



January 18, 2023

Ms. Alissa Emmel
Chief
Immigrant Investor Program Office
U.S. Citizenship and Immigration Services
Washington, DC 20529

Re: Critical Substantive Engagement Toward Efficient RIA Implementation

Dear Ms. Emmel:

On behalf of the undersigned organizations involved in EB-5 advocacy, we thank you for the USCIS Investor Program Office (“IPO”) National Engagement held on October 19, 2022 (“October 2022 Engagement”). It was helpful to be introduced to IPO leadership and learn directly about initiatives and priorities within the IPO.

An important recurring theme among stakeholders dialing into October 2022 Engagement was the request for a meaningful and substantive engagement with the IPO on implementing the EB-5 Reform and Integrity Act of 2022 (“RIA”). The point of such substantive engagement would be to avoid what the ruling judge in recent litigation against the USCIS deemed a “clearly erroneous” interpretation of the RIA.

When we called into the October 2022 Engagement, we reiterated the point that resolving interpretive questions the RIA raises through litigation, or alternatively, by unilateral agency action, frustrates both the RIA’s purpose and the interests of concerned stakeholders. As the recent confusion surrounding the I-956 and I-956G filings by the end of last year showed, substantive engagement between stakeholders and USCIS in the post-RIA world is more critical now than it has ever been.

The goals of such a dialogue would be to bring awareness about open interpretive questions and to engage in technical discussions examining the different possible interpretations and the impacts they would have on stakeholders. For example, the dialogue could focus on the best interpretation of the RIA regarding sustainment. Leveraging legal and policy experts from both the IPO and the EB-5 industry could bring to bear precedent, prior interpretations of same or similar concepts, prior legislative drafts, current policy, and commercial impacts to together devise the most appropriate interpretation.

During the October 2022 Engagement, the IPO requested examples of substantive or meaningful dialogues USCIS has held with stakeholders in the past. We attach to this letter examples of engagements that were substantive, specific, and impactful. For example, the July 2012 engagement with USCIS economists was among the first tackling the highly technical topic of indirect job creation. This was a productive engagement in which USCIS economists put forth their interpretations and took feedback from stakeholders on a narrow and technical topic. Similarly, a May 2013 in-person engagement regarding ELIS and the document library concept was fruitful where IPO leadership advanced the idea of centrally depositing common project documents appearing in all associated investor petitions without copying them in each petition. Thanks to the engagement, this idea had the opportunity to be socialized among legislative advocates and is now a part of the RIA.

The meaningful dialogue we seek is compatible with the transparency provisions of the RIA. Section 107 of the RIA requires USCIS to act impartially and prohibits USCIS from giving preferential treatment to any party. Under Section 107, meeting regional centers, new commercial enterprises, job-creating entities, or any person or entity associated with those types of entities at their request and in a manner not accorded to others is also prohibited. Rather than meeting with such direct beneficiaries of the EB-5 program regulated directly under the RIA, we urge you to meet with industry and bar advocacy organizations including AILA, Invest in the USA (IIUSA), the U.S. Chamber of Commerce, and other nonprofit advocacy groups interested in efficient RIA implementation holistically.

Thank you for your kind attention to this important matter. We all worked hard toward the RIA's passage and we are excited about the new opportunities for economic development and job creation it will bring to the U.S. We are confident that you will agree that we can and should work more closely together to ensure the RIA achieves its full potential.

Please reach out to the undersigned organizations to further discuss and coordinate this request. We look forward to engaging with you.

Sincerely,

AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA)

EB-5 INVESTMENT COALITION (EB-5IC)

INVEST IN THE USA (IIUSA)

U.S. CHAMBER OF COMMERCE

Attachments

cc: The Honorable Ur Jaddou, Director, United States Citizenship and Immigration Services
Emilie Hyams, Deputy Chief of Staff
Carrie Selby, Associate Director External Affairs Directorate
Michael Valverde, Associate Director Field Operations Directorate
Carlos Munoz-Acevedo, Chief, Public Engagement Division

USCIS Message to Stakeholders: EB-5 Engagement with Economists

U.S. Citizenship and Immigration Services sent this bulletin at 06/05/2012 10:30 AM EDT
Dear Stakeholder,

U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas invites any interested individuals to participate in a stakeholder engagement with USCIS economists on **Friday, June 22, 2012 from 3:00 pm to 4:30 pm (Eastern)**. During the session, USCIS economists will address the agency's review of economic methodologies used in EB-5 Immigrant Investor cases. **This discussion will complement the next regularly scheduled quarterly EB-5 engagement, which will take place on July 26, 2012, by focusing on a discrete topic of inquiry.**

To Submit Agenda Items

If you would like to submit agenda items and questions you must RSVP via email and attach a Word document with suggested items. All submissions should be received by the Public Engagement Division by **COB Monday, June 11, 2012**.

To Participate in the Session

You may attend this engagement either in person** or by teleconference. To RSVP, please email the Public Engagement Division no later than Wednesday, June 20 at Public.Engagement@uscis.dhs.gov.

If you plan to attend in person, please reference "Economist – In Person"

If you plan to attend by phone, please reference "Economist – Phone"

Following registration, we will confirm via email your in-person attendance or provide the call in details. If you are attending in person, please be sure to bring photo identification and arrive at least 15 minutes early to allow extra time to complete the security process.

**Please note that, due to seating capacity, we must limit in-person participation to the first 75 individuals who respond. Please see the attached invitation for more information.

Kind Regards,

Public Engagement Division
U.S. Citizenship and Immigration Services
www.uscis.gov

Teleconference Invitation



EB-5 Interactive Series: Requests for Evidence
on Lawful Source of Funds for Investment
Thursday, Feb. 26, 2015
1 to 2:15 p.m. (Eastern)

U.S. Citizenship and Immigration Services (USCIS) invites you to participate in the first engagement of a new informational series, EB-5 Interactive, on **Thursday, Feb. 26, from 1 to 2:15 p.m. (Eastern)**. The topic of discussion will be lawful source of funds used for capital investment in the EB-5 program. We will discuss common reasons why petitioners receive requests for evidence and types of evidence that are helpful to submit. Participants will have the opportunity to share their experiences in demonstrating lawful source of funds for capital investment.

Why This Is Important

Any assets acquired directly or indirectly by unlawful means, such as criminal activity, will not be considered capital pursuant to the Immigration and Nationality Act section 203(b)(5) and Title 8 of the Code of Federal Regulations (8 CFR) section 204.6(e). Additionally, per 8 CFR section 204.6(j) and *Matter of Ho*, 22 I&N Dec. 206 (Assoc. Comm'r 1998), a petition must demonstrate by a preponderance of the evidence that the petitioner's capital was his or her own and was obtained through lawful means.

Who Should Participate

This session is open to anyone, but may be most useful to those who have submitted, or will be submitting, [Form I-526, Immigrant Petition by Alien Entrepreneur](#).

To register for this session, please follow the steps below:

Teleconference Invitation



EB-5 Interactive Series: Expenses that are Includable (or Excludable) for Job Creation

Thursday, June 4, 2015
1 to 2:15 p.m. (Eastern)

U.S. Citizenship and Immigration Services (USCIS) invites you to participate in the second engagement of the informational series “EB-5 Interactive” on **Thursday, June 4**, from **1 to 2:15 p.m. (Eastern)**. The topic of discussion will be expenses that are includable (or excludable) for purposes of estimating job creation.

Economists from the Immigrant Investor Program will make a short presentation and answer non-case specific stakeholder questions concerning this topic.

Why This Is Important

In the [Immigrant Investor Program](#), regional centers and immigrant investors must submit evidence of job creation as a result of investment in a new commercial enterprise. Immigrant investors must file a [Form I-526](#) petition accompanied by evidence that the investment will directly or indirectly create full-time jobs for at least ten qualifying people.

Most regional centers and immigrant investors rely on multiplier tables (also known as input-output modeling) to estimate the number of jobs created. To obtain a valid result, the inputs must be eligible expenses for job creation purposes.

Some types of expenses, such as transfers and transactions costs, are ineligible or limited in their job creation capabilities.

See 8 C.F.R. sections 204.6(m)(3)(ii), 204.6(j)(4)(iii) and 204.6(m)(3)(v).

Who Should Participate

This session is open to the public, but may be most useful to those who have submitted, or will be submitting, [Form I-924, Application For Regional Center Under the Immigrant Investor Pilot](#)

[Talking Points from the EB-5 Interactive Series on June 4, 2015 \(PDF, 195.56 KB\)](#)

Teleconference Invitation



EB-5 Interactive Series: Annual Reporting Requirements for Continued Eligibility within the Regional Center Program, (Form I-924A)

Thursday, September 17, 2015

2 to 3:30 p.m. (Eastern)

U.S. Citizenship and Immigration Services (USCIS) invites you to participate in our informational series, EB-5 Interactive, on **Thursday, September 17**, from **2 to 3:30 p.m. (Eastern)**. During the call, we will discuss Form I-924A, Supplement to Form I-924, Application For Regional Center Under the Immigrant Investor Pilot Program, which must be filed annually by all regional centers and when requested by USCIS. USCIS will also provide helpful filing tips, and raise issues it has identified in reviewing Forms I-924A.

Why This Is Important

Approved EB-5 regional centers must submit a Form I-924A, Supplement to Form I-924 annually to demonstrate continued eligibility for the regional center designation – namely, that they continue to promote economic growth, improved regional productivity, job creation or increased domestic capital investment in the approved geographic area. See [8 CFR 204.6\(m\)\(6\)](#).

A Conversation with USCIS: USCIS ELIS and the EB-5 Immigrant Investor Program

Archived Content

The information on this page is out of date. However, some of the content may still be useful, so we have archived the page.

U.S. Citizenship and Immigration Services (USCIS) invited you to **participate in a conversation** regarding USCIS ELIS and the EB-5 Immigrant Investor Program on **Thursday, May 23, 2013, from 12:30 p.m. to 2 p.m. (Eastern)**.

[Form I-526](#), Immigrant Petition by Alien Entrepreneur, will be the first of the EB-5 forms available for e-filing in [USCIS Electronic Immigration System](#) (ELIS). At the March 28th stakeholder teleconference, we heard concerns about multiple investors submitting the same documentation with the Form I-526. To address this concern, we plan to add a “document library” to USCIS ELIS later in the year. The document library will allow Form I-526 petitioners to share documents related to a new commercial enterprise that were previously submitted with an approved [I-924](#), Application for Regional Center, rather than submitting these same documents with the Form I-526.

During this engagement, USCIS officials gave an overview of the concept for the document library and solicited feedback regarding managing access to the document library; uploading and storing documents; and Regional Center and Investor expectations.

Engagement Date	Engagement Name (with link to invite page)	USCIS published notes
2022 - 2		
October 19, 2022	USCIS Immigrant Investor Program Stakeholder Engagement	Talking points and Powerpoint
April 29, 2022	USCIS EB-5 Reform and Integrity Act of 2022 Listening Session	transcript of prepared remarks
2021 - 0		
2020 - 2		
November 13, 2020	EB-5 Immigrant Investor Program	PDF format and Youtube Recording
March 13, 2020	EB-5 Stakeholder Engagement	Sarah Kendall's remarks
2019 - 2		
October 29, 2019	Sarah M. Kendall presentation at IIUSA conference	Sarah M. Kendall Prepared Remarks
September 9, 2019	EB-5 Immigrant Investor Program Listening Session	Sarah M. Kendall Prepared Remarks
2018 - 3		
November 19, 2018	EB-5 Immigrant Investor Program: Public Engagement	
October 30, 2018	IPO Presentation at AILA/IIUSA EB-5 Industry Forum	Sarah M. Kendall Prepared Remarks
October 5, 2018	Private USCIS Meeting with IIUSA	Meeting transcript
2017 - 7		
November 11, 2017	IPO at private EB-5 event at Baruch College	
November 7, 2017	EB-5 Stakeholder Engagement from New York City	Julia Harrison Talking Points
August 24, 2017	Form I-924A, Annual Certification of Regional Center	Webinar recording
July 19, 2017	Employment Visa Engagement San Jose	Julia Harrison Talking Points
May 15, 2017	AILA USCIS Field Operations Directorate Engagement	EB-5 Q&A (p. 10-15)
April 26, 2017	Form I-924, Application for Regional Center Designation Under the Immigrant Investor Program	Webinar recording
March 3, 2017	EB-5 Immigrant Investor Program: Stakeholder Teleconference	Statements by Colucci , Harrison , and MacKenzie
2016 - 4		
August 29, 2016	EB-5 Immigrant Investor Program: Stakeholder Teleconference	

July 28, 2016	EB-5 Immigrant Investor Program: Stakeholder Engagement from Miami	Nicolas Colucci's Remarks , Lori Mackenzie's Remarks
April 25, 2016	EB-5 Immigrant Investor Program stakeholder teleconference (listening session for feedback on potential regulatory changes)	No statements from USCIS
February 3, 2016	EB-5 Immigrant Investor Program stakeholder teleconference	Statements by Colucci , Harrison , and MacKenzie
2015 - 5		
September 17, 2015	EB-5 Interactive Series: Annual Reporting Requirements for Continued Eligibility within the Regional Center Program, (Form I-924A)	I-924A Filing Tips
August 13, 2015	EB-5 Immigrant Investor Program: Stakeholder Engagement from Los Angeles	opening remarks by Colucci & Harrison
June 04, 2015	EB-5 Interactive Series: Expenses that are Includable (or Excludable) for Job Creation	talking points
April 22, 2015	EB-5 Immigrant Investor Program: Stakeholder Engagement	opening remarks by Colucci & Harrison
February 26, 2015	EB-5 Interactive Series: Requests for Evidence on Lawful Source of Funds for Investment	evidence tips
2014 - 5		
December 05, 2014	EB-5 Immigrant Investor Program: Stakeholder Engagement	exec summary, director's comments & PPT,
September 10, 2014	Quarterly EB-5 Stakeholder Engagement	
May 8, 2014	Statements at IIUSA Annual Meeting	prepared remarks by Colucci
April 23, 2014	EB-5 Immigrant Investor Program: Regulatory Changes Listening Session	
February 26, 2014	A Discussion about the EB-5 Immigrant Investor Program	executive summary and Q&A
2013 - 3		
May 23, 2013	A Conversation with USCIS: USCIS ELIS and the EB-5 Immigrant Investor Program	
April 03, 2013	EB-5 Engagement with the Securities and Exchange Commission	executive summary
March 28, 2013	USCIS ELIS and the EB-5 Immigrant Investor Program	
2012 - 6		
December 03, 2012	A Conversation with Director Mayorkas – EB-5 Immigrant Investor Program	
October 16, 2012	EB-5 Stakeholder Engagement	
July 26, 2012	EB-5 Stakeholder Engagement	EB-5 statistics
June 22, 2012	Engagement with Director Mayorkas and USCIS Economists	Q&A
May 1, 2012	EB-5 Stakeholder Engagement	executive summary
January 23, 2012	EB-5 Stakeholder Engagement	executive summary and presentation

2011 - 4		
September 15, 2011	EB-5 Quarterly Stakeholder Meeting	presentation
June 30, 2011	EB-5 Quarterly Stakeholder Meeting	presentation and Q&A
March 17, 2011	USCIS EB-5 (Immigrant Investor) Stakeholder Quarterly Engagement	presentation
December 16, 2011	EB-5 Quarterly Stakeholder Meeting	presentation and executive summary
2010 - 2		
October 14, 2010	EB-5 Quarterly Stakeholder Meeting	presentation and executive summary
June 16, 2010	USCIS EB-5 (Immigrant Investor) Stakeholder Meeting	presentation and executive summary
December 14, 2009	EB-5 Stakeholder Session with AILA and IIUSA	Q&A