



U.S. Citizenship  
and Immigration  
Services

Date: JAN 24 2014

Benjamin B. Cummings  
Birch Capital, LLC  
11117 Bothwell Street  
Richmond, VA 23233

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

Applicant: Birch Capital, LLC

Re: Initial Regional Center Designation  
Birch Capital Richmond Virginia Regional Center  
RCW1201250570 / ID1201250570

This notice is in reference to the Form I-924, Application for Regional Center Under the Immigrant Investor Pilot Program that was filed by the applicant with the U.S. Citizenship and Immigration Services ("USCIS") on January 12, 2012. The Form I-924 application was filed to request approval of initial regional center designation under the Immigrant Investor Program. The Immigrant Investor Program was established under § 610 of the Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (Pub. L. 102-395, Oct. 6, 1992, 106 Stat. 1874).

**I. Executive Summary of Adjudication**

Effective the date of this notice, USCIS approves the Form I-924 request to designate Birch Capital, LLC under the name of Birch Capital Richmond Virginia Regional Center as a qualifying participant in the Immigrant Investor Program.

**II. Regional Center Designation**

The applicant submitted its Form I-924 requesting designation as a regional center. Upon review of the record, USCIS has determined that eligibility for regional center designation has been established based on a general proposal for economic growth in the following geographic areas and industry categories:

**A. Geographic Area**

State	City
Virginia	City of Richmond

**B. Industry Categories**

NAICS	Industry Name
2362	Non-Residential Building Construction

**III. Job Creation**

A hypothetical project does not have the factual details necessary to be in compliance with the requirements described in Matter of Ho, 22 I&N Dec. 206 (Assoc. Comm'r 1998). As such, USCIS's approval of any hypothetical job creation estimates presented in a Form I-924 is not accorded deference and may not be relied upon by an individual investor when filing the Form I-526. The business plan and job creation estimates will receive a de novo review by USCIS when the applicant files a Form I-924 amendment with an I-526 exemplar or an individual investor files Form I-526. Once an actual project is adjudicated upon the filing of an I-526 exemplar or the initial Form I-526, USCIS will give deference to subsequent Forms I-526 when the critical assumptions remain materially unchanged from the initially-approved Form I-526. In addition, organizational and transactional documents associated with the new commercial enterprise (NCE) submitted with this Form I-924 have not been reviewed to determine compliance with program requirements.

When filing Form I-526, it will be the responsibility of the individual investor to submit a comprehensive, detailed and credible business plan, showing by a preponderance of the evidence that his or her investment in the new commercial enterprise will create not fewer than 10 full-time positions.

**IV. Guidelines for Filing Form I-526 Petitions**

Each individual petition, in order to demonstrate that it is affiliated with Birch Capital Richmond Virginia Regional Center, in conjunction with addressing all the requirements for an individual immigrant investor petition, shall also contain the following:

1. A copy of this regional center approval notice and designation letter including all subsequent amendment approval letters (if applicable).
2. An economic impact analysis which reflects a job creation methodology required at 8 CFR § 204.6 (j)(4)(iii) and shows how the capital investment by an individual immigrant investor will create not fewer than ten (10) indirect jobs for each immigrant investor.

3. A comprehensive, detailed and credible business plan for an actual project that contains the factual details necessary to be in compliance with the requirements described in Matter of Ho, 22 I&N Dec. 206 (Assoc. Comm'r 1998).
4. Legally executed organizational documents of the commercial enterprise.

**V. Designee's Responsibilities in the Operations of the Regional Center**

As provided in 8 CFR § 204.6 (m)(6), to ensure that the regional center continues to meet the requirements of section 610(a) of the Appropriations Act, a regional center must provide USCIS with updated information to demonstrate the regional center is continuing to promote economic growth, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area. Such information must be submitted to USCIS on an annual basis or as otherwise requested by USCIS. The applicant must monitor all investment activities under the sponsorship of the regional center and to maintain records in order to provide the information required on the Form I-924A Supplement to Form I-924. Form I-924A, Supplement to Form I-924 Application is available in the "Forms" section on the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Regional centers that remain designated for participation in the Immigrant Investor Program as of September 30<sup>th</sup> of a calendar year are required to file Form I-924A Supplement in that year. The Form I-924A Supplement with the required supporting documentation must be filed on or before December 29<sup>th</sup> of the same calendar year.

The failure to timely file a Form I-924A Supplement for each fiscal year in which the regional center has been designated for participation in the Immigrant Investor Program will result in the issuance of an intent to terminate the participation of the regional center in the Immigrant Investor Program, which may ultimately result in the termination of the designation of the regional center.

The regional center designation is non-transferable, as any changes in management of the regional center will require the approval of an amendment to the approved regional center designation.

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](mailto:USCIS.ImmigrantInvestorProgram@uscis.dhs.gov).

**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 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 associated New Commercial Enterprises with such laws.

Each Regional Center designated by USCIS must monitor and oversee all investment offerings and activities associated with, through or under the sponsorship of the Regional Center. The failure of an associated New Commercial Enterprise 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.

Sincerely,



Nicholas Colucci  
Chief, Immigrant Investor Program

cc: Sheila deLa Cruz, Esq.