



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

December 8, 2014

Kevin Hanson
International Creative Capital LLC
1907 Wayzata Boulevard, Suite 140
Wayzata, MN 55391

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

Applicant(s): International Creative Capital LLC

Re: Initial Regional Center Designation
International Creative Capital LLC
RCW1402251658 / ID1402251658

This notice of a limited decision 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 22, 2014. 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. Regional Center Designation – Limited Decision¹

The applicant submitted its Form I-924 requesting specific industry categories and geographic regions to be identified for the Regional Center's use.

¹ USCIS issued a Policy Memorandum (PM-602-0083) on the subject of "EB-5 Adjudication Policy," dated May 30, 2013, stating that formal amendments to the regional center designation are no longer required when a regional center changes its industries of focus or geographic boundaries. A regional center may still elect to pursue a formal amendment by filing Form I-924 if it seeks certainty in advance that changes in the industries or the geographic area will be permissible prior to filing Form I-526 petitions.

Upon review of the record, USCIS has determined that not all of the requested industry categories provided in the Form I-924 represent an appropriate application of a hypothetical project(s) to support the industry categories, and/or geographic regions acceptable for use by the Regional Center.

As such, USCIS has concluded that a limited decision is necessary in this case. Therefore, all requested and approved industry categories have been identified below followed by a decision to disallow any remaining industry categories, geographic region, and/or actual projects that do not meet EB-5 requirements.

A. Approved Industry Categories, Geographic Areas, and/or Actual (*Matter of Ho* Compliant) Projects

The Regional Center is approved for the following industry categories, geographic areas, and/or actual projects for use by the Regional Center.

1. Geographic Areas - Approved

USCIS approves the applicant's request to focus, promote economic growth, and offer capital investment opportunities in all of the geographic areas requested in the I-924 and shown below:

State	Counties/Cities
Minnesota	All counties

2. Industry Categories - Approved

The applicant is requesting 14 industrial categories. However, the record is only sufficient to support the approval of only a selected number of the requested industry categories provided in the Form I-924. The remaining disallowed industry categories are listed and discussed later in this decision. The following are those industrial categories that have been approved for use by the Regional Center:

Industry Category	NAICS code
Construction	23
Wholesale Trade	42
Retail Trade	44
Information	51
Professional, Scientific & Technical Services	54
Arts, Entertainment & Recreation	71
Traveler Accommodation & Food Services	72

II. Job Creation

USCIS approves the geographic area and industry categories noted above based on the economic impact analysis presented.

III. According Deference to Subsequent Filings Based on Approved Projects

A. Actual Projects supported by an Exemplar Form I-526

When an actual (*Matter of Ho* compliant), exemplar Form I-526 project is specifically named in this notice and the critical inputs remain materially unchanged, USCIS will give deference to the job creation methodology when adjudicating Forms I-526 associated with the named project. The same business plan and the same reasonable job creation methodology and projected inputs must be submitted when the individual investor's Form I-526 is filed in order to receive deference.

It is the responsibility of the individual investor to demonstrate that the assumptions and estimates presented as inputs to the job creation methodology remain materially unchanged when he or she files a Form I-526. When filing Form I-829 for removal of conditional status, the individual investor has the burden of demonstrating that the assumptions and estimates presented as inputs to the job creation methodology have not materially changed and have been realized (or can be expected to be realized within a reasonable time).

If the job creation estimated in the business plan materially changes or will not be realized, then it will be the responsibility of the EB-5 investor to notify USCIS of an agreed upon methodology to allocate job creation among eligible investors.

B. Hypothetical Projects

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 estimate 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 an individual investor files Form I-526. Once an actual project is adjudicated upon the filing of 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.

When filing Form I-526, it is 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. If prior to filing a form I-829, the job creation estimated in the business plan submitted by the individual investor materially changes or will not be

realized, then it will be the responsibility of the EB-5 investor to notify USCIS of an agreed upon methodology to allocate job creation among eligible investors.

IV. Decision to Disallow Certain Requested Industry Categories

The purpose of this decision is to identify those requested industry categories that have been disallowed and to discuss the reasons for being disallowed.

1. Industry Categories - Disallowed

On page 3 of the letter from the applicant's attorney, it states: "We have marked with an asterisk the industries associated with the initial project for which a separate business plan and economic analysis are provided." The hypothetical project submitted with the application does not provide any evidence to support the request for the following disallowed industries:

<u>Industry Category</u>	<u>NAICS code</u>
Agriculture, Forestry, Fishing & Hunting	11
Mining, Quarrying, and Oil & Gas Extraction	21
Printing & Related Support Services	323
Computer & Electronic Product Manufacturing	334
Finance & Insurance	52
Real Estate, Rental & Leasing	53
Health Care & Social Assistance	62

2. Conclusion - Decision to Disallow

Some aspects of the submitted proposal, as presently constituted, do not meet the regulatory requirements at 8 C.F.R. § 204.6. Therefore the request to grant the specific industry categories listed above cannot be approved.

The decision to disallow the industry categories identified above does not preclude the filing of Form I-526 petitions related to a subsequent project using the disallowed industry categories, geographic areas, and/or actual project(s). Any future petitions will be adjudicated on their own merit.

There is no appeal to this decision to disallow the specified industry categories and/or geographic scope explained above. However, pursuant to 8 CFR 103.5, a motion can be filed on Form I-290B. Such motion must be accompanied by the proper fee and filed within 30 days of this notice.

Please note that if the I-924 applicant elects to timely file a motion with USCIS and if said motion is granted the application will be reopened and/or reconsidered and a new decision rendered. If the applicant's proposal submitted in support of its motion meets the regulatory requirements at 8 C.F.R. § 204.6 the industry categories that meet EB-5 requirements will be included in a corrected approval notice. However, those industry

categories that do not meet EB-5 requirements will, again, be disallowed. If no motion is filed within the time allowed this decision is final.

V. Guidelines for Filing Form I-526 Petitions

Each individual petition, in order to demonstrate that it is affiliated with the International Creative Capital LLC 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 and transactional documents of the commercial enterprise.

Note: The project reviewed with this Form I-924 application is a hypothetical project. 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 since these documents will receive de novo review in subsequent filings (e.g., an amended Form I-924 application with a Form I-526 exemplar or the first Form I-526 petition filed by an investor under the regional center project).

VI. 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.

Regional centers that remain designated for participation in the Immigrant Investor Program as of September 30th 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 29th 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.

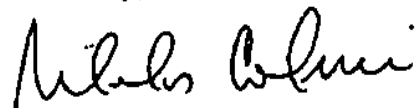
VII. Legal Notice

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.

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

International Creative Capital LLC

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