

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

AILA 2009 FALL TOPICS CLE CONFERENCE

EB-5 INVESTORS—NEW OPPORTUNITIES FOR YOUR CLIENTS AND YOUR PRACTICE

The EB-5 immigrant visa program was created to attract immigrant investors to the United States to invest capital, create jobs and stimulate the economy. Though greatly underutilized, the EB-5 immigrant visa may be the answer for clients who lack other options as a result of our broken immigration system. This comprehensive one-day program provides exceptional training in EB-5 investor law for practitioners at every level.

The morning sessions are split into two tracks. Track I, designed for the new EB-5 practitioner, will provide an overview of the law and will delve into the details of preparing and filing an EB-5 case. If you are a seasoned EB-5 veteran looking for in-depth analyses of sophisticated legal issues, you will begin your day on Track II, where you will examine AAO precedent and related regulations, and discuss country-specific issues with a panel of experts. The two tracks merge for a series of joint sessions in the late morning and afternoon.

MONDAY, OCTOBER 19, 2009

**PARC 55 HOTEL
SAN FRANCISCO, CA**

AILA Room Rate: \$160 Single/Double, Plus Applicable Taxes

Phone Reservations: 1-800-595-0507

Hotel Reservation Deadline: September 28, 2009

** Hotel reservations are made on a first-come, first-served basis. Rooms at the AILA rate will sell out before the deadline, so we advise you to make your reservation as early as possible.*

Updated 10/16/09

Day Coordinator: Betsy Lawrence, AILA Programs Manager

7:30 am – 5:15 pm **REGISTRATION, INFORMATION & EXHIBITS**

8:30 am – 8:45 am **WELCOME AND REMARKS**

Bernard P. Wolfsdorf, AILA President, Santa Monica, CA

Lincoln Stone, Conference Program Chair, EB-5 Investor Committee, Los Angeles, CA

TRACK I

OVERVIEW OF LAW AND PROCEDURE FOR THE NEW EB-5 PRACTITIONER

The two morning sessions on Track I will provide an overview of the law and will assist the newer EB-5 practitioner in analyzing whether the EB-5 immigrant visa is a viable option. You will also learn how to prepare, file and adequately document an EB-5 case. At the conclusion of the second panel, Track I and Track II participants will merge for the late-morning and afternoon sessions which are designed for practitioners at all levels.

8:45 am – 9:45 am **EB-5 BASICS**

A fundamentals panel for the practitioner with little or no EB-5 experience, covering the essentials of EB-5 law including a comparison of visa alternatives.

- Background and Direction of the EB-5 Program; Where Are We Now?
- Overview of EB-5 Criteria—Is It a Viable Option for Your Client?
 - New Commercial Enterprise
 - The Role of the Investor
 - Definitions of “Invest” and “Capital”
 - Investor Source of Funds
 - Job Creation/Saving
- The Immigrant Investor Pilot Program—Regional Centers
- Comparison of EB-5 with Other Visa Alternatives in Common Scenarios
- Common Hurdles in EB-5 Cases and How to Overcome Them

Faculty:

Bernard P. Wolfsdorf (dl), AILA President, Santa Monica, CA

*Tammy Fox-Isicoff, AILA Board of Governors, EB-5 Investor Committee,
Miami, FL*

Ruth K. Oh, AILA Board of Governors, Honolulu, HI

9:45 am – 10:45 am

PREPARING THE EB-5 CASE—PRACTICE TIPS AND DOCUMENTATION

A fundamentals panel designed to provide you with practical information essential to preparing and filing a successful EB-5 case.

- Initial Intake—Assessing Case Strengths and Challenges
- Preparing a Standard EB-5 Case
 - Documenting Targeted Employment Area
 - “At Risk” Capital
 - Documenting Job Creation/Saving
 - Documenting the Bona Fides of Investment Source
 - Documenting the Managerial Role of the Investor
- Preparing a Regional Center Affiliated EB-5 Case
- Preparing for Removal of Conditions—Basic Requirements and Overview of the I-829 Petition

Faculty:

Teri A. Simmons (dl), Atlanta, GA

Elsie H. Arias, Los Angeles, CA

Susan L. Pilcher, Burlington, VT

10:45 am – 11:00 am

NETWORKING BREAK—ADVANCE TO JOINT SESSIONS

Day Coordinator:

Edward R. Litwin, San Francisco, CA

TRACK II

ADVANCED ISSUES IN EB-5 PRACTICE

The morning Track II sessions are designed for the advanced EB-5 practitioner who has mastered the basics and is ready to delve into more complex issues. Examine the four 1998 EB-5 precedent decisions in the first session, and follow it up with a look at challenges and strategies for success in country-specific cases.

8:45 am – 9:45 am

DECONSTRUCTING AAO PRECEDENT DECISIONS

This is an advanced panel designed to probe the depths of four AAO precedent decisions issued in 1998 that substantially restricted EB-5 eligibility. The panel will also examine regulations related to these decisions as well as efforts to extend the reach of the decisions to varied factual settings.

- Review of Four AAO Precedent Decisions— *Matter of Soffici*, *Matter of Izumii*, *Matter of Hsiung*, *Matter of Ho*
- Application of AAO Precedent to EB-5 Cases
- Critique of Extending AAO Precedents
- Trends in Recent Non-Precedent Decisions

Faculty:

Carolyn S. Lee (dl), Conference Program Committee, EB-5 Investor Committee,
Ithaca, NY

David Morris, Washington, DC

9:45 am – 10:45 am

COUNTRY SPECIFIC ISSUES

Get inside information from attorneys with country-specific expertise! Learn how to document source of funds and other key facts in cases from certain countries, and how to anticipate and meet the challenges at various consular posts.

- The Law and Practice on Investor Source of Funds
- Representing Investors from Korea, China, India, etc.—Strategies for Success
- Tips for Documenting Cases from High Scrutiny Countries (Iran, Russia, Pakistan, etc.)
- Recent Challenges and Solutions at Consular Posts

Faculty:

Linda W. Lau (dl), EB-5 Investors Committee, Los Angeles, CA

Robert P. Gaffney, San Francisco, CA

Stephanie Lee, Irvine, CA

Doreen Edelman, Washington, DC

10:45 am – 11:00 am

NETWORKING BREAK—ADVANCE TO JOINT SESSIONS

JOINT SESSIONS BEGIN

11:00 am – 12:00 pm

REMOVAL OF CONDITIONS

The panelists will provide an in-depth look at strategies and tips for the successful removal of conditions to permanent resident status.

- Existing Legal Framework for the I-829 Petition
- Problems with USCIS Conception of Conditional Resident Status
- Solutions for Removing the Conditions in “Imperfect” Cases
- Possible Areas of Litigation

Faculty:

Lincoln Stone (dl), Conference Program Chair, EB-5 Investor Committee,
Los Angeles, CA

Ira J. Kurzbhan, AILA Past President, Miami, FL

Martin J. Lawler, EB-5 Investor Committee, San Francisco, CA

12:00 pm – 1:15 pm

LUNCH

1:15 pm – 2:15 pm

GOVERNMENT UPDATE ON THE EB-5 PROGRAM

Get the latest on the U.S. government’s policies and processes concerning EB-5 adjudications, as well as plans to improve and re-energize the EB-5 program.

- Update on USCIS Management of the EB-5 Program
- The Latest Statistics and Adjudication Trends—I-526 and I-829
- Current Problems and Dialog on Resolutions
- Areas of Future Focus and Improvements

Faculty:

Robert C. Divine (dl), Conference Program Committee, Chattanooga, TN

Aaron S. Brickman, Director, Invest in America, U.S. Department of Commerce, Washington, DC

Sheila Fisher, California Service Center, USCIS, DHS, Laguna Niguel, CA

Blake Goto, Adjudications Officer, California Service Center, USCIS, DHS, Laguna Niguel, CA

Wendy Kamenshine, Acting Deputy Ombudsman, Office of CIS Ombudsman, Washington, DC

Fred Troncone, Acting Chief, Programs Policy, Strategy & Research, Office of CIS Ombudsman, Washington, DC

2:15 pm – 2:30 pm

NETWORKING BREAK

2:30 pm – 3:30 pm

ADVANCED ISSUES IN REPRESENTING INDIVIDUAL INVESTORS

An advanced panel discussion of the unique issues frequently encountered when representing individual investors in the EB-5 process.

- Investing in Existing Businesses
- Investing in Multiple Entities
- Demonstrating Equity and Risk Where the Investor Is Focused on Security and Exit Strategy
- Job Creation in Regional Center Affiliated Cases

Faculty:

Edward J. Carroll (dl), EB-5 Investor Committee, Burlington, VT

H. Ronald Klasko, AILA Past President, Chair, EB-5 Investor Committee, Conference Program Committee, Philadelphia, PA

David Hirson, Irvine, CA

3:30 pm – 4:30 pm

INVESTING IN REGIONAL CENTERS

Listen and learn from the experts as they delve into the intricacies of obtaining an EB-5 investor visa through the regional center program. Among other important issues, the panel will discuss what it takes to become a regional center, and what due diligence is advised when your client considers investing with a regional center.

- Obtaining Regional Center Designation
- Ensuring the Regional Center's Ongoing EB-5 Compliance
- Handling Interdisciplinary Issues—Business Contracts, Securities Laws, Other Compliance Issues
- The Role of the Investor's Counsel—Regional Center Due Diligence

Faculty:

Denyse Sabagh (dl), AILA Past President, Washington, DC

Boyd F. Campbell, Vice Chair, EB-5 Investor Committee, Conference Program Committee, Montgomery, AL

Stephen Yale-Loehr, Vice Chair, Business Immigration Committee, Ithaca, NY

Jennifer Moseley, Birmingham, AL

4:30 pm – 5:30 pm

ETHICAL ISSUES—AVOIDING MALPRACTICE IN THE EB-5 CONTEXT

Learn how to approach difficult ethical issues in the EB-5 practice area, as well as how to avoid malpractice and manage risk.

- Becoming Competent in the EB-5 Field
- Knowing When to Co-Counsel and When to Use Experts
- Malpractice Insurance—Obtaining and Maintaining It
- Avoiding and Managing Conflicts of Interest
- Best Practices—Attorney and Finder

Faculty:

Robert E. Juceam (dl), AILA Past President, New York, NY

Marc Van Der Hout, AILA Board of Governors, San Francisco, CA

Robert G. Heiserman, Denver, CO

5:30 pm

CONFERENCE CONCLUDES

CONFERENCE PROGRAM COMMITTEE

Lincoln Stone, Conference Program Chair, Los Angeles, CA

Boyd F. Campbell, Montgomery, AL

Robert C. Divine, Chattanooga, TN

H. Ronald Klasko, AILA Past President, Philadelphia, PA

Carolyn S. Lee, Ithaca, NY

Betsy Lawrence, AILA Education Programs Manager, Washington, DC