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United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

May 10, 2017

**VIA ELECTRONIC TRANSMISSION**

The Honorable John Kelly  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Secretary Kelly:

I am writing to request clarification of the Department's position regarding the processing of EB-5 petitions in light of recent statements by Nicole Kushner Meyer, and that you move expeditiously to approve the proposed regulations that correct serious flaws in the EB-5 program. I'm sure you're aware that Ms. Meyer recently made a pitch to potential real estate investors in Beijing at an event hosted by a Chinese company working with the Kushner Company to raise funds for a luxury apartment complex in New Jersey. In her speech, Ms. Meyer touted the EB-5 "golden visa," which permits investors of \$500,000 or more to obtain a U.S. green card, and alluded to her brother Jared Kushner's White House position in a manner that some say was improperly suggestive.<sup>1</sup> One of Ms. Meyer's colleagues urged attendees to "invest early, and you will invest under the old rules."<sup>2</sup>

As you know, EB-5 applicants ordinarily wait at least two years for a petition to be processed and for visas to become available. Ms. Meyer's statements, however, could seem to imply that foreign nationals who invest with the Kushner Company will receive special treatment and expedited approval. It is appropriate for the Department to clarify and affirm that no foreign investors will receive preferential treatment, that applications will be processed in the order in which they are received—subject to any existing backlog—and that future applications will be subject to the proposed regulations, when approved.

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<sup>1</sup> Wang, Serenitie, and Wattles, Jackie, *Kushner Family in Beijing: 'Invest \$500,000 and Immigrate' to US*, May 7, 2017 CNN Money, available at <http://money.cnn.com/2017/05/06/news/jared-kushner-nicole-family-event/>.

<sup>2</sup> Rauhala, Emily and Wan, William, *In a Beijing Ballroom, Kushner Family Pushes \$500,000 'investor visa' to Wealthy Chinese*, May 6, 2017 Wash. Post, available at [https://www.washingtonpost.com/world/in-a-beijing-ballroom-kushner-family-flogs-500000-investor-visa-to-wealthy-chinese/2017/05/06/cf711e53-eb49-4f9a-8dea-3cd836fcf287\\_story.html?utm\\_term=.e4a369c60662](https://www.washingtonpost.com/world/in-a-beijing-ballroom-kushner-family-flogs-500000-investor-visa-to-wealthy-chinese/2017/05/06/cf711e53-eb49-4f9a-8dea-3cd836fcf287_story.html?utm_term=.e4a369c60662).

As I have noted on many occasions, the EB-5 program desperately needs to be reformed. Numerous sources have documented rampant corruption, fraud, and national security risks. For example, the FBI recently raided a California regional center that defrauded investors out of millions of dollars while facilitating dozens of fraudulently obtained green cards, including several procured for investors who are on a Chinese government list of most-wanted fugitives.<sup>3</sup> Others “invested” money loaned to them for a fee by the regional center, and “[n]o real construction took place at any of the proposed project locations[.]”<sup>4</sup> About 30 of the investors received some or all their money back—amounting to about \$10 million—but concealed the refunds from U.S. officials and have continued to pursue legal permanent residence. Among many other examples, over the past five years the Securities and Exchange Commission has pursued cases involving hundreds of millions of dollars in fraudulent investment schemes, and in 2013 ICE’s Homeland Security Investigations unit warned of serious national security and technology proliferation concerns.<sup>5</sup> These abuses are amplified because investment levels—which have remained static since 1990—and egregious gerrymandering of Targeted Investment Areas, rob the U.S. economy of billions of dollars each year.<sup>6</sup>

The American people are relying on you to prevent fraud, promote security, and protect the homeland. DHS’s efforts in implementing new regulations to that effect are integral to strengthening program integrity and benefitting the U.S. economy. We strongly support the proposed regulations, and support the Trump administration’s efforts to move forward with implementing these necessary changes in an open, and transparent manner.

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<sup>3</sup> Ltr from Chmn. Grassley to Secy Kelly Apr. 20, 2017, Regarding fraudulent EB-5 regional center *available at* <https://www.grassley.senate.gov/news/news-releases/newly-discovered-eb-5-scram-highlights-fraud-national-security-weaknesses-need>; *see also* Taxin, Amy, *Federal Agents Raid California Business in Green Card Probe*, Assoc. Press, Apr. 5, 2017 *available at*: <http://bigstory.ap.org/article/5fbbaa40917d40d2b6c0f3a618efecd3/federal-agents-raid-california-business-green-card-probe>; Levin, Dan and Saul, Stephanie, *Charged With Graft in China, Some Fugitives Are Finding Luxury in U.S.*, May 15, 2015 NY Times, *available at* <https://www.nytimes.com/2015/05/16/world/asia/china-hunts-fugitives-accused-of-corruption-many-in-us.html>.

<sup>4</sup> Taxin, *supra* note 3.

<sup>5</sup> Undated memo, *EB-5 Program Questions from DHS Secretary*, Homeland Security Investigations, U.S. Immigration and Customs Enforcement.

<sup>6</sup> According to information provided by the Law Library of Congress in 2015, other leading investor visa programs generally require investments much higher than the U.S. Australia requires an investment of at least AU \$1.5 million (approximately US \$1.1 million)(investor stream), AU \$5 million (approximately US \$3.6 million)(significant investor stream), or AU \$15 million (approximately US \$10.8 million)(premium investor stream). Canada requires an investment of at least CAN \$2 million (approximately US \$1.4 million) and a personal net worth of CAN \$10-50 million (approximately US \$7.2-36 million). The United Kingdom requires an investment of at least £2 million (approximately US \$2.9 million), and provides expedited citizenship for investors who have invested at least £5-10 million (approximately US \$7.4-14.7 million) or have personal assets of at least £10-20 million (approximately US \$14.7- million) and at least £5-10 million under their control and disposable in the UK that has been loaned by a UK-regulated financial institution.

Thank you in advance for your cooperation with this request. If you have any questions, please contact me or Katherine Nikas or Brad Watts of my Judiciary Committee staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, slightly stylized font.

Charles E. Grassley  
Chairman

Cc: The Honorable Mick Mulvaney  
Director  
U.S. Office of Management and Budget