

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

60-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

Comment #	Commenter ID	Comment	USCIS Response
1.		Commenter: jean ;ubliee	
	0012	<p>no one in americas is behind this new form that demented biden is pushing. he is flooding the usa with 30 millino central americans including terrorists from all over the world who will create more chaos in the usa and burn down our buildings. biden is not protcting amreica and is a totally deficient american president. he is the worst president ever. we need to deny him all powers of the presidency until his term is over. we need no changes from dementged biden</p> <p>this is a change that will not help america.it wll cost more. it will hurt americans even more than the lasts ijlegal imimgant law. io am totally against this proposal. it sucks. this law taxes us americans to give away free telephones, free bus rides, free airplane rides, frere food, free housng everytihng for sneak illegls with 20 forms of identificatin oin their pockets who have fentenyl on their backpacks. america is in big trouble when a president cant recognize that. big trouble.</p>	Response: This comment is out of scope for the intended information collection.
2.		Commenter: Anonymous	
	0013	<p>1) Are registered representatives of a US broker-dealer required to file Form I-956K as individuals separately? Or are only US broker-dealers needed to file the form?</p> <p>2) After the regulation becomes effective, do broker-dealers have to file Form I-956K immediately before they can promote Regional Center EB-5 projects, or will there be a grace period?</p> <p>3) Do broker-dealers need a filing receipt of I-956K before they can promote Regional Center EB-5 projects?</p>	Response: Any person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project must submit Form I-956K before operating on behalf of any of the specified entities or promoting any offering under the EB-5 Regional Center Program. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

			creating entity, or an issuer of securities intended to be offered to alien investors.
3.		Commenter: Robert Divine	
	0014 (see attachment)	Please see attached pdf document for my comments	<p>Response: See Comment Responses below labeled with Commenter ID: 0014. The information in the attachment from the public comment (0014) was separated into different sections in this comment matrix to address each portion of information on a specified form individually.</p> <p>See Comment # 12. – 24., 27. – 28.</p>
4.		Commenter: Joseph Whalen	
	0018 (see attachment)	<p>See attached file(s) this is a comment on the USCIS form I-956K</p> <p>USCIS needs to be more explicit about the substance of these guidelines. Perhaps it would be wise to make specific reference to the guidelines by titles in the form and instructions even if the guidelines themselves are to be published separately either as supplements or posted to the USCIS website (probably both). It is also feasible but perhaps unwise to codify the guidelines in the regulations. The fee guidelines might require regular adjustment for inflation and the cost of living, and it would be easiest to simply update them online accompanied by a Federal Register Notice. Treating both sets of guidelines the same and keeping them together will make it easier to place all the EB-5 players on notice, <i>en masse</i>.</p>	<p>Response: USCIS may consider rulemaking with respect to these guidelines.</p>
5.		Commenter: Robert Divine	
	0015 (see attachment) 0017 – Duplicate Comment (see updated attachment)	<p>Please see attached for supplementary comments from Robert Divine, who commented previously.</p> <p>See attached file(s). I submitted this supplement (to my Sept. 7 comments) on Sept. 8, but I failed to include proper references, and I don't see it posted in the</p>	<p>Response: Public Comments 0017 and 0015, supplanted by 0019 (attachment 1), contains the same content as 0017, with one additional paragraph, and 0015, with that same additional paragraph and two additional introductory paragraphs.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		system, so I have added the proper references and am resubmitting.	
6.		Commenter: William Besco	
	0016	Evidence to Accompany Registration: I suggest that USCIS clarify whether or not the hardcopy legal written agreement(s) is required at the time of filing I-956K, or if a summary of the legal agreement - in writing - is sufficient. If a summary is acceptable, then I request USCIS to identify the required data points to meet the evidentiary requirement.	Response: Any person submitting Form I-956K must include a copy of the agreement between the promoter and a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project.
7.		Commenter: Robert Divine	
	0019 (see attachments – please note that Attachment 1: <i>Supplementary Comments of Robert Divine for I-956 forms</i> is a duplicate of Comment ID 0015 and 0017 shown above)	Please note a corrected supplementary comment with tracked changes, replacing my September 9 supplement to my September 6 original comments. Also I include two articles about the I-956 forms and their implications for background.	Response: See Comment Responses below labeled with Commenter ID: 0019. The information in each attachment from the public comment was separated into different sections in this comment matrix to address each portion of information individually. See Comment # 8. – 11., & 26.
8.		Commenter: Robert Divine	
	0019 (attachment 2 – USCIS Publishes Draft Form I-956K for Promoter Registration)	Who must register using Form I-956K? It is not clear whether registration is required only of an individual or entity with an agreement to market EB-5 securities. The form asks if the registrant is employed to work as a promoter or otherwise engaged as a promoter on behalf of another promoter,” which implies that employees or agents of primary registrants must also register, but it is not clear what kind of a role in a promoter organization subjects one to the registration requirement. Also it is not clear how an employee or sub-agent completes the portion of the form collecting information about the registrant’s written agreement with the securities issuer or related party, and explanations in the addendum may be needed.	Response: Any person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project must submit Form I-956K before operating on behalf of any of the specified entities or promoting any offering under the EB-5 Regional Center Program. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors. USCIS has added clarifications to the

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

			Form I-956K instructions regarding what evidence of written agreement should be submitted by employee or sub-agent promoters of a primary promoter.
9.		Commenter: Robert Divine	
	0019 (attachment 2 – USCIS Publishes Draft Form I-956K for Promoter Registration)	Also unclear is whether registration is required for a promoter of investments only in regional center sponsored projects or also for “stand alone” projects involving only one investor. The RIA is unclear on this, and the form and instructions make no mention of the issue. Newly published Form I-526 for standalone investors mentions nothing about several “integrity measures” of RIA that might have been intended only for regional center projects.	Response: See Response under Comment # 24. which addresses this public comment.
10.		Commenter: Robert Divine	
	0019 (attachment 2 – USCIS Publishes Draft Form I-956K for Promoter Registration)	I-956K should be done online with no filing fee.	Response: While USCIS continues to expand its use of online filing, Form I-956K will not be available to submit online at this time.
11.		Commenter: Robert Divine	
	0019 (attachment 1 - Supplementary Comments of Robert Divine for I-956 forms)	I-956F and I-956G: It is curious that the statutes underlying these forms are worded a bit differently than the statute above concerning disclosure to the investor, and differently from each other: 203(b)(5)(F) (dd)(AA) any fees, ongoing interest, or other compensation paid, or to be paid by the regional center, the new commercial enterprise, or any issuer of securities intended to be offered to alien investors, to agents, finders, or broker dealers involved in the offering of securities to alien investors in connection with the investment; (BB) a description of the services performed, or that will be performed, by such person to entitle the person to such fees, interest, or compensation; and	Response: USCIS may consider rulemaking to address these issues.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](https://www.regulations.gov/document/USCIS-2022-0010)

30-day FRN Citation (federalregister.gov): [87 FR 54233](https://www.federalregister.gov/documents/2022/09/02/2022-18133)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>(CC) the name and contact information of any such person, if known at the time of filing;</p> <p>203(b)(5)(G) (ff) to the best of the regional center's knowledge, for all fees, including administrative fees, loan monitoring fees, loan management fees, commissions and similar transaction-based compensation, collected from alien investors by the regional center, the new commercial enterprise, any affiliated job-creating entity, any affiliated issuer of securities intended to be offered to alien investors, or any promoter, finder, broker-dealer, or other entity engaged by any of the aforementioned entities to locate individual investors-</p> <p>(AA) a description of all fees collected; (BB) an accounting of the entities that received such fees; and (CC) the purpose for which such fees were collected;</p> <p>Subsection (F) concerning project applications specifies three parties who would be paying the compensation: the RC, NCE, or any issuer of securities. Arguably this limitation arises from an appreciation of the situation, that the parties issuing the security might not know at that point about compensation that might be paid to promoters in the future. More importantly, in fact, parties rarely know for sure what promoters will be paid to originate investors in the future, and we expect most RCs to legitimately indicate in Form I-956F that they don't yet have the information needed to answer that question fully.</p> <p>Subsection (G) concerning annual reports goes a little further and limits the required information based on where the compensation for promoters came from:</p>	
--	--	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>“collected from alien investors.” It makes some sense for Congress to have framed the annual report requirement in terms of an accounting of all of the capital and administrative fees paid in by investors, with a focus on what made its way to promoters.</p> <p>As stated in my original comments, the word “or” in the first version of Form I-956G seems to be a mistake. What I did not realize in making that comment is that the nonsensical word “or” comes directly from the statute. Nevertheless, the agency can take note that Congress clearly made a “typo” error and can fix it in implementation. The word “to” makes much more sense and is consistent with the other statutory requirements generally on this topic as quoted above. An industry colleague brought to my attention a permissible interpretation of Subsection (G) that gives effect to the “or” in a way that furthers Congressional purpose. That is, (G) elicits information regarding any fees “collected by” not only RCs, NCEs, affiliated JCEs, or issuers, but also “collected by” promoters, finders, and broker dealers. This would mean that the RC would need to report on any fees it knows have been received by promoters, whether from investors themselves or from any other source (such as a non-affiliated JCE who is not an issuer). This would be consistent with the “all encompassing” interpretation of subsection (K)(iv) above.</p> <p>Nevertheless, the issue arises that RCs and NCEs could “hide behind” the Form I-956G reporting requirement and claim that they are required to disclose to investors and report to USCIS only compensation to promoters that originate from investors’ administrative fees. Even if USCIS limits</p>	
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>the annual reports to what the statute requires (correcting “or” to “to”), USCIS should clarify and publicize that the critical required written disclosure to investors at time of subscription is not limited to payments arising from investor administrative fees and must identify the specific promoters receiving such compensation, including especially the people and entities directly engaging with the investor. Another option is for USCIS to broaden the annual report to include copies of all of the written disclosures given to investors for filing with their I-526 petitions or to summarize those disclosures that are required to be available for USCIS audit.</p> <p>If not, and USCIS will allow RCs and NCEs to limit the investor disclosures and the annual reports to the payments made to global clearinghouses out of the administrative fees paid by investors, then USCIS should publicize that interpretation so that RCs and NCEs who otherwise might strive for compliance in the spirit of the RIA can join the trickier and craftier parties who are appealing to fee-thirsty agents who don’t want their own compensation disclosed to the investors they are soliciting.</p>	
12.		Commenter: Robert Divine	
	0014 (see attachment)	<p>The forms should be downloadable, fillable, and printable, with each checkbox accessible, with ample room in the fields to type answers. Format control should not be used at all, or at least very sparingly, as accurate answers in complex situations sometimes do not fit originally perceived restrictions.</p>	Response: The forms will be provided on the USCIS website and will be downloadable, form fillable, and printable, consistent with how USCIS publishes its forms.
13.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956:</p> <p>Instructions are too vague about what is required, particularly for establishing</p>	Response: USCIS may consider rulemaking to address these issues.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>geography. How much detail about plan to develop businesses is required? Surely not the level of Matter of Ho, but what? Are hypothetical projects acceptable?</p> <p>What types of and how much evidence is needed to establish the geographic scope? Economic impact of the types of projects presented? What factors establish economic impact geographically?</p> <p>Is it enough to describe the required policies and procedures without supplying them? Under what conditions are the actual procedures needed to be submitted?</p>	
14.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956F:</p> <p>USCIS needs to clarify whether the mandatory waiver of fund administrator requirements due to annual audited financial statements can be applied to a project when the NCE obtains such audits but the separate JCE does not. INA 203(b)(5)(Q)(v)(II) states, “The Secretary of Homeland Security shall waive the requirements under clause (iv) for any new commercial enterprise that commissions an annual independent financial audit of such new commercial enterprise or job creating entity conducted in accordance with Generally Accepted Auditing Standards, which audit shall be provided to the Secretary and all investors in the new commercial enterprise.” It seems that “or” was used because of the possibility that an NCE subscribing multiple investors in a project and thus needing to use regional center sponsorship and compliance but not involving a separate JCE. In that instance, of course only the NCE would need audited financial statements, as there would be no separate JCE. But if there will</p>	<p>Response: USCIS may consider rulemaking to address these issues. To the extent you believe the waiver under 203(b)(5)(Q)(v)(II) applies, you may provide information regarding the annual audit in Part 14. Additional Information.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		be a separate JCE where the money will get used, then also the JCE should be required to be annually audited to enjoy the waiver. It would make no sense only to track the EB-5 capital going in and out of the NCE through an audit but then have no accountability as it goes into and through the JCE, where many fraudulent uses of EB-5 capital have occurred in the past. Congress meant to avoid fraud through fund administration or audit at all relevant points, and this interpretation is needed to accomplish such intent.	
15.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956F:</p> <p>USCIS needs to clarify what a regional center needs to do if changes are made to the documents submitted with an I-956 filing. For instance:</p> <ul style="list-style-type: none"> • the issuer realizes that mistakes were made in drafting the business plan or PPM, • some minor aspect of the business plan actually changes (for instance, if a local government reviewing drawings require a design changes with implications for construction costs), • USCIS publications of new regulations, forms, or policies changes what needs to be explained as risks in the PPM, • Someone involved in the NCE or affiliated JCE could die or terminate employment and become replaced by someone else • Owners of the NCE or JCE could change their ownership shares or their management roles, or people could roll off the board of directors and be replaced. • The fund administrator may retire or be terminated and become replaced. • The NCE or JCE may change banks and move “separate accounts.” 	<p>Response: USCIS may consider rulemaking to address these issues. With respect to updating a pending filing, nothing prevents an applicant from supplementing an application with a submission to be interfiled prior to adjudication of the application. Once a Form I-956F application has been approved, changes may only be incorporated into associated investor petitions upon the approval of a timely filed amendment to the approved Form I-956F. Any material changes affecting eligibility that are not approved through a timely filed amendment will result in the approval of the Form I-956F to be no longer binding for purposes of the adjudication of associated investor petitions.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<ul style="list-style-type: none">• Policies and procedures may be changed based on changes in securities or immigration law or policy <p>The first question is whether any amendment is necessary. It should not be necessary for the RC to amend the I-956F record to reflect minor changes that tend to occur regularly in business projects. USCIS should convey some reasonable limit on the types of changes that need to be made through amendment of the I-956F vs. being retained in files for periodic audit by USCIS. While Form I-956F contemplates its use for amendment, it does not indicate under what circumstances an amendment is required. A technical problem is that leaving the I-956F record as filed, with investors filing I-526E certifying that they have subscribed to the documents contained in the I-956F, would result in a technical misrepresentation. USCIS needs to recognize that routine changes may be made without amendment to the I-956F. USCIS could clarify that it expects RCs to maintain up to date examples of documents submitted in the I-956F with clear accounting for changes made since I-956F filing so that USCIS auditors of RC records can quickly see what has changed. Form I-956G could be changed to require reporting of such changes, at least in a general sense, and subject to audit. Even if USCIS refuses to relieve RCs of filing amendments for any change whatsoever to I-956F filings, USCIS needs to clarify how RCs may amend the I-956F while the I-956F is pending. Should the filing party submit changes through interfiling?</p> <p>It is unreasonable to require RCs (and NCEs who will end up paying for most amendments and fees) to pay the full \$17,795 filing fee for small changes to I-</p>	
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		956F filings. USCIS should establish some modest fee or the lodging of modest amendments.	
16.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956G: (see attachment for statutory citations provided)</p> <p>Item 18 should be rewritten to say: To the best of the regional center’s knowledge, for all fees, including administrative fees, ongoing interest, or other compensation, collected from alien investors by the regional center, the new commercial enterprise, any affiliated job-creating entity, or any affiliated issuer of securities intended to be offered to alien investors, or to any promoter, finder, broker-dealer, or other entity engaged by any of the aforementioned entities to locate individual investors involved in the offering of securities to alien investors.</p>	Response: USCIS may consider rulemaking to address these issues.
17.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956G:</p> <p>USCIS needs to clarify what the statute and I-956G mean concerning required regional center compliance with federal labor laws. Regional centers as entities rarely employ more than a few people. Obviously, RCs fund NCEs and JCEs. NCEs also employ few people. The statute does not say that the RC needs to make sure that NCEs or especially JCEs comply with labor laws, but if USCIS will contend that such is required, USCIS needs to clarify that in Part 3 Question 3 or the instructions thereto and in regulations.</p>	Response: USCIS may consider rulemaking to address these issues.
18.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956G:</p> <p>I applaud the approach to require accounting on an investor-specific level only as to the EB-5 capital flowing into</p>	Response: See Response under Comment # 52. which addresses this public comment regarding the scope of reporting using Attachment 1. USCIS may

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>the NCE, with accounting on expenditures, job creation, and fees being required only on an aggregate basis (all investors together). This is appropriate because NCEs are not and should not be required to track the downward flow and effects on a per investor level.</p> <p>Like the instructions to Part 3 Item 1 (“since the date of regional center designation”), Attachment 1 Items 13, 17, and 18 and instructions should clarify that the question calls for aggregate (all EB-5 investors’ total) investment, job creation, and fees since the inception of the NCE. Without this clarification, the implication from the form’s coverage of an identified fiscal year in Part 1 Item 2 might be to provide only the aggregate numbers for each item during the particular fiscal year, as was the case with the prior I-924A. I agree with the approach to collect aggregate (all investors together) cumulative (all time) investment, job creation, and fees. The comparison of the amounts in a later fiscal year’s report to the prior year’s report will reveal incremental amounts.</p> <p>The instructions should clarify, however, that the supporting evidence needs only relate to the fiscal year being reported on, so that voluminous evidence provided in prior year reports need not be re-submitted.</p>	<p>consider rulemaking to further address these issues.</p> <p>For reporting the amounts of investment and job creation in an NCE on the Form I-956G, regional centers should report the aggregate EB-5 investment and the aggregate job creation for the NCE over the lifespan of the project, beginning no later than the filing of the related Form 956F for that NCE (if applicable).</p> <p>USCIS has made changes to the Form I-956G Instructions to clarify this reporting requirement.</p>
19.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956H:</p> <p>The instructions require that “Each person must complete I-956H for each entity with which they are involved for submission with any related form, as applicable.” That seems to mean at the very least that an individual who holds a role in the NCE and</p>	<p>Response: All persons involved with a regional center, new commercial enterprise or affiliated job-creating entity must submit a Form I-956H to independently demonstrate eligibility under INA §§ 203(b)(5)(H)(i) and (ii) in connection with a related filing, such as Form I-956 or Form I-956F. USCIS has</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>in an affiliated JCE would need to submit two different forms, each reflecting the role in the respective entities.</p> <p>\$85 filing fees should not be required for an I-956H for an entity, whose biometrics cannot be taken. And only one \$85 fee should be required for one person who has to fill out more than one I-956H in an I-956 or I-956F because of involvement through multiple entities. The form's instructions need to clarify this and the mailroom needs to be alerted to this to avoid improper rejections for lack of a fee for each I-956H form. I-956H should ask, "Has a biometrics fee already been paid for you in connection with Form I-956 or I-956F?" And if yes, it should ask the Form number, the filing party, and the biometrics receipt number, with instruction that no new \$85 is required for such person.</p>	<p>made changes to the Form I-956H to reduce multiple filings where the same person is involved with both a NCE and affiliated JCE in connection with a Form I-956F filing.</p> <p>Relating to biometrics, the biometric services fee is for performing biometric services, which includes, among other agency actions, the management of electronic biometric information, background checks performed by the Federal Bureau of Investigation (FBI), and the collection, use, and reuse of collected biometric information to verify the identity of individuals seeking immigration benefits, capturing, storing, and using biometric information. A service fee of \$85 is charged to pay for background checks and have the applicant's biometric information captured, stored, and used for any individual who is required to submit biometric information for an application, petition, or other request for certain immigration and naturalization benefits (other than asylum or refugee status) or actions. Thus, the fee is required when USCIS runs a background check and is not always necessarily associated with an applicant's physical appearance to have biometrics collected. Because the checks may be run at different times, it is not appropriate for USCIS to only require a copy of a USCIS receipt evidencing the submission of Form I-956H.</p>
20.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956K:</p> <p>Promoter needs definition.</p> <p>Direct promoter, third-party promoter, and migration agent need definition with the implications.</p>	<p>Response: USCIS may consider rulemaking to address these issues.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

21.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956K:</p> <p>The form should clarify whether registration required for an employee or sub-agent who operates under a registrant. This is implied in Part 2 Item 20, but it should be stated more clearly, at least in the instructions. Agents will tend not to want to believe that all promoters interacting with the investor, including individual employees, are required to independently register. If they are so required, it should be clearly specified so that everyone will be “on the same page.”</p>	Response: Please see Comment # 22. below for Response, which addresses this portion of the public comment.
22.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956K:</p> <p>What role of an employee or agent triggers obligation to register? (i.e., it would seem only those interacting with prospective investors)</p> <p>How does a registrant complete Part 3 as to written agreement with RC, NCE, JCE as an employee or sub-agent of the promoter who has the agreement? Such registrant will not have a written agreement directly with the issuer. Should the employee or sub-agent identify the written agreement with the issuer entered by the primary broker/agent under whom they are operating?</p>	Response: Any promoter employed to work as a promoter or otherwise engaged as a promoter on behalf of another promoter (including an entity) must submit Form I-956K and complete Part 2. about themselves and Part 3. to indicate the individual or entity employing them as a promoter. Part 2., Question 20. provides an area for these types of promoters to provide the necessary information for registration and provide USCIS information about the entity or individual that employs them.
23.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956K:</p> <p>Form I-956K should also require promoters to cooperate in complying with the written disclosure of fees, ongoing interest, and compensation to promoters as required by INA 203(b)(5)(K)(iv). Promoters are going to be very hesitant to follow this regulation, and it should be specifically mentioned.</p>	Response: USCIS may consider rulemaking to address these issues.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

24.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-956K:</p> <p>The form should clarify whether I-956K (and 203(b)(5)(K)) applies to a promoter in selling to a standalone investor (I-526, not I-526E).</p>	<p>Response: The provisions at INA 203(b)(5)(K) do not apply to standalone investors.</p> <p>USCIS updated the form instructions to specify that the Form I-956K must be completed by each person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise (NCE), an affiliated job-creating entity (JCE), or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project and is participating in the Regional Center Program.</p>
25.		Commenter: Marko Issever	
	0020	<p>Having signed a foreign finder agreement with a US broker-dealer, following Rule 2040, must foreign real estate agents, accountants, financial advisors, teachers, education consultants, and other similar foreign professionals file Form I-956K even if their primary business is not EB5? It would be very cumbersome if they must. It would be hard to monitor and force them to comply. Therefore, would it be sufficient to list them in the I-956K registration of the broker-dealer?</p>	<p>Response: Any person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project must submit Form I-956K before operating on behalf of any of the specified entities or promoting any offering under the EB-5 Regional Center Program. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors.</p>
26.		Commenter: Robert Divine	
	0019 (attachment 1 - Supplementary Comments of Robert Divine for I-956 forms)	<p>First, as mentioned in my initial comments, Form I-526E should include a question such as, "Have you included with your petition a written disclosure of all fees, ongoing interest, and other compensation paid to any promoter by virtue of your investment?" This question</p>	<p>Response: This comment is related to the Form I-526E and should have been submitted on Docket USCIS-2007-0021 in order to be properly received. However, USCIS is responding to the comment on this docket to ensure the public has</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	<p>would be to alert the petitioner to the requirement in the instructions, which erroneously do NOT include such written disclosure, clearly required by INA § 203(b)(5)(K)(iv), as required evidence for the I-526E submission.</p> <p>It is important for USCIS to clarify exactly what that disclosure must require. INA §§ 203(b)(5)(K)(iv) states:</p> <p>“(iv) DISCLOSURE.—Each petition filed under section 204(a)(1)(H) shall include a disclosure, signed by the investor, that reflects all fees, ongoing interest, and other compensation paid to any person that the regional center or new commercial enterprise knows has received, or will receive, in connection with the investment, including compensation to agents, finders, or broker dealers involved in the offering, to the extent not already specifically identified in the business plan filed under subparagraph (F).</p> <p>Importantly, the statute does not limit the disclosure to any source; therefore, it covers compensation paid from any source, even if the source is not the RC, NCE, or other issuer of the security. The instructions should clarify that the required disclosure must cover payments from any and all sources, so that clever parties trying to get around the statute’s intent cannot arrange for payments to come from parties other than the RC, NCE, or other issuer of securities. The reference to “ongoing interest” is meant to capture the very common practice of paying promoters from the NCE manager’s share of profits of the NCE. All that is required to trigger the requirement of disclosure is that the RC or NCE knows about the compensation. Although this particular statute focuses on what must be in the investor’s petition, this is part of the RIA’s total package of integrity measures and</p>	<p>access to the relevant comment and responses.</p> <p>USCIS is requesting regional centers to submit the written disclosure of all fees, ongoing interest, and other compensation paid to any promoter with their Form I-956F, Application for Approval of an Investment in a Commercial Enterprise. See Part 6., Question 6. asking the applicant to identify any documents containing information related to fees paid to promoters. USCIS expects a regional center will disclose these fees in its offering documents for a particular investment offering. Since USCIS is collecting this information in connection with the regional center’s project application, there is no need for individual petitioners to provide a duplicate copy of that information.</p> <p>However, to ensure regional center investors are aware of the requirement of a regional center to disclose all fees, ongoing interest, and any other compensation paid to any promoter with their Form I-956F, USCIS is adding an acknowledgement question to the Form I-526E to ensure the investors have been provided a copy of the disclosure the regional center has already submitted to USCIS.</p>
--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>falls under the set of statutes that the RC and the NCE are required to certify continual compliance with by all parties involved.</p> <p>The I-526E instructions should clarify that the required disclosure must identify each person receiving compensation by virtue of the investor’s investment, especially including the individuals and entities interacting directly with the investors. It is obvious that such payments are the most important in the investor’s assessment of the conflicts of interest on the part of people persuading the investor to make a particular investment decision. The above statute’s words “paid to any person” can be read to mean that each person receiving such compensation should be identified. This interpretation is supported by the specificity in Subsections (F) (“the name and contact information of any such person, if known at the time of filing”) and (G) (“an accounting of the entities that received such fees”). Without such clarification, some industry players will set up global clearinghouses through which to funnel all fees and disclose the fees only to such clearinghouses, failing to disclose the promoters closer to the investor and the amounts those promoters receive, and thereby frustrating the purposes of the statute to disclose the most meaningful conflicts of interest of all.</p> <p>USCIS needs to amend Form I-526E immediately to cure this glaring oversight in the original form and instructions, and in the process it should clarify the nature of the required disclosure.</p> <p>If USCIS decides that the above interpretation is wrong, then it should publish that fact instead, stating that it is enough for issuers to disclose the total</p>	
--	--	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		amount of the investor's administrative fees	
27.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-526E:</p> <p>Most importantly, the instructions fail to include as required evidence the written disclosure of fees, ongoing interest, and compensation to promoters as required by INA 203(b)(5)(K)(iv). Promoters are going to be very hesitant to follow this regulation, and it should be specifically mentioned.</p> <p>The instructions should also tell an investor what to do if the documents provided to the investor from the NCE reflect changes from what was submitted by the regional center with the I-956F. Periodic changes to business projects are inevitable, and it does not make sense to file formal amendments to I-956F with \$17,795 filing fee for every such change. Investors could be instructed to submit amendment changes, or side letters unique to them, in their I-526E submission. Once USCIS implements some kind of electronic system to allow regional centers to upload changes to I-956F project filings to reflect supplements to those documents, such supplemental documents would not be needed for I-526E filings.</p>	<p>Response: This comment is related to the Form I-526E and should have been submitted on Docket USCIS-2007-0021 in order to be properly received. However, USCIS is responding to the comment on this docket to ensure the public has access to the relevant comment and responses.</p> <p>USCIS may consider rulemaking to address this issue.</p> <p>As the commenter notes, amendments to Form I-956F that are approved by USCIS will be incorporated into an associated Form I-526E.</p>
28.		Commenter: Robert Divine	
	0014 (see attachment)	<p>On the I-526:</p> <p>Part 4 Item 14.I. should be renumbered as 15. 15 and 16 should become 16 and 17.</p> <p>Most importantly, the form should clarify whether or not INA 203(b)(5)(H), (K), and (Q) apply to standalone investments. Even if they do not apply, this should be clarified because of the ambiguity in the phrasing of the statute. I don't think they</p>	<p>Response: This comment is related to the Form I-526E and should have been submitted on Docket USCIS-2007-0021 in order to be properly received. However, USCIS is responding to the comment on this docket to ensure the public has access to the relevant comment and responses.</p> <p>The suggested renumbering has been done.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>should apply, because the sections involved were written with pooling of investments in mind, and it makes no sense in the situation where the alien investor is in fact an organizer of the business. But if they do apply, then the form instructions at least should require inclusion in the require evidence, as applicable: Forms I-956(H) from those involved with NCE, written disclosure to investor of fees, ongoing interest, and other compensation to promoters, and identification of NCE separate account and fund administrator.</p>	<p>Additional clarifications have been added to the form instructions to clarify sections of the EB-5 Reform and Integrity Act of 2022 that apply to standalone investors.</p> <p>USCIS has determined that INA 203(b)(5)(H) does not apply to standalone investors as the section clearly specifies that the provisions included are for “persons involved with [the] regional center program”. Any noncitizen seeking to obtain an EB-5 immigrant visa based on an investment made with one or more other noncitizens seeking an EB-5 immigrant visa must apply under the Regional Center Program. See INA 203(b)(5)(E). A standalone investor cannot pool their investment with any other person seeking an EB-5 immigrant visa and are therefore seeking an EB-5 immigrant visa outside of the Regional Center Program. Consequently, the provisions of INA 203(b)(5)(H) do not apply to a standalone investor seeking an EB-5 immigrant visa outside of the Regional Center Program.</p> <p>The provisions at INA 203(b)(5)(K) do not apply to standalone investors.</p> <p>USCIS updated the form instructions to specify that the Form I-956K must be completed by each person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise (NCE), an affiliated job-creating entity (JCE), or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project and is participating in the Regional Center Program.</p>
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

			USCIS may consider rulemaking to address the comment regarding the application of INA 203(b)(5)(Q) to standalone investors.
29.		Commenter: American Immigration Lawyers Association	
	0021	On behalf of the American Immigration Lawyers Association, we submit herewith our comments with respect to the USCIS information collection in connection with Forms I-956, Form I-956F, Form I-956G, Form I-956H and Form I-956K.	<p>Response: See Comment Responses below labeled with Commenter ID: 0021. The information in each attachment from the public comment was separated into different sections in this comment matrix to address each portion of information individually.</p> <p>See Comment # 30. – 68.</p>
30.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	<p>On Form I-956:</p> <p>1. Amending Geographic Boundaries: Please clarify in the instructions whether Form I-956 or Form I-956F is needed to expand the scope of a Regional Center’s Geographic Designation.</p>	<p>Response: Form I-956, Application for Regional Center Designation, is used to request an amendment to an approved regional center. A regional center must file an amendment on Form I-956 to seek approval for changes to the geographic area of the regional center. USCIS will not consider a Form I-956F, Application for Approval of an Investment in a Commercial Enterprise, to expand the geographic area of the regional center.</p>
31.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	<p>On Form I-956:</p> <p>2. Amendments for previously filed Form I-956: Regional Centers that filed a Form I-956 prior to the effective date of the Behring settlement should be allowed to seek any additional amendments permitted by said form, including amendments to the Regional Center’s</p>	<p>Response: All approved regional centers may use Form I-956 to request an amendment to its designation and must submit Form I-956 to seek approval for changes to the regional center’s name; changes to the regional center’s ownership, organizational structure, or administration, including the sale of the regional center, or other arrangements</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		name, organizational structure, ownership, administration, or geographic boundaries. Otherwise, Regional Centers in this category will be prejudiced for having acted in good faith, while not initially knowing they could use the Form to amend their previously approved designations.	that would result in individuals not previously subject to the requirements under INA section 203(b)(5)(H) becoming involved with the regional center; or changes to the regional center's geographic area.
32.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	<p>On Form I-956:</p> <p>3. Responding to Courtesy Requests for Clarification (CRC) for Form I-956 Filings: Regional Centers that filed a Form I-956 prior to the effective date of the Behring settlement have been receiving CRCs from USCIS in connection with those filings. Each CRC asks whether the application is an amendment or an initial application and allows the opportunity to provide additional information and documentation to supplement the pending Form I-956 application. In response to the CRC, a Regional Center should be allowed to submit additional information and documentation to support a request to amend its name, organizational structure, ownership, administration, or geographic boundaries. Moreover, USCIS should confirm that a CRC response by the Regional Center is sufficient to supplement the Form I-956 filing. Any additional documentation provided with the response should be deemed filed as of the original filing date of the Form I-956.</p>	Response: A regional center may submit additional evidence in response to a request for clarification (RFC) and USCIS will review the submission to make a determination on the regional center's Form I-956.
33.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	<p>On Form I-956:</p> <p>4. Evidence Needed for Amendments to Geographic Boundaries: USCIS should clarify the evidence needed to amend a geographic boundary, including (1) what evidence should be submitted to expand a</p>	Response: USCIS may consider rulemaking to address these issues.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		Regional Center’s geographic scope (e.g., confirm that it is the same standard as pre-RIA adjudications), (2) what standard USCIS will use to adjudicate such requests, and (3) an estimated timeline for adjudicating amendments for geographic boundaries. These are urgent and critical issues because they affect the timing and structuring of upcoming EB-5 offerings.	
34.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	On Form I-956: 5. Inactive Regional Centers: Please confirm what forms/filings/notices a Regional Center must file if they have no intention of operating under the RIA and wish to wind down or otherwise cease operations. Please clarify what policies/procedures have been implemented for Regional Centers in this scenario.	Response: A designated regional center may submit a request to withdraw its participation in the Regional Center Program at any time. USCIS will process the request and terminate the designation.
35.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	On Form I-956: 6. EB-5 Integrity Fee: Please confirm that the “Integrity Fee” for Regional Centers will not be collected for Fiscal Year 2022.	Response: DHS may publish a Federal Register Notice regarding the “Integrity Fee.”
36.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	On Form I-956: 7. Securities Laws/Compliance: AILA recommends that USCIS publish acceptable guidelines/procedures for compliance with applicable securities laws. Can USCIS confirm whether USCIS or the SEC will oversee such regulatory or enforcement issues? Has there been any inter-agency discussion or coordination?	Response: USCIS may consider rulemaking to address these issues.
37.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 –	On Form I-956:	Response: Regional centers should submit sufficient evidence to

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	AILA Comment on Form I-956)	<p>8. Evidence Required to Maintain Regional Center Designation: For I-956 filings submitted before December 29, 2022, can USCIS confirm the required evidence needed to maintain designation? Based on the Form I-956's instructions and information thus far, it seems at a minimum, Regional Centers should include previous designation letters to comply with Form I-956 (Parts 4, 5, and 6), an economic impact report, and an operations plan/manual. Is this sufficient?</p>	<p>demonstrate eligibility under all parts of the Form I-956. This may include, but is not limited to:</p> <ol style="list-style-type: none"> 1. Prior designation letter(s). 2. Evidence supporting the issues in Parts 5., 6., and 7. of the form, such as: Updated operational plan covering administration and oversight requirements, policies and procedures requirements (evidence supporting Parts 5. and 6. of the form). 3. I-956H forms for all persons involved with the RC (supporting Part 7.). <p>If an RC is not changing its geographic area, name, or substantive industries of focus, no new economic analysis should be required.</p>
38.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	<p>On Form I-956:</p> <p>9. Form I-956G: Please confirm whether Regional Centers must file this form before December 29, 2022.</p>	<p>Response: A regional center with a designation letter dated on or before September 30th must submit Form I-956G on or before December 29th of the same calendar year.</p>
39.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 1 – AILA Comment on Form I-956)	<p>On the I-956:</p> <p>Part 7. Information about all persons involved with the Regional Center:</p> <p>A. Please clarify the scope of persons “involved” or “indirectly involved” with the Regional Center who must be listed and file a Form I-956H. USCIS’ scope seems to be overly broad and appears to include people serving in tangential roles who are merely listed on the Regional Center’s website even though they lack significant involvement.</p>	<p>Response: Pursuant to the statute, a person is involved with a regional center, NCE, or JCE if the person is, <u>directly or indirectly, in a position of substantive authority</u> to make operational or managerial decisions over pooling, securitization, investment, release, acceptance or control or use of any funding. A person may be in a position of substantive authority if they serve as a principal, a representative, an administrator, an owner, an officer, a board member, a manager, an executive, a general partner, a fiduciary, an agent or</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

			in a similar position at the regional center, NCE, or JCE, respectively.
40.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	<p>On the I-956F Instructions:</p> <p>The instructions to Form I-956F state that its purpose is to be “used by a regional center designated after March 15, 2022 to request approval of a project.” This should be amended to indicate the form is to be “used by a regional center designated by USCIS to request approval of a project.”</p>	Response: The I-956F Instructions posted to the docket already provide the purpose of the form is for “a designated regional center to request approval of a project.”
41.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	<p>On the I-956F Instructions:</p> <p>The instructions to Form I-956F require Form I-956H, Bona Fides of Persons Involved with Regional Center Program from “(e)ach person involved with the NCE and affiliated-JCE.” Given the ability of USCIS to use previously captured biometrics, we suggest modification of the instructions to require either submission of Form I-956H, or a copy of a USCIS receipt evidencing the submission of Form I-956H to USCIS in connection with another filing within a reasonable period of time (e.g., the 12 months) preceding the date of filing of Form I-956F.</p>	Response: The biometric services fee is for performing biometric services, which includes, among other agency actions, the management of electronic biometric information, background checks performed by the Federal Bureau of Investigation (FBI), and the collection, use, and reuse of collected biometric information to verify the identity of individuals seeking immigration benefits, capturing, storing, and using biometric information. A service fee of \$85 is charged to pay for background checks and have the applicant’s biometric information captured, stored, and used for any individual who is required to submit biometric information for an application, petition, or other request for certain immigration and naturalization benefits (other than asylum or refugee status) or actions. Thus, the fee is required when USCIS runs a background check and is not always necessarily associated with an applicant’s physical appearance to have biometrics collected. Because the checks may be run at different times, it is not appropriate for USCIS to only require a

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](https://www.regulations.gov/document/USCIS-2022-0010)

30-day FRN Citation (federalregister.gov): [87 FR 54233](https://www.federalregister.gov/documents/2022/09/02/87-fr-54233)

Publish Dates: September 2, 2022 – November 1, 2022

			copy of a USCIS receipt evidencing the submission of Form I-956H. Further, an entity must demonstrate that individuals involved with them are compliant with INA 203(b)(5)(H). Because this is a requirement for each entity, individuals associated with more than one entity must submit this for each entity with which they are involved. However, as noted in response to Comment # 19. , USCIS is modifying the requirement for a Form I-956H to be filed once per filing rather than once for every entity, which will lessen the burden on persons required to submit Form I-956H.
42.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	On the I-956F Instructions: Instructions for Item Number 17 – The reference to “Form I-526” should be changed to “Form I-526E.”	Response: USCIS made the suggested technical edit.
43.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	On the I-956F Form: Page 1 , Part 1 – Application Type: USCIS should clarify which circumstances necessitate the filing of an amendment of Form I-956F. It is common for offering documents to be amended by the new commercial enterprise; however, those changes or supplements to an offering may not be material to the Form I-956F.	Response: USCIS may consider rulemaking to address this issue.
44.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	On the I-956F: Part 5, page 6, Item 3 – Infrastructure Projects: USCIS should clarify in the form instructions to Form I-956F whether a public-private partnership would qualify as	Response: USCIS may consider rulemaking to address this issue.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		an “infrastructure” project or whether the JCE must solely be a government agency.	
45.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	<p>On the I-956F:</p> <p>Part 5, page 6, Item 4 – High Employment Projects: USCIS should clarify what this section means, as it does not appear to be part of the RIA. Moreover, in item 5, petitioners can check if the project is a Non-TEA/Non-Infrastructure, Non-High Unemployment project. It appears Items 4 and 5 are asking for the same information.</p>	<p>Response: INA 203(b)(5)(C)(iv) provides DHS the ability to set a different investment amount for investments in high employment areas, which are areas that are not a targeted employment area (TEA) and is an area with an unemployment rate significantly below the national average unemployment rate. Currently, the investment amount in a high employment area is the same as the standard amount provided in INA 203(b)(5)(C)(i). DHS has added this response to collect data on investments that are being made in high employment areas.</p> <p>The commenter misstates Item Number 5.; USCIS notes that Item Number 5. asks for “non-TEA, non-infrastructure, non-high employment”. While Item Number 4. asks the regional center to identify if the project is in a high employment area, Item Number 5. asks the regional center to identify if the area is not within one of the areas identified in Item Numbers 1.-4.</p>
46.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	<p>On the I-956F:</p> <p>Part 5. Page 6, Item 7: Number of expected EB-5 Investors into the NCE: The instructions state that each Form I-956F may only include one commercial enterprise, but it is common for a regional center to support two commercial enterprises engaged in a collaborative effort to raise EB-5 funds to support the same project. In certain situations, parallel funds/new commercial enterprises may also be required under securities laws. Form I-956F should be</p>	<p>Response: INA 203(b)(5)(A) provides immigrant visas to qualified individuals seeking to enter the United States for the purpose of engaging in a new commercial enterprise, which will benefit the U.S. economy by creating full-time employment for not fewer than 10 qualifying employees. INA 203(b)(5)(F) requires a regional center to submit an application for each particular investment offering through an associated new commercial enterprise. To properly account for investors in the new commercial enterprise, the regional</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		modified to allow for the possibility of a companion capital raise by expanding the question in item 7 to the number of expected EB-5 investors into NCEs supporting the same capital investment project.	center must identify the number of investors in each new commercial enterprise so USCIS can determine that all the requirements for an EB-5 immigrant visa are met by the investment in the singular new commercial enterprise. Even where the regional center supports multiple new commercial enterprises in one capital investment project, there must be an appropriate accounting of the investment received by a singular new commercial enterprise and the jobs created by that new commercial enterprise.
47.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	<p>On the I-956F:</p> <p>Part 5, page 6, item 9 and Part 5, page 6, item 10: Items 9 and 10 are unclear and require the regional center to guess what information is required in response to the request for the “Nature of Activity of Project” and “Primary Included Industries for Project”. Item 9 gives the example of “furniture manufacturer,” which suggests USCIS seeks to identify the industry or industries that will be the focus of operations once any development and construction activities are completed, and not necessarily the business activities that will be the primary source of job creation, e.g., the expenditures required to construct a furniture manufacturing factory.</p> <p>Items 9 and 10 should be modified to clarify whether USCIS, in asking for the “Nature of Activity of Project,” seeks to identify the industry or industries that will be the primary source of job creation, or the industry or industries that will be the focus of operations once any development and construction activities are completed, regardless of whether job creation</p>	<p>Response: USCIS understands that a project may involve a construction and development phase and an operational phase. Please provide the nature of the activity of the project that will be the focus of operations after construction is complete.</p> <p>We made the clarifying edits in the I-956F Instructions in Part 5., Item Number 9.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>primarily occurs during the construction phase.</p> <p>We also note that item 11 asks for the number of estimated jobs to be created by the project, broken down by industry sector and associated NAICS codes, which would be identified in the economist's economic impact and job creation analysis as the industries impacted by the project.</p>	
48.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 2 – AILA Comment on Form I-956F)	<p>On the I-956F:</p> <p>Page 12, Part 10 – Fund Administration: USCIS needs to edit Form I-956F to provide for the mandatory waiver of fund administrator requirements where the new commercial enterprise procures audited financial statements. At present, the Form I-956F only contemplates a scenario in which a fund administrator is hired, although the RIA allows for a mandatory waiver of this requirement when audited financial statements will be prepared. Specifically, INA 203(b)(5)(Q)(v)(II) states, “The Secretary of Homeland Security shall waive the requirements under clause (iv) for any new commercial enterprise that commissions an annual independent financial audit of such new commercial enterprise or job creating entity conducted in accordance with Generally Accepted Auditing Standards, which audit shall be provided to the Secretary and all investors in the new commercial enterprise.”</p> <p>Also, USCIS must clarify the use of the word “or” in this context. The instructions to Form I-956F should clarify whether both the new commercial enterprise and the job creating enterprise are required to commission audited financial statements</p>	<p>Response: USCIS may consider rulemaking to address this issue. To the extent you believe the waiver under 203(b)(5)(Q)(v)(II) applies, you may provide information regarding the annual audit in Part 14. Additional Information.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		to waive the fund administrator requirements.	
49.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 3 – AILA Comment on Form I-956G)	<p>I-956G Instructions:</p> <p>1. The USCIS website says “Regional centers approved after May 14, 2022 use this form to provide required information, certifications and evidence to support their continued eligibility for regional center designation.” The website should clarify that Form I-956G also should be used for those regional centers that filed Form I-956 as an “amendment” application for a regional center approved prior to May 14, 2022 that wishes to continue operating under the EB-5 Reform and Integrity Act of 2022 (the “RIA”).</p>	Response: The I-956G Instructions posted to the docket already provide the purpose of the form is for “approved regional centers to provide required information, certifications, and evidence to support their continued eligibility for regional center designation.”
50.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 3 – AILA Comment on Form I-956G)	<p>I-956G Instructions:</p> <p>2. In the form instructions at page 1, USCIS should clarify the filing deadlines for regional centers to file Form I-956G. The instructions and the name of the form indicate that this Form I-956G must be filed annually by approved regional centers. The form instructions contain the following deadlines (<i>see table on page 1, What Is the Purpose of Form I-956G</i>).</p> <p>AILA finds these instructions confusing. For example, for a regional center approved on September 29, 2022, the Form I-956G would be due December 29, 2022 and each year thereafter. For a regional center approved on October 2, 2022, the Form I-956G would be due December 29, 2023, but for the same fiscal year period. The use of the word “following” calendar year would give some regional centers approved between October 1 and December 31 an entire year</p>	Response: This requirement is no different from the prior Form I-924A.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>of extra time to file an annual compliance form on the same fiscal year data as those regional centers approved between January 1 and September 30. This is confusing and creates disparities in deadlines for regional centers to provide relevant information about a fiscal year. It is not clear whether USCIS is giving extra time for the filing of Form I-956G for just the first year of approval of the regional center. In any event, the current language appears to give on its face certain regional centers an extra year to file data about the fiscal year in question. AILA suggests having one deadline as was the case with the former Form I-924A.</p>	
51.		<p>Commenter: American Immigration Lawyers Association</p>	
	<p>0021 (attachment 3 – AILA Comment on Form I-956G)</p>	<p>I-956G Instructions:</p> <p>3. The I-956G form instructions state the following:</p> <p>“Part 3, Information About the Regional Center’s Operations</p> <p>Item Number 1. Accounting of All Alien Investor Capital Invested in the Regional Center. Provide the total EB-5 investor capital invested in the regional center and its associated new commercial enterprise(s) and job-creating entity(ies) since the date of regional center designation.”</p> <p>USCIS should clarify that the amount of “total investor capital” should be provided since May 14, 2022 for previously designated regional centers that continue to operate under the RIA. For all new regional centers not previously designated before May 14, 2022, this amount should be provided since the date of approval of the regional center by USCIS. This clarification is needed so that regional centers designated prior to the RIA</p>	<p>Response: The statute does not distinguish between capital invested before or enactment of the RIA (EB-5 Reform and Integrity Act of 2022) for purposes of reporting under INA 203(b)(5)(G). As reflected in the form, the amount reported should be cumulative from the date of designation. USCIS will not be including a clarification but may consider rulemaking to further address this issue.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		passage that still choose to operate under the RIA are not required to provide data for fiscal years prior to RIA passage.	
52.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 3 – AILA Comment on Form I-956G)	<p>I-956G Instructions:</p> <p>4. The Instructions to Form I-956G, Attachment 1, Item Number 13. – 18.: Item 13 asks for an accounting of capital invested into the NCE since the Form I-956F was filed, not for the federal fiscal year. There is no temporal instruction found in Items 14-18. USCIS should clarify whether the regional center must report (on investor capital, commitment of capital to the JCE, project progress, job creation and fees collected and paid) for the fiscal year OR since the time of filing of the I-956F. This was a common issue on Form I-924A, as it was not clear if the fiscal year data or cumulative data should be reported annually. The instructions should be clarified and one temporal standard should be used for all data.</p>	<p>Response: USCIS clarified the scope of reporting for these items on the Form I-956G form and instructions. Attachment 1. should be completed for all NCEs with active EB-5 investors and, consequently, may not in all cases relate to an associated I-956F for pre-RIA investments in NCEs with active EB-5 investors that remain associated with the regional center for purposes of reporting under INA 203(b)(5)(G). For those NCEs with active EB-5 investors that will be reported using Attachment 1., the reporting should be cumulative unless otherwise noted as being limited to the preceding fiscal year.</p>
53.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 3 – AILA Comment on Form I-956G)	<p>I-956G Form:</p> <p>5. Page 4, Part 4., Item 12. – 13.: USCIS should clarify if “any party associated with the regional center” means also the new commercial enterprise, or if this certification is just for the principals or other persons of authority in the regional center entity.</p>	<p>Response: INA 203(b)(5)(G)(i)(II) requires a certification defined in INA 203(b)(5)(I)(ii)(III)(bb) that to the best of the certifier’s knowledge, after a due diligence investigation, all such offers, purchases, and sales of securities or the provision of investment advice complied with the securities laws of the United States and the securities laws of any State in which (AA) the offer, purchase, or sale of securities was conducted; (BB) the issuer of securities was located; or (CC) the investment advice was provided. This statutory language encompasses any party associated with the regional center,</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

			which may include a new commercial enterprise, job-creating entity, promoter, or any person involved with the regional center.
54.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 3 – AILA Comment on Form I-956G)	<p>I-956G Form, Attachment 1:</p> <p>6. Attachment 1 at page 14 requires the regional center to provide information about the Fund Administrator hired by the NCE. USCIS needs to edit the Form I-956G, Attachment 1, to allow for the mandatory waiver of fund administrator requirements where the new commercial enterprise procures audited financial statements. At present, the Form I-956G, Attachment 1, only contemplates that a fund administrator can be hired, but the RIA allows for a mandatory waiver of this requirement when audited financial statements will be prepared. INA 203(b)(5)(Q)(v)(II) states, “The Secretary of Homeland Security shall waive the requirements under clause (iv) for any new commercial enterprise that commissions an annual independent financial audit of such new commercial enterprise or job creating entity conducted in accordance with Generally Accepted Auditing Standards, which audit shall be provided to the Secretary and all investors in the new commercial enterprise.” Moreover, USCIS must clarify the use of the word “or” in this context. The instructions to Form I-956G should clarify whether both the new commercial enterprise and the job creating enterprise are required to commission audited financial statements to waive the fund administrator requirements.</p>	Response: USCIS may consider rulemaking to address this issue. To the extent you believe the waiver under 203(b)(5)(Q)(v)(II) applies, you may provide information regarding the annual audit in Part 8. Additional Information.
55.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 4 –	On the I-956H:	Response: USCIS may consider rulemaking to address this issue.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	<p>AILA Comment on Form I-956H)</p>	<p>1. Definition of terms within the definition of “Personals Involved with a Regional Center, New Commercial Enterprise, or Job-Creating Entity” at INA 203(b)(5)(H)(v). The INA does not define a number of terms within this definition, such as “indirect”, “substantive authority”, “operational decisions” or “managerial decisions”, nor does it define what constitutes “pooling...of any funding,” “securitization...of any funding,” “investment...of any funding,” “release...of any funding,” “acceptance...of any funding,” “control...of any funding,” or “use...of any funding.” Most pressing for purposes of understanding compliance obligations is the definition of “substantive authority”, “operational decisions” and “managerial decisions.” Because the form instructions simply restate INA 203(b)(5)(H)(v), it is not clear which individuals are actually covered by this form and who is required to complete the form.</p> <p>We would like to note that, from a drafting perspective, the terms highlighted above run together, such that in order to be required to complete the form, the person must satisfy all of the following conditions: (a) directly or indirectly (b) in a position of substantive authority, (c) to make operational or managerial decisions over (d) pooling, securitization, investment, release, acceptance, control or use of any funding (e) that was procured under the “Regional Center Program.”</p> <p>Noteworthy in this definition is that any person involved with a regional center, new commercial enterprise, or affiliated-job creating entity which possesses substantive authority to make operation or managerial decisions over monies that</p>	
--	-------------------------------------	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>were not procured under the Regional Center Program (e.g. nonimmigrant investor capital) is not required to complete a Proposed Form I-956H. For instance, the head of Human Resources at a regional center, new commercial enterprise, or affiliated-job creating entity would not be covered, neither would positions such as investor relations, business operations, business development, communications, etc.</p> <p>In another example, this plain language would also not require an individual with a minority ownership percentage in a regional center, new commercial enterprise, or affiliated-job creating entity that does not provide the individual with the right to make operational or managerial decisions over immigrant investor capital. For instance, arrangements exist wherein an individual owns 49.9% or less of a regional center, new commercial enterprise, or affiliated-job creating entity, and such ownership interest does not permit the individual to make any operational or managerial decisions without the consent of the majority.</p> <p>In addition to addressing the critical lack of definitions referenced above, DHS should also clarify the scope of “indirect” in the definition of “Persons Involved with a Regional Center, New Commercial Enterprise, or Job-Creating Entity” at INA 203(b)(5)(H)(v). In a modification of the example in the paragraph directly above, an individual could own 49.9% of a new commercial enterprise or affiliated-job creating entity, and under the terms of that entity, be required to consent to major decisions on the winding up, disposition of property, etc., that affects immigrant investor capital. However, this</p>	
--	--	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		individual would clearly not be in a position of “substantive authority” as that term is colloquially understood, and thus despite their ability to block dispositions of immigrant investor capital, such an individual would not be required to complete the Proposed Form I-956H under the law.	
56.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 4 – AILA Comment on Form I-956H)	<p>On the I-956H:</p> <p>2. Clarification regarding the Secretary’s discretion to require non-affiliated JCE’s to complete a Proposed Form I-956H.</p> <p>Pursuant to the INA, the Secretary’s discretion is not unlimited, and the Proposed Form I-956H should be clarified to reflect this fact. Rather, INA 203(b)(5)(h)(iii)(III) states the Secretary may request the information and documentation in INA 203(b)(5)(h)(iii)(I)-(II) “...if there is a reasonable basis to believe such entity or person is not in compliance with” INA 203(b)(5)(h)(i)-(ii) [emphasis added]. Indeed, the definitional section of INA 203(b)(5)(H)(v) does not include non-affiliated job creating entities. Therefore, the statements in the Proposed Form I-956H and form instructions that “A person involved with a JCE that is not an affiliated JCE may, at the Secretary’s discretion, be required to answer the questions below” and “[a] person involved with a JCE that is not an affiliated JCE may, at the Secretary’s discretion, be required to complete Form I-956H” are not accurate because they fail to include the restriction on the Secretary’s discretion that a “reasonable basis to believe” such entity or individual is not in compliance with the relevant portions of law. Furthermore, we believe DHS should provide examples of what would constitute a “reasonable basis to believe”</p>	Response: USCIS may consider rulemaking to address this issue.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>an entity or individual is not in compliance with the relevant portions of law.</p> <p>DHS should also provide guidance as to who will be required to complete a Proposed Form I-956H in situations where DHS has a “reasonable basis to believe” a non-affiliated job creating entity is not in compliance with the relevant portions of law. Many large-scale developments have multiple job creating entities and may have partners or equity investors with certain standard development rights entitling them to consent over various decisions related to the development. To the extent DHS believes a non-affiliated job creating entity is not in compliance with the relevant portions of law, DHS should be required to specify the reasonable basis so that the non-affiliated job creating entity can choose the appropriate person to complete the Form I-956H, similar to the derogatory evidence standard already employed by USCIS.</p>	
57.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 4 – AILA Comment on Form I-956H)	<p>On the I-956H:</p> <p>3. DHS should permit the designation of a “Persons Involved with a Regional Center, New Commercial Enterprise, or Job-Creating Entity.” Given the confusion from the various provisions of law, DHS should permit a regional center, new commercial enterprise, affiliated-job creating entity or non-affiliated job creating entity to designate one individual who meets the definition of INA 203(b)(5)(H)(v) and will be held responsible under the RIA for compliance with law. If DHS simply allows designation of this individual, it avoids the problems discussed in this comment because the individual would be voluntarily self-identifying to DHS.</p>	<p>Response: USCIS may consider rulemaking to address this issue.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	<p>As a matter of law, nothing in INA 203(b)(5)(H) requires DHS to receive this Form I-956H as a means of conducting name checks on individuals involved in the regional center, new commercial enterprise, affiliated-job creating entity or non-affiliated job creating entity. While INA 203(b)(5)(H)(i) is clear that the Secretary “may not permit” any person to be involved in a regional center, new commercial enterprise, or affiliated-job creating entity if the person is determined to be subject to subsections (I)-(IV), INA 203(b)(5)(H)(v) grants the Secretary the power to “otherwise determine[d]” whether a person is involved. Similarly, INA 203(b)(5)(H)(iii)(I)-(II) include qualifiers that the Secretary “shall perform” criminal checks, and receive attestations, among others, ... “as may be necessary to determine whether such entities” are in compliance with the law [emphasis added]. Accordingly, the Secretary could determine that the individuals appointed by each regional center, new commercial enterprise, affiliated-job creating entity or non-affiliated job creating entity must complete the Proposed Form I-956H, as determined by the Secretary to ensure such entities are in compliance with the law (provided the individuals fall within the definition at INA 203(b)(5)(H)(v)). DHS would still retain its authority to require certifications of other individuals through the issuance of a Request for Evidence or Notice of Intent to Deny for an entity or individual, as every entity and individual related to the EB-5 Program would be covered by at least one regional center’s annual filing.</p> <p>Finally, we note that FINRA Rule 3110 requires each member to establish and maintain a system to supervise its</p>	
--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		activities, including compliance with laws and regulations, that includes the designation an individual with authority to carry out supervisor responsibilities. Similarly, we believe the designation of one individual (or multiple, if the entity desired) would be more efficient for USCIS' operations and would help shorten adjudication timelines without sacrificing oversight.	
58.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 4 – AILA Comment on Form I-956H)	<p>On the I-956H:</p> <p>4. DHS should not require submission of a Proposed Form I-956H with each Form I-956 and Form I-956F. The form instructions currently require the submission of a Proposed I-956H with every Form I-956 and Form I-956F. The form instructions make this clear by explicitly stating that a person must file a Proposed I-956H even where the individually previously filed the Proposed Form I-956H with Form I-956 and is now filing a Form I-956F. This is wholly unnecessary and completely duplicative. The information and attestations requested in the Proposed Form I-956H generally will not change with sufficient frequency to justify additional burdens on EB-5 Program participants and the agency in adjudicating the same form repeatedly. Indeed, as USCIS is currently permitting scanned copies of signatures on forms, the inclusion of a previously signed and submitted form without any updates would be both lawful and sufficient.</p> <p>Instead, DHS should require a Proposed I-956H only in three (3) scenarios: (1) accompanying an initial application for a regional center on Form I-956 (the check box in Part 1 of this form would alert the mailroom that a Proposed I-956H should</p>	<p>Response: USCIS made changes to the Form I-956H and instructions to avoid some potential duplication by permitting the filing of a single Form I-956H in connection with a Form I-956F where the person is involved with both the NCE and affiliated JCE. USCIS also added a new part that asks whether the person previously filed Form I-956H and to permit the person to skip answering most of Part 2. as well as Parts 3. and 4. where their answers to those parts of the Form I-956H are the same as the previously filed Form I-956H. USCIS may consider rulemaking to further address this issue.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>be attached); (2) accompanying a Form I-956F where (a) the individual qualifies under the definition at INA 203(b)(5)(H)(v) and (b) has never filed a Proposed I-956H previously; and (3) with each Form I-956G. In this way, DHS does not ask for the same information, repeatedly, especially given that the filing of a Proposed I-956H contains personal information sufficient to run, and re-run background checks, as well as authority of USCIS to verify that information through “any means determined appropriate by USCIS.” Furthermore, it is more logical to require a Proposed I-956H annually as part of the various certifications and attestations required to maintain compliance with the law.</p>	
59.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 4 – AILA Comment on Form I-956H)	<p>On the I-956H:</p> <p>5. DHS needs to follow applicable rule-making as required by law before including Part 4 on the Proposed Form I-956H. Part 4 of the Proposed Form I-956H includes questions seemingly designed to address INA 203(b)(5)(H)(ii); however, INA 203(b)(5)(H)(ii)(III) requires the Secretary to issue regulations implementing INA 203(b)(5)(H)(ii)(I)-(II), and no such regulations have been implemented (“Not later than 270 days after the date of the enactment of the EB–5 Reform and Integrity Act of 2022, the Secretary shall issue regulations implementing subparagraphs (I) and (II).”).</p>	<p>Response: The statute is currently in effect and DHS is required to implement the statute, while it simultaneously undergoes rulemaking as mandated by INA section 203(b)(5)(H)(ii)(III).</p>
60.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 4 – AILA Comment on Form I-956H)	<p>On the I-956H:</p> <p>6. DHS needs to define “bona fide foreign sovereign wealth fund or a foreign state owned enterprise” and what constitutes “administration of a job-creating entity.</p>	<p>Response: USCIS may consider rulemaking to address this issue.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>As generally discussed above, when an entity or individual makes an equity investment, either directly or indirectly, into a real estate development project or other business, such entity or individual will receive certain rights to consent on major decisions of that investment. This typically includes consent over the disposition of property, winding up, etc. Accordingly, DHS should take a narrow view of “administration” to encompass only the practical management and direction of day-to-day workings of a job-creating entity. If DHS defines “administration” broadly to include situations of indirect control over certain major decisions, the exception would swallow the rule and no Regional Center sponsored project could accept investment by a bona fide foreign sovereign wealth fund or a foreign state-owned enterprise otherwise permitted to do business in the United States.</p>	
61.		Commenter: American Immigration Lawyers Association	
	<p>0021 (attachment 4 – AILA Comment on Form I-956H)</p>	<p>On the I-956H:</p> <p>7. Individuals with sealed, cleared, or otherwise non-existent criminal records. Without any support in the INA, the Proposed Form I-956H requires individuals to mark “Yes” to any question where the record was “sealed or otherwise cleared.” This is overly broad and appears to require individuals with “expunged” records to mark “Yes” to the question. The plain language of the INA 203(b)(5)(H)(i)(I) does not support this requirement. INA 203(b)(5)(H)(i)(I) is a condition precedent to subsections (aa)-(cc) and states “the person has been found to have committed... [emphasis added].” Accordingly, Questions 1, 2 and 3 in Part 3 are worded too broadly and are ultra vires. Questions 1, 2 and 3 each begin with</p>	<p>Response: USCIS may consider rulemaking to address this issue. Part 8. of the Form I-956H permits the person to provide additional information regarding any circumstance in which they answered “yes” to a question in Part 3.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>“Have you ever committed.” That phrasing is not consistent with the INA, which is clear that the questions should read “Have you been found to have committed...[emphasis added].” For instance, under state law in California, all prior marijuana convictions that are no longer considered crimes, including those with punishments of more than 1 year in prison, were required by law to be reopened, dismissed and sealed. Individuals in this example, as a matter of law, have no longer been found to have committed the offense.</p> <p>Accordingly, individuals with valid expungements or other legal relief that results in, as a matter of law, no commission of a crime, should not have to answer “Yes” to Questions 1, 2 and 3 in Part 3.</p>	
62.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 – AILA Comment on Form I-956K)	<p>On the I-956K:</p> <p>As an initial point, USCIS should clarify whether the Form I-956K applies to “promoters” for stand-alone Form I-526s as well as regional center-based Form I-526Es. This appears to be implied by the instruction that “[e]ach direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities to be offered to immigrant investors in connection with a particular capital investment project must register” but additional clarification would be helpful.</p>	<p>Response: The provisions at INA 203(b)(5)(K) do not apply to standalone investors.</p> <p>USCIS updated the form instructions to specify that the Form I-956K must be completed by each person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise (NCE), an affiliated job-creating entity (JCE), or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project and is participating in the Regional Center Program.</p>
63.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 –	On the I-956K:	Response: If biometrics are required, USCIS intends to use current resources to capture biometrics overseas and does not

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	AILA Comment on Form I-956K)	Biometrics Services Requirements for overseas promoters. It is unclear as to how USCIS is planning to capture biometrics for overseas individuals who may be acting as a direct or third-party promoter. Will USCIS establish a process to accomplish this using U.S. Department of State resources? It should be clarified that for any individual residing overseas that any such biometrics requirement would also be scheduled overseas.	<p>intend to require an individual to enter the United States to provide biometrics where the individual is not already lawfully in the United States.</p> <p>The I-956K Instructions currently detail the following on how USCIS will collect biometrics for individuals overseas.</p> <p>“After USCIS receives your form and ensures it is complete, we will inform you if you need to attend a biometric services appointment. If an appointment is necessary, the notice will provide you the location of your local or designated USCIS Application Support Center (ASC) and the date and time of your appointment or, if you are currently overseas, instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to set up an appointment.”</p>
64.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 – AILA Comment on Form I-956K)	<p>On the I-956K:</p> <p>The Form instructions indicate that USCIS will review the form for “completeness” and if it is not complete, it may be rejected. The form instructions must make clear what factors USCIS will use to “reject” a registration and whether such a rejection impacts the ability of the promoter to raise capital for the contracted entity (i.e. the NCE). The form instructions are not clear as to whether promotional activities can begin without a registration’s approval by USCIS.</p>	<p>Response: 8 CFR 103.2(a)(7)(ii) specifies USCIS’s general rejection criteria. It states:</p> <p>“(ii) A benefit request which is rejected will not retain a filing date. A benefit request will be rejected if it is not:</p> <ul style="list-style-type: none"> (A) Signed with valid signature; (B) Executed; (C) Filed in compliance with the regulations governing the filing of the specific application, petition, form, or request; and (D) Submitted with the correct fee(s). If a check or other financial instrument used to pay a fee is returned as unpayable because of insufficient funds, USCIS will resubmit the payment to the remitter institution one time. If the instrument used to pay a fee is returned as unpayable a second time, the filing may be rejected. Financial instruments

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

			<p>returned as unpayable for a reason other than insufficient funds will not be redeposited. If a check or other financial instrument used to pay a fee is dated more than one year before the request is received, the payment and request may be rejected.”</p> <p>If the registration is rejected, the promoter has not yet complied with INA section 203(b)(5)(K)(i)(I). USCIS may consider rulemaking to address other promoter matters.</p>
65.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 – AILA Comment on Form I-956K)	<p>On the I-956K:</p> <p>Under the RIA Section (K), direct or third-party promoters must enter into a “written agreement” which must be maintained by the NCE and the regional center. The RIA Section (K) also requires that the finder comply with all DHS regulations established by USCIS for the accurate presentation of the visa process to investors. AILA urges USCIS to publish these standards for public comment immediately so that these standards may be outlined in the required third-party agreements.</p>	<p>Response: USCIS may consider rulemaking to address this issue.</p>
66.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 – AILA Comment on Form I-956K)	<p>On the I-956K:</p> <p>Part 1, Page 1, Item 1 (Type of Registration): USCIS should clearly define the terms “Direct Promoter,” “Third-party Promoter” and “Migration Agent.” It is imperative that stakeholders clearly understand who is required to complete the Form I-956K. Neither the form nor its accompanying instructions currently provide this guidance. This clarification can be accomplished either in the instructions to the Form I-956K or</p>	<p>Response: USCIS may consider rulemaking to address this issue.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		separately through the issuance of policy guidance. For example, does the term “direct promoter” encompass the Manager or General Partner of a new commercial enterprise, which would subject that entity to filing Form I-956K? Similarly, does this term include employees of the new commercial enterprise or the new commercial enterprise itself? AILA urges USCIS to adopt clear definitions, such as limiting this registration requirement to those who receive transaction-based compensation derived from sales to EB-5 investors.	
67.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 – AILA Comment on Form I-956K)	<p>On the I-956K:</p> <p>Part 2, Page 3, Item 20 (Registrant Employment or Association):</p> <ul style="list-style-type: none"> In item 20.A, the term, “promoter” is used without any further definition or explanation of such term. USCIS should define the term “promoter” or at least change the reference to the one of the registration types described in Part 1 (i.e. Direct Promoter, Third-Party Promoter, Migration Agent). The Form I-956K should clarify whether employee(s) of a “promoter” (requires definition per comment above) must complete a separate Form I-956K. We urge USCIS to limit the scope of the Form I-956K to the person or entity who enters into the written agreements as required by the RIA. Should USCIS require additional details on those individuals with substantive authority at the promoter entity, then those details or registration 	<p>Response: Any promoter employed to work as a promoter or otherwise engaged as a promoter on behalf of another promoter (including an entity) must submit Form I-956K and complete Part 2. about themselves and Part 3. to indicate the individual or entity employing them as a promoter. Part 2., Item Number 20. provides an area for these types of promoters to provide the necessary information for registration and provide USCIS information about the entity or individual that employs them. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>should be limited to the main principals of the “promoter” since these individuals would have the substantive authority to enter into agreements with the regional center and/or new commercial enterprise. Every employee who merely interacts with a prospective investor on behalf of his/her employer-promoter should not be required to separately register.</p> <ul style="list-style-type: none"> • The Form I-956K should also clarify whether every sub-agent retained by a “promoter” (requires definition per comment above) must complete a separate Form I-956K, even in instances where the sub-agent does not contract directly with the regional center and/or new commercial enterprise. 	
68.		Commenter: American Immigration Lawyers Association	
	0021 (attachment 5 – AILA Comment on Form I-956K)	<p>On the I-956K:</p> <p>Part 3. Page 4, Items 1-2 (Written Agreement(s)):</p> <ul style="list-style-type: none"> • Under "Entity Type" in the table, USCIS should clarify the difference between an “NCE” and "Issuer of Securities." In almost all instances, the issuer of securities is the NCE. • To the extent employees or sub-agents of a “promoter” (requires definition per comment above) are required to separately register, and to the extent such persons or entities are not contracting directly with the regional center and/or new commercial enterprise, USCIS should clarify the manner in which such downstream persons or entities should complete the table. 	<p>Response: In response to bullet 1, USCIS may consider rulemaking to address this issue. If the NCE using a promoter is also the issuer of the security, as provided in the example, the person submitting the Form I-956K should identify each entity type they will be promoting.</p> <p>In response to bullet 2, see response under Comment # 8., which address this public comment.</p> <p>In response to bullet 3, if the person submitting the Form I-956K is operating on behalf of a regional center, NCE, or an affiliated JCE, they must indicate all the entities with which they have entered into the written agreement(s) required under INA section 203(b)(5)(K)(iii).</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>For example, should the downstream persons or entities input the agreement(s) they have with the main “promoter” (if any)?</p> <ul style="list-style-type: none">• On Page 3, Part 3, USCIS asks for the individual or organization filing the Form I-956K to answer if they have entered into a “written agreement for each regional center, new commercial enterprise and affiliated job creating entity.” The wording of this question is confusing and suggests that each direct or third-party promoter must enter into a written agreement with all of these parties, i.e. the regional center, the NCE and the affiliated JCE. However, this would seem incorrect as a matter of law and practice. Other areas of law may limit who should contract with a direct and third-party promoter, and in most instances, only the NCE would be a party to such agreement. For example, a foreign migration agent may contract directly with the NCE, but never with the regional center or the job creating entity. Moreover, only the NCE would contract with a licensed broker-dealer in the U.S. While the regional center may have an obligation to maintain a copy of the agreement, there should not be an implication by USCIS that the direct or third-party promoter must enter into a written agreement with each of these parties, as other laws, including U.S. securities laws, may prohibit such an agreement. Instead, USCIS can ask the individual or entity filing Form I-956K to indicate who are the	
--	--	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		relevant parties to the agreement being listed in this part. It should be the obligation of the parties to determine who should be entering into the finder's agreement.	
69.		Commenter: Second Wind LLC	
	0022 (see attachment)	<p>Feedback from Second Wind LLC, EB5 Promoter for Form I956K - Registration for Direct and Third-Party Promoters. Please kindly find attached file with our comments on the USCIS form I-956K.</p> <p>Part 1. General Feedback</p> <p>The registration of the Promoters is a very important step, and as a member of the IIUSA which operates in Russia and CIS countries, we believe that it will increase transparency and help investors.</p> <p>However, we have concerns that the way Form I956K is done now: it will bring too much unnecessary burden on the USCIS agency and IPO office particularly and would have a negative effect on I526 processing time which is a huge issue today.</p> <p>In our opinion, even a simplified version of the form would greatly increase transparency in the process.</p>	<p>Response: See Comment Responses below labeled with Commenter ID: 0022. The information in the attachment from the public comment (0022) was separated into different sections in this comment matrix to address each portion of information on a specified form individually.</p> <p>See Comment # 70. – 74.</p> <p>USCIS created Form I-956K to capture the information necessary to register direct and third-party promoters under the EB-5 Reform and Integrity Act of 2022.</p>
70.		Commenter: Second Wind LLC	
	0022 (see attachment)	<p>We propose the following:</p> <p>1) Reduce the frequency of form submission, from each time a new contract is signed, terminated or amended to once per year.</p> <p>Instructions provided for form I956K state that a Promoter should submit the form before promoting any project, upon signing, terminating or amending any contract with an entity.</p>	<p>Response: USCIS may consider rulemaking to address this issue.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>Our company is a small agency in the undeveloped EB5 market. In order to maintain the work the way we do it now, we will have to file at least 15 - 30 amendments of the form per year.</p> <p>The reason for this is that we aim to provide a choice of projects to our clients, and therefore we need to offer at least 5 - 8 projects at once since projects are changing and we have 2 legal entities registered in different locations. If we look at the bigger markets, the Promoters there would submit even more files per year and each form will require time to manually go through the list of agreements to figure out which Regional Center, NCE, JCE is involved, comparing it with the previous form and this involves extra time to figure out what has been changed since the last form was submitted.</p> <p>This process is in our opinion inefficient and overly time consuming.</p> <p>We propose that forms can be submitted once per year and should have 2 sections:</p> <ul style="list-style-type: none"> • Section 1 - should include all projects promoted in the previous year; • Section 2 - should include all projects which are being promoted at the moment of the form's submission. 	
71.		Commenter: Second Wind LLC	
	0022 (see attachment)	<p>2) Remove NCE, JCI from the form and keep only the regional center ID to identify</p> <p>Form I956K states that all third-party Promoters, new commercial entity (NCE) or affiliated job creating entity (JCE) should be registered with USCIS. Additionally, part three of Form I956K</p>	<p>Response: INA 203(b)(5)(K)(i)(I) requires direct and third-party promoters (including migration agents) of a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors to register with USCIS.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>requires listing all contracts with RC, NCE or JCE involved.</p> <p>This means that both Promoters and USCIS will need to spend extra time to go into layers of information to reach the same goal - to find a responsible Regional Center.</p> <p>According to the USCIS website, the definition of a Regional Center is:</p> <ul style="list-style-type: none"> • “An EB-5 regional center is an economic unit, public or private, in the United States that is involved with promoting economic growth. Regional centers are designated by USCIS for participation in the Immigrant Investor Program.” <p>All projects involving more than 1 investor must have a Regional Center involved. All Regional Centers must file their I956 F registration prior to offering the project and have their ID. Therefore each regional center’s project can be identified by a Regional Center ID.</p> <p>By knowing the Regional Center ID we also know the responsible management for the promotion activities.</p> <p>EB5 RIA was aimed at increasing the transparency of the process and putting more pressure on the regional center for compliance. Why complicate things by including Direct Promoters and Registration as Promoter requirements for NCEs and JCEs? We believe this process is overly bureaucratic and complicated to implement.</p>	
72.		Commenter: Second Wind LLC	
	0022 (see attachment)	Part 2. Feedback related to the actual form.	Response: Any person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	<p>2.1. Types of registrations are missing definitions.</p> <p>“Part 1 - Type of registration Point 1 - This is the initial registration for (select all that apply) Direct Promoter Third Party Promoter Migration agency”</p> <p>In this part of the form, there is no definition of each type and it's not described in the instructions either.</p> <p>Our assumption is that the Direct Promoter is a company representing the project itself -such as a Regional Center, JCE or NCE. But in the case of the Regional Center, does it mean that they have to Register twice? Both as a Regional Center and as a Promoter? If a Regional Center is registered and we sign a contract with that Regional Center should we ask them for their Promoter registration as well? And, if we are a third-party Promoter, do we need to have a contract with an entity that pays us a commission? Do we also need to receive their copy of the Promoter registration?</p> <p>It is also not clear what is the difference between a Third Party promoter and a Migration agency.</p> <p>Our first guess is that the Migration agency is a company with a special registration which is applicable in some countries, but not in all countries. Therefore, does this mean that all the other companies are considered to be Third Party Promoters? Or do they differ in some other terms?</p>	<p>affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project must submit Form I-956K before operating on behalf of any of the specified entities or promoting any offering under the EB-5 Regional Center Program. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors.</p> <p>A regional center, new commercial enterprise, job-creating entity, or issuer of securities is not exempt from being considered a promoter for purposes of INA 203(b)(5)(K) to the extent such entities engage in promotional activities of EB-5-related securities under INA 203(b)(5)(K). However, because regional centers, new commercial enterprises and job-creating entities will already be captured on the Form I-956, Application for Regional Center Designation and Form I-956F, Application for Approval of an Investment in a Commercial Enterprise, USCIS will not require that they separately register as a promoter using Form I-956K to the extent that they promote securities already covered by a related form. The Form I-956K instructions have been revised accordingly.</p>
--	---	---

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		A detailed explanation covering types of registration would be very helpful here.	
73.		Commenter: Second Wind LLC	
	0022 (see attachment)	<p>Part 2. Feedback related to the actual form.</p> <p>2.2. Amendments to remove and to add - do not have a clear way to identify the changes.</p> <p><u>Point 3</u> If you are amending to edit information in part 3 below, select the appropriate box to indicate the type of amendment Amendment to add Amendment to remove Amendment to revise</p> <p><u>Point 20 of Part 3</u> - gives the possibility only to list all agreements. It means extra time for USCIS to review it. So they have to manually compare all agreements in the previously submitted form and compare it with a new one. Why not add sections - to add, to remove etc. - so it would be easier for USCIS to check the information?</p> <p>Another question connected with this point - is when should Promoters remove an agreement? Many regional centers have separate agreements for separate projects and these agreements have been rarely terminated. Instead, the majority of cases became invalid as there are no places left in the project. So if the contract is not terminated but the project is no longer accepting investors - should the Promoter submit the new form or not?</p>	Response: USCIS may consider rulemaking to address these issues.
74.		Commenter: Second Wind LLC	
	0022 (see attachment)	<p>Part 2. Feedback related to the actual form.</p>	Response: Any person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>2.2. Additional identification of the Promoters engagement</p> <p><u>PART OF THE FORM 956 F</u></p> <p>Part 2 - Registrant information</p> <p>Point 20 - Are you employed to work as a Promoter or otherwise engaged as a Promoter on behalf of another Promoter? This point is very confusing and it is not clear how it should be approached. Imagine that we are a third-party Promoter who is working with multiple regional centers: We will have agreements with all of those regional centers and they are all Direct Promoters - so we need to list all of them in point 20 - but there is not sufficient space to do that.</p> <p>Or let's imagine that I am an individual working in a company (assuming it is a third-party Promoter) and I want to register myself as an agent - then the question is - why would I need to do so? Should I do so in case I plan to sign separate agreements with Regional Centers and receive commissions directly to my personal bank account? Or should all individuals working in Third Party Promoters working with clients be registered as individuals?</p>	<p>affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project must submit Form I-956K before operating on behalf of any of the specified entities or promoting any offering under the EB-5 Regional Center Program. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors.</p> <p>If you need extra space to complete any item within this form, use the space provided in Part 9. Additional Information or attach a separate sheet of paper.</p> <p>As relates to the final question of this comment, see response under Comment # 8., which address this public comment.</p>
75.		Commenter: Klasko Immigrant Law Partners LLP	
	0023	Please see attached comments submitted by Klasko Immigration Law Partners LLP.	<p>Response: See Comment Responses below labeled with Commenter ID: 0023. The information in each attachment from the public comment was separated into different sections in this comment matrix to address each portion of information individually.</p> <p>See Comment # 76. – 109.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

76.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 1 - 2022.10.31 Comments to Form I-956 (Klasko Immigration Law Partners LLP))	<p>Form I-956, and its Instructions:</p> <ul style="list-style-type: none">• Page 2, Part 2, Item Number 6: Other States or Territories Where the Regional Center Entity is Registered to do Business. <p>KILP Comment: It seems the question is asking the regional center to list the states where it is registered to do business as a foreign entity. However, the Form I-956 Instructions (the “Instructions”) provide that the regional center should “list any other state or territory where the regional center entity is lawfully qualified to do business.” This question is unnecessary and confusing, as many businesses registered in the U.S. presumably are “lawfully qualified” to do business in the states other than the state where the business was formed, unless otherwise proscribed by law. Suppose a regional center was formed in Delaware, is authorized to sponsor EB-5 projects in California and headquartered in Massachusetts, and has investors who are physically living in New York, is the regional center doing business in New York simply because some of its EB-5 investors happen to live in New York? Is the regional center doing business in California just because it provides financing to job-creating projects in California but otherwise has no presence in California?</p> <p>Whether the regional center is doing business in one state or all states in America should have no impact on the regional centers eligibility to promote economic growth in its designated geographic area, and therefore, this</p>	<p>Response: USCIS asks for the entity to provide any other state or territory where the regional center entity is lawfully qualified to do business to capture instances where the entity is doing business in a location, even though that location may not require registration.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		question is redundant and should be eliminated.	
77.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 1 - 2022.10.31 Comments to Form I-956 (Klasko Immigration Law Partners LLP))	<p>Form I-956, and its Instructions:</p> <ul style="list-style-type: none"> Page 3, Part 4, Item Number 1 – 5: The Instructions require the regional center applicant to describe the economic and statistically valid tools to be used to demonstrate that the regional center will have a substantive economic impact on the geographic area being requested, and describe the amount of investment to be pooled, the types of new commercial enterprises and projects to be sponsored, and the jobs that will be created. <p>KILP Comment: The instructions are too vague, and it is impossible to answer these questions accurately from a practical standpoint. We understand that regional centers are allowed to use hypothetical projects to demonstrate substantive economic impact or to expand geography, the same as Pre-RIA. However, it is impossible for regional centers to predict the amount of investment capital it will raise, the number of jobs it will create and the types of projects it will sponsor in the future. At most, the regional center can only provide information relating to projects that it is presently sponsoring.</p> <p>In addition, the wording or language used in these questions can easily cause confusion. For example: Item #3 requires the regional center to “describe the kinds of commercial enterprise that will receive such investments”. “Kind” is a very vague word. Does it mean the organization</p>	<p>Response: INA 203(b)(5)(E)(iii)(I) requires an entity seeking designation as a regional center to submit a proposal to establish that the pooled investment will have a substantive economic impact on a defined, contiguous, and limited geographic area that includes: reasonable predictions, supported by economically and statistically valid and transparent forecasting tools, concerning the amount of investment that will be pooled, the kinds of commercial enterprises that will receive such investments, details of the jobs that will be created directly or indirectly as a result of such investments, and other positive economic effects such investments will have.</p> <p>USCIS may consider rulemaking to address the comment further.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		structure of the NCE (corporation, LLC, LP), or the type of the business that it will conduct (fund raising, real estate development, senior care facility)? Item #5 asks the regional center to “describe other positive economic effects such investments will have,” without any further instructions. It is unclear as to what “other positive economic effects” comprehends, and what specific information the USCIS is looking for.	
78.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 1 - 2022.10.31 Comments to Form I-956 (Klasko Immigration Law Partners LLP))	<p>Form I-956, and its Instructions:</p> <ul style="list-style-type: none"> Page 4 - 5, Part 5 and Part 6: regional centers are required to submit policies and procedures to monitor new commercial enterprises and job-creating entities, as well as to ensure program compliance. <p>KILP Comment: Some regional centers that filed a Form I-956 prior to the effective date of the settlement have been receiving RFEs from USCIS in connection with those filings. Many RFEs raise questions and concerns about the regional center’s policies and procedures to ensure compliance with securities laws. However, the RFEs do not specify what documents or additional information should be submitted to clarify the questions or address the concerns raised by USCIS. Many of those questions indicate a lack of understanding by adjudicators of the applicable securities laws and regulations. KILP urges the USCIS to publish clear guidelines and parameters for regional centers to design their policies and procedures that comply with the program.</p> <p>USCIS should educate adjudicators on relevant securities matters, including the</p>	<p>Response: The commenter should submit specific concerns about individual cases to uscis.immigrantinvestorprogram@uscis.dhs.gov.</p> <p>IPO will continue to provide and update training to ensure that our adjudicators are prepared to evaluate issues under the RIA.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>issuer exemption, commissions/transaction-based fees vs. other types of fees, Reg S and Reg D investors, etc.; this will enable adjudicators to evaluate securities compliance and effectively review policies and procedures submitted by regional centers with their applications. Failure to do so will inevitably create confusion, result in undue burdens, and cause unnecessary delays. USCIS should also commit to ensuring that adjudicators are timely informed of all industry alerts so that RFEs are not issued disregarding those alerts.</p> <p>Some RFEs state that the policies and procedures submitted by regional centers are not program-compliant simply because they did not state how the regional centers plan to pay the annual integrity fund mandated by the RIA, which is unreasonable as the USCIS has not published any instructions as of the date of this letter for paying the fees. Regional centers simply do not know how to pay or where to mail the checks. Any payments made to the USCIS are supposed to be filed with a corresponding USCIS form, and as of today, there is no such form published to indicate whether a regional center is required to pay \$20,000, or \$10,000 (in the event that the regional center has 20 or fewer investors), and which USCIS service center is going to process the payments.</p>	
79.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 1 - 2022.10.31 Comments to Form I-956 (Klasko)	<p>Form I-956, and its Instructions:</p> <ul style="list-style-type: none"> Page 6, Part 7, Item 7: Some regional centers that filed a Form I-956 prior to the effective date of the settlement have been receiving RFE from USCIS in 	<p>Response: USCIS notes that the definition includes any person directly or <i>indirectly</i> in a position of substantive authority. In addition, the definition also provides broad authority to the Secretary to “otherwise determine[]” who may or may not be a person involved for purposes of</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	Immigration Law Partners LLP))	<p>connection with those filings. Many RFEs raise questions and concerns about regional center’s staff being “involved” based on their job descriptions posted on the regional centers’ websites, yet not treated as such in the Form I-956 applications.</p> <p>KILP Comment: It appears USCIS is not adhering to the narrow definition of people “involved” outlined in the RIA, thus, creating unnecessary burdens and confusion amongst regional centers and alien investors.</p> <p>USCIS should commit to training adjudicators to apply the statutory definition of “involved” based on the information provided and certified by the regional center and/or alien investor when completing Form(s) I-956. For example, the “director” title does not render an individual “involved” if the statutory definition is not met. The key is actual substantive authority, not titles or job descriptions that do not encompass the “involved” specific requirements.</p> <p>USCIS should confirm that Form I-956H does not need to be filed for entities so long as the individual(s) behind the entity file a separate Form I-956H. Moreover, the \$85 biometrics services fee should not be required for a Form I-956H filed by an “entity”, whose biometrics cannot be taken.</p> <p>USCIS should confirm that once taken, biometrics will be good for a certain period of time (2 years, for example) and that a person “involved” with a regional center or NCE does not need to attend biometrics appointments each time a Form is filed within that period of time.</p>	<p>compliance with the new provisions of INA 203(b)(5)(H).</p> <p>USCIS may consider rulemaking to address the additional issues in this comment.</p> <p>See Comment Response Comment Response #104., which addresses the biometrics requirements for I-956H filings by an entity.</p>
--	--------------------------------	---	---

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

80.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 1 - 2022.10.31 Comments to Form I-956 (Klasko Immigration Law Partners LLP))	<p>Other General Comments:</p> <ul style="list-style-type: none"> General Comment: Format Control, Format Errors, and Page Number Errors <p>KILP Comment: KILP urges the USCIS to eliminate format control so that regional centers could provide accurate answers for complex situations. At present, many fields in the form are read-only, or do not allow numbers and punctuations to be inserted. Below are only some of the examples:</p> <ul style="list-style-type: none"> Page 3, Part 3, Item 1: commas are not allowed. What if the regional center has multiple states or census tracks it needs to provide, which is very common? Page 5, Part 7, Item 1: punctuations such as commas and periods are not allowed. What if the regional center has multiple persons involved, which is very common? Page 12: This page needs to be re-formatted by the USCIS because it loses the original format once the data is being inserted. At present, regional centers have to submit this page with inconsistent multiple font/font size for multiple data entries due to this format inconvenience. The page numbers are incorrect. There are no pages 2 – 5, and there is more than one page 10, 11, and 12. 	<p>Response: USCIS continues to work to improve its forms and their functionality.</p> <p>USCIS made the recommended changes to the following in Form I-956 to allow punctuation to be typed into the fillable field(s).</p> <ul style="list-style-type: none"> - Part 3., Item Number 1. - Part 7., Item Number 1. <p>Page 12, Part 14. Additional Information is shown in the standard format USCIS uses for this section. All fillable fields use a standard font and font size.</p> <p>The page numbers on Form I-956 are shown correctly.</p>
81.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to	<p>Instructions - “What is the purpose of Form I-956F?”</p>	<p>Response: The I-956F Instructions posted to the docket already provide the purpose of the form is for “a designated</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	Form I-956F (Klasko Immigration Law Partners LLP)	<p>The Instructions state that an I-956F is used by a regional center designated after March 15, 2022. In fact, pursuant to the Settlement Agreement¹ the Instructions should state that Form I-956F is used by a regional center designated prior to the EB-5 Reform and Integrity Act of 2022 (“RIA”) that files Form I-956 on or before December 29, 2022. It is also used by a regional center that was not designated prior to the RIA but is designated after March 15, 2022.</p> <p>¹ The Settlement Agreement refers to the Settlement Agreement approved by the Court on September 1, 2022, in the case of EB5 Capital, et al vs. US Department of Homeland Security, et al.</p> <p><u>Part 7</u> The Instructions refer to numbers 1 through 3 in Part 7. The form itself only contains number 1.</p> <p><u>Part 9</u> The Instructions contain no instructions regarding Part 9.</p> <p><u>Part 10</u> Neither the Form nor the Instructions reference the annual audit as a mandatory waiver of the fund administration requirement. This should be added as an option in lieu of the fund administrator questions.</p>	<p>regional center to request approval of a project.”</p> <p>USCIS modified the instructions in Part 7.</p> <p>Part 9. is not included in the instructions as that section of the form already has explanatory information on how to complete each field.</p> <p>USCIS may consider rulemaking to address the issue regarding the waiver of the fund administrator requirement. INA 203(b)(5)(Q)(v)(II) waives the requirement of a fund administrator where a new commercial enterprise commissions an annual independent financial audit of such new commercial enterprise or job-creating entity in accordance with Generally Accepted Accounting Standards, where the audit is provided to USCIS and all investors in the new commercial enterprise. To the extent you believe the waiver under 203(b)(5)(Q)(v)(II) applies, you may provide information regarding the annual audit in Part 14. Additional Information.</p>
82.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F (Klasko	<p>Form I-956F:</p> <p><u>Part 1 question 1.</u> The I-956F can be used as an amendment to a previously approved I-956F. However, neither the Form nor the Instructions</p>	<p>Response: USCIS may consider to rulemaking to address these issues.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	Immigration Law Partners LLP))	provide guidance on when an amendment is necessary. Changes to projects occur routinely. The Form should make clear that only potentially material changes to the project documents require an amendment to Form I-956F. Material change should be defined as a change that materially impacts the requisite job creation, use of the EB-5 capital or sustainment of investment requirements. Other non-material changes can be included with the Form I-956G, filing. There should be no filing fee for notifying USCIS of changes to a project.	
83.		Commenter:	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F (Klasko Immigration Law Partners LLP))	Form I-956F: <u>Part 3 question 6.</u> The form asks the “state or territory where the NCE was established.” The question should be rephrased to request where the NCE’s principal place of business is located. Otherwise, a regional center might properly indicate that the NCE was “established” in the jurisdiction in which it was incorporated, which presumably is not of interest to USCIS.	Response: A new commercial enterprise is any for-profit organization formed in the United States for the ongoing conduct of lawful business. See INA 203(b)(5)(D)(vi). USCIS asks for information on the new commercial enterprise’s establishment to confirm the business was formed in the United States and is lawfully operating. USCIS asks for the physical address of the new commercial enterprise in Item Number 13.
84.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F (Klasko Immigration Law Partners LLP))	Form I-956F: <u>Part 3 question 7.</u> The question should ask where the NCE does business, not where it is “registered” to do business. Many NCEs are not “registered” anywhere or are registered in multiple jurisdictions.	Response: See response to Comment # 83.
85.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F	Form I-956F: <u>Part 4 question 4.</u>	Response: The form posted to the docket already has these corrections in place.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	(Klasko Immigration Law Partners LLP)	<p>There are two errors in the question that need to be corrected. First, the question asks: “Is the JCE compromised of holding company and its wholly owned subsidiaries?”. Presumably, the appropriate verb should be “comprised”.</p> <p>Secondly, the question asks to “describe the overall organization structure of the NCE”. The question appears to be requesting the organization structure of the JCE, not the NCE.</p>	
86.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F (Klasko Immigration Law Partners LLP))	<p>Form I-956F:</p> <p><u>Part 5 question 4.</u></p> <p>The question asks whether the project is based on an investment in a “high employment area”. The question appears to divide geographic areas into rural areas, high employment areas, high unemployment areas and non-TEA/non-high employment areas. The form does not define “high employment area” and does not explain the distinction between a “high employment area” and a “non-high employment area” that is not a “high unemployment area.” The question should remove any reference to “high employment area.” If the purpose of the question is to determine minimum investment amount or reserved visa set aside qualification, the question should ask whether the project (a) is in a rural/TEA, (b) is in a non-rural (high unemployment) TEA, (c) is an infrastructure project or (d) none of the above.</p>	<p>Response: INA 203(b)(5)(C)(iv) provides DHS the ability to set a different investment amount for investments in high employment areas, which are areas that are not a targeted employment area (TEA) and is an area with an unemployment rate significantly below the national average unemployment rate. Currently, the investment amount in a high employment area is the same as the standard amount provided in INA 203(b)(5)(C)(i). DHS has added this response to collect data on investments that are being made in high employment areas.</p>
87.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F)	<p>Form I-956F:</p> <p><u>Part 6 question 2.</u></p>	<p>Response: INA 203(b)(5)(F)(i)(IV) indicates, in relevant part, that the applicant shall submit “...marketing materials used, <u>or drafts prepared for</u></p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	(Klasko Immigration Law Partners LLP)	It is inappropriate to request “drafts” of marketing materials. There may be many drafts, most of which would routinely be discarded or if retained may contain attorney-client privileged communications or attorney work product. Only final versions of marketing materials presented or provided to the market are relevant.	<u>use</u> , in connection with the offering, which shall contain references, as appropriate...” Since the statute explicitly requires it, applicants must submit such evidence as required to establish eligibility under the statute.
88.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F (Klasko Immigration Law Partners LLP))	Form I-956F: <u>Part 7 question 1.</u> The question asks for the “policies and procedures” “designed to monitor the regional center and any issuer of securities to ensure compliance with all applicable laws”. This is duplicative of the same question, and requests the same documentation, as Form I-956.	Response: INA 203(b)(5)(F)(i)(V) specifically requires a description of such policies and procedures in the application for approval of an investment in a new commercial enterprise (Form I-956F). Since the NCEs and JCEs represented in Forms I-956F may be unaffiliated with the RC, these documents are not, by necessity, duplicative. There may be separate policies in place at NCEs and RCs that determine different monitoring requirements for each entity. Further, the requirement is for the RC <u>AND</u> any issuer of securities, which may be separate from the RC and not captured in the Form I-956. USCIS notes that Form I-956F is NOT an amendment to a regional center’s designation, and there are not provisions in the statute to incorporate evidence in other filings by reference.
89.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 2 - 2022.10.31 Comments to Form I-956F (Klasko Immigration Law Partners LLP))	Form I-956F: <u>Part 9.</u> The definition of “persons involved” requires “substantive authority” to make operational or managerial decisions over pooling, securitization, investment, release, acceptance, or control or use of any funding. This clearly means people with actual authority with respect to the enumerated activities - - not just apparent authority based on a job title. USCIS is making assertions in RFC's that people with	Response: USCIS notes that the statutory definition includes any person directly or <i>indirectly</i> in a position of substantive authority. In addition, the definition also provides broad authority to the Secretary to “otherwise determine[.]” who may or may not be a person involved for purposes of compliance with the new provisions of INA 203(b)(5)(H). USCIS may consider rulemaking to address the additional issues in this comment.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>certain job titles are “persons involved” when, in fact, their job descriptions reveal that they are not “in a position of substantive authority to make operational or managerial decisions over pooling, securitization, investment, release, acceptance, or control or use of any EB-5 capital from immigrant investors.”</p> <p><u>Part 9 question 1.</u></p> <p>We incorporate by this reference our comments to Form I-956H regarding the information requested about “persons involved” with the NCE and affiliated JCE.</p>	
90.		Commenter: Klasko Immigrant Law Partners LLP	
	<p>0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))</p>	<p>I-956G Instructions:</p> <p>The Instructions to Form I-956G should clarify which regional centers are obligated to file this Form. We suggest that a regional center that wishes to continue to exist solely to meet its contractual and fiduciary obligations relating to pre- RIA projects, but does not intend to file form I-956 to sponsor new post-RIA projects, should not be required to file Form I-956G, which requests information and references forms that do not apply to these regional centers.</p> <p>The Instructions should clarify whether the Form should be required, and how it should be completed, for regional centers that have not had any capital invested in an NCE during the relevant reporting period (the fiscal year ending September 30).</p> <p>The Instructions should clarify that documentation is not required each year for prior projects, which would be unduly burdensome on regional centers and require redundant documentation, which</p>	<p>Response: Each approved regional center must file Form I-956G, Regional Center Annual Statement, for each Federal fiscal year (October 1 through September 30) on or before December 29 of the calendar year in which the Federal fiscal year ended. Regional centers designated on or after October 1 must file Form I-956G on or before December 29 of the following calendar year. Failure to file Form I-956G in a timely manner for each Federal fiscal year in which the regional center has been designated to participate in the Regional Center Program may result in sanctions, including the termination of the regional center’s designation.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		would appear to be contrary to the Paperwork Reduction Act.	
91.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	<p>Form I-956G, Part 2:</p> <p><u>Page 1, Part 2. Regional Center Mailing Address</u></p> <p>The form should indicate that, if the mailing address of the regional center entity is different from its physical address, then the physical address of the regional center should be provided under Part 8. Additional Information.</p> <p><u>Page 1, Part 2, Item 1.</u></p> <p>The form does not allow numbers or punctuation marks to be typed.</p>	<p>Response: The Form I-956G Instructions in Part 2., Item Number 3., provides that “If the mailing address of the regional center entity is different from its physical address, provide the physical address of the regional center entity in the space provided in Part 8. Additional Information.”</p> <p>USCIS made the recommended change to Form I-956G on Part 2., Item Number 1., to allow numbers and punctuation marks to be typed into the fillable field.</p>
92.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	<p>Form I-956G, Part 3:</p> <p><u>Page 2, Part 3, Item 1.</u></p> <p>The Instructions make clear that the expectation is that the regional center will provide the total amount of invested capital “since the date of regional center designation”. The question itself is not clear on this point. “Since the date of designation” should be added to the question if that is the intention of USCIS. We suggest that the language in the Instructions is inconsistent with the purpose of the I-956G, which is reporting on activity of the regional center during the previous fiscal year. It is confusing if the Form requests reporting on the previous fiscal year in some questions and historical reporting in others. In addition, in the event of a change of ownership of a regional center, new ownership may not be aware of pre-RIA investors who ever invested in projects in the regional center, even if such projects have long been completed.</p>	<p>Response: USCIS added the requested language to Form I-956G.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

93.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Part 3: <u>Page 2, Part 3, Item 2.</u> The question in its present form presumes there is material litigation or bankruptcy proceedings. There is no opportunity for the regional center to indicate that there have been no material litigation or bankruptcy proceedings. Question 2 should begin by asking: “(1) Does the regional center have any pending material litigation or bankruptcy proceedings? (2) Has the regional center resolved any material litigation or bankruptcy proceedings during the preceding fiscal year?” The present Item 2 relating to documentation should be preceded by: “If the answer to either of the preceding questions is yes.”	Response: USCIS refers the commenter to the Form I-956G Instructions on “How To Fill Out Form I-956G”, specifically Item Number 3. “If a question does not apply to you...type or print ‘N/A’, unless otherwise directed.”
94.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Part 6: <u>Page 6, Part 6, Item 2.</u> The form does not allow numbers or punctuation marks to be typed.	Response: USCIS made the recommended change to Form I-956G on Part 6., Item Number 2., to allow numbers and punctuation marks to be typed into the fillable field.
95.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Attachment 1: <u>Page 10, Item 1.</u> The form does not allow numbers or punctuation marks to be typed.	Response: USCIS made the recommended change to Form I-956G, Attachment 1., Item Number 1., to allow numbers and punctuation marks to be typed into the fillable field.
96.		Commenter: Klasko Immigrant Law Partners LLP	

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Attachment 1: <u>Page 10, Item 5. NCE Mailing Address</u> The form should indicate that, if the mailing address of the NCE is different from its physical address, then the physical address of the NCE should be provided under Part 8. Additional Information.	Response: The Form I-956G Instructions, Attachment 1., Item Number 5., provides the information as follows: “If the mailing address of the NCE is different from its physical address, provide the physical address of the NCE in the space provided in Part 8. Additional Information.”
97.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Attachment 1: <u>Page 11.</u> Attachment 1 references Form I-956F, which presumes that Form I-956F has been filed for the project. However, as previously indicated, other parts of the Form request historic information about projects, including pre-RIA information. The Form should clarify that the questions in Attachment 1 only apply to projects for which I-956Fs were filed, and not projects completed prior to the RIA. Presumably, that is the case based on the title of Attachment 1.	Response: See Response under Comment # 52. which addresses this public comment.
98.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Attachment 1: <u>Page 11, Item 9. JCE Mailing Address</u> The form should indicate that, if the mailing address of the JCE is different from its physical address, then the physical address of the JCE should be provided under Part 8. Additional Information.	Response: The Form I-956G Instructions, Attachment 1., Item Number 9., provides the information as follows: “If the mailing address of the JCE is different from its physical address, provide the physical address of the JCE in the space provided in Part 8. Additional Information.”
99.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko	Form I-956G, Attachment 1: <u>Page 11, Item 16.</u> The Instructions should clarify what evidence and what documentation USCIS	Response: USCIS may consider rulemaking to address this issue. Evidence documenting project progress may include, but is not limited to,

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	Immigration Law Partners LLP))	is seeking in response to this question. Is a link to a web camera sufficient? Is documentation of expenditures sufficient? Is a construction progress report from a contractor sufficient?	evidence of expenditures related to the project, photographic evidence of project construction, news articles relating project progress, affidavits from persons with first-hand knowledge of project progress, such as construction supervisors, architects, project leads, etc., copies of permits or certificates of occupancy, and other relevant documents.
100.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Attachment 1: <u>Page 11, Items 13 and 17.</u> Many “capital investment projects” were initiated prior to the RIA and are continuing subsequent to the RIA. Such projects presumably filed Form I-956F. The question should clarify that the two indicated questions seek information about capital investments and direct jobs since the I-956F was filed.	Response: See Response under Comment # 52. which addresses this public comment.
101.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 3 - 2022.10.31 Comments to Form I-956G (Klasko Immigration Law Partners LLP))	Form I-956G, Attachment 1: <u>Page 11, Item 27.</u> The form should list the annual audit as a mandatory waiver of the fund administration requirement.	Response: USCIS may consider rulemaking to address the issue regarding the waiver of the fund administrator requirement. INA 203(b)(5)(Q)(v)(II) waives the requirement of a fund administrator where a new commercial enterprise commissions an annual independent financial audit of such new commercial enterprise or job-creating entity in accordance with Generally Accepted Accounting Standards, where the audit is provided to USCIS and all investors in the new commercial enterprise. To the extent you believe the waiver under 203(b)(5)(Q)(v)(II) applies, you may provide information regarding the annual audit in Part 8. Additional Information.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

102.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H (Klasko Immigration Law Partners LLP))	<p>I-956H, General Issues:</p> <p>1) Persons required to file the I-956H</p> <p>The statutory definition of persons involved with a regional center, new commercial enterprise (“NCE”), or job creating entity (“JCE”) is limited to a very specific group of people with very specific functions. 8 U.S.C. § 1153(b)(5)(H)(v) provides:</p> <ul style="list-style-type: none"> - For the purposes of this paragraph, unless otherwise determined by the Secretary of Homeland Security, a person is involved with a regional center, a new commercial enterprise, any affiliated job-creating entity, as applicable, if the person is, directly or indirectly, in a position of substantive authority to make operational or managerial decisions over pooling, securitization, investment, release, acceptance, or control or use of any funding that was procured under the program described in subparagraph (E). An individual may be in a position of substantive authority if the person serves as a principal, a representative, an administrator, an owner, an officer, a board member, a manager, an executive, a general partner, a fiduciary, an agent, or in a similar position at the regional center, new commercial enterprise, or job-creating entity, respectively. <p>The language clearly indicates that only people “directly or indirectly, in a position</p>	<p>Response: USCIS notes that the statutory definition includes any person directly or <i>indirectly</i> in a position of substantive authority. In addition, the definition also provides broad authority to the Secretary to “otherwise determine[]” who may or may not be a person involved for purposes of compliance with the new provisions of INA 203(b)(5)(H).</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>of substantive authority to make operational or managerial decisions over pooling, securitization, investment, release, acceptance, or control or use of any funding that was procured under the program described in subparagraph (E)” are “involved” with a regional center. This is a narrow subset of people. While the statute goes on to state that an “individual <i>may</i> be in a position of substantive authority if the person serves as a principal, a representative, an administrator, an owner, an officer, a board member, a manager, an executive, a general partner, a fiduciary, an agent, or in a similar position at the regional center, new commercial enterprise, or job-creating entity, respectively,” <i>Id.</i>, (<i>emphasis added</i>), not all individuals holding such positions will have any control at all over “pooling, securitization, investment, release, acceptance, or control or use of” the EB-5 funds. Indeed, of this list, only a General Partner stands out as likely to always or nearly always have control or management of the listed activities. As the statute indicates, the others may, or may not, have any management or control over the listed activities.</p> <p>For example, owners of a company may or may not have any control over its activities. For instance, Limited Partners, Members in a manager managed LLC, and minority shareholders in a corporation have no right or ability to manage or control any of a company’s activities, other than through voting on limited issues. They almost certainly have no control over “pooling, securitization, investment, release, acceptance, or control or use of” the EB-5 funds.”</p>	
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		Thus, USCIS needs to limit the number of individuals it expects to file the I-956H to only those included in the statutory definition.	
103.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H (Klasko Immigration Law Partners LLP))	<p>I-956H, General Issues:</p> <p>2) Entities The current I-956H appears to contemplate use by entities and individuals. While there may be several entities involved with the management of a regional center, NCE, or JCE, ultimately, control is exercised by natural persons. Entities do not have fingerprints, and cannot appear for biometrics collection.</p> <p>Entities should not be required to pay the \$85 biometric fee.</p> <p>We suggest either a separate form for entities, if USCIS' goal is to have the entities register so they can be entered into a database via the form- or no form at all for entities, which can be listed in the form I-956 or I-956F, as applicable.</p>	Response: USCIS clarified in the Form I-956H Instructions that USCIS will not collect a biometrics fee for Forms I-956H filed by organizations. USCIS added a question at the beginning of Part 2. for a filer to indicate if they are completing Form I-956H as an individual or as an organization. Accordingly, Part 2., Items Numbers 1. – 9. is for individuals and Part 2., Item Numbers 10. – 14. is for organizations.
104.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H (Klasko Immigration Law Partners LLP))	<p>I-956H, General Issues:</p> <p>3) Biometrics fees and appointments for individuals An individual affiliated with multiple regional centers, NCEs, or JCEs or other entities should not have to pay a biometric fee or appear multiple times for biometrics collection. USCIS routinely reuses biometrics in other cases, and should do so here. Additionally, it seems wasteful for USCIS to run security checks multiple times for one individual in a short period of time. For instance, a person</p>	Response: Relating to biometrics, the biometric services fee is for performing biometric services, which includes, among other agency actions, the management of electronic biometric information, background checks performed by the Federal Bureau of Investigation (FBI), and the collection, use, and reuse of collected biometric information to verify the identity of individuals seeking immigration benefits, capturing, storing, and using biometric information. A service fee of \$85 is charged to pay for background checks and have the applicant's biometric

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		involved with multiple regional centers, all filing I-956F applications within a short time, or filing I-956 applications and I-956F applications within a short time, does not need to have a separate background check for each application. The same background check can be used for multiple applications.	information captured, stored, and used for any individual who is required to submit biometric information for an application, petition, or other request for certain immigration and naturalization benefits (other than asylum or refugee status) or actions. Thus, the fee is required when USCIS runs a background check and is not always necessarily associated with an applicant's physical appearance to have biometrics collected. Because the checks may be run at different times, it is not appropriate for USCIS to only require a copy of a USCIS receipt evidencing the submission of Form I-956H. Further, an entity must demonstrate that individuals involved with them are compliant with INA 203(b)(5)(H). Because this is a requirement for each entity, individuals associated with more than one entity must submit this for each entity with which they are involved.
105.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H (Klasko Immigrant Law Partners LLP))	I-956H, General Issues: 4) Multiple I-956H forms for the same transaction An individual should only have to file one I-956H listing all entities he or she is involved with for a specific application. For example, if a regional center is managed by ABC LLC, which is owned by DEF LLC, and the NCE, XYZ LLC, has a Manager, UVW LLC, and that manager is owned by DEF LLC, and John Doe is the owner and Manager of DEF LLC, it would appear under the current instructions that John Doe would need to submit 6 I-956H forms- one for each of the 5 different entities, and a second one for DEF LLC because it is involved in both the regional center and the NCE. Similarly, it seems	Response: All persons involved with a regional center, new commercial enterprise or affiliated job-creating entity must submit a Form I-956H to independently demonstrate eligibility under INA §§ 203(b)(5)(H)(i) and (ii) in connection with a related filing, such as Form I-956 or Form I-956F. USCIS has made changes to the Form I-956H to reduce multiple filings where the same person is involved with both a NCE and affiliated JCE in connection with a I-956F filing and to also permit persons to reference previous Form I-956H submissions where their answers to Parts 2., 3. and 4. remain the same. USCIS may consider rulemaking to further address these issues.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>that the regional center would have to submit 6 different forms I-956H for each of the entities (including two for DEF LLC because it is involved in both the regional center and the NCE).</p> <p>This is horribly inefficient and wasteful, and will likely lead to processing backlogs, while not enhancing program integrity or providing any net benefit.</p>	
106.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H (Klasko Immigration Law Partners LLP))	<p>I-956H, Specific Form Issues:</p> <p><u>Page 1, Part 5, Question 1:</u> We note that pre-RIA NCEs do not have an NCE ID, and we have yet to see one for applications filed after 9/1/2022. Additionally, the NCE ID number comes only <i>after</i> the I-956F is filed and a receipt issued. Thus, except in the case of an amendment, applicants will never have the NCE ID number at the time this form is filed.</p>	<p>Response: USCIS believes the commenter meant to reference Part 1., Question 5. This NCEID field is important for improved processing where the filer has access to or has received an NCEID. As the general instructions note, "If a question does not apply to you, type or print 'N/A,' unless otherwise directed."</p>
107.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H (Klasko Immigration Law Partners LLP))	<p>I-956H, Specific Form Issues:</p> <p><u>Page 2, Part 2, Question 10:</u> As discussed above, it is not clear what entities need to submit an I-956H. In structures with multiple layers of mostly disregarded entities, for instance, where the regional center entity is owned by another entity, which is owned by two or more entities that are ultimately owned by individuals, it would not seem to be meaningful for all of those entities to submit forms and pay biometrics fees.</p>	<p>Response: All owners of the regional center must submit a Form I-956H to demonstrate eligibility under INA §§ 203(b)(5)(H)(i) and (ii).</p> <p>USCIS may consider rulemaking to address these issues.</p>
108.		Commenter: Klasko Immigrant Law Partners LLP	
	0023 (attachment 4 - 2022.10.31 Comments to Form I-956H)	<p>I-956H, Specific Form Issues:</p> <p><u>Page 2, Part 2, Question 15:</u></p>	<p>Response: USCIS has made clarifying changes to the Form I-956H that address this comment and continues to review its forms for improvement.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	(Klasko Immigration Law Partners LLP)	We suggest reformatting this to list each EB-5 entity the individual is involved in, and then their role. We contemplate this as similar to the way the I-956G has addenda for each NCE affiliated with the regional center.	
109.		Commenter: Anonymous	
	0024	<p>USCIS has requested comments on the forms I-956, I-956F, I-956G, I-956H, and I-956K. These forms, and the interpretation of them, is of utmost importance to the EB-5 industry. Pursuant to the settlement agreement reached in the Behring Regional Center LLC, et al. v. Alejandro Mayorkas, et al., Case No. 3:22-cv-02487-VC case, USCIS is having closed-door meetings with only a select number of industry participants. Such closed-door meeting with those select few is giving an unfair advantage to those in the meeting, in direct violation of the EB-5 Reform and Integrity Act of 2022 (the “RIA”).</p> <p>One of the requirements of the RIA is that USCIS be transparent in their dealings and ensure that all parties have a level playing field and equal access to the agency. Section 107(a) of the RIA provides that all employees of the Department of Homeland Security “may not give preferential treatment to any entity, organization or individual in connection with any aspect of the immigrant visa program” Additionally, Section 107(b)(2) of the RIA prohibits employees of USCIS from “meeting or communicating with persons associated with [a regional center, a new commercial enterprise, a job-creating entity, or any person or entity associated with such regional center, new commercial enterprise, or job-creating entity], at the request of such persons, in a manner not available to or accorded to all other petitioners, applicants, and seekers of benefits under such immigrant visa</p>	Response: We are aware of, and in compliance with, our obligations under Section 107 of the EB-5 Reform and Integrity Act of 2022.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	<p>program.” Moreover, Section 107(c)(3) the RIA states that “[n]ot later than 30 days after a person or entity inquiring . . . generally about the immigrant visa program . . . receives, as a result of a communication with an official of the Department of Homeland Security, generally applicable information that is not case-specific about program requirements or administration that has not been made publically available by the Department, the Director of U.S. Citizenship and Immigration Services shall publish such information on the U.S. Citizenship and Immigration Services website as an update to the relevant Frequently Asked Questions page or by some other comparable mechanism.”</p> <p>Although we fully agree that USCIS needs to continue having these meetings, pursuant to Section 107(c)(3), they need to be publically available. At a minimum, the information discussed in those meetings need to be added to the Frequently Asked Questions section of the USCIS website. Although a better method would be to publish the agenda of these meetings prior to their occurrence, and the minutes should be published within a reasonable time after the meetings have occurred. To the extent such discussions include the selection of forms on which USCIS is currently seeking guidance, these select few should not have the advantage of face-to-face meetings while everyone else being forced to go through a formal notice and comment period, especially since the closed-door meetings are a direct violation of the RIA. These closed-door meetings are required to be made public by the RIA so as not to give any unfair advantage to the participants.</p> <p>The meetings are necessary, and required</p>	
--	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		by a judge, however USCIS has to be transparent about the attendance and publicize what is discussed in the meetings.	
110.		Commenter: EB-5 Securities Roundtable	
	0025 (see attachment)	See Attached	Response: See Comment Response below labeled with Commenter ID: 0025. The information from the attachment is listed below and will be addressed in this section. See Comment # 111.
111.		Commenter: EB-5 Securities Roundtable	
	0025 (see attachment)	<p>On the I-956K:</p> <p>PROPOSED DEFINITIONS OF PROMOTER, DIRECT PROMOTER, AND THIRD-PARTY PROMOTER UNDER THE EB-5 REFORM AND INTEGRITY ACT OF 2022</p> <p>1. “Promoter” – see definition on attachment.</p> <p>2. “Direct Promoter” – see definition on attachment.</p> <p>3. “Third Party Promoter” The term “Third-party Promoter” means any Promoter who is not a Direct Promoter as defined herein and includes migration agents.*</p> <p>*The term “Migration Agent” should not be a separate category.</p> <ul style="list-style-type: none"> The relevant text of the RIA does not create three categories. The title of subsection (K) is Direct and Third-Party Promoters. Moreover, “migration agent” is referenced only once, as an example, not a category in and of itself. “Direct and third-party promoters (including migration agents) of a regional center, any new 	Response: USCIS may consider rulemaking to address these issues.

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>commercial enterprise, an affiliated job-creating entity....”</p> <ul style="list-style-type: none"> • Therefore, USCIS should revise Form I-956K to eliminate “migration agents” as a category. Since a “migration agent” is a subset of one of the promoter categories and will also need to check the box for Direct Promoter or Third-Party Promoter. This will only create confusion in the market. A migration agent, whether an individual or organization, should register in the appropriate promoter category and not in two categories. • If USCIS keeps “Migration Agent” as a separate category in the Form, we suggest that the term be defined to mean “any person who both (1) meets the definition of “migration agent” under any applicable law or regulation of the jurisdiction in which such person conducts business, and (2) meets the definition of Promoter as defined herein.” 	
112.		Commenter: CMB Regional Centers	
	0027 (see attachment)	See attached file(s)	<p>Response: See Comment Response below labeled with Commenter ID: 0027. The information from the attachment is listed below and will be addressed in this section.</p> <p>See Comment # 113. – 120., & 126.</p>
113.		Commenter: CMB Regional Centers	
	0027 (see attachment)	General Comments on All Forms:	<p>Response: USCIS continues to look at the ongoing functionality of its forms.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>A. These forms are a significant burden to each regional center, promoter, immigrant, commercial enterprise, and all involved with the regional center program. The first comment for consideration would be to improve the fillable functionality of these forms. In many instances, the forms have blocked filling them out on a computer without downloading and creating a separate fillable type file. When forms have been made fillable, it is often so restrictive as to be unworkable. For example, many of the forms would require numerical answers when a more in depth answer is necessary. Creating a form that is only fillable in the simplest of cases adds unnecessary work both for the petitioner and for the adjudicator, leading to unneeded questions, and man hours wasted.</p>	
114.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>General Comments on All Forms:</p> <p>B. Why has USCIS created an entirely unnecessary step in providing an “acknowledgement letter” in addition to the already standard receipt notice? The acknowledgement letter does not provide tracking information, or any way to later provide any correspondence to the specific case in question. This step was added at a time when USCIS was likely unable to process the dearth of petitions and respond with receipt notices (and tracking numbers). As the program moves forward, this regrettable step should be removed.</p>	<p>Response: USCIS continues to review its processes for improvement. While USCIS updates its systems to handle the intake of these new forms, USCIS is providing a courtesy notice upon receipt that the form and fee have been accepted until a proper receipt notice can be issued. Once the systems are fully updated, USCIS will only issue a receipt notice.</p>
115.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>General Comments on All Forms:</p> <p>C. In the past, USCIS has only made certain forms specifically trackable down to a case number, and only certain forms could be checked via case processing times website</p>	<p>Response: USCIS continues to review its processes for improvement.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		(https://egov.uscis.gov/processing-times/). It is understandable that aggregate case processing times cannot exist for a brand new form, but we hope that USCIS is able to improve this process and allow all forms to be specifically trackable via case number, and all forms can have average processing times published and regularly updated.	
116.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>I-526E Comments:</p> <p>In addition to the above mentioned concerns that relate to all new forms, the new I-526E form is also in need of a few critical changes and specific improvements to assist the industry and reduce a barrier to the immigration process.</p> <p>First, USCIS has recently acknowledged their slow approach to providing receipt notices. In response USCIS has begun accepting other forms of proof that an I-956F has been received in order for an I-526E to be accepted. Unfortunately, the form still asks specifically for an I-956F receipt number. It is unlikely that USCIS will be able to immediately improve the process of issuing receipt numbers, and thus the form should request not just the I-956F receipt number, but any other accepted forms of proof of the filing of the I-956F.</p> <p>Second, one of the most significant improvements to the EB-5 program introduced in the RIA is the intention for disclosure of fees directly to the immigrant investors. However, under the RIA there is a caveat that the signed disclosure by the investors is only needed to the extent not already specifically identified in the business plan. Therefore the intent for investor disclosure is only as good as USCIS's implementation, which</p>	<p>Response: Though the comment is related to the Form I-526E and should have been submitted on Docket USCIS-2007-0021, USCIS is responding to the comment on this docket to provide the public with its response to these comments.</p> <p>First, USCIS continues to review its processes for improvement. While USCIS updates its systems to handle the intake of these new forms, USCIS is providing a courtesy notice upon receipt that the form and fee have been accepted until a proper receipt notice can be issued. In the future, USCIS may only issue a receipt notice.</p> <p>Second, USCIS is requesting regional centers to submit the written disclosure of all fees, ongoing interest, and other compensation paid to any promoter with their Form I-956F, Application for Approval of an Investment in a Commercial Enterprise. See Part 6., Question 6., asking the applicant to identify any documents containing information related to fees paid to promoters. USCIS expects a regional center will disclose these fees in its offering documents for a particular investment offering. Since USCIS is collecting this information in connection with the regional center's project application, there is no need for</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

	<p>thus far has not risen to require the disclosures as part of a form (regardless of what is included in the business plan). USCIS needs to incorporate this requirement into each alien investors Form I-526E to ensure disclosure. Absent the requirement in the I-526E, regional centers and NCEs can remain in compliance with the requirement by having the disclosure included in documents the investor never sees.</p> <p>The disclosure is a very significant part of the protections being afforded the investors filing post RIA, one that was explained to congress and senators. We believe this is the reason that the intent of investor disclosure was so prevalent in the RIA. Up until the RIA, regional centers, NCEs, those persons or entities managing the NCEs, affiliated JCEs (all those involved with the EB-5 project offering, hereinafter collectively or individually referred to as the “EB-5 Project Issuers”) and their direct and third party promoters (see comments on 956F for definition of these terms) were never specifically required by EB-5 laws to disclose the amount of fees paid in connection with an EB-5 participant’s investment. This has led to established practices in the EB-5 industry whereby the EB-5 Project Issuers would motivate promoters with unconscionable fee structures (a combination of upfront fees, bonuses, paying percentage points of the EB-5 participant’s investment each year, giving equity interest in the underlying project, etc.) for referring EB-5 investors to their EB-5 projects. Previously, the lack of required transparency lead most direct and third party promoters to present only the EB-5 project that paid the most money to them rather than the most well suited EB-5 project for the EB-5 participant. As a</p>	<p>individual petitioners to provide a duplicate copy of that information.</p> <p>However, to ensure regional center investors are aware of the requirement of a regional center to disclose all fees, ongoing interest, and any other compensation paid to any promoter with their Form I-956F, USCIS is adding an acknowledgement question to the Form I-526E to ensure the investors have been provided a copy of the disclosure the regional center has already submitted to USCIS.</p>
--	---	---

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>result, the investor was essentially sold to the highest bidder.</p> <p>Investors have spent far too long in the dark with regards to where their fees are going. The USCIS needs to do everything in their power to increase the transparency of these fees to protect investors. This should include fees paid by the regional center, NCE, those persons or entities managing the NCEs, and must also include fees paid by the target project or JCE of their investment. This must include fees that are a one-time transaction as well as any profits participation, interest, or other ongoing fees.</p> <p>In the case of the I-526E, there should be a specific exhibit that is signed by the investor stating exactly how much they are investing, how much they are paying in fees (and to whom), and how much the EB-5 Project Issuers is paying to any direct promoters with whom the EB-5 Project Issuers is contracted. An example is included below (see attachment on public comment for example of exhibit).</p> <p>The instructions for the I526E disclosure Exhibit should include the intent of disclosure and sanctions for noncompliance:</p> <p>The intent of the requirements in the RIA and disclosure requirement set forth by the Form are to provide transparency to the investor and the USCIS through disclosure of all fees paid. Any attempt or scheme by a regional center, NCE, JCE, or any of their affiliates, and/or any direct or third party promoter or any of their affiliates to evade or disguise the requirements set forth above or otherwise frustrate the intent of requirements should result in sanctions as follows:</p>	
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>1. Subsection (K)(ii) of the RIA states that if a promoter has violated the rules and standards prescribed by USCIS, then the USCIS shall suspend or permanently bar the promoter from participation in the EB-5 program.</p> <p>2. The EB-5 Project Issuers should be sanctioned in accordance with 203(b)(5)(G)(II) since it is not conducting itself in a manner inconsistent with its designation under subparagraph (E) as it did not provide a disclosure statement as required. Permissible sanctions include (i) fines (not to exceed 10% of the total capital invested by alien investors in the regional center’s new commercial enterprises or job-creating entities directly involved in such violations); (ii) temporary suspension from participation in the program; (iii) permanent bar from participation in the program for 1 or more individuals or business entities associated with the regional center, new commercial enterprise, or job-creating entity; or (iv) termination of regional center designation.</p>	
117.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>I-956 Comments:</p> <p>In the I-956, and many of the subsequent forms, USCIS has overstepped their interpretation of the requested documents. Throughout this form, USCIS asks the petitioner to “describe” certain things. Examples include on Page 3 Part 4 Number 1 where we are asked to “[D]escribe the economically and statistically valid and transparent forecasting tools used.” This doesn’t require an economic model in order to set up a regional center, but merely to describe what forecasting tool will be used. Likewise on Page 4 Part 4 Number 3 we are asked to “[d]escribe the kinds of</p>	<p>Response: The EB-5 Reform and Integrity Act explicitly requires certain descriptions. See, e.g., INA section 203(b)(5)(E)(iii)(“a description of the policies and procedures in place reasonably designed to monitor new commercial enterprises and any associated job-creating entity”). USCIS may consider rulemaking to further address these issues.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>commercial enterprises that will receive such investments.” Here again, if a specific project is identified that is fine, but this merely asks for a description of the types of commercial enterprises. Another example is on Page 4 Part 4 Number 5. In each of these examples, USCIS has shown a clear understanding that a description should suffice.</p> <p>In Part 5 and Part 6, USCIS again asks for the applicant to “describe” a set of policies and procedures to monitor new commercial enterprises and job creating entities (in Part 5), and to “describe” a set of policies and procedures to ensure program compliance. The form even invites (Number 2 in Part 5 and Part 6) a description (in a minimal four lines) if policy documents are not provided. This invitation in the form seems to imply (if not directly state) that policy documents are not necessary, but an adequate (even brief) description, should suffice. These documents very sensitive to many regional centers, and not every regional center will want to hand over their policies and procedures without confidence that the policies and procedures will remain confidential. However, our experience to date shows that USCIS does not want descriptions of these policies and procedures, but wants to, in fact, see those policy documents from the regional center.</p>	
118.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>I-956F Comments:</p> <p>The Form I-956F is an application for an approval of an investment in a commercial enterprise. This form essentially serves as a business related petition to USCIS with which an investor can associate their individual petition. A significant hope in the industry is that USCIS will effectively</p>	<p>Response: USCIS may consider rulemaking to address these issues.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>use this tool to minimize contradictory adjudications whereby some investors are approved and others receive RFEs based on the same project information that has already been adjudicated. USCIS should seek to ensure that the I-956F and the affiliated I-526Es can be properly associated, so that it will eliminate double adjudication of the project related components.</p> <p>The definition of affiliated job creating entity is left open for interpretation. The law states that an affiliated JCE means, “[A]ny job-creating entity that is controlled, managed, or owned by any of the people involved with the regional center or new commercial enterprise...” This definition does not clarify in any way what the terms controlled, managed, or owned actually mean. By any interpretation, certain thresholds have to be met, however what those thresholds are have not been identified. It should be clarified at what point (percentage ownership, managerial responsibilities, controlling authority) is this threshold exceeded, and the JCE is considered affiliated. Without thresholds one would assume the minimum but that does not seem to be the intent of the RIA. For instance is a 1% passive, non-management, owner that is a person involved with the regional center or new commercial enterprise considered affiliated? Or rather, does a threshold requiring some management level need to be obtained before it is considered affiliated?</p> <p>Page 8 Part 7 Number 1 again goes down the path of requesting a description of policies and procedures, but USCIS adjudication appears to show that this is not enough. Here again, USCIS invites a brief description in place of the actual</p>	
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>policy documents from the regional center.</p> <p>Here, as mentioned above in the I-526E, USCIS needs to improve the efficiency of providing a receipt notice rather than the roundabout method of providing a useless acknowledgement letter. This serves only to delay the beneficial impacts of EB-5, and cause administrative burden.</p>	
119.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>I-956G Comments:</p> <p>Here, as in many of the previous forms, USCIS asks for descriptions of policies and procedures while expecting a submission of the actual policies and procedures. Page 2 Part 3 Number 3 specifically asks for descriptions of policies to ensure compliance with federal labor laws. Although we have not yet submitted any Form I-956G, we want to ensure that USCIS does not create an unnecessary burden on program participants by requiring policy documents when descriptions should suffice.</p> <p>Page 2 Part 3 Number 4 asks for an attachment pertaining to each I-956F that has been submitted under the regional center. What this section doesn't take into account is that many regional centers have been reauthorized and existed prior to the passage of RIA. Will there be no effort to track the information on projects that occurred prior to RIA?</p> <p>What is more, prior to RIA there was not a requirement that all projects file a Form I-924 seeking approval of their project. These projects were able to simply have their investors file I-526 petitions containing all project documents. USCIS needs to consider how best to obtain information on ALL NCEs and capital</p>	<p>Response: The EB-5 Reform and Integrity Act explicitly requires regional centers to submit "a description of the regional center's policies and procedures that are designed to enable the regional center to comply with applicable Federal labor laws" as part of the annual statement. INA section 203(b)(5)(G)(VII). USCIS may consider rulemaking to further address these issues.</p> <p>With respect to the scope of reporting on Attachment 1, see Response under Comment # 52. which addresses this public comment.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>investment projects under any regional center, pre or post RIA.</p> <p>The form contains Attachment 1 – Information About Each New Commercial Enterprise and Capital Investment Project. This form is to be filled out for each NCE and Form I-956F associated with the regional center. As mentioned above, this needs to take into consideration both pre- and post-RIA investment projects. Further, Page 12 Number 18 on the attachment needs to require a more robust representation of fees being collected by the regional center or NCE, and the use of those funds. Currently the question only asks for disclosure of fees collected from alien investor to be offered to locate individual investors. The question fails to account for fees paid by anyone other than the alien investor. Most often those fees are collected by the regional center or NCE from the borrower or JCE, and then used to further pay direct and third party promoters. These second transactions are currently not required as part of the disclosure.</p> <p>However, rather than a more robust representation of fees, with the suggested disclosure exhibit for all Form I-526E, Number 18 (on page 12) becomes irrelevant as all fees have been disclosed directly to each alien investor as part of their I-526E. Therefore we suggest number 18 becomes a certification that the regional center has accurately represented all fees in each investor's disclosure exhibit for their I-526E. Part of the instructions for number 18 would include the same intent of disclosure and sanctions for noncompliance noted in our comments on the I-526E.</p>	
--	--	---	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

120.		Commenter: CMB Regional Centers	
	0027 (see attachment)	<p>I-956H Comments:</p> <p>The USCIS needs to refer back to the definition of “involved”, as discussed below, and the concept of substantive authority as the requirement for those that are required to fill out Form I-956H. Multiple RFEs have been issued suggesting this form is a requirement of nearly every employee. That interpretation is overly burdensome and inappropriate. USCIS has asked for everybody from the president down to the “case managers” to submit bona fides. At CMB, by policy that has existed many years, no individual may commit CMB to anything other than a very small selection of individuals in upper management.</p> <p>The definition of “involved” in RIA is clear on this point. Individuals who are involved with these entities include those who are</p> <ul style="list-style-type: none"> - “directly or indirectly in a position of substantive authority to make operational or managerial decisions over pooling, securitization, investment, release, acceptance, or control or use of any funding that was procured under the program described in subparagraph (E). A person may be in a position of substantive authority if the person serves as a principal, a representative, an administrator, an owner, an officer, a board member, a manager, an executive, a general partner, a fiduciary, an agent, or in a similar position....” <p>A few things to note in this definition is that it first provides areas where substantive authority must exist, and then gives a list of titles that MAY be in such a</p>	<p>Response: All persons involved with a regional center, new commercial enterprise or affiliated job-creating entity must submit a Form I-956H to independently demonstrate eligibility under INA §§ 203(b)(5)(H)(i) and (ii) in connection with a related filing, such as Form I-956 or Form I-956F. USCIS has made changes to the Form I-956H to reduce multiple filings where the same person is involved with both a NCE and affiliated JCE in connection with a I-956F filing and to also permit persons to reference previous Form I-956H submissions where their answers to Parts 2., 3. and 4. remain the same.</p> <p>USCIS may consider rulemaking to further address these issues.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>position. To be clear, it does not list a mere employee as someone that would automatically have substantive authority. Additionally, an employee's title may not be indicative of their capacity to make decision on behalf of the company. USCIS needs to refer back to this definition and the concept of substantive authority as the requirement for those that are required to fill out Form I-956H.</p> <p>How often does USCIS intend to collect the same information from the same individuals? This could potentially create hundreds of hours of extra burden both on the participants as well as on the agency. The form should be required for anyone that meets the definition of being "involved" (as quoted above) that has not already filed a bona fide; if such person has already filed a bona fide, then the person should be able to reference the receipt number of the bona fide previously submitted. Of course regular background checks should be performed to ensure that individuals have not become ineligible for participation, but their finger prints will not change every year.</p>	
121.		Commenter: Klasko Immigration Law Partners LLP	
	0026 (see attachment)	<p>Please see attached comments submitted by Klasko Immigration Law Partners LLP on behalf of all the plaintiffs in EB5 Capital, et al. v. DHS, et al., (No. 3:22-cv-3948-VC (N.D. Cal.)): USA EB5 Immigration, LLC d/b/a EB5 Capital, CanAm Enterprises, LP, Civitas Capital Management, LLC, Golden State Renaissance Ventures, LLC d/b/a Golden Gate Global, and Pine State Regional Center, LLC.</p>	<p>Response: See Comment Response below labeled with Commenter ID: 0026. The information from the attachment is listed below and will be addressed in this section.</p> <p>See Comment # 122-125.</p>
122.		Commenter: Klasko Immigration Law Partners LLP	
	0026 (see attachment)	<p>Comments to Form I-956K:</p> <p>Definitions:</p>	<p>Response: USCIS may consider rulemaking to address these issues.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		<p>The Form calls for the registration of “direct promoters,” “third-party promoters,” and “migration agents.” Neither the statute, the regulations, nor the instructions to the Form define these terms, and they are not self-defining. The instructions should indicate USCIS’ definition of these terms before individuals or entities are required to register.</p> <p>We suggest that USCIS pull from securities law definitions to the extent applicable and appropriate. We know that the EB-5 Securities Roundtable (a group of highly experienced EB-5 securities lawyers) has submitted formal comments to Form I-956K with proposed definitions consistent with securities laws. We endorse these definitions and urge USCIS to consideration of their recommendations.</p> <p>It is also important to review other statutory terms. Specifically, the disclosure requirements for the regional center annual statement reference fees paid to “any promoter, finder, broker-dealer engaged by any of the aforementioned entities to locate individual investors.” In addition, in describing the disclosure required by an investor, the statute includes “compensation to agents, finders or broker-dealers involved in the offering.” As a matter of statutory construction, the use of “direct and third-party promoters, including migration agents” in subparagraph K of the statute should not be interpreted to include other terms used elsewhere in the statute, such as “finders,” “other entities engaged to locate investors” and “broker-dealers.” USCIS should confirm whether it will treat finders and broker-dealers as a subset of promoters (as with migration agents) -</p>	
--	--	--	--

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		contrary to the usual canons of statutory construction – and if not, it should provide other guidance. USCIS should also clarify if it intends to interpret “agents” referred to in the fee disclosure requirements section of the statute to be the same as “migration agents” referred to in the Form I-956K, and if not, provide guidance on the difference.	
123.		Commenter: Klasko Immigration Law Partners LLP	
	0026 (see attachment)	<p>Comments to Form I-956K:</p> <p>Part 2: Registrant Employment or Association</p> <p>The next issue to be determined is which individuals employed or engaged by a promoter entity are required to register. We strongly urge that only individual promoters not associated with an entity, or promoter entities (and not their executives, officers, employees, agents, subagents, contractors, or subcontractors) be required to register. We would propose the deletion of Part 2. 20.</p>	<p>Response: Any person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors in connection with a particular capital investment project must submit Form I-956K before operating on behalf of any of the specified entities or promoting any offering under the EB-5 Regional Center Program. This includes employees of entities with agreements in place to promote a regional center, any new commercial enterprise, an affiliated job-creating entity, or an issuer of securities intended to be offered to alien investors.</p>
124.		Commenter: Klasko Immigration Law Partners LLP	
	0026 (see attachment)	<p>Comments to Form I-956K:</p> <p>Part 3: Written Agreements</p> <p>This section asks, “have you entered into a written agreement....” It is not entirely clear who the “you” is referencing. We strongly urge that only individual promoters not associated with an entity, or promoter entities (and not their executives, officers, employees, agents, subagents, contractors, or subcontractors) be required to have a written agreement with either the regional center, new</p>	<p>Response: USCIS expects persons seeking to register as a direct or third-party promoter (including migration agents) to complete Form I-956K. All questions are directed to the person submitting the form. USCIS may consider rulemaking to address other issues related to promoters.</p>

Form I-956-001 NEW Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2022-0010](#)

30-day FRN Citation (federalregister.gov): [87 FR 54233](#)

Publish Dates: September 2, 2022 – November 1, 2022

		commercial enterprise or affiliated job-creating entity. Part 3 (based on the instructions and not clear on the Form) also requires the submission of each contract. In addition, Part 1 number 3 seems to require an amendment filing every time there is a new written agreement, a written agreement is terminated, or a written agreement is revised. This requirement will result in voluminous and repetitive filings placing an unreasonable and unnecessary burden on the regulated public and USCIS.	
125.		Commenter: Klasko Immigration Law Partners LLP	
	0026 (see attachment)	<p>Comments to Form I-956K:</p> <p>Miscellaneous Considerations Part 3, number 2 requires specification of “entity type,” with the choices being “regional center, NCE, JCE, or issuer of securities.” How should this be completed in the typical situation where the NCE is the issuer of securities?</p> <p>The I-956K filings may result in promoters and agents overseas being required to provide biometrics. USCIS must ensure the logistics of implementing this requirement before the Form is made final.</p> <p>The Form is unclear regarding whether the filing of the Form is sufficient to enable a promoter to raise capital or whether pre-approval is required. If the latter, the industry will face unreasonable delays working with contracted promoters. USCIS should confirm that filing the Form I-956K is sufficient to enable the promoter activities to commence.</p>	<p>Response: The person filing the form should identify all entities for whom the person is promoting EB-5 investments. Where the person is performing promotion services for multiple entities, the person should indicate each separate entity with which they have a written agreement.</p> <p>USCIS may consider rulemaking to address these additional issues.</p>
126.		Commenter: CMB Regional Centers	
	0027 (see attachment)	I-956K Comments (see attachment for comments, page 10 - 12)	Response: USCIS may consider rulemaking to address these issues.