



“We Would Like to Remind You This is a Listening Session Only”

A Recap of the USCIS Stakeholder Engagement on April 29

By Marisa Marconi, *President & Lead Consultant, Pinnacle Plan Writing; Member, IIUSA*

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On Friday, April 29, USCIS hosted a listening session to hear feedback from EB-5 stakeholders and provide updates on the implementation of the EB-5 Reform and Integrity Act of 2022 (RIA). Similar to past listening sessions, the engagement was one-sided and light on details. Stakeholders hungry for any insight into how certain provisions of the new legislation would be interpreted and implemented by USCIS were largely left unsatisfied as the “updates and guidance” portion of the engagement lasted fewer than 30 minutes.

USCIS did release a handful of informational nuggets, which ironically (or perhaps, typically?) yielded more questions than answers. Ambiguity about how the Service would address the repeal of regional center designations was somewhat cleared when it announced the creation of a new form, I-956, that all existing and new regional centers will be required to file in order to be designated moving forward. That form and associated filing instructions will be available “by” May 14, according to the Service. And in what surely compelled choice audible reactions from stakeholders (if only our mics were not muted!), USCIS confirmed that the new form I-956 must be **approved** before a new project application can be filed by a regional center.

These updates, and a few other policy details that were already addressed in the text of the legislation, are now listed on a newly posted [EB-5 Questions and Answers](#) page on the USCIS site, which stakeholders were directed to in the call. The Q&A confirms that:

- The need for regional centers to reapply for designation does not impact regional center-based petitions filed and pending prior to March 15, 2022. Those petitions (as well as pooled direct petitions) will be adjudicated according to the eligibility requirements at the time they were filed.
- Existing investors with pending I-526’s can still establish eligibility by “demonstrating compliance with other applicable requirements” even though their associated regional center is currently undesignated. This also applies if the regional center opts out of reapplying for designation.
- Regional centers need only file Form I-956 if they want to support **new** I-526 petitions in the future, yet USCIS will no longer accept Form I-924A filings. Reading between the lines, this effectively eliminates the Service’s oversight of existing regional centers that have active projects and existing investors, but choose not to reapply for designation.

Outside of these points, the remainder of the engagement was dedicated to remarks from USCIS Director Ur Jaddou, IPO Chief, Alissa Emmel, and a few others, who underscored their commitment to the program, stated USCIS's [new mission statement and core values](#), and identified various objectives to improve the Service's administration of the program. We learned that USCIS is currently only staffed at 81% and that the Service is planning on increasing staffing and reforming internal processes to improve efficiencies, including processing times, though the details on these reforms were light. The Service also reiterated updates released earlier in April, including that it has resumed processing regional center-based I-526 petitions filed on or before June 30, 2021, and that the May visa bulletin had been released, revealing that all countries, except China, are current.

To be fair, USCIS acknowledged that the information shared in the session did not address all of the concerns or questions by stakeholders (who collectively submitted hundreds of questions to the Service prior to the session) and stated that it "hopes" to roll out more updates to the policy manual "over the next few months." It also promised another stakeholder engagement in May. And while we can at least stop speculating about whether or not May 15 is the true goal post for resuming activity (it is not), these new insights do not alleviate the paralysis of the industry or provide even a vague timeline around which regional centers, project developers, and investors can plan. Given the Service's track record with processing applications, pessimists surely see a final nail in the coffin as hundreds of I-956 forms are mired in the abyss for years, and even optimists must concede that the wait will continue for least another few months (pending lawsuits notwithstanding).

During the "listening" portion, stakeholders - some toeing the line between respect and outrage and others unabashedly letting it fly - brought these issues to the fore, expressed their frustrations, and implored USCIS to provide further clarification, not only regarding the Service's plan for implementing other aspects of the RIA, but also to the myriad questions that its newest revelations engendered. All questions were met with a stock reminder that the engagement was indeed just a listening session, remarks would be noted and taken into consideration, and no questions would be answered.

In the end, perhaps the biggest takeaway from the session was a new set of questions* we can collectively mull as we continue to mill about in purgatory:

- How long will it take USCIS to process I-956 forms? Will they get automatic expedited processing?
- Will they be processed on a first-in, first-out basis, presumably giving some regional centers an approval earlier than others and - by extension - their projects an advantage in the market?
- Doesn't this - in effect - render integrity measures moot for regional centers that choose to not reapply, but may still have active projects and investor capital deployed? How are those investors protected? How will USCIS exercise oversight of these non-designated regional centers?
- How can existing investors reasonably navigate their immigration process in the event their regional center does not pursue re-designation?
- What about pending I-924 forms? How many are there? Will they be processed? Will filing fees be returned if not?

Here's to hoping the next engagement in May is less about listening and more about answering.

**clearly not an exhaustive list*