



EB-5 National Stakeholder Engagement  
November 7, 2017  
New York  
Talking Points by Immigrant Investor Program Office (IPO)  
Acting Chief Julia Harrison

Good Afternoon,

Before I begin, I am sure you are all wondering where is IPO's Chief, Nick Colucci. Nick is on detail as Deputy Director to the Refugee Asylum and International Operations Division.

Uncertain of when he will return.

- Since his detail began and up until now and the foreseeable future, I have been serving as Acting Chief for IPO.
- I am excited to share some of the great things we accomplished last year and give a sneak peek into what we plan for the year ahead.
- Before I do, I want to acknowledge my leadership team that is here today and to share a few leadership changes.
- As you probably noticed Lori Mackenzie is not with us, that is because she has accepted a position with CBP.
- We wish her well and miss her but have no fear...we are all set with continuity

I want to introduce you to the team members who are here today on the stage.

### Current Leadership

#### **Ricky Murray**

- Has served as Deputy Division Chief for Policy branch up until his recent appointment as Division Chief of Adjudications.
- While you most often interacted with Lori, Ricky was there, albeit - behind the scenes, by her side shaping policy and procedures on EB-5 related matters.
- Now serves as Division Chief for Operations, but continues to provide guidance and support to the Policy team, until a new Policy Chief is on board.

#### **Jan Lyons**

- Currently serves as Senior Advisor for Economics
- Jan has been with IPO since its inception and continues to provide his expert knowledge and guidance.

#### **Alissa Emmel**

- Served as an economist and supervisory economist before taking the helm of the compliance team.

#### **Adam Hermansen – Branch Chief for Compliance Division**

#### **Rebecca Galindo – Acting Division Chief for the Fraud Detection and National Security Division (FDNS-EB-5)**

#### **Larry O’Connell – Branch Chief for FDNS (EB-5)**

I also want to introduce you to the team members who have worked hard to coordinate all of the moving pieces for this engagement

**Chris Rhatigan –Branch Chief Stakeholder Communications**

**Chadd Breaker – Stakeholder Communications Officer**

**Ja-Nel C. Murry –Senior Advisor to Acting IPO Chief**

I have a few things I want to share with you, in doing so I will answer some of the questions that were submitted in advance. Any of the questions I don't answer, Ricky and Alissa will answer in a few minutes.

### **IPO Year in Review (FY2017)**

#### **Regional Center Compliance Review Program**

- In FY2017, IPO conducted a regional center compliance review. The information obtained in this process continues to be analyzed and we anticipate conducting more compliance reviews in the future.
- The objective of a Compliance Review is to verify the information provided by designated Regional Centers in applications and annual certifications and to verify compliance with applicable laws and authorities to ensure continued eligibility for the regional center designation. .
- The Regional Center Compliance Review Program is in the initial stage of the program. As the program matures, we plan to eventually conduct compliance reviews on approximately 5-10 percent of the regional center population per year.
- A successful compliance review involves effective coordination and collaboration from the Regional Center and USCIS.
- A Regional Center that consents to data requests and an onsite visit, selected for a Compliance Review, should have all documentation and information readily available for the review team during the onsite assessment.

- Often it helps if a Regional Center designates an EB-5 point person to interact with the USCIS review team. The point person should be aware of the EB-5 requirements and should be able to quickly access any and all documentation requested to verify continued EB-5 compliance.
- Different than the site visits that we are doing of the JCE's prior to adjudication of related I-829s.

### **Transparency and Customer Service**

#### **Published filing tips on USCIS.gov**

- Based upon feedback from our stakeholders we posted [helpful filing tips](#) on our website. We have received positive feedback from our stakeholders and are realizing the benefits of providing such helpful information.

#### **Published Regional Center Terminations in the Reading Room**

- Another aspect of our efforts to be transparent is the publishing of redacted versions of our termination notices in the [electronic reading room](#). If you are unfamiliar with what can cause a regional center's termination, the published information provides a glimpse of some of the reasons regional centers have been terminated.

#### **Something you brought to our attention**

- Thanks to the feedback from our stakeholders during the I-924A interactive, we are currently working to amend the instructions on the form, to address the necessary corrections.

#### **Something we asked you to do**

- Finally, with regards to I-924 filings, we noticed that some of our stakeholders were including cover letters when filing their I-924 applications. We found these cover letters

to be extremely helpful, especially when Regional Centers are filing exemplars, for which IPO already has pending petitions. At an engagement in FY2017, we asked stakeholders to include a cover letter to their Form I-924 exemplar filing, to alert us to related I-526s. Thanks so much for those of you who have done so. Please continue to do so, as it does play a positive role in how we do our work.

### **FY2018 Looking Forward**

#### **Efficiency = Productivity**

- In FY2018 we are proactively working to increase our efficiencies which will lead to increased productivity.

#### ***A New Way of Doing Business - Hybrid Teams***

At our last national stakeholder engagement, March 3, 2017, I let you know that we had just created a division of Adjudicators and Economists who would focus on the I-829 adjudications and customer service inquiries. I am happy to share that this restructuring has paid off. The collaboration and cross training of the Adjudications Officer and Economist have contributed to a reduction in the I-829 processing time. It's just one month so far but I expect that trend to continue in FY2018.

Another bonus we have achieved with the new team is in our response time to customer inquiries. With the new team we were able to have more staff work the customer service inquiries. A year ago it took us on average **20** days to resolve a customer inquiry. Now it takes us about **5** days to respond to inquiries, some of which are resolved within that time frame.

Success!

*(NOTE - A large number of cases are closed on the same day; however, the average is as stated above.)*

Building on the success of the I-829/Customer Service team, during the last half of FY2017, IPO launched a multidisciplinary team made up of Economists and Adjudications Officers to focus on the I-526 adjudication.

Some of the near term benefits gained from the new team include:

- The potential for an increase in staffing capacity and knowledge gained through training and the expansion of current employees' skill sets. This will allow IPO to better meet our mission.
- This will have a positive impact on IPO's overall quality (which includes timeliness).

**We received some advanced questions about:**

**Policy Manual, Regulations**

**Q:** Is USCIS currently working on further revisions to the Policy Manual? If so, what are the topics under consideration? Is there a rough timeframe for release? Please confirm that any revisions will first be open for comment.

**Response:** USCIS continues to review the Policy Manual for updates on issues as needed. We are working on policy, as soon as we have something to share, we will. Thanks.

**Q:** We note that the date for "final action" on the NPRM, DHS Docket No. USCIS-2016-0006 has been changed to April 2018. Please share with us the status of proposed rulemaking.

**Response:** As noted, the DHS Unified Agenda shows a final action date of April 2018. As with any rulemaking, USCIS is required to review, consider, and respond to comments received as

part of the rulemaking process when finalizing the regulation. The final rule, published in the Federal Register, will include the effective date of the regulation.

### **Publishing I-526 and I-829 approvals for the past 7 years?**

This information is already accessible on our website – [www.uscis.gov](http://www.uscis.gov)

Simply go to the tools tab and select reports...

*(The following links were not provided to stakeholders during the event.)*

<https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-526-immigrant-petition-alien-entrepreneur>

<https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-829-petition-entrepreneur-remove-conditions>

### **Adjudicating cases out of FIFO order**

We received a question about taking cases out of FIFO order. I shared in a previous engagement how we manage our workload, but I think it may be helpful if I share a little bit about our process on how we assign our workload.

In 2017 we began a new process for case assignment.

- Unworked Regional Center NCEs are assigned to Adjudications Officer teams
  - Once assigned to a team, a supervisor assigns initial review of I-526s to a lead officer.
  - Once this review is complete, all remaining (and future) I-526s associated with that NCE are placed into the general queue for adjudication.

Benefits:

- Workflow became more balanced.

- The pool allows officers from any team or division to order cases by earliest filing date within the pool regardless of NCE.

Benefits:

- Allows us to maintain the efficiency we got by assigning single NCEs to a team while expanding the pool of available cases to officers and overall allows us to work closer to FIFO order.

**We received a couple questions that we will not be able to answer today- I want to tell you what they are so you know that we received them and are considering them.**

**Q:** For investors who have been admitted as a conditional resident and whose NCE is arranging a material change to a different project (because the first one did not materialize, for instance), what are the requirements as to TEA if the investments were made at the lower level? Is it sufficient that the new project is in a TEA now, at the time the investment is being placed newly there, or must the area have been a TEA at the time the investors invested originally (either when placing capital in the NCE or, if escrow was used, when I-526 was filed)? Would a current TEA letter from a state designating a high unemployment area, and determining that the area had been a high unemployment area since the time of original investment be sufficient? Surely census data for rural TEA going back to the time of original investment would be acceptable. BLS published data for the entire MSA or county (though rare, indeed) going back to the time of original investment would seem equally acceptable. But can USCIS articulate a more generous standard?

**Q:** In a non-regional center situation, after the approval of I-526, the NCE moved from a TEA area to a non-tea area. Does this move affect the I-829 petition? Must the NCE stay at a TEA



area for the whole period until the result of I-829? When it needs to be relocated for business reasons, does it need to move to a TEA area?

**Response:** I thank you for these questions. We will give them appropriate consideration and provide guidance in the future as appropriate.

**Q:** Regional Centers, in good standing, that want to expand (limited geographic expansion), can IPO speed up the approval on the expansion?

**Response:** We are focused on improving the quality and timeliness of all of our applications.

### **Processing Times and Expiration of RC Program**

**Q: What is USCIS's best estimate of the wait times for form I-526 petitions filed in 2015?**

**Response:** The posted processing time is the best indication of a petitioner's position in the queue. The actual adjudication time for any individual petition can vary based on: its position in the queue, the quality (and hence the adjudication time required) for prior petitions in the queue, and the quality and clarity (i.e. credibility of the evidence presented) in the individual's petition. If RFEs or NOIDs are required they can significantly add to the time required to adjudicate a petition.

Also, if the investment project is first presented to USCIS on an I-526, the adjudication may have additional due diligence needs pertaining to the investment project which may require an RFE and any additional processing time will vary depending on the facts and complexity of each case.

### **Interviews**

**Q:** I-485 Interviews. Will EB-5 investors be included in the pool of adjustment applicants to be interviewed? Or will these be rarer for EB-5 investors than for other employment-based categories, given that EB-5 investors will also encounter I-829 interviews?

**Response:** USCIS is planning to expand the use of interviews, and reduce the use of interview waivers, for all categories of applicants applying for adjustment of status in the United States. All adjustment applicants -- including EB-5 adjustment applicants -- are subject to an interview unless the interview is waived. The expanded use of interviews is being implemented incrementally, beginning with adjustment of status applicants who are adjusting based upon an underlying I-140 petition. A timeframe has not yet been established for expanding the use of interviews for EB-5 adjustment applicants who are adjusting based upon an underlying I-526 petition.

**How can foreign nationals avoid being defrauded?**

- Within the U.S. - Investors are encouraged to seek counsel before investing.
- Outside the U.S. - Investors should seek information from their consulate office or contact the Department of State
  - Important note: Within some countries the word “approval” may signify “endorsement.” These two words are not the same within the EB-5 program. USCIS does not provide any “endorsement” of Regional Centers or their activities; approval of a Regional Center simply means a Regional Center has met the requirements to participate in the EB-5 program.

- Note that even if a petition has been approved, the petition must still wait until a visa is available, in order to obtain permanent resident status. Information for visas by country is available on the Department of State website.

To further assist with transparency and to help stakeholders avoid being defrauded, IPO published several key portions of our EB-5 website in simplified Chinese. This transparency helps a large portion of our stakeholders' access information on the program, directly from us, IPO. IPO continues to evaluate multi-language needs.

Also, in 2013, USCIS published an investor alert with SEC that provided detailed tips. You can find those tips (which are published in English, Spanish, Korean and Chinese):

<https://www.uscis.gov/news/alerts/investor-alert-investment-scams-exploit-immigrant-investor-program>

Some of the highlights from those tips are:

***“Look for warning signs of fraud.*** Beware if you spot any of these hallmarks of fraud:

- Promises of a visa or becoming a lawful permanent resident
- Guaranteed investment returns or no investment risk
- Overly consistent high investment returns
- Layers of companies run by the same individuals
- Unlicensed sellers
- Unregistered investments

If your investment through EB-5 turns out to be in a fraudulent securities offering, you may lose both your money and your path to lawful permanent residency in the United States. Carefully vet

any EB-5 offering before investing your money and your hope of becoming a lawful permanent resident of the United States.”

### **Visa Unavailability, Backlogs and Petition Processing**

**Q:** Backlogged Investors vs. Rest of World. Does USCIS currently separate Chinese national petitions (I-526) from the “rest of world” cases for investors whose priority dates are current? If not, would it consider doing so?

**Response:** IPO appreciates the submission of this inquiry; currently the suggestion is under consideration. I would love to hear from others on their thoughts about this approach when we move into the question and answer time.

I am going to turn it over to Ricky now who will provide some information related to some of the other advance questions we received.