



EB-5 at a Crossroads

2016 Fall EB-5 Seminar

 **KLASKO**
Immigration Law Partners, LLP



H. Ronald Klasko, Esq.

- **Ron Klasko** is the Managing Partner of Klasko Immigration Law Partners, LLP and Chair of the 25 person EB-5 Team. Under Ron's leadership, the firm is regularly chosen by *Chambers Global* and *U.S. News and World Report* as a top tier business immigration firm.
- Ron has represented thousands of foreign investors from all around the world, over 75 approved regional centers and hundreds of U.S. developers and business owners in connection with using the EB-5 program to raise capital.
- Ron is serving his fifth term as Chair of the EB-5 Committee of the American Immigration Lawyers Association (AILA). Ron led the effort to develop the first comprehensive list of best practices in the EB-5 industry.
- Ron is a prolific EB-5 blogger and sought after speaker, who regularly speaks on investment migration around the world. Ron was President and General Counsel of AILA. He has been included in *Best Lawyers In America* for two decades. *Who's Who Legal in Corporate Immigration* named him as the world's most highly regarded immigration lawyer.
- His firm is the North American Regional Representative Office of the Investment Migration Council (IMC).

Daniel B. Lundy, Esq.

- **Dan Lundy** is a Partner and a member of the Firm's EB-5 practice. Dan has successfully represented numerous immigrant investors in their EB-5 petitions and applications, including investors seeking permanent residence through investment in their own businesses and investors seeking permanent residence through investments into USCIS approved Regional Centers.
- Dan also represents developers and others who seek to use foreign investment funds under the EB-5 program to fund their projects, either through the formation of a regional center or by joining with an existing regional center. Dan works with various securities lawyers, economists, business plan writers and other professionals in the preparation and filing of regional center designation and regional center amendment applications. Dan is experienced in reviewing regional center and project business plans, economic reports, securities offering documents, and corporate documents for compliance with the EB-5 program requirements, and in consulting and advising clients on the specific immigration requirements of the EB-5 program. For the last two years, he has been named as one of the top 25 immigration lawyers in the country by EB5 Investors magazine.





Anusree Nair, Esq.

- **Anu Nair**, a Partner in the Firm's Philadelphia office, is head of the Investor Division of the firm's EB-5 Practice, which includes the preparation and filing of I-526 Petitions, consular processing and adjustment of status applications, and I-829 Petitions.
- As head of the Investor Division, Anu is responsible for the preparation and filing of all I-526 petitions, both through the regional center investments and individual investment opportunities. She has extensive experience working with investors to document complex source and path of funds; Anu's command of source and path of funds issues has been recognized within the field and she is called on frequently to review I-526 petitions prepared by other firms engaged in EB-5 practice to ensure their own compliance with the extremely rigorous USCIS Standards. She has successfully represented clients at their visa interviews at U.S. Consulates overseas or with the Citizenship and Immigration Services in the United States.

Rohit Kapuria, Esq.

- **Rohit Kapuria** is the resident attorney in the Firm's Chicago office where he serves as a member of the Firm's comprehensive EB-5 practice. Mr. Kapuria has worked on over 200 EB-5 transactions around the country. He regularly represents EB-5 Lenders, EB-5 Borrowers, Banks, Regional Centers, real estate developers, investors working on direct EB-5 projects, and Migration Brokers.
- Rohit Kapuria is the resident attorney in the Firm's Chicago office where he serves as a member of the Firm's EB-5 practice. Mr. Kapuria has worked on over 200 EB-5 transactions, with a combined capital development cost in excess of \$5 billion, around the country. He regularly represents EB-5 Lenders, EB-5 Borrowers, Banks, Regional Centers, real estate developers, investors working on direct EB-5 projects, and Migration Brokers. In this capacity, Mr. Kapuria works collaboratively with economists, business plan writers, securities attorneys, investment managers, and other professionals in preparing I-924 and I-526 petitions for filing with USCIS. Mr. Kapuria is often called upon to structure highly complex and compliant EB-5 transactions and usually serves the role of the EB-5 professional team's quarterback. Over the last few years, he has been actively working to develop the Indian and Gulf countries' EB-5 markets. He regularly travels to India, UAE, and Qatar to further develop his growing network of broker dealers and to speak on EB-5 transactions.





Jessica A. DeNisi, Esq.

- **Jessica DeNisi** is an Associate in the firm's Philadelphia office and a member of the EB-5 practice. Jessica works with developers and investors who seek to use foreign investment capital under the EB-5 program to fund job creating projects either through the creation of a Regional Center or under an existing Regional Center. In preparing and filing I-924 and I-526 petitions, Jessica works with economists, business plan writers, corporate attorneys and market analysts to structure regional centers and their projects. Prior to practicing immigration law, Jessica worked as a tax and business attorney. Jessica completed her undergraduate studies at Wake Forest University and earned an M.A. in Near Eastern Studies from the University of Arizona. Jessica received her J.D. from Tulane University Law School and an LL.M. in taxation from the University of Washington School of Law. Jessica is admitted to practice in California and Louisiana.

Program

- EB-5 in Philadelphia
- EB-5 Bond Projects
- Choosing Projects and Choosing Regional Centers
- Redeployment of Investor Money
- Minors as Investors
- Escrow Options
- Hot Topics and Legislative Update



Program



continued

- Legislative Panel
- Marketing in China, India and Vietnam
- The New World of EB-5 Compliance
- Securities Compliance
- USCIS Compliance Initiatives
- Fund and Loan Administration
- Networking Reception

EB-5 in Philadelphia



H. Ronald Klasko (DL)

Jeff DeCicco, CEO, CanAm Investor Services, LLC

Wanda Speight, Sr. Vice President, Financial Services, PIDC

Andrew S. Gibbs, CFO and COO, Chestlen Development, LP

Christopher M. Barr, CEO, Princeton Global Capital Fund



EB-5 BOND PROJECTS

Daniel B. Lundy (DL)

Robert Sloposky, Sr. Vice President and Group Director, Signature Bank

Paul S. Heuwetter, Group Director, Vice President, Signature Bank



Choosing Projects and Choosing Regional Centers



Rohit Kapuria (DL)
Chris Marlin, President, Lennar International
Angelique Brunner, Founder & President, EB5 Capital
Ginny Fang, CEO, Golden Gate Global
Adam Greene, Managing Director, EB-5 Group, LCP Group

Redeployment of Investor Money



H. Ronald Klasko

Reid Thomas

Ronald R. Fieldstone

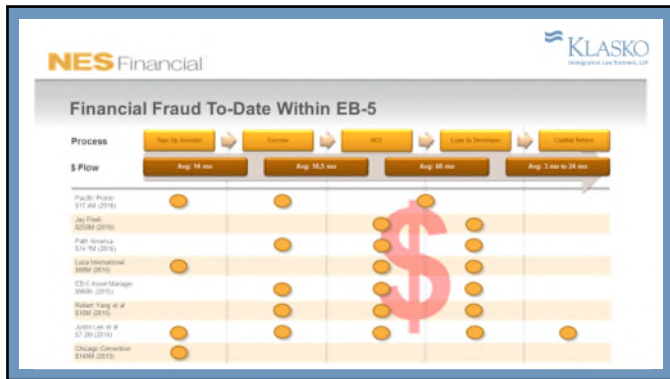
What is the redeployment requirement?

Where did it come from?

- China quota backlog
- DRAFT August 10, 2015 USCIS Policy Memo

The “Redeployment Bubble” is coming!

- Significant opportunities for Fraud & Abuse



Best practices must be defined & implemented

- Learning from traditional markets can be applied

What is the law?

- Investor's investment in NCE must be sustained
- Deployment of investment money from NCE to JCE must be "at risk"
- No requirement that
 - Jobs must be sustained – just "jobs were created"
 - Investment must be sustained by NCE at risk

What is "at risk"?

What are the options for redeployment?

- Extend the loan
- Another loan to the same developer
- Loan to another developer
- Investment in minimal risk security

Securities law issues

- Do the investors have the right to approve the redeployment?
- Are new offering documents required?
- Investment company/investment adviser issues
- Can the GP of the NCE be authorized in advance to make this decision?

Securities law issues

- What if some investors object?
- Should the initial offering documents deal with these issues?
- Dealing with issue of staggered release to investors who have conditions removed

Marketing issues

- Advising investors in advance of where money will be redeployed





Minors as Investors

H. Ronald Klasko (DL)
Ronald R. Fieldstone
Robert Slopovsky
Dandan Zou

Visa Backlog DOS September 2016 Visa Bulletin



Visa Category	All Areas	China (Mainland Born)	El Salvador Guatemala Honduras	India	Mexico	Philippines
1st	Current	01JAN10	Current	01JAN10	Current	Current
2nd	01FEB2014	01JAN10	01FEB2014	22FEB2005	01FEB2014	01FEB2014
3rd	01MAY2016	01JAN10	01MAY2016	15FEB15	01MAY2016	01JUL10
Other Workers	01MAY2016	01JAN04	01MAY2016	15FEB15	01MAY2016	01JUL10
4th	Current	Current	01JAN10	01JAN10	01JAN10	Current
5th	Current	15FEB2014	Current	Current	Current	Current

Minors as Investors



- Multiple EB-5 Petitions
- Family reunification through family-based petitions:
 - Petitioning for parents;
 - Petitioning for sons/daughters;
 - Petitioning for children.
- Minors as Investor

USCIS Position



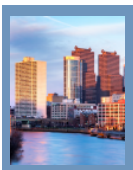
- No bar under immigration law
- Generally, applicants and petitioners under 14 not eligible to sign I-526 petition
- Stakeholder's call – August 2016

Minors as Investor

- See Delaware, Florida and Texas law
- Parental Signoff – Either Custodian Account or Guardian Account if Investment Funded by Minor
- Void, Voidable or Binding
- USCIS Position – See Blog Insert attached.
- How to Undertake Manage Escrow Arrangement, Document Execution and USCIS Compliance Issues

Escrow Arrangements

- Process for Accepting Minor Investors at Signature Bank
- See Acknowledgement of Custodian vs. Acknowledgement of Guardian/Parent



Questions?



Escrow Options

Daniel B. Lundy (DL)

Reid Thomas, Executive Vice President, NES Financial

Hong Yu, Independent EB-5 Consultant

TIME
FOR A
BREAK

Please join us for lunch.



Hot Topics

Legislative Panel

H. Ronald Klasko (DL)

Angelique Brunner, Founder & President, EB5 Capital

Chris Marlin, President, Lennar International

Ronald R. Fieldstone, Partner, Arnstein & Lehr LLP

Peter D. Joseph, Executive Director, Invest In the USA (IIUSA)

Marketing in China, India and Vietnam



H. Ronald Klasko (DL)
Anu Nair
Rohit Kapuria
Ginny Fang, CEO, Golden Gate Global
Adam Greene, Managing Director, EB-5 Group, LCP Group
Hong Yu, Independent EB-5 Consultant
Larry Wang, Founder and President, Well Trend
Kamyar Amiri-Davani, Vice President, EB5Investors.com
Dandan Zou, CEO, MainStay Global
Jerry Chen, General Manager, EB-5 Market Connect
Canh Duc Tran, Partner, Global Access EB5, LLC



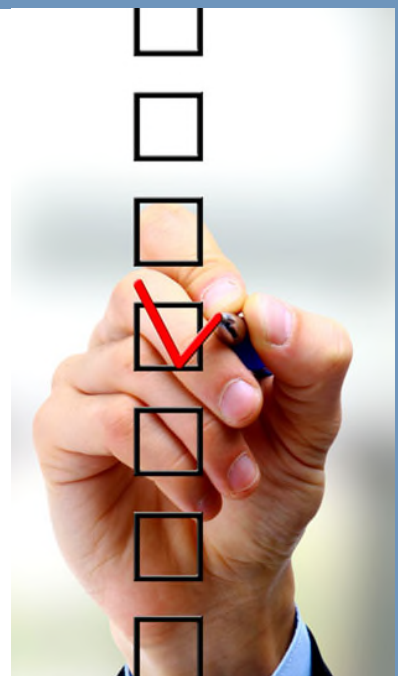
The New World of EB-5 Compliance

Daniel B. Lundy (DL)

Jessica A. DeNisi

Reid Thomas, Executive Vice President, NES Financial

Russell Scarcella, Director, BDO Consulting



Compliance is no longer just about I-829s and I-924As



- New USCIS Initiatives:
 - Site Visits
 - Audits
 - Routine cooperation with SEC and others
- USCIS intends to hold the RC accountable for actions of projects and actors affiliated with the RC.

EB-5 Integrity Bill



- Requires RC to certify compliance annually
- Requires RC to take an active oversight role
- Sets potential fines for non-compliance

Compliance = Ongoing Due Diligence



- Goals of a Compliance Program:
 - I-829 approvals
 - Maintain Regional Center Designation
 - Avoid/detect fraud and misuse of funds
 - Avoid liability to gov't, investors, or others
 - Provide confidence to investors/marketing advantage

Background Checks – Who, When, and Why



- Before and during investment
- Developers, NCE principals, others with control over money
- Detect suspicious activities
- Know who you are giving your money to
- Investor confidence/marketing advantage

USCIS Compliance



- I-829 approval – invested, at risk, throughout conditional period, jobs created
- Be prepared for USCIS audits
- I-924A annual filings
- Track flow of funds, job creation, investor filings, green card dates

USCIS Compliance



continued

- Tracking funds:
 - Need to follow funds from investor, to escrow, to NCE, to JCE, to NCE, through redeployment, and not back to investor
- Investor records
 - Contact information
 - USCIS filings
 - **Green card dates!!!!**
 - Approvals/denials/withdrawals/revocations

USCIS Compliance



continued

- JCE Documents:
 - Proof of expenditures
 - Contracts, permits, licenses
 - Changes to business plan
 - Other evidence of job creation

Fraud prevention/detection and investor confidence



- Transparency
- Third party oversight
- Giving investors confidence

Marketing issues



- Projects that have robust compliance systems in place and can provide transparency to investors are likely to have a competitive advantage.





Securities Compliance

Daniel B. Lundy (DL)

Ronald R. Fieldstone, Partner,
Arnstein & Lehr LLP



USCIS Compliance Initiatives

Jessica A. DeNisi (DL)

Ginny Fang, CEO, Golden Gate Global

Adam Greene, Managing Director, EB-5 Group, LCP Group

Recent USCIS Compliance Initiatives and Proposed Integrity Measures

Demonstrating Flow of Funds from Investors to the Project

Monitoring Progress of Projects

Monitoring Third-Party Promoters

Keeping Track of Investors



Questions?



FUND AND LOAN ADMINISTRATION

Daniel B. Lundy (DL)
Reid Thomas, Executive Vice President, NES Financial

Materials & Resources

- Please visit www.klaskolaw.com to download this PowerPoint presentation and all materials from this seminar.



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