



U.S. Citizenship  
and Immigration  
Services

Date: October 16, 2013

Nicholas A. Mastroianni II  
U.S. Immigration Fund – FL, LLC  
1295 U.S. Highway 1, Ste. 300  
North Palm Beach, FL 33408

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

Applicant(s): Nicholas A. Mastroianni II

Re: Initial Regional Center Designation  
U.S. Immigration Fund-FL, LLC  
RCW1236250924 / ID1236250924

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 December 26, 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 U.S. Immigration Fund-FL, LLC, as a qualifying participant in the Immigrant Investor Program.

**II. Regional Center Designation**

USCIS approves the applicant's request to focus, promote economic growth, and offer capital investment opportunities in the following geographic area and industry categories:

**A. Geographic Area**

| State   | Counties/Cities        |
|---------|------------------------|
| Florida | County of Indian River |
|         | County of St. Lucie    |
|         | County of Martin       |
|         | County of Palm Beach   |

Note: Pursuant to the Policy Memorandum on EB-5 Adjudications Policy (PM-602-0083), an amendment request is not required if investment opportunities arise outside the geographic area referenced above. USCIS will evaluate eligibility upon the filing of an initial Form I-526 related to that new investment opportunity.

**B. Industry Categories**

| Industry   | NAICS code |
|--|------------|
| Commercial and Institutional Real Estate Construction    | 2362       |
| Residential Real Estate Construction                     | 2361       |
| Real Estate Property Managers                            | 53131      |
| Lessors or Real Estate                                   | 53111      |
| Retail Trade   | 44/45      |
| Legal Services   | 5411       |
| Accounting   | 5412       |
| Architectural, Engineering & Related Services            | 5413       |
| Computer Systems Design Services                         | 541512     |
| Management, Scientific, and Technical Consulting Svcs    | 5416       |
| Scientific Research and Development                      | 5417       |
| Advertising, Public Relations, and Related Services      | 5418       |
| Hotels and Motels (Including Resort Hotels with Casinos) | 7211       |
| Food Services and Drinking Places                        | 722        |

Note: Pursuant to the Policy Memorandum on EB-5 Adjudications Policy (PM-602-0083), an amendment request is not required if investment opportunities arise

outside the industry categories referenced above. USCIS will evaluate eligibility upon the filing of an initial Form I-526 related to that new investment opportunity.

### **III. Job Creation**

USCIS approves the geographic area and industry categories noted above based on the economic impact analysis presented and reviewed in conjunction with the adjudication of this regional center proposal.

This 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), and therefore, USCIS's approval of the hypothetical job creation estimates presented in the Form I-924 will not be accorded deference and may not be relied upon by an individual investor when filing the Form I-526. As no exemplar Form I-526 was submitted with the Form I-924 application, USCIS will not review the commercial enterprise's organizational documents for program compliance and will not give deference to any organizational documents in subsequent adjudications<sup>1</sup>. 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 an amended Form I-924 application 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.

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

Each individual petition, in order to demonstrate that it is affiliated with the U.S. Immigration Fund-FL, LLC, in conjunction with addressing all the requirements for an individual immigrant investor petition, shall also contain the following:

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<sup>1</sup> Please note that, after a cursory review of the organizational documents in the record, it appears that the draft offering memorandum contains a holdback account provision that may not be compliant with program eligibility requirements.

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.

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).

#### **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.

U.S. Immigration Fund-FL, LLC  
ID 1236250924  
RCW 12 362 50924  
Page 5

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.

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).

Sincerely,



Daniel M. Renaud  
Acting Chief, Immigrant Investor Program

cc:

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