



**U.S. Citizenship
and Immigration
Services**

Date: February 2, 2018

Scott W. Barnhart, Ph.D.
New York City EB-5, LLC
American Economic Growth Fund, LLC
3875 Sunset Lane,
Riviera Beach, FL 33404

Application: Form I-924
Application for Regional Center Designation Under the Immigrant Investor Program

Applicant(s): New York City EB-5, LLC

Re: Initial Regional Center Designation
New York City EB-5, LLC
RCW1635854998 / ID1635854998

On 12/23/2016, New York City EB-5, LLC (“the applicant”) filed a Form I-924 to request designation as a regional center in the Immigrant Investor Program (the “Program”) in accordance with section 610 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102-395, 106 Stat. 1828, 1874 (Oct. 6, 1992), as amended (the “Act”). The applicant also requested preliminary determination of EB-5 compliance for an actual project for a new commercial enterprise.¹

Effective as of the date of this notice, USCIS approves the Form I-924 and designates New York City EB-5, LLC as a regional center under the Program. The regional center designation is non-transferable.

Legal Notice: This approval and designation of a regional center under the Immigrant Investor Program does not constitute or imply an endorsement or recommendation by USCIS, the United States Government or any instrumentality thereof, of the investment opportunities, projects or other business activities related to or undertaken by such regional center. Except as expressly set forth in this approval

¹ An actual project refers to a specific project proposal that is supported by a *Matter of Ho* compliant business plan. See *Matter of Ho*, 22 I&N Dec. 206 (Assoc. Comm’r 1998). The term “exemplar” refers to a sample Form I-526 petition, filed with a Form I-924 actual project proposal that also contains copies of the commercial enterprise’s organizational and transactional documents, which USCIS will review to determine whether they are in compliance with established EB-5 eligibility requirements.

and designation, USCIS has not reviewed any information provided in connection with or otherwise related to the regional center for compliance with relevant securities laws or any other laws unrelated to eligibility for designation as a regional center. Accordingly, USCIS makes no determination or representation whatsoever regarding the compliance of either the regional center or its associated new commercial enterprises and job creating entities with such laws.

I. Regional Center Designation

A. Geographic Area

Under section 610(a) of the Act, “[a] regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones.” A regional center’s geographic area must be contiguous and clearly delineated.

The applicant has been approved for designation for the following geographic areas:

State	Counties
New York	New York, Kings, Queens, Richmond, Nassau, Suffolk, Bronx, Westchester, Putnam, Rockland, Dutchess, Orange
New Jersey	Hudson, Bergen, Essex, Union, Passaic, Sussex, Morris, Hunterdon, Somerset, Middlesex, Monmouth, Ocean
Pennsylvania	Pike

II. Preliminary Determination of EB-5 Compliance for an Actual Project

The applicant also requests preliminary determination of EB-5 compliance for an actual project. The applicant presented evidence asserting that 40 investors will invest \$20,000,000 total EB-5 capital into New York City EB-5 Lender, LLC – the new commercial enterprise (NCE). The NCE will lend the entire amount to Driftwood Hospitality Management, LLC, the job creating entity (JCE). The NCE/JCE intends to develop and operate Canopy by Hilton hotel and is located in New York City, New York. The applicant asserts that the investment from EB-5 petitioners will create approximately 1,733 jobs. The applicant also asserts that the NCE will be principally doing business within a targeted employment area (TEA).²

² Based on the evidence presented, USCIS has determined that NCE will principally be doing business within a TEA for the purposes of this exemplar filing. However, investors with related Form I-526 petitions must establish that at the time of investment or at the time of filing the immigrant petition, as applicable, the geographic area in question qualified as a TEA. A geographic area that once qualified as a TEA may no longer qualify as employment rates or

After review of the documents submitted in connection with this request, USCIS has determined that the applicant has demonstrated that the actual project complies with EB-5 requirements. Per USCIS policy, this determination will be accorded deference in subsequent filings under the project involving the same material facts and issues, absent material change, fraud, willful misrepresentation, or a legally deficient determination.

III. Reporting and Oversight Requirements

Regional centers approved for participation in the Program must provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose.

Consequently, each approved regional center must file Form I-924A, Annual Certification of Regional Center, for each federal fiscal year (October 1 through September 30) on or before December 29 of the calendar year in which the federal fiscal year ended. Failure to file Form I-924A in a timely manner for each federal fiscal year in which the regional center has been designated to participate in the Immigrant Investor Program will result in the issuance of a notice of intent to terminate the participation of the regional center in the program. Such failure may ultimately result in the termination of the approval and designation of the regional center. USCIS will review each certification and will notify the regional center should the certification be inadequate.

Each approved regional center must continue to demonstrate that there are sufficient management, oversight and administrative functions in place to monitor all investment offerings and activities under the sponsorship of the regional center. The failure of an associated new commercial enterprise or job creating entity to comply with all laws and regulations related to such investment offerings and activities may result in the issuance by USCIS of a notice of intent to terminate the regional center designation.

IV. Requirements for Regional Center Investors

Under 8 C.F.R. § 204.6(m)(7), “[a]n alien seeking an immigrant visa as an alien entrepreneur under the Immigrant Investor Pilot Program must demonstrate that his or her qualifying investment is within a regional center approved pursuant to paragraph (m)(4) of this section and that such investment will create jobs indirectly through revenues generated from increased exports resulting from the new commercial enterprise.”

population increases over time. In addition, an immigrant investor cannot rely on previous TEA determinations made based on facts that have subsequently changed.

New York City EB-5, LLC

IDI635854998

RCW1635854998

Page 4

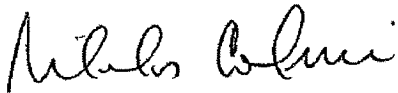
In order to demonstrate that a Form I-526 petitioner's investment is "within a regional center approved pursuant to paragraph (m)(4)," the petitioner may submit a copy of this approval notice and designation letter, including subsequent amendment approval letters (if applicable).

In addition, regional center investors may rely on indirect job creation in order to demonstrate that the investment will create full-time positions for not fewer than 10 persons, which "may be demonstrated by reasonable methodologies" See 8 C.F.R. § 204.6(j)(4)(iii). 8 C.F.R. § 204.6(m)(7)(ii) also states: "To show that 10 or more jobs are actually created indirectly by the business, reasonable methodologies may be used. Such methodologies may include multiplier tables, feasibility studies, analyses of foreign and domestic markets for the goods or services to be exported, and other economically or statistically valid forecasting devices which indicate the likelihood that the business will result in increased employment."

If the applicant has any questions concerning the regional center designation under the Immigrant Investor Program, please contact the USCIS by email at:

USCIS.ImmigrantInvestorProgram@uscis.dhs.gov

Sincerely,



Nicholas Colucci
Chief, Immigrant Investor Program

cc: