



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 18151921

Date: JUN. 16, 2021

Appeal of Immigrant Investor Program Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner seeks classification as an immigrant investor. *See* Immigration and Nationality Act section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference (EB-5) classification makes immigrant visas available to foreign nationals who make a qualifying equity investment of the requisite amount in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees. An immigrant investor may choose to invest the required funds through a “regional center.”<sup>1</sup> Regional centers apply for designation as such with U.S. Citizenship and Immigration Services (USCIS). Designated regional centers identify and work with NCEs, which in turn are associated with a specific investment project, either taken on directly by the NCE or by one or more separate entities known as the “job creating entity.” Regional centers can pool immigrant (and other) investor funds for qualifying projects that create jobs directly or indirectly. 8 C.F.R. § 204.6(j)(4)(iii).

The Chief of the Immigrant Investor Program Office denied the Form I-526, Immigrant Petition by Alien Entrepreneur, concluding that the record did not establish, as required, that the Petitioner placed his own capital at risk in [redacted] the NCE. Specifically, he determined that the Petitioner’s investment of loan proceeds constituted an investment of indebtedness, not cash, and we dismissed the subsequent appeal, finding that the Petitioner did not establish eligibility under 8 C.F.R. § 204.6(j)(2) because his arrangement with the NCE did not meet the definition of “invest” set forth in 8 C.F.R. § 204.6(e).

Since our last decision, a class of petitioners was created in *Zhang v. U.S. Citizenship & Immigration Services*, 344 F. Supp. 3d 32 (D.D.C. 2018) which includes

[a]ll Form I-526 petitioners who: (1) invested cash in a new commercial enterprise in an amount sufficient to qualify as an EB-5 investor; (2) obtained some or all of the cash invested in the new commercial enterprise through a loan; (3) filed a Form I-526 petition based on that investment; and (4) received or will receive a denial of their I-526 petition solely on the ground that the loan used to obtain the invested cash fails the collateralization test described in the USCIS 2015 IPO Remarks announcement.

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<sup>1</sup> A regional center is an economic unit involved with the promotion of economic growth through “improved regional productivity, job creation, and increased domestic capital investment.” See 8 C.F.R. § 204.6(e) (defining “regional center”).

*Id.* at 66.

Since the Petitioner appears to fall into the *Zhang* class action, we hereby reopen the appeal on service motion, withdraw our previous decision, and sustain the appeal.

**ORDER:** The appeal is sustained.