2015 EB-5 INVESTORS SUMMIT:
REPRESENTING EB-5 INVESTORS &
REGIONAL CENTERS IN A TIME OF CHANGE

August 27–28 at the Venetian Resort Hotel Casino, Las Vegas

SCHEDULE OF EVENTS

THURSDAY, AUGUST 27, 2015

Day Coordinator: Hardeep Sull, Las Vegas, NV

7:15 am–5:00 pm
Registration and Exhibits

7:55 am–8:00 am
Opening Remarks
Bernard P. Wolsdorf, Conference Program Chair,
AILA Past President, Santa Monica, CA

8:00 am–9:00 am
EB-5 Overview
This session uses a series of role play scenarios to
demystify the EB-5 and to walk practitioners new to
EB-5 through the following issues:
• Initial Intake—Determining What Your Client
  Really Wants to Do
• Comparison of EB-5 with Other Visa Alternatives in
  Common Scenarios
• Initial EB-5 Eligibility and Regional Center vs.
  Direct Investment Programs
• Removal of Conditions
Faculty:
Cletus M. Weber (DL), Mercer Island, WA
Tammy Fox-Isicoff, AILA Board of Governors,
Miami, FL
Robert F. Loughran, Austin, TX

9:05 am–10:05 am
Due Diligence in EB-5 Cases
This panel discusses the scope and practice of due
diligence analysis to confirm that the investment
complies with the immigration law requirements
of the EB-5 program and with those of other areas:
securities, investment suitability, and project
marketing.
• Due Diligence from an Immigration
  Perspective—What Is Required?
• Due Diligence from a Securities Law Perspective
• Due Diligence from a Chinese Migration Agent’s
  Perspective
• Due Diligence from an Economist’s Perspective
Faculty:
Stephen Yale-Loehr (DL), Ithaca, NY
Kate Kalmykov, Florham Park, NJ
Jerold Siegan, Securities Attorney, Chicago, IL
Larry L. Wang, Head of Migration Agency,
Beijing, China

10:05 am–11:05 am
Source of Funds and Path of Funds: Generally
Learn how to document source of funds and path of
funds generally, including how to anticipate and meet requests for evidence (RFEs) and consular post
challenges.
• Strategies for Proving Lawful Source of Funds
• Foreign Remittances
• Tips for Documenting Cases
• Recent Challenges and Solutions
Faculty:
Aru Nair (DL), Philadelphia, PA
David Hirson, Costa Mesa, CA
Chun Yun “Elizabeth” Peng, Mercer Island, WA

11:25 am–12:25 pm
Source of Funds and Path of Funds: Issues in Key Countries
Learn how to document source of funds and path of
funds from key countries.
• China
• Russia
• India
• Vietnam
• Brazil
• Mexico
• Other Countries
Faculty:
Kristal Jeanette Ozmun (DL), Ithaca, NY
Ning “Kelvin” Ma, Shanghai, China
Christian A. Triantaphyllis, Houston, TX
Mehreen “Mona” Shah, New York, NY

12:25 pm–1:35 pm
Lunch

1:35 pm–2:35 pm
Direct EB-5 Transactions
Direct EB-5 investments continue to increase in
popularity for individual investors, both as a flexible
tool tailored to an investor’s business goals and as a
guard from risks related to non-renewal of the EB-5
Regional Center program. This panel discusses the
unique structures, evidentiary features, and
idisyncratic USCIS practices related to direct EB-5
investments that are critical to the success of a direct
EB-5 visa petition.
• Immigration Planning for Starting or Acquiring a
  Business
• Transitioning from E-2 to EB-5
• Structures for Delivery of EB-5 Funds and
  Documenting Use of Funds
• Direct EB-5 Business Plans and Requirements of
  Matter of Ho
• Pooled Capital and Franchises in Direct EB-5
  Transactions
• Documenting Job Creation—From Salaries to
  E-Verify
• I-829 Issues—Requirements, Timing, and
  Common Pitfalls
Faculty:
Elsie Arias (DL), Los Angeles, CA
Margo Chernysheva, Las Vegas, NV
Nima Korpivaara, Newport Beach, CA
Michael George Homeler, Securities Attorney,
Sherman Oaks, CA

2:45 pm–3:45 pm
Business Considerations for Your Client in Regional Centers: Understanding the Capital Transaction
How exactly is the new commercial enterprise
(NCE) investing in the job creating entity (JCE)? As
an equity or preferred equity investor? As a lender
making a loan? If so, what kind of loan—first deed
of trust, second lien, or mezzanine? When are EB-5
funds made fully available to the JCE and how?
What is the relationship of EB-5 funds to all other
capital in the JCE and why does it matter? What loan
provisions will most influence NCE investment risk
and immigration compliance? A panel of corporate
and transactional lawyers explores these important
EB-5 investment issues.
• Understanding the Deal Structure—The Regional
  Center, NCE, and JCE
• Understanding the Capital Stack and Different
  Sources of Capital
• Identifying and Managing Investment and
  Immigration Risk Factors

Program subject to change.
2 of 3

7:15 am–8:00 am
Special Early Bird Session—AILA
Training
See AILALink in action! Developed and maintained by AILA, AILALink is an online research library of fully searchable resources necessary for the successful practice of immigration law—statutes, regulations, case law, agency correspondence, AILA publications, immigration forms, and much more. See what AILALink can do for your practice during this special training! In addition, the presenter will give a brief overview of the new AILA.org. Learn how to utilize your number one AILA member benefit!

8:00 am–9:00 am
Job Creation Methodologies for Regional Center Projects
Success in the EB-5 case depends on convincing proof of job creation. This panel covers essential terminology, seeks to remove the mystery surrounding job creation methodologies, and provides practice pointers on how to plan the job creation component of the EB-5 case.
- Direct, Indirect, and Induced Jobs—Understanding Key Terms
- Accepted Job Models—RIMS II, IMPLAN, Others
- Inputs in Job Creation Models—Jobs, Spending (Hard/Soft Costs), and Verifiable Data
- Types of Jobs—Construction, Operations, Other Jobs
- Lingering and New Issues—24-Month Policy, Tenant Occupancy, Guest Spending, Others

Faculty:
Michele A. Franchett (DL), Los Angeles, CA
Scott W. Barnhart, Economist, West Palm Beach, FL
John Barrett, Economist, Somerville, MA

9:05 am–10:05 am
I-829 Removal of Conditions Process and EB-5 Compliance
This panel provides an in-depth look at strategies and tips for removal of conditions to permanent resident status, and also examines proof of job creation, including in cases of material change, and possibilities of litigation if an I-829 petition is denied.
- The I-829 Bubble
- Existing Legal Framework for the I-829 Petitions
- Direct EB-5 Job Creation vs. Regional Center Job Creation
- Component Parts of a Successful Petition
- Solutions for Removing the Conditions in Imperfect Cases
- Denied Cases and Possible Areas of Litigation

Faculty:
Ignacio A. Donoso (DL), Bethesda, MD
Charles H. Kuck, AILA Past President, Atlanta, GA
Ira J. Kurzban, AILA Past President, Miami, FL
Edward J. Carroll, Grande Isle, VT

10:20 am–11:20 am
Setting Up and Maintaining Regional Centers
Your regional center client wants to raise EB-5 funds to finance a new hotel, housing development, or assisted living project. The panel discusses the various avenues for the creation of a regional center, what is required for a regional center designation, and ongoing regional center compliance.
- Criteria for Determining Whether EB-5 Capital Is a Funding Source
- Role of the Immigration Attorney in Regional Center Work
- Requirements for Obtaining Regional Center Designation
- Assembling the Team
- “Pre-Approval” for I-526 Petitions
- The Immigration Attorney’s Role in Maintaining Consistency for I-526 Petitions Filed for a Regional Center Project
- The Immigration Attorney’s Role in Assuring Successful I-829 Petitions
- Form I-924A and Ensuring the Regional Center’s Ongoing EB-5 Compliance
- Evolution of Escrow—Understanding Release Terms and Holdbacks

Faculty:
Jeffrey E. Campion (DL), Weston, FL
Jennifer Hermansky, Philadelphia, PA
Joseph McCarthy, Los Angeles, CA
Reid Thomas, Escrow & Fund Administration Specialist, San Jose, CA

11:25 am–12:25 pm
China Issues
During the first seven months of this fiscal year, over 88% of the investors were from China, with the only other statistically relevant country being Vietnam. If you want to practice in the EB-5 investor program, you must become familiar with the key issues facing Chinese investors, many of whom are very knowledgeable.
- Impact of the Visa Quota Backlog, Cut-off Dates, and Retrogression
- Issues Arising from the China Quota Backlog, Including Redeployment of Repaid Funds; the 30th Month Job Creation Rule, and the Child Status Protection Act
- Immigrant Planning, Including Interplay with B and F Visas
- Abandonment Issues—Understanding Cultural Issues
  - Filing Re-entry Permits
  - Tax Considerations
  - Post-Immigration Planning
- Membership in the Communist Party of China

Faculty:
Bernard P. Wolfsdorf (DL), Conference Program Chair, AILA Past President, Santa Monica, CA
Linda W. Lau, South Pasadena, CA
Charles Oppenheim, Chief, Immigrant Visa Control & Reporting, U.S. Department of State, Washington, DC
12:25 pm–1:40 pm
Lunch

Update from U.S. Dept. of State & CIS Ombudsman Office
Bernard P. Wolfsdorf (DL), Conference Program Chair, AILA Past President, Santa Monica, CA
Charles Oppenheim, Chief, Immigrant Visa Control & Reporting, U.S. Department of State, Washington, DC
Frederick R. Troncone, Senior Advisor, Office of the Citizenship and Immigration Services Ombudsman, Department of Homeland Security, Washington, DC

1:40 pm–2:40 pm
Advanced Issues in Representing Individual Investors
New issues come up all the time in EB-5 practice. What worked last year may result in an RFE or denial this year. This panel will discuss advanced and emerging issues.
- Use of Third Party Loan Proceeds as a Source of Funds—No Longer Allowed?
- Investment in Existing Businesses—What Is “New” and Proving Jobs
- Straight Advice for the Risk-Adverse Investor—Post-Izumi Acceptance of Investment Features Designed for Security and Exit
- Advising Investor Clients about “Material Change” and Other Issues

Faculty:
Carolyn S. Lee (DL), AILA EB-5 Investors Liaison Committee Co-chair, Ithaca, NY
Robert P. Gaffney, San Francisco, CA
Rohit Kapuria, Chicago, IL

2:45 pm–3:45 pm
Protecting Your EB-5 Practice: Ethical Issues & Minimizing Risk
This panel will walk through a sample engagement letter and will address key ethical concerns encountered in EB-5 practice.
- Identifying Legal Services and Potential Limited Scope Representation
- Competence—Knowing When to Co-Counsel and When to Use Experts
- Representing Multiple Clients and Informed Consent
- Common Hazards and Gauging Potential Conflicts of Interest
- Lawful Source of Funds and Truth in Filing
- Knowing Your Client and Coordinating with Agent Intermediaries
- Getting Paid Consistently with the Professional Code
- Practice Pointers for the Engagement Letter
- What to Do When a Conflict Arises

Faculty:
Cyrus D. Mehta (DL), AILA Ethics Committee Chair, New York, NY
Robert Juceam, AILA Past President, New York, NY
Angelo A. Paparelli, Los Angeles, CA

3:45 pm–4:00 pm
Networking Break

4:00 pm–5:00 pm
Hot Topics, Legislative Update, & Open Q&A
- Program Extension and Possible Congressional Reforms
- New Agency Developments & Trends
- Recent Stakeholder Calls
- Interagency Cooperation
- New GAO, OIG, and DOC Reports on EB-5 Program
- May 2013 Memo—Remaining Open Questions, Recent Policy Developments

Faculty:
Daniel B. Lundy (DL), Philadelphia, PA
Bernard P. Wolfsdorf, Conference Program Chair, AILA Past President, Santa Monica, CA
Denyse Sabagh, AILA Past President, Washington, DC
David Morris, AILA EB-5 Investors Liaison Committee Chair, Washington, DC
Elsie Arias, Los Angeles, CA
Ignacio A. Donoso, Bethesda, MD
Stephen Yale-Loehr, Ithaca, NY
Charles Oppenheim, Chief, Immigrant Visa Control & Reporting, U.S. Department of State, Washington, DC

5:00 pm
Conference Concludes

Conference Program Committee
Bernard P. Wolfsdorf, Conference Program Chair, AILA Past President, Santa Monica, CA
David M. Morris, AILA EB-5 Investors Liaison Committee Chair, Washington, DC
Elsie Arias, Los Angeles, CA
Ignacio Donoso, Bethesda, MD
Daniel Lundy, Philadelphia, PA
Lincoln Stone, Los Angeles, CA
Stephen Yale-Loehr, Ithaca, NY
Emmie R. Smith, AILA Associate Director, Education & Resources, Washington, DC

The Conference Program Committee thanks prior AILA EB-5 Conference Program Committees for building a foundation of excellence in continuing legal education in the EB-5 area. This conference builds on their contributions.