



U.S. Citizenship  
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Mr. Boyd Campbell  
General Counsel  
Alabama Center for Foreign Investment, L.L.C.  
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Re: Alabama Center for Foreign Investment Regional Center

**DECISION:**

Pursuant to Section 610 of the Appropriations Act of 1993, the Alabama Center for Foreign Investment (ACFI) application for designation by U.S. Citizenship and Immigration Services (USCIS) as a Regional Center to participate in the Immigrant Investor Pilot Program is approved. This approval and designation is for the ACFI Regional Center (ACFI-RC) whose contiguous geographic area encompasses the State of Alabama.

**FOCUS OF INVESTMENT ACTIVITY AND CAPITAL INVESTMENT THRESHOLD:**

The new commercial enterprise investment focus of the ACFI-RC will concentrate within its geographic area on the following five (5) targeted clusters of economic activity:

1. Heavy and light manufacturing; agriculture;
2. High technology; construction;
3. Hospitality, resort and service industries (hotels, restaurants, resorts, golf courses, entertainment, and the like);
4. Schools, health care facilities, and infrastructure; and
5. Cruise line support services.

As such, aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file individual petitions with USCIS for investments into the financing and development of projects and commercial enterprises in the above cited five (5) target clusters of economic activity within the approved ACFI-RC's geographic area.

The statewide geographic focus of the ACFI-RC is comprised of both small urban and rural areas, as well as those census tracts within the following larger urban and metropolitan areas with a population in excess of 20,000 which have been designated as a Targeted Employment Area (TEA) by the Alabama Department of Economic and Community Affairs as defined in 8 CFR 204.6(e).

- Birmingham (Population: 231,483)
- Montgomery (Population: 200,127)
- Mobile (Population: 191,544)
- Huntsville (Population: 166,313)
- Tuscaloosa (Population: 81,358)
- Hoover (Population: 67,469)
- Dothan (Population: 62,713)
- Decatur (Population: 54,909)
- Auburn (Population: 49,928)
- Gadsden (Population: 37,405)
- Florence (Population: 36,480)
- Madison (Population: 35,893)
- Vestavia Hills (Population: 31,022)
- Prattville (Population: 30,043)
- Phenix City (Population: 29,460)
- Bessemer (Population: 28,641)
- Prichard (Population: 27,963)
- Alabaster (Population: 27,517)
- Homewood (Population: 23,963)
- Opelika (Population: 23,804)
- Anniston (Population: 23,741)
- Enterprise (Population: 22,892)
- Northport (Population: 21,216)
- Mountain Brook (Population: 20,821)

Therefore, the minimum capital contribution threshold for any individual immigrant investment through the ACFI-RC into a new commercial enterprise located in a designated Rural Area or TEA within the ACFI-RC geographic area shall be not less than \$500,000. Investments made into enterprises whose principal location and place of business is in a non-TEA within one of

the above cited large urban or metropolitan areas shall be not less than one-million dollars (\$1,000,000).

**EMPLOYMENT CREATION AND/OR PRESERVATION:**

Alien entrepreneurs who file petitions for commercial enterprises located in the ACFI-RC area must fulfill all of the requirements set forth in 8 CFR 204.6, except that the petition need not show that the new commercial enterprises created ten new jobs indirectly as a result of the alien entrepreneur's investment. This determination has been established by way of USCIS' acceptance of the final economic analysis which is contained as part of the approved ACFI-RC proposal and its indirect job creation model and multipliers contained within the final approved ACFI-RC application package.

However, where job creation is claimed based on a multiplier rooted in underlying new "direct jobs" (or preservation of existing direct jobs in a troubled business) in support of an immigrant investor's individual I-526 petition affiliated with the ACFI-RC, then:

- To be credited for preserving/maintaining pre-existing direct jobs for "qualified employees" within the ACFI-RC for a "troubled business" as defined at 8 CFR 204.6(e), the individual I-526 petition must be supported by probative evidence of the number of full time (35 hours per week) qualified employees whose positions shall be preserved/maintained throughout the alien's period of conditional residency. Such evidence should include copies of quarterly state employment tax reports, Forms W-2, Forms I-9, and any other pertinent employment records sufficient to demonstrate the number of "direct" qualifying pre-existing full time jobs in the specified troubled business have been preserved/maintained, and any other pertinent employment records sufficient to demonstrate the number of employees before the investment.
- To be credited with projected creation of new "direct" jobs for "qualifying employees" upon filing the I-526 petition, then the petition must be supported by a comprehensive detailed business plan and supporting financial, marketing and related data and analysis providing a reasonable basis for projecting creation of the new direct jobs.
- For purposes of an alien investor's filing of a subsequent I-829 petition to remove the conditions wherein the investment through the ACFI-RC in an enterprise for which the initial I-526 petition approval involved the creation of new direct jobs or the creation of new indirect jobs based on a multiplier tied to underlying new direct jobs, then to support the full number of direct and indirect new jobs being claimed at that point, an alien's subsequent I-829 petition will need to be supported by probative evidence of the number of new direct full time (35 hours per week) qualified employees whose positions have been created as a result of the alien's investment. Such evidence would include copies of quarterly state employment tax reports,

Forms W-2, Forms I-9, and any other pertinent employment records sufficient to demonstrate the number of qualified employees whose jobs were created directly.

**INDIVIDUAL EB-5 INVESTOR AFFILIATION WITH THE REGIONAL CENTER:**

Each individual petition, in order to demonstrate that it is associated with the ACFI-RC, in conjunction with addressing all the requirements for an individual alien entrepreneur petition, shall also contain as supporting evidence relating to this regional center designation, the following:

1. A copy of this letter of approval and designation.
2. A copy of the approved regional center narrative proposal and business plan, and any applicable approved amendments.
3. A copy of the job creation methodology required in 8 CFR 204.6(j)(4)(iii), as contained in the initial and/or applicable amended regional center economic analysis which has been approved by USCIS in its final version, which reflects that investment by an individual alien investor of at least \$500,000 into a commercial enterprise in a targeted economic cluster (or \$1,000,000 into an enterprise located in a Non-Rural or Targeted Employment Area) within the geographic area of the ACFI-RC will preserve and/or create full-time employment positions, either directly or indirectly, for not fewer than ten qualified employees.
4. A copy of the Advisory Agreement the ACFI-RC the Alabama Partnership created to finance a new commercial enterprise through the ACFI-RC that is legally binding.
5. A copy of the actual confidential information memorandum.
6. A copy of the actual offering memorandum provided to the alien investor.
7. A copy of the subscription agreement for a limited partnership unit which is legally binding on the petitioner and constitutes the agreement between the limited partnership and the alien investor.
8. A copy of the escrow agreement and instructions which is legally binding on the petitioner and the ACFI-RC.

The approval and designation by USCIS of the ACFI-RC does not reflect any determination on the merits of individual petitions filed by alien entrepreneurs under the Immigrant Investor Pilot Program. All petitions for alien entrepreneurs who invest within the regional center will be adjudicated by the USCIS on a case-by-case basis and each petition must be fully documented. The individual petitions must be submitted to the USCIS Texas Service Center.

**DESIGNEE'S RESPONSIBILITIES INHERENT IN CONDUCT OF THE ACFI REGIONAL CENTER:**

The regulations at 8 CFR 204.6(m)(6) require that an approved regional center in order to maintain the validity of its approval and designation must continue to meet the statutory requirements of the Immigrant Investor Pilot Program by serving the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment. Therefore, in order for USCIS to determine whether your regional center is in compliance with the above cited regulation, and in order to continue to operate as a USCIS approved and designated regional center, your administration, oversight, and management of your regional center shall be such as to monitor all investment activities under the sponsorship of your regional center and to maintain records, data and information on a quarterly basis in order to report to USCIS upon request year to date for each Federal Fiscal Year<sup>1</sup>, commencing with the current year as follows:

1. The principal official and point of contact of the ACFI-RC responsible for the normal operation, management and administration of the regional center.
2. How the ACFI-RC is administering its regional center and is actively engaged in supporting a due diligence screening of its alien investors' lawful source of capital and the alien investor's ability to fully invest the requisite amount of capital.
3. How the ACFI-RC is actively engaged in the evaluation, oversight and follow up on any proposed commercial activities that will be utilized by alien investors in order to create direct and/or indirect jobs through qualifying EB-5 capital investments into commercial enterprises within the State of Alabama.
4. The name, date of birth, and alien registration number of each alien investor who makes an investment and files an EB-5/I-526 Petition with USCIS, specifying whether the petition was approved, denied, or withdrawn by the petitioner.
5. The country of nationality of each alien investor who makes an investment and files an EB-5/I-526 petition with USCIS.
6. The city and state of residence of each alien investor who makes an investment and files an EB-5/I-526 petition with USCIS.
7. The categories of business activity within the geographic boundaries of your regional center that have received the alien investors capital, and in what amount
8. The names and locations of the each job creating commercial enterprise located within the geographic boundaries of your regional center that has received alien investor capital.
9. The amounts of alien investor capital and the amounts of other domestic capital that has been invested together in each job creating commercial enterprise specified in item 8 above, distinguishing the separate totals for each.<sup>2</sup>

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<sup>1</sup> A Federal Fiscal Year runs for twelve consecutive months from October 1<sup>st</sup> to September 30<sup>th</sup>.

<sup>2</sup> A separate break out by aggregate amount of alien investor capital vs. aggregate amount of domestic capital invested where applicable.

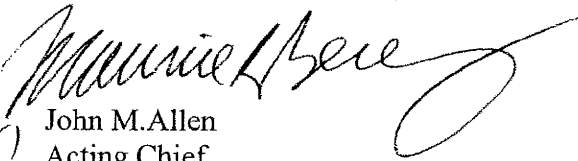
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10. The total aggregate number of approved EB-5 alien investor I-526 petitions per Federal Fiscal Year to date made through your regional center.
11. The total aggregate number of approved EB-5 alien investor I-829 petitions per Federal Fiscal Year to date through your regional center.
12. The total aggregate of EB-5 alien capital invested through your regional center for each Federal Fiscal Year to date since your approval and designation.
13. The combined total aggregate of "new" direct and/or indirect jobs created by EB-5 investors through your regional center for each Federal Fiscal Year to date since your approval and designation.
14. If applicable, the total aggregate of "preserved" jobs by EB-5 alien investors into troubled businesses through your regional center for each Federal Fiscal Year to date since your approval and designation.
15. If for any given Federal Fiscal Year your regional center does not have investors to report, then provide an explanation for the inactivity along with a specific plan which details timelines and steps to actively promote your regional center program, and recruit legitimate and viable alien investors.
16. Notification to USCIS within 30 days of the occurrence any material change in the structure, operation, administration, focus, or activities relating to your regional center's basis for its most recent designation and/or reaffirmation by USCIS.
17. The total aggregate of EB-5 alien capital invested through your regional center for each Federal Fiscal Year.

If you have any questions concerning the ACFI Regional Center approval and designation under the Immigrant Investor Pilot Program, please contact the USCIS Foreign Trader, Investor and Regional Center Program at (202)272-8410.

Sincerely,

  
for) John M. Allen  
Acting Chief  
Service Center Operations