



H. Ronald Klasko  
Partner



H. Ronald Klasko (Ron) is one of the world's leading lawyers representing EB-5 clients. A founding member of Klasko Immigration Law Partners, LLP, Ron serves as both its Managing Partner and Chair of the 25 person EB-5 Team of the firm.

He and his team have successfully represented thousands of investors from China and all around the world, over 50 approved regional centers and numerous U.S. developers and business owners.

In 2017, Ron completed his fifth term as Chair of the EB-5 Committee of the American Immigration Lawyers Association (AILA). As Chair of the Best Practices Committee of IIUSA, Ron worked with regional centers, developers and EB-5 professionals to develop the first comprehensive list of best practices in the EB-5 industry.

Ron is a former national president of AILA and a longtime member of its Board of Governors. He is one of only three practicing attorneys ever honored with the AILA Founders Award for his contributions to immigration jurisprudence.

He has received a top tier ranking in Chambers Global since 2006, and has been listed in Best Lawyers in America (Woodward and White) for two decades. He was chosen as the most well-respected immigration lawyer in the world by Who's Who Legal on Corporate Immigration based upon votes of clients and other lawyers.



Daniel B. Lundy  
Partner



Daniel B. Lundy has successfully represented numerous immigrant investors in their EB-5 petitions and applications, including investors seeking permanent residence through investment in their own businesses and investors seeking permanent residence through investments into USCIS approved Regional Centers.

Mr. Lundy also represents developers and others who seek to use foreign investment funds under the EB-5 program, either through the formation of a Regional Center or by joining with an existing Regional Center. Mr. Lundy works with various securities lawyers, economists, business plan writers and other professionals in the preparation and filing of Regional Center designation and Regional Center amendment applications. Mr. Lundy is experienced in reviewing Regional Center and project business plans, economic reports, securities offering documents, and corporate documents for compliance with the EB-5 program requirements. For the last two years, he has been named as one of the top 25 immigration lawyers in the country by EB5 Investors magazine.

Mr. Lundy is a graduate of Hunter College (B.A., 2000) and Fordham University School of Law (J.D. 2006).



Anu Nair  
Partner



Anu Nair manages the Investor Team of the firm's EB-5 Practice. Anu and her team are responsible for all investor filings, which include I-526 Petitions, consular processing and adjustment of status applications, and I-829 Petitions.

As the Investor Team's managing partner, Anu is responsible for the preparation and filing of all EB-5 Petitions, both through regional center investments and individual investment opportunities. Anu's command of investor-related issues is recognized within the field, and she is frequently called on to review EB-5 cases prepared by other law firms to ensure compliance with USCIS' extremely rigorous standards. Anu is routinely retained to respond to difficult Notices of Intent to Deny and to file appeals for denials received by other firms. She represents clients at visa interviews, both at U.S. Consulates overseas and with the Citizenship and Immigration Services in the United States.

Anu has extensive experience in both employment-based and family-based immigration. Anu also assists clients with family-based immigration matters and has represented clients before the Immigration Court, the Citizenship and Immigration Service, and Customs and Border Protection.



F. Oliver Yang  
Associate



Fankai (Oliver) Yang is a member of the Firm's EB-5 practice and is involved in various stages throughout the EB-5 process, including the preparation and filing of I-526 Petitions, filing responses to Request for Evidence and preparing clients for consular processing interviews.

Oliver is a native Mandarin Chinese speaker and uses his language skills and knowledge of Chinese culture to help Chinese investors prepare and file I-526 petitions, both through the regional center investments and individual investment opportunities. In addition to helping Chinese investors, Oliver has prepared and filed I-526 petitions for EB-5 investors from Taiwan, Canada, Singapore, India, Indonesia, and South Africa.

Oliver received his LL.B. from Renmin University of China Law School, where he served as the captain of the law school debate team. He obtained his Juris Doctor from the University of Virginia School of Law, where he was a member of the Extramural Moot Court team and served on the Editorial Board for the Journal of Law & Politics.

Prior to joining the Firm, Oliver practiced consumer bankruptcy and commercial litigation, and interned for a U.S. bankruptcy judge and a Virginia House of Delegates member.



Jessica A. DeNisi  
Associate



Jessica is a member of the Firm's EB-5 practice group. Jessica works with developers who seek to use foreign investment capital under the EB-5 program to fund job-creating projects either through the creation of a Regional Center or the under an existing Regional Center. In preparing and filing I-924 applications and I-526 petition templates for Regional Center investors, Jessica works with economists, business plan writers, corporate attorneys and market analysts to structure Regional Center projects.

Jessica is also a member of the Klasko Compliance team. Jessica has extensive experience in preparing I-829 petition templates for investors in Regional Centers to remove conditions on their green cards. She also works closely with Regional Center principals in preparing their I-924A annual filings and in fulfilling their on-going compliance obligations.

Prior to practicing immigration law, Jessica worked as a tax and business attorney. Jessica completed her undergraduate studies at Wake Forest University and earned an M.A. in Near Eastern Studies from the University of Arizona. Jessica received her J.D. from Tulane University Law School and an LL.M. in taxation from the University of Washington School of Law. Jessica is admitted to practice in California and Louisiana.





Julianne Opet  
Associate



Julianne Opet represents corporations and individuals seeking counsel on a wide range of employment-based matters, with special focus on foreign investors, EB-5 regional centers and developers.

Julianne has a comprehensive background in a diversity of immigration matters including removal defense, family-based petitions, employment immigration, and EB-5 petitions for investors in direct and regional center projects. Julianne is also experienced in performing project due diligence reviews, I-924 applications and amendments, I-924A annual filings. She is a member of the Klasko EB-5 Compliance team.

Julianne is an active member of the American Immigration Lawyers Association – Philadelphia Chapter and currently serves as the 2017-2018 AILA Philadelphia Chapter Emeritus Chair. Julianne previously served as the 2015-2016 and 2016-2017 AILA Philadelphia Chapter Conference Co-Chair. Julianne is admitted to practice in Pennsylvania, and is admitted to practice in federal court in the Eastern District of Pennsylvania.



Karuna Simbeck  
Associate



Karuna Simbeck is involved in various stages of the EB-5 process, including the preparation and filing of I-526 Petitions (particularly the source and path of funds), for both regional center investors and individual investment opportunities. Karuna also oversees the preparation of adjustment of status applications, and consular immigrant visa applications.

Before joining the Firm, Karuna was an Associate at a global immigration law firm in New York City, where she gained extensive experience in business immigration for the firm's largest corporate client. She has worked on over 300 + PERM cases. In addition, she participated in counseling foreign nationals and employers regarding scope of H-1B and L-1B visas and filing requirements.

Karuna received her Master's in Law Degree (LLM) from Temple University in Philadelphia, PA and her Bachelor's in Law (LLB) from Government Law College, Mumbai, India. Prior to migrating to the U.S., Karuna was a practicing attorney in India, with over 9 years of diverse experience. During this time, Karuna focused on corporate law practice, including litigation.



# Fundamentals

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Julianne A. Opet, Klasko Immigration Law Partners, LLP

F. Oliver Yang, Klasko Immigration Law Partners, LLP



## Basic Requirements 8 CFR 204.6(a)

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Required amount of capital

Invested or actively in the process of being invested into a new commercial enterprise ("NCE")

Capital obtained by lawful means

NCE will create at least 10 full-time positions

Immigrant investor will be involved in management of the NCE



## Anatomy of an EB-5 Petition

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### Project Documents

- Regional Center Petition
- Stand-alone Petition

### Source and Path of Funds Analysis



## Why EB-5?

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### For Investors

- Can self-sponsor
- Do not have to be an employee or owner of the business
- Derivative children can attend school in the U.S.
- Investment amount can be gifted
- Opportunity for return on + return of investment

### For Developers

- Friendlier financing terms as compared with traditional lenders/investors
- Lower rates of return
- Non-recourse financing
- Can support large or small development projects



# Questions?

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## Year in Review

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Daniel B. Lundy, Klasko Immigration Law Partners, LLP  
Anu Nair, Klasko Immigration Law Partners, LLP



# RFE Trends: Source and Path of Funds

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Anu Nair, Klasko Immigration Law Partners, LLP  
Karuna C. Simbeck, Klasko Immigration Law Partners, LLP



## RFE Trends – Source and Path of Funds

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- New Source of Funds Issues
- Shareholder's Equity as Collateral (China)
- Sale of Stocks
- HUF RFEs (India)
- Single Intermediary
- Loan against property (India)
- RFEs in appeal by the AAO
- Overseas Investigations (China)





# Questions?

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## Currency Export/Path of Funds Issues

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Anu Nair, Klasko Immigration Law Partners, LLP  
F. Oliver Yang, Klasko Immigration Law Partners, LLP

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Immigration Law Partners, LLP

# Chinese Investors and Currency Export Issues

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Foreign exchange controls in China

Common path of funds methods for Chinese investors

Recent RFEs on parallel transfer

Alternative currency export solutions

- Onshore guarantees for offshore loans
- Loan against insurance policy
- Cross-border trading company acting as intermediary
- Bitcoin

Recent developments

# Questions?

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# RFE Trends for Projects

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Daniel B. Lundy, Klasko Immigration Law Partners, LLP

Jessica A. DeNisi, Klasko Immigration Law Partners, LLP



## RFE Trends for Projects

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"At Risk" issues and Debt arrangements

Bridge Financing

Evidence of the Capital Stack



# Questions?

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## Material Changes

### What Are They and When Should We Be Worried About Them?

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H. Ronald Klasko, Klasko Immigration Law Partners, LLP  
Julianne A. Opet, Klasko Immigration Law Partners, LLP



KD1

## Material Changes: What Are They and When Should We Be Worried About Them?

What is/isn't a material change?

- Approvability at time of filing
- Changed circumstances that have a natural tendency to influence, or are predictably capable of affecting the decision
- Changes in accordance with the business plan as filed

Impact of material change on investors

- before I-526 approval
- after I-526 approval
- after job creation
- after conditional residence
- possible impact of proposed regulations

Impact of material change on exemplar petitions

- strategy on interfiling

Strategies for advising USCIS of changes

Strategies for responding to RFEs and NOIDs

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## Questions?



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**KD1** Ron's slide send via Word Doc  
Kristin Dohan, 9/18/2017

TIME  
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# Redeployment/Sustainment of Investments

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H. Ronald Klasko, Klasko Immigration Law Partners, LLP  
Ronald Fieldstone, Saul Ewing Arnstein & Lehr LLP  
Reid Thomas, NES Financial



## Redeployment/Sustainment of Investments

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How long must investment be sustained?

Must investment be sustained at risk?

How does USCIS define sustainment at risk?

Why is redeployment so critical?

What notice must be given to investors regarding redeployment?

- what language should be in offering documents?

When is/is not redeployment a material change?

Redeployment solutions



## Questions?

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# Regional Center Terminations: The Good, the Bad, and the Inactive

Jessica A. DeNisi, Klasko Immigration Law Partners, LLP

Julianne A. Opet, Klasko Immigration Law Partners, LLP



## Anticipating and Responding Effectively to Notices of Intent to Terminate

### 8 CFR 204.6(m)(6)

- RCs must update USCIS annually + pay requisite fees
- Must continue to promote economic growth, improved regional productivity, job creation, or increased domestic capital investment in the approved geographic area

### "The Inactive"

- Petitions in the Pipeline
- "Two Strikes and You're Out"

### "The Bad"

- Increased terminations and the new compliance protocols



## Consequences for Investors of a Regional Center Termination

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Before Conditional Residence

After Conditional Residence



## A Pound of Prevention is Worth an Ounce of Cure

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"The Good"

- The expanding role of EB-5 compliance and benefits for the industry
- Regional Center best practices – from the I-526 to the I-829, and everything in between



# Questions?

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## Preparing for Site Visits and Audits

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Daniel B. Lundy, Klasko Immigration Law Partners, LLP  
Ginny Fang, Golden Gate Global

## Preparing for Site Visits and Audits

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### Site Visits

- Unannounced
- To verify details of petition or application

### Audits

- Will get advance notice
- Will take one week or more
- Looking for compliance with EB-5 program and evidence of proper oversight

### How to prepare

- Compliance program
- Internal record keeping protocols

## Questions?

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Please join  
us for lunch.



# Legislative and Regulatory Update and Hot Topics

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H. Ronald Klasko, Klasko Immigration Law Partners, LLP  
Angelique Brunner, EB-5 Capital  
Adam Greene, Live in America Financial Services, LLC  
Daniel Healy, Civitas Capital Group



# Preparing for Consular and I-829 Interviews

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Anu Nair, Klasko Immigration Law Partners, LLP  
Jessica A. DeNisi, Klasko Immigration Law Partners, LLP



## Preparing for Consular and I-829 Interviews

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What to Expect at a Consulate Interview and How to Prepare

What to Expect at an I-829 Interview and How to Prepare

# Questions?

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## Saving Troubled Projects

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H. Ronald Klasko, Klasko Immigration Law Partners, LLP

Daniel B. Lundy, Klasko Immigration Law Partners, LLP

Ronald Fieldstone, Saul Ewing Arnstein & Lehr LLP

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## Saving Troubled Projects

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Issues for condition removal for investors

- jobs were created
- sustainment of investment (even if bankrupt or money diverted)
- timing of any changes or diversions

Return of investment funds is different issue

Securities law issues

- role of SEC and receiver
- notice to investors

Impact of termination of regional center

Investors switching to other projects

Litigation

## Questions?

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# Platinum Plus: Best Practices in Ongoing Compliance

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Jessica A. DeNisi, Klasko Immigration Law Partners, LLP  
Russell Scarcella, Exiger  
Reid Thomas, NES Financial



## Platinum Plus: Best Practices in Ongoing Compliance

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Ongoing Compliance v. Due Diligence

- Investor Priorities
  - Immigration, Return of Capital, Yield
- Compliance Considerations
  - Immigration, Job Creation, Investment



## Platinum Plus: Best Practices in Ongoing Compliance

Ongoing Compliance can help protect against fraud and achieve investor goals

- Funds flow through multiple entities
  - Escrow → NCE → JCE → Redeployment → Return of Capital
- Industry best practices
  - 3<sup>rd</sup> party compliance monitoring
  - 3<sup>rd</sup> party fund administration
  - 3<sup>rd</sup> party controls
- Emerging legislative requirements



## Questions?



TIME  
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# Marketing in China

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H. Ronald Klasko, Klasko Immigration Law Partners, LLP

Anna Chen, CIBA

Stephen Forster, EB-5 Market Connect

John Leo, Primary Capital LLC

Robert Roe, New York Immigration Fund



## Marketing in China

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What is the state of the market now?

How are offerings changing to meet reduced demand?

What would be impact of higher investment amount?

What types of projects are selling now?

How has the timing of marketing changed?

How big of an issue is currency export?

## Questions?

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# Marketing in Vietnam, India and Other Emerging Markets

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Anu Nair, Klasko Immigration Law Partners, LLP  
Karuna C. Simbeck, Klasko Immigration Law Partners, LLP



## Vietnamese Investors

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Projects that appeal to Vietnamese investors

- Size of project, location, type of project

Agent Market

Common issues for a Vietnamese investor's source of funds



## Indian Investors

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Projects that appeal to Indian investors

- Size of project, location, type of project

Agent Market

Common issues for an Indian investor's source of fund

## Questions?

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## Materials & Resources

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Please visit [www.klaskolaw.com](http://www.klaskolaw.com) to download this PowerPoint presentation and all materials from this seminar.



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