



February 3, 2016 Stakeholder Engagement

Julia Harrison's Remarks

I want to thank everyone who submitted questions in advance. I'm going to take a few minutes now to address some of these questions and then we will open the lines for additional questions.

We received quite a few questions regarding source of funds. Specifically we were asked if we accept private currency exchange. We will accept private currency exchange. The thing that is important to remember about this is that lawful source of funds must be shown, and the path of funds must be clearly documented and demonstrated. Also, depending on the specific circumstances, we may require evidence from the petitioner to validate the lawful source of third party funds involved in the transaction.

We also got a few questions about loans and gifts being used as the source of funds. A couple points about this. Generally, a gift of capital must be freely given and includes no expectation by the donor of receiving repayment or anything else of value from the recipient in exchange for the gift. A familial relationship is not required for a gift to be considered as a lawful source of investment capital. Rather, the focus is on whether the petitioner has sufficiently demonstrated that the capital was obtained through a gift, including the lack of any terms for repayment. Another important thing to keep in mind is that the regulatory definition of capital indicates that "[a]ssets acquired, directly or *indirectly*, by unlawful means (such as criminal activity) shall not be considered capital" 8 C.F.R. § 204.6(e) (emphasis added).

Another question we received is if we will start requesting authenticated evidence of source of funds such as bank statements. While we don't currently have a plan to require this across the board, we have and will continue to require the submission of information or documentation as needed to authenticate questionable documents. We have discussed in previous engagements the increased processing time that results from us having to issue requests for evidence; your goal should be to submit the best, most complete application that you can.

The last thing I will mention about source of funds is just to make sure everyone knows we have posted what we discussed at our April 2015 engagement about "[Loan Proceeds as Qualifying Capital](#)" on our website for your reference.

We also received a few questions about the adjudication of the Form I-829 that investors file to have the conditions on their permanent residence removed. Specifically we were asked what happens to an EB-5 investor who enters the United States based on an approved Form I-526 petition, but who fails to timely file a Form I-829 to remove their conditions or they do file timely but their I-829 is denied. In both of these situations, we will terminate the individual's conditional resident status and unless we have determined that the individual has already departed the United States we will issue a notice for them to appear before an immigration judge in removal proceedings. You also wanted to know what happens to a conditional resident if the regional center through which they made their investment is terminated. I'm not going to go into great detail about this as each case is adjudicated on its merits but I think it is important that everyone understand that an EB-5 investor's conditional permanent resident status, if already obtained, is not automatically terminated if that individual has invested in a new commercial enterprise associated with a regional center that USCIS terminates. The investor will continue to have the opportunity to demonstrate compliance with EB-5 program requirements.

Last but not least, we received a question about how we handle ownership and managerial changes in the regional center. Designated regional centers must notify the agency within 30 days of any changes in the operation or administration of the regional center, including ownership and managerial changes. While notification can be made by sending an e-mail to the EB-5 program mailbox, USCIS may still require the regional center to file a Form I-924A to reflect these changes. In addition, such changes may impact the regional center's designation and, consequently, USCIS recommends that the regional center notify the agency as soon as possible, ideally by also filing a Form I-924 amendment in order to more fully assess the change and its impact on the regional center's designation. Ownership or management change at the regional center does not affect an investor's ability to file an I-526 petition and does not relieve a conditional resident of the obligation to file an I-829 petition during the 90-day period before the second anniversary of obtaining permanent resident status.