U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37320973

Date: JUL. 31, 2025

Appeal of Field Operations Directorate Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2018).[1] This fifth preference (EB-5) classification makes immigrant visas available to aliens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the U.S. economy and create at least 10 full-time positions for qualifying employees.

Field Operations Directorate (FOD) denied the petition, concluding that the Petitioner did not establish the lawful source of his claimed $500,000 investment in [redacted] (the NCE) which is affiliated with [redacted]. Specifically, FOD determined that the record did not sufficiently document the path of funds from the Petitioner to the NCE and therefore did not demonstrate that those funds did not derive, directly or indirectly, from unlawful means. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

An alien may be classified as an immigrant investor if they invest the requisite amount of qualifying capital in an NCE. They may invest the required funds directly in an NCE or through a regional center,

[1] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 (RIA) was signed into law, revising general eligibility requirements, substantially reforming and codifying the Regional Center Program in section 203(b)(5) of the Act, and adding significant new integrity provisions. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). As the Petitioner filed his petition prior to the enactment of the RIA, the relevant law then in existence governs this appellate adjudication.

[2] [redacted] is an entity that U.S. Citizenship and Immigration Services (USCIS) has designated to participate in the EB-5 program. A regional center is an economic unit involved with the promotion of economic growth, "including . . . improved regional productivity, job creation, and increased domestic capital investment." *See* 8 C.F.R. § 204.6(e) (2018).

as the Petitioner has done in this case. Regional centers can pool immigrant (and other) investor funds for qualifying projects that create jobs directly or indirectly. 8 C.F.R. § 204.6(j)(4)(iii).

An immigrant investor must demonstrate that they have placed their own capital at risk in the NCE. *See Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998); *Matter of Soffici*, 22 I&N Dec. 158, 165 n.3 (Assoc. Comm'r 1998) (stating that "[a] petitioner must . . . establish, pursuant to 8 C.F.R. § 204.6(e), that funds invested are [their] own"). In addition, the investor must show that their invested capital did not derive, directly or indirectly, from unlawful means. 8 C.F.R. § 204.6(e).

To show the lawful source of the funds, an investor must submit evidence such as foreign business and tax records or documentation identifying sources of the capital. *See* 8 C.F.R. § 204.6(j)(3). Bank letters or statements corroborating the deposit of funds by themselves are insufficient to demonstrate their lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). The record must trace the complete path of the funds back to a lawful source.[3] *See Borushevskyi v. USCIS*, 664 F. Supp. 3d 117, 129 (D.D.C. 2023), *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024) (holding that demonstrating a "complete path" of funds is USCIS' authoritative position recognized by other relevant precedent decisions); *see also Matter of Ho*, 22 I&N at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

II. ANALYSIS

The Petitioner claims to have invested $500,000 in the NCE.[4] According to page 5 of its March 2018 Comprehensive Business Plan, the NCE seeks to solicit up to $6 million from up to 12 immigrant investors, which it will loan to [redacted] LLC (the job creating entity) to finance the redevelopment, construction, and operation of a senior living facility in [redacted] North Carolina.

In an affidavit submitted at the time of filing, the Petitioner stated that his claimed $500,000 investment was derived "from the savings I have accrued through my businesses and placed in my bank account with [redacted]." The Petitioner explained that he has owned and operated a successful home décor company in Iran since 1992 and has used some of his earnings to purchase real estate that generates additional rental income. To document the source of his income and accumulated savings, the Petitioner provided foreign business and tax records for his business, personal income tax returns, as well as property deeds and lease agreements related to his real estate holdings and rental income.

The Petitioner stated that, at the time of the investment, he had the equivalent of $862,000 in his [redacted] account. He provided a December 2017 letter from this bank stating that he owned three deposit accounts with a cumulative balance totaling 31,000,000,000 Iranian Rials (IRR), and that this amount equated to approximately $862,116 based on the Central Bank of Iran's exchange rate. The

[3] These requirements "serve a valid government interest; i.e., to confirm that the funds utilized in the [EB-5] program are not of suspect origin." *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1040 (E.D. Cal. 2001) (holding that a petitioner had not established the lawful source of her funds because, in part, she did not designate the nature of all of her employment or submit five years of tax returns), *aff'd*, 345 F.3d 683 (9th Cir. 2003).

[4] The Petitioner indicates that the NCE is in a targeted employment area, and that the required amount of qualifying capital is downwardly adjusted from $1,000,000 to $500,000. *See* 8 C.F.R. § 204.6(f)(2) (2018).

Petitioner indicated that he "wired $500,000 USD starting in January 2018," and that these funds were later "wired and escrowed into the investment enterprise on August 1, 2018."

The initial evidence included a document titled "Path of Fund and Transfer Record" with a chart intended to demonstrate how the Petitioner's funds were exchanged for U.S. dollars and transferred to the United States for investment in the NCE's escrow account. According to this chart, the Petitioner transferred the IRR equivalent of $550,640 to an unidentified "Currency Exchange Office," which exchanged his funds for U.S. dollars (USD) and transferred them to [redacted][5] in five transactions through four different Turkish banks.[6]

As evidence of [redacted] receipt of these funds, the Petitioner submitted its [redacted] statements for an account ending in [redacted] for the months of January and February 2018. He stated that this evidence shows "the fund[s] were sent by exchange office's bank in Turkey." [redacted] bank statements show the following incoming wire transfers in the total amount of $550,640:

Date	Amount	Transferring Bank	Transferor
01/26/18	$43,890		
01/31/18	$169,960		
02/06/18	$134,930		
02/07/18	$149,960		
02/26/18	$51,900		

Bank records show that on August 1, 2018, [redacted] purchased a cashier's check for $500,000 and issued it to the escrow agent designated by the NCE, using funds drawn from its [redacted] account ending in [redacted] The Petitioner's name appears in the "memo" section of the cashier's check. The record indicates that, on that same date, the escrow agent deposited $500,000 into the NCE's escrow account at [redacted]

In a request for evidence (RFE) issued in July 2023, FOD requested a complete diagram and detailed chart explaining the complete path of the Petitioner's funds from their original source to the NCE, noting the Petitioner should identify all transactions with bank account numbers, names of account holders and dates, along with complete bank statements for all referenced bank accounts to demonstrate the tracing of the funds from their original source to the NCE's bank account.

With respect to the Petitioner's claim that he transferred his Iranian-denominated funds to the United States through a "Currency Exchange Office," FOD observed that the funds did not appear to derive from the Petitioner's salary and rental income in Iran but instead from a different collection of funds sent from third parties in Turkey. FOD noted the Petitioner did not submit evidence regarding the source of the funds transferred to [redacted] by these third parties. The RFE requested documentation to demonstrate that the currency exchange office (or any other third party/entity

[5] According to the NCE's business plan, [redacted] LLC is the project sponsor and developer for the [redacted]" project. The record reflects that this entity is the managing member of [redacted] LLC, the company that manages the JCE.

[6] The chart also indicates that the Petitioner's "U.S. cousin" was involved in the transfer of funds, but neither this person's identity nor the nature of their involvement has been explained or documented in the record.

involved) is a licensed currency exchanger and whether the USD funds transferred through them were obtained lawfully. FOD emphasized that the Petitioner bears the burden of demonstrating that the funds transferred by the third parties to the NCE were obtained through lawful means.

In its decision, FOD acknowledged the Petitioner's claim that his investment funds were lawfully derived from his accumulated employment and real estate income and the evidence submitted in support of that claim. However, FOD concluded that the Petitioner did not submit sufficient evidence to demonstrate that a currency exchange company transferred funds owned by the Petitioner to [redacted] bank account for his benefit, as claimed, and therefore did not meet his burden to demonstrate the lawful source and complete path of his claimed $500,000 investment in the NCE. In making this determination, FOD emphasized that the Petitioner's response to the RFE did not include the requested bank statements for all accounts owned by individuals and entities involved in the claimed currency exchange and transfer transactions.

On appeal, the Petitioner asserts that FOD's decision was deficient because it omitted mention of certain evidence he submitted at the time of filing and in response to the first of two RFEs.[7] However, the decision reflects that FOD adequately explained the reason for denial based on the evidence presented. *See Ren v. USCIS*, 60 F.4th 89, 97 (4th Cir. 2023) ("[S]o long as [USCIS] has given reasoned consideration to the petition, and made adequate findings, we will not require that it address specifically each claim the petitioner made or each piece of evidence the petitioner presented." (citation modified)). The Petitioner does not point to specific evidence related to the lawful source and path of his claimed investment that FOD overlooked.

The Petitioner further contends that FOD's decision relies on boilerplate language, noting that a heading on page 3 of the decision contains an erroneous reference to a company that is not the NCE in which he invested. We note, however, that all other references to the NCE in FOD's decision are correct and the record shows the decision was based solely on evidence submitted with this petition. Therefore, we conclude that this was a harmless error. *See generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless or scrivener's errors).

Turning to the merits of his case, the Petitioner maintains that the previously submitted documentation, including his affidavit, tax returns and real estate records, was sufficient to establish, by a preponderance of the evidence, that his invested funds were obtained through lawful means. With respect to FOD's determination that he did not provide requested bank statements related to the currency exchange and transfer of funds to the United States, the Petitioner explains that due to U.S. and international sanctions, Iranians lack direct access to foreign banks and "must rely on complex third-party transfers" with extensive documentary requirements. He claims that "in 2020, the US imposed sanctions on several Iranian banks and exchange offices, including those in this case, [redacted] and [redacted]." The Petitioner states that he cannot provide "complete bank statements for all referenced banks accounts" as requested because these entities "simply don't exist any longer."

[7] FOD issued requests for evidence on March 18, 2021, and July 28, 2023. The earlier RFE did not address the same eligibility issues raised in FOD's denial.

For the reasons discussed below, we conclude that the Petitioner has not sufficiently documented the path of his claimed invested funds from the income he accumulated in his Iranian bank account(s) to the USD funds that [redacted] used to purchase the $500,000 cashier's check it issued to the NCE's escrow agent. As such, he has not established, by a preponderance of the evidence, that he was the owner of the $500,000 deposited to the NCE's escrow account on August 1, 2018, and that those funds did not derive, directly or indirectly from unlawful means.

First, the Petitioner has neither consistently described nor sufficiently documented the Iranian funds he used for investment purposes. He initially stated that he "wired" $500,000 from his [redacted] account "starting in January of 2018," but the initial evidence did not identify or document those specific wire transfers, the party or parties that received the funds, the currency exchange office involved, or the "U.S. cousin" who was initially claimed to have a role in the currency exchange and transfer transactions. Rather, he sought to rely on a bank letter indicating that he had the equivalent of over $862,000 in his accounts at this bank as of December 2017, without providing evidence showing the withdrawal, conversion and transfer of funds derived from this account.

The Petitioner's response to the RFE included a statement for one of his [redacted] deposit accounts, showing that he withdrew a total of IRR 26,000,000,000 (approximately $723,065) in five separate "Branch Cipher Check Sell" transactions on December 31, 2017 and February 24, 2018, respectively. However, the response lacked evidence to show that he remitted the equivalent of $550,640 to a currency exchange office for conversion to USD and transfer to the [redacted] account of [redacted] LLC through that office's Turkish bank account, as claimed. Nor did the evidence otherwise trace the funds the Petitioner withdrew from his [redacted] account to the USD-denominated funds he claims he invested in the NCE.

In addition, despite his initial claim that all funds used for his claimed investment came from his [redacted] account, the Petitioner stated in the RFE response that his daughter had transferred a portion of the investment amount to the "currency exchange office" through her own [redacted] account.[8] He submitted three bank receipts showing his daughter withdrew a total of approximately IRR 7,000,000,000 from an account at [redacted] and remitted those funds with two individuals [redacted] and one company [redacted]. The Petitioner also provided a bank receipt showing that he had withdrawn approximately IRR 8,000,000,000 from his own [redacted] account and deposited the funds with [redacted] on January 29, 2018.

The Petitioner did not provide bank statements for his daughter's [redacted] account or show that the funds in her account were derived from his own income or savings or from other lawful sources.[9] Further, the record contains no explanation or evidence regarding the company and two

[8] The Petitioner submitted a second "Path of Fund" diagram in response to the RFE. He repeated his initial claim that the invested funds were withdrawn from his [redacted] account during 2017 and 2018 but stated that he also used his daughter's bank account to send Iranian Rials to the exchange office, due to annual per-person limitations on currency exchanges. He indicated that the "exchange office sent USD from Turkey bank to U.S. bank [redacted] but noted this office had a five-year license and had since been closed.

[9] The Petitioner provided a bank statement for a [redacted] bank account that covers the period from February 2003 through August 2023, but the statement does not identify the account holder. Regardless, the statement shows that this account had a zero balance between July 27, 2015, and March 10, 2018, and therefore could not have been used as the source of the Petitioner's claimed EB-5 investment.

individuals who apparently received the funds the Petitioner and his daughter withdrew from their respective [redacted] accounts in January and February 2018. Therefore, it is unclear, what role, if any, these third parties had in the currency exchange and transfer of the Petitioner's claimed investment funds to the United States.

In sum, the Iranian bank documents in the record demonstrate that the Petitioner withdrew IRR 34,000,000,000 from two bank accounts between December 2017 and February 2018, and his daughter withdrew IRR 7,000,000,000 from her account in February 2018. However, the evidence does not establish whether, how, or which portion of these funds, the equivalent of over $1.1 million, were exchanged for U.S. dollars and included as part of the Petitioner's claimed investment in the NCE. The Petitioner submitted evidence intended to support his claim that he accrued earnings from lawful sources in Iran, but he did not adequately corroborate his claim that he used those earnings to make, directly or indirectly, an investment in the NCE. The record must trace the path of the funds back to a lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

Second, the record does not substantiate the existence of the "currency exchange office" that the Petitioner purportedly used to facilitate the currency exchange and transfer of his funds from Iran to the U.S.-based [redacted] owned by [redacted] The "Path of Fund and Transfer Record" submitted at the time of filing stated that "evidence of paying to Currency Exchange Office" had been provided to the Petitioner's attorney. Relevant evidence would include documentation such as a receipt from the currency exchange office, a copy of the Petitioner's contract or agreement with the currency exchanger, and bank records showing the transfer or deposit of funds withdrawn from the Petitioner's accounts to an account owned by the currency exchanger. However, such evidence was not included with the petition. As such the record did not corroborate that the Petitioner transferred the IRR equivalent of at least $550,640 (the amount that was ultimately transferred to the [redacted] account of [redacted] LLC) to a currency exchange office as claimed.

FOD had specifically requested that the Petitioner provide evidence pertaining to the currency exchange office, and any other third parties involved in his currency exchange transactions, including evidence that the exchanger is licensed and registered in Iran and evidence that the USD funds that were sent from Turkey were obtained lawfully. Although the Petitioner provided a timely response to the RFE, he did not address FOD's requests for documentation related to the currency exchange office or the source of the USD funds that were transferred to [redacted] from various Turkish entities. His response suggested evidence related to the currency exchange was unavailable because the exchange office had closed after its five-year license expired.

As noted, the Petitioner explains on appeal that due to U.S. and international sanctions, Iranians lack direct access to foreign banks and "must rely on complex third-party transfers." He claims that "in 2020, the US imposed sanctions on several Iranian banks and exchange offices, including those in this case, [redacted] and [redacted]." The Petitioner states that he cannot provide "complete bank statements for all referenced banks accounts" as requested because these entities "simply don't exist any longer."

With this statement, the Petitioner appears to claim that [redacted] is the Iranian currency exchange office that facilitated the transfer of his Iranian funds to the United States, and that this entity

no longer exists. The record reflects that [redacted] LLC is a real estate investment company established in Delaware, and that it serves as the project sponsor and developer for the [redacted] project in which the Petitioner claims he invested. The Petitioner's statement that this company is the Iranian "currency exchange office" mentioned throughout the record, and that it no longer exists, is therefore unpersuasive. If [redacted] was in fact involved in the claimed currency exchange and transfer of the Petitioner's funds from Iran, to Turkey, and ultimately to its own [redacted] account, documentation related to such transactions would reasonably be available.

Finally, apart from not documenting the identity or existence of the claimed licensed currency exchange office, the record does not support the Petitioner's claim that the exchanged USD funds were sent to the United States by "the exchange office's bank in Turkey." Rather, the record reflects that the USD funds transferred to [redacted] Account between January 26, 2018 and February 26, 2018 were sent from several Turkish bank accounts by three different Turkish companies. These facts suggest that any currency exchange that occurred was through an informal value transfer or "currency swap" arrangement rather than through a series of formal currency exchange transactions executed by a licensed exchange office through its own bank account, as claimed. The legality of these claimed transactions under the relevant Iranian and Turkish laws has not been documented in the record.

Overall, the evidence submitted to trace the source and path of funds from the Petitioner's Iranian bank account(s) to the United States does not comply with the requirements for this classification. The Petitioner bears the burden of tracing the funds through each step of the indirect transfer to the NCE's escrow account, and of demonstrating that the funds transferred by third parties at each stage were not obtained through unlawful means. However, he did not document the existence of the licensed currency exchange office referenced throughout the record or support his claim that he gave this office his lawfully sourced funds for the purpose of exchanging them for USD and transferring the required investment to [redacted] through its own Turkish bank account.

Further, he did not otherwise submit evidence corroborating the direct or indirect transfer of his funds from Iran to the Turkish companies that transferred funds to [redacted] or submit evidence showing the source of funds transferred to and from the Turkish bank accounts, and through any intermediary accounts. In part, the record lacks evidence, such as bank statements for the Turkish companies, confirming the funds purportedly provided by the Petitioner did not comingle with other funds in the same account. As money is fungible, the Petitioner must document the lawful source of all funds that were in those accounts at the time transfers were made to [redacted] Account. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. Similar evidence would need to be provided for all other third-party entities involved in the currency exchange and overseas transfer.

An immigrant investor is required to invest his or her own capital and must document the path of the funds to establish that the investment was made with their own funds. *See Matter of Izummi*, 22 I&N Dec. at 195. Here, the Petitioner has not presented sufficient evidence that the funds he withdrew from his Iranian bank accounts and purportedly gave to a currency exchange office ever left Iran or that the $500,000 that was ultimately remitted to the NCE's escrow agent by [redacted] (purportedly on his behalf) belonged to him and was derived, directly and indirectly, through lawful

sources. *See* 8 C.F.R. § 204.6(j)(3), (e). *See* 8 C.F.R. § 204.6(e), (j)(3); *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

Specifically, due to numerous evidentiary deficiencies and omissions discussed above, the record does not sufficiently corroborate that the Petitioner transferred any portion of the IRR 34,000,000,000 he withdrew from his Iranian bank accounts between December 2017 and February 2018 to a currency exchange office to set in motion the claimed currency exchange and transfer of $550,640 to the [redacted] owned by [redacted] Nor does it contain evidence to demonstrate that the USD funds transferred from three companies in Turkey were derived, directly or indirectly, from lawful sources or evidence to establish that the Petitioner was the legal owner of those USD-denominated funds. The record remains insufficient to establish by a preponderance of the evidence the claimed lawful sources of the funds the Petitioner claims he invested in the NCE.

III. CONCLUSION

For the reasons we have discussed above, we conclude that the Petitioner has not established, by a preponderance of the evidence, his eligibility for the classification. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning his eligibility.[10] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

It is the Petitioner's burden to demonstrate her eligibility for the EB-5 classification, which includes establishing the lawful source of his purported EB-5 investment. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. Here, the Petitioner has not made such a showing.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.

[10] FOD discussed other grounds to deny the Petitioner's petition. For example, FOD concluded that the Petitioner had provided inconsistent evidence from [redacted] regarding the amount of funds available in his accounts at the time of the claimed investment. FOD's decision also emphasizes the Petitioner did not provide evidence to demonstrate that the $550,640 the Petitioner purportedly transferred to [redacted] account in January and February 2018 through various Turkish intermediaries were the same funds this company used to remit $500,000 to the NCE's escrow agent on August 1, 2018, as the record lacks copies of bank statements for this account for the months of March through August 2018. We reserve these and other issues not discussed in this decision, such as whether the Petitioner sufficiently documented the maintenance and accumulation of lawful salary and rental income in his Iranian bank accounts, for future consideration if the need arises.