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November 22, 2023

Ur M. Jaddou, Director  
U.S. Citizenship and Immigration Services  
5900 Capital Gateway Dr.  
Camp Springs, MD 20746

**RE: Urgent Request for Clarification of New Policy Guidance for Pre-EB-5 Reform and Integrity Act (“RIA”) Regional Centers Regarding Deadline to File Form I-956G**

Dear Director Jaddou:

On behalf of Invest in the USA (IIUSA), the American Immigration Lawyers Association (AILA), the EB5 Investment Coalition, and the American Immigrant Investor Alliance (AIIA), we the undersigned EB-5 community stakeholder organizations submit this letter requesting urgent clarification of the USCIS Policy Guidance issued on October 11, 2023, specifically relating to pre-RIA Regional Center terminations. The need for clarification is highly time-sensitive given that the Form I-956G filing deadline is **December 29, 2023**, with consequences potentially impacting hundreds of pre-RIA regional centers and tens of thousands of sponsored EB-5 Investors.

By way of background, on October 11, 2023, USCIS issued new [Guidance](#) on numerous aspects of the EB-5 program impacted by enactment of the RIA. In particular, the guidance introduces a novel concept of terminating Regional Centers for “*purely administrative noncompliance*,” a new and undefined term.

**USCIS urgently needs to clarify the conditions for “administrative noncompliance” terminations and the consequence to associated investors who otherwise continue to meet eligibility requirements.**

Specifically, the time sensitive issues requiring clarification are:

1. Will a regional center’s failure to file Form I-956G by the deadline of December 29, 2023 result in termination for “administrative noncompliance” like the failure to pay the Annual Integrity Fee by the payment deadline of December 30?
2. Will investors associated with a regional center terminated for “administrative noncompliance” need their associated new commercial enterprise to re-affiliate with a new regional center if they otherwise continue to meet eligibility requirements?

The Form I-956G and associated reporting under the RIA are not suitable for regional centers no longer operating under the RIA. Yet, these pre-RIA regional centers may be faced with weighing the costs of keeping the regional center designated post-RIA to avoid forcing their investors to re-affiliate with a regional center with which it has had no prior relationship.

We believe that sub paragraph (M) of the INA section 203(b)(5) (as added by the RIA) permits an interpretation allowing investors associated with terminated regional centers who otherwise continue to meet eligibility requirements to benefit from continued adjudication of their immigration benefits without re-affiliating with a new regional center. INA section 203(b)(5)(M)(iii)(II) allows DHS to “permit amendments to the business plan, without such facts underlying the amendment being deemed a material change.” An amendment reflecting the termination for “purely administrative noncompliance” would not be a bar to investors’ continued eligibility; accordingly, we believe there is a statutory basis for investors associated with such regional centers to be relieved from any reaffiliation requirement.

We urge USCIS to adopt this interpretation and clearly publish this position as soon as possible, and certainly before December 29, 2023 when the Form I-956G is due.

Thank you for your prompt attention to this urgent and time-sensitive matter. Although this letter is respectfully submitted by all of the undersigned, should you have any questions, please contact Aaron Grau, Executive Director of IIUSA at [aaron.grau@iiusa.org](mailto:aaron.grau@iiusa.org). Thank you for your time and consideration.

Sincerely,



Aaron Grau  
IIUSA Executive Director





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

December 27, 2023

Aaron Grau  
Executive Director  
IIUSA  
80 M Street SE, Suite 100  
Washington, DC 20003

Dear Mr. Grau:

Thank you for your November 22, 2023 letter regarding the filing of Form I-956G by December 29, 2023 and whether regional centers' noncompliance will result in consequences such as termination.

Your letter cited to regional center 'administrative noncompliance' resulting in termination; to clarify, the phrase "purely administrative noncompliance" is not intended to be a new termination category or term defined by U.S. Citizenship and Immigration Services (USCIS), but rather a plain language description of the potential circumstances of noncompliance on the part of regional centers that are not typically related to petitioner eligibility (illustrated in the context of failure to pay the EB-5 Integrity Fund fee required by the EB-5 Reform and Integrity Act of 2022 (RIA)). The potential impact of noncompliance by regional centers on associated investors will be evaluated on a case-by-case basis. USCIS will not indicate on the USCIS website the reasons for the regional center termination as has been past practice. Termination notices, however, will include the reasons for the regional center termination including, for example, failure to pay the required EB-5 Integrity Fund fee within the specified time period.

For regional centers that fail to file Form I-956G by the required filing date, INA 203(b)(5)(G) requires that each designated regional center shall submit an annual statement, in a manner prescribed by the Secretary of Homeland Security. The Secretary has designated the Form I-956G as the manner to collect this information. Section INA 203(b)(5)(G)(iii) states that USCIS shall sanction designated regional centers who do not file the annual statement. In accordance with this statutory directive, USCIS will sanction regional centers who fail to comply with the requirement to file their Form I-956G, up to and including termination from the Regional Center Program. Form I-956G and its filing requirements were published in the Federal Register on Sept. 2, 2022, 87 FR 54233. Following public notice and comment, Form I-956G was approved by OMB on July 24, 2023, and subsequently published for use by USCIS.

USCIS has also mentioned the filing requirements previously at stakeholder engagements as well as via alerts on our website, including most recently at the Oct. 30, 2023, joint engagement with the CIS Ombudsman and the Nov. 6, 2023, alert on the USCIS website.

Pre-RIA investors may, in certain situations, remain eligible based on indirect jobs, as applicable to their petition before the RIA was enacted notwithstanding termination of their associated regional center. As indicated in recent USCIS guidance, where regional center termination is based on failure to pay the EB-5 Integrity Fund fee, which would typically not otherwise directly affect or implicate the underlying investment or job creation, officers may generally determine, in their discretion and on a case-by-case basis, that a pre-RIA investor associated with a terminated regional center continues to be eligible for classification as an immigrant investor, notwithstanding the regional center termination and without the need to reassociate with another approved regional center or make an investment in another new commercial enterprise. Such determinations will be made in accordance with applicable USCIS policy regarding deference to prior determinations to ensure consistent adjudication. Also, USCIS does not generally consider it a material change that impacts continued eligibility. While regional center termination for failure to pay the required EB-5 Integrity Fund Fee may generally not have an impact on pre-RIA investor eligibility in many, or even most, circumstances, it is certainly possible that an investor may invest with a regional center that both fails to pay the required EB-5 Integrity Fund Fee and also have project-related eligibility concerns, such that petitioner eligibility is affected separate from the regional center's termination for failure to pay the required EB-5 Integrity Fund Fee. If the pre-RIA investor's eligibility is affected, they may need to reassociate with another approved regional center or make an investment in another new commercial enterprise in order to retain eligibility under INA 203(b)(5)(M) since they may not continue to be eligible.

Post-RIA investors, however, are not subject to the same grandfathering provisions of the RIA as pre-RIA investors but are subject to the new requirements added by the RIA, such as the requirement under INA 204(a)(1)(H)(ii) to remain associated with an approved project application under INA 203(b)(5)(F) (Form I-956F). Consequently, post-RIA investors associated with a terminated regional center may retain their eligibility under INA 203(b)(5)(M) if: (1) their new commercial enterprise reassociates with another approved regional center (regardless of the regional center's designated geographic area); or (2) they make a qualifying investment in another new commercial enterprise. In either case, the post-RIA investors should generally continue to be associated with an approved Form I-956F (filed by their new regional center for their existing new commercial enterprise or otherwise associated with the different new commercial enterprise into which they've invested) for purposes of remaining eligible under all applicable requirements.

Your letter and a copy of this response will be published on the USCIS Electronic Reading Room pursuant to the communication protocols in Section 107 of the RIA.

Thank you again for your letter and interest in this important issue, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Alissa Emmel". The signature is written in a cursive style with a large initial 'A' and a long, sweeping underline.

Alissa Emmel  
Chief, Immigrant Investor Program Office