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NEWSLETTER | NOVEMBER 2010

new this month...

- **EB-5 Projects Make Headlines:** Get details on projects in Illinois, Colorado, and Washington D.C. (pages 1-5)
- **UPDATE! New USAdvisors.org China Filming Dates** (page 7)
- **Miller Mayer Attorney Carolyn S. Lee Defends EB-5 Against Detractors** (page 13)

EB-5 Survey:

A monthly question for the EB-5 community

Why will the EB-5 program be (or not be) extended beyond its current 2012 expiration date?

[Click to Respond >>](#)

McHenry County, Illinois EB-5 Regional Center to Create Jobs for the Community

by [Michael Gibson](#), USAdvisors.org

Taher Kameli is the principal broker for a Lakewood, Illinois EB-5 project involving construction of a new sports complex. He is [an Iranian-born Chicago attorney](#) who has partnered with a Naperville dentist and a small group of other board members to launch [the two regional centers now operating in Illinois](#).

Local supporters of the Lakewood sports complex [laud the idea of new immigrants creating a recreational paradise](#) with arcades, shops, and restaurants that developers say would create 400 new jobs.



Taher Kameli

“In this economy, the opportunity to bring in a (multimillion-dollar) commercial project into the village of Lakewood without investing high taxpayer dollars? That’s pretty unique,” said Erin Smith, Village President of Lakewood.

“The investor wants to come to the United States for a better future for their children and grandchildren,” said Kameli, who secures most of his foreign investors through an office in

Dubai. “The local governments are happy because you’re bringing all that sales tax and property tax revenue to them. The U.S. government is happy because you’re creating jobs.”

Kameli has been a strong advocate for federal scrutiny for EB-5 Visa Regional Centers. While much of the local opposition has deemed the project not viable, Kameli is certain that his region needs these jobs to stimulate the economy. He has plans for other developments in the region for which he has been soliciting tens of millions of dollars during numerous trips to Dubai, United Arab Emirates.

One plan is to build a string of “memory care” centers for Alzheimer’s patients in Aurora, Elgin and Wood Dale, Illinois. Other ideas include a manufacturing plant in Rockford, a water park in Wisconsin, and coffee shops and restaurants throughout the region, he said.

He has eased investors’ concerns by structuring the EB-5 visa financing so the money would serve as a loan, with the farmland and whatever is built on it serving as collateral.

The EB-5 visa permits foreign nationals who invest at least \$1 million into a US start-up or existing business and create 10 jobs or who invest \$500,000 in capital investment and create five jobs in economically disadvantaged areas to obtain permanent resident status commonly known as a green card. It is seen as a way to create jobs and raise revenue in the US. Many cities and states are looking to the EB-5 visa program to attract investment.



Colorado Intercontinental Regional Center, LLC to Use EB-5 Investments for Historic Restoration, Biofuels

by [Adam Green](#), USAAdvisors.org



Downtown Leadville, Colorado

Regional center operators are bringing the EB-5 visa program to a town once home to one of America's highly-canonized folk heroes.

Leadville, Colorado, in addition to having the highest altitude of any incorporated U.S. city, was also where famed gambler and gunslinger Doc Holliday took up residence after his participation in the O.K. Corral. Now this former mining boomtown may be getting a makeover, and immigrant investor dollars may help foot the bill.

According to Jeff Edwards of the [Colorado Intercontinental Regional Center \("CIRC"\)](#), which is handling the Leadville project, "our vision is to take historic buildings in downtown Leadville dating back to the late 1800s" and spend EB-5 money "renovating them and bringing them back to life for real estate and technology-driven businesses." If all goes according to plan, those businesses will use the historic commercial property as office space.

Though the mining industry left Leadville long ago, remnants of its heyday still line city streets. An EB-5-fueled revitalization of downtown Leadville may provide an economic boost--as well as aesthetic improvements--to a town not far from many tourism-driven skiing destinations such as Vail, Beaver Creek, Cooper Mountain, Breckenridge, and others.

A Change of Plans

In 2008, Edwards learned his colleague Steve Smith had purchased about 700 acres of land in Leadville and had plans to build a community of 1000 homes. The goal was to create affordable housing for people who worked in the nearby resort communities, but could not afford to live there.

In order to "create potential for EB-5," Edwards explains, they decided to capitalize on a problem in the area, the Beetle Kill Plague, which has wrought havoc upon local forestland and made it necessary to clear many nearby sites. The investor visa program would fund a "labor-intensive" tree harvesting and construction apparatus using downed timber for

home construction. The name of the "program" would be Timber to Homes, and it would create the new "Village of AltaColorado."

But that project, which was the basis for CIRC's December 2009 regional center designation, was developed prior to the collapse in the housing market. In 2010, Leadville and the surrounding area's economy "will not support a growing population," Edwards acknowledges. Even so, he and Smith still believe commercial real estate is viable, and both are "in the process" of setting up the downtown Leadville renovation project. With an increase in local employment driven by new businesses occupying the renovated office space coupled with the nearby anticipated reopening of one of the largest molybdenum mines in North America, Edwards and Smith are confident that the need for local housing will increase, bringing the Village of AltaColorado closer to realization.

"We've had discussions with multiple marketing entities with a presence in China," Edwards says, "and they are anxious to market our projects in China."

If all goes according to plan, Chinese and other international investors will soon be hearing about the small town of Leadville, its historic properties, and the commercial restoration initiative.

Timber to Fuel?

Just as the regional center has re-defined its real estate efforts with shifts in economic realities, Edwards and Smith have had to alter the focus of their Timber to Homes project. As construction of new homes may no longer be a workable use of the EB-5 visa program, the regional center sees an opening in the market for ethanol, which the federal government has mandated must compose a larger percentage of the nation's fuel supply each year.

Instead of using downed timber for home construction, Edwards explains, it will be used to produce cellulosic biofuel. Trees cut down in the mountains of Colorado will be transported by truck or rail to cellulosic ethanol plants to be constructed either in Colorado or elsewhere in the US. One such plant, partially funded by the US Department of Energy and provided with loan guarantees by the Department of Agriculture, is located in Soperton, Georgia, and CIRC is already in discussion with that facility on potential feedstock collaboration. At these plants, cellulosic biomass will be converted into ethanol, which in turn can be added to the nation's fuel supply and help satisfy federal ethanol requirements.

According to Edwards, "There isn't a single US plant operating today that's producing [cellulosic biofuel] on a commercial scale," and the nation has not even approached the number of gallons the government has mandated be part of the fuel supply by 2011. He

feels the current lack of supply versus federal government requirements will ensure ongoing demand for biofuels.

Of course, everything from the logging itself to the biofuel processing element will be part of what Edwards terms a "labor intensive" EB-5 investment project that should satisfy USCIS job creation requirements.

"We're hoping to have a project in front of investors by first quarter 2011," he says.



EB-5 Capital Provides Press Release on Marriott Hotel Project

Thanks to [Angel Brunner](#) for forwarding us EB-5 Capital's latest press release:

Ground Breaking for Marriott Marquis Convention Center Hotel, Long-time DC Dreams Become Reality, Significant Economic Impact

November 23, 2010, Washington, D.C. – Earlier this month the Marriott Marquis Hotel broke ground after years of planning. EB5 Capital is pleased to partner with the City and Marriott in this exciting project which includes two additional Marriott hotels, a Courtyard and a Residence Inn as part of Phase II.

With projected completion of all three in Spring 2014, the \$520 million, 14-story Marriott Marquis will complement the city's Convention Center that opened in 2003. The Marquis will bring over 1200 direct jobs to the City. It will be the largest hotel in Washington with 1,175-rooms, 100,000 s.f. of function space and 53,000 s.f. of meeting space and will enable the city to compete and capture revenue previously lost to Prince George's County's 2,000-room Gaylord hotel. The Courtyard and the Residence Inn locations will bring an additional 500 rooms to the Marriott Convention Center complex.



Marriott Groundbreaking Ceremony

Hometown hotel giant, Marriott, will manage the four-star hotel, which upon completion, will be the third Marriott Marquis property in the world and the first Marquis development in over 25 years.

“Not only is EB5 Capital bringing much needed capital to projects throughout the District, it is putting its resources to work in projects that will deliver real job opportunities for our residents,” said Neil O. Albert, City Administrator of the District of Columbia. “EB5 Capital’s investment in this project is an incredible endorsement of strength of our hospitality industry.”

The Marriott complex gives the city the unparalleled ability to strengthen its convention and tourism industry, which is just second to the federal government,” adds Ms. Brunner, Managing Director for EB5 Capital. “This project, along with the DC regional center’s Roadside Development’s project, the City Market at O Street, is another success story of EB5 creating partnerships with international clients who are making a substantial contribution to the United States economy.”

For more information about the Marriott Marquis, Capstone Development, City Market at O, or EB5 investment opportunities, please contact Angel Brunner: angel@eb5capital.com, or visit www.eb5capital.com for additional information.



UPDATE: New Cities and Dates added to USAdvisors.org China TV Filming Schedule



USAdvisors.org has added dates and locations to [its EB-5 filming schedule](#). In addition to the locations listed in last month's newsletter, regional centers, attorneys, and other EB-5 practitioners can participate in the filming sessions listed below.

For those unaware of the USAdvisors.org China TV initiative, see the [article in last month's newsletter \(page 3\)](#). As part of its partnership with the China Stock TV network, USAdvisors.org will film interviews with EB-5 practitioners to be broadcast on one of China's largest business and financial news networks. China Stock TV is part of the FuDong Cultural Dissemination Company, and boasts an audience of over 100 million.

Here are the dates:



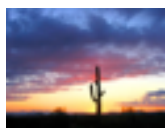
Orlando, December 13-17, 8701 World Center Drive, Marriott World Orlando



Houston, January 18-19, 5150 Westheimer, Houston, Texas 77056, JW Marriott Houston



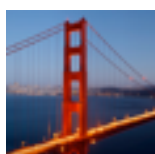
Austin, January 21, 4537 South IH-3555



Phoenix, January 25-27, 1101 North 44th Street



Los Angeles, January 31-February 4, 333 South Figueroa Street, Downtown Marriott



San Francisco, February 7-11, 55 Fourth Street, San Francisco Marriott Marquis



Las Vegas, February 15-18, 325 Convention Center Drive



Provo, February 22, 770 E University Pkwy



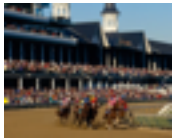
Denver, March 1-4, 1701 California Street



Kansas City, MO, March 7-8, Location TBD



St. Louis, March 10-11, 10700 Pear Tree Drive



Louisville, March 14-15, 280 West Jefferson



Nashville, March 17-18, 555 Church Street



Atlanta, March 21-25, 3300 Lenox Road, JW Marriott Buckhead



Washington D.C., March 28-31, 1331 Pennsylvania Avenue Northwest

For more information or to be a part of the filming, contact Michael Gibson at 239-465-4160 or email michael@usadvisors.org.

U.S. Government Answers EB-5 Questions in Chinese Newspaper



USCIS is communicating directly with investors via Chinese media.

According to [a recent entry](#) on *The Beacon*, the official blog of USCIS, an October article in the Chinese-language *Epoch Times* [provides an overview](#) of the EB-5 visa program that addresses specific questions about investor-regional center logistics. Information for the article was submitted directly by USCIS as part of "an ongoing series addressing general immigration questions posed by [*Epoch Times*] readers."

Most of what USCIS shares is basic. Immigrant investor questions like "What is the most common way to obtain an EB-5 visa?" and "How long does it take for me to immigrate after applying for an EB-5 visa?" crop up in the article. Although the target audience appears to be Chinese investors who have heard about EB-5 and are still in a very early investigation phase, other questions address possible concerns of more serious would-be investors.

"I want to invest \$500,000.00 in an area, but there is no regional center there. How long does it take for a regional center to be established in mid-America?" is one question USCIS answers for the *Epoch Times*, and its response details establishment of a regional center, approval of a business plan, and the use of said business plan in determining "market conditions, project costs, and activity timelines."

Definitions for Forms I-526, I-829, and the new I-924 are also provided.



EB-5 Practitioners Take Note: Chinese IPO Market Growth



According to an [update earlier this year](#) from *China Private Equity*, a blog that follows Chinese companies on a path toward IPO and private equity investment, "the world's busiest and largest IPO market" from January through June of 2010 was the Shenzhen Stock Exchange. This is a stock exchange that two years ago was nowhere close to one of the largest in the world or, for that matter, in all of Asia. All told, 161 firms were able to raise \$22.6 billion in IPO's during the first half of 2010.

That means Shenzhen was home to more IPO activity than the Shanghai Stock Exchange, Nasdaq, and NYSE during the same period. Of particular interest is the fact that all activity on this stock exchange is performed by domestic Chinese companies and domestic Chinese investors. Only the Chinese have access to Shenzhen's IPO deals.

By comparison, the Shanghai Stock Exchange ranked fourth for the largest IPO market during the same time frame with 11 firms raising \$8.2 billion.

It's likely that the sudden surge in IPO's was due to the October 2009 debut of the 创业板, or Chinext, subsidiary board, which helps smaller companies access capital markets. Chinext makes it possible for Chinese companies without any kind of state ownership to provide public offerings.

As of July 2010, there are 57 companies with IPO's on Chinext, the total market value of which makes up about 5.5% of the Shenzhen Stock Exchange.

The total number of domestic IPO's on the Shanghai Stock Exchange will likely eclipse Shenzhen by the end of 2010, but the shift in growth is still worth mentioning. As *China Private Equity* author Peter Fuhrman, who is also Chairman and CEO at China First Capital, notes, "the locus of the world's IPO activity is shifting to China."

EB-5 visa practitioners would be well served to stay aware of domestic capital investment activity in China and consider how the impact of such investment--not to mention the general increase in Chinese domestic wealth--will impact their efforts to secure immigrant investor dollars for projects in the U.S.

Commentators Heap Praise On Startup Visa Act

Two national publications put the spotlight on [the Startup Visa Act](#) this month, and both portrayed the bill in a positive light.

[According to Forbes.com contributor Marueen Ferrell](#), "Large and small businesses are lining up behind an immigration policy that would make it easier for entrepreneurs and high-tech professionals to come or stay in the United States."



And to provide an example of said immigration policy, Ferrell sets her sights on the Senate bill sponsored by Senators John Kerry (D-MA) and Richard Lugar (R-IN), which would provide renewable US visas to any foreign national entrepreneur coming to the US with at least \$100,000 in venture capital backing from a US investor. To qualify for the Startup Visa, the entrepreneur would also have to possess at least \$250,000 in equity investment.

To underscore just how strongly Corporate America supports such a bill, Ferrell quotes Ernst and Young CEO Jim Turley, who is also serving on President Obama's National Export Council: "Whenever there's a student from anywhere in the world who is walking across the stage from a leading university getting his or her PhD or masters we should staple a visa there to him or her and say you're welcome to stay."

[Writing for Slate magazine, Jill Priluck says](#) the Startup Visa Act "can't come soon enough." Priluck also notes how "British Prime Minister David Cameron just established a new 'entrepreneur visa' for foreign founders with investment commitments from leading investors" in spite of "a pending immigration cap" in the United Kingdom. Such a move indicates that other Western nations are already capitalizing on the prospect of luring innovation from overseas by putting entrepreneurs on a fast track to citizenship.

Both publications also note how the EB-5 visa, in particular, is currently underutilized due to the greater risk involved in obtaining one. Participants must invest in a U.S. business and place their faith in projects that may or may not create 10 jobs and allow them to obtain permanent residency. In the process of obtaining the visa, the investor takes on a good deal of risk.

While the H1B, E-1, and E-2 visas are options for some skilled workers who want to reside in the United States, Priluck explains, these visas are only temporary. Quoting [Stephen Yale-Loehr of Miller Mayer](#), "We don't have a true startup visa on the green-card side of the immigration equation."

As the current lame duck Congress is unlikely to pick up on the Startup Visa Act or other immigration legislation not passed this year, it will probably be some time before a new entrepreneur visa becomes a reality.



Canada Breathes New Life into its Investment Immigration Program with More Stringent Criteria



A November [press release](#) from Citizenship and Immigration Canada (CIC) indicates that the nation will re-open its immigrant investor program, which stopped receiving applications on June 26. According to the release, the program will once again accept applications on December 1, but immigrant investor applicants must meet new criteria if their applications are to be considered by CIC.

In the past, applicants to Canada's program needed to have a personal net worth of \$800,000, but that figure is now higher. Prospective immigrant investors must have a net worth of \$1.6 million to qualify for the program, and each must make an investment of \$800,000 in a Canadian business. Before CIC's most recent changes, the minimum investment threshold was \$400,000.

According to the release, "Canada's old immigrant investor criteria were the lowest when compared to other countries with similar programs. The new criteria now align it more closely with other immigrant-receiving countries."

The closest one comes to an investor visa program similar to Canada's is the US EB-5 visa program, which requires a minimum \$500,000 investment in a US business. While the US program has never hit the maximum number of investor green cards it's permitted to issue in a given year, the Canadian program had to take a hiatus last summer when "the volume of applications submitted under the Program had grown exponentially and processing times had increased," according to the government release.

As the new criteria set forth by the Canadian government clearly reduce the number of prospective applicants to its foreign investment program, application volume will likely diminish as well. Whether doing so will actually increase the number of individuals applying

for the EB-5 investor green card, however, remains to be seen. The EB-5 visa program attracts investors who may or may not also have an interest in moving to Canada. Sometimes the desire to reside in one place over another supersedes dollar figures, especially for those individuals with the means to participate in either program.

"These changes were necessary," said Jason Kinney, Canada's Minister of Citizenship, Immigration and Multiculturalism. "The requirements had not been increased in more than a decade and we need to keep pace with the changing economy."

Applications from earlier this year that still have not been processed will continue being considered alongside new ones subject to Canada's most recent criteria.



In Defense of the EB-5 Program

by [Carolyn S. Lee](#), Attorney at Miller Mayer, LLC



Carolyn S. Lee

When there is misinformation in the public about the EB-5 program, attorneys in the trenches of this area have a duty to set the record straight. To permit otherwise leaves our clients – investors and regional centers – having to defend themselves against individuals and organizations maligning the EB-5 program for other ends.

I have an individual in mind. The Internet has given this person a wide-reaching forum to vent his ire against a large urban development project. His medium is his blog. As with many projects of this scale, this one involves a partnership of private and public funds. EB-5 capital is a component. In a down economy hostile to immigration, the EB-5 program has become an easy target for this individual, who is dedicated to the downfall of the overall project and who has latched onto the EB-5 part of the project for his latest criticism.

Valid criticism is helpful. Attorneys in the EB-5 bar have offered passionate well-reasoned critiques of USCIS's administration of the EB-5 program. The goal has been to inform USCIS of the harmful effects of some of its interpretations, unfounded in the law. So the

larger goal of what I'd call "valid criticism" is to improve the EB-5 program by bringing clarity and predictability, consistent with the law and regulations.

In contrast, the individual I have in mind criticizes the general EB-5 program as a way to deter a particular project. Not surprisingly, many things he has said about the program are false. These false and ill-informed statements, however, have real impact. They taint the public's perception of the EB-5 program, which the federal government reported as bringing an estimated \$1 billion into the U.S. economy back in 2005 (see the 2005 GAO Report at <http://www.gao.gov/new.items/d05256.pdf>).

They paint USCIS as lax guardians of immigration, when more astute observers have criticized the Service for its undue and arguably unlawful restrictions of the EB-5 program. They undermine investors' confidence in the program, deterring capital and job creation in rural and high unemployment areas. Finally, they smear the reputations of conscientious regional center operators who work hard do everything right with one hand tied behind their back, partially blindfolded on treacherous terrain.

The regional center unfairly smeared in this instance is the New York City Regional Center, a client my firm has worked with closely for the past three years to obtain initial designation and subsequent amendments.

Here are just some things the blogger has gotten wrong:

1. "Not only does it look like the United States is selling visas, but the terms are easier than in other countries."

Wrong. For example, the federal Canadian investor program has three basic requirements: (1) business experience, (2) minimum net worth of CN\$800,000 (US\$560,000), and (3) investment of CN\$400,000 (US\$281,000). There is no requirement that any jobs be created. The Canadian government holds the money for five years, after which it is returned to the investor without interest. The low threshold is responsible for the vast oversubscription of the Canadian investor program, resulting in a current three-year backlog.

2. "The EB-5 controversy."

Wrong again. In a Congress notable for partisan bickering, the EB-5 program is among the few that both Republicans and Democrats endorse. Senator Patrick Leahy (D-VT), Senator Jeff Sessions (R-AL), Representative Zoe Lofgren (D-CA) and Representative Steve King (R-IA) are all on record as EB-5 supporters. No one in Congress has criticized the EB-5 program.

3. He quotes with disapproval an unnamed person related to the project who purportedly said or wrote the following:

"[T]he costs of using investment funds are relatively lower than the costs of bank loans. ... [W]e are in pursuit of profit maximization." The blogger adds a condemning gloss: "That may impress potential investors, but sure seems to contradict the spirit—and perhaps the letter—of the EB-5 program."

Wrong again. The law requires the EB-5 new commercial enterprise to seek a profit. Nonprofits are barred as proper recipients of EB-5 money in the regulatory definition of "commercial enterprise." So both the spirit and the letter of the EB-5 program embrace the profit-making drive and in fact require it.

4. "That's why the USCIS and the rest of the press should give this 'project' serious scrutiny."

He apparently doesn't know that USCIS did give this project serious scrutiny. The USCIS approved the project in an amendment filed by the regional center in question – a filing called an "exemplar" I-526 petition for pre-approval of a project. Or perhaps the blogger thinks that The Wall Street Journal is not serious enough press? The Journal recently covered the development project in an article dated May 10, 2010, including the EB-5 component.

Everyone involved in the EB-5 program – regional center operators, investors, attorneys, advisors, and the USCIS– have much at stake in the proper administration of this program. When there are inaccuracies about the program, or the program as applied to certain projects, it harms everyone doing their best to contribute to a clean system. It's one thing if we have disagreements about what the program should look like. It's another thing when someone tries to tear down the program to further another agenda. Let's at least agree to resist the latter.

Carolyn S. Lee (csl@millermayer.com) is a partner at Miller Mayer, LLP in Ithaca, NY. She graduated cum laude from Williams College and received her J.D. from Cornell Law School. She is a member of the American Immigration Lawyers Association (AILA) EB-5 Committee and the AILA EB-5 Investor Conference Committee. Carolyn is the 2008 recipient of AILA's Joseph Minsky Young Lawyer Award and is also listed in the International Who's Who of Corporate Immigration Lawyers.



Are you an EB-5 practitioner who would like to contribute an article?
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