

INNOVATION FINANCING
THE EB-5 IMMIGRANT INVESTOR PROGRAM

SEPTEMBER 2013





PROGRAM OVERVIEW

- Legislation enacted in 1991 to stimulate economic activity and create jobs for U.S. workers
- Administered by the U.S. Citizenship & Immigration Service (USCIS)
- Provides eligible aliens the opportunity to become permanent residents
- Foreign investors invest funds in a “Regional Center”, an economic unit involved with the promotion of economic growth
- Regional Center operators act as a intermediaries and are called “promoters”
- Individual investments are pooled (since 1993) to fund large job-creating developments or businesses



PROGRAM OVERVIEW (CONTINUED)

- Each foreign investor makes a \$500,000 investment into an approved Regional Center project in a Targeted Employment Area (“TEA”)
 - TEA is an area with unemployment of at least 150% of the national average or rural area
- For each investment, 10 or more jobs must be created within the TEA within 24 months
- Investments are made through a limited partnership or LLC
- Partner status satisfies investor’s “direct and control” requirement



BENEFITS OF THE PROGRAM

- Low interest rate funding to developer in the form of debt or equity for 5+ years
- Can fit anywhere in the capital structure and works with other federal, state or local sources of funds
- Uses a passive investor funding entity
- Less stringent underwriting than conventional debt

PROGRAM CHALLENGES AND LIMITATIONS

- Project must be in a TEA (high unemployment or rural)
- Job creation requirements (10 jobs per investment)
- USCIS Delays – Can take 15-18 months or more from inception to funding
- Need an exit strategy to return funds after 5 years
- Documentation intensive (offering documents, partnership agreements, USCIS filings, marketing materials)
- Compliance reporting requirements





ROLE OF “PROMOTER”

- Manage preparation of offering documents
- Create marketing materials
- Contract with foreign “finders” to solicit investors
- Coordinate 3rd party advisors (securities counsel, immigration counsel, economists, real estate counsel, business plan writers)
- Manage the funding entity during the 5-year compliance period
- Assist investors with subscription documents & manage funds in escrow
- File for investors' conditional (I-526) and permanent (I-829) visas
- Track and report job creation

INVESTOR SOLICITATION PROCESS

- Offering & marketing materials prepared
- Foreign finders engaged to solicit investors
 - Fee to finder paid from investor administrative fee
 - Makes introductions to potential investors
 - Assist in verifying legal source of funds
 - Hold informational seminars
- Promoter may recommend immigration counsel to assist with subscription documents
- Funds placed in escrow
- Assist investors' immigration counsel to file for investors' conditional (I-526) and permanent (I-829) visas
- Periodic reporting of project development status, funding and job creation to USCIS





UNIVERSITY OF MIAMI LIFE SCIENCE & TECHNOLOGY PARK CASE STUDY



UNIVERSITY OF MIAMI
LIFE SCIENCE &
TECHNOLOGY PARK





UM LIFE SCIENCE & TECHNOLOGY PARK CASE STUDY

- \$20MM subordinated (2nd lien) debt in a \$110MM university research park project
- 5-year term at 4%, interest-only
- Project was over-subscribed
- Generally business-minded, astute investors from Asia, South and Central America
- 40 investments of \$500,000 funded as each investor conditional visa approved
- Did not impact underwriting of 1st lien bank debt, reducing heavy upfront developer equity
- Job creation requirement: 400
- 6 permanent visas (I-829's) filed or being prepared (rest to be filed between now and February)



EB-5 ENABLING INNOVATION

- Innovation projects, especially in life sciences & technology, are well suited for EB-5 investment
- Most foreign investors from China, South Korea and India are well educated in the sciences and understand medical, research & technology fields and like the university connection
- Many seek EB-5 visas so that their children can be educated in, and remain in, the U.S.
- University research parks are innovation ecosystems that spur economic development and create jobs, making EB-5 a viable form of alternative financing.



WEXFORD
SCIENCE+TECHNOLOGY
A  BioMed Realty Company

KEVIN KEYSER

kevin.keyser@wexfordscitech.com
410.649.5723

Birch | Capital
LLC

BEN CUMMINGS & BRUCE RICCIUTI

ben@birchcapital.com
804.307.4858

bruce@birchcapital.com
781.431.2600