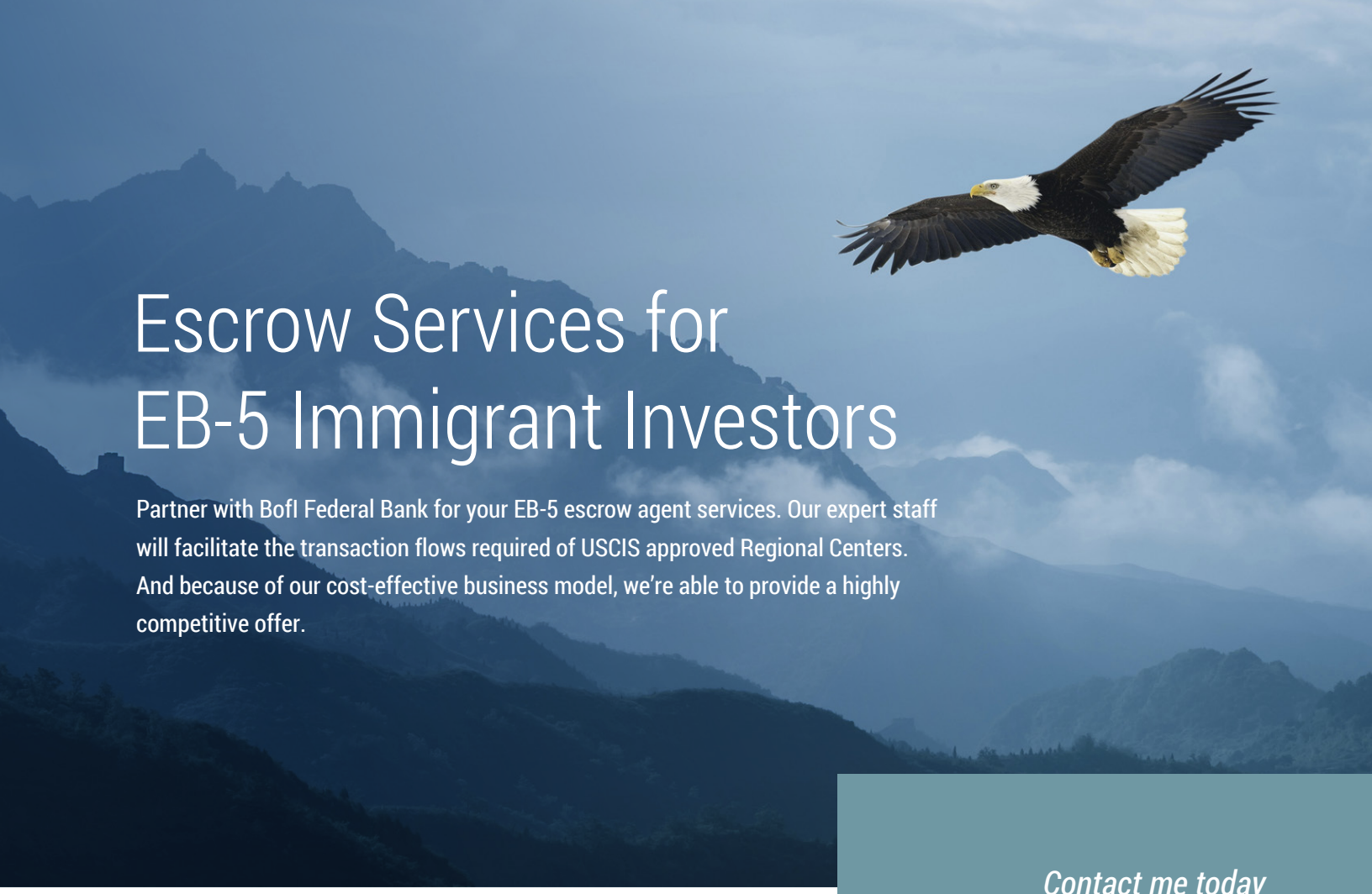
In the event all or a portion of the principal balance of the Loan is repaid to the Fund prior to the I-829 Petition adjudication for a Non-Managing Member whose Capital Contribution was used to fund such portion of the repayment of the Loan, the proceeds from any such repayment will be redeployed by the Fund into Alternate Investments for the purpose of maintaining the "at-risk" nature of such Limited Partner's Capital Contribution as required under the EB-5 Program.

Alternate Investments will be selected by the General Partner, in its sole discretion, and as of the date of this Memorandum, no Alternate Investments have been identified. ***However, Limited Partners will not have the ability to approve the nature or risks of Alternate Investments identified by the Fund, and as such a Redeployment may result in additional or different risks with respect to the loss of the Limited Partner's investment in the Fund, other than those described in this Memorandum. An Alternate Investment may result in a delay in the repayment of Capital Contributions to the Limited Partners by the Fund.*** *Alternate Investments are speculative and therefore EB-5 Investors should be aware that such investments may increase the duration of their investment with no certainty of return and that the possibility of a partial or total loss of the Fund's capital and EB-5 Investors' Capital Contribution exists. Furthermore, there is no assurance that any Alternate Investment would satisfy the EB-5 Program or enable an EB-5 Investor to apply for a visa and residency in the United States.*

CONCLUSION

Redeployment may be a viable solution to some of the challenges presented by visa backlogs. However, until USCIS issues authoritative guidance, there will be uncertainty. To reduce exposure to securities law liability, effective operative provisions and sensible disclosures must be considered to render redeployment a potentially effective tool. Because a new investment decision could be triggered by an improperly drafted redeployment provision, the mechanics and disclosures with respect to redeployment should be described in a manner that would provide adequate parameters for the investment so as to alleviate the need for investor consent. ■

About the author: Osvaldo F. Torres, Esq. is a principal of Torres Law P.A., a corporate, securities and media law firm in Fort Lauderdale, Florida. Mr. Torres frequently speaks at EB-5 conferences on securities law matters.



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Tips to Minimize SEC Enforcement and Investor Securities Claims in EB-5 Offerings

BY RUSSELL C. WEIGEL, III
PARTNER, HOFFMAN & WEIGEL PA

Now that the SEC's Division of Enforcement is regularly bringing civil and administrative actions against EB-5 securities issuers, what can the issuers do to protect themselves if an offering has already commenced or completed, and what can one do in the planning stage to minimize potential regulatory and investor claims? In this short article, I offer some tips and recommendations from my perspective as a former SEC counsel presently engaged in a securities transactional compliance and defense practice.

PRE-OFFERING PLANNING - AVOIDING REGISTRATION VIOLATIONS AND MISREPRESENTATION ALLEGATIONS

The Regulatory context of All Capital Raise Solicitations by U.S. Companies

As a general matter of federal and state law, all offers of securities must be registered on a form prescribed by the state in which the offering is conducted or the SEC, unless the offering qualifies for a statutory exemption from registration. "Registration" is a regulatory process whereby applicable securities regulator (state or SEC) reviews the merits of the offering or the quality of disclosure about the offering or both. The registration process is designed to result in a vetted offering or offering document for use by the general public without regard for their investment experience or sophistication in business or financial matters. Such registered offerings are also called "public offerings." Registered offerings usually are relatively expensive compared to exempt offerings because registered offerings bear the expense of audited financial statements usually prepared by accountants using GAAP and with the disclosure text of a prospectus or offering circular prepared by experienced securities counsel.

On the other hand, unregistered offerings – private offerings conducted pursuant to an exemption from registration – are often substantially less expensive to prepare and conduct and avoid the delay and expense associated with governmental review. Because the private offerings lack government review, offerings conducted pursuant to an exemption from registration receive strict scrutiny after the fact for compliance with applicable exemption requirements in litigation or in government securities investigations. Almost all EB-5 offerings are conducted using private offering exemptions provided by federal law. The exemptions provided by Regulation D Rule 506 (domestic private offerings) and Regulation S (offshore private offerings) are the two varieties typically utilized in EB-5 capital fundings. Each of these regulations has specific requirements that must be literally followed at the risk of litigation with the SEC for violation of federal securities registration requirements.

Pre-Offering Planning

Once the proposed securities issuer has determined the initial terms and structure of the proposed offering (the nuances of EB-5 regional center compliance concerns aside), a primary planning determination is the exemption(s) from registration through which the offering will be conducted. Planning for compliance with an offering exemption means that both the contents of transaction documents and offering sales materials and the conduct of the offering's sales effort must be achieved within the confines of the chosen exemption(s). For example, in an offering in which Regulation D Rule 506(c) and Regulation S are the chosen exemptions, purchasers must make their purchases offshore and they must be verified accredited investors. Such investors must have a verifiable and documented liquid net worth of more than one million dollars not including the value of their primary residence or an annual income exceeding two hundred thousand dollars over the prior two years even if the EB-5 qualifying investment amount is only five hundred thousand dollars. These are not difficult requirements in concept, but if the requirements are not met the entire offering can be rescinded in a SEC federal court civil action predicated on the non-compliance by, or disqualification of, one investor.

Transaction Documents

The private offering memorandum ("POM" or "PPM") and related subscription agreement and limited partnership or operating agreement and escrow agreement, if any, must conform to the requirements of the offering exemption(s) and be vetted for accuracy of wording and over-disclosure to avoid misrepresentation and fraud claims. Such documents typically are prepared by experienced securities counsel. For example, when the descriptions of the issuer's prospects in the offering document appear to be facially precise, a close reading might reveal a statement that infers an outcome or implies a limiting factor but does not come out and say it. When this happens, the PPM writer might be

CONTINUED ON NEXT PAGE >>

deliberately trying to hedge a risk known to the writer that should be identified and disclosed as a risk or evaluated for materiality considerations and possibly eliminated from the text. Likewise, over-disclosure can occur, for example when a photograph is included in the PPM. Pictures tell a thousand words, but the thousand words told might not be the words the issuer imagined or intended to be out there. Or, too much detail is provided that is not material to the business of the issuer of the terms of the offering. Or, it could be that material information, such as the fees being earned by related parties or the offshore brokers, is not fully disclosed. Ultimately, the disclosure package should disclaim where it cannot be offered and to whom it can be offered. Since the most probable reader of the PPM will actually be an SEC enforcement investigator or a plaintiff's attorney one day, great care in the draftsmanship and presentation of the offering documents is paramount.

Sales Planning

All participants in the sales effort must be aware of the need not to deviate from representations made in the PPM. The sales effort is often the cause of subsequent lawsuits alleging fraud and misrepresentation, especially when brokers or finders make promises or projections not included in the offering documents. Care should be given to the selection of sales persons (e.g., migratory agents) willing to solicit on behalf of the securities issuer because their representations as agents can legally bind the issuer as principal. All sales materials, including websites, and emails, should be vetted by the issuer during the planning stage for conformity to the PPM, and when possible only pre-approved written communications should be utilized by sales agents. Because legal or compliance counsel often are not retained to monitor the sales efforts of the live offering, this monitoring or reporting function oftentimes is abandoned although the issuer is legally responsible for what happens down the chain of sales people in contact with the purchasing investor.

Likewise, control of the sales agents can be necessary for compliance with securities offering exemptions to prevent too many offerees from coming into contact with the offering solicitation at the risk of inadvertently converting the private offering into an unregistered, non-exempt, public offering, which can subject the issuer to disgorgement and civil money penalty claims by the SEC.

LIVE OFFERING CORRECTION AND POST-OFFERING REMEDIATION

Compliance During an Offering

Compliance issues abound during the live execution of the issuer's private offering. Hiccups that occur in the field may not rise to the attention of the issuer until it is too late to remedy them, unless the issuer has installed an effective compliance reporting mechanism. Reporting regimes are rare in privately placed (and non-FINRA brokered) offerings and conflict with the sales agents' incentives to sell the offering. However, with the issuer legally on the hook for misrepresentation and fraud-based sales practice claims, or registration violations, the issuer should be incentivized to create incentives for the sales chain to report problems and errors back to the issuer. This may enable the issuer to mitigate potentially destructive situations from conflagrating.

Perhaps the circumstance to be addressed derives not from the field but from a change of plan for the capital raise. How can you fix it and still raise capital from the same offering? So long as all investors will be treated equally, the EB-5 offering theoretically could be amendable for a material change, such as a change in use of proceeds, the dollar amount of the offering, the business plan, or a USCIS regulation or statutory change in the Regional Center program requirements, for some examples, provided that pending I-526 petitions are not jeopardized. In essence, if all existing investors are provided information about the proposed change to the offering and the event causing the proposed change, and they approve the change in writing, the change can be adopted and implemented for use by prospective investors without undergoing the expense of conducting a new offering and/or rescinding the existing one. Some proposed changes cannot be accomplished due to language barriers, agents' resistance, or for other circumstances. Indeed, the occurrence of an event or circumstance that would disqualify the offering from reliance on an offering exemption may disqualify the entire offering and force a rescission offer to all purchasers. All proposed changes should be reviewed with securities counsel.

Post-Offering Compliance

Post-offering compliance can also be effective. With the federal statutory look-back period being five years for SEC enforcement concerns, even when projects are completed and partnership distributions have been made, project sponsors may still run the risk of being sued for securities violations. In other words, even happy investors with green cards do not create an immunity from suit for the project's sponsors if the SEC believes a material misrepresentation occurred or proceeds were misused, for examples.

Experienced independent securities compliance counsel can be retained to conduct a mock SEC investigation of a closed offering for the purpose of identifying potential problems and making recommendations for corrective action before a real investigation or investor lawsuit occurs. Depending on the issuer's budget and perception of areas of concern, the scope of review can be tailored narrowly or deep. Mock investigators can review the offering documents, sales materials, documentary support for statements made, communications with sales agents and investors, financial statements and support therefor, dig for undisclosed conflicts of interest, and review board authorizations or the lack thereof; the support for compensation disclosure, use of funds, and financial disclosures; and conduct employee and agent interviews if necessary. Corrective actions could include the preparation of remedial disclosure documents, board resolutions, contract amendments, corrected titles and deeds, and rescission offers. In essence, a remedial defensive effort can include any action or activity that can be properly and legally be constructed to memorialize understandings, agreements, authorizations, and representations to build or buttress a legal defense file to be maintained in case of investor or regulatory action. Remember, just because the immigrant investor got her green card doesn't mean she won't sue you to get her investment back after the fact.

CONCLUSION

These are tips. No business runs perfectly, but there are relatively inexpensive commonsense steps that you can take to protect your business now rather than doing damage control later if a lawsuit occurs or if the regulators come knocking. And the EB-5 industry is under scrutiny. The more well-documented and transparent the offerings are, the better the image of IIUSA and its members. ■

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EB-5 Investors From Sanctioned Countries?

No Problem—Just Follow the OFAC Rules

BY DOREEN EDELMAN
SHAREHOLDER, CO-CHAIR OF GLOBAL BUSINESS TEAM, BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC

Yes, there are stories about investors and EB-5 Regional Centers having trouble dealing with the Department of Treasury's Office of Foreign Assets Control ("OFAC"). But while these EB-5 applicants, and the applicants' Regional Center and immigration counsel, will face some additional obstacles, sanctions do not preclude these investors from obtaining an EB-5 visa.

Sanctions can present problems for potential EB-5 investors since applicants for EB-5 visas must establish that they have a lawful source of funds and that they are able to lawfully transfer these funds into an American account. U.S. banks may have their own internal policies or general restrictions limiting their ability to accept funds from sanctioned countries. However, if they are open to accepting the funds, the parties involved must still ensure that there are no prohibitions imposed on the transfer by OFAC. OFAC is responsible for both comprehensive sanctions imposed country-wide and targeted sanctions imposed on certain entities and individuals. Furthermore, sanctions do not necessarily impose a complete bar on activities that involve these countries, entities, and individuals, but rather may require specific OFAC authorization for a particular transaction.

THREE STEPS TO DETERMINE OFAC REQUIREMENTS UNDER COUNTRY-WIDE PROGRAMS

Before commencing any transfer of funds in conjunction with the I-526 Petition for an EB-5 visa, Regional Centers must determine if investors from a particular sanctioned country require specific authorization from OFAC to transfer the investor's EB-5 funds. To determine what type of authorization is required in a particular situation, the parties should answer the following three questions:

- Is authorization generally required to transfer funds into the United States from this particular country or from individuals who are nationals of this particular country?
- If so, is a general license available?
- If a general license is not available, is it possible to obtain a specific license?

If the OFAC regulations include a general license, then you do not need to file for transaction-specific approval. The general license itself authorizes the transfer of funds and the experts at the bank should be aware of this exception. If the OFAC country program does not have a general license available for the transfer of the investment funds, it may be possible to apply for a transaction-specific license. OFAC reviews these applications on a case-by-case basis and will issue an actual license for the specific transaction authorizing the transfer of specific funds from the particular investor to the particular Regional Center for EB-5 investment purposes.

When a general license is available, experienced immigration lawyers and Regional Centers sometimes request a legal review of the transaction and an opinion letter from an attorney familiar with OFAC regulations in order to provide evidence to financial institutions that the transfer does not violate a specific sanctions program. The legal opinion should be detailed and include all aspects of the transaction so that it is clear what the investor can and cannot do. This letter should confirm the specific regulatory authority authorizing the transfer and demonstrate that the transfer is consistent with OFAC regulatory requirements and Patriot Act due diligence requirements.

Obtaining a specific license will require similar details regarding the specific path of funds. Depending on the country, the specific fact pattern and the time of year, a specific license application can take many months to be processed. Therefore, immigration attorneys and Regional Centers should review OFAC requirements that may touch on a particular EB-5 transaction as soon as they have a potential investor. (Early review will also highlight what other OFAC concerns may affect the investor and the transaction. See below.)

Both the Regional Center and investor should discuss any additional prohibitions to ensure that the parties all understand the details. For instance, for a transfer from Iran, all

Iranian investors must understand that they likely cannot continue to participate in Iranian businesses once they become U.S. Persons. Only under very limited circumstances can they participate in Iranian transactions. Even under the recent Iranian nuclear deal, U.S. Persons still generally cannot own or work with Iranian businesses absent a specific license from OFAC. Thus, Regional Centers benefit from dialogue with potential investors from sanctioned countries because such dialogue ensures that investors know the limitations up front and will not be surprised at the end of the process.

ENTITIES, INDIVIDUALS, AND RESTRICTED PARTIES SCREENING

Also, Regional Centers will want to conduct restricted party screenings to ensure that the entities and individuals involved in each transaction are not on any of the restricted parties lists administered by OFAC and other government agencies. If an entity or individual is restricted from doing business in the United States or with a U.S. Person, it will be necessary to obtain a specific license, if available, to authorize the particular activities that would otherwise be prohibited. This restricted parties screening is in addition to any specific country sanctions program explained above. Restricted parties screenings are a separate requirement that applies to all U.S. Persons and is not limited to parties from sanctioned countries.

Any entity transacting with a foreign party should run a restricted parties screening before it does business with that foreign party to ensure compliance with U.S. law. If the foreign party appears on a restricted parties list, the U.S. party may be violating U.S. law by doing business with it. Screening lists are available online on OFAC's website as well as on other government agency websites. There is also commercial software available that screens parties against a comprehensive list of all restricted parties lists administered by U.S. government agencies. These are the same searches that financial institutions are required to perform for each transaction. If you have OFAC legal counsel, your counsel may be willing to do the screening for you. We suggest that you keep a copy of your screening report as evidence of your diligence. This screening should be part of a Regional Center's initial due diligence for all potential investors.

ADDITIONAL CONCERNS

Furthermore, before becoming a U.S. Person, EB-5 applicants will generally want to ensure that all of their personal funds and investments are transferred out of Iran before they become a U.S. Person subject to U.S. jurisdiction. Because U.S. Persons will often require specific licenses in order to transfer personal funds from a sanctioned bank into the United States, it is imperative that EB-5 applicants are aware of how their U.S. status will affect their access to money and any investments they may have in a sanctioned country or entity. This often requires individualized planning in consultation with both an immigration and OFAC attorney.

While sanctions do impose additional steps for certain EB-5 investors, their immigration attorney, and the applicable Regional Center, once you learn the process you can add it to your checklist. It doesn't have to cause additional angst, and you certainly do not have to avoid otherwise qualified investors merely because of OFAC requirements. ■

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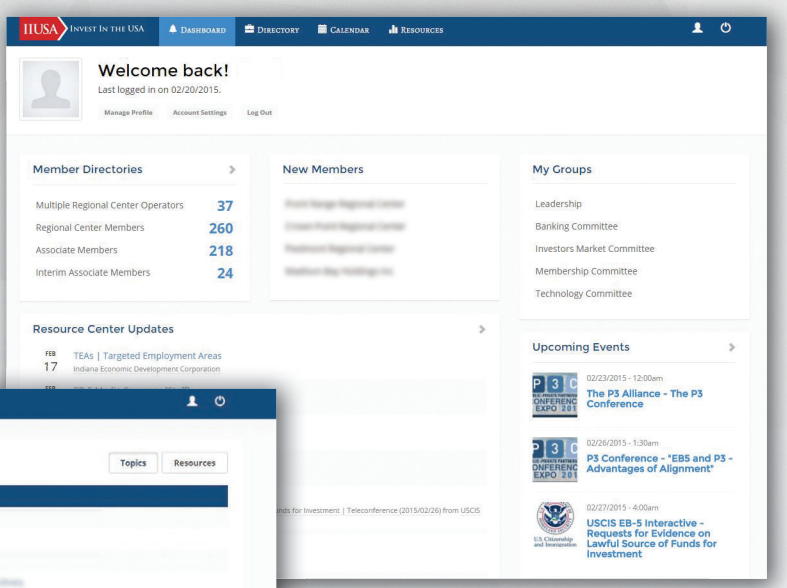

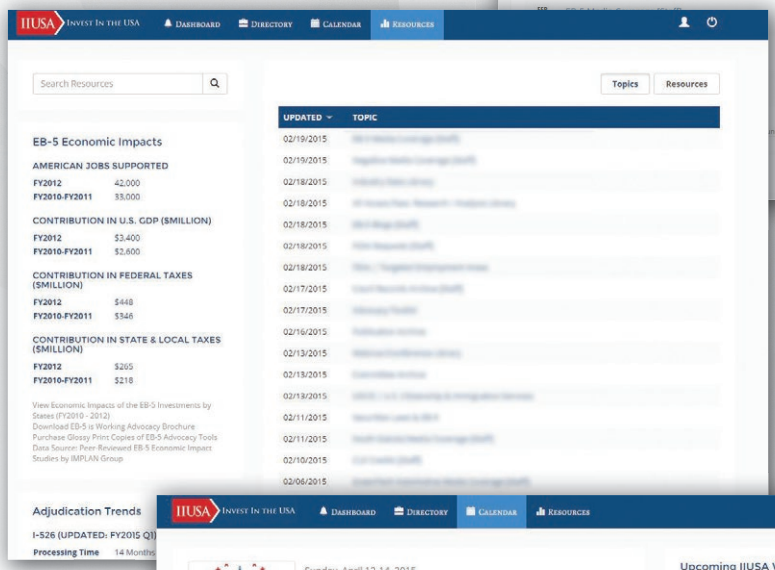

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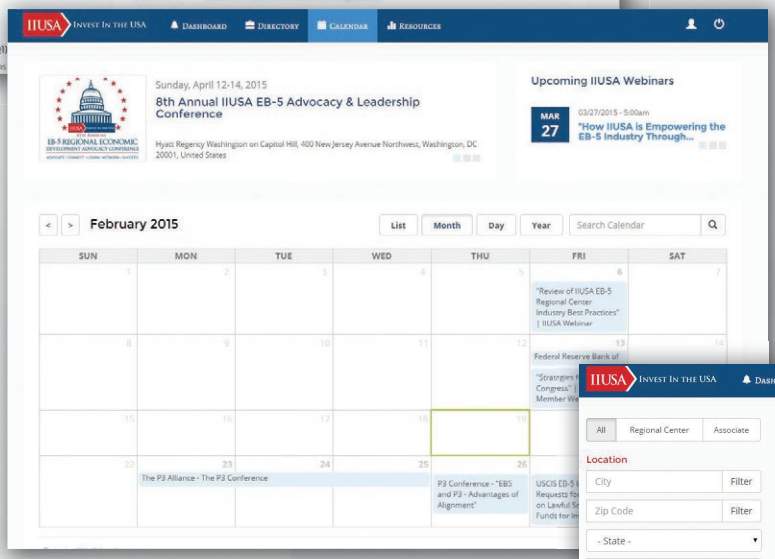

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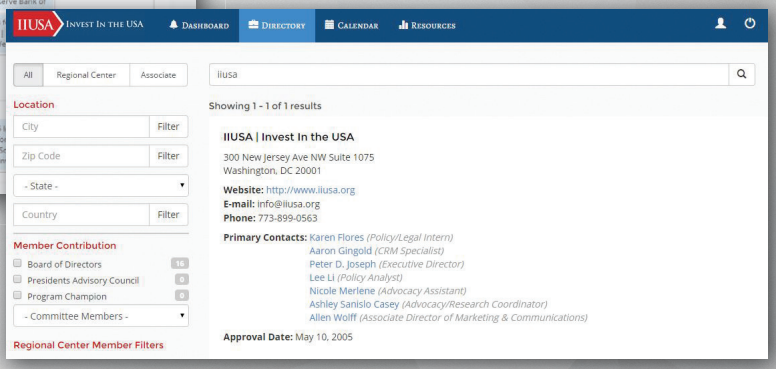

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2016 SELECTUSA SUMMIT:

IIUSA Educates Economic Development Organizations, Foreign Investors on Benefits of Utilizing the EB-5 Regional Center Program

President Barack Obama speaks at the SelectUSA Investment Summit in Washington, D.C. on Monday June 20, 2016.

BY ALLEN WOLFF
IIUSA ASSOCIATE DIRECTOR OF MARKETING & COMMUNICATIONS

For the third consecutive year, IIUSA participated in the SelectUSA Investment Summit, the highest-profile event dedicated to promoting foreign direct investment (FDI) in the United States. Between June 19-21, more than 2,500 attendees from 70 foreign markets and the U.S including international companies, domestic economic development organizations (EDOs), and a range of other stakeholders gathered in Washington, D.C. to explore job-creating investment opportunities throughout the United States.

WHAT IS SELECTUSA?

In order to retain and attract new investment to the U.S., the Department of Commerce's International Trade Administration launched the SelectUSA Initiative in 2012 to serve as the single point of contact for foreign investors and coordinate with related federal agencies. For companies interested in investing in the U.S., SelectUSA offers services include information and counsel, connections with potential partners and assistance in navigating the U.S. regulatory environment. For U.S. economic development organizations (EDOs), SelectUSA assists with marketing and promotion and investment advocacy to help attract, retain, and grow investment to all regions of the United States.

Over the years, IIUSA has worked closely with SelectUSA in order to promote the EB-5 Regional Center Program as an important component of foreign investment into the U.S. SelectUSA is a staple speaker at IIUSA conferences, and has an ombudsman function for working with other federal agencies when FDI is being frustrated by bureaucratic hurdles – a portfolio that sometimes includes EB-5 processing issues.

IIUSA has had an important role in each of the first three SelectUSA Summits in educating attendees about the EB-5 Program.

In 2015, IIUSA Executive Director, Peter D. Joseph, moderated a panel at the SelectUSA Academy, a one-day seminar for U.S. economic development professionals, focusing on EB-5 best practices. Also, at first SelectUSA Summit in 2013, IIUSA Vice President Robert C. Divine spoke on a panel exploring capital availability in the U.S. and the challenges faced by global investors in establishing operations in the United States.

THE EB-5 PROGRAM IS AN INCREASINGLY IMPORTANT DRIVER OF FDI INTO THE U.S. ECONOMY

In 2014, IIUSA pioneered the slogan "EB-5 is Working". The short yet powerful message has since become a popular Twitter hashtag (#EB5isWorking) and a rallying cry for EB-5 Regional Center industry stakeholders and observers who acknowledge that contributions by the EB-5 Program create thousands of jobs per year and is a vital tool for regional economic development.

FDI plays an essential role in ensuring U.S. economic growth and prosperity – creating high-paying jobs, spurring innovation, and driving exports. In 2015, FDI flows into the U.S. totaled $379 billion according to the Department of Commerce. Moreover, the U.S. has consistently ranked as the top destination for inbound investment, ranking well above competitors China, Canada and Germany in A.T. Kearney's FDI Confidence Index. In the face of recent global market volatility, international investors continue to look to the U.S. first when decided where to invest or start a business.

Since 2008, the Program's annual contribution to inbound FDI grew over 1,200% to total almost $4.5 billion in fiscal year 2015 alone. This investment capital is creating tens of thousands of jobs for U.S. workers in diverse communities by funding projects in a wide variety of industry sectors across the country - all at no cost to the taxpayer. In fact, the Program generates much needed tax revenue to the tune of over half a billion dollars in state and local tax revenue and over one billion in federal tax revenue from 2010-2013 alone.

REPRESENTING THE EB-5 INDUSTRY ON THE GLOBAL STAGE

As a SelectUSA Summit exhibitor for the second year in a row, IIUSA was proud to serve once again as the EB-5 industry representative at the highest profile international event for FDI promotion hosted in the U.S. Over the course of the conference, IIUSA served several key purpose: to educate EDOs on the benefits of partnering with EB-5 Regional Centers, to introduce the EB-5 Program to foreign investors looking to invest and/or immigrate to the U.S. and to strengthen relationships with officials from federal agencies that oversee the EB-5 Program.

In total, 52 state and local economic development organizations participated, many of whom had exhibit booths. IIUSA staff took the opportunity to connect with each and every state and local office at the Summit to enlist their support of EB-5 reauthorization and answer questions on the practical use of EB-5 investment for economic development projects. Furthermore, IIUSA engaged attendees with its geographic information system (GIS) mapping tools displaying EB-5 project information as well as economic impact and investor origin data.

In addition, dozens of international investors stopped by the IIUSA booth to learn more about the EB-5 Program. The IIUSA staff fielded questions relating to the differences between EB-5 and other employment-based visas, the importance of conducting due diligence on projects and induvial in an EB-5 transaction and more. IIUSA also pointed potential investors to important resources to better understand the fundamental aspects of investing through the EB-5 Program.

Adjacent to the main exhibit hall was Government Pavilion which included booths from federal agencies and offices such as the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), U.S. Department of Labor, U.S. Department of State, U.S. Small Business Administration, The Office of the U.S. Trade Representative, U.S. Department of Commerce and others. IIUSA staff made valuable connections with representatives from these agencies and offices and learned about the various services provided by these groups that can be of benefit to the EB-5 industry.

Furthermore, IIUSA was pleased to attend a panel titled "Welcome to the United States: Visas and Beyond" which included Nicolas Colucci, Chief of the USCIS Office of Immigrant Investor Program (IPO). In his remarks to the audience, Chief Colucci addressed the role USCIS plays in the review of applications as well as job creation and "at-risk" requirements of the EB-5 Program. A fundamental understanding of how the EB-5 Regional Center Program works in the context of the broader U.S. immigration system is vital for U.S.-based project developers and foreign investors alike.

CONCLUSION

The SelectUSA Investment Summit provides an unparalleled opportunity to bring together economic development organizations from every corner of the nation, thousands of international investors as well as other related parties that are working hand-in-hand to facilitate business investment in the United States. Many of the themes that undergird the SelectUSA Investment Summit including the deepening of bilateral investment ties, facilitating U.S. job creation and catalyzing local economic development are also highlighted when discussing the wide-ranging benefits that EB-5 investment is responsible for. We hope to see you next year at the SelectUSA Summit which is already scheduled for June 18-20, 2017 in National Harbor, Maryland. ■

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VIETNAM EB-5 DEMAND:
A Look to the Horizon

BY MINA TRAN
FOUNDING PARTNER, TRAN LAW GROUP

Vietnam is currently enjoying its strongest economic growth in five years, amidst worries about political instability in the wake of recent elections and maritime aggression from China. The mix of economic and political circumstances has created a robust environment for EB-5 demand.

Vietnamese investors are in many ways like investors everywhere. They are concerned about the financial validity of a project and the security of their immigration status. Unlike most investors from China, however, Vietnamese have long-standing relationships with Vietnamese communities in the United States. Many have traveled extensively in the United States and may already be conducting business here. As such, Vietnamese investors tend to be sophisticated about American life and business norms, making the EB-5 program both attractive and suspicious to a potential investor.

For years, Vietnamese families have been stringing together a series of family-based immigration applications in order to unite an entire family in the United States. This usually starts with a child who comes to study, marries, becomes a citizen and then petitions for the parents and siblings. While this is a tried and true path, it can take dozens of years and can be expensive once educational costs, fees, and opportunity costs are taken into account. And, of course, life happens during those years: marriages, divorces, births, deaths and most importantly increasing age. Many children of these families can age out and be left alone in Vietnam while the rest of the family is able to immigrate. The fact that EB-5 allows a family of parents and unmarried children under 21 to immigrate all at once is one of the most appealing aspects of the program for many Vietnamese families.

The diaspora of Vietnamese refugees planted immigrant communities all over the worldwith many Vietnamese having businesses, family members or children studying abroad in Australia, Canada, Singapore and the U.K. The strongest ties are with the United States, especially Southern California, which is home to the largest Vietnamese community outside of Vietnam. But the U.S. EB-5 program faces stiff competition from investor visa programs offered by Australia, Canada, Singapore, the U.K., and other countries. Many of these other programs offer the security of investment in government bonds or projects, and relatively less arduous paperwork and procedures. Some Vietnamese investors have been victim to bad EB-5 projects, unscrupulous operators and misinformation, creating a sense of mistrust. And this mistrust is not easy to overcome, as relatively few Vietnamese investors have yet completed the entire EB-5 program cycle and obtained both the permanent green card and the return of their investment capital.

Working with Vietnamese migration agents can be a challenge, as the staff in many offices are earnest but lacking in training and first-hand hand experience with the American immigration system. As a result, they are unable to operate as independently as Chinese migration agents and require more guidance from the Regional Center as well as the legal community. Of particular concern, Vietnamese agents tend not to have a strong concept of agency or understanding of U.S. securities laws. Sales techniques are not particularly nuanced, and presentations often feature guarantees of financial performance or promises of something extra. Responding to demand from investors to see all claims in writing, agents may even provide offering document supplements or contracts to investors without informing the project operators or Regional Center. The agents making the claims may not be aware that these representations can be attributable to the Regional Center and the project. Agents may rely on the lengthy immigration process to defer the need to make good on their promises, or they may deny having made the promises and claim investor misunderstanding.

Migration agencies in Vietnam generally lack infrastructure and organization, and are not as formalized as in China. Even the most successful of those calling themselves agents have yielded dozens of investors in recent years, not hundreds. The China model of large seminars and presentations is not as successful in the Vietnam market, and agents do not dominate EB-5 referral networks in Vietnam. Potential Vietnamese investors are likely to turn to trusted friends, family and

CONTINUED ON NEXT PAGE >>

business associates, rather than to migration agents, for advice and guidance through the EB-5 process. Reliance on a personal network is common among investors of all nationalities, but the Vietnamese investor's network may stretch across the globe. It is not uncommon for a personal contact to travel to the project site, meet with the regional center and attorney, shop several different projects in the United States, and report back to their network in Vietnam.

Desire for anonymity supports the importance of personal referral networks for EB-5. Potential EB-5 investors in Vietnam are often either Communist Party members or embedded in the Party's infrastructure in order to conduct their daily business. While many are not card-carrying members of the Party, their livelihoods rely, at least, on the goodwill of the Party. As such, if they are considering any investor immigration program, they will want as much anonymity as possible. Referral sources or agents may act like surrogates for the investor in gathering and confirming information, and in representing the investor at the initial meetings. There are usually multiple, rigorous private discussions before the actual investor is introduced to the EB-5 project operator. Building trust and personal relationships is key to success in Vietnam. In Vietnamese, this concept is called uy tin.

On the legal front, Vietnamese policies do not allow an individual to invest internationally, especially for immigration purposes. Until recently, the majority of Vietnamese were unable to move funds from Vietnam to anywhere in the world legally. Past EB-5 investors had to trust a migration agent or representative offering a "side door" procedure that would allow for legal transfer of investment funds. While some migration agents may have a viable procedure, many do not. Some EB-5 investors found themselves with I-526 petitions denied due to path of funds problems, or even worse, losing the entirety of their investment capital as it disappeared along with the migration agent. Thankfully, that is changing.

Vietnamese investors are now able to obtain a license issued by the Vietnamese Ministry of Planning and Investment to invest money outside of Vietnam. These licenses allow a Vietnamese national to deposit U.S. dollars into a government-approved bank and legally wire money directly into a U.S. escrow account for an EB-5 project. The investment license application can be invasive however, requiring information about the EB-5 project as well as the investor's personal financial information. Itcan also take up to several months to obtain. Requirements are not always clear. The newly-elected National Assembly leans towards legal hard-liners who are likely to diligently enforce legal and monetary regulations. This will result in attentive review of applications for investment licenses. Time will tell whether this increased scrutiny will bring clarification to the requirements or bog down the procedure so much that it will be too difficult to obtain an investment license for EB-5 purposes.

In 2015, the number of EB-5 visas issued to Vietnamese nationals was 280, nearly double the 159 visas issued the year before. 280 visas represents about 140 approved I-526 petitions, assuming an investor has a family of four. Even if the number of approved petitions were to double again or even triple in this year, Vietnam remains a distant second to China. However, Vietnam remains an exciting horizon for the EB-5 program and cautious optimism would not be misplaced. ■

INVESTMENT MIGRATION COUNCIL

Be part of the global association concerned with investment migration

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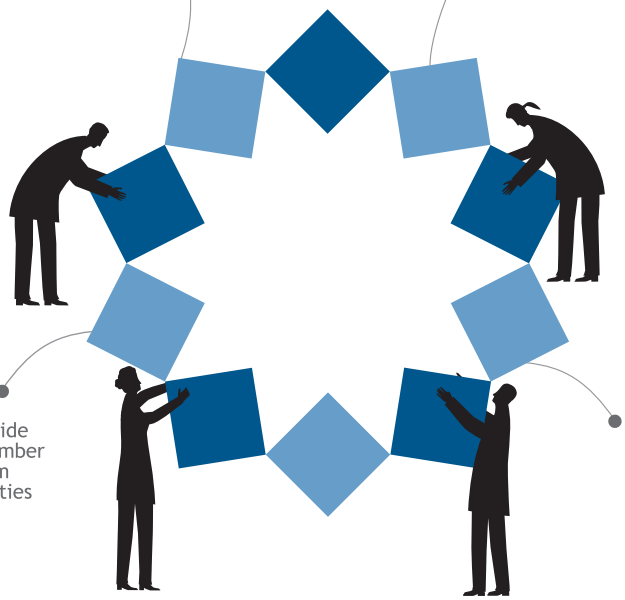

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INVESTOR MARKETS SPOTLIGHT: Brazil

BY BRENDAN TARNAY
SPECIAL CONTRIBUTOR

When *The Economist* ran a cover story in November 2009 titled "Brazil Takes Off", it seemed as if the largest Latin American economy was poised to become a leading economic player on the world stage, with 5%+ growth rates, development of deep sea oil fields and the prospect of growing demand in Asia for its food commodities. Its growth and rising international standing was promising as an emerging market and this was highlighted by the awarding of the 2016 Summer Olympic Games to Rio de Janeiro in the same year. Fast forward to today and the outlook is much less rosy. Corruption allegations surfaced in 2015 against former President Luiz "Lula" Inacio da Silva and President Dilma Rousseff, who has subsequently been suspended from office. Brazil's economic and political crises for the past few years have left many of its citizens wary of their future prospects and its wealthy nervous about the long term stability of their wealth and investments. These crises, marked by widespread political corruption, rising public and private debt, falling consumer confidence, credit downgrades to junk, and a depreciating currency ("Real"), have caused troubling uncertainty for Brazil's wealthy. These problems contributed to a 3.8% contraction of Brazil's economy in 2015, according to The Financial Times, further unnerving the Brazilian wealthy elite. Not surprisingly, these wealthy Brazilians have been looking for a way out – for themselves and their financial wealth.

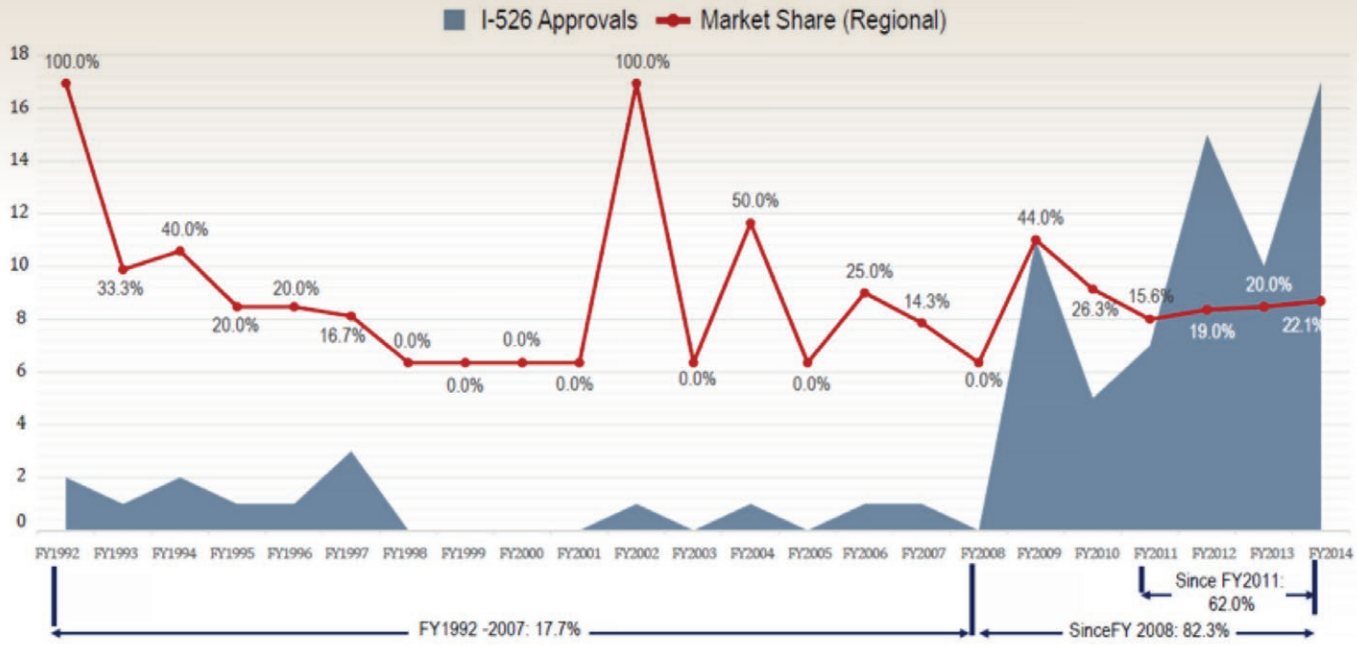
With the largest population and economy in Latin America, one can expect Brazil's 198,000+ millionaires (nicknamed "Brazillionaires") to have a greater presence in the EB-5 investor market in the years to come. Excluding China, 2011-2014 figures show that Brazilians made up only 2.1% of total I-526 petitions during that time period, and 1.8% of investor market share since 2008. In the Latin American market, while Venezuela is by far the leader in I-526 approvals, Brazil's market share has been sustained at almost 20% since 1990, and in 2014 nearly 29%.

In the past, immigration from Brazil was dominated by middle and working class families, with the ultra-wealthy hesitant to leave their low-cost high living standards afforded to them at home. But after the re-election of President Rousseff in October 2014, the uncertainty and lack of security has caused serious doubt in the future of these luxuries. In 2015, Brazilians stepped up their purchases of luxury Miami homes and began to seek longer term or permanent residency in the United States. Miami is now the largest Brazilian city outside of Brazil, for both resident and Brazilian tourists. Brazil's 3900+ ultra high-net-worth individuals (UHNWI) offer an untapped EB-5 investor market. With effective in-country marketing, EB-5 projects in the United States could see a marked increase in I-526 petitions from Brazil.

Venezuela, still Latin America's leading source of EB-5 investors, is struggling amid its economic and political crisis. Brazil, on the other hand, is looking to stabilize its economy with interim President Michel Temer and his pro-business belt-tightening policies, offering a practical investor market alternative. According to the academics at the Brazil Institute in Washington, D.C., there is a lot of optimism and hope for the future of Brazil. Professor Marco André Melo believes that the economy has already bottomed out. And with the almost inevitable confirmation of Temer as president, and the legitimization of his government and the growing cooperation in congress he is receiving, Brazil has only one direction to go, and that is up.

Perhaps this unusual mix of crisis and stability will help Brazil become a larger source of EB-5 capital. But while Brazilians may have been looking for a way out in 2015 and 2016, it will still require concerted effort and education in Brazil to fully tap into the Brazilian investor market in the future.

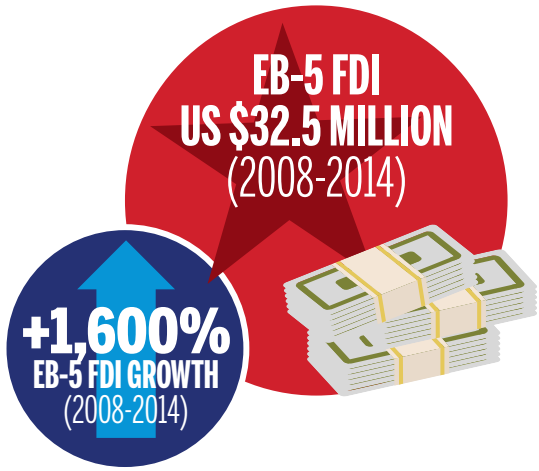
GROWTH PATTERN OF THE DEMANDS FOR EB-5 PROGRAM BY NUMBER OF I-526: BRAZIL



OTHER COMMENTS ON THE BRAZILIAN INVESTOR MARKET

"Brazil is suffering its worst recession since the 1930s, perhaps of all time. On June 1st the government reported that GDP contracted by 0.3% in real terms in the first quarter of this year; it is 5.4% smaller than it was a year earlier. Over that period GDP per person dropped by more than it did during the hyperinflationary "lost decade" from 1981 to 1992, notes Alberto Ramos of Goldman Sachs, an investment bank. Over two years the number of jobless Brazilians rose from 7m to 11m. It is a "downright depression", says Mr. Ramos." – The Economist, Nowhere to go but up, June 4th, 2016

"The number of Brazilians on the [Forbes 100] had jumped from six in 2002 to 36 a decade later, and yet there were plenty of billionaires Forbes hadn't found." Alex Cuadros, author of Brazillionaires: The Godfathers of Modern Brazil, Profile Books, 2016. ■



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IIUSA's EB-5 Investor Markets Report, IIUSA's newest annual publication, reviews the industry's fastest growing and most important investor markets. It details, for the first time, the remarkable growth of the EB-5 Program over the past two decades and from which countries and regions investors are coming. The first Volume of the Report is just the beginning of IIUSA's efforts to deliver statistically-driven data on the EB-5 markets that matter most to the industry. The EB-5 Investor Markets Report is available for download in digital form free of charge on IIUSA.org. ■

EB-5 Corporate & Securities

Osvaldo F. Torres, the firm's Managing Partner, has over 25 years of sophisticated corporate and securities law experience. "Ozzie" has been immersed in the EB-5 space for numerous years assisting regional centers and projects with all of their offering, structuring and SEC compliance needs. His project experience includes hotel development, multifamily residential, assisted living, franchises and alternative energy.

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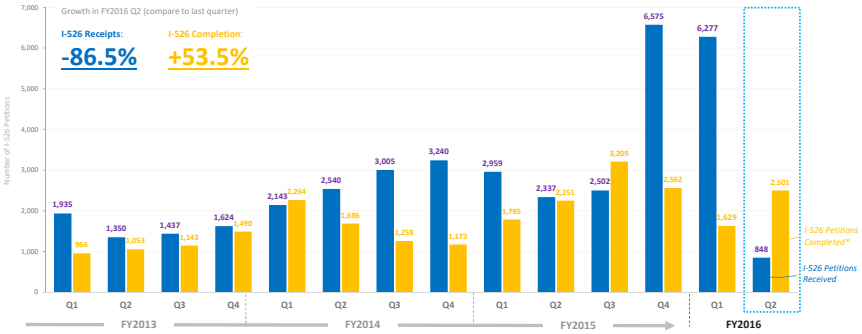
★★★ EB-5 DATA ★★★
QUARTERLY REVIEW

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS) EB-5 ADJUDICATION STATISTICS FOR FISCAL YEAR (FY) 2016 Q2 (JANUARY–MARCH)

ADJUDICATION HIGHLIGHTS: I-526 PETITION (IMMIGRANT PETITION BY ALIEN ENTREPRENEUR)

I-526 Petition Quarterly Statistics - **Petitions Received v. Completed (FY2013 -FY2016, Q2)**



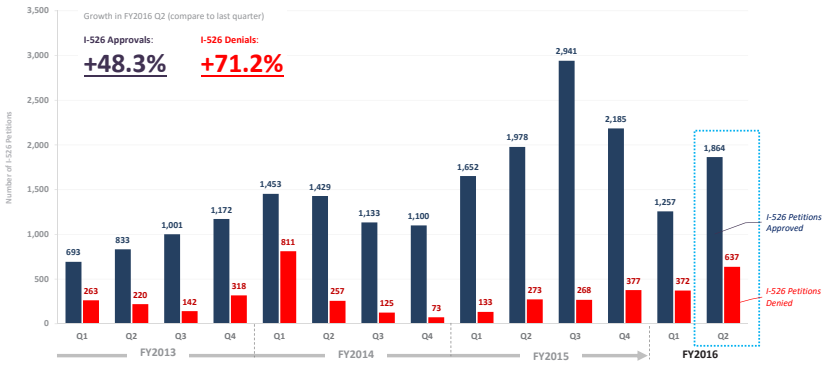
Petitions Received: The total number of I-526 petitions filed in Q2 of FY2016 was 848 which is an 87% decrease from the last quarter (FY2016 Q1) and a 63% decline from the same time last year.

Petitions Completed: A total of 2,500 I-526 petitions were adjudicated during January to March, a growth of over 50% from 2016 Q1.

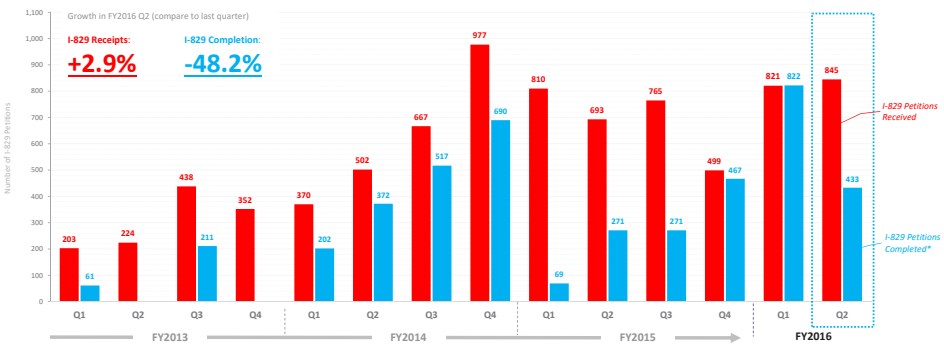
Petition Approvals: A total of 1,864 I-526 petitions were approved in FY2016 Q2, representing over $930 million in foreign direct investment (FDI).

Petition Denials: The number of I-526 denials in FY2016 Q2 stood at 637, the highest total in any quarter over the last two years. As a result, the I-526 approval rate in Q2 declined to 75%, significantly lower than the 84% 36-month average level before this quarter.

I-526 Petition Quarterly Statistics - **Petitions Approved v. Denied (FY2013 -FY2016, Q2)**



I-829 Petition Quarterly Statistics - **Petitions Received v. Completed (FY2013 -FY2016, Q2)**



Petitions Received: The total number of I-829 petitions filed in Q2 of FY2016 was 845, representing a 20% increase in a year-over-year comparison. This mark represents the first time in EB-5 Program history whereby the number of I-829 filings so closely matched the number of I-526 filing volume in a single quarter.

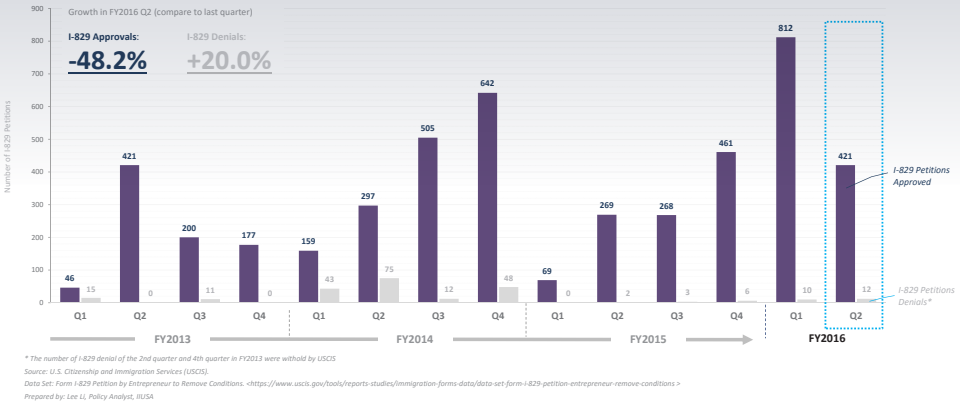
Petitions Completed: A total of 433 I-829 petitions were adjudicated during in Q2, a decrease of 48.2% from FY2016 Q1. However, Q2 still saw a year-over-year growth of 60%.

EB-5 DATA QUARTERLY REVIEW

I-829 Petition Quarterly Statistics - **Petitions Approved v. Denied (FY2013 -FY2016, Q2)**

Petition Approvals: The number of I-829 approvals in Q2, FY2016 was 421, a 48% decrease from the three-year peak in Q1, FY2016; while the total number of I-829 denials from January to March remained in a low level (12).

Petitions Denials: Although the approval rate of I-829 petition was still high (97%), it reached to its 24-month average level after the consecutive decreases since FY2015, Q1.



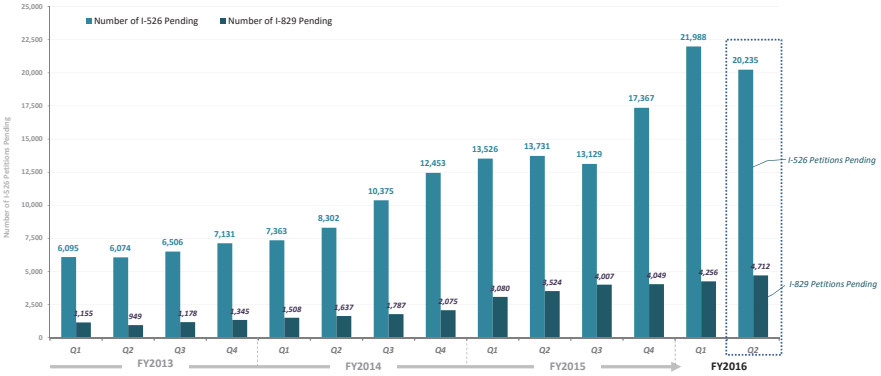
* The number of I-829 denial of the 2nd quarter and 4th quarter in FY2013 were withold by USCIS

Source: U.S. Citizenship and Immigration Services (USCIS).

Data Set: Form I-829 Petition by Entrepreneur to Remove Conditions. <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-829-petition-entrepreneur-remove-conditions >

Prepared by: Lee Li, Policy Analyst, IIUSA

I-526 & I-829 Petition Quarterly Statistics - **Petitions Pending (FY2013 -FY2016, Q2)**



Source: U.S. Citizenship and Immigration Services (USCIS).

Prepared by: Lee Li, Policy Analyst, IIUSA

I-526 Petitions: As of March 2016, there are still over 20,300 I-526 petitions pending. Based on current adjudication trends*, it would take nearly 2.5 years to process the current I-526 backlog.

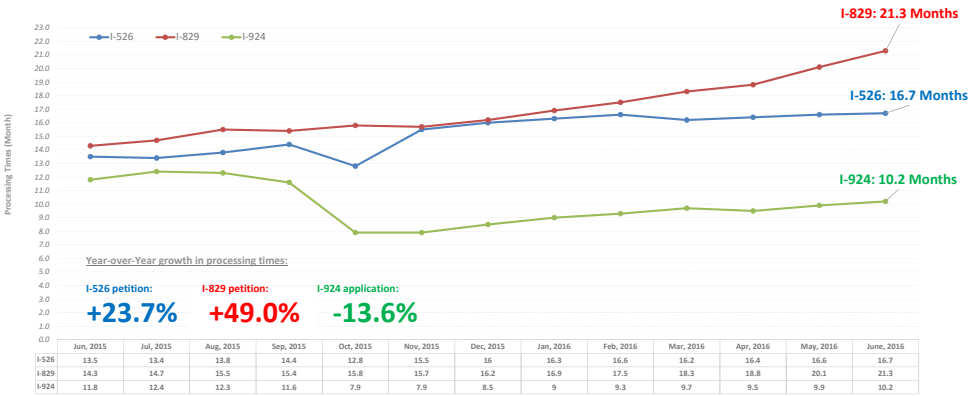
I-829 Petitions: There were over 4,700 petitions pending as of March 2016, an 11% increase from the last quarter and a 34% increase in a year-over-year comparison.

Current adjudication trends refers to the average amount of I-526 completed in the last two years.

USCIS EB-5 Petition Processing Times (Months) - June 2015 to June 2016

As of June 2016, the processing time of I-526, I-829, and I-924 is respectively 16.7 months, 21.3 months, and 10.2 months.

Compared to a year earlier, it is taking an average of 3.2 months longer to adjudicate an I-526 petition. Furthermore, processing times for I-829 petitions have jumped by 50% year-over-year, an increase of seven months per petition. The one bright spot is I-924 petition processing, which have remained relatively consistent over the past 12 months. ■



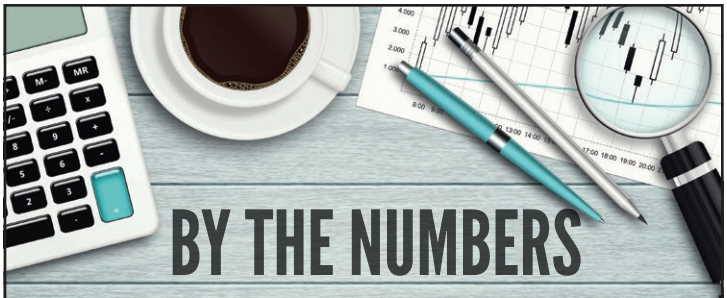
	Jun, 2015	Jul, 2015	Aug, 2015	Sep, 2015	Oct, 2015	Nov, 2015	Dec, 2015	Jan, 2016	Feb, 2016	Mar, 2016	Apr, 2016	May, 2016	June, 2016
I-526	13.5	13.4	13.8	14.4	12.8	15.5	16	16.3	16.6	16.2	16.4	16.6	16.7
I-829	14.3	14.7	15.5	15.4	15.8	15.7	16.2	16.9	17.5	18.3	18.8	20.1	21.3
I-924	11.8	12.4	12.3	11.6	7.9	7.9	8.5	9	9.3	9.7	9.5	9.9	10.2

Data source: USCIS Processing Time Information

Prepared by: Lee Li, Policy Analyst, Invest In the USA (IIUSA)

2016 INDUSTRY EVENTS

- **9/10-9/12** - Shanghai Overseas Property & Immigration & Investment Exhibition (Shanghai, China)
- **9/22** - 2016 Beijing International Property & Investment Expo (Beijing, China)
- **9/25-9/28** - IEDC 2016 Annual Conference (Cleveland, OH)
- **9/28-9/30** -SelectUSA Roadshow (Taipei, Taiwan)
- **10/10-10/11** - IIUSA 6th Annual EB-5 Industry Forum (Los Angeles, CA)
- **10/24-10/25** -2016 AILA EB-5 Investors Summit: Representing EB-5 Investors & Regional Centers in a Time of Upheaval (Washington, DC)
- **10/24-10/25** - CCIM Annual Governance Meetings (Atlanta, GA)
- **11/1-11/4** - 2016 CDFA National Summit (New Orleans, LA)
- **11/07-11/08** - Beacon Events: Investment Immigration Summit: Asia Series (Hong Kong, China)
- **11/15** -2016 CDFA California Financing Roundtable Conference (Los Angeles, CA)
- **11/10-11/11** -Beacon Events: Investment Immigration Summit: Asia Series (Bangkok, Thailand)
- **11/16-11/17** - AILA: The Latin America and Caribbean Chapter: Wine and CLE-Fermenting a Consular Practice (Santiago, Chile)
- **12/6** - CIS Ombudsman 6th Annual Conference (Washington, DC)



BY THE NUMBERS

02/15/14- The U.S. Department of State-Bureau of Consular Affairs released its revised visa bulletin for the month of August, revealing that for mainland-China born visa applications, the cutoff date is February 15, 2014 which remains unchanged from the previous month's bulletin.

20,235 According to U.S. Citizenship and Immigration Services as of FY Q2 2016 there were a total of 20,235 pending I-526 petitions which represents a 47% increase from this time last year. However the total number of pending petitions decreased slightly from its all-time high in the first quarter of 2016.

400+ On October 10-11, IIUSA will host its 6th annual EB-5 Industry Forum in Los Angeles, CA. Attended by international investment and economic development professionals from around the world, the Forum will attract 400+ EB-5 practitioners and feature two days panels on legislative and regulatory activities as well as a bevy of business development and networking opportunities.

845/848- In FY-Q2 of 2016, I-829 filings nearly surpassed I-526 fillings for the first time in Program history. In total, there were 848 I-526 pétitions and 845 I-829 petitions filed in the quarter.

50+ As of June 2016, over 50 IIUSA members from throughout the industry have participated in professional moderated focus groups. The aim of the focus groups is to ensure that our membership has the opportunity to voice their concerns and opinions about legislation, the current state of the EB-5 industry and IIUSA operations and organizational makeup.

$18 billion- According to the August Department of State Visa Bulletin as well as United States Citizenship and Immigration Services adjudication statistics as of Quarter 2 2016 there is $18 billion in filled I-526 petitions where the applicant does not yet have an approved I-526 or is waiting for a visa number.

2,700+ The Regional Center Business Journal (RCBJ) has an international distribution list with over 2,700 participants across the EB-5 Regional Center Industry. The RCBJ is distributed to all our 280+ Regional Center Members nationally as well as our 200+ Associates Members worldwide in addition to being featured on our website which receives thousands of unique page views per month. Purchase an ad to be displayed in the next issue.

COMMITEE CORNER

ASSOCIATION BUILDING (ABC) ❶
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 ❷
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 ❸
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.

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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.

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EB-5 HISTORY
MAY–AUGUST

The feature *This Date in EB-5 History* serves to highlight EB-5 Program milestones and changes, key pieces of legislation, publishing dates of U.S. Citizenship and Immigration Services (USCIS) memos, IIUSA achievements and important industry events that have occurred over the past two decades. To access the memos, be sure to visit the IIUSA Member Portal.

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MAY

- May 8, 2012 - U.S. Citizenship and Immigration Services (USCIS) publishes guidance on EB-5 adjudications involving the tenant-occupancy methodology.
- May 10, 2005 - IIUSA was Founded as the national membership-based 501 (c)(6) not-for-profit industry trade association for the EB-5 Regional Center Program. IIUSA advocates for polices that will maximize economic benefit to the U.S. from the Program through advocacy, education, industry development, and research.
- May 30, 2013 - U.S. Citizenship and Immigration Services (USCIS) issues memo on EB-5 Adjudications Policy.

JUNE

- June 1, 2013 - IIUSA publishes Recommended Best Practices for EB-5 Regional Centers to provide guidance to regional centers seeking to conduct business in a manner that will foster the growth and success of the EB-5 Program.
- June 1, 2014 - ICIC Report: Increasing Economic Opportunity in Distressed Urban Communities with EB-5 which analyzed how EB-5 could best be utilized in America's distressed urban core.
- June 10, 2003 - U.S. Citizenship and Immigration Services (USCIS) issues Yates Memo on Amendments affecting Adjudication of Petitions for Alien Entrepreneurs.
- June 17, 2009 - U.S. Citizenship and Immigration Services (USCIS) issues Nuefeld Memo on Job-Creation Issues.
- June 24, 2014 - IIUSA publishes Code of Ethics and Standards of Professional Conduct to promote responsible, professional and ethical behavior by IIUSA's members to help protect the public and reinforce the public's confidence in the EB-5 Program and EB-5 Regional Center industry.

JULY

- July 11, 2015 - National Association of Counties (NaCo) publishes permanent resolution in support of EB-5 Program.

AUGUST

- August 2, 2011 - U.S. Citizenship and Immigration Services (USCIS) Director Mayorkas launches "Conversation with the Director"
- August 10,2010 - IIUSA Membership Committee created and tasked with improving IIUSA's value proposition to members through consistent benefits analysis, recommending new programming and leading outreach efforts for new members.
- August 28, 1998- U.S. Citizenship and Immigration Services (USCIS) publishes Bach Memo on Invested Funds in Escrow.

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