



Immigrant Investor Program Office (IPO) EB-5 National Stakeholder Engagement (August 13th) - California IPO Chief Colucci's Remarks

Good morning to those of you in attendance and those on the west coast, and good afternoon to everyone else. As Danielle mentioned, my name is Nick Colucci, and I am the Chief of USCIS' Immigrant Investor Program Office, which oversees the EB-5 Program. It is really nice be to here in Los Angeles for our national EB-5 stakeholder engagement. In addition to holding this national engagement today, we participated in a number of events and meetings here this week as part of a new series of engagements we've titled *EB-5 InTouch*. EB-5 InTouch is where we travel to a part of the country that has benefited from EB-5 capital so we can meet with local officials and see some EB-5 sponsored projects first hand. I'll talk more later about the rest of our week. Before I jump into some of my

remarks, I would like to take a moment to thank the Los Angeles District Office for allowing us to host our national engagement here in their office.

As I typically do, I'd like to start today's discussion by providing a snapshot of Program related statistics. On a positive note, our staffing today stands at 112 and we are working on bringing on board another 4 individuals who have accepted offers. We expect to be at target staffing level of 121 before September 30, which is the end of our fiscal year. We also hope to hire another 20 employees between then and the end of the calendar year. Another piece of good news is that we have significantly picked up our rate of adjudication. More specifically, between March and June 2015, we averaged more than 1000 adjudications per month of Form I-526, Immigrant Petition by Alien Entrepreneur. This represents an increase of about 83% from our monthly adjudication rate for this form type earlier in FY 2015. In that same time period, March through June 2015, we've adjudicated more than 1,100 more petitions than we've received, which will help to reduce the backlog of pending petitions. For the first three quarters of the fiscal year, which ended June 30, we received 7,723 Form I-526 petitions (5% more compared to the same time period last year), approved 6,498 and denied 663. For Form I-829, Petition by Entrepreneur to

Remove Conditions, we received 2,268 petitions (47% more compared to the same time period last year), approved 606 and denied 5. Finally, for Form I-924, Application for Regional Center Under the Immigrant Investor Pilot Program, we received 252 applications (30% more compared to the same time period last year), approved 187 and denied 31. Note these are preliminary statistics that still must be vetted before they are officially published. On a less positive note, our processing times are still not where stakeholders and IPO would like them to be. As of May 31, processing time for Form I-526 is 13.4 months, I-829 is 13.6 months, and I-924 is 11.5 months.

Changing subjects, as you may have seen, in light of the State Department's announcement that the visa cut-off date for Chinese-born investors was established with the May 2015 Visa Bulletin, we published a draft policy memo for comment on Monday on how two of the Program's eligibility requirements - job creation and investment sustainment - will be impacted. Please do take the time to review and comment on this memo prior to the comment period closing on September 8. We hope to move pretty quickly to a final memo after we have taken all of your input into consideration.

We will soon be posting for your information the EB-Protocols, which is short for the “Ethics and Integrity: Protocols for Processing of EB-5 Immigrant Investor Visa Petitions and EB-5 Regional Center Applications, Including Stakeholder Communications”. These protocols were ordered by the Secretary and developed by DHS's Office of General Counsel in consultation with USCIS. The protocols dictate how DHS employees and contractors should handle contacts with: EB-5 petitioners, applicants, and other stakeholders; members of Congress and their staff; other elected officials; and the White House. The protocols also address when and how senior leaders may intervene in specific EB-5 cases. For all of you, perhaps the most significant point to note is that under the EB-5 Protocols all substantive inquiries, whether in writing, by phone, or in person, are required to be memorialized and placed in the relevant USCIS file. More procedural questions, such as a general inquiry into the status of a petition or application, will not generally be considered substantive or impacted by the EB-5 Protocols. For purposes of the EB-5 Protocols, the term “substantive” refers to communications which have the likelihood of impacting, or were considered in the adjudication of, an EB-5 application or

petition, and could include instances in which there is a discussion of specific facts related to an EB-5 case. We will provide the associated training, which will also be available publicly online, to all affected employees and contractors in the near future. Again, you will be able to find more information about the EB-5 Protocols online soon.

Next, I'd like to discuss a new team we're putting together within IPO to promote compliance within the regional center industry. The team will primarily focus on reviewing I-924As for timeliness, accuracy and completeness and preparing Notices of Intent to Terminate for regional centers that no longer meet program requirements. However, the team will review other compliance related issues, including, pursuing appropriate action against regional centers for inappropriate use of the Department of Homeland Security seal or U.S. Citizenship and Immigration Services signature— and against regional centers and/or their marketers for making false claims about guaranteed returns, guaranteed approvals and expedited treatment of petitions – all of which are contrary to program policy and guidance. The team's work will also include a review of regional center and related entity naming conventions which may falsely imply a

special relationship between the entity using the name and USCIS, DHS and the United States Government as discussed in the recent stakeholder alert we published. The mission of the new office is to increase industry compliance. We hope to accomplish this in a number of ways, including: exercising our authority to interview regional center applicants and I-829 petitioners; holding additional engagements focused on regional centers to help further explain and clarify relevant laws, regulations, and other program requirements; conducting additional site visits, both domestically and overseas to ensure documents are authentic and projects are proceeding as planned; auditing financial records to ensure funds are spent in accordance with the offering documents, economic analysis and business plan; and holding accountable those regional centers that violate the law, regulations or policy. Ensuring the integrity of the Program remains, and always will be, a critical priority for us and for all of you, and we continue to need your support to help ensure a level playing field for all. As I've mentioned at every engagement, please continue to make us aware of any concerns or suspicions of illegal activity you may have.

Next, as you may have seen, the Government Accountability Office (GAO) released its review of the EB-5 Program yesterday. This report assessed

USCIS efforts under the EB-5 Program to (1) work with interagency partners to assess fraud and other related risks, (2) address any identified fraud risks, and (3) increase its capacity to verify job creation and use a valid and reliable methodology to report program outcomes and overall economic benefits.”

Overall, the report mentioned a number of strides we've made with respect to fraud detection and in the administration of the Program. GAO did have four recommendations with which we concurred:

1. Plan and conduct regular future fraud risk assessments of the EB-5 Program - in response we've agreed to continue to do at least annual assessments, as we've done each year since 2012;
2. Develop a strategy to expand information collection, including identifying and collecting additional information on EB-5 forms, and conducting interviews at the I-829 stage. As you know, we are in the process of revising all of our forms. We have also been developing a strategy for conducting interviews of select I-829 petitioners;
3. Track and report data received by immigrant investors and verified by the agency with respect to job creation and investment through the EB-5 Program - this is something we've done in the past, but only as an estimate.

4. Finally, GAO recommends that Commerce's valuation of the economic impact of the EB-5 Program, which we commissioned in response to a recommendation from the OIG's review of the Program in December 2013, include a discussion of program costs, even if they could not be quantified for the study. We anticipate Commerce's report will be released in November.

Finally, I'd like to share a little bit about our week in LA leading up to today's engagement, as well as a recent visit I took to Beijing and Guangzhou, China, with Kurt Vicha our FDNS-EB-5 Chief. While in LA, we have been very busy. After meeting with local USCIS leadership, we met with our Federal law enforcement partners, including ICE, SEC, FBI and the USAO to discuss the Program. On Tuesday, our Fraud Detection and National Security team conducted several site visits of various projects in the area in connection with the random site visit program that it expects to implement in fiscal year 2016. Yesterday, we held an engagement with Congressional staffers to provide them with many of the same updates we are providing today.

The trip to China was an eye-opening visit for me, as it was my first time there. In Beijing, we met with officials from China's Ministry of Public Safety and Security, as well as a number of other officials at the national, provincial and local levels. We explained how the Program works and learned from them various mechanisms we could use to augment our procedures for verifying questionable Chinese tax, income, identification, and other documents submitted to us. In Guangzhou, we spent time with ICE and Department of State officials. We were able to observe some interviews Department of State officers held with EB-5 petitioners. We also spoke with local USCIS staff who conduct site visits at our request when we have questions about the legitimacy of documents and projects. These site visits can be time consuming and costly for USCIS, but ultimately very worthwhile as on-the-ground due diligence. We believe additional staffing for such site visits could greatly assist the Program. Finally, we also received a presentation from State Department staff on some of the trade shows related to EB-5 and other immigration programs. Overall, it was a very worthwhile visit.